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19	UNITED STATES DISTRICT COOKT	
	FOR THE CENTRAL DISTRICT OF CALIFORNIA	
20	SOUTHERN DIVISION	
21	SOUTHERN DIVISION	
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22	UNITED STATES OF AMERICA,	Case No. CV 18-523 JVS (PJWx)
22	D1 : .:cc	
23	Plaintiff,	
24	V.	FIRST AMENDED COMPLAINT AND
		DEMAND FOR JURY TRIAL
25	3RD GENERATION, INC., and CALIFORNIA AUTO FINANCE,	11 11 1 17 01
26	CALIFOKNIA AUTO FINANCE,	Honorable James V. Selna United States District Judge
20	Defendants.	United States District Judge
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COMPLAINT

Plaintiff, the United States of America ("United States"), alleges as follows:

INTRODUCTION

- 1. The United States brings this action under the Servicemembers Civil Relief Act (SCRA), 50 U.S.C. § 3901, et seq., against 3rd Generation, Inc. ("3rd Generation") and California Auto Finance ("CAF") (collectively "Defendants") for violating the SCRA's prohibition against repossessing a motor vehicle from a servicemember during military service without a court order if the servicemember made a deposit or installment payment on the loan before entering military service.
- The purpose of the SCRA is to provide servicemembers with protections 2. against certain civil proceedings that could adversely affect their legal rights while they are in military service. One of those protections is the requirement that a court review and approve a lender's repossession of any motor vehicle owned by a servicemember if the servicemember took out the loan and made a deposit or an installment payment before entering military service. The court may delay the repossession or condition the repossession on the refunding of all or part of the prior installments or deposits made by the servicemember. The court may also appoint an attorney to represent the servicemember, require the lender to post a bond with the court and issue any other orders it deems necessary to protect the rights of the servicemember.
- 3. A lender's failure to obtain a court order before repossessing a protected servicemember's motor vehicle violates that servicemember's federally protected right to have a court order repayment to the servicemember of all or part of the prior installments or deposits, stay the proceedings for a period of time as justice and equity require or make any other equitable disposition to preserve the interests of all parties.

JURISDICTION AND VENUE

This Court has jurisdiction over this action under 28 U.S.C. § 1331, 28 4. U.S.C. § 1345 and 50 U.S.C. § 4041.

- 5. Defendant 3rd Generation is a financial institution located at 311 E. Katella Avenue, Orange, California, in the Central District of California.
- 6. Defendant CAF is an indirect auto lending company located at 311 E. Katella Avenue, Orange, California, in the Central District of California.
- 7. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) because Defendants are headquartered and conduct business in the Central District of California.

DEFENDANTS

- 8. Defendant CAF is a privately held indirect auto leading company that specializes in subprime auto lending. According to Defendant CAF's website, CAF is "one of the top sub-prime lenders in California and other southwestern states."
- 9. Upon information and belief, Defendant 3rd Generation does business as CAF.

DEFENDANTS' UNLAWFUL REPOSSESSION PRACTICES

- 10. On September 10, 2015, Ms. Andrea Starks purchased a used 2006 Chevrolet HHR from a dealership in Glendale, Arizona, for \$7,583.07, plus \$989 in additional fees. Ms. Starks made a down payment of \$1,000 at the time of purchase, and obtained a \$7,572.07 loan at 24% interest from Defendants. The total cost of the vehicle to Ms. Starks, including the down payment and interest accrued, was \$11,694.52.
 - 11. On October 19, 2015, Ms. Starks made her first loan payment.
- 12. On April 13, 2016, Ms. Starks enlisted with the United States Army, and was ordered to report to Fort Leonard Wood, Missouri, for active duty on May 9, 2016.
- 13. On April 15, 2016, Ms. Starks submitted a copy of her military orders to Defendants.
- 14. On May 9, 2016, the day Ms. Starks began her active military service as a United States Army Private, Defendants repossessed her vehicle without a court order. At the time of repossession, the vehicle was parked at the home of Private Starks' grandmother in Cedar Rapids, Iowa.
 - 15. Defendants sold the vehicle at public auction on or about May 25, 2016.

- 16. On November 17, 2016, Private Starks contacted the Department of Justice ("the Department") to raise concerns about the repossession and inquire about SCRA protections.
- 17. On December 16, 2016, the Department notified Defendants that it was opening an investigation into its motor vehicle loan servicing policies, practices, and procedures.

