

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

APR 16 2010

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17 **IN THE UNITED STATES DISTRICT COURT**  
 18 **FOR THE EASTERN DISTRICT OF WASHINGTON**

19 ROBERT BRIAN ROBINSON,

20 Plaintiff,

21 v.

22 MILNE ENTERPRISES, INC., d/b/a  
 23 MILNE, NAIL, POWER TOOL &  
 REPAIR,

24 Defendant.

Civil Action No. CV-10-5045-LRS

COMPLAINT FOR VIOLATIONS  
 OF THE UNIFORMED  
 SERVICES EMPLOYMENT AND  
 REEMPLOYMENT RIGHTS ACT

JURY TRIAL DEMANDED

26 Plaintiff, Robert Brian Robinson ("Robinson"), by the undersigned  
 27 attorneys, makes the following averments:  
 28



1           7.       Robinson timely requested reemployment with Milne by letter on  
2 October 10, 2007. Milne did not promptly re-employ Robinson. Instead, Milne  
3 attempted to avoid its reemployment obligation by pursuing criminal charges  
4 against Robinson for an alleged theft that had occurred six months earlier while  
5 Robinson  
6 was on military leave. Robinson was not involved in the alleged theft, and charges  
7 were never brought against Robinson by any law enforcement agency.  
8  
9

10           8.       On November 28, 2007, over six weeks after Robinson initially  
11 requested reemployment, Milne offered Robinson a position at its Milton-  
12 Freewater, Oregon store. Robinson would have had to commute over 100 miles  
13 each day in order to accept the position, and Milne knew that Robinson did not  
14 possess a car. On the same day Milne offered Robinson the position at its Oregon  
15 store, Milne informed Robinson that “felony charges” had been filed against him.  
16 Accordingly, this so-called offer was not made in good faith; and Robinson  
17 declined this offer.  
18  
19

20           9.       On November 29, 2007, Robinson filed a complaint with the  
21 Department of Labor (“DOL”) alleging that Milne had violated his rights under  
22 USERRA. The DOL’s Veterans Employment and Training Service (“VETS”)  
23 conducted an investigation, and determined that Robinson’s claim had merit.  
24

25           10.       After exercising his USERRA rights, Milne retaliated against  
26 Robinson by (i) actively pursuing criminal charges against Robinson for an  
27 alleged theft that had occurred over six months earlier and while Robinson was on  
28

1 Military duty; (ii) threatening to report Robinson to the IRS for an alleged failure  
2 to pay taxes on what it claimed to be gifts given by Milne to Robinson one to two  
3 years prior; and (iii) demanding payment on old store accounts which had been  
4 closed for approximately one year, including back sales taxes not previously  
5 charged, and threatening additional monetary charges if payment was not promptly  
6 received.  
7

8  
9 11. Milne violated Sections 4312 and 4313 of USERRA by, among  
10 other ways, failing to promptly re-employ Robinson upon his return from military  
11 duty in either the position he would have held had his employment not been  
12 interrupted by his military service, or in a position of like seniority, status and pay.  
13

14 12. Milne also violated Section 4311 of USERRA by retaliating against  
15 Robinson for exercising his rights under USERRA.

16 13. Milne's actions were willful under 38 U.S.C. § 4323(d)(1)(C).

17 14. Because of Milne's conduct, Robinson has suffered monetary  
18 damages in an amount to be proven at trial.  
19

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Robinson prays that the Court enter judgment against Milne  
22 as follows:  
23

24 A. Declare that Milne's failure to promptly and properly re-employ  
25 Robinson following his military duty was unlawful and in violation of USERRA;

26 B. Declare that Milne violated USERRA by retaliating against Robinson  
27 because of his exercise of his reemployment rights;  
28

1 C. Enjoin Milne from further retaliation against Robinson in violation of  
2 USERRA;

3  
4 D. Order Milne to fully comply with the provisions of USERRA, and  
5 pay Robinson for lost earnings, with interest, and benefits suffered by reason of  
6 Milne's failure or refusal to comply with USERRA;

7 E. Order Milne to pay Robinson liquidated damages;

8  
9 F. Order Milne to fully comply with the provisions of USERRA and  
10 offer to re-employ Robinson in Milne's Pasco, Washington store and place  
11 Robinson at the appropriate seniority, status and compensation that he would have  
12 attained had he remained employed continuously with Milne until the present,  
13 including during the time of his military duty;

14  
15 G. Enjoin Milne from failing to comply in the future with all provisions  
16 of USERRA; and

17  
18 H. Grant such other and further relief as may be just and proper together  
19 with the costs and disbursements of this lawsuit.

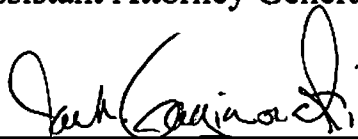
20 **JURY DEMAND**

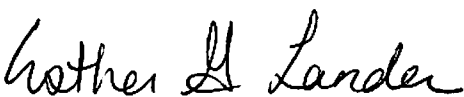
21 Robert Brian Robinson hereby demands a trial by jury of all issues so  
22 triable.  
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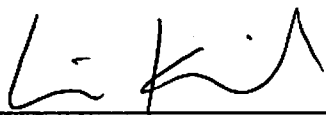
1 Date: April 16, 2010.

2 Respectfully submitted,


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