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United States of America

18 UNITED STATES DISTRICT COURT

19 CENTRAL DISTRICT OF CALIFORNIA

20  
21 UNITED STATES OF AMERICA,

22 Plaintiff,

23 v.

24 CALIFORNIA AUTO FINANCE,

25 Defendant.

Case No. 8:18-cv-00523

**COMPLAINT AND  
DEMAND FOR JURY TRIAL**

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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 California Auto Finance (hereinafter  
6 referred to as “Defendant”) for violating the SCRA’s prohibition against repossessing a  
7 motor vehicle from a servicemember during military service without a court order if the  
8 servicemember made a deposit or installment payment on the loan before entering  
9 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 5. Defendant is an indirect auto lending company located at 311 E. Katella  
2 Avenue, Orange, California, in the Central District of California.

3 6. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) because  
4 Defendant is headquartered and conducts business in the Central District of California.

5 **DEFENDANT**

6 7. Defendant is a privately held indirect auto leading company that specializes  
7 in subprime auto lending. According to Defendant’s website, it is “one of the top sub-  
8 prime lenders in California and other southwestern states.”

9 **DEFENDANT’S UNLAWFUL REPOSSESSION PRACTICES**

10 8. On September 10, 2015, Ms. Andrea Starks purchased a used 2006  
11 Chevrolet HHR from a dealership in Glendale, Arizona, for \$7,583.07, plus \$989 in  
12 additional fees. Ms. Starks made a down payment of \$1,000 at the time of purchase, and  
13 obtained a \$7,572.07 loan at 24% interest from the Defendant. The total cost of the  
14 vehicle to Ms. Starks, including the down payment and interest accrued, was \$11,694.52.

15 9. On October 19, 2015, Ms. Starks made her first loan payment.

16 10. On April 13, 2016, Ms. Starks enlisted with the United States Army, and  
17 was ordered to report to Fort Leonard Wood, Missouri, for active duty on May 9, 2016.

18 11. On April 15, 2016, Ms. Starks submitted a copy of her military orders to  
19 Defendant.

20 12. On May 9, 2016, the day Ms. Starks began her active military service as a  
21 United States Army Private, Defendant repossessed her vehicle without a court order. At  
22 the time of repossession, the vehicle was parked at the home of Private Starks’  
23 grandmother in Cedar Rapids, Iowa.

24 13. Defendant sold the vehicle at public auction on or about May 25, 2016.

25 14. On November 17, 2016, Private Starks contacted the Department of Justice  
26 (“the Department”) to raise concerns about the repossession and inquire about SCRA  
27 protections.  
28

1           15. On December 16, 2016, the Department notified Defendant that it was  
2 opening an investigation into its motor vehicle loan servicing policies, practices, and  
3 procedures.

4                           **SERVICEMEMBERS CIVIL RELIEF ACT VIOLATIONS**

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

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

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

19           19. Defendant was aware that Private Starks was in the military at the time of  
20 repossession.

21           20. Defendant had, and upon information and belief still has, a stated practice  
22 of granting servicemembers repossession protections under the SCRA only if they  
23 provided deployment orders.

24           21. Section 3952 of the SCRA does not require the borrower to submit notice or  
25 orders of any kind, including deployment orders, to trigger repossession protections. 50  
26 U.S.C. § 3952.

1 22. Upon information and belief, Defendant had, and still has, no policies or  
2 practices in place to verify the military status of borrowers before repossessing their  
3 vehicles.

4 23. Upon information and belief, as a result of its lack of such policies or  
5 practices, Defendant may have repossessed motor vehicles, without court orders, from  
6 other servicemembers who had made a deposit or installment payment to Defendant  
7 prior to entering military service and were in military service at the time of the  
8 repossession.

9 24. Defendant has engaged in a pattern or practice of violating Section  
10 3952(a)(1) of the SCRA, 50 U.S.C. § 3952(a)(1), which prohibits repossessing a motor  
11 vehicle from a servicemember during military service without a court order if the  
12 servicemember made a deposit or installment payment on the loan before entering  
13 military service.

14 25. Defendant's repossession of Private Starks' motor vehicle without the  
15 SCRA-mandated court order raises an issue of significant public importance.

16 26. Private Starks and any other servicemembers whose motor vehicles were  
17 repossessed without court orders in violation of the SCRA are "person[s] aggrieved"  
18 under 50 U.S.C. § 4041(b)(2) and have suffered damages as a result of Defendant's  
19 conduct.

20 27. Defendant's conduct was intentional, willful, and taken in disregard for the  
21 rights of servicemembers.

22 **RELIEF REQUESTED**

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

24 1. Declares that Defendant's conduct violated the SCRA;

25 2. Enjoins Defendant, its agents, employees, and successors, and all other  
26 persons and entities in active concert or participation with it from:

27 a. repossessing the motor vehicles of SCRA-protected servicemembers  
28 without court orders, in violation of the SCRA, 50 U.S.C. § 3952;

1 b. failing or refusing to take such affirmative steps as may be necessary to  
2 restore, as nearly as practicable, each identifiable victim of Defendant's  
3 illegal conduct to the position he or she would have been in but for that  
4 illegal conduct; and

5 c. failing or refusing to take such affirmative steps as may be necessary to  
6 prevent the recurrence of any illegal conduct in the future and to eliminate,  
7 to the extent practicable, the effects of Defendant's illegal conduct;

8 3. Awards appropriate monetary damages under 50 U.S.C. § 4041(b)(2) to  
9 each identifiable victim of Defendant's violations of the SCRA; and

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

12 The United States prays for such additional relief as the interests of justice may  
13 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: March 28, 2018

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