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

10 JENNIFER MATA,

11 Plaintiff,

12 vs.

13 FOUR STAR RECOVERY, INC., a
14 California corporation; and DOES 1
through 25, inclusive,

15 Defendants.
16

CASE NO.20CV-02185

**COMPLAINT FOR TRESPASS AND
VIOLATIONS OF THE ROSENTHAL FAIR
DEBT COLLECTION PRACTICES ACT**

JURY TRIAL DEMANDED

17
18 **COMPLAINT**

19 Plaintiff Jennifer Mata alleges against defendants Four Star Recovery, Inc. and Does 1
20 through 25 as follows:

21 **Operative Facts**

22 1. Plaintiff financed the purchase of a motor vehicle for personal, family or household
23 purposes on credit, pursuant to a retail installment sale contract. Plaintiff's vehicle served as
24 security under the contract. The holder of the contract hired defendant Four Star Recovery to
25 repossess the vehicle, based on an alleged payment default under the contract.

26 2. Two male employees and/or agents of Four Star Recovery attempted to repossess
27 plaintiff's vehicle on or about May 22, 2020, during the COVID-19 pandemic, by entering private
28 property secured by a locked gate and fence at plaintiff's residence in Los Banos, California. Four

1 Star Recovery’s men did not have permission to enter the secured area at plaintiff’s residence.
2 Accordingly, defendants breached the peace in attempting to repossess plaintiff’s vehicle, in
3 violation of California Commercial Code § 9609 and California’s Collateral Recovery Act
4 (“CRA”), Bus. & Prof. Code § 7508.2(d).

5 3. Plaintiff, a single mother, heard Four Star Recovery’s men outside her house.
6 Plaintiff went outside and observed the two men by her car, without facemasks or gloves, and
7 without uniforms or other identifying information on their clothes.

8 4. Plaintiff asked Four Star Recovery’s men what they were doing there. The men
9 demanded plaintiff turn over the keys to her vehicle. Plaintiff objected to doing so and asked how
10 the men entered her secured property. The men claimed plaintiff’s gate was open, which was a lie.
11 Plaintiff demanded that the men immediately leave her property, without her vehicle. Four Star
12 Recovery’s men refused to leave without plaintiff’s vehicle, in further breach of the peace.

13 5. Plaintiff called the police. The police arrived and instructed Four Star Recovery’s
14 men to leave plaintiff’s property right away, without her vehicle, because they were breaking the
15 law. Only then did Four Star Recovery’s men leave the property. But the damage was done.
16 Among other injuries and damages plaintiff suffered as a direct and proximate result of Four Star
17 Recovery’s conduct, plaintiff had to pay money to have her car sanitized because one of Four Star
18 Recovery’s men went into plaintiff’s car, and she has suffered and continues to suffer great fear
19 and related emotional distress from Four Star Recovery’s men unlawfully entering private property
20 at her residence.

21 **Parties**

22 6. Plaintiff is an individual over the age of 18, a resident of Merced County and a
23 citizen of California.

24 7. Defendant Four Star Recovery is a California corporation with its principal place of
25 business in Modesto, California. Four Star Recovery is a “repossession agency”, as defined in
26 California Business and Professions Code § 7500.2.

27 8. Plaintiff does not know the true names, identities, and capacities of the Doe
28 defendants sued herein, and therefore sues those defendants by fictitious names. Plaintiff will

1 amend this complaint to allege the true names, identities and capacities of the Doe defendants
2 when plaintiff discovers such information.

3 9. At all times mentioned herein, defendants were agents and/or employees of each
4 other and were acting within the course and scope of such agency or employment. Defendants are
5 jointly and severally liable to plaintiff.

6 **First Cause of Action**

7 **(By Plaintiff Against All Defendants for Trespass)**

8 10. Plaintiff realleges and incorporates herein by reference the allegations of all
9 paragraphs above.

10 11. Plaintiff owned, leased, occupied and/or controlled the property at which her
11 vehicle was located at the time defendants attempted to repossess the vehicle.

12 12. Defendants intentionally and recklessly entered plaintiff's property. Plaintiff alleges
13 in the alternative that defendants negligently entered plaintiff's property.

14 13. Plaintiff did not give defendants permission to enter her property.

15 14. Plaintiff was actually harmed by defendants' conduct, which was a substantial
16 factor in causing plaintiff's harm.

17 15. Defendants acted with oppression, fraud or malice, within the meaning of Civil
18 Code § 3294, thereby entitling plaintiff to punitive damages in an amount according to proof.
19 Defendants' corporate officers, directors, or managing agents are personally guilty of oppression,
20 fraud or malice, had advance knowledge of the unfitness of the employees who acted towards
21 plaintiff with malice, oppression, or fraud, employed such employees with conscious disregard for
22 the rights or safety of others, and/or themselves authorized or ratified the wrongful conduct.

