

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 16-12756
)	
COPOCO Community Credit Union,)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff, the United States of America, alleges as follows:

INTRODUCTION

1. The United States brings this action under the Servicemembers Civil Relief Act (SCRA), 50 U.S.C. §§ 3901-4043, against COPOCO Community Credit Union (hereinafter referred to as “Defendant”) for violating the SCRA’s prohibition against repossessing a motor vehicle from a servicemember during military service without a court order if the servicemember made a deposit or installment payment on the loan before entering military service.
2. The purpose of the SCRA is to provide servicemembers with protections against certain civil proceedings that could adversely affect their legal rights while they are in military service. One of those protections is the requirement that a court review and approve a lender’s repossession of any

motor vehicle owned by a servicemember if the servicemember took out the loan and made a deposit or an installment payment before entering military service. The court may delay the repossession or condition the repossession on the refunding of all or part of the prior installments or deposits made by the servicemember. The court may also appoint an attorney to represent the servicemember, require the lender to post a bond with the court and issue any other orders it deems necessary to protect the rights of the servicemember.

3. A lender's failure to obtain a court order before repossessing a protected servicemember's motor vehicle violates that servicemember's federally protected right to have a court order repayment to the servicemember of all or part of the prior installments or deposits, stay the proceedings for a period of time as justice and equity require or make any other equitable disposition to preserve the interests of all parties.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action under 28 U.S.C. § 1331, 28 U.S.C. § 1345, and 50 U.S.C. § 4041.
5. Defendant is a credit union chartered under the laws of Michigan with its headquarters located at 4265 East Wilder Road, Bay City, Michigan, in the Eastern District of Michigan.

6. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) because Defendant is headquartered and conducts business in the Eastern District of Michigan.

DEFENDANT

7. Defendant is a state-chartered, federally-insured credit union in Michigan regulated by the Michigan Department of Insurance and Financial Services. According to Defendant's most recent Financial Performance Report obtained through the National Credit Union Administration, as of March 31, 2016, COPOCO had total assets of \$101,583,663, including loan assets of nearly \$68 million.

BACKGROUND

8. In April 2014, Alyssa and Christian Carriveau, a married couple, were living in Pinconning, Michigan and purchased a 2010 GMC Terrain from a dealership. The Carriveaus obtained financing at the dealership, and they received a loan from Defendant. In May 2014, the Carriveaus made their first loan payment.
9. Shortly after making their first payment, the Carriveaus moved to Washington State. After moving to Washington, Mr. Carriveau enlisted in the United States Army as a Private First Class (PFC), beginning full-time active duty in January 2015. That month, Ms. Carriveau contacted

Defendant and informed it that the next payment might be late due to the military's payday schedule. Due to financial difficulties, the Carriveaus fell behind on car payments during the summer of 2015, but they were able to begin catching up in September 2015.

10. Nonetheless, on or about October 5, 2015, while PFC Carriveau was away for additional military training, Defendant repossessed the Carriveaus' car – along with their two-year-old daughter's car seat – from their driveway in Lacey, Washington, without a court order. Although Ms. Carriveau initially believed that the car had been stolen, she subsequently learned that it had been repossessed.
11. On October 6, 2015, Ms. Carriveau called the Department of Justice. The same day, a Department of Justice attorney contacted Defendant and arranged to have the vehicle returned to the Carriveaus that evening. Nonetheless, Ms. Carriveau was forced to miss work and suffered emotional distress as a result of the repossession.
12. On October 29, 2015, the Department of Justice notified Defendant that it was opening an investigation into Defendant's motor vehicle loan servicing policies, practices, and procedures.

SERVICEMEMBERS CIVIL RELIEF ACT VIOLATIONS

13. The SCRA provides that “[a]fter a servicemember enters military service, a contract by [a] servicemember for . . . the purchase of real or personal property (including a motor vehicle)” and “for which a deposit or installment has been paid by the servicemember before the servicemember enters military service,” “may not be rescinded or terminated for a breach of terms of the contract . . . nor may the property be repossessed for such breach without a court order.” 50 U.S.C. § 3952(a) (emphases added).
14. The Department of Defense provides lenders, and others seeking to comply with the SCRA, an automated database run by the Defense Manpower Data Center (“DMDC database”), to check whether their customers are SCRA-protected servicemembers.
15. Until at least October 6, 2015, Defendant’s vehicle repossession procedures did not include checking the DMDC database, or any other process to determine customers’ military status, prior to conducting repossessions without court orders.
16. Until at least December 16, 2015, Defendant had no written policies concerning compliance with the SCRA.
17. On or about October 5, 2015, Defendant initiated and completed the repossession, without a court order, of a motor vehicle owned by PFC

Christian Carriveau, who had made an installment payment to Defendant prior to entering military service (as defined by 50 U.S.C. § 3911(2)) and was in military service at the time of the repossession.

18. Upon information and belief, Defendant may have repossessed motor vehicles, without court orders, from other servicemembers who had made a deposit or installment payment to Defendant prior to entering military service and were in military service (or were members of a reserve component ordered to report for military service, as defined by 50 U.S.C. § 3917(a)) at the time of the repossession.
19. Defendant has engaged in a pattern or practice of violating Section 3952(a)(1) of the SCRA, 50 U.S.C. § 3952(a)(1), which prohibits repossessing a motor vehicle from a servicemember during military service without a court order if the servicemember made a deposit or installment payment on the loan before entering military service.
20. Defendant's repossession of PFC Carriveau's motor vehicle without a court order raises an issue of significant public importance.
21. PFC Carriveau and any other servicemembers whose motor vehicles were repossessed without court orders in violation of the SCRA are "person[s] aggrieved" pursuant to 50 U.S.C. § 4041(b)(2) and have suffered damages as a result of Defendant's conduct.

22. Defendant's conduct was intentional, willful, and taken in disregard for the rights of servicemembers.

RELIEF REQUESTED

WHEREFORE, the United States requests that the Court enter an ORDER that:

1. Declares that Defendant's conduct violated the SCRA;
2. Enjoins Defendant, its agents, employees, and successors, and all other persons and entities in active concert or participation with them, with respect to any financial products serviced by them, from:
 - a. repossessing the motor vehicles of SCRA-protected servicemembers without court orders, in violation of the SCRA, 50 U.S.C. § 3952;
 - b. failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, each identifiable victim of Defendant's illegal conduct to the position he or she would have been in but for that illegal conduct; and
 - c. failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any illegal conduct in the future and to eliminate, to the extent practicable, the effects of Defendant's illegal conduct;

3. Awards appropriate monetary damages to each identifiable victim of Defendant's violations of the SCRA, pursuant to 50 U.S.C. § 4041(b)(2); and
4. Assesses civil penalties against Defendant in order to vindicate the public interest, pursuant to 50 U.S.C. § 4041(b)(3).

The United States further requests such additional relief as the interests of justice may require.

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