

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

2012 JUL 26 A 11: 56

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 CAPITAL ONE, N.A. and )  
 )  
 CAPITAL ONE BANK (USA), N.A., )  
 )  
 Defendants. )  
 )  
 \_\_\_\_\_ )

CLERK US DISTRICT COURT  
ALEXANDRIA, VIRGINIA

CIVIL ACTION NO. 1212CV828

*JCC/TDD*

**COMPLAINT**

The United States of America alleges as follows:

**NATURE OF ACTION**

1. This action is brought by the United States to enforce the provisions of the Servicemembers Civil Relief Act (hereinafter "SCRA"), 50 U.S.C. App. §§ 501-597b.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action under 28 U.S.C. § 1331, 28 U.S.C. § 1345, and 50 U.S.C. App. § 597a.
3. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) because Defendants Capital One N.A. and Capital One Bank (USA), N.A. are headquartered and conduct business in the Eastern District of Virginia.
4. Defendant Capital One, N.A. is a national bank with its main office located at 1680 Capital One Drive in McLean, Virginia, in the Eastern District of Virginia.
5. Defendant Capital One Bank (USA), N.A. is a national bank with its main office located at 1680 Capital One Drive in McLean, Virginia, in the Eastern District of Virginia.

6. On or about February 17, 2012, Capital One Financial Corporation, the parent company of Defendants, acquired ING Direct USA, which included certain account assets covered by the SCRA. On May 2, 2012, Defendants acquired from HSBC Holding and began servicing certain account assets that were covered by the SCRA.

**SERVICEMEMBERS CIVIL RELIEF ACT VIOLATIONS**

7. At all times relevant to this action, Defendants serviced mortgages, motor vehicle finance loans, home equity loans, consumer loans and lines of credit and credit card accounts.
8. From at least July 15, 2006 to November 21, 2011, Defendants have been responsible for approving or denying requests for interest rate reductions made by military servicemembers protected by the SCRA who had or have Capital One credit cards, motor vehicle financing loans, mortgages, home equity loans, consumer loans and lines of credit, and commercial lending accounts.
9. Defendants have engaged in a pattern or practice of violating Section 527(a)(1) of the SCRA, 50 U.S.C. App. § 527, by providing insufficient benefits to SCRA-protected servicemembers, and/or denying valid requests made by SCRA-protected servicemembers to have the interest rates on credit cards, mortgages, home equity loans, motor vehicle finance loans, consumer loans and lines of credit and commercial lending accounts lowered to six percent per year during periods of military service on obligations or liabilities that were incurred before the servicemembers entered military service, because, among other reasons, the military orders provided to Defendants did not include specific end dates for the period of military service.

10. Defendants have engaged in a pattern or practice of violating Section 533(c) of the SCRA, 50 U.S.C. App. § 533(c), by foreclosing on the mortgages of one or more SCRA-protected servicemembers without a court order.
11. Defendants have engaged in a pattern or practice of violating Section 532(a)(1) of the SCRA, 50 U.S.C. App. § 532(a)(1), by repossessing the motor vehicles of SCRA-protected servicemembers without court orders.
12. Defendants have engaged in a pattern or practice of violating Section 521 of the SCRA, 50 U.S.C. App. § 521 by obtaining default judgments against SCRA-protected servicemembers without first having filed accurate affidavits of military service showing necessary facts to support the affidavits.
13. The servicemembers who were charged interest in excess of six percent per year in violation of the SCRA are aggrieved persons and have suffered damages as a result of Defendants' conduct.
14. The servicemembers whose mortgages were foreclosed upon without a court order in violation of the SCRA are aggrieved persons and have suffered damages as a result of Defendants' conduct.
15. The servicemembers whose motor vehicles were repossessed without court orders in violation of the SCRA are aggrieved persons and have suffered damages as a result of Defendants' conduct.
16. The servicemembers from whom Defendants obtained default judgments without first having filed accurate affidavits of military service showing necessary facts to support the affidavits in violation of the SCRA are aggrieved persons and have suffered damages as a result of Defendants' conduct.

17. Defendants' conduct was intentional, willful, and taken in disregard for the rights of servicemembers.

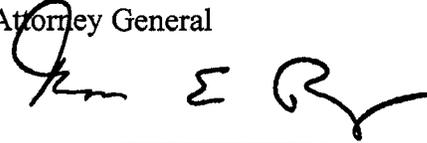
WHEREFORE, the United States prays that the Court enter an ORDER that:

1. Declares that Defendants' conduct violated the SCRA;
2. Enjoins Defendants, their 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. charging interest on the loan obligations of SCRA-protected servicemembers in excess of six percent per year, in violation of Section 527 of the SCRA, 50 U.S.C. App. § 527;
  - b. foreclosing on the mortgages of SCRA-protected servicemembers without court orders, in violation of Section 533 of the SCRA, 50 U.S.C. App. § 533;
  - c. repossessing the motor vehicles of SCRA-protected servicemembers without court orders, in violation of Section 532 of the SCRA, 50 U.S.C. App. § 532;
  - d. obtaining default judgments against SCRA-protected servicemembers without first filing accurate affidavits of military service showing necessary facts to support the affidavits, in violation of Section 521 of the SCRA, 50 U.S.C. App. § 521;
  - e. failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, each identifiable victim of Defendants' illegal conduct to the position he or she would have been in but for that illegal conduct; and
  - f. 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 Defendants' illegal conduct;

3. Awards appropriate monetary damages to each identifiable victim of Defendants' violations of the SCRA; and
4. Assesses civil penalties against Defendants in order to vindicate the public interest, pursuant to 50 U.S.C. App. § 597(b)(3).

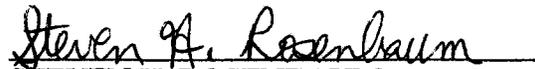
The United States further prays for such additional relief as the interests of justice may require.

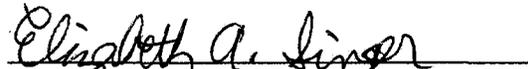
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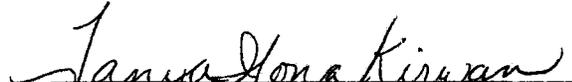
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