

Military Consumer Complaints:

Who Ya Gonna Call?



North Carolina State Bar
Legal Assistance for Military Personnel
October 2011

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Why Complain?



- Consumer Redress
- Sanction Offender
- Inform other potential victims
- Rulemaking
- Government enforcement
- Private enforcement

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Private Litigation



- Cost
- Time
- Transience of military personnel
 - Venue may be far from current residence
 - May execute deployment or PCSO before ct date
- Unpredictable results
- Appeal de novo of NC Small Claims Actions
- Difficulty in getting legal representation
- Forced arbitration (esp. w/ auto sales & finance)

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Private Litigation: Sometimes it works



- Rowles et al v JP Morgan Chase
 - USMC Times 22 Apr 2011: Chase to pay \$48 million

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Free Stuff: Pro Bono Assistance & Representation

- ABA Operation Standby
 - Advice to judge advocates (not representation)
- ABA Military Pro Bono
- Georgia State Bar Military Assistance
 - http://www.gabar.org/programs/pro_bono_project/
- Legal Aid of NC
 - Family income below 125% Fed poverty guideline
 - Income criteria not applicable to DV victims or sr. citizens

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Federal Agencies

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Federal Trade Commission



- FTC Military Sentinel / Consumer Sentinel
 - Gov't lawsuit unlikely in absence of egregious conduct, widespread harm
 - Referral to other agencies
 - Inform Congress
 - Rulemaking
 - Particular interest currently in auto finance, esp BHPH lenders exempted fro CFPB. Enhanced rulemaking.
 - Public comment

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Consumer Finance Protection Bureau



- Dodd / Frank Wall Street Reform & Consumer Finance Protection Act
- Joint statement OSD /CFPB 6 July 2011
 - Single POC for military attorneys assistance
 - Angela Martin
 - Angela.martin@cfpb.gov

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Consumer Finance Protection Bureau: Office of Servicemember Affairs

- Section 1013(e)
 - Educate SM to make better \$ decisions
 - Monitor SM complaints and gov't responses
 - Coordinate consumer protection measures at all levels of gov't
- Director: Holly Petreaus



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CFPB: Consumer Complaints

- On Line
- Credit Card Protocols



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U.S. Department of Justice: SCRA Enforcement

- Veteran's Benefits Act 2010
 - DoJ Enforcement of SCRA (50 USC app 597)
 - Pattern or practice of SCRA violation
 - Violation raises issue of significant public importance
 - Fine (\$55K 1st viol, \$110K subsequent viols)
 - Equitable / declaratory relief
- Warning/ advice calls



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USDOJ: SCRA Enforcement



- Mortgage Foreclosure
 - NC Gen Stat 45-21.12A, 45-21.16c,d
 - SCRA 533 protections grafted onto state law
- Interest Rate Reduction
- Lease Termination
 - Phony "rent concession" leases
- False service affidavit
- Other

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State Enforcement Agencies



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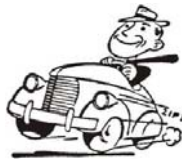
NC Department of Justice Consumer Division



- Military Liaison
 - David Fox
 - dfox@ncdoj.gov
 - (919) 716-6000
- Response
 - Consumer alerts
 - Mediation
 - Enforcement actions
- On line complaints

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NC Department of Motor Vehicles



- Theft and licensing division
 - Approx 150 inspectors
 - Vehicle theft, title fraud, DL fraud
 - Rules governing vehicle dealers, towing and storage, vehicle repair business
- On line query:
https://apps.dot.state.nc.us/ContactUS/PostComment.aspx?Unit=DMV_ID_Ins
- District Office locator: <http://www.ncdot.org/dmv/contact/>
- Greenville (District Office) : (252) 752-4435
- Onslow County: (910) 455-8835
- Morehead City (252) 726-5111

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License and Theft Bureau



- Law enforcement officers
 - NC Gen Stat 20-49
- Criminal Prosecutions
- Civil Actions
 - Fines
 - Dealer license revocation

