

**Law Review 26052**  
**Update—September 2026**  
**Differential Pay**

In Law Review (LR) 26023, June 2026, I pointed out that the United States Supreme Court specifically reversed the Office of Personnel Management (OPM) guidelines about the circumstances under which a federal civilian employee who is a Reserve Component service member and who has been called to active duty, voluntarily or involuntarily, is entitled to differential pay from the federal executive agency that is his or her civilian employer. That case is *Feliciano v. Department of Transportation*, 605 U.S. 38 (2025). The Supreme Court announced that decision on 4/30/2025, 16 months ago.

On 5/13/2026, I sent a letter to OPM Director Scott Kuper, calling on him to act promptly to update the OPM guidance to make it consistent with the *Feliciano*. You can find a copy of my letter at the bottom of LR 26023. OPM has not updated the guidance on its website—guidance that was issued in 2015. OPM also did not respond to my letter.

On 8/12/2026, attorney Brian Lawler of San Diego filed suit against OPM and the OPM Director in the United States District Court for the District of Columbia.

Brian Lawler is a retired Marine Corps Reserve officer and a life member of ROA. He has a nationwide law practice that focuses on representing service members with claims under the Uniformed Services Employment and Reemployment Rights Act (USERRA). He has a great record. He represented Nick Feliciano, a Coast Guard reservist, and an

air traffic controller for the Department of Transportation in the *Feliciano* case. Brian Lawler also represents Captain Le Roy Torres, a retired Army Reserve officer and ROA life member, in *Torres v. Texas Department of Public Safety*, 597 U.S. 580 (2022).

In *Torres* and later in *Feliciano*, ROA filed amicus curiae (“friend of the court”) briefs in the Supreme Court urging the Court to grant certiorari (to agree to hear the case). After the Supreme Court granted certiorari, ROA filed new amicus briefs on the merits, in both of these cases. Twice in three years, 2022 and 2025, ROA’s amicus briefs were instrumental in achieving these important Supreme Court victories.

Later this year, ROA will be filing a new amicus brief in another Supreme Court USERRA case. We will keep the readers informed of important developments on this front.

**This are just three recent examples of how the Reserve Organization of America (ROA) is informing Reserve Component service members of their legal rights and about how to exercise and enforce those rights and how ROA is advocating for the rights and interests of service members through amicus curiae briefs in the United States Supreme Court.**

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