

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

SONYA O. CARR, 16420 Eider St., Bowie,
MD 20716, on behalf of herself and all others
similarly situated,

Plaintiff,

v.

**TRANSIT EMPLOYEE FEDERAL
CREDIT UNION**, 2000 Bladensburg Rd NE,
Washington, DC 20018,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiff Sonya O. Carr, by and through her undersigned counsel, alleges as follows:

INTRODUCTION

This case arises from Defendant Transit Employee Federal Credit Union's (hereinafter "TEFCU") violations of District of Columbia laws related to the repossession of Plaintiff's TEFCU-financed personal automobile.

TEFCU provided Plaintiff, a TEFCU member, with a loan for the financing of a used automobile. When Plaintiff fell behind on loan payments, Defendant, or its agents, repossessed her vehicle and charged Plaintiff excessive repossession fees, and excessive vehicle storage fees – both in clear violations of District of Columbia law. Furthermore, though Defendant had promised in writing to use a collateral deposit to offset overdue any overdue loan payments in the future, Defendant neglected to properly do so, leading to the premature repossession of Plaintiff's vehicle.

Plaintiff brings claims against TEFCU, on behalf of herself and others similarly situated, for: (1) violations of the District of Columbia Consumer Protection Procedures Act, codified at Chapter 39 of Title 28 the D.C. Code; (2) violations of the District of Columbia Municipal Regulations regarding the sale and repossession of motor vehicles, specifically D.C.M.R. §§ 16-340.6, 16-341.5, 16-342.2, and 16-346.2 (pursuant to the District of Columbia Consumer Protection Procedures Act); and (3) breach of contract.

PARTIES

1. Plaintiff Sonya Carr is a resident of Maryland. Plaintiff was at all relevant times a citizen and resident of the District of Columbia, residing at 5182 Eastern Avenue, Northeast, Washington, District of Columbia 20011.

2. Defendant TEFCU is a federal credit union with its principal place of business at 2000 Bladensburg Road Northeast, Washington, DC 20018.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this civil action pursuant to D.C. Code § 11- 921 and D.C. Code §28-3905(k)(2), since Plaintiff's claims arise under District of Columbia law and a substantial part of the events or omissions giving rise to Plaintiff's claims occurred within the District of Columbia, including the drafting and execution of the subject loan agreement and the repossession of Plaintiff's motor vehicle.

4. This Court has personal jurisdiction over Defendant pursuant to D.C. Code § 13-422 since Defendant is domiciled in, organized under the laws of, or maintains its principal place of business in the District of Columbia.

ALLEGATIONS OF FACT

5. TEFCU's lending services focus on so-called "subprime" borrowers, *i.e.*, borrowers who pose a greater risk of loan default than so-called "prime" borrowers. The rates of delinquency and default on loans made by TEFCU – including loans financing the purchases of automobiles for personal use – are significantly higher than average.

6. TEFCU regularly repossesses personal automobiles for which it has provided financing.

7. In September 2013, Plaintiff obtained financing for her personal vehicle from TEFCU.

8. Pursuant to a 71-month secured loan agreement (the "six-year secured loan agreement"), TEFCU provided Plaintiff with \$11,828.85 to refinance her 2011 Chevrolet HHR at an annual interest rate of 15.99 percent, compounding daily.

9. Per the terms of the six-year secured loan agreement, Plaintiff was obligated to make 142 biweekly payments of \$127.20 and one final payment of \$126.81.

10. The loan agreement granted TEFCU a security interest in Plaintiff's Vehicle, such that TEFCU could repossess and sell the Vehicle in the event of default by Plaintiff.

11. An addendum to the loan agreement required a deposit from Plaintiff of \$1,774.32. The deposit created a separate Share Account, to "be opened to promote savings and to be pledged as collateral" for Plaintiff's loan. The Loan Addendum provided that funds would be withdrawn from the Share Account if Plaintiff became delinquent on any loan with TEFCU, in which case TEFCU "reserve[d] the right of offset without prior notification."

12. In early 2017, Plaintiff fell behind on her loan payments to TEFCU.

13. On July 22, 2017, TEFCU's repossession agent, River City Recovery, possessed the Vehicle from the parking lot of Plaintiff's apartment building within the District of Columbia.

