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Alaska Airlines Can't Dodge Military Leave Pay Suit

By [Adam Lidgett](#)

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Law360 (June 18, 2019, 2:15 PM EDT) -- A Washington federal judge on Monday refused to dismiss a proposed class action accusing Alaska Airlines Inc. and its sister company [Horizon Air Industries Inc.](#) of shortchanging hundreds of pilots who took short-term military leave on pay and benefits.

U.S. District Judge Thomas O. Rice denied the airlines' motion to dismiss Alaska Airlines pilot Casey Clarkson's Uniformed Services Employment and Reemployment Rights Act claims, finding the court can't make a decision on various issues based on the current pleadings.

The court said there wasn't enough evidence in the complaint for it to make a determination on most of the USERRA claims, including the allegation that employees didn't get their regular pay when they were out on short-term military leave even though workers out on other types of short-term leave got their normal pay.

"At minimum, in evaluating the allegations in count IV, the court would be required to consider what other 'similarly situated employees' of Horizon and Alaska are guaranteed by 'employment contract, agreement, policy, practice, or plan in effect at the employee's workplace,' which would require the court to review evidence extraneous to the pleadings," the judge said.

Judge Rice did say Clarkson should amend his claim that Horizon — which he worked for before joining Alaska in 2017 — wrongly reemployed him at a lower-paying position when he got back from short-term military leave. The judge said Clarkson has to clarify the exact date he actually returned to work in July 2017 and the position he held on said date.

Clarkson was serving in the Washington Air National Guard when he was working as a commercial pilot for both companies, which required that he had to go on short-term military leave for various pockets of time, he said.

The suit alleged that Horizon pilots on military leave were subject to a policy in which they weren't credited with all the hours they would have worked, which made it harder for them to meet the minimum hours of credit a month to keep their status as a "regular line holder," who make more money than other workers.

Additionally, Clarkson claimed that both companies don't pay service member workers their regular wages while out on short-term military leave, although workers on comparable types of leave — such as jury duty — get their regular pay. Clarkson also made an individual Employee Retirement Income Security Act claim against the Alaska Airlines Pension/Benefits Administrative Committee, but that allegation wasn't at issue on the companies' dismissal bid, according to court documents.

Matthew Z. Crotty of Crotty & Son Law Firm PLLC, an attorney for Clarkson, told Law360 on Tuesday that he doesn't know the exact number of possible class members, but said there are possibly hundreds of members in each proposed class.

"We are happy with the result and we look forward to continuing to prosecute Mr. Clarkson's claims and the claims of his fellow putative class members," Crotty said.

Alaska Airlines said in a statement it couldn't comment on pending litigation, but said the "company has strong military roots, having hired hundreds of veterans, including pilots, mechanics and all the way up to the most senior leaders at the company."

"Alaska values the training and discipline that military-trained employees bring to Alaska Airlines, and prides itself on being a great place for active and retired military who want to transition to civilian jobs," the statement said.

Clarkson is represented by Matthew Z. Crotty of Crotty & Son Law Firm PLLC, Thomas G. Jarrard of the Law Office of Thomas Jarrard PLLC, R. Joseph Barton and Vincent Cheng of [Block & Leviton LLP](#), and Peter Romer-Friedman of [Outten & Golden LLP](#).

The companies are represented by Kathryn S. Rosen of [Davis Wright Tremaine LLP](#), and Mark W. Robertson and M. Tristan Morales of [O'Melveny & Myers LLP](#).

The case is Clarkson v. Alaska Airlines Inc. et al., case number [2:19-cv-00005](#), in the U.S. District Court for the Eastern District of Washington.

--Editing by Stephen Berg.

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Case Number

[2:19-cv-00005](#)

Court

Washington Eastern

Nature of Suit

Civil Rights: Jobs

Judge

[Thomas O. Rice](#)

Date Filed

January 7, 2019

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