

## **Consumer Complaints to the U.S. Department of Justice and the Consumer Finance Protection Bureau**

**1. Q. Where can I file a complaint if I am taken advantage of in a loan transaction, abused by a debt collector or bank, if a credit card company doesn't correct billing errors, or if a landlord or creditor violates my rights under the Servicemember Civil Relief Act? Who can help me?**

A. Depending on the type of complaint you have, there are several state agencies that may be able to provide assistance. These include, but are not limited to, the attorney general or department of justice, department of insurance, real estate commission, or whatever licensing authority that licenses the party that is the subject of your complaint, e.g., the state bar association, board of electrical contractors, medical licensing board, etc. This article however, focuses on two federal agencies, the U.S. Department of Justice (DoJ) through its Servicemember and Veteran's Initiative, and the Consumer Finance Protection Bureau (CFPB). Both have been particularly active and successful in taking enforcement actions on behalf of consumers.

**2. Q. What types of complaints does the Servicemember and Veteran's Initiative program of the DoJ investigate?**

A. The SVI is principally involved in the enforcement of a few select federal laws: the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), and the Servicemembers' Civil Relief Act (SCRA).

The SCRA is probably the single most important statute protecting the rights of service members and has generated many DoJ enforcement actions. It provides service members with a wide range of rights and protections including the right to terminate a residential or vehicle lease early under certain circumstances; protections concerning mortgage foreclosure, repossession, and enforcement of storage liens; the right to reduce interest on pre-service obligations to 6%; and the right to delay civil suits when military duties materially affect the service member's ability to appear and defend. The SCRA also provides a right to terminate or suspend cell phone service when executing certain military orders to move.

**3. Q. What are some examples of circumstances in which the DoJ may take an enforcement action to protect SCRA rights?**

A. Here is a non-exhaustive list of situations in which the DoJ has taken action:

*Lease termination.* You received PCS or deployment orders and complied with all of the SCRA requirements for early lease termination, but the landlord did any one of the following: (a) kept your security deposit to cover rent past the SCRA termination date, (b) made you forfeit an up-front rent concession as a penalty for your SCRA protected lease termination, (c) sued you for rent alleged to be due for a period after the SCRA termination date, or (d) refused to acknowledge that retirement orders or orders to return home upon the expiration of active duty service are PCS orders.

*Interest Rate Reduction.* You signed a personal loan, student loan, car loan, residential mortgage, or

other loan with an annual interest rate in excess of 6% prior to your active duty service. You requested, in writing, that the lender reduce the pre-service obligation to 6% annual percentage rate, effective the date of your entry into the armed forces, and you provided documentation of your military service and its commencement date, and otherwise complied with all the SCRA requirements. Nonetheless, the lender still refuses to reduce the interest rate, or your lender penalized you in some way for asserting this SCRA right. (In the case of federal student loans, the servicer is required to reduce interest to 6% even without a request from the borrower.)

*Mortgage Foreclosure.* You signed a residential mortgage prior to active duty. Now, while on active duty (or up to one year thereafter), the lender foreclosed, or is attempting to foreclose, by going before a court clerk and without getting an order to foreclose from a judge.

*Repossession.* You signed a loan to purchase a motor-vehicle or other property prior to active duty service and made a deposit or payment prior to active duty service. Now, while on active duty, the lender repossessed, or threatens to repossess the motor-vehicle or property you purchased without first obtaining a court order to do so.

*Storage, cleaning, mechanics lien or similar lien.* The repair shop claims that you owe money for work performed on the vehicle. The mechanic is threatening to, or has, sold your vehicle without first obtaining a court order for sale. This provision applies even if you brought your vehicle to the repairman after commencing military service. This prohibition against enforcement by sale without a court order applies during the period of military service and for 90 days thereafter.

*SCRA Procedural Rights.* A landlord or creditor sues you and files false statements with the court indicating that you are not in the armed forces.

#### **4. Q. What kinds of complaints does the CFPB take?**

A. The CFPB enforces many federal laws concerning *financial* services; that is, laws regulating loans, lenders, interest, banks, debt collection, and credit reporting. Thus, the Bureau would not be likely to take action concerning a complaint that a dealer sold a defective car, but might very well take action concerning a complaint that the dealer misrepresented some aspect of the car loan. Among the laws that the CFPB enforces is the Consumer Finance Protection Act itself, which prohibits unfair, abusive, or deceptive practices in financial services.

