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 19 United States of America

20 UNITED STATES DISTRICT COURT
 21 FOR THE CENTRAL DISTRICT OF CALIFORNIA

22 UNITED STATES OF AMERICA,

No. CV 2:16-07336

23 Plaintiff

COMPLAINT

24 v.

25 WELLS FARGO BANK, N.A.
 d/b/a
 26 WELLS FARGO DEALER SERVICES

27 Defendant.

28

1 **COMPLAINT**

2 Plaintiff, the United States of America, alleges as follows:

3 **INTRODUCTION**

- 4 1. The United States brings this action under the Servicemembers Civil Relief Act
5 (SCRA), 50 U.S.C. § 3901, *et seq.*, against Wells Fargo Bank, N.A., d/b/a Wells
6 Fargo Dealer Services (hereinafter referred to as “Defendant”) for illegally
7 repossessing 413 motor vehicles from servicemembers during their military
8 service between January 1, 2008 and July 1, 2015.
- 9 2. The purpose of the SCRA is to provide servicemembers with protections against
10 certain civil proceedings that could adversely affect their legal rights while they
11 are in military service. One of those protections is the requirement that a court
12 review and approve a lender’s repossession of any motor vehicle owned by a
13 servicemember if the servicemember took out the loan and made a deposit or an
14 installment payment before entering military service. The court may delay the
15 repossession or condition the repossession on the refunding of all or part of the
16 prior installments or deposits made by the servicemember. The court may also
17 appoint an attorney to represent the servicemember, require the lender to post a
18 bond with the court and issue any other orders it deems necessary to protect the
19 rights of the servicemember.
- 20 3. By failing to obtain court orders before repossessing motor vehicles owned by
21 protected servicemembers, Defendant prevented servicemembers from obtaining a
22 court’s review of whether their repossessions should be delayed or adjusted to
23 account for their military service.

24 **JURISDICTION AND VENUE**

- 25 4. This Court has jurisdiction over this action under 28 U.S.C. § 1331, 28 U.S.C §
26 1345, and 50 U.S.C § 4041.
- 27 5. Defendant is a national bank whose motor vehicle operations are located at 23
28 Pasteur in Irvine, California, in the Central District of California.

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

4 **DEFENDANT**

5 7. Defendant is one of the nation's largest motor vehicle lenders.

6 8. As of December 2015, Defendant held \$1.6 trillion in assets.

7 **BACKGROUND**

8 9. On March 30, 2012, Army National Guardsman Dennis Singleton and his then-
9 wife, Jessica Singleton, purchased a used 2011 Ford Escape from a dealership in
10 Asheville, North Carolina, for \$20,568.96. They were living in Hendersonville,
11 North Carolina at the time. The Singletons obtained financing at the dealership,
12 and received a loan from Defendant. On April 29, 2012, the Singletons made
13 their first loan payment.

14 10. On August 14, 2013, Army National Guardsman Singleton received orders to
15 report for active duty military service with the Army National Guard in Clyde,
16 North Carolina on September 25, 2013. He was subsequently deployed to
17 Afghanistan, where he fought in Operation Enduring Freedom from November 17,
18 2013 until returning home at the end of August 2014.

19 11. On October 10, 2013, the Singletons' vehicle was repossessed without a court
20 order by Defendant, while Army National Guardsman Singleton was on active
21 military duty. The vehicle was sold at public auction on October 24, 2013, after
22 which Defendant pursued collection of a deficiency balance of over \$10,000 from
23 the Singletons.

24 12. In October 2014, while seeking assistance with debt consolidation, Army National
25 Guardsman Singleton met with a National Guard attorney, who informed him of
26 his rights under the SCRA. The attorney requested information from Defendant
27 about the original loan and repossession and asked for copies of the
28

1 correspondence and payment history. The attorney never received a response
2 from Defendant.

3 13. On March 4, 2015, the U.S. Army's Legal Assistance Program notified the
4 Department of Justice ("Department") that Defendant had conducted a
5 repossession against Army National Guardsman Singleton that violated the SCRA.

6 14. On July 1, 2015, the Department notified Defendant that it was opening an
7 investigation into its motor vehicle loan servicing policies, practices, and
8 procedures. The Department's investigation included reviewing data on all of
9 Defendant's motor vehicle repossessions between January 1, 2008 and July 1,
10 2015.

11 **SERVICEMEMBER CIVIL RELIEF ACT VIOLATIONS**

12 15. The SCRA provides that "[a]fter a servicemember enters military service, a
13 contract by [a] servicemember for . . . the purchase of real or personal property
14 (including a motor vehicle)" and "for which a deposit or installment has been paid
15 by the servicemember before the servicemember enters military service," "may
16 not be rescinded or terminated for a breach of terms of the contract . . . *nor may*
17 *the property be repossessed for such breach without a court order.*" 50 U.S.C.
18 § 3952(a) (emphases added).

19 16. From January 1, 2008 through July 1, 2015, Defendant initiated and completed
20 413 repossessions, without court orders, of motor vehicles owned by SCRA-
21 protected servicemembers.

22 17. At the time of the repossessions, the individuals who owned the repossessed
23 vehicles were servicemembers who were in military service, as defined by 50
24 U.S.C. § 3911(1) and (2), or were members of a reserve component ordered to
25 report for military service, as defined by 50 U.S.C § 3917(a).

26 18. The servicemembers who owned the repossessed vehicles made at least one
27 deposit or installment payment before they entered military service, as defined by
28 50 U.S.C § 3911(2).

- 1 19. Defendant conducted repossessions even when it had evidence in its own records
2 suggesting that a borrower could be an SCRA-protected servicemember. For
3 example, there was an indication on Army National Guardsman Singleton’s loan
4 application that he was employed by the National Guard.
- 5 20. The Department of Defense provides lenders, and others seeking to comply with
6 the SCRA, an automated database run by the Defense Manpower Data Center
7 (“DMDC database”), to check whether their customers are SCRA-protected
8 servicemembers. Until at least December 2011, Defendant’s written policies did
9 not require it to check the DMDC database, or take any other measures to
10 determine customers’ military statuses, prior to repossessing their vehicles without
11 court orders. Even after December 2011, when the policies began requiring a
12 DMDC database check, through at least June 2015, Defendant continued to
13 engage in repossessions that violated the SCRA.
- 14 21. Defendant has engaged in a pattern or practice of violating Section 3952(a)(1) of
15 the SCRA by repossessing the motor vehicles of SCRA-protected servicemembers
16 without court orders. 50 U.S.C. § 3952(a)(1).
- 17 22. Defendant’s violations of Section 3952(a)(1) of the SCRA, including the
18 repossession of Mr. Singleton’s vehicle without a court order, raise issues of
19 significant public importance.
- 20 23. The servicemembers whose motor vehicles were repossessed without court orders
21 in violation of the SCRA are “person[s] aggrieved” pursuant to 50 U.S.C. §
22 4041(b)(2) and have suffered damages as a result of Defendant’s conduct.
- 23 24. Defendant’s conduct was intentional, willful, and taken in disregard for the rights
24 of servicemembers.

25 **RELIEF REQUESTED**

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

- 27 1. Declares that Defendant’s conduct violated the SCRA;
- 28

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

17 The United States further requests such additional relief as the interests of justice
18 may require.

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Dated: September 29, 2016

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