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18 UNITED STATES DISTRICT COURT
19 CENTRAL DISTRICT OF CALIFORNIA
20

21 UNITED STATES OF AMERICA,
22 Plaintiff,
23 v.
24 CALIFORNIA AUTO FINANCE,
25 Defendant.

Case No. 8:18-cv-00523

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

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1 **COMPLAINT**

2 Plaintiff, the United States of America (“United States”), alleges as follows:

3 **INTRODUCTION**

4 1. The United States brings this action under the Servicemembers Civil Relief
5 Act (SCRA), 50 U.S.C. § 3901, et seq., against California Auto Finance (hereinafter
6 referred to as “Defendant”) for violating the SCRA’s prohibition against repossessing a
7 motor vehicle from a servicemember during military service without a court order if the
8 servicemember made a deposit or installment payment on the loan before entering
9 military service.

10 2. The purpose of the SCRA is to provide servicemembers with protections
11 against certain civil proceedings that could adversely affect their legal rights while they
12 are in military service. One of those protections is the requirement that a court review
13 and approve a lender’s repossession of any motor vehicle owned by a servicemember if
14 the servicemember took out the loan and made a deposit or an installment payment
15 before entering military service. The court may delay the repossession or condition the
16 repossession on the refunding of all or part of the prior installments or deposits made by
17 the servicemember. The court may also appoint an attorney to represent the
18 servicemember, require the lender to post a bond with the court and issue any other
19 orders it deems necessary to protect the rights of the servicemember.

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

25 **JURISDICTION AND VENUE**

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

1 15. On December 16, 2016, the Department notified Defendant that it was
2 opening an investigation into its motor vehicle loan servicing policies, practices, and
3 procedures.

4 **SERVICEMEMBERS CIVIL RELIEF ACT VIOLATIONS**

5 16. The SCRA provides that “[a]fter a servicemember enters military service, a
6 contract by [a] servicemember for . . . the purchase of real or personal property
7 (including a motor vehicle)” and “for which a deposit or installment has been paid by the
8 servicemember before the servicemember enters military service,” “may not be
9 rescinded or terminated for a breach of terms of the contract . . . nor may the property be
10 repossessed for such breach without a court order.” 50 U.S.C. § 3952(a).

11 17. The Department of Defense provides an automated database run by the
12 Defense Manpower Data Center (“DMDC database”) that allows lenders and others
13 seeking to comply with the SCRA to check to see whether their customers are SCRA-
14 protected servicemembers.

15 18. On May 9, 2016, Defendant initiated and completed the repossession,
16 without a court order, of a motor vehicle owned by Private Starks, who had made an
17 installment payment to Defendant prior to entering military service (as defined by 50
18 U.S.C. § 3911(2)) and was in military service at the time of the repossession.

19 19. Defendant was aware that Private Starks was in the military at the time of
20 repossession.

21 20. Defendant had, and upon information and belief still has, a stated practice
22 of granting servicemembers repossession protections under the SCRA only if they
23 provided deployment orders.

24 21. Section 3952 of the SCRA does not require the borrower to submit notice or
25 orders of any kind, including deployment orders, to trigger repossession protections. 50
26 U.S.C. § 3952.

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1 b. failing or refusing to take such affirmative steps as may be necessary to
2 restore, as nearly as practicable, each identifiable victim of Defendant's
3 illegal conduct to the position he or she would have been in but for that
4 illegal conduct; and

5 c. failing or refusing to take such affirmative steps as may be necessary to
6 prevent the recurrence of any illegal conduct in the future and to eliminate,
7 to the extent practicable, the effects of Defendant's illegal conduct;

8 3. Awards appropriate monetary damages under 50 U.S.C. § 4041(b)(2) to
9 each identifiable victim of Defendant's violations of the SCRA; and

10 4. Assesses civil penalties against Defendant under 50 U.S.C. § 4041(b)(3) in
11 order to vindicate the public interest.

12 The United States prays for such additional relief as the interests of justice may
13 require.

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DEMAND FOR JURY TRIAL

The United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated: March 28, 2018

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