

**CURRENT DEVELOPMENTS IN EMPLOYMENT LAW**

**Retaliatory Discharge and Military Leave**

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This outline should not be utilized as a substitute for professional service in specific situations or to provide legal advice. This outline is intended to provide general information about certain aspects of employment law. Since the law changes over time, questions about individual problems should be addressed to the attorney of your choice.

## Retaliatory Discharge

The United States Congress and the Kansas legislature have enacted various laws which protect employees from retaliation by employers. They have determined that there is a compelling interest in protecting individuals who are the victims of discrimination or harassment, who inform the proper authorities that a company is violating certain federal or state laws, or who are simply exercising their protected legal rights, such as serving on a jury. Congress and state legislatures reason that if employees were left unprotected from retaliation, they would not dare risk losing their jobs to prevent or report an employer's illegal conduct.

### Statutory Protections

There are numerous federal and state statutes which have been enacted over the years to protect employees from discrimination, harassment, whistleblowing and retaliation. An employer must maneuver through a veritable minefield of laws when terminating an employee. One false step and a company could face significant financial and public relations consequences. Following is a list of various statutes which exist to protect individuals from retaliation for filing complaints or charges of discrimination:

#### Federal Laws

Title VII - 42 U.S.C. § 2000e, <i>et. Seq.</i>	Prohibits retaliation against employees for participating in discrimination claim based on: race, national origin, gender, sex, religion or ethnicity.
Age Discrimination in Employment Act - 29 U.S.C. § 623(d)	Prohibits retaliation against employees who file charge of age discrimination or participate or testify in proceedings.
Americans with Disabilities Act - 42 U.S.C. § 12203(a)	Prohibits retaliation against employees for filing charge of disability discrimination.
Equal Pay Act - 29 U.S.C. § 206(d)	Prohibits retaliation against employees who file complaint charging unequal pay.
Pregnancy discrimination Act - 41 U.S.C. § 2000e(k)	Prohibits retaliation against employees for filing charge of pregnancy discrimination. The PDA is incorporated into Title VII.
Employee Retirement Income Security Act - 29 U.S.C. § 1001 - See specifically Section 510 (29 U.S.C. § 1140) regarding retaliation	Prohibits retaliation against employees due to their exercise or entitlement to employee benefits.

Occupational Safety and Health Act - 29 U.S.C. § 660(c)	Prevents retaliation against employees who make good faith report of safety or health violations by their employer.
Fair Labor Standards Act - 29 U.S.C. §§ 201-219; see §§ 215(a)(3) and 216(b) regarding retaliation	Prohibits retaliation against employees who complain about violation of federal wage and hour laws and regulations or testify in proceedings.
Family Medical Leave Act - 29 U.S.C. § 2615(a)(2)(b)	Prohibits employer from discharging or otherwise discriminating against any individual who opposes any practice made unlawful by the FMLA.
Civil Service Reform Act - 5 U.S.C. § 2302(a)(b)	Prohibits retaliation for whistleblowing by federal employees.
Whistleblower Protection Act of 1989 - 5 U.S.C. § 1221(e)	Prohibits retaliation for whistleblowing by federal employees.
Labor Management Relations Act - 29 U.S.C. § 143	Provides that quitting work by an employee in good faith because of abnormally dangerous working conditions is not a strike.
Protection of Jurors Employment Act - 28 U.S.C. § 1875	Prohibits the discharge or coercion of any employee by reason of jury service.
Bankruptcy Act - 11 U.S.C. § 525	Prohibits termination of or discrimination against employee because of filing of bankruptcy.
Polygraph Protection Act of 1988 - 29 U.S.C. § 2001 et. seq.	Prohibits retaliation for refusing to take a polygraph test.
Consumer Protection Act - 15 U.S.C. § 1674	Prohibits discharge of employee by reason that employee's earnings have been subjected to garnishment.
National Labor Relations Act - 29 U.S.C. §§ 157, 158(a)(1)	Prohibits retaliation for employees engaging in or refusing to engage in union activities.
Toxic Substances Control Act - 15 U.S.C. § 2622; Federal Water Pollution Control Act - 33 U.S.C. § 1367; Clean Air Act - 42 U.S.C. § 7622	Prohibits retaliation for employees testifying about violation of environmental laws.