23 **Second Cause of Action**

24 **(By Plaintiff Against All Defendants for Violations of the Rosenthal Fair Debt Collection
25 Practices Act, Cal. Civ. Code §§ 1788, et seq. ("Rosenthal Act"))**

26 16. Plaintiff realleges and incorporates herein by reference the allegations of all
27 paragraphs above.

28 17. The Legislature has found that "unfair or deceptive debt collection practices

1 undermine the public confidence which is essential to the continued functioning of the banking
2 and credit system and sound extensions of credit to consumers.” Civ. Code § 1788.1(a)(2). The
3 Legislature thus enacted the Rosenthal Act, to ensure the integrity of our banking and credit
4 industry. Id., § 1788.1(b).

5 18. Plaintiff is a “debtor” within the meaning of Civil Code § 1788.2(h) in that she is a
6 natural person from whom defendants sought to collect a “consumer debt” (i.e., money, property
7 or their equivalent) alleged to be due and owing.

8 19. Defendants at all times relevant herein were and are “debt collectors” within the
9 meaning of Civil Code § 1788.2(c), in that they regularly and in the ordinary course of business,
10 on behalf of themselves or others, engage in acts and practices in connection with the collection of
11 “consumer debt”.

12 20. The purported debt defendants attempted to collect from plaintiff is a “consumer
13 debt” within the meaning of Civil Code § 1788.2(f). Defendants engaged in acts or practices in
14 connection with the collection of money, property or their equivalent which was alleged to be due
15 and owing from a natural person by reason of a consumer credit transaction.

16 21. Defendants violated the provisions of Civil Code § 1788.10(a) by using, or
17 threatening use, of any criminal means to cause harm to the person, or the reputation, or the
18 property of any person. The crimes committed include violations of California Business and
19 Professions Code § 7502.1(a), by violating California Business and Professions § 7508.2(d), and
20 Penal Code § 602.

21 22. Civil Code § 1788.17 provides that debt collectors subject to the Rosenthal Act
22 collecting or attempting to collect a consumer debt must comply with the provisions of 15 U.S.C.
23 §§ 1692b to 1692j, inclusive, of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692, et seq.
24 (“FDCPA”). Section 1788.17 further provides that debt collectors subject to the Rosenthal Act are
25 subject to the remedies in § 1692k of the FDCPA.

26 23. Defendants violated the provisions of 15 U.S.C. § 1692d by engaging in any
27 conduct the natural consequence of which is to harass, oppress, or abuse any person in connection
28 with the collection of a debt. By violating the provisions of § 1692d, defendants violated the

1 Rosenthal Act, at Civil Code § 1788.17, and plaintiff is entitled to the remedies set forth in 15
2 U.S.C. § 1692k.

3 24. Defendants violated the provisions of 15 U.S.C. § 1692e by using any false,
4 deceptive, or misleading representation or means in connection with the collection of any debt. By
5 violating the provisions of § 1692e, defendants violated the Rosenthal Act, at Civil Code
6 § 1788.17, and plaintiff is entitled to the remedies set forth in 15 U.S.C. § 1692k.

7 25. Defendants violated the provisions of 15 U.S.C. § 1692e(10) by using any false
8 representation or deceptive means to collect or attempt to collect any debt. By violating the
9 provisions of § 1692e(10), defendants violated the Rosenthal Act, at Civil Code § 1788.17, and
10 plaintiff is entitled to the remedies set forth in 15 U.S.C. § 1692k.

11 26. Defendants violated the provisions of 15 U.S.C. § 1692f by using unfair or
12 unconscionable means to collect an alleged debt, when they breached the peace during the
13 repossession of plaintiff's vehicle. By violating the provisions of § 1692f, defendants violated the
14 Rosenthal Act, at Civil Code § 1788.17, and plaintiff is entitled to the remedies set forth in 15
15 U.S.C. § 1692k.

16 27. Defendants violated 15 U.S.C. § 1692f(6) of the FDCPA by taking or threatening to
17 take any nonjudicial action to effect dispossession or disablement of property when there was no
18 present right to possession of the property claimed as collateral through an enforceable security
19 interest. Defendants had no present right to repossess plaintiff's vehicle due to their breach of the
20 peace, by entering secured property without permission and by continuing their repossession
21 efforts over plaintiff's objections. By violating the provisions of 15 U.S.C. § 1692f(6)(A),
22 defendants violated the Rosenthal Act, at Civil Code § 1788.17, and plