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**IN THE SUPERIOR COURT
FOR THE COUNTY OF SACRAMENTO**

GWENDOLYN MARTIN,

PLAINTIFF,

vs.

NEWREZ, LLC, d/b/a SHELLPOINT
MORTGAGE; DOES 1 through 25, inclusive,

DEFENDANTS.

Case No.: **25CV004513**

**COMPLAINT FOR DAMAGES AND
DEMAND FOR JURY TRIAL FOR
VIOALTIONS OF:**

- 1. C.M.V.C. § 409.3;**
- 2. C.M.V.C. §§ 800-813;**
- 3. CALIF. CIV. CODE §§ 1788-1788.32;**
- 4. CALIF. CIV. CODE §§ 1785.25(a)-1788.31;**
- 5. NEGLIGENCE;**
- 6. INTENTIONAL MISREPRESENTATIONS**

**TO THE CLERK OF THE COURT, ALL PARTIES, AND THE HONORABLE
DISTRICT COURT JUDGE:**

PLAINTIFF, GWENDOLYN MARTIN (hereinafter, "PLAINTIFF"), an individual, by and through her attorneys of record, hereby complain and allege in this Complaint as follows:

INTRODUCTION

1. This action arises out of DEFENDANT NEWREZ, LLC'S (hereinafter, "NEWREZ") violations of Calif. Military and Veteran's Code § 409.3; Calif. Military and Veteran's Code §§ 800-813; the State of California Consumer Credit Reporting Agencies Act

1 (Calif. Civ. Code §§ 1785.25-1785.31); and, the State of California Rosenthal Act (hereinafter
2 “Rosenthal Act”) (Calif. Civil Code §§1788-1788.32).

3 2. PLAINTIFF makes the allegations below on information and belief, with the
4 exception of those allegations that pertain to PLAINTIFF personally, or to PLAINTIFF’S counsel,
5 which PLAINTIFF alleges on personal knowledge

6 3. California’s enactment of legislation conferring certain benefits with regard to
7 civil obligations, liabilities, and litigation on military personnel called to active service or duty
8 evidences the Legislature’s intent to protect such members of our Armed Forces.

9 4. For example, the Comments to California Bill Analysis, A.B. 306 Assem.,
10 4/26/2005 states in part:

11 A recent Pentagon survey found that 31% of families of reservists and National Guard
12 members see a decrease in income when a spouse is called to duty. Too much debt
13 and financial worries are a burden to service members and can have serious
14 consequences. Federal and state governments have long recognized the need to
15 provide certain legal protections for individuals entering or called to active duty in
16 the military service. During times of past national crisis, Congress and state
17 legislatures have passed various laws to protect service members while deployed on
18 active duty. **The goal of these laws was to allow service members to focus on their
19 military duties without worrying about civil obligations back home and to
20 ensure that service members and their families would not face undue economic
21 hardships as a result of their military service** (emphasis added).

22 The author of this bill argues that **no Californian should be subjected to financial
23 hardship as a result of their choice to serve and that because California's service
24 members are currently being activated at near record levels, now is the time for
California to stand up and protect the financial security of these brave soldiers
and their families** (emphasis added).

25 5. Furthermore, California Bill Analysis, A.B. 3212 Assem., 4/10/2018 states in part:
26 “The need to provide active duty members of the military, as well as National Guard and Reserve
27 service members who are called to active duty, with a certain measure of protection in civil
28 liability cases is long-recognized, first during the Civil War and later, in the form of the Soldiers
29 and Sailors Relief Act of 1940.”

1 6. Additionally, California Bill Analysis, A.B. 3212 Assem., 5/2/2018 shows that the
2 Purpose of the Bill to amend Military and Veterans' Code § 800, et seq. was as follows:

3 Purpose. This bill seeks to ease the legal and financial burdens placed on military
4 personnel and their families by expanding and strengthening several consumer
5 protections provided to active duty California service members. This bill is
6 sponsored by the state attorney general. According to the author:

7 California leads the nation in protecting the rights of military members under state
8 law. But current state military consumer protections apply only to members of the
9 National Guard and reservists who are called to active duty. These protections do
10 not cover the more than 100,000 full time members of the active components of the
11 armed forces who live in California.

12 Currently, most of the protections expire quickly after a service member leaves
13 active duty. This is problematic because service members need time after
14 deployment to reintegrate and may face financial distress during this period of
15 transition.

16 7. DEFENDANTS' actions taken with respect to PLAINTIFFS' residential home
17 mortgage loan obligations do not comply nor comport with the legislative intent to protect the
18 financial security of our service members risking their own lives for the safety of our Country.

19 8. While many violations are described below with specificity, this Complaint alleges
20 violations of the statutes cited in their entirety.

21 9. DEFENDANT NEWREZ is a business entity that regularly does business within
22 the State of California, County of Sacramento, and maintains an agent for service of process
23 within the State of California at 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833.
24 Therefore, personal jurisdiction is established.

 10. Because all tortious conduct occurred while PLAINTIFF resided in the City of Elk
Grove, County of Sacramento, and the actions taken by DEFENDANTS that give rise to this
lawsuit pertain to a home mortgage loan for real property located within the City of Elk Grove,
County of Sacramento, and witnesses are located therein, venue properly lies in this Court.

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PARTIES & DEFINITIONS

11. PLAINTIFF is a natural person.

12. PLAINTIFF, as a natural person allegedly obligated to pay a consumer debt to DEFENDANTS for a home mortgage loan, alleged to have been due and owing, are therefore is a “debtor” as that term is defined by California Civil Code § 1788.2(h) of the Rosenthal Act.

13. DEFENDANTS alleged that PLAINTIFF owed money that they were allegedly collecting for a home mortgage loan for PLAINTIFF’S principal place of residence, and PLAINTIFF is therefore informed and believes that the money alleged to have been owed originated from monetary credit that was extended to PLAINTIFF primarily for personal, family, or household purposes, and is therefore a “debt” as that term is defined by Calif. Civil Code § 1788.2(d) of the Rosenthal Act.

14. Upon information and belief, DEFENDANTS were attempting to collect on a debt that originated from monetary credit that was extended primarily for personal, family, or household purposes, and was therefore a “consumer credit transaction” within the meaning of Calif. Civil Code § 1788.2(e) of the Rosenthal Act.

15. Because PLAINTIFF, a natural person allegedly obligated to pay money arising from a consumer credit transaction, the money allegedly owed was a “consumer debt” within the meaning of California Civil Code § 1788.2(f) of the Rosenthal Act.

16. PLAINTIFF is informed and believes that DEFENDANTS regularly collect or attempt to collect debts on behalf of others that are owed or due or asserted to be owed or due, and is each therefore a “debt collector” within the meaning of Calif. Civil Code § 1788.2(c) of the Rosenthal Act, and thereby engage in “debt collection” within the meaning of California Civil Code § 1788.2(b) of the Rosenthal Act, are also therefore each a “person” within the meaning of

1 California Civil Code § 1788.2(g) of the Rosenthal Act, and each is also a “creditor” under
2 California Civil Code § 1788.2(i).

3 17. PLAINTIFF is a natural person and is a “consumer” as that term is defined by
4 Calif. Civ. Code § 1785.3(b) of the CCCRAA.

5 18. As far as this matter pertains to PLAINTIFF’S “consumer credit reports”, as that
6 term is defined by Calif. Civ. Code § 1785.3(c) of the California CCRAA, in that inaccurate
7 misrepresentations of PLAINTIFF’S credit worthiness, credit standing, and credit capacity were
8 made via written, oral, or other communication of information by a consumer credit reporting
9 agency, which is used or is expected to be used, or collected in whole or in part, for the purpose
10 of serving as a factor in establishing PLAINTIFF’S eligibility for, among other things, credit to
11 be used primarily for personal, family, or household purposes, and employment purposes.

12 19. As far as this matter pertains to the California CCRAA, DEFENDANTS are each
13 a partnership, corporation, association, or other entity, and are therefore a “person” as that term
14 is defined by Calif. Civ. Code § 1785.3(j) of the California CCRAA.

15 **STATUTORY PROTECTIONS**
16 **OF CALIFORNIA MILITARY RESERVIST SERVICEMEMBERS**

17 20. Section 409.3(a) of the Calif. Military and Veterans’ Code permits a
18 servicemember to petition the Court for an Order for “relief in respect of any obligation or liability
19 incurred by the service member ...”.

20 21. Section 409.3(e) of the Calif. Military and Veterans’ Code reads as follows:

21 (e)(1) When any court has granted a deferment as provided in this section, no fine
22 or penalty shall accrue during the period the terms and conditions of the deferment
23 are complied with by reason of failure to comply with the terms or conditions of the
24 obligation, liability, tax, or assessment in respect of which the deferment was
granted, including penalties on the nonpayment of principal or interest during this
period. Interest shall not be charged or accumulated during the period of deferment
unless otherwise ordered by the court. Foreclosure or repossession of property on

1 which payment has been deferred shall not take place during the period specified in
2 this section.

3 (2) If a person has charged or accrued a fine, penalty, or interest in violation of
4 paragraph (1), that person shall be liable for actual damages, reasonable attorney's
5 fees, and costs incurred by the injured party as a result of the violation.

6 22. Section 800(a)(1) of the Calif. Military and Veterans' Code reads: "... a reservist
7 who is called to active duty may defer payments on any of the following obligations while serving
8 on active duty: (A) An obligation secured by a mortgage or deed of trust."¹

9 23. Section 800(b) requires only that the reservist submit a written request for
10 deferment that encloses a copy of the military orders, and explicitly states that email
11 communication is sufficient to satisfy such a written request.

12 24. Pursuant to Section 800(e), the term of the credit obligation is required to be
13 extended as follows: "If a lender defers payments on a closed end credit obligation or an open
14 end credit obligation with a maturity date, pursuant to this chapter, **the lender shall extend the**
15 **term of the obligation by the amount of months the obligation was deferred.**" (emphasis
16 added).

17 25. Section 804 of the Calif. Military and Veterans' Code reads:

18 During the period specified in Section 800, the reservist may defer the
19 payment of principal and interest on the specified obligations. No penalties
20 shall be imposed on the nonpayment of principal or interest during this period.
21 No interest shall be charged or accumulated on the principal or interest on
22 which the payment was delayed. No foreclosure or repossession of property
23 on which payment has been deferred shall take place during the period
24 specified in Section 800.

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¹ The obligation to defer payments on a mortgage or deed of trust pursuant to § 800(a) became
effective January 1, 2006, Enacted Legislation Added by Stats.2005, c. 291 (A.B.306), § 2.

1 26. Section 805 of the Calif. Military and Veterans’ Code reads:

2 Subject to subdivisions (e) and (f) of Section 800, a stay, postponement, or
3 suspension under this chapter of the payment of any tax, fine, penalty,
4 insurance premium, or other civil obligation or liability of a person in military
5 service shall not provide the basis for affecting credit ratings, denial or
6 revocation of credit, or a change by the lender in the terms of an existing credit
7 arrangement.

8 27. Section 811(a) of the Calif. Military and Veterans’ Code reads:

9 The spouse or legal dependent, or both, of a reservist who is called to active
10 duty, shall be entitled to the benefits accorded to a reservist under this chapter,
11 provided that the reservist is eligible for the benefits.

12 28. Violations of these protections as codified by the Calif. Military and Veterans’ Code are
13 enforceable by Section 812 as follows:

14 a) A person violating any provision of this chapter shall be liable for actual
15 damages, reasonable attorney's fees, and costs incurred by the service member
16 or other person entitled to the benefits and protections of this chapter.

17 b) A service member or other person seeking to enforce rights pursuant to this
18 chapter shall not be required to pay a filing fee or court costs.

19 29. Pursuant to Section 813(a)-(b) of the Calif. Military and Veterans’ Code, any
20 potential deficiency, legal insufficiency, or lack of entitlement to a request for deferment
21 submitted by a reservist is waived if the lender/servicer fails to provide a written explanation
22 within 30 days as to why it believes any such deficiency, legal insufficiency, or lack of entitlement
23 may exist, and in such a case the reservist is therefore entitled to the deferment benefits provided
24 herein despite the existence of any potential deficiency, legal insufficiency, or lack of entitlement.

30. It must also be noted that, pursuant to CMVC § 401(a)(3) and (a)(5), it is unlawful
for a creditor to furnish to the credit reporting agencies any adverse credit reporting and/or that a
borrower is a member of either an active or reserve component of the Armed Forces. Such a
violation is punishable criminally as follows, pursuant to CMVC § 401(e): “Any person violating

1 any provision of this section is guilty of a misdemeanor, and shall be punishable by imprisonment
2 not to exceed one year or by a fine not to exceed one thousand dollars (\$1,000), or both.

3 **FACTUAL ALLEGATIONS**

4 31. PLAINTIFF is presently a First Lieutenant with the California Air National Guard.

5 32. PLAINTIFF is presently 37 years old and has one child presently aged 7 years.

6 33. PLAINTIFF'S family is a dedicated military family, with PLAINTIFF also being
7 a disabled veteran from the U.S. Air Force, after being honorably discharged from active duty in
8 January 2017.

9 34. PLAINTIFF has Top Secret Clearance.

10 35. In or about July 2019, PLAINTIFF incurred a home mortgage loan obligation, for
11 which DEFENDANTS are presently the owners and/or servicers of the mortgage loan.

12 36. The mortgage loan is a VA backed loan.

13 37. The home mortgage loan is for PLAINTIFF'S primary place of residence in the
14 City of Elk Grove, County of Sacramento.

15 38. At some point after she incurred the home mortgage loan obligation, PLAINTIFF
16 received orders ordering her to report for full time duty.

17 39. On July 17, 2024, PLAINTIFF submitted to DEFENDANTS a written request for
18 deferment pursuant to the Calif. Military & Veterans' Code Section 800, seeking to defer the
19 principal and interest payments on the home mortgage loan obligation for the months of July,
20 August, September 2024.

21 40. PLAINTIFF enclosed a copy of the deployment orders with the deferment request.

22 41. DEFENDANTS' only response to PLAINTIFF'S request for deferment was to
23 claim, on July 24, 2024, that they would implement SCRA protections on the account and
24 promised that her property would be protected from foreclosure proceedings.

1 42. However, SCRA protections are vastly different and separate from the deferment
2 protections mandated under the Calif. Military and Veterans’ Code.

3 43. For instance, SCRA is a federal statute that does not provide any deferment
4 protections at all to reservist servicemembers under deployment orders, whereas the primary goal
5 of the Calif. Military and Veterans’ Code is to mandate deferment protections to the deployed
6 reservist servicemembers so that the reservist’s family can maintain a handle on their financial
7 affairs while not receiving income from the reservist’s employer during the period of deployment.

8 44. Beyond that, DEFENDANTS to this date have never once acknowledged
9 PLAINTIFF’S July 24, 2024 written request for deferment of the home mortgage loan obligation
10 pursuant to the Calif. Military & Veterans’ Code Section 800.

11 45. Believing that DEFENDANTS must not have received or must have overlooked
12 her July 24th request, PLAINTIFF submitted another written request to DEFENDANTS on
13 August 14, 2024 pursuant to the Calif. Military & Veterans’ Code Section 800, again seeking to
14 defer the principal and interest payments on the home mortgage loan obligation for the months of
15 July, August, September 2024, and again PLAINTIFF enclosed a copy of the deployment orders
16 with the deferment request.

17 46. And again, DEFENDANTS’ only response to PLAINTIFF’S request for
18 deferment was to claim, on August 21, 2024, that they would implement SCRA protections on
19 the account and again promised that her property would be protected from foreclosure
20 proceedings.

21 47. However, as stated above, SCRA protections are vastly different and separate from
22 the deferment protections mandated under the Calif. Military and Veterans’ Code.

1 48. And again, DEFENDANTS to this date have never once acknowledged
2 PLAINTIFF'S August 21, 2024 written request for deferment of the home mortgage loan
3 obligation pursuant to the Calif. Military & Veterans' Code Section 800.

4 49. C.M.V.C. § 813(a)-(b) specifically states:

5 (a) Any person who receives a good faith request from a service member for
6 relief pursuant to this chapter and who believes the request is incomplete or
7 otherwise not legally sufficient, or that the service member is not entitled to
8 the relief requested, shall, within 30 days of the request, provide the service
9 member with a written response acknowledging the request, setting forth the
10 person's basis for believing or asserting that the request is incomplete or not
11 legally sufficient, or that the service member is not entitled to the relief
12 requested. The response shall clearly identify the specific information or
13 materials that are missing from the request and that would be required to grant
14 the relief requested, and provide contact information, including a mailing
15 address and telephone number, which the service member can use to contact
16 the person.

17 (b) If the person fails to make such a response in the timeframe set forth in this
18 section, the person waives any objection to the request, and the service
19 member shall be entitled to the relief requested.

20 50. Here, DEFENDANTS have never provided to PLAINTIFF any written
21 communication at all as to PLAINTIFF'S two written requests for deferment of the principal and
22 interest on the home mortgage loan obligations pursuant to the C.M.V.C. § 800, as mandated by
23 C.M.V.C. § 813.

24 51. Therefore, pursuant to C.M.V.C. § 813(b), DEFENDANTS have waived any
purported entitlement to assert as a defense in this litigation that PLAINTIFF'S requests from
both July and August were "incomplete or otherwise not legally sufficient, or that the service
member is not entitled to the relief requested".

52. Additionally, based on C.M.V.C. § 813(b), it is not required that there exist an
express statement by the mortgage company that the deferment has been granted, as a failure to
make such a response in the timeframe set forth in this section results in a waiver of any objection

1 to the request, and in turns means automatically the servicemember “shall be entitled to the relief
2 requested” by operation of law.

3 53. Assuming, but without conceding, that DEFENDANTS might assert there exists
4 a potential deficiency, legal insufficiency, or lack of entitlement to PLAINTIFF’S July and/or
5 August requests for deferment, DEFENDANTS’ failure to provide any written explanation of any
6 basis for a rejection/denial of the request within 30 days, as mandated by Section 813, therefore
7 results in any potential deficiency, legal insufficiency, or lack of entitlement having been waived,
8 which results in PLAINTIFF therefore being automatically entitled to the benefits requested
9 despite any such potential deficiency, legal insufficiency, or lack of entitlement (if there even is
10 any).

11 54. Therefore, pursuant to Sections 800 and 811 of the Calif. Military and Veterans’
12 Code, PLAINTIFF was automatically entitled to up to 180-days’ worth of deferment of the
13 principal and interest, and DEFENDANTS are and were obligated to not only abide by the
14 mandatory deferment but to also extend the maturity date of the term of the obligation equal to
15 the number of months of the deferment.

16 55. As the deferments were required to be applied to principal and interest,
17 PLAINTIFF was only required to pay each month the escrow amount for taxes and insurance.

18 56. Despite this, however, PLAINTIFF continued to receive from DEFENDANTS
19 written communications every single month from July 2024 to December 2024 that falsely claim
20 PLAINTIFF owed the full regular monthly payment during the time period that the account
21 should have been under mandatory deferment.

22 57. These communications resulted in PLAINTIFF caving in to DEFENDANTS’
23 demands for full regular monthly payments in the amount of several thousands of dollars just to
24 avoid the threatened risks.

1 58. To be clear: PLAINTIFF absolutely did not owe the full regular monthly payments
2 during those months, as PLAINTIFF was automatically entitled to mandatory deferment
3 protections pursuant to C.M.V.C. § 813.

4 59. In turn, this means that each written communication and each verbal
5 communication between July 2024 to December 2024 wherein DEFENDANTS insisted that
6 PLAINTIFF owed the full regular monthly payment for months that should have been deferred
7 was a false statement, a misrepresentation as to the character and status of the account, and
8 resulted in PLAINTIFF being coerced into paying money that she otherwise should not have had
9 to pay.

10 60. And furthermore, because PLAINTIFF paid to DEFENDANTS several thousands
11 of dollars during these months that she should have otherwise been entitled to save or use for
12 other life necessities, PLAINTIFF has been deprived of the use and enjoyment of those several
13 thousands of dollars and has suffered consequential financial harm as a direct and proximate result
14 of being deprived of those several thousands of dollars.

15 61. Eventually, since DEFENDANTS utterly refused to even acknowledge
16 PLAINTIFF'S July and August requests for deferment, PLAINTIFF sought the assistance of her
17 JAG office.

18 62. On October 15, 2024, PLAINTIFF'S JAG office filed on PLAINTIFF'S behalf a
19 Petition with this Court pursuant to § 409.3 for a Court Ordered deferment.

20 63. In PLAINTIFF'S Petition, she requested that the Court Order DEFENDANTS to
21 implement a deferment upon PLAINTIFF'S mortgage account from June 5, 2022 to July 31, 2025.

22 64. PLAINTIFF'S Petition was assigned to Sacramento Superior Court Case Number
23 24CV020925.

24 65. PLAINTIFF'S Petition was served on DEFENDANTS.

1 66. On December 11, 2024, the Honorable Judge Christopher E. Krueger of the
2 Sacramento Superior Court entered an Order granting PLAINTIFF’S request for deferment from
3 June 5, 2022 to July 31, 2025.

4 67. The Court further Ordered that, “during the period of this deferment,
5 [DEFENDANTS] shall not exercise any of the remedies otherwise available to it for
6 [PLAINTIFF’S] failure to timely pay principal and interest including, but not limited to, imposing
7 late charges, fines, penalties, reporting to credit bureaus, or pursuing foreclosure proceedings.”

8 68. Attached hereto as Exhibit A is a true and correct copy of the Court’s Order.

9 69. PLAINTIFF served this Oder on DEFENDANTS.

10 70. Despite the undeniable fact that DEFENDANTS were served with a copy of the
11 Court’s Order mandating that PLAINTIFF be entitled to a deferment from June 5, 2022 to July
12 31, 2025, DEFENDANTS have proceeded to insist that PLAINTIFF is still obligated to pay her
13 full regular monthly payments, including principal, interest, and escrow.

14 71. In December 2024, January 2025, and February 2025, DEFENDANTS have
15 falsely claimed that not only does PLAINTIFF owe the full regular monthly payments, including
16 principal, interest, and escrow, but have also falsely claimed that PLAINTIFF is in default for
17 thousands of dollars for the months of December 2024, January 2025, and February 2025, and
18 have also threatened that PLAINTIFF is at imminent risk of foreclosure upon her home, and have
19 also submitted negative credit reporting to the consumer credit reporting agencies.

20 72. In January 2025, DEFENDANTS falsely claimed that PLAINTIFF still owes the
21 full regular monthly payment, including principal, interest, and escrow, for the upcoming month
22 of February 2025, and have falsely claimed is in default for thousands of dollars for months that
23 were actually subject of the Court’s Order for deferment.

1 73. And again, in February 2025, DEFENDANTS have also claimed that PLAINTIFF
2 still owes the full regular monthly payment, including principal, interest, and escrow, for the
3 upcoming month of March 2025, and have falsely claimed that PLAINTIFF is in default for
4 thousands of dollars for months that were actually subject of the Court's Order for deferment.

5 74. To be clear, PLAINTIFF does not owe the fully regular monthly payments for any
6 month from June 5, 2022 to July 31, 2025.

7 75. Every statement uttered by DEFENDANTS that PLAINTIFF owes full regular
8 monthly payments and is in default for not making full regular monthly payments is a false
9 statement, an attempt to coerce PLAINTIFF into paying money that she does not owe, and an
10 attempt to harass and oppress PLAINTIFF into making payments that she does not owe, and is a
11 clear and direct violation of the Court's Order in Case Number 24CV020925.

12 76. And, to be clear, PLAINTIFF cannot be subject to any foreclosure proceedings for
13 failing to pay principal and interest for any month from June 5, 2022 to July 31, 2025.

14 77. Every statement uttered by DEFENDANTS that she is at risk of foreclosure is a
15 false statement, a threat to take action that cannot legally be taken, and an attempt to harass and
16 oppress PLAINTIFF into making payments that she does not owe, and is a clear and direct
17 violation of the Court's Order in Case Number 24CV020925.

18 78. And, to be clear, PLAINTIFF cannot be alleged to be in default and cannot be
19 subject to adverse credit reporting for failing to pay principal and interest for any month from
20 June 5, 2022 to July 31, 2025.

21 79. Every action taken by DEFENDANTS to furnish credit reporting that PLAINTIFF
22 owes her full regular monthly payments and also that PLAINTIFF is in default for not making
23 full regular monthly payments, is a false statement and an attempt to harass and oppress
24

1 PLAINTIFF into making payments that she does not owe, and is a clear and direct violation of
2 the Court's Order in Case Number 24CV020925.

3 80. Each correspondence sent by DEFENDANTS in these regards amounts to a
4 separate incident of engaging in false representations of the nature, character, and status of the
5 account and also as to amounts owed.

6 81. DEFENDANTS' actions of credit reporting that PLAINTIFF owes her full regular
7 monthly payments has caused PLAINTIFF to suffer harm, because the credit reporting shows
8 monthly financial obligations that PLAINTIFF otherwise does not owe, which in turn causes
9 PLAINTIFF to suffer a worse debt to income ratio than it otherwise should have been.

10 82. Furthermore, DEFENDANTS' actions of credit reporting that PLAINTIFF is in
11 default and delinquency on the account has caused PLAINTIFF'S credit scores to drop, and also
12 paints a false and inaccurate picture of PLAINTIFF as being not a creditworthy consumer who
13 defaults on her accounts due to financial irresponsibility.

14 83. DEFENDANTS' actions of credit reporting has also caused PLAINTIFF to be
15 concerned and worried over the possibility of discipline within the military, possibility of
16 demotion and/or less than honorable discharge, and possibly being stripped of Security Clearance,
17 as negative credit history risks PLAINTIFF being deprived of security clearance level because
18 the military considers someone with negative credit history as being at risk for bribery and
19 manipulation by foreign adversaries.²

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24 ² <https://www.consumerfinance.gov/about-us/blog/warno-new-security-clearance-guidelines-make-it-more-important-ever-servicemembers-monitor-their-credit/>.

1 84. In February 2025, PLAINTIFF called DEFENDANTS in an attempt to authorize
2 an electronic payment for her mandatory escrow payment, and was told by DEFENDANTS' agent
3 that she is not allowed to make any such payments, they are refusing her payments because her
4 account is "in litigation", and they are refusing to provide her any information at all about her
5 account and that if she were to want any information about her account she must speak to her
6 "personal counsel".

7 85. PLAINTIFF then went to her online portal in an attempt to make a monthly escrow
8 payment, only to be shocked to discover that her entire online portal was blocked from access
9 under the claim that she is "past the grace period".

10 86. These actions taken by DEFENDANTS in refusing to permit PLAINTIFF to pay
11 her monthly escrow payment and refusing to provide her any information about her account can
12 only be described as oppressive and retaliatory and is intended to set her up for further default.

13 87. On February 20, 2025, PLAINTIFF request a payoff quote. The payoff quote
14 provided to her confirms that DEFENDANTS have refused and failed to implement a deferment,
15 falsely claiming that her regular monthly payments from December 2024 are due, and also
16 charging her interest that is otherwise required to be deferred.

17 88. DEFENDANTS have also charged to PLAINTIFF "property inspection fees" that
18 are only charged as a first step in starting the foreclosure process, which, in turn, signifies that
19 DEFENDANTS have, in fact, taken the first steps in starting the foreclosure process against
20 PLAINTIFF based on DEFENDANTS treatment of PLAINTIFF as in default for months that
21 should have been deferred, and the charging of such fees against PLAINTIFF also operates as
22 unlawful monetary penalties and charges against PLAINTIFF.

23 89. Each action taken by DEFENDANTS has caused PLAINTIFF to suffer fear and
24 worry over her family's financial affairs, and to also suffer fear and worry over whether her family

1 might lose their home due exclusively to gross errors committed by a company that she had no
2 choice in servicing their account, and to also suffer fear and worry over whether the VA might
3 withdraw its guarantee of the loan and refusal to provide any further VA benefits/protections.

4 90. PLAINTIFF has suffered emotional distress, such as loss of sleep, worry, fear,
5 shame, embarrassment, headaches, increased heart rate, and shaking.

6 91. Furthermore, PLAINTIFF has suffered financial harm as a direct and proximate
7 result of the violations described herein.

8 92. Upon information and belief, DEFENDANTS have acted with malice and
9 oppression and in deliberate and willful disregard of PLAINTIFF'S rights, because they acted
10 with such a high degree of risk of committing a legal violation that was higher than mere
11 carelessness, because the laws that protect PLAINTIFF in these circumstances are very clear and
12 unambiguous, and also because DEFENDANTS are fully aware of the obligations and protections
13 mandated by the C.M.V.C. (which is confirmed at least in part by the fact that DEFENDANTS
14 have been the subject of multiple lawsuits for violations of the C.M.V.C.), yet DEFENDANTS
15 have utterly failed to properly comply, which means DEFENDANTS deserve exemplary and
16 punitive damages.

17 93. Indeed, DEFENDANTS have been sued by PLAINTIFF in the past for violating
18 these very same statutory protections in Sacramento Superior Court Case Number 23CV002126.

19 94. Upon information and belief, DEFENDANTS violations in the instant case are
20 purposefully designed to be retaliatory against PLAINTIFF for having sued DEFENDANTS in
21 the past and for having obtained a Court Ordered deferment, which also mandates that
22 DEFENDANTS be subject to punitive damages for this intentionally malicious and oppressive
23 behavior.

1 95. Upon information and belief, DEFENDANTS have implemented a scam so that
2 DEFENDANTS can ensure that they receive higher interest payments for their own financial gain
3 to the detriment of deployed servicemembers, which is despicable, fraudulent, and malicious, and
4 is deserving of exemplary damages.

5 96. DEFENDANTS' actions described herein completely undermine the spirit and
6 purpose of the protections afforded to PLAINTIFF by the Calif. Military and Veterans' Code, as
7 these protections are meant to allow deployed servicemembers to focus on their job duties during
8 deployment and to focus on their transition from non-deployment to deployment without having
9 to suffer worry and distress over financial affairs and without having to suffer worry and distress
10 over the security of their residence during deployment.

11 **FIRST CAUSE OF ACTION**
12 **CALIF. MILITARY & VETS.' CODE § 409.3**
13 **(BY AND ON BEHALF OF ALL PLAINTIFFS, AS AGAINST ALL DEFENDANTS)**

14 97. PLAINTIFF repeats, re-alleges, and incorporates by reference all other paragraphs,
15 as if fully set forth herein.

16 98. As described above, PLAINTIFF obtained a Court Order that obligated
17 DEFENDANTS to implement a deferment upon the mortgage loan account for principal and
18 interest, to not proceed with any foreclosure proceedings, to not impose any fines or penalties
19 upon the account, to not submit any adverse credit reporting, among other things.

20 99. However, DEFENDANTS have done and threatened to do each and every one of
21 those things that are expressly prohibited and mandated by statute and Court Order.

22 100. Section 409.3(e) of the Calif. Military and Veterans' Code reads as follows:

23 (e)(1) When any court has granted a deferment as provided in this section, no fine
24 or penalty shall accrue during the period the terms and conditions of the deferment
are complied with by reason of failure to comply with the terms or conditions of the
obligation, liability, tax, or assessment in respect of which the deferment was
granted, including penalties on the nonpayment of principal or interest during this

1 period. Interest shall not be charged or accumulated during the period of deferment
2 unless otherwise ordered by the court. Foreclosure or repossession of property on
3 which payment has been deferred shall not take place during the period specified in
4 this section.

5 (2) If a person has charged or accrued a fine, penalty, or interest in violation of
6 paragraph (1), that person shall be liable for actual damages, reasonable attorney's
7 fees, and costs incurred by the injured party as a result of the violation.

8 101. DEFENDANTS' actions herein can only be described as deliberate and intentional
9 violations as a way of retaliating against PLAINTIFF for having sued them in the past and for
10 obtaining the Court Order that is enclosed as Exhibit A hereto.

11 102. As a direct and proximate result of DEFENDANTS' actions, PLAINTIFF has
12 suffered loss of time, loss of quality of life, as well as emotional and financial injuries.

13 103. PLAINTIFF is also entitled to, and seek, attorneys' fees and costs.

14 104. PLAINTIFF is further informed and believes that the aforesaid conduct was
15 malicious and oppressive, as those terms are defined by California Civil Code sections 3294(c)(1)
16 and 3294(c)(2), deserving of punitive and exemplary damages. The obligations of
17 DEFENDANTS in this Cause of Action are not arising from contract, as the obligations arise
18 specifically from statute, which in turn means the limitation of § 3294(a) ("In an action for the
19 breach of an obligation not arising from contract ...") does not apply.³ Upon information and
20 belief, DEFENDANTS have (or are likely to have) mortgage servicing engagements with other

21 ³ In the statute authorizing punitive damages for "an action for the breach of an obligation not
22 arising from contract," the word "contract" is used in its ordinary sense to mean an agreement
23 between the parties, not an obligation imposed by law despite the absence of any such
24 agreement. Brewer v. Premier Golf Properties, LP (App. 4 Dist. 2008) 168 Cal.App.4th 1243,
review denied; Ward v. Taggart (1959) 51 Cal.2d 736, 336 P.2d 534. Further, exemplary
damages may be recovered in tort action upon a proper showing of malice, fraud or oppression
even though the tort incidentally involves a breach of contract. Chelini v. Nieri (1948) 32
Cal.2d 480, 196 P.2d 915; Haigler v. Donnelly (1941) 18 Cal.2d 674, 117 P.2d 331.

1 military families throughout the State of California, which means DEFENDANTS deserve to
2 suffer exemplary damages so that they do not inflict similar violations upon other military families,
3 in addition to deserving punishment for attempting to rip off PLAINTIFF.

4 105. Under California law, even where a claim formally sounds in negligence, if the
5 PLAINTIFF can make a showing that defendant's conduct goes beyond gross negligence and
6 demonstrates a knowing and reckless disregard, punitive damages may be available. *In re*
7 *Yahoo! Inc. Customer Data Security Breach Litigation* (N.D. Cal.2018) 313 F.Supp.3d 1113.

8 **SECOND CAUSE OF ACTION**

9 **CALIF. MILITARY & VETS.' CODE §§ 800-813**

10 **(BY AND ON BEHALF OF ALL PLAINTIFFS, AS AGAINST ALL DEFENDANTS)**

11 106. PLAINTIFF repeats, re-alleges, and incorporates by reference all other paragraphs,
12 as if fully set forth herein.

13 107. PLAINTIFF invoked protections under this Act twice by sending the required
14 written notices that included copies of the applicable deployment orders.

15 108. DEFENDANTS' failure to even once acknowledge either of PLAINTIFF'S
16 written requests for deferment results in Section 813 mandating that DEFENDANTS have waived
17 any ability to argue that PLAINTIFF'S requests were somehow insufficient/deficient or that
18 PLAINTIFF was not otherwise entitled to the requested deferments, and also mandating that
19 PLAINTIFF was automatically entitled to the requested deferments.

20 109. By failing to provide PLAINTIFF with mandatory deferment of principal and
21 interest when in reality PLAINTIFF was entitled to deferment protections, DEFENDANTS have
22 violated Calif. Military & Vets.' Code.

23 110. By falsely claiming on multiple occasions that PLAINTIFF owed the full regular
24 monthly payment, which amounts to several thousands of dollars more than what she actually

1 owed because she was entitled to deferment protections, DEFENDANTS violated Calif. Military
2 & Vets.’ Code.

3 111. By falsely threatening that PLAINTIFF was at risk of foreclosure when in reality
4 PLAINTIFF was entitled to deferment protections, DEFENDANTS violated Calif. Military &
5 Vets.’ Code.

6 112. As a direct and proximate result of DEFENDANTS’ actions, PLAINTIFF has
7 suffered loss of time, loss of quality of life, as well as emotional and financial injuries.

8 113. PLAINTIFF is also entitled to, and seek, attorneys’ fees and costs.

9 114. PLAINTIFF is further informed and believes that the aforesaid conduct was
10 malicious and oppressive, as those terms are defined by California Civil Code sections 3294(c)(1)
11 and 3294(c)(2), deserving of punitive and exemplary damages. The obligations of
12 DEFENDANTS in this Cause of Action are not arising from contract, as the obligations arise
13 specifically from statute, which in turn means the limitation of § 3294(a) (“In an action for the
14 breach of an obligation not arising from contract ...”) does not apply.⁴ Upon information and
15 belief, DEFENDANTS have (or are likely to have) mortgage servicing engagements with other
16 military families throughout the State of California, which means DEFENDANTS deserve to
17 suffer exemplary damages so that they do not inflict similar violations upon other military families,
18 in addition to deserving punishment for attempting to rip off PLAINTIFF.

19
20
21 ⁴ In the statute authorizing punitive damages for “an action for the breach of an obligation not
22 arising from contract,” the word “contract” is used in its ordinary sense to mean an agreement
23 between the parties, not an obligation imposed by law despite the absence of any such
24 agreement. Brewer v. Premier Golf Properties, LP (App. 4 Dist. 2008) 168 Cal.App.4th 1243,
review denied; Ward v. Taggart (1959) 51 Cal.2d 736, 336 P.2d 534. Further, exemplary
damages may be recovered in tort action upon a proper showing of malice, fraud or oppression
even though the tort incidentally involves a breach of contract. Chelini v. Nieri (1948) 32
Cal.2d 480, 196 P.2d 915; Haigler v. Donnelly (1941) 18 Cal.2d 674, 117 P.2d 331.

1 115. Under California law, even where a claim formally sounds in negligence, if the
2 PLAINTIFF can make a showing that defendant's conduct goes beyond gross negligence and
3 demonstrates a knowing and reckless disregard, punitive damages may be available. *In re*
4 *Yahoo! Inc. Customer Data Security Breach Litigation* (N.D. Cal.2018) 313 F.Supp.3d 1113.

5 116. Assuming, but without conceding, that DEFENDANTS might assert there exists
6 a potential deficiency, legal insufficiency, or lack of entitlement to PLAINTIFFS' requests for
7 deferment, DEFENDANTS' failure to provide any written explanation of any basis for a
8 rejection/denial of the request within 30 days, as mandated by Section 813, therefore results in
9 any argument as to a potential deficiency, legal insufficiency, or lack of entitlement having been
10 waived, which results in PLAINTIFF therefore being entitled to the benefits requested despite
11 any such potential deficiency, legal insufficiency, or lack of entitlement (if there even is any).

12 **THIRD CAUSE OF ACTION**
13 **CALIF. ROSENTHAL ACT**
14 **CALIF. CIV. CODE §§ 1788-1788.32**
15 **(BY AND ON BEHALF OF ALL PLAINTIFFS, AS AGAINST ALL DEFENDANTS)**

16 117. PLAINTIFF repeats, re-alleges, and incorporates by reference all other paragraphs,
17 as if fully set forth herein.

18 118. At all times during the aforementioned actions, there was in full force and effect
19 the following obligation for a debt collector in connection with the collection of any debt,
20 pertaining to pursuant to California Civil Code § 1788.17 of the Rosenthal Act, requiring all debt
21 collectors to be responsible for and liable for all requirements contained with the Federal FDCPA,
22 exceptions of which are not applicable:

23 Notwithstanding any other provision of this title, every debt collector collecting
24 or attempting to collect a consumer debt shall comply with the provisions of
 Sections 1692b to 1692j, inclusive, of, and shall be subject to the remedies in
 Section 1692k of, Title 15 of the United States Code. However, subsection (11)
 of Section 1692e and Section 1692g shall not apply to any person specified in

1 paragraphs (A) and (B) of subsection (6) of Section 1692a of Title 15 of the
2 United States Code or that person's principal. The references to federal codes
3 in this section refer to those codes as they read January 1, 2001.

4 119. At all times relevant, DEFENDANTS were each obligated to comply with all such
5 requirements of the Federal FDCPA incorporated into the Rosenthal Act pursuant to Calif. Civ.
6 Code § 1788.17.

7 120. By falsely claiming on multiple occasions that PLAINTIFF owed the full regular
8 monthly payments during a time when in reality PLAINTIFF was entitled to deferment
9 protections, which amounted to several thousands of dollars more than what PLAINTIFF actually
10 owed, DEFENDANTS engaged in multiple violations of the FDCPA as follows, all of which are
11 necessarily violations of the Rosenthal FDCPA via Calif. Civ. Code 1788.17, including but not
12 limited to:

- 13 a. 15 U.S.C. §1692d by engaging in conduct the natural consequence of which is to
14 oppress PLAINTIFF in connection with the collection of a debt,
- 15 b. 15 U.S.C. §1692e by using false, deceptive, and misleading representations in
16 connection with the collection of a debt,
- 17 c. 15 U.S.C. §1692e(2)(A) by falsely representing the character, amount, and legal
18 status of the debt,
- 19 d. 15 U.S.C. §1692e(10) by using false representations and deceptive means to
20 attempt to collect a debt,
- 21 e. 15 U.S.C. §1692f by using unfair and unconscionable means to attempt to collect a
22 debt,
- 23 f. 15 U.S.C. §1692f(1) by collecting an amount not authorized by agreement or by
24 law.

1 121. By failing to provide PLAINTIFF with deferment of principal and interest during
2 a time when in reality PLAINTIFF was entitled to deferment protections, DEFENDANTS
3 engaged in multiple violations of the FDCPA as follows, all of which are necessarily violations
4 of the Rosenthal FDCPA via Calif. Civ. Code 1788.17, including but not limited to:

- 5 a. 15 U.S.C. §1692d by engaging in conduct the natural consequence of which is to
6 oppress PLAINTIFFS in connection with the collection of a debt,
- 7 b. 15 U.S.C. §1692e by using false, deceptive, and misleading representations in
8 connection with the collection of a debt,
- 9 c. 15 U.S.C. §1692e(2)(A) by falsely representing the character, amount, and legal
10 status of the debt,
- 11 d. 15 U.S.C. §1692e(10) by using false representations and deceptive means to
12 attempt to collect a debt,
- 13 e. 15 U.S.C. §1692f by using unfair and unconscionable means to attempt to collect a
14 debt,
- 15 f. 15 U.S.C. §1692f(1) by collecting an amount not authorized by agreement or by
16 law.

17 122. By furnishing false, inaccurate, and misleading information to the consumer credit
18 reporting agencies that PLAINTIFF 1) owed the full regular monthly payments at a time when
19 she was actually entitled to deferment, which amounts to a false claim that PLAINTIFF owed
20 several thousands of dollars more than she otherwise did in fact owe, and 2) was delinquent during
21 months when she was actually entitled to deferment, DEFENDANTS engaged in multiple
22 violations of the Federal FDCA as follows, all of which are necessarily violations of the Rosenthal
23 FDCPA via Calif. Civ. Code 1788.17:

- 24 a. 15 U.S.C. §1692d by engaging in conduct the natural consequence of which is to

1 oppress PLAINTIFFS in connection with the collection of a debt,

2 b. 15 U.S.C. §1692e by using false, deceptive, and misleading representations in
3 connection with the collection of a debt,

4 c. 15 U.S.C. §1692e(2)(A) by falsely representing the character, amount, and legal
5 status of the debt,

6 d. 15 U.S.C. §1692e(8), by furnishing credit reporting information to the consumer
7 credit reporting agencies that DEFENDANTS knew or should know is false,

8 e. 15 U.S.C. §1692e(10) by using false representations and deceptive means to
9 attempt to collect a debt,

10 f. 15 U.S.C. §1692f by using unfair and unconscionable means to attempt to collect a
11 debt,

12 g. 15 U.S.C. §1692f(1) by collecting an amount not authorized by agreement or by
13 law.

14 123. The actions taken by DEFENDANTS that form the basis of PLAINTIFF'S
15 Rosenthal FDCPA violations in this matter were always done in an attempt to collect money from
16 PLAINTIFF and were never done to simply enforce the security interest.

17 124. It has long been settled that a mortgage servicer who attempts to obtain repayment
18 of mortgage debt is a "debt collector" subject to the Rosenthal Fair Debt Collection Practices Act.
19 *See, e.g., Davidson v. Seterus, Inc.* (4th Dist. Ct. App. 2018) 21 Cal.App.5th 283, 304-305.

20 125. Of importance to note is that PLAINTIFF does not allege a violation based on any
21 act of giving notice of a foreclosure sale, but instead allege violations based on DEFENDANTS'
22 threatening of foreclosure during a time that DEFENDANTS fully know based on their own
23 communications that PLAINTIFF is protected from foreclosure and also using threats of
24 foreclosure in an attempt to scare and intimidate PLAINTIFF into giving up her rights to

1 mandatory deferment protections and making payments of several thousands of dollars to
2 DEFENDANTS that they otherwise should have to pay.

3 126. DEFENDANTS' violations of the Rosenthal FDCPA were willful, because
4 DEFENDANTS at all times knew that the actions giving rise to such violations were wrongful
5 and in violation of the law, and were also in direct contradiction to DEFENDANTS' own
6 knowledge about the requirements of the C.M.V.C. considering that DEFENDANTS had already
7 quoted portions of the C.M.V.C. to PLAINTIFFS, which shows that DEFENDANTS are fully
8 aware of the obligations under the C.M.V.C. yet failed to comply with their own obligations after
9 PLAINTIFFS provided to DEFENDANTS exactly the "hardship letter" that DEFEDANTS stated
10 was required and by waiving any purported defense to the C.M.V.C. under Section 813.

11 127. As a proximate result of DEFENDANTS' actions, PLAINTIFF has suffered loss
12 of time, loss of quality of life, as well as emotional and financial injuries.

13 128. PLAINTIFFS is also entitled to, and seek, up to \$1,000.00 in statutory damages
14 plus attorneys' fees and costs.

15 **FOURTH CAUSE OF ACTION**
16 **CALIFORNIA CONSUMER CREDIT REPORTING AGENCIES ACT**
17 **CALIF. CIV. CODE § 1785.25(a)**
18 **(BY AND ON BEHALF OF ALL PLAINTIFFS, AS AGAINST ALL DEFENDANTS)**

19 129. PLAINTIFF repeats, re-alleges, and incorporates by reference each of the above
20 paragraphs as though set forth fully herein.

21 130. As the furnisher of information to credit reporting agencies, DEFENDANTS at all
22 times remained obligated to not furnish information on a transaction or experience to any
23 consumer credit reporting agency if they knew or should have known the information was
24 incomplete or inaccurate, as required by Calif. Civ. Code § 1785.25(a) of the California CCRAA.

1 131. Even if the derogatory reporting is technically accurate, it is still a violation of this
2 law if the derogatory reporting is misleading in such a way and to such an extent that it can be
3 expected to adversely affect credit decisions. *Cisneros v. U.D. Registry, Inc.* (1995) 39 Cal. App.
4 4th 548.

5 132. A credit reporting violation is “willful” if it involves the commission not only of
6 acts known to violate the statute, but also “reckless disregard of statutory duty.” *Safeco Ins. Co.*
7 *of Am. v. Burr*, 551 U.S. 47, 56-57 (2007).

8 133. The Ninth Circuit in *Syed v. M-I, LLC* (2017) 853 F.3d 492, FN 7 recently stated,
9 with respect to credit reporting violations, “[W]here a party’s action violates an unambiguous
10 statutory requirement, that fact alone may be sufficient to conclude that violation is reckless, and
11 therefore willful. ... [R]ecklessness may be determined by objective evidence alone.”

12 134. DEFENDANTS have furnished false credit reporting against PLAINTIFF that she
13 owed full regular monthly payments during months that she was otherwise entitled to deferments.

14 135. This reporting has in turn caused PLAINTIFF to suffer adverse credit reporting
15 because it shows monthly financial obligations that PLAINTIFF otherwise did not have, which
16 in turn causes PLAINTIFF to suffer a worse debt to income ratio than it otherwise should be.

17 136. And moreover, DEFENDANTS have furnished false credit reporting against
18 PLAINTIFF that she was in default during months that she was otherwise entitled to deferments.

19 137. This negative credit reporting that PLAINTIFF was in default on the account has
20 caused PLAINTIFF’S credit scores to drop, and also paints a false and inaccurate picture of
21 PLAINTIFF as being not creditworthy consumers who default on their accounts due to financial
22 irresponsibility.

23 138. The negative credit reporting that PLAINTIFF was in default on the account has
24 also caused PLAINTIFF to be concerned and worried over the possibility of discipline within the

1 military, possibility of demotion and/or less than honorable discharge, and possibly being stripped
2 of Security Clearance, as negative credit history risks PLAINTIFF being deprived of security
3 clearance level because the military considers someone with negative credit history as being at
4 risk for bribery and manipulation by foreign adversaries.

5 139. DEFENDANTS knew, or should have known, that this information furnished to
6 the consumer credit reporting agencies was inaccurate or incomplete.

7 140. DEFENDANTS' violations were negligent at a minimum, because a reasonable
8 person would not have reported the account in such a manner.

9 141. PLAINTIFF is also informed and believe that DEFENDANTS' violations were
10 willful in that DEFENDANTS know of their obligations pursuant to Section 1785.25(a), yet acted
11 with such a high degree of risk of committing a legal violation that was higher than mere
12 carelessness by failing to review and consider their own internal records in committing these
13 violations, and because the reporting was in direct contradiction to the statutory protections
14 afforded to PLAINTIFF as a deployed military family, and were also in direct contradiction to
15 DEFENDANTS' own knowledge about the requirements of the C.M.V.C. considering that
16 DEFENDANTS had already quoted portions of the C.M.V.C. to PLAINTIFF, which shows that
17 DEFENDANTS are fully aware of the obligations under the C.M.V.C. yet failed to comply with
18 their own obligations after PLAINTIFF provided to DEFENDANTS exactly the "hardship letter"
19 that DEFEDANTS stated was required and by waiving any purported defense to the C.M.V.C.
20 under Section 813.

21 142. As a proximate result of DEFENDANTS' actions, PLAINTIFF has suffered loss
22 of time, loss of quality of life, as well as emotional and financial injuries.

1 143. PLAINTIFF is therefore entitled to, and seek, actual damages, statutory damages
2 of \$5,000.00 per willful violation, attorneys' fees and costs, and injunctive relief pursuant to Calif.
3 Civ. Code § 1785.31.

4 **FIFTH CAUSE OF ACTION**
5 **NEGLIGENCE**
6 **(BY AND ON BEHALF OF ALL PLAINTIFFS, AS AGAINST ALL DEFENDANTS)**

7 144. PLAINTIFF repeats, re-alleges, and incorporates by reference each of the above
8 paragraphs as though set forth fully herein.

9 145. DEFENDANTS engaged in misrepresentations to PLAINTIFF, which
10 DEFENDANTS knew or had reason to know were not truthful statements, by falsely claiming
11 that PLAINTIFF owed thousands of dollars for full regular monthly payments that she otherwise
12 did not owe because PLAINTIFF was in fact automatically entitled to mandatory deferment of
13 the principal and interest, which statements PLAINTIFF relied upon to her detriment by making
14 payments of several thousands of dollars that she could have otherwise saved and/or used for
15 other purposes, thereby resulting in loss of use of such monies.

16 146. DEFENDANTS are in possession of the letters, notes, and phone call recordings
17 of the misrepresentations made to PLAINTIFFS, which means DEFENDANTS are assumed to
18 possess knowledge of the facts at least equal, if not superior, to the knowledge possessed by
19 PLAINTIFFS.

20 147. DEFENDANTS either knew, or acted with reckless disregard, that their
21 representations were false and knew that PLAINTIFF was relying on such representations to her
22 detriment.

23 148. DEFENDANTS had no reasonable grounds for believing the representations were
24 true when made.

1 149. PLAINTIFF is further informed and believe that the aforesaid conduct was
2 malicious and oppressive, as those terms are defined by California Civil Code sections 3294(c)(1)
3 and 3294(c)(2), deserving of punitive and exemplary damages. The obligations of
4 DEFENDANTS in this Cause of Action are not arising from contract, as the obligations arise
5 specifically from common law, which in turn means the limitation of § 3294(a) (“In an action for
6 the breach of an obligation not arising from contract ...”) does not apply. Upon information and
7 belief, DEFENDANTS have (or are likely to have) mortgage servicing engagements with other
8 military families throughout the State of California, which means DEFENDANTS deserve to
9 suffer exemplary damages so that they do not inflict similar violations upon other military families,
10 in addition to deserving punishment for attempting to rip off PLAINTIFF.

11 150. Under California law, even where a claim formally sounds in negligence, if the
12 PLAINTIFF can make a showing that defendant's conduct goes beyond gross negligence and
13 demonstrates a knowing and reckless disregard, punitive damages may be available. *In re*
14 *Yahoo! Inc. Customer Data Security Breach Litigation* (N.D.Cal. 2018) 313 F.Supp.3d 1113.

15 **SIXTH CAUSE OF ACTION**
16 **INTENTIONAL MISREPRESENTATIONS**
17 **(BY AND ON BEHALF OF ALL PLAINTIFFS, AS AGAINST ALL DEFENDANTS)**

18 151. PLAINTIFF repeats, re-alleges, and incorporates by reference each of the above
19 paragraphs as though set forth fully herein.

20 152. DEFENDANTS engaged in misrepresentations to PLAINTIFF, which
21 DEFENDANTS knew or had reason to know were not truthful statements, by falsely claiming
22 that PLAINTIFF owed thousands of dollars for their full regular monthly payments that they
23 otherwise did not owe because PLAINTIFF was in fact automatically entitled to mandatory
24 deferment of the principal and interest, which statements PLAINTIFF relied upon to her detriment

1 by making payments of several thousands of dollars that she could have otherwise saved and/or
2 used for other purposes, thereby resulting in loss of use of such monies.

3 153. DEFENDANTS are in possession of the letters, notes, and phone call recordings
4 of the misrepresentations made to PLAINTIFFS, which means DEFENDANTS are assumed to
5 possess knowledge of the facts at least equal, if not superior, to the knowledge possessed by
6 PLAINTIFFS.

7 154. DEFENDANTS either knew, or acted with reckless disregard, that their
8 representations were false and knew that PLAINTIFF was relying on such representations to her
9 detriment.

10 155. DEFENDANTS had no reasonable grounds for believing the representations were
11 true when made.

12 156. PLAINTIFF is further informed and believe that the aforesaid conduct was
13 malicious and oppressive, as those terms are defined by California Civil Code sections 3294(c)(1)
14 and 3294(c)(2), deserving of punitive and exemplary damages. The obligations of
15 DEFENDANTS in this Cause of Action are not arising from contract, as the obligations arise
16 specifically from common law, which in turn means the limitation of § 3294(a) (“In an action for
17 the breach of an obligation not arising from contract ...”) does not apply. Upon information and
18 belief, DEFENDANTS have (or are likely to have) mortgage servicing engagements with other
19 military families throughout the State of California, which means DEFENDANTS deserve to
20 suffer exemplary damages so that they do not inflict similar violations upon other military families,
21 in addition to deserving punishment for attempting to rip off PLAINTIFF.

22 157. Under California law, even where a claim formally sounds in negligence, if the
23 PLAINTIFF can make a showing that defendant's conduct goes beyond gross negligence and
24

1 demonstrates a knowing and reckless disregard, punitive damages may be available. *In re*
2 *Yahoo! Inc. Customer Data Security Breach Litigation* (N.D.Cal. 2018) 313 F.Supp.3d 1113.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, PLAINTIFF prays that judgment be entered against each DEFENDANT
5 individually, in favor of each PLAINTIFF individually, and that PLAINTIFF be awarded
6 damages as follows:

7 1. General damages for pain and suffering, mental anguish, loss of enjoyment of life,
8 and others, in the amount of \$500,000.00, or as the jury may allow, subject to proof at jury trial;

9 2. Compensatory damages in the amount of \$500,000.00, or as the jury may allow,
10 subject to proof at jury trial;

11 3. Punitive damages, from each DEFENDANT individually, pursuant to Cal. Civ.
12 Code § 3294, as the jury may allow, subject to proof at jury trial;

13 4. Plus statutory damages of \$5,000.00 for each individual willful violation of the
14 Calif. Consumer Credit Reporting Agencies Act, pursuant to Calif. Civ. Code § 1785.31(a)(2)(A)-
15 (C);

16 5. Plus statutory damages of \$1,000.00 from each DEFENDANT individually
17 pursuant to Calif. Civ. Code §1788.30(b);

18 6. Prejudgment interest at the maximum legal rate;

19 7. Reasonable attorneys' fees;

20 8. Costs;

21 9. Injunctive relief to order DEFENDANTS to remove any and all inaccurate credit
22 reporting and to furnish accurate and truthful information to each and every consumer credit
23 reporting agency;

24 10. Injunctive relief to order DEFENDANTS to comply with all statutory obligations

1 referenced herein;

2 11. Injunctive relief to order DEFENDANTS to cease and desist any and all efforts to
3 falsely allege that PLAINTIFF is in default and past due;

4 12. Injunctive relief to order DEFENDANTS to cease and desist any and all efforts to
5 implement foreclosure proceedings; and,

6 13. Such other relief as the Court may deem just and proper.

7 **TRIAL BY JURY**

8 Pursuant to the Seventh Amendment to the Constitution of the United States of America,
9 PLAINTIFFS are entitled to, and so demand, a trial by jury.

10
11 DATED: 2-24-25

SEMNR & HARTMAN, LLP

12 
13 JARED M. HARTMAN
14 Attorneys for PLAINTIFF

EXHIBIT A

1 1LT (CA) Brendon Beheshti (SBN 305976)
Judge Advocate
2 Office of the Staff Judge Advocate
California Military Department
3 10601 Bear Hollow Drive
Rancho Cordova, CA 95670
4 Brendon.Beheshti@CMD.CA.GOV
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5 *Attorney for Petitioner*
6 Gwendolyn Martin

FILED
Superior Court of California
County of Sacramento
12/11/2024
D. Johnson-Mellado, Deputy

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SACRAMENTO

10
11 Petitioner:

12 GWENDOLYN MARTIN

13 vs.

14 Respondent:

15 NEWREZ LLC d.b.a. SHELLPOINT
16 MORTGAGE SERVICING

Case No.: **24CV020925**

~~[PROPOSED]~~ [AMENDED]

**ORDER ON PETITION FOR RELIEF
FROM FINANCIAL OBLIGATION
DURING MILITARY SERVICE**

Date: 12/10/2024
Time: 9:00 AM
Dept: 54

17
18
19 The Court, having considered GWENDOLYN MARTIN (“Petitioner”) Petition for Relief
20 from Financial Obligation During Military Service pursuant to California Military & Veterans Code
21 § 409.3 and good cause appearing therefrom, hereby GRANTS THE PETITION AS FOLLOWS:

22 IT IS HEREBY ORDERED that, subject to the following provisions of this Order, the
23 Petitioner’s obligation to make monthly payments of principal and interest to NEWREZ LLC d.b.a.
24 SHELLPOINT MORTGAGE SERVICING (“Respondent”) on Loan No. 0580036660 (“Loan”), is
25 hereby deferred pursuant to California Military & Veterans Code § 409.3; and that deferral of
26 principal and interest shall commence with the payment that was due on June 05, 2022 and continue

1 through the payment due on August 1, 2025. The duration of the deferment is representative of
2 Petitioner’s anticipated time in active services (“Active Duty”); and

3 IT IS FURTHER ORDERED that, if Petitioner is released from Active Duty prior to July 31,
4 2025, they shall immediately notify Respondent of the date of release and Petitioner shall resume
5 monthly loan payments immediately following the conclusion of the deferment period which shall
6 equate to the length of Active Duty; and

7 IT IS FURTHER ORDERED that, during the period of this deferment, Respondent shall not
8 exercise any of the remedies otherwise available to it for Petitioner’s failure to timely pay principal
9 and interest including, but not limited to, imposing late charges, fines, penalties, reporting to credit
10 bureaus, or pursuing foreclosure proceedings; and

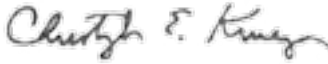
11 IT IS FURTHER ORDERED that, this deferment shall apply to the payment of principal and
12 interest only, and shall not relieve Petitioner of the obligation to make monthly escrow payments for
13 taxes and insurance in connection with the Loan; and

14 IT IS FURTHER ORDERED that during the deferral period no interest will be charged,
15 accrued, or accumulated on principal or interest; and that all payments made during the deferment in
16 excess of the escrow payments be applied to first any outstanding arrearages and then refunded; and

17 IT IS FURTHER ORDERED that at the end of the deferral period regular loan payments
18 shall resume in the same amount as prior to the deferral. The unpaid balance of the loan will remain
19 unchanged during the entire period of the deferral. No additional balance will be added to the loan
20 during, or because of, the deferral; and

21 IT IS FURTHER ORDERED that the maturity date of the loan shall be extended for the
22 same number of days as the deferral period to permit the additional payments necessary to pay off
23 the extended obligation on the terms otherwise set forth in the Loan documents.

24
25 Dated: 12/11/2024


26 Christopher E. Krueger, Judge
27 JUDGE OF THE SUPERIOR COURT
