

Wiley Files *Amicus* Brief in Case Involving Reservists' Differential Pay Benefits

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Washington, DC - Wiley, a preeminent DC law firm, filed an *amicus* brief on behalf of the Reserve Organization of America (ROA) in an important case involving military servicemembers' eligibility for differential pay benefits when they voluntarily mobilize to active duty.

The brief, submitted on October 29 in *Adams v. Department of Homeland Security*, urges the U.S. Court of Appeals for the Federal Circuit to review, *en banc*, a three-judge panel's July 2 decision upholding the denial of differential pay to a civilian federal employee following his mobilization to military service in 2018.

As noted in the *amicus* brief, the case "presents questions of exceptional importance concerning the rights of servicemembers, thousands of whom are now excluded from access to differential pay." The brief was authored by Wiley associates Wesley E. Weeks and Lukman S. Azeez and partner Scott A. Felder, who are serving as Counsel for ROA in this matter.

A 2009 law, 5 U.S.C. § 5538, entitles Reservists mobilized to active duty from the federal civilian workforce to differential pay to make up the difference between the Reservist's military and civilian compensation. Section 5538 builds on the 1994 Uniformed Services Employment and Reemployment Rights Act (USERRA), which established protections for Reservists against adverse employment actions.

"Differential pay helps alleviate the substantial hardships of mobilization orders," the Wiley team explained in the brief. The Federal Circuit panel's decision, they argued, "threatens to deny this crucial benefit to the vast majority of Reservists mobilized voluntarily

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(and, typically, individually, in order to leverage their mission-critical skills), rather than involuntarily as part of a unit." That distinction "is not supported by the law" and directly undermines a U.S. Department of Defense policy to use voluntary mobilizations to support contingency operations as part of the Reserve Component's fully operational role in the modern military, according to the brief.

Wiley is providing pro bono representation for the Reserve Organization of America – which is America's only exclusive advocate for the Reserve and National Guard. ROA promotes the interests of Reserve Component members, their families, and veterans of Reserve service, and regularly files briefs as part of this advocacy.

To read the *amicus* brief, please [click here](#).