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12 UNITED STATES DISTRICT COURT
 13 CENTRAL DISTRICT OF CALIFORNIA
 14 WESTERN DISTRICT

15 UNITED STATES OF AMERICA,
 16 Plaintiff,
 17 v.
 18 BLACK AND WHITE GARAGE,
 19 INC. d/b/a BLACK AND WHITE
 20 TOWING, INC.,
 21 Defendant.

Case No. 2:21-cv-05844

COMPLAINT

COMPLAINT

22 Plaintiff, the United States of America (“United States”), alleges as follows:
 23

INTRODUCTION

24 1. The United States brings this action under the Servicemembers Civil Relief
 25 Act (SCRA), 50 U.S.C. § 3901, *et seq.*, against Black and White Garage, Inc. d/b/a
 26 Black and White Towing, Inc. (hereinafter “Black and White”) for illegally selling,
 27
 28

1 auctioning or otherwise disposing of a vehicle owned by an SCRA-protected
2 servicemember without a court order.

3 2. The purpose of the SCRA is to provide servicemembers with certain legal
4 protections while they are in military service. One of those protections is the
5 requirement that a court review and approve any action to foreclose or enforce a lien on
6 the property or effects of a servicemember during any period of military service of the
7 servicemember and for 90 days thereafter. *See* 50 U.S.C. § 3958(a)(1). The requirement
8 applies to any “lien for storage, repair, or cleaning of the property or effects of
9 a servicemember or a lien on such property or effects for any other reason.” *See* 50
10 U.S.C. § 3958(a)(2).

11 3. In a proceeding to foreclose or enforce a lien against a servicemember, the
12 court may stay the proceeding for a period of time as justice and equity require, or it may
13 adjust the obligation. *See* 50 U.S.C. § 3958(b). The court may also appoint an attorney
14 to represent the servicemember, require the lienholder to post a bond with the court, and
15 issue any other orders it deems necessary to preserve the interests of all parties. *See* 50
16 U.S.C. § 3931.

17 4. By failing to obtain a court order before foreclosing and/or enforcing its lien
18 on a servicemember’s vehicle and other personal property, Black and White denied her
19 the right to obtain a court’s review of whether the foreclosure or enforcement should be
20 delayed or the lien adjusted to account for her military service.

21 **JURISDICTION AND VENUE**

22 5. This Court has jurisdiction over this action under 28 U.S.C. § 1331, 28
23 U.S.C. § 1345 and 50 U.S.C. § 4041.

24 6. Black and White is a California corporation with its principal place of
25 business located at 10857 San Fernando Road, Pacoima, California 91331, in the Central
26 District of California.

27 7. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) because
28 Black and White’s principal place of business is in the Central District of California and

1 a substantial part of the events or omissions giving rise to the claim occurred within the
2 Central District of California.

3 **DEFENDANT**

4 8. Black and White operates a 24-hour towing service and is designated as an
5 Official Police Garage for the Los Angeles Police Department. Official Police Garages
6 are responsible for all requests for tow service from the Los Angeles Police Department,
7 as well as the Los Angeles Department of Transportation and other governmental
8 agencies.

9 9. Under California law, “[w]henver an officer or employee removes a
10 vehicle from a highway, or from public or private property, unless otherwise provided,
11 he shall take the vehicle to the nearest garage or other place of safety or to a garage
12 designated or maintained by the governmental agency of which the officer or employee
13 is a member, where the vehicle shall be placed in storage.” Cal. Veh. Code § 22850.

14 10. When law enforcement or a governmental agency directs the removal of a
15 vehicle to a storage facility, the receiving facility holds a garageman’s lien against the
16 vehicle. *See* Cal. Veh. Code § 22851(a)(1). The facility may enforce its lien by
17 conducting a sale of the vehicle. *Id.*; *see also* Cal. Veh. Code § 22851.12.

18 11. In the course of operating its business, Black and White regularly enforces
19 its liens by selling or disposing of motor vehicles through public lien sales.

20 12. Black and White uses an outside vendor, Ritter Lien Sales, to prepare the
21 documentation required to conduct a lien sale. Once a lien sale of a vehicle is authorized
22 by the California Department of Motor Vehicles and Ritter Lien Sales has issued the
23 notices required under state law, Black and White conducts a public lien sale of the
24 vehicle.

25 13. Black and White’s headquarters in Pacoima, California are located within a
26 50-mile radius of several military recruiting stations and installations, including Los
27 Angeles Air Force Base and Naval Base Ventura County.

BLACK AND WHITE’S LIEN SALE VIOLATED THE SCRA

1
2 14. United States Marine Corps Staff Sergeant Alexandria Thurman (“SSgt
3 Thurman”) served on active duty in the United States Marine Corps continuously from
4 May 24, 2010 to January 22, 2021.

5 15. In or around June 2017, SSgt Thurman purchased a used 2014 Honda
6 Accord Sport, Vehicle Identification Number (VIN) 1HGCR2F56EA073250 (the
7 “Vehicle”), with a loan from Navy Federal Credit Union.

8 16. In or around July 2018, SSgt Thurman received orders for a permanent
9 change of station, reassigning her from Marine Corps Recruiting Station Los Angeles to
10 Camp Pendleton in Oceanside, California.

11 17. When SSgt Thurman received her orders, she was living at an apartment
12 complex in Sylmar, California, approximately 100 miles north of Camp
13 Pendleton. While executing her move to Camp Pendleton, SSgt Thurman left the
14 Vehicle parked in front of her apartment complex in Sylmar. As she planned to retrieve
15 the Vehicle at a later date, SSgt Thurman left some of her personal belongings in the
16 Vehicle, including one of her Marine Corps uniforms, framed military awards, her
17 child’s car seat, shoes, clothing, small appliances, and other household items.

18 18. On August 20, 2018, another vehicle hit SSgt Thurman’s parked Vehicle.
19 Following the accident, the Los Angeles Police Department responded to the scene and
20 requested that Black and White tow SSgt Thurman’s vehicle.

21 19. On September 5, 2018, Black and White, through its agent Ritter Lien
22 Sales, applied to the California Department of Motor Vehicles for permission to sell the
23 Vehicle.

24 20. On September 24, 2018, Ritter Lien Sales mailed a Notice of Stored
25 Vehicle to the Florida Department of Motor Vehicles and to SSgt Thurman’s former
26 address in Jacksonville, Florida, where she had been stationed before receiving orders to
27 report to Marine Corps Recruiting Station Los Angeles. The Jacksonville address was
28 the address listed on the Vehicle’s registration.

1 21. SSgt Thurman did not receive the Notice of Stored Vehicle because she was
2 no longer stationed in Florida and was not living at the Jacksonville address.

3 22. In or around October or November 2018, SSgt Thurman was contacted by
4 her auto insurer, GEICO. GEICO informed SSgt Thurman that the Vehicle had been hit
5 by another vehicle that was also insured by GEICO and had been towed.

6 23. Shortly after speaking with GEICO, SSgt Thurman contacted Black and
7 White. A manager confirmed that Black and White had towed the Vehicle and still had
8 it in its possession. During the call, SSgt Thurman identified herself as an active-duty
9 servicemember. The manager assured SSgt Thurman that they would not sell the
10 Vehicle.

11 24. In the following months, SSgt Thurman called Black and White several
12 times to check on the status of the Vehicle. During each of those calls, she informed
13 representatives at Black and White that she was an active-duty servicemember, she was
14 working with a military legal assistance attorney to retrieve the Vehicle, and she wanted
15 the Vehicle returned to her. SSgt Thurman received repeated assurances from Black and
16 White that they would not sell the Vehicle.

17 25. On December 12, 2018, Black and White sold the Vehicle to a third party
18 for \$4,828.

19 26. Black and White did not obtain a court order authorizing the sale of the
20 Vehicle prior to the sale.

21 27. Since the sale of the Vehicle, SSgt Thurman has continued to make monthly
22 car loan payments of \$390 to Navy Federal Credit Union to avoid defaulting on the loan.

23 28. The Department of Defense provides lienholders and others seeking to
24 comply with the SCRA an automated database run by the Defense Manpower Data
25 Center (“DMDC database”), to check whether individuals are SCRA-protected
26 servicemembers.

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28

1 29. Black and White does not have a policy or practice of searching the DMDC
2 database or doing anything else to determine whether the motor vehicles it sells,
3 auctions, or otherwise disposes of are owned by SCRA-protected servicemembers.

4 30. Black and White has no written policies or procedures regarding SCRA
5 compliance.

6 **SERVICEMEMBER CIVIL RELIEF ACT VIOLATIONS**

7 31. Plaintiff re-alleges and incorporates by reference the allegations set forth
8 above.

9 32. Section 3958(a) of the SCRA provides that “[a] person holding a lien on the
10 property or effects of a servicemember may not, during any period of military service of
11 the servicemember and for 90 days thereafter, foreclose or enforce any lien on such
12 property or effects without a court order granted before foreclosure or enforcement.”

13 33. By the conduct described in the foregoing paragraphs, Black and White has
14 enforced a lien on the property of an SCRA-protected servicemember without obtaining
15 a court order, in violation of 50 U.S.C. § 3958.

16 34. By auctioning the motor vehicle of an SCRA-protected servicemember
17 without a court order, Black and White has engaged in a violation of Section 3958(a)(1)
18 that raises an issue of significant public importance, thus triggering the Attorney
19 General’s authority to bring suit under 50 U.S.C. § 4041(a)(2).

20 35. SSgt Thurman has suffered damages as a result of Black and White’s
21 conduct.

22 36. Black and White’s conduct was intentional, willful, and taken in disregard
23 for the rights of SSgt Thurman.

24 **RELIEF REQUESTED**

25 WHEREFORE, the United States requests that the Court enter an ORDER that:

- 26 1. Declares that Black and White’s conduct violated the SCRA;
27 2. Enjoins Black and White, its agents, employees, and successors, and all
28 other persons and entities in active concert or participation with it, from:

- a. enforcing liens on motor vehicles of SCRA-protected servicemembers without court orders, in violation of the SCRA, 50 U.S.C. § 3958;
 - b. failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, SSgt Thurman to the position she would have been in but for that illegal conduct; and
 - c. 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 Black and White’s illegal conduct;
3. Awards appropriate monetary damages to SSgt Thurman, pursuant to 50 U.S.C. § 4041(b)(2); and
 4. Assesses civil penalties against Black and White in order to vindicate the public interest, pursuant to 50 U.S.C. § 4041(b)(3).

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

Dated: July 20, 2021

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/s/ Audrey M. Yap
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