## Kansas Statutes

Most states, including Kansas, also recognize a common law action for wrongful discharge in violation of public policy, which protects individuals from retaliation by their employer for exercising a legally protected right, including, but not limited to, the reporting of illegal conduct by an employer.

The following Kansas statutes and regulations prohibit retaliation against an employee for exercising the following rights:

K.S.A. 44-808	Membership/nonmembership in a labor union.
K.S.A. 44-1009; K.A.R. 21-32-4(a); K.A.R. 21-32-4(b)	Discrimination on the basis of race, sex, religion, color, disability, national origin or ancestry.
K.S.A. 44-1111, <i>et. seq.</i>	Discrimination on the basis of age.
K.S.A. 44-1009(a)(4), 44-1113(5); <i>Smith v. United Technologies, Essex Group, Inc.</i> , 240 Kan. 562, 731 P.2d 871 (1987)	Retaliation against employees exercising rights under anti-discrimination statutes.
K.S.A. 75-2925, <i>et. seq.</i>	Discrimination against public employees in state personnel practices on the basis of race, national origin or ancestry, religion, political affiliation, sex, age or disability.
K.S.A. 48-222	Absence for National Guard Service.
K.S.A. 60-2311	Wage Garnishment.
K.S.A. 44-636(f)	Reporting alleged violations of State Health and Safety Act.
K.S.A. 44-615; <i>Kistler v. Life Care Centers of America, Inc.</i> , 620 F. Supp. 1268 (D. Kan. 1985).	Furnishing information (e.g., testifying) in “any matter of controversy between an employer and employees.”
K.S.A. 39-1432	Reporting alleged abuses in adult care facilities or cooperating with social and rehabilitation services investigation.
K.S.A. 75-2973	Reporting by state employees of violations of state and federal laws, rules or regulations.

K.S.A. 44-117, *et. Seq.*

“Blacklisting.”

K.S.A. 44-1201

Making a wage/hour complaint.

## **What Constitutes a Retaliatory Discharge?**

To establish a *prima facie* case of retaliation, an employee must show that there was legally protected participation, that adverse employment action occurred, and that there was a causal link between the employee’s participation in the protected activity and the adverse action.

One of the most powerful claims possessed by a disgruntled former employee is the “retaliation” type claim. Employers must realize that a claim of retaliatory discharge is often times far better than an underlying claim of discrimination or harassment. A charge of sexual harassment, for example, usually involves a battle of testimony between two individuals. This requires a jury to assess the credibility of two individuals, and choose the factual account they believe. In addition, a jury must be convinced by the employee that the specific conduct giving rise to the lawsuit constitutes sexual harassment.

A claim for retaliation, on the other hand, usually revolves around the timing of an employee’s departure. Courts allow a jury, in a retaliation type claim, to draw an inference of retaliation based on the fact that an employee was terminated only a short period of time after they complained about illegal conduct. It is critical to note that an employee need not provide that the underlying conduct was legally discriminatory, or if it actually was a violation of the law.

## **Federal Retaliation Claims**

Title VII litigation constitutes the majority of retaliation type claims pending in the federal court system. As a result, the courts make use of their Title VII retaliatory discharge framework when determining the existence of a retaliatory discharge pursuant to the Age Discrimination in Employment Act (ADEA), Equal Pay Act (EPA), Pregnancy Discrimination Act (PDA), Fair Labor Standards Act (FLSA), and the Americans with Disabilities Act (ADA).

## **Kansas Common Law Retaliation Claims**

Kansas has traditionally been an at-will employment state. This means that, absent a specific law which restricts an employer’s right to terminate an employee, such as the anti-discrimination laws, either the employer or the employee may terminate the employment for any reason at any time. Kansas law has recognized two exceptions to this general rule. First, the employer and employee may have agreed by reason of an implied or express contract that the employment may be terminated only for a specific reason, or only for “good cause.” Second, termination of employment may be prohibited if it violates a public policy.

Kansas courts have recognized two public policies: (1) the employer may not terminate an employee for filing, threatening to file, or exercising the employee's right to file a worker's compensation claim; and (2) the employee may not be discharged in retaliation for whistleblowing.

