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 18 United States of America

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

21 UNITED STATES OF AMERICA,

Case No. 2:17-07125

22 Plaintiff,

COMPLAINT

23 v.

24 WESTLAKE SERVICES, LLC d/b/a
 25 WESTLAKE FINANCIAL SERVICES
 and WILSHIRE COMMERCIAL
 26 CAPITAL, LLC d/b/a WILSHIRE
 27 CONSUMER CREDIT,

28 Defendants.

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 Westlake Services, LLC d/b/a Westlake
6 Financial Services and Wilshire Commercial Capital, LLC d/b/a Wilshire Consumer
7 Credit (collectively referred to as “Defendants”) for repossessing motor vehicles owned
8 by protected servicemembers without court orders. From October 21, 2011 to October
9 21, 2016, Westlake Services, LLC d/b/a Westlake Financial Services repossessed at least
10 66 vehicles in violation of 50 U.S.C. § 3952(a) and Wilshire Commercial Capital, LLC
11 d/b/a Wilshire Consumer Credit repossessed at least four vehicles in violation of 50
12 U.S.C. § 3953(c).

13 2. The purpose of the SCRA is to provide servicemembers with protections
14 against certain civil proceedings that could adversely affect their legal rights while they
15 are in military service. Section 3952 of the SCRA requires that a court review and
16 approve a lender’s repossession of any motor vehicle owned by a servicemember if the
17 servicemember took out the loan and made a deposit or an installment payment before
18 entering military service. The court may delay the repossession or condition the
19 repossession on the refunding of all or part of the prior installments or deposits made by
20 the servicemember. The court may also appoint an attorney to represent the
21 servicemember, require the lender to post a bond with the court and issue any other
22 orders it deems necessary to protect the servicemember’s rights.

23 3. Additionally, Section 3953 of the SCRA provides that a sale, foreclosure, or
24 seizure of property for a breach of an obligation on real or personal property owned by a
25 servicemember that originated before the period of the servicemember’s military service
26 and that is secured by a mortgage, trust deed or other security in the nature of a mortgage
27 shall not be valid if made during, or within one year after, the period of the
28 servicemember’s military service, except upon a court order granted before such sale,

1 foreclosure or seizure. This provision also specifies that the court may stay the
2 proceedings to enforce the obligation or adjust the obligation if the servicemember's
3 ability to comply with the obligation is materially affected by his or her military service.

4 4. A lender's failure to obtain a court order before repossessing a covered
5 servicemember's motor vehicle violates that servicemember's federally protected right to
6 request a court to order repayment to the servicemember of all or part of the prior
7 installments or deposits, stay the proceedings for a period of time as justice and equity
8 require, or make any other equitable disposition to preserve the interests of all parties.

9 **JURISDICTION AND VENUE**

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

12 6. Defendant Westlake Services, LLC d/b/a Westlake Financial Services
13 (hereinafter referred to as "Westlake") is a California limited liability company with its
14 headquarters located at 4751 Wilshire Boulevard, Los Angeles, California, in the Central
15 District of California.

16 7. Defendant Wilshire Commercial Capital, LLC d/b/a Wilshire Consumer
17 Credit (hereinafter referred to as "Wilshire") is a California limited liability company
18 with its headquarters located at 4751 Wilshire Boulevard, Los Angeles, California, in the
19 Central District of California. Wilshire is a wholly-owned subsidiary of Westlake.

20 8. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) because
21 the Defendants are headquartered and conduct business in the Central District of
22 California.

23 **DEFENDANTS**

24 9. Westlake is an indirect auto financing company that specializes in
25 purchasing and servicing subprime and near-subprime auto loans. Westlake provides
26 indirect financing and servicing of retail installment sales contracts ("RISC") for motor
27 vehicles.
28

1 10. Wilshire extends auto title loans directly to consumers, largely via the
2 internet, and services those loans.

3 11. Westlake and Wilshire specifically target servicemembers, including junior
4 enlisted servicemembers, as customers for their subprime and near-subprime loan
5 products.

6 **DEFENDANTS' UNLAWFUL REPOSSESSION PRACTICES**

7 12. On July 11, 2016, the Consumer Financial Protection Bureau, through its
8 Office of Servicemember Affairs, notified the Department of Justice that it had received
9 a complaint that the Defendants were conducting motor vehicle repossessions in
10 violation of the SCRA.

11 13. On October 21, 2016, the Department of Justice (the "Department") notified
12 the Defendants that it was opening an investigation into their motor vehicle loan
13 servicing policies, practices, and procedures. The Department's investigation included
14 reviewing data on all of Defendants' motor vehicle repossessions between October 21,
15 2011 and October 21, 2016.

16 14. From October 21, 2011 through October 21, 2016, Defendants initiated and
17 completed at least 70 repossessions, without court orders, of motor vehicles owned by
18 SCRA-protected servicemembers.

19 15. The Department of Defense provides lenders, and others seeking to comply
20 with the SCRA, an automated database run by the Defense Manpower Data Center
21 ("DMDC database"), to check whether their customers are SCRA-protected
22 servicemembers.

23 16. Defendants' policies required them to use the DMDC database to confirm a
24 servicemember's military status prior to granting a request for an interest rate reduction
25 under 50 U.S.C. § 3937.

26 17. Nevertheless, Defendants' policies did not require them to check the
27 DMDC database prior to repossessing vehicles without court orders.
28

1 **SERVICEMEMBER CIVIL RELIEF ACT VIOLATIONS**

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

8 19. The SCRA also provides that “[a] sale, foreclosure, or seizure of property
9 for a breach of an obligation” on “real or personal property owned by a servicemember
10 that . . . originated before the period of the servicemember’s military service and for
11 which the servicemember is still obligated . . . secured by a mortgage, trust deed or other
12 security in the nature of a mortgage . . . shall not be valid if made during, or within one
13 year after, the period of the servicemember’s military service, except . . . upon a court
14 order granted before such sale, foreclosure or seizure . . . [or] if made pursuant to an
15 agreement as provided in section 3918 of this title.” 50 U.S.C. § 3953.

16 20. Further, the SCRA provides that “[a] member of a reserve component who
17 is ordered to report for military service” is entitled to the rights and protections granted
18 under sections 3952 and 3953 “during the period beginning on the date of the member’s
19 receipt of the order and ending on the date on which the member reports for military
20 service (or, if the order is revoked before the member so reports, on the date on which
21 the order is revoked).” 50 U.S.C. § 3917(a).

22 **Violations of 50 U.S.C. § 3952(a)(1)**

23 21. From October 21, 2011 through October 21, 2016, Westlake initiated at
24 least 66 repossessions of motor vehicles, without court orders, for breach of the terms of
25 installment contracts for purchase.

26 22. The motor vehicles repossessed by Westlake were owned by
27 servicemembers while they were in military service, as defined by 50 U.S.C. § 3911(2),
28 or after they had received orders to report for military service.

1 23. The servicemembers who owned the vehicles repossessed by Westlake
2 made at least one deposit or installment payment before they entered military service, as
3 defined by 50 U.S.C § 3911(2).

4 24. Westlake engaged in a pattern or practice of violating Section 3952(a)(1) of
5 the SCRA by repossessing the motor vehicles of SCRA-protected servicemembers
6 without court orders. 50 U.S.C. § 3952(a)(1).

7 25. Westlake's violations of Section 3952(a)(1) of the SCRA raise issues of
8 significant public importance.

9 26. The servicemembers whose motor vehicles were repossessed by Westlake
10 without court orders in violation of the SCRA are "person[s] aggrieved" pursuant to 50
11 U.S.C. § 4041(b)(2) and have suffered damages as a result of Westlake's conduct.

12 27. Westlake's conduct was intentional, willful, and taken in disregard for the
13 rights of servicemembers.

14 **Violations of 50 U.S.C. § 3953(c)**

15 28. From October 21, 2011 through October 21, 2016, Wilshire initiated at least
16 four repossessions of motor vehicles, without court orders, for breach of the terms of a
17 vehicle title loan.

18 29. The motor vehicles repossessed by Wilshire were owned by
19 servicemembers who were in, or within one year of being in, military service as defined
20 by 50 U.S.C. § 3911(2).

21 30. The vehicle title loans were obligations on personal property that originated
22 before the periods of the servicemembers' military service and were secured by
23 securities in the nature of a mortgage.

24 31. Wilshire engaged in a pattern or practice of violating Section 3953(c) of the
25 SCRA by seizing the motor vehicles of SCRA-protected servicemembers without court
26 orders. 50 U.S.C. § 3953(c)

27 32. Wilshire's violations of Section 3953(c) of the SCRA raise issues of
28 significant public importance.

1 33. The servicemembers whose motor vehicles were seized by Wilshire without
2 court orders in violation of the SCRA are “person[s] aggrieved” pursuant to 50 U.S.C. §
3 4041(b)(2) and have suffered damages as a result of Westlake’s conduct.

4 34. Wilshire’s conduct was intentional, willful, and taken in disregard for the
5 rights of servicemembers.

6 **RELIEF REQUESTED**

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

- 8 1. Declares that Defendants’ conduct violated the SCRA;
- 9 2. Enjoins Defendants, their agents, employees, and successors, and all other
10 persons and entities in active concert or participation with them, with respect to any
11 financial products serviced by them, from:
- 12 a. repossessing the motor vehicles of SCRA-protected servicemembers
13 without court orders, in violation of the SCRA, 50 U.S.C. § 3952;
 - 14 b. seizing the personal property of SCRA-protected servicemembers without
15 court orders, in violation of the SCRA, 50 U.S.C. § 3953;
 - 16 c. failing or refusing to take such affirmative steps as may be necessary to
17 restore, as nearly as practicable, each identifiable victim of Defendants’
18 illegal conduct to the position he or she would have been in but for that
19 illegal conduct; and
 - 20 d. failing or refusing to take such affirmative steps as may be necessary to
21 prevent the recurrence of any illegal conduct in the future and to eliminate,
22 to the extent practicable, the effects of Defendants’ illegal conduct;
- 23 3. Awards appropriate monetary damages to each identifiable victim of
24 Defendants’ violations of the SCRA, pursuant to 50 U.S.C. § 4041(b)(2); and
- 25 4. Assesses civil penalties against Defendants in order to vindicate the public
26 interest, pursuant to 50 U.S.C. § 4041(b)(3).

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

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4 Dated: September 27, 2017

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