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19
 20 UNITED STATES DISTRICT COURT
 21 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 22 WESTERN DIVISION

23 UNITED STATES OF AMERICA,
 24 Plaintiff,
 25 v.
 26 DANIEL BELSHAW,
 27 Defendant.

No. 2:18-cv-2993
 COMPLAINT

1 Plaintiff, United States of America (“United States”), hereby alleges as follows:

2 **PRELIMINARY STATEMENT**

3 1. The United States brings this action under the Servicemembers Civil Relief
4 Act (“SCRA”), 50 U.S.C. §§ 3901-4043, against Defendant Daniel Belshaw
5 (“Defendant”) for violating the SCRA’s prohibition against imposing an early
6 termination charge when a servicemember terminates a residential lease upon receipt of
7 permanent change of station (“PCS”) orders or orders to deploy with a military unit for
8 at least ninety days.

9 2. The purpose of the SCRA is to provide servicemembers with certain legal
10 protections so that they can devote their entire energy to the Nation’s defense. One of
11 those protections is the right to terminate a residential lease under certain circumstances
12 when relocation is necessitated by military service.

13 3. A landlord’s imposition of an early termination charge when a
14 servicemember terminates a residential lease pursuant to the SCRA violates that
15 servicemember’s federally protected right to an early termination without penalty.

16 **JURISDICTION AND VENUE**

17 4. This Court has jurisdiction over the subject matter of the claims in this
18 action under 28 U.S.C. § 1331, 28 U.S.C. § 1345, and 50 U.S.C. § 4041.

19 5. Venue is proper in the Central District of California, pursuant to 28 U.S.C.
20 § 1391(b), because the rental property at issue is located in the Central District of
21 California.

22 **PARTIES**

23 6. Plaintiff United States seeks declaratory, injunctive, monetary, and other
24 relief as appropriate against Defendant Belshaw.

25 7. At all times relevant to this Complaint, Defendant Belshaw owned the
26 townhouse located at 1749 E. Bilbao Drive in Santa Maria, California.

27 **FACTUAL ALLEGATIONS**

28 8. Lt. Joseph Paetz was first commissioned as an officer in the United States

1 Air Force in the fall of 2015.

2 9. Pursuant to his commission, Lt. Paetz received military orders to attend
3 Officer Training School at Maxwell Air Force Base in Alabama from on or about
4 October 4, 2015, to on or about December 15, 2015.

5 10. In November 2015, Lt Paetz received PCS military orders, which directed
6 him to report for duty at Vandenberg Air Force Base in Santa Barbara County, California
7 by December 18, 2015, following his graduation from Officer Training School.

8 11. On or about November 16, 2015, Lt. Joseph Paetz and his wife, Jamie
9 Paetz, entered into a six-month residential lease with Defendant, for a townhouse located
10 at 1749 E. Bilbao Drive in Santa Maria, California.

11 12. The lease agreement was from December 1, 2015 to May 31, 2016.

12 13. Pursuant to the lease, prior to the scheduled move-in date, Lt. Paetz paid
13 Defendant \$1,950 for the first month's rent, plus the following deposits: (1) \$1,950
14 holding deposit used for security deposit; (2) \$95 key deposit; and (3) \$1,500 refundable
15 pet deposit (\$500 for each of three dogs).

16 14. The lease contained the following provisions in § 4.B:

17 "This will be a Military Clause lease, that said, this lease requires a 60 day notice
18 to vacate for both tenant and landlord.

19 Note: This lease requires 60 day notice (both Landlord and Tenant) even if the
20 lease is month to month at the time notice is given."

21 15. On December 16, 2015, the day after graduating from Officer Training
22 School, the Air Force amended Lt. Paetz's military order, redirecting him to report to a
23 new assignment at Joint Base San Antonio-Randolph, Texas, no later than December 18,
24 2015.

25 16. On December 16, 2015, Lt. Paetz and his wife notified Defendant via both
26 telephone and email of the amended military order, provided him a copy of the amended
27 order, and advised him that they would have to cancel their lease due to the amended
28 order.

1 17. Lt. Paetz conceded that he would have to forfeit \$3,900 (\$1,950 for
2 December's rent, and another \$1,950 for January's rent) for a house he would never
3 occupy. Lt. Paetz did request, however, that the refundable pet deposit be returned
4 because he and his wife never occupied the premises or even received the house keys
5 from Defendant.

6 18. On December 16, 2015, Defendant replied via email, confirming receipt of
7 the lease termination notice and the amended military order:

8 "Per the lease, there is a 60 day notification period which is enforced even on
9 Military Tenants also. You are getting out of a 6-month lease, but we have
10 decided to use the initial deposited funds to cover for the 60 day notice . . .
11 Changing your occupation at such a late date is surprising and baffling, but in
12 the end we don't feel we should have to [sic] burden that change of agenda on
13 our end . . ."

14 19. On December 16, 2015, in a subsequent email to Lt. Paetz's wife,
15 Defendant stated the following:

16 "The Service Member Civil Relief Act [sic] covers you for getting out of the
17 lease, which has been granted. But does not get you out of the 60 day notice
18 obligation you agreed to (in the lease) . . . and we went over verbally. So, I
19 agree you should be refunded the pet deposit . . . but you will have to pay the
20 60 day notification first . . ."

21 In the same e-mail, Belshaw informed Ms. Paetz that the (unspecified) amount of the "60
22 day notification cost" would be more than the \$1,500 pet deposit, and therefore, he was
23 entitled to retain both the pet and key deposits.

24 20. In May 2016, Lt. Paetz and his wife consulted with an Air Force military
25 legal assistance attorney, who contacted Belshaw and requested that Belshaw refund the
26 Paetz's pet and key deposits.

27 21. To date, Lt. Paetz and his wife have not received a refund of any portion of
28 the \$1,595 in pet and key deposits, all of which the SCRA required Belshaw to

1 refund. Thus, Belshaw retained a total of \$5,495 from a servicemember and his wife
2 who never moved in.

3 22. On October 12, 2016, the Department of Justice notified Defendant that it
4 was opening an investigation into his refusal to return Lt. Paetz's deposits and his
5 policies and practices with regard to compliance with the SCRA and requested certain
6 information from him within thirty days.

7 23. On May 20, 2017, Defendant finally provided a partial response to the
8 Department of Justice's information request. In his response, Defendant claimed that Lt.
9 Paetz was not entitled to SCRA protections because he did not request that they be
10 included in the lease. Defendant also stated that he "ha[s] two military members on the
11 same block....both have a 'Military clause' covering them in case they get a change in
12 orders." Defendant further stated that "I've had Military members leave their leases
13 before due to SCRA covered issues and change in their orders."

14 24. On July 25, 2017, Defendant provided a copy of the "Military Clause" that
15 he "generally used for a Military Tenant when requested." The clause states that
16 "Tenant agrees to pay \$870.00 (e.g., one-half month's rent) for the early termination."

17 **CLAIM FOR RELIEF**

18 **(VIOLATION OF THE SCRA)**

19 25. Plaintiff United States realleges the allegations contained in paragraphs 8
20 through 25 above.

21 26. The SCRA provides that, "[t]he lessee on a [residential] lease . . . may, at
22 the lessee's option, terminate the lease at any time after . . . the date of the lessee's
23 military orders." 50 U.S.C. § 3955(a)(1). This option applies to servicemembers who,
24 "while in military service, execute[] the lease and thereafter receive[] military orders
25 for a permanent change of station[.]" 50 U.S.C. § 3955(b)(1)(B).

26 27. Termination may be made "by delivery by the lessee of written notice of
27 such termination, and a copy of the servicemember's military orders, to the lessor." 50
28 U.S.C. § 3955(c)(1)(A). Termination of leases involving monthly rent payments "is

1 effective 30 days after the first date on which the next rental payment is due and payable
2 after the date on which the [termination] notice...is delivered.” 50 U.S.C. § 3955(d)(1).
3 “The lessor may not impose an early termination charge, but any taxes, summonses, or
4 other obligations and liabilities of the lessee in accordance with the terms of the lease,
5 including reasonable charges to the lessee for excess wear . . . that are due and unpaid at
6 the time of termination of the lease shall be paid by the lessee.” 50 U.S.C. § 3955(e)(1).

7 28. Defendant refused to refund Lt. Paetz’s refundable pet deposit, asserting
8 that Lt. Paetz was required to pay a “60 day notification cost” before Defendant would
9 return the deposit. Defendant also did not refund Lt. Paetz’s key deposit for the same
10 reason. Defendant’s demand for payment of a “60 day notification cost” exceeded what
11 the SCRA permits landlords to require for early termination. Defendant’s retention of
12 \$1,595 in pet and key deposits therefore constituted the imposition of an early
13 termination charge in violation of the SCRA.

14 29. The language Defendant used in the “Military Clause” for leases to
15 servicemembers facially violates the SCRA by imposing an early termination charge on
16 servicemembers who terminate their leases pursuant to the SCRA.

17 30. Defendant’s imposition of an early termination charge when Lt. Paetz
18 exercised his right to terminate his lease raises an issue of significant public importance.

19 31. Lt. Paetz is a “person[s] aggrieved” pursuant to 50 U.S.C. § 4041(b)(2) and
20 has suffered damages as a result of Defendant’s conduct.

21 32. Defendant’s conduct was intentional, willful, and taken in disregard for the
22 rights of servicemembers.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff prays that the Court enter an Order that:

- 25 1. Declares Defendant’s conduct violated the SCRA;
26 2. Enjoins Defendant, his agents and employees, and all other persons and
27 entities in active concert or participation with him from:
28 a. imposing a sixty-day notice provision or any other notice provision

1 that is inconsistent with the SCRA on servicemembers who lawfully
2 terminate their leases under the SCRA;

- 3 b. including a provision in any residential lease that requires
4 servicemembers who terminate the lease in accordance with the
5 SCRA to forfeit any deposit or pre-paid amount beyond what is
6 permitted under the SCRA, or pay any other early termination charge;
7 c. imposing an early termination charge when a protected
8 servicemember terminates a residential lease early, in violation of the
9 SCRA, 50 U.S.C. § 3955;
10 d. failing or refusing to take such affirmative steps as may be necessary
11 to restore, as nearly as practicable, Lt. Paetz and his wife to the
12 position they would have been in but for Defendant's unlawful
13 conduct; and
14 e. failing and refusing to take such affirmative steps as may be
15 necessary to prevent the recurrence of any unlawful conduct in the
16 future and to eliminate, to the extent practicable, the effects of
17 Defendant's unlawful conduct;

18 3. Awards appropriate monetary damages to Lt. Paetz and his wife pursuant
19 to 50 U.S.C. § 4041(b)(2);

20 4. Assesses civil penalties against Defendant in order to vindicate the public
21 interest, pursuant to 50 U.S.C. § 4041(b)(3); and
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5. Grants such other and further relief as the court deems just and proper.

Dated: April 10, 2018

Respectfully submitted,

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