

Some of our crew force recently mentioned the news headline concerning an executive order expanding the recall ability of our service branches to fill pilot gaps. Although the services have announced that they have no immediate plans to recall retired pilots, our Reserve/Guard members are seeing an ever-increasing demand signal for support to the Active components. With this increased operational tempo, we expect more of our crewmembers to be executing Military Leave throughout the coming year. Please continue to keep the company apprised as your military commitments occur and do not hesitate to contact the ALPA Military Affairs Committee with any questions or concerns at [fedex-military@alpa.org](mailto:fedex-military@alpa.org).

## **LEGAL RECOURSE FOR USERRA COMPLAINTS**

The crew force has had two recent instances of complaints brought against FedEx for what crew members felt were violations of USERRA. If a crewmember feels that his or her rights under USERRA are being violated, please contact the ALPA Military Affairs Committee and we can put you in touch with the right people to pursue action. The usual process is to put you in touch with the your local ESGR rep to start the process. This can then move into a formal DOL complaint, and even lead to litigation against the company.

The recent legal case concerned a failure of the Company to properly take into account the “reasonable certainty” and “escalator principle” in calculating a bonus payment for a crewmember out on MLA (<https://www.bna.com/fedex-cant-trim-n73014471651/>). In a separate matter, a pilot’s DOL complaint led to a solution without the need for a lawsuit. In both these cases, our members undertook a lengthy and somewhat arduous journey in order to preserve their rights. If you have any questions about your rights, we can point you in the right direction to obtain resources.

## **YOU MAKE THE CALL**

This will be the first in a series of articles concerning MLA practices that the ALPA Military Affairs Committee has seen in the past. Let me be explicitly clear as you read this article: **Any and all military duties, whether voluntary or involuntary, are protected by USERRA if its conditions are met, and the military member is free to execute his military duties at any time he or she desires or is directed.** With that being said, we can all agree that there is probably a difference between reasonable use of MLA and questionable use of MLA. What follows are two actual examples of MLA we have seen over the last 15 years. YOU MAKE THE CALL!

*A crew member drops MLA on top of Reserve days for the 24<sup>th</sup> and 25<sup>th</sup> of December. He will drill on the 24<sup>th</sup> and use the 25<sup>th</sup> as a travel day. When the company contacted the unit about the feasibility of rescheduling the member’s MLA, the active duty Operations Officer stated, “Sure, he doesn’t need to be here. The whole squadron is shut down and there is nothing for him to do anyway.”*

*A probationary crewmember put in MLA for the 25<sup>th</sup> of December on a reserve day. He contacted the ALPA Military Affairs Committee asking why the company would be trying to*

*contact him regarding his MLA. He stated that he lived right next to the base, and was having the squadron duty phone transferred to his phone on Christmas day to cover the duty.*

You make the call. There are generally two schools of thought when it comes to MLA:

- 1.) I'm in the Military and I can do whatever I want. Forget about the company.
- 2.) I'm in the Military as well as a FedEx employee and I will execute my Military duties responsibly while balancing my FedEx work commitments.

It is neither the Company's nor the ALPA Military Affairs Committee's job to determine the legitimacy of MLA. If a member is performing Military duties, then regardless of the timing or duration, if the member satisfies the requirements of USERRA then he or she is protected by USERRA, period. All of us are expected to serve our country in a responsible manner, and every Military member's actions reflect as a whole on our image as Servicemen and women.

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