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NC Department of Insurance

- Question, complaints, assistance
 - http://www.ncdoi.com/Consumer/Consumer_Complaint_Info.aspx#Num1
 - (800) 546-5664 // (919) 807-6750
- Unlawful solicitation:
 - NC Gen Stat 58-58-320 et seq
 - DoDI 1344.07 dtd 30 Mar 2006
 - SECNAINST 1740.2E dtd 12 Jul 2008

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Housing Inspector



- NC Gen Stat 160A-411 et seq
- Enforce state /local laws re bldg construction, facilities (e.g., a/c, plumbing), maintenance in safe and sanitary condition. NC Gen Stat 160A-412.
- Onslow County:
 - (910) 989-3071 // (910) 989-3086
 - Procedures and minimum housing standards
<http://onslowcountync.gov/planning/content.aspx?id=2648>

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Housing Inspector Authority

- Deny / approve / revoke bldg permits
- Inspect work in progress
- Order work immediately stopped
- Order defects corrected
- After hearing, enforcement actions for noncompliance
- Criminal penalties

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Landlord Duties



- Comply with building / housing codes
 - www.Municode.com
 - Local code may adopt state codes
 - Onslow County: Chapter V article III : Minimum Housing Standards
- Make repairs, keep fit & habitable
- Keep common areas in safe condition
- Provide smoke detectors, replace after notice
- Notify tenant of contaminated water (if landlord has actual notice)
- Duties concerning CO2 detector repair / replacement

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Landlord Duties

- Repair / remedy imminently dangerous conditions in reasonable time after knowledge or actual notice. Includes:
 - Unsafe wiring, steps, roof, chimney
 - Lack of potable water, no locks on exterior doors
 - Broken windows, lack of locks on 1st floor windows
 - Lack of heat (1 Nov -31 March)
 - No operable toilet, tub or shower
 - Rat infestation due to structural defects
 - Excessive standing water, sewage, flooring due to plumbing leaks or inadequate drainage

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NC State Bar



- Complaints
 - Violations of Rules of Professional Responsibility
 - Bar counsel assigned
 - Investigation conducted if needed, respondent responds
 - Referral to Grievance Committee
 - Dismiss
 - Letter of caution, warning, admonition, reprimand, censure
 - Referral to Disciplinary Hearing Commission
 - DHC Hearings on the merits and sanctions
 - Dismissal
 - Letter of caution, warning, admonition, reprimand, censure
 - Suspension up to five years (May stay on conditions)
 - Disbarment
 - Appeal to NC Court of Appeals

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NC State Bar: Alternatives to Filing a Complaint

- Attorney-Client Assistance
 - Informal, minor complaint resolution by public liaison (919) 828-4620 dmelching@ncbar.gov
- Fee Dispute Resolution
- Client Security Trust Fund
 - Reimburse up to \$100K stolen by lawyer
 - Client Security Trust Board investigates
 - (919) 828-4620

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Armed Forces Disciplinary Control Board



- Joint Forces Order
 - AR 190-24 / OPNAVINST 1620.2A
 - AFI 31-213 /MCO 1620.2D
 - COMDTINST 1620.1E
- Inspector / Board President
- Procedures
 - Warnings, hearing, notice and opportunity to be heard
 - Emergency cases: Hearing *after* off-limits designation

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Persona Non Grata



- Issued by Installation CO
 - Contact installation Inspector
- Federal trespass statute: 18 USC 1832
 - Enter installation for purpose prohibited by law or regulation
 - Reenter after receiving PNG letter
 - Fine and 6 months imprisonment

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Better Business Bureau



- Conciliation
 - Promotes discussion so parties can resolve themselves
- Mediation
 - Trained mediator guides parties to resolution
- Arbitration
 - Parties agree to arbitration. Arbitrator decides.
- Measuring / grading businesses

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Better Business Bureau Accreditation

- Commitment to good faith resolution of complaints
- Commitment to BBB Code of Business Practice
 - Don't lie, cheat, steal, mislead
 - Free from gov't action demonstrating significant failure to support BBB principles
 - Maintain at least a B average
 - Cooperate w/ BBB in dispute resolution
 - Pay dues

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The Press



- Hungry for military rip off stories
- Especially want drama, interviews w/ victims
- Effective in gaining high level attention and correcting errors
- Make sure you have the right client
- Make sure you have the right case
- Collect anecdotes and pass them to ME.

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