SERVICEMEMBERS CIVIL RELIEF ACT VIOLATIONS

- 18. The SCRA provides that "[a]fter a servicemember enters military service, a contract by [a] servicemember for . . . the purchase of real or personal property (including a motor vehicle)" and "for which a deposit or installment has been paid by the servicemember before the servicemember enters military service," "may not be rescinded or terminated for a breach of terms of the contract . . . nor may the property be repossessed for such breach without a court order." 50 U.S.C. § 3952(a).
- 19. The Department of Defense provides an automated database run by the Defense Manpower Data Center ("DMDC database") that allows lenders and others seeking to comply with the SCRA to check to see whether their customers are SCRA-protected servicemembers.
- 20. On May 9, 2016, Defendants repossessed, without a court order, a motor vehicle owned by Private Starks, who had made an installment payment to Defendants prior to entering military service (as defined by 50 U.S.C. § 3911(2)) and was in military service at the time of the repossession.
- 21. Defendants were aware that Private Starks was in the military at the time of repossession.
- 22. Defendants had, and upon information and belief still have, a stated practice of granting servicemembers repossession protections under the SCRA only if they provided deployment orders.

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- 23. Section 3952 of the SCRA does not require the borrower to submit notice or orders of any kind, including deployment orders, to trigger repossession protections. 50 U.S.C. § 3952.
- Upon information and belief, Defendants had, and still have, no policies or 24. practices in place to verify the military status of borrowers before repossessing their vehicles.
- Upon information and belief, as a result of its lack of such policies or 25. practices, Defendants may have repossessed motor vehicles, without court orders, from other servicemembers who had made a deposit or installment payment to Defendants prior to entering military service and were in military service at the time of the repossession.
- 26. Defendants have engaged in a pattern or practice of violating Section 3952(a)(1) of the SCRA, 50 U.S.C. § 3952(a)(1), which prohibits repossessing a motor vehicle from a servicemember during military service without a court order if the servicemember made a deposit or installment payment on the loan before entering military service.
- Defendants' repossession of Private Starks' motor vehicle without the 27. SCRA-mandated court order raises an issue of significant public importance.
- 28. Private Starks and any other servicemembers whose motor vehicles were repossessed without court orders in violation of the SCRA are "person[s] aggrieved" under 50 U.S.C. § 4041(b)(2) and have suffered damages as a result of Defendants' conduct.
- Defendants' conduct was intentional, willful, and taken in disregard for the 29. rights of servicemembers.

RELIEF REQUESTED

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

1. Declares that Defendants' conduct violated the SCRA;

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- 2. Enjoins Defendants, their agents, employees, and successors, and all other persons and entities in active concert or participation with them from:
 - repossessing the motor vehicles of SCRA-protected servicemembers a. without court orders, in violation of the SCRA, 50 U.S.C. § 3952;
 - failing or refusing to take such affirmative steps as may be necessary to b. 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
 - failing or refusing to take such affirmative steps as may be necessary to c. 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 under 50 U.S.C. § 4041(b)(2) to each identifiable victim of Defendants' violations of the SCRA; and
- Assesses civil penalties against Defendants under 50 U.S.C. § 4041(b)(3) in 4. order to vindicate the public interest.

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

DEMAND FOR JURY TRIAL 1 2 The United States hereby demands a trial by jury of all issues so triable pursuant 3 to Rule 38 of the Federal Rules of Civil Procedure. 4 Dated: June 14, 2018 JEFFERSON B. SESSIONS III 5 Attorney General 6 7 NICOLA T. HANNA JOHN M. GORE Acting Assistant Attorney General Civil Rights Division United States Attorney Central District of California 8 9 SAMEENA SHINA MAJEED Chief, Housing and Civil Enforcement Division 10 DAVID M. HARRIS Assistant United States Attorney Chief, Civil Division 11 12 13 JOANNA HULL ELIZABETH A. SINGER Assistant United States Attorney Director, U.S. Attorneys' Fair Chief, Civil Rights Section, Civil Division Housing Program 14 15 /s/ Nicole M. Siegel /s/ Matthew Nickell NICOLE M. SIEGEL MATTHEW NICKELL 16 Trial Attorney
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