1	MERRICK B. GARLAND		
2	Attorney General KRISTEN CLARKE		
3	Assistant Attorney General		
4	CARRIE PAGNUCCO Chief, Housing and Civil Enforcement Se	ection	
5	ELIZABETH A. SINGER	otion	
6	Director, U.S. Attorneys' Fair Housing Property Housing and Civil Enforcement Section	rogram	
7	Civil Rights Division		
8	U.S. Department of Justice		
9	TARA K. McGRATH United States Attorney		
10	DYLAN M. ASTE		
11	Assistant U.S. Attorney California Bar No.: 281341		
12	Office of the U.S. Attorney		
13	880 Front Street, Room 6293 San Diego, CA 92101		
14	Tel: (619) 546-7621 Email: Dylan.Aste@usdoj.gov		
15	Attorneys for Plaintiff		
16	United States of America		
17	UNITED STATES DISTRICT COURT		
18	SOUTHERN DISTRICT OF CALIFORNIA		
19			
20	UNITED STATES OF AMERICA,	Case No. <u>'24CV1499 MMAKSC</u>	
21	Plaintiff.	COMPLAINT	
22	V.		
23			
24 25	TONY'S AUTO CENTER INC. d/b/a TONY'S AUTO CENTER		
26	Defendant.		
27	COMPLAINT		
28	COMPLAINT  District of the United States of America (United States) allowed for the state of the		
	Plaintiff, the United States of America (United States), alleges as follows:		

**INTRODUCTION** 

1. Servicemembers should be able to devote themselves fully to the Nation's defense. Congress enacted the Servicemembers Civil Relief Act (SCRA) so that servicemembers could do just that. *See* 50 U.S.C. §§ 3901-4043.

- 2. The SCRA strengthens and expedites national defense by giving servicemembers certain protections if legal or financial transactions adversely affect their rights during military or uniformed service. These protections impose special requirements on entities seeking to dispose of the property of servicemembers, who are often overseas and unreachable.
- 3. Tony's Auto Center Inc. d/b/a Tony's Auto Center (hereinafter Tony's Auto) ignored those protections and violated the SCRA when it illegally sold or auctioned—without a court order—a vehicle owned by SCRA-protected servicemember Lieutenant Jonathan Liongson (LT Liongson) while he was at sea aboard an aircraft carrier.
- 4. Tony's Auto violated the SCRA provision that requires a lienholder to obtain court review and approval prior to enforcing a lien on the property or effects of a servicemember during a period of military service and for 90 days thereafter. *See* 50 U.S.C. § 3958(a)(1).
- 5. The court reviewing such a matter may stay the proceeding for a period as justice and equity may require, or it may adjust the obligation. *See* 50 U.S.C. § 3958(b).
- 6. When Tony's Auto failed to obtain a court order before enforcing its lien on LT Liongson's vehicle, it deprived him of his federally protected right to have a court decide whether to postpone the sale or adjust the amount of any fees he owed to Tony's Auto.

#### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over this action under 28 U.S.C. § 1331, 28 U.S.C. § 1345, and 50 U.S.C. § 4041.

8. Venue is proper in this judicial district under 28 U.S.C. § 1391(b), because Tony's Auto's principal place of business is in the Southern District of California and a substantial part of the events or omissions giving rise to the claim occurred within the Southern District of California.

## **DEFENDANT**

- 9. Tony's Auto is a towing and auto repair company located at 38 Third Avenue, Chula Vista, California 91910. Tony's Auto offers services such as vehicle maintenance, towing, and storage.
- 10. Tony's Auto enforces, or contracts with a third party to enforce, its liens by selling or disposing of motor vehicles through public lien sales.

## AGGRIEVED SERVICEMEMBER

- 11. Since March 2020, LT Liongson has been an active-duty member of the United States Navy.
- 12. LT Liongson was stationed at Naval Base San Diego, which is approximately five miles from Tony's Auto. Naval Base San Diego is the United States Navy's largest West Coast base with a population of approximately 20,000 military personnel.
  - 13. LT Liongson was the sole owner of his 2011 Mazda 6 (the "Vehicle").