The elements which must be proven by a plaintiff in a whistleblowing case are as follows:

1. Plaintiff must prove his/her claim by "**clear and convincing evidence.**" This is a higher standard than the standard preponderance of the evidence standard (more probably than not).
2. A reasonably prudent person would have concluded the employee's co-worker or employer was engaged in activities in **violation of rules, regulations or the law pertaining to public health, safety, and the general welfare.**
3. The employer knew about the employee's reporting of such violation **prior to discharge** of the employee.
4. The employee was discharged **in retaliation** for making the report.
5. The whistleblowing by the employee was done **out of a good faith concern** over the wrongful activity **reported rather than** from a "corrupt motive such as malice, spite, jealousy, or personal gain."

One thing particularly concerning about a whistleblowing claim is that if a jury finds an employer liable for retaliatory discharge, the employee will likely be found to be entitled to some amount of **punitive damages**, because an element of the claim itself includes the element of intent. In addition, this type of claim is normally not covered by the employer's liability insurance, unless the employer has purchased employment practices liability insurance which specifically covers this cause of action.

## **Whistleblowing**

### **Report of Activities and Violations of the Law**

The most frequently litigated issue in whistleblowing cases is whether the plaintiff has sufficiently established that a reasonably prudent person would conclude that a co-worker or employer was engaged in activities in violation of rules, regulations, or the law pertaining to public health or welfare. The following cases are those in which the court has found that the plaintiff **has** met this burden sufficiently to have the case heard by a jury, and will give employers an idea of what an employee must show in order to establish a whistleblowing claim.

- A. *Ali v. Douglas Cable Communications*, 929 F.Supp. 1362 (D. Kan. 1996), held that plaintiff's claim that co-employees' conduct of allegedly stealing sales commissions could amount to theft and fraud, and employer's interception of the

plaintiff's telephone calls was a civil and/or criminal violation of federal wiretapping laws.

B. In *Moyer v. Allen Freight Lines, Inc.*, 20 Kan. App. 2d 203, 885 P.2d 391 (1994), the court concluded that the plaintiff, who drove a truck for the employer prior to discharge, stated a whistleblowing claim where she reported numerous equipment failures which allegedly violated DOT regulations.

C. *Byle v. Ancomp, Inc.*, 854 F.Supp. 738 (D. Kan. 1994). The court found that the plaintiff stated a whistleblowing claim when she alleged co-workers improperly billed a customer who did not order computer equipment, based upon the fact that such improper billing could amount to theft or embezzlement in violation of criminal law, whether or not this violated internal company policy.

D. *White v. General Motors*, 908 F.2d 669 (10th Cir. [Kan.] 1990). The court held a whistleblowing claim was stated when an employee alleged that he was discharged in retaliation for complaining of defects in brake installations in vehicles manufactured by defendant.

E. *EEOC v. International Paper Co.*, 1992 WL 370850 (D. Kan. 1992). The court held that allegations by former truck driver of employer that she was discharged in retaliation for reporting the company's failure to provide her with a DOT physical sufficiently alleged a whistleblowing claim.

F. *Pearce v. American Ingredients Co.*, 1991 WL 269006 (D. Kan. 1991). The court held plaintiff's claim fell "squarely within" the *Palmer* whistleblowing cause of action, on her allegation that she expressed concern to supervisors regarding working conditions and safety of her co-employees.

In the following cases, the court granted or affirmed summary judgment in favor of the employer, finding that the employee did **not** establish the basic elements of a retaliatory discharge claim.

A. *Zinn v. McKune*, 143 F.3d 1353 (10<sup>th</sup> Cir. [Kan.] 1998). Plaintiff, an employee of a private company providing medical services to inmates pursuant to a contract with the Kansas Department of Corrections (KDC), alleged she was discharged by her employer based upon her assertion that state property was being misused by KDC employees, specifically, that inmates were using state property to make gifts for KDC employees. The court held that KDC and related defendants did not have the power to fire plaintiff, plaintiff's employer was not a defendant, and only the employer can be sued for retaliatory discharge. The court also found that plaintiff did not demonstrate a connection between her whistle-blowing and her discharge.

