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What Is the Medical Care Recovery Act?

By Captain Samuel F. Wright, JAGC, USN (Ret.)²

14.0—Tort claims involving service members and military families.

Q: I am a personal injury trial lawyer in central Texas, not far from Fort Hood, a huge Army base. I have a client who is an active-duty U.S. Army soldier. On a Sunday afternoon, outside his duty hours, he was driving home after church when he was stopped at a red light. Another driver behind my client was driving well above the speed limit and he was distracted by his cell phone. This other driver (who has no connection with the U.S. military) did not notice the red light,

¹ I invite the reader's attention to [Law Center | ROA](#). You will find more than 2,300 "Law Review" articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouses' Protection Act (USFSPA), the title 38 chapters that provide for veterans' benefits administered by the Department of Veterans Affairs (VA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. I am the author of more than 90% of the articles, but we are always looking for "other than Sam" articles by other lawyers.

² BA 1973 Northwestern University, JD (law degree) 1976 University of Houston, LLM (advanced law degree) 1980 Georgetown University. I served in the Navy and Navy Reserve as a Judge Advocate General's Corps officer and retired in 2007. I am a life member of ROA. I have dealt with USERRA and the Veterans' Reemployment Rights Act (VRRRA—the 1940 version of the federal reemployment statute) for 44 years. I developed the interest and expertise in this law during the decade (1982-92) that I worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), I largely drafted the proposed VRRRA rewrite that President George H.W. Bush presented to Congress, as his proposal, in February 1991. On 10/13/1994, President Bill Clinton signed into law USERRA, Public Law 103-353, 108 Stat. 3162. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. USERRA is codified in title 38 of the United States Code at sections 4301 through 4335 (38 U.S.C. §§ 4301-35). I have also dealt with the VRRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for the Department of Defense (DOD) organization called Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), as an attorney in private practice, and as the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA, for six years (2009-15). Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. My paid employment with ROA ended 5/31/2015, but I have continued the work of the SMLC as a volunteer. You can reach me by e-mail at SWright@roa.org.

and he plowed into the rear of my client's vehicle at a speed greater than 60 miles per hour. Of course, in this case liability is very clear. My client was in no way responsible for this terrible accident, and the other driver was 100% at fault.

The other driver had \$100,000 in liability insurance coverage, which is more than Texas law requires. As a result of this terrible accident, my client is totally and permanently disabled. He is unable to work, and he will need additional medical care and assistance in daily living for the rest of his life, perhaps five decades or more. My client's injuries are worth far more than the \$100,000 policy limit.

I have explored the defendant's financial position. It does not appear that he has any substantial assets that we can attach to collect on a seven-figure judgment. It appears that, as a practical matter, my client will only be able to collect \$100,000, the policy limit.

I received a letter from an Army lawyer, informing me that under a federal law called the "Medical Care Recovery Act" (MCRA) the Federal Government has an interest in my client's cause of action against the other driver. The letter warned me not to settle with the other driver and his insurer without checking with the Army first.

What is the MCRA? How does this system work?

A: In an 8-1 decision in 1947, the Supreme Court held that, in the absence of specific congressional authorization, the Federal Government could not recover money damages from a tortfeasor who injured an active-duty soldier and caused the Government to lose the

soldier's service for a time and to incur costs in providing medical care to the injured soldier.³ Fifteen years later, Congress acted on the Supreme Court's invitation to authorize such recoveries, when it enacted the MCRA.⁴

The MCRA provides as follows:

To the extent prescribed by regulations under subsection (a), the head of the department or agency of the United States concerned may (1) compromise, or settle and execute a release of, any claim which the United States has by virtue of the right established by section 2651 of this title; or (2) waive any such claim, in whole or in part, for the convenience of the Government, **or if he determines that collection would result in undue hardship upon the person who suffered the injury or disease resulting in care or treatment described in section 2651 of this title.** ⁵

In your client's tragic situation, there is no realistic prospect for him to recover damages from the tortfeasor, beyond the \$100,000 policy limit. Accordingly, you should ask the Secretary of Defense to waive the MCRA claim that arose from this terrible accident.

Q: Where can I find a lawyer or law firm that fully understands laws like the Servicemembers Civil Relief Act (SCRA), the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Uniform Code of Military Justice (UCMJ), and other laws that are especially pertinent to those who serve our country in uniform?

³ *United States v. Standard Oil Co.*, 332 U.S. 301 (1947).

⁴ Public Law 87-693, § 1, Sept. 25, 1962; 76 Stat. 593. The MCRA is codified at 42 U.S.C. §§ 2651-2653.

⁵ 42 U.S.C. § 2652(b) (emphasis supplied).

A: As of 5/1/2026, I have come out of retirement and have joined Maher Legal Services in an “of counsel” role. This firm has a great team, headed by attorneys John Maher and Kevin Mikolashek, both of whom have served as Army judge advocates for many years. These attorneys and this firm have a great record, and I am proud to join their team.

Here is a link to the Maher Legal Services website:

<https://www.lawyersdefendingwarriors.com/about>.

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