# TONY'S AUTO AUCTIONS OFF LT LIONGSON'S VEHICLE WITHOUT FIRST OBTAINING A COURT ORDER

- 14. Beginning on November 28, 2022, LT Liongson was deployed at sea aboard the USS Bunker Hill.
- 15. Prior to deployment, LT Liongson parked the Vehicle in front of a friend's house.
- 16. LT Liongson stored some of his personal belongings in the Vehicle, including shoes, a weight belt, and an iPhone cord.
- 17. LT Liongson planned to retrieve the Vehicle after returning from his deployment.

3

5

4

6

7

8 9

10

11

12

13

14

15

16

17

18 19

20

21 22

23

25

24

26

27

///

28

- 18. On December 6, 2022, while LT Liongson was still at sea, the Chula Vista Police Department impounded the Vehicle due to an expired registration, and Tony's Auto towed the Vehicle to its facility for storage.
- 19. According to Tony's Auto, sometime thereafter, it obtained, through its agent LienTek Solutions, Inc. (LienTek) from the California Department of Motor Vehicles, LT Liongson's name and address as the Vehicle's registered owner. It also obtained information that Navy Federal Credit Union was a legal owner of the Vehicle.
- LT Liongson had obtained a loan from Navy Federal Credit Union to 20. purchase the Vehicle, which he was still paying off during this time.
- On approximately December 12, 2022, according to Tony's Auto's 21. records, it had its agent LienTek mail a Notice of Pending Lien Sale to LT Liongson's address listed on the Vehicle's registration.
- LT Liongson did not receive the Notice of Pending Lien Sale because he was at sea aboard the USS Bunker Hill, and he no longer lived at the address on the Vehicle's registration.
- The Vehicle remained in Tony's Auto's possession or control until 23. approximately February 10, 2023.
- 24. On approximately February 10, 2023, Tony's Auto, through its agent LienTek, enforced its lien by selling the Vehicle at auction.
- 25. In March 2023, LT Liongson returned home from deployment to find that the Vehicle had been towed. LT Liongson contacted Tony's Auto and was informed that Tony's Auto had sold his Vehicle.
- 26. Tony's Auto never obtained a court order authorizing the sale of the Vehicle.
- Tony's Auto sold the Vehicle for approximately \$1,200, and Tony's Auto 27. retained the proceeds from the sale.

approximately \$2,581 on the loan from Navy Federal Credit Union, which

At the time Tony's Auto sold the vehicle, LT Liongson still owed

28.

29. At all times relevant to this complaint, the Department of Defense provided lienholders and others seeking to comply with SCRA a free automated database run by the Defense Manpower Data Center (DMDC database) to check whether individuals are SCRA-protected servicemembers.

LT Liongson has since paid to avoid defaulting.

- 30. At all times relevant to this complaint, Tony's Auto's policies and procedures did not appear to include checking the DMDC database, using either an individual's Social Security Number or date of birth, to determine whether the vehicles it sold, auctioned, or otherwise disposed of were owned by SCRA-protected servicemembers.
- 31. At all times relevant to this complaint, Tony's Auto's policies and procedures did not appear to include either using a commercially available database to match vehicle and customer information to Social Security Numbers or dates of birth or otherwise requesting such information prior to selling or otherwise disposing of customers' vehicles without court orders.
  - 32. LT Liongson never signed a waiver of his SCRA rights.