B. *Swanson v. Allied Signal, Inc.*, 1992 WL 223768 (D. Kan. 1992). Plaintiff claimed she was discharged because (1) she informed management it could be in violation of Department of Commerce regulations should management surrender a

foreign distribution license without taking certain additional steps; and (2) she contacted the Department of Commerce to inquire about the legalities of surrendering a license. The court held that plaintiff failed to state a whistleblowing cause of action because she did not actually report any unlawful conduct.

C. *Kastner v. Blue Cross and Blue Shield of Kansas, Inc.*, 21 Kan. App.2d 16, 894 P.2d 909 (1995). Plaintiff alleged that he was discharged for using an employment assistance program (EAP) provided by employer. The court did not recognize this as a clear violation of public policy. In addition, the court found that there was no evidence that employer even knew about the utilization of the EAP counselor at the time the decision was made to terminate plaintiff.

### **Violation of Internal Company Policy**

The Kansas Supreme Court addressed whether violation of an **internal** company policy could satisfy the requirement that the employee report “activities in violation of rules, regulations, or the law pertaining to public health, safety, and the general welfare.”

In *Herman v. Western Financial Corp.*, 254 Kan. 870, 869 P.2d 696 (1994), plaintiff claimed she was discharged for reporting loan irregularities in the mortgage loan file of an applicant who also was an employee of the savings and loan association. The plaintiff specifically alleged that the bank improperly issued a purchase money mortgage to the employee and his wife in violation of various **company** rules and regulations. The court held that violations of **internal** loan policies, guidelines or underwriting standards of a savings and loan association were **not** violations of “rules, regulations, or the law pertaining to public health, safety, and the general welfare.” Therefore, the court held that plaintiff failed to state a claim under *Palmer v. Brown*.

Since *Herman*, the courts have held:

- A. In *Adler v. Continental Insurance Co.*, No. 95-2282-EEO, 1996 WL 677085 (D. Kan. Nov. 1, 1996), no cause of action was recognized for reporting errors on insurance claims submitted by an insurance company backed by the federal government, holding “There is no clearly established Kansas public policy aimed at preventing fraud against the federal government.”
- B. In *Doud v. Countrywide Home Mortgage Loan*, No. 96-2079-JWL, 1997 WL 292127 (D. Kan. May 5, 1997), no cause of action was recognized where reported violations of the law only consisted of conflicts of interest and destruction of a company form.
- C. In *Fowler v. Criticare Home Health Servs., Inc.*, 27 Kan. App. 2d 869, 10 P.3d 8 (2001), the Kansas Court of Appeals refused to expand the whistleblowing cause of action to mere instances of disagreement between an employee and employer. In *Fowler*, the employee complained to a general manager that he did not agree

with the legality of shipping two handguns with live ammunition to a company owner. The court held that the employee's internal report did not support a claim of retaliatory discharge, noting that his disagreement with management was just that, a disagreement. The court, however, inferred that had the company known about the employee's reported concerns to the parcel carrier, or had the employee reported his concerns to law enforcement, such reports may support a claim for retaliatory discharge.

## **Retaliation for Filing Worker's Compensation Claim**

The most common retaliation case is based upon termination or discipline of an employee for pursuing a worker's compensation claim. This cause of action has existed since 1981.

Since the cause of action was recognized, which was based upon termination for **filing** a worker's compensation claim, the cause of action has expanded to include:

- A. Termination for failing to call in an anticipated absence as a result of a work related injury (*Coleman v. Safeway Stores, Inc.* 242 Kan. 804, 752 P.2d 645 (1988)).
- B. Termination for discharging an employee in retaliation for the employee **intending to file** a worker's compensation claim (*Chrisman v. Philips Industries, Inc.*, 242 Kan. 772, 751 P.2d 140 (1988)).
- C. Claim for retaliatory demotion recognized (*Brigham v. Dillon Cos., Inc.*, 262 Kan. 12, 19, 935, P.2d 1054, 1059-60 (1997)).
- D. Claim for retaliatory suspension recognized (*Patton v. AFG Indus., Inc.*, 92 F.Supp. 2d 1200 (D. Kan. 2000)).