14. On July 24, 2017, TEFCU mailed Plaintiff a DC Redemption Letter. The Redemption Letter stated that the Vehicle had been repossessed on July 22, 2017, and that the Vehicle could be redeemed within fifteen days upon payment by Plaintiff of an overdue balance of \$1,806.61, repossession fees of \$500, and storage fees of \$3 per day.

15. TEFCU did not disclose that it had also withdrawn the \$1,774.32 in Plaintiff's Share Account, or that the withdrawal from the Share Account had been used to pay down the principal on Plaintiff's loan instead of to offset any part of the overdue balance of \$1,806.61.

16. Within fifteen days of her Vehicle being repossessed, Plaintiff went to TEFCU's Washington D.C. branch and paid the past due amount on her loan, as well as the repossession fees and storage fees. An agent or employee of TEFCU instructed Plaintiff that she would then need to reclaim her Vehicle from River City Recovery's facility in Capitol Heights, Maryland.

17. Plaintiff contacted River City Recovery. A River City Recovery representative informed Plaintiff that before it would release her Vehicle, she must pay a storage fee of \$600 in cash.

18. Plaintiff paid River City Recovery \$600 in cash and retook possession of Vehicle.

CLASS ACTION ALLEGATIONS

19. Plaintiff brings this lawsuit on behalf of herself and all similarly situated individuals, pursuant to D.C. Superior Court Rules of Civil Procedure 23 and 23-I. Specifically, the classes consist of:

Excessive Repossession Fee Class

All individuals who are or were a party to a secured auto loan agreement with TEFCU by which TEFCU provided financing for the purchase of a motor vehicle, from a dealer, for personal use, which (1) TEFCU repossessed and (2) which TEFCU, or its agent, conditioned the redemption of, reinstatement of, or release of upon the payment of a “repossession fee” or other fees related to the repossession of the motor vehicle, other than storage fees, which alone or in combination, exceeded \$100.

Excessive Storage Fee Class

All individuals who are or were a party to a secured auto loan agreement with TEFCU by which TEFCU provided financing for the purchase of a motor vehicle, from a dealer, for personal use, which (1) TEFCU repossessed and (2) which TEFCU, or its agent, conditioned the redemption of, reinstatement of, or release of upon the payment of a “storage fee” or other fees related to the storage of the repossessed motor vehicle, other than repossession fees, which alone or in combination, exceeded \$3 per day.

Excluded from each proposed Class are: (a) any Judge presiding over this action and members of their immediate families; (b) Defendant and its subsidiaries and affiliates; and (c) all persons who properly execute and file a timely request for exclusion from the Classes.

20. *Numerosity*: Upon information and belief, members of the Classes are so numerous that individual joinder would be impracticable. Moreover, the Classes are composed of an easily ascertainable set of individuals, the precise number of which can be discovered through discovery, which includes TEFCU’s records. The disposition of their claims will benefit both the parties and this Court.

21. *Commonality*: Common questions of law and fact exist as to all members of each proposed Class that will materially advance the litigation, and these questions predominate over questions affecting only individual class members. These common questions include the following:

- a. Whether TEFCU routinely stored towed vehicles outside of the District of Columbia or the state and county in which the consumer resides or the state and county where it was located and repossessed;
- b. Whether TEFCU's practice of storing towed vehicles outside of the District of Columbia or the state and county in which the consumer resides or the state and county where it was located and repossessed violated the District of Columbia Consumer Protection Act and/or the District of Columbia Municipal Regulations regarding the repossession of motor vehicles;
- c. Whether, and to what extent, TEFCU charged "Repossession Fees" in excess of \$100;
- d. Whether "Repossession Fees" assessed by TEFCU against class members in connection with redemption, reinstatement, or recovery of their repossessed vehicles are in excess of that permitted by the D.C. Municipal Regulations;
- e. Whether, and to what extent, TEFCU or its agents, charged storage fees in excess of \$3 per day for repossessed TEFCU-financed vehicles; and
- f. Whether storage fees in excess of \$3 per day are unlawful with respect to repossessed vehicles.

22. *Typicality*: Plaintiff's claims are typical of the claims of the members of the Classes, as all such claims arise out of Defendant's conduct in repossessing TEFCU-financed vehicles. All of Plaintiff's claims are typical of the claims of the Class since Plaintiff and all Class members were injured in the same manner by Defendant's uniform course of conduct described herein. Plaintiffs and all Class members have the same claims against Defendant relating to the conduct alleged herein, and the same events giving rise to Plaintiffs' claims for

relief are identical to those giving rise to the claims of all Class members. Plaintiffs and all Class members sustained monetary and economic injuries including, but not limited to, ascertainable losses arising out of Defendant's wrongful conduct as described herein. Plaintiffs are advancing the same claims and legal theories on behalf of themselves and all absent Class members.

23. *Adequacy*: Plaintiff is an adequate representative of the proposed Classes she seeks to represent because her interests do not conflict with the interests of the members of the Classes. Plaintiff has retained counsel competent and experienced in complex class action litigation and Plaintiff intends to prosecute the action vigorously. As such, the interests of class members will be fairly and adequately protected by Plaintiff and her counsel.

24. *Predominance*: This class action is appropriate for certification because questions of law and fact common to the members of the Classes predominate over questions affecting only individual Class members.

25. *Superiority*: A class action is superior to other available means for the fair and efficient adjudication of these claims. The injuries suffered by each class member, while meaningful on an individual basis, are not of such magnitude as to make the prosecution of individual actions against TEFCU economically feasible. In addition, individualized litigation presents the potential for inconsistent or contradictory judgments and would increase the delay and expense to all parties and the court system presented by the legal and factual issues of the case. By contrast, a class action provides the benefits of a single adjudication, economy of scale, and comprehensive supervision by a single court.

26. In the alternative, the Classes may be certified because: TEFCU has acted, or refused to act, on grounds generally applicable to the Classes, thereby making appropriate final and injunctive relief with respect to the members of the Classes as a whole.

27. This action has been brought and may properly be maintained on behalf of the classes proposed above under the criteria of Superior Court Rule of Civil Procedure 23 and 23-I. Given the potential complexity of this case, Plaintiff hereby seeks relief from the 90-day filing requirement set forth by Local Rule 23-I and seeks that a schedule for the briefing of Class certification be set forth at the initial scheduling conference of this matter.

COUNT I

**Violations of the D.C. Consumer Protections Procedure Act 28 D.C. Code Ch. 39
(Excessive Repossession Fee Class)**

28. Plaintiff realleges the above allegations as if fully set forth herein.

29. Plaintiff and members of the Excessive Fee Class are, or were at all times relevant to this matter, “consumers” within of the meaning of the D.C. Consumer Protection Procedures Act, per D.C. Code § 28-3901(a)(2).

30. Plaintiff and the members of the Excessive Fee Class are, or were at all times relevant to this matter, “retail buyer(s)” and “buyer(s)” within the meanings of D.C.M.R. §§ 16-340, 16-341, and 16-342, per D.C.M.R. § 16-399.

31. The dealers from whom Plaintiff and the members of the Excessive Fee Class purchased the vehicles financed by TEFCU pursuant to their respective loan agreements are, or were at all times relevant to this matter, “dealer(s)” within the meaning of D.C.M.R. §§ 16-300.

32. TEFCU is, or was at all times relevant to this matter, a “merchant” within the meaning of the D.C. Consumer Protection Procedures Act, per D.C. Code § 28-3901(a)(3).

33. The loan agreements to which Plaintiff and the members of the Excessive Fee Class are or were parties, or some part of said loan agreements, are, or were at all times relevant to this matter, “instruments of security” within the meaning of D.C. Code § 50-601.

34. TEFCU is, or was at all times relevant to this matter, a “holder” within the meaning of D.C.M.R. §§ 16-340, 16-341, and 16-399.

35. TEFCU’s or its agents’ conditioning redemption, reinstatement, or release of Plaintiff’s and the Excessive Fee Class members’ repossessed vehicles on the payment of a “Repossession Fee” (or similarly designated fee related to the repossession of said vehicles) in excess of \$100 (one hundred dollars) violates the express requirements of D.C.M.R. § 16-342.2 and, per D.C.M.R. § 16-346.2, as interpreted by the courts of the District of Columbia, *see Chamberlain v. American Honda Finance Corp.*, 931 A.2d 1018, 1022 (D.C. 2007), and therefore constitutes an unlawful trade practice under Chapter 39 of Title 28 of the D.C. Code.

36. As a direct and proximate cause of TEFCU’s or its agents’ conditioning redemption, reinstatement, or release of Plaintiff’s and the Excessive Fee Class members’ repossessed vehicles on the payment of a “Repossession Fee” (or similarly designated fee related to the repossession of said vehicles) in excess of \$100, Plaintiff and the members of the Excessive Fee Class have sustained damages in an amount to be determined at trial.

37. TEFCU’s imposition of a “Repossession Fee” (or similarly designated fee related to the repossession of said vehicles) also violates the D.C. Consumer Protection Procedures Act’s ban on “mak[ing] or enforc[ing] unconscionable terms or provisions of sales or leases” in that, among other things, TEFCU:

- a. Knew at the time of extending credit and imposing the fee that consumers would have difficulty paying such fees;
- b. Knew at the time of extending credit and imposing the fee that its consumers would not receive substantial benefits from the service ostensibly provided for the charge;

- c. That there was a gross disparity between the price of the “service” and the value of the service measured by the price at which similar services are readily obtainable in transactions by like buyers or lessees;
- d. That it was taking advantage of the inability of its consumers to reasonably protect their interests.

38. As such, per D.C. Code § 28-3905(k)(1), TEFCU is liable to Plaintiff and the members of the Excessive Fee Class for treble damages or \$1,500 *per violation* of the D.C. Consumer Protection Procedures Act, whichever is greater; reasonable attorneys’ fees and expenses; an injunction prohibiting TEFCU’s and its agents’ conditioning redemption, reinstatement, or release of repossessed vehicles on the payment of a “Repossession Fee” (or similarly designated fee related to the repossession of a vehicle) in excess of \$100 (one hundred dollars); additional relief as may be necessary to restore to Plaintiff and the members of the Excessive Fee Class money or property that might have been acquired by TEFCU or its agents by means of TEFCU’s or its agents’ conditioning redemption, reinstatement, or release of Plaintiff’s or the Excessive Fee Class members’ repossessed vehicles on the payment of a “Repossession Fee” (or similarly designated fee related to the repossession of said vehicles) in excess of \$100 (one hundred dollars); and any other relief that the Court deems proper.

COUNT II

Violations of the D.C. Consumer Protections Procedure Act 28 D.C. Code Ch. 39 (Excessive Storage Fee Class)

39. Plaintiff realleges the above allegations as if fully set forth herein.

40. Plaintiff and members of the Excessive Storage Fee Class are, or were at all times relevant to this matter, “consumers” within of the meaning of the D.C. Consumer Protection Procedures Act, per D.C. Code § 28-3901(a)(2).

41. Plaintiff and the members of the Excessive Fee Class are, or were at all times relevant to this matter, “retail buyer(s)” and “buyer(s)” within the meanings of D.C.M.R. §§ 16-340, 16-341, and 16-342, per D.C.M.R. § 16-399.

42. The dealers from whom Plaintiff and the members of the Excessive Fee Class purchased the vehicles financed by TEFCU pursuant to their respective loan agreements are, or were at all times relevant to this matter, “dealer(s)” within the meaning of D.C.M.R. §§ 16-300.

43. TEFCU is, or was at all times relevant to this matter, a “merchant” within the meaning of the D.C. Consumer Protection Procedures Act, per D.C. Code § 28-3901(a)(3).

44. The loan agreements to which Plaintiff and the members of the Excessive Fee Class are or were parties, or some part of said loan agreements, are, or were at all times relevant to this matter, “instruments of security” within the meaning of D.C. Code § 50-601.

45. TEFCU is, or was at all times relevant to this matter, a “holder” within the meaning of D.C.M.R. §§ 16-340, 16-341, and 16-399.

46. TEFCU’s or its agents’ conditioning redemption, reinstatement, or release of Plaintiff’s and the Excessive Storage Fee Class members’ repossessed vehicles on the payment of a “Storage Fee” (or similarly designated fee related to the repossession of said vehicles) in excess of \$3 per day violates the express requirements of D.C.M.R. § 16-342.2 and, per D.C.M.R. § 16-346.2.

47. As a direct and proximate cause of TEFCU’s or its agents’ conditioning redemption, reinstatement, or release of Plaintiff’s and the Excessive Storage Fee Class members’ repossessed vehicles on the payment of a “Storage Fee” (or similarly designated fee related to the storage of said vehicles) in excess of \$3 per day, Plaintiff and the members of the Excessive Fee Class have sustained damages in an amount to be determined at trial.

48. TEFCU's imposition of a "Storage Fee" (or similarly designated fee related to the storage of repossessed vehicles) also violates the D.C. Consumer Protection Procedures Act's ban on "mak[ing] or enforc[ing] unconscionable terms or provisions of sales or leases" in that, among other things, TEFCU:

- a. Knew at the time of extending credit and imposing the fee that consumers would have difficulty paying such fees;
- b. Knew at the time of extending credit and imposing the fee that its consumers would not receive substantial benefits from the service ostensibly provided for the charge;
- c. That there was a gross disparity between the price of the "service" and the value of the service measured by the price at which similar services are readily obtainable in transactions by like buyers or lessees;
- d. That it was taking advantage of the inability of its consumers to reasonably protect their interests.

49. As such, per D.C. Code § 28-3905(k)(1), TEFCU is liable to Plaintiff and the members of the Excessive Fee Class for treble damages or \$1,500 *per violation* of the D.C. Consumer Protection Procedures Act, whichever is greater; reasonable attorneys' fees and expenses; an injunction prohibiting TEFCU's and its agents' conditioning redemption, reinstatement, or release of repossessed vehicles on the payment of a "Storage Fee" (or similarly designated fee related to the storage of a repossessed vehicle) in excess of \$3 per day; additional relief as may be necessary to restore to Plaintiff and the members of the Excessive Fee Class money or property that might have been acquired by TEFCU or its agents by means of TEFCU's or its agents' conditioning redemption, reinstatement, or release of Plaintiff's or the Excessive

Storage Fee Class members' repossessed vehicles on the payment of a storage fee (or similarly designated fee related to the storage of repossessed vehicles) in excess of \$3 per day; and any other relief that the Court deems proper.

COUNT III
Breach of Contract
(On Behalf of Plaintiff Carr, individually)

50. Plaintiff realleges the above allegations as if fully set forth herein.

51. The loan addendum that Plaintiff executed pursuant to her secured loan agreement was drafted, selected, prepared, or controlled by TEFCU or its agents.

52. The Loan Addendum provided that if Plaintiff became delinquent on her loan with TEFCU, TEFCU reserved the right to use the \$1,774.32 in the Share Account to "offset without prior notification."

53. When Plaintiff became delinquent on her loan, TEFCU did not offset the overdue payment balance on Plaintiff's loan using Plaintiff's Share Account but instead applied the Share Account.

54. Plaintiff was required to pay an additional \$1,806.61 into the Share Account to retake possession of her vehicle.

55. As such, Plaintiff is entitled to recover compensatory and consequential damages for Defendant's breach of contract.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on her behalf and on behalf of the Classes herein defined, prays for judgment as follows:


- a. For an order certifying the proposed plaintiff Classes and appointing Plaintiff and her counsel to represent the Classes;

- b. For an order awarding Plaintiff and the members of the Classes actual, statutory, punitive, and/or any other form of damages provided by and pursuant to the statutes cited above;
- c. For an order awarding Plaintiff and the members of the Classes restitution, disgorgement, and/or other equitable relief provided by and pursuant to the statutes cited above or as the Court deems proper;
- d. For an order awarding Plaintiff and the members of the Classes pre- and post-judgment interest;
- e. For an order awarding Plaintiff and the Class members reasonable attorneys' fees and costs of suit, including expert witness fees;
- f. For an order awarding such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury on all claims so triable.

Dated: December 29, 2017

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