## SERVICEMEMBER CIVIL RELIEF ACT VIOLATIONS

- 33. The SCRA provides that a "person holding a lien on the property or effects of a servicemember may not, during any period of military service of the servicemember and for 90 days thereafter, foreclose or enforce any lien on such property or effects without a court order granted before foreclosure or enforcement." 50 U.S.C. § 3958(a)(1). There is no requirement that servicemembers inform lien holders of their military service.
- 34. For the purposes of 50 U.S.C. § 3958, "the term 'lien' includes a lien for storage, repair, or cleaning of the property or effects of a servicemember or a lien on such property or effects for any other reason." 50 U.S.C. § 3958(a)(2).

- 35. Under California law, when law enforcement or a governmental agency directs the removal of a vehicle to a storage facility, the receiving facility holds a garageman's lien against the vehicle. *See* Cal. Veh. Code § 22851(a)(1).
- 36. "Every person has a lien dependent upon possession for the compensation to which the person is legally entitled for towing, storage, or labor associated with recovery or load salvage of any vehicle subject to registration that has been authorized to be removed by a public agency." Cal. Civ. Code § 3068.1. "The lien is deemed to arise on the date of possession of the vehicle," which arises when "the vehicle is removed and is in transit, or when vehicle recovery operations or load salvage operations have begun." *Id*.
- 37. Tony's Auto lien sale of LT Liongson's vehicle without a court order violated the SCRA. *See* 50 U.S.C. § 3958.
- 38. Such sale of a servicemember's vehicle while he is deployed overseas raises an issue of significant public importance under 50 U.S.C. § 4041(a)(2).
- 39. LT Liongson is a "person aggrieved" under 50 U.S.C. § 4041(b)(2) and has suffered damage as a result of Tony's Auto's conduct.
  - 40. Tony's Auto's conduct was in disregard of LT Liongson's rights.
- 41. Based on Tony's Auto practice of conducting lien sales on vehicles without checking the DMDC database to determine whether the vehicles are owned by SCRA-protected servicemembers, and based on Tony's Auto's location near several military installations, Tony's Auto may have violated the rights of other SCRA-protected servicemembers.

## **RELIEF REQUESTED**

- WHEREFORE, the United States requests that the Court enter an ORDER that:
- 1. declares that Tony's Auto's conduct violated the SCRA;
- 2. enjoins Tony's Auto, its agents, employees, and successors, and all other persons and entities in active concert or participation with it, from:

1	a. enforcing liens on	motor vehicles of SCRA-protected
2	servicemembers withou	t court orders, in violation of the SCRA
3	50 U.S.C. § 3958;	
4	b. failing or refusing to	take such affirmative steps as may be
5	necessary to restore, as	nearly as practicable, LT Liongson to the
6	position he would have	been in but for that illegal conduct; and
7	c. failing or refusing to	take such affirmative steps as may be
8	necessary to prevent th	e recurrence of any illegal conduct in the
9	future and to eliminate	, to the extent practicable, the effects of
10	Tony's Auto's illegal co	nduct;
11	3. awards appropriate monetary	damages to LT Liongson and any other
12	aggrieved servicemember, pursuant to 50 U.S.C. § 4041(b)(2); and	
13	4. assesses civil penalties against Tony's Auto to vindicate the public	
14	interest, pursuant to 50 U.S.C. § 4041(b)(3).	
15	The United States prays for such additional relief as the interests of justice mag	
16	require.	
17	Respectfully submitted,	
18	TARA K. McGRATH	MERRICK B. GARLAND
19	United States Attorney	Attorney General
20		KRISTEN CLARKE
21	S/ Dylan Aste	Assistant Attorney General CARRIE PAGNUCCO
22	DYLAN M. ASTE  Assistant United States Attorneys	Chief, Housing and Civil Enforcement
23	United States Attorney's Office	Section
24	11 Maii 17690 CA 97 IVI	s/ Elizabeth Singer
25	Phone: (619) 546-7621	ELIZABETH A. SINGER Director, U.S. Attorneys' Fair Housing
26	Eman. Dylan. Aste@usdoj.gov	Program
27		Housing and Civil Enforcement Section Civil Rights Division
28	III	J.S. Department of Justice