## **Cause of Action for Relatives**

It is also a violation of law to retaliate against the relative of a whistleblower or a worker's compensation claimant.

In *Marinhagen v. Boster, Inc.*, 17 Kan. App. 2d 532, 840 P.2d 534 (1992), the court held that as to a married couple who work for the same employer, the employer could not fire the **spouse** of an injured employee in retaliation of the other spouse who pursued a worker's compensation claim.

In *Moyer v. Allen Freight Lines, Inc.*, 20 Kan. App. 2d 203, 885, P.2d 391 (1994), the court held that Kansas public policy protects a **spouse** from termination in retaliation for a **spouses'** actions in reporting infractions of rules, regulations, or laws pertaining to public health, safety and the general welfare. In *Moyer*, the plaintiffs were husband and wife, and the wife

allegedly reported such infractions. Both husband and wife were terminated. The court recognized a cause of action for **both husband and wife**.

In *Madrigal v. IBP, Inc.*, 811 F.Supp. 612, 615 (D. Kan. 1993), the court recognized a cause of action of retaliatory discharge where a **daughter** was fired for a **mother's** worker's compensation filing.

## New Cases on Absenteeism

### The Problem

The law relating to the ability of an employer to terminate a worker's compensation claimant for a violation of absenteeism, tardiness, and notice requirements has been far from clear.

For a period of time, some case law gave comfort to an employer that if a worker's compensation claimant could not comply with a neutral attendance policy that was applied evenly to all employees without regard to the reason for their absence, a termination based on such a policy could protect the employer from a workers compensation claimant's claim of retaliatory discharge. The 1988 decision of the Kansas Supreme Court in *Coleman v. Safeway Stores, Inc.*, 242 Kan. 804, 752 P.2d 645 (1988), held that an employer cannot discharge an employee for being absent or for failing to call in an anticipated absence as a result of a work related injury. In that same year, the Kansas Court of Appeals ruled in *Roland v. Val-Agri, Inc.*, 13 Kan. App.2d 149, 766 P.2d 819, *rev. denied*, 243 Kan. 780 (1988), that an injured worker who is not capable of performing the duties of his job at the time of his discharge because of his physical condition does not have a claim for retaliatory discharge.

The ambiguity created by these two cases was thought to be solved in large part by the case of *Griffin v. Dodge City Cooperative Exchange*, 23 Kan. App.2d 139, 927 P.2d 959 (1996), *rev. denied* 261 Kan. 1084 (1997). *Griffin* posed the question "whether Kansas public policy, as derived from the Worker's Compensation Act, *requires* employers to attempt to find alternative employment and/or modify job functions to accommodate workers injured on the job *before terminating* them." 23 Kan. App.2d at 147. Accordingly, *Griffin* concluded that an employer cannot be sued for retaliatory discharge simply because it failed to consider another position or to modify a job to accommodate an injured employee. The court held that accommodation claims should instead be brought under the Americans With Disabilities Act or its Kansas statutory counterpart.

Unfortunately, two recent cases from the 10<sup>th</sup> Circuit Court of Appeals (the federal appeals court which includes the state of Kansas) and the Kansas Court of Appeals has further clouded the issues.

In *Gertsch v. Central Electropolishing Company*, \_\_\_ Kan. App.2d \_\_\_, 26 P.3d 87 (2001), an opinion handed down on June 29, 2001, the Kansas Court of Appeals found that a worker's compensation claimant's inability to return to work was not a defense to a retaliation claim.

Plaintiff Gertsch suffered a work related injury and missed work for approximately a week. He did not call his employer, but his doctor sent notes and spoke to the company about his treatment. When Gertsch called the employer eight days after his injury to tell him he was going to be off work until the doctor released him, the supervisor requested a meeting that day and terminated Gertsch for his failure to report in for two consecutive mornings.

The trial court granted the employer summary judgment, holding that Gertsch was unable to return to work, and under the law of *Griffin* and *Roland*, Gertsch did not have a retaliatory discharge claim if he could not return to work. The Kansas Court of Appeals reversed, distinguishing *Griffin*, because Gertsch did not sue his employer because it failed to find him another job or accommodate him, but because he was fired in retaliation for pursuing a worker's compensation claim. The court noted that many cases after *Griffin* which granted summary judgment to employers involved employees who were fired only after a **permanent** injury was diagnosed. Gertsch was fired well before the full extent of his injuries were known.

The Court of Appeals held as follows:

Although the public policy exception that created the tort of retaliatory discharge for terminating an injured employee for filing a workers compensation claim does not apply to an injured employee who is unable to return to his or her former job after an injury, the requirement that an injured employee be able to return to his or her former position will not preclude an injured employee's claim for retaliatory discharge when the injured employee can show a retaliatory motive on the part of the employer **before the employer had ample evidence that the injured employee would be unable to perform his or her former job...**We believe that it is contrary to the public policy of Kansas for an employer to intentionally terminate an injured employee for filing a workers compensation claim before adequate evidence exists that the injured employee will be unable to perform his or her former job. 26 P.2d 3d at 90. (Emphasis added.)

### Questions

What will courts consider to be "ample" evidence? How much evidence is required? Certainly, this decision should not be made until receiving enough medical information about the employee's condition to be convinced the employee cannot return to his or her position. Must this evidence show that the employee can **never** return to his or her job? Or, is it enough that the employee will not be able to return for some specified period of time, such as three months, six months, or one year? What if the employee states that he or she will **never** be able to return to work, even though the employer has not received medical evidence of such permanency?

The other recent case of note is *Bausman v. Interstate Brands Corporation*, 252 F.3d 1111 (10<sup>th</sup> Cir. 2001), a decision from the 10<sup>th</sup> Circuit Court of Appeals issued on June 29, 2001. The appellate court in this case also reversed a summary judgment in favor of the employer in a retaliatory discharge case. The plaintiff suffered a work related injury for carpal tunnel syndrome. The employer had an unwritten practice of not excusing absences for work related injuries unless the employee provided a doctor's note stating the absence was due to a work related injury. The company's written attendance policy did not require a doctor's note or preclude management from excusing an absence due to work related injuries without a doctor's note.

Importantly, the employer knew that the employee had claimed her previous absences were due to a work related injury and that she had filed a worker's compensation claim based upon that injury. The company had expressly excused some of her previous absences without a doctor's note. The plaintiff employee denied that she knew of the unwritten policy requiring a doctor's note. The court also noted that the formal warnings received from the employer regarding the employee's attendance made no explicit reference to the need for a doctor's note to excuse the absences due to a work related injury.

The Tenth Circuit held that employer is bound by what it knew or should have known and could not rely blindly on an unwritten practice of requiring a doctor's note and ignoring all other information at the employer's disposal. The court stated that the plaintiff could prevail if "she proves that at the time of her discharge the defendant knew or should have known the absences for which the plaintiff was being fired were the result of her work-related injury, an injury for which she has or might file a claim for workers' compensation." 252 F.3d at 1115.

As to the use of a requirement of medical verification, the court had the following comments:

**In many instances**, an employer's request for corroboration by a medical professional of an employee's claim of absence due to injury **represents a reasonable means** of investigating and verifying the reason for an employee's absence. It does not unduly burden or restrict an employee's statutory right to workers' compensation for a work-related injury to request third-party verification where there is room for doubt concerning a particular absence.

At the same time, an employer cannot adopt a workplace policy by which the employer abdicates its duty to see, to hear, and to think. The fact that some issues that arise in the workplace provide difficult to decide does not mean that an employer need not decide them, or that they may routinely be avoided as a matter of "unwritten policy." The employer's policy itself must be informed by the public policy of the State of Kansas, which protects employees against termination for absenteeism where those absences result from a work-related injury and holds

employers accountable for what they “knew or should have known” about the cause of an employee’s absence. **This remains a fact-driven determination, not a question of unwritten policy.**

...

*Coleman* and its progeny expect an employer to act upon what *facts* it knows or should know, not upon an **unwritten** practice that leads to conscious avoidance of those facts on the part of the employer.

If absent third-party verification an employer would discount or reject an employee’s assertion of work-related injury, **then the request for verification should be explicit and unequivocal, leaving no uncertainty as to the information that is required.** Otherwise, the practice merely becomes a trap for the unwary—a trap that could be relied upon to mask an employer’s unlawful retaliatory intent, as is alleged in this case.

252 F.3d at 1121-22. (Emphasis added.)

### Question

What information must an employer be responsible for that they “should know?” The *Bausman* case appears to say that an employer should certainly not rely on any unwritten policy upon which to take action. The *Bausman* case does recognize the legitimacy of asking for medical verification, and warns that the request for verification should be “explicit and unequivocal, leaving no uncertainty as to the information that is required.”

One thing is clear: The *Gertsch* and *Bausman* cases raise many more questions than they answer as to when an employer can comfortably terminate a worker’s compensation claimant for violation of its attendance policy, and at what point in time it can comfortably terminate a worker’s compensation claimant who has not returned to work.

## Military Leave

Attached are the following which relate to military leave issues:

**K.S.A. 48-222.** Annual muster and camp of instruction; duty to attend; unlawful acts by employer, penalty.

Article entitled *Military Leaves of Absence and Reemployment Rights* by Harold P. Coxson, Esq., Ogletree, Deakins, Nash, Smoak & Stewart dated 9-24-01.

Useful Web Sites for Information Regarding Activated Military Reservists

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## **Useful Web Sites for Information Regarding Activated Military Reservists**

Office of the Secretary of Defense – Military Pay and Benefits 2000 - Pay Retirement and Thrift Savings Plan Information.

<http://pay2000.dtic.mil/>

U. S. Naval Reserve Force – Sample letter sent to dependents of called up reservists.

<http://www.navres.navy.mil/navresfor/n1/ombudsman/Letter%20to%20Dependents.=pdf>

Air Force Judge Advocate Recruiting – Explanation of military pay and its various components, i.e., base pay, basic allowance for housing (BAH) and basic allowance for subsistence (BAS).

<http://www.jagusaf.hq.af.mil/pay.htm>

U.S. Department of Defense – Military Health System – Tricare (health insurance coverage) covers dependents of reservists if recall is for more than 30 days.

<http://www.tricare.osd.mil/reserve/>

U.S. Department of Defense – September 21, 2001, news article indicating that recalled reservists get to keep their civilian employer's health care plan in effect.

[http://www.defenselink.mil/news/Sep2001/n09212001\\_200109215.html](http://www.defenselink.mil/news/Sep2001/n09212001_200109215.html)

University of South Florida – Discussion of all aspects and requirements concerning leave for active military duty.

[http://usfweb.usf.edu/proced/hr/a&l/For\\_Exh/militaryleavetoc.htm](http://usfweb.usf.edu/proced/hr/a&l/For_Exh/militaryleavetoc.htm)

University of Kentucky – Military Leave FAQs - Frequently asked questions regarding military leave.

<http://www.uky.edu/fiscal/hr/benefits/welcome.html>

University of Kentucky – HR Policy and Procedure regarding military leave.

<http://www.uky.edu/FiscalAffairs/HumanResources/policies/hrpp075.htm>

University of South Carolina – HR policy regarding leaves with pay, including military leave.

<http://hr.sc.edu/hr/policies/hr109.pdf>

Society for Human Resource Management – Questions and Answers regarding Uniformed Services Employment and Reemployment Rights.

<http://my.shrm.org/search/rec9.asp?topicType1=1&queryinfo=military+policy>

College and University Professional Association for Human Resources – Public Policy – Regulatory Documents – 09.24.01 – Military Leaves of Absence and Reemployment Rights by Harold P. Coxson.

<http://www.cupahr.org/ftp/01-02Militaryreservists-Co.pdf>

TRICARE (health insurance coverage – formerly CHAMPUS) – general web site

<http://www.tricare.osd.mil/>

National Committee for Employer Support of the Guard and Reserve – Home Page

<http://www.esgr.org/>

United Condordia – National dental insurance company - Tricare Dental Program

<http://www.ucci.com/>

Department of Labor - Uniformed Services Employment and Reemployment Rights and Employee/Employer Advisor Veterans' Employment and Training Services (VETS)

<http://www.dol.gov/elaws/userra0.htm>

Department of Labor – Job Rights for Veterans' and Reserve Component Members – Program Highlights

<http://www.dol.gov/dol/vets/public/programs/fact/vet97-3.htm>