



# Ankin Law Office LLC

Protecting the Rights of Injured Workers

162 W Grand Ave  
Chicago, Illinois 60654, United States  
Tel: 312-346-8780 or 800-442-6546  
Fax: 312-346-8781  
Email: [howard@ankinlaw.com](mailto:howard@ankinlaw.com)  
Website: [www.ankinlaw.com](http://www.ankinlaw.com)  
Blog: [www.thechicago-injury-lawyer.com](http://www.thechicago-injury-lawyer.com)

## Protections for Veterans Returning to the Workforce

By Admin - CO on December 1st, 2011



Veterans and military personnel face a number of issues when returning to civilian life. The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) is a federal law designed to protect military personnel with respect to their civilian careers. Specifically, the Act intends to ensure that military personnel (1) are not disadvantaged in their civilian careers because of their military service; (2) are promptly reemployed in their civilian jobs upon their return from military duty; and (3) are not discriminated against in employment based on past, present, or future military service.

### ***Reemployment Rights***

USERRA provides military personnel with the right to be reemployed in their civilian job if he or she leaves the job to serve in the military. In order to be protected, the employee must:

- Notify his or her employer in advance – either verbally or in writing – of his or her military service;
- Have five years or less of cumulative military service while employed with the particular employer;
- Return to work or apply for reemployment in a timely manner after the conclusion of military service; and
- Have not received a dishonorable discharge (or other disqualifying condition).

If the employee is eligible to be reemployed, he or she must be restored to the job (or a comparable job) and benefits that he or she would have attained if the military service had not disrupted employment.

ANKIN LAW OFFICE LLC

[Chicago Workers Compensation](#) | [Chicago Personal Injury](#) | [Chicago Motor Vehicle Accidents](#)  
[Chicago Wrongful Death](#) | [Chicago Social Security Disability](#) | [Chicago Class Action Lawsuits](#)



# Ankin Law Office LLC

Protecting the Rights of Injured Workers

162 W Grand Ave  
Chicago, Illinois 60654, United States  
Tel: 312-346-8780 or 800-442-6546  
Fax: 312-346-8781  
Email: [howard@ankinlaw.com](mailto:howard@ankinlaw.com)  
Website: [www.ankinlaw.com](http://www.ankinlaw.com)  
Blog: [www.thechicago-injury-lawyer.com](http://www.thechicago-injury-lawyer.com)

## ***Freedom from Discrimination and Retaliation***

If an employee is a past or present member of the military service, has applied for membership in the military, or is obligated to serve in the military, an employer may not deny reemployment, retention in employment, promotion or any benefits of employment because of his or her military status. Employers are also prohibited from retaliating against anyone (whether military personnel or not) that pursues the enforcement of USERRA rights, such as testifying in connection with a USERRA proceeding or filing a USERRA complaint.

## ***USERRA Violations***

If you believe that your USERRA rights have been violated, you may file a **complaint** with the **U.S. Department of Labor, Veterans Employment & Training Service (DOL-VETS)**. The Second Circuit recently determined in ***Serricchio v. Wachovia Securities, LLC*** that Wachovia had violated USERRA by failing to reinstate Serricchio, a financial advisor for Wachovia who had been in active duty with the Air Force for two years, for nearly four months after this request for reinstatement. When Wachovia ultimately offered him a position, his compensation was set at the commission rate he received prior to his military service and without regard to his previous large book of business, most of which had been reassigned. Wachovia did not offer to help Serricchio rebuild his book of business.

The Second Circuit held that when an employee has previously received commission-based pay, the relevant inquiry under USERRA requires an examination of the total amount of compensation received prior to active military duty, not just the rate of commission. Accordingly, since Serricchio's reemployment position would have resulted in significantly less compensation than he had earned prior to his active duty, Wachovia had violated USERRA.

**Howard Ankin of Ankin Law Office LLC ([www.ankinlaw.com](http://www.ankinlaw.com)) handles workers' compensation and personal injury cases. Mr. Ankin can be reached at (312) 346-8780 and [howard@ankinlaw.com](mailto:howard@ankinlaw.com).**