#### **5. Q. What are some examples of circumstances in which the CFPB may take an enforcement action?**

A. Here is a non-exhaustive list of situations in which the CFPB has taken action:

Illegal debt collection through harassment, deception, contacting third parties concerning a debt without the debtor's permission, or false or exaggerated threats to contact others, to initiate litigation, to garnish wages, or to arrest the debtor;

Improperly imposing penalty interest rates or failing to reduce such rates when required to do so;

Debiting the borrower's credit card or bank account when not authorized to do so;

Misrepresenting the cost, coverage, or other aspects of GAP insurance, an extended service plan, or a mortgage refinance program;

Charging interest in excess of 36% or requiring borrowers to agree to binding arbitration in any loan covered by the Military Lending Act. (The MLA covers virtually all loan except mortgages and loans secured by the property being purchased; e.g., the typical auto purchase loan.)

Denying or delaying owners of prepaid debit cards access to their own money;

Force placing vehicle insurance (i.e., buying high cost auto insurance at the borrower's expense, when the debtor is not in default) or maintaining such insurance for longer period than authorized.

#### **6. Q. How can I file a complaint with either of these agencies?**

**A. You can file a complaint with either the CFPB or the DoJ online. The CFPB website is <https://www.consumerfinance.gov/> (or just type "CFPB" into your search engine). The CFPB website allows you to upload important documents that may be relevant to your case and also contains a wealth of information concerning consumer finance issues such as mortgages, student loans, credit scores, scams, debt collection, and other matters. The DoJ SVI website is located at: <https://www.justice.gov/servicemembers> (or just type "DoJ Servicemembers and Veterans Initiative" into your search engine.)**

#### **7. Q. Why should I file a complaint with these agencies?**

**A. Your complaint helps these agencies identify businesses that are not following the law. It can result not only in the resolution of your personal issue (without paying any attorney fees), but can also help the agencies identify targets for further investigation and enforcement actions. The right complaint to the right agency can result in a judicial or administrative order demanding that the offending business pay restitution to you, pay restitution to others similarly victimized, and repair damage to consumer credit reports resulting from the business misconduct. In order to prevent and deter further misconduct, the defendant business may also be ordered to pay a civil fine, educate its employees concerning the law, and initiate a plan to ensure future compliance with legal requirements.**

*CFPB Complaints.* The CFPB has successfully taken enforcement actions against many businesses, including some of the largest companies in the world. If you file a complaint with the CFPB, it will request a response from the party that is the subject of your complaint. Sometimes, such a request is all that is needed to resolve your issue. However, the CFPB may also decide to investigate your case, as well as the business practices of that party in general. During its investigation, the CFPB may review the party's business records, which can provide evidence of wrongdoing and reveal the extent to which others may have been harmed. If the CFPB takes an enforcement action against that party, it is likely to obtain restitution not only for you, but also for others who have been similarly victimized, which in some cases can include tens of thousands of other victims.

*DoJ SVI Complaints.* The DoJ has successfully taken enforcement actions against some of the biggest companies in the world as well as relatively small businesses. If you file a complaint with

the SVI, the DoJ may request a response from the party that is the subject of your complaint, or it may investigate and initiate an enforcement action. Like the CFPB, if the DoJ decides to take an enforcement action, it is likely to obtain restitution for all similarly victimized consumers. DoJ defendants are often ordered by judges to pay restitution to persons wronged, to pay a civil fine, to train their employees, and to initiate a compliance plan to help prevent a repeat of its violations.

**8. Q. Do I need to talk to an attorney before filing a complaint?**

A. No, there is no requirement that you consult an attorney before submitting a complaint to the DoJ or to the CFPB. You can submit your complaint online, in plain language, to either of these agencies. However, it is generally a good idea to discuss the matter with an attorney, including your military legal assistance attorney. An attorney can help you to understand the applicable laws, some of which you may not even be aware exist. An attorney can also help ensure that all matters of legal importance are included in your complaint and may even help you draft the complaint.

**9. Q. What if I have more questions about making a complaint to the DoJ or CFPB?**

A. Contact a private attorney or your military legal assistance office. When you meet with an attorney, make sure to bring a copy of your lease, loan, monthly statement, and any other pertinent documents, photos, or records available.

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