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 United States of America

18 UNITED STATES DISTRICT COURT  
 19 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
 20 SOUTHERN DIVISION  
 21

22 UNITED STATES OF AMERICA,  
 23 Plaintiff,  
 24 v.  
 25 3RD GENERATION, INC., and  
 26 CALIFORNIA AUTO FINANCE,  
 27 Defendants.

Case No. CV 18-523 JVS (PJWx)

**FIRST AMENDED COMPLAINT AND  
 DEMAND FOR JURY TRIAL**

Honorable James V. Selna  
 United States District Judge

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 3rd Generation, Inc. (“3rd Generation”)  
6 and California Auto Finance (“CAF”) (collectively “Defendants”) for violating the  
7 SCRA’s prohibition against repossessing a motor vehicle from a servicemember during  
8 military service without a court order if the servicemember made a deposit or installment  
9 payment on the loan before entering 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           16. On November 17, 2016, Private Starks contacted the Department of Justice  
2 (“the Department”) to raise concerns about the repossession and inquire about SCRA  
3 protections.

4           17. On December 16, 2016, the Department notified Defendants that it was  
5 opening an investigation into its motor vehicle loan servicing policies, practices, and  
6 procedures.

7                           **SERVICEMEMBERS CIVIL RELIEF ACT VIOLATIONS**

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12 rescinded or terminated for a breach of terms of the contract .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

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

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

22           21. Defendants were aware that Private Starks was in the military at the time of  
23 repossession.

24           22. Defendants had, and upon information and belief still have, a stated practice  
25 of granting servicemembers repossession protections under the SCRA only if they  
26 provided deployment orders.

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1           2.     Enjoins Defendants, their agents, employees, and successors, and all other  
2 persons and entities in active concert or participation with them from:

- 3           a.     repossessing the motor vehicles of SCRA-protected servicemembers  
4                 without court orders, in violation of the SCRA, 50 U.S.C. § 3952;  
5           b.     failing or refusing to take such affirmative steps as may be necessary to  
6                 restore, as nearly as practicable, each identifiable victim of Defendants’  
7                 illegal conduct to the position he or she would have been in but for that  
8                 illegal conduct; and  
9           c.     failing or refusing to take such affirmative steps as may be necessary to  
10                prevent the recurrence of any illegal conduct in the future and to eliminate,  
11                to the extent practicable, the effects of Defendants’ illegal conduct;

12           3.     Awards appropriate monetary damages under 50 U.S.C. § 4041(b)(2) to  
13 each identifiable victim of Defendants’ violations of the SCRA; and

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

16           The United States prays for such additional relief as the interests of justice may  
17 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: June 14, 2018

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