



TORII LEGAL ASSISTANCE

OFFICE OF THE STAFF JUDGE ADVOCATE



ONCE BITTEN, FLEA MARKETS BY: RUDY WARTELLA

My son once asked me why flea markets are named flea markets. I didn't have an answer, but I have been bitten, not by a flea, but by an unscrupulous vendor. If something seems too good to be true, it probably is. One time I bought a \$1,000.00 bike for \$100.00 at a flea market. The seller had a sign on the bike that stated it was \$1000 (new). I was pretty proud of myself for this great deal. The bike needed some work, so I was able to convince the vendor to give it to me for \$100.00 – She was asking \$300.00. I put another \$160.00 into it to get it running almost like new. The same week, I found the exact bike at the BX for \$169.00. It was brand new and not even on sale. I was “ripped off” as we say in Detroit (and every other city in the United States). Since I pride myself on getting deals, this not only wounded my pride, but offended my pocket book.

Since I am a lawyer, I immediately began thinking of my recourse. This was more than “puffing.” This vendor was not presenting her opinion, she was expressing facts. Puffing statements are normally not considered legally binding. I think her statement constitutes fraudulent misrepresentation because she knew that her statement was false, she made this false statement to induce me into buying the bike, I bought the bike as a result of her false statements, and have consequently suffered a loss.

What should I have done? All lawyers know that he who represents himself has a fool for a client, but I was trying to think of what I would advise a client to do in this case. One of my favorites is “this is a cheap life lesson, chalk it up to experience.” This advice, although true, didn't work for me. I could have went to each flea market and looked for her on the chance that she was a habitual vendor. But what would I have done if I found her (I am not in Detroit). I could have called her commander, boss, or sponsor and demanded to be made whole. I could have tried to get her banned from on base flea markets. I finally decided to take this life lesson and share it with the military community on Okinawa. My father (also a lawyer) once told me: “I don't want to see you make the same mistakes I did.” Well, I don't want to see you make the same mistakes I did. If you do make the same mistake, you can come to see me and we can talk about it, but chances are it is not worth the trouble to “go after” the vendor. In my case, I had all the proof that I needed: my son was there, and several of the vendors saw me leaving with this \$1,000.00 bike. Other cases are not as clear cut. Most of these purchases are “as is” and vendors normally only have to disclose defects that are not readily observable.

When shopping at a flea market, think CAVEAT EMPTOR (let the buyer beware). I have shared my experience with a bad buy at a flea market. Don't make the same mistake I did. There is very little a legal assistance attorney can do to help you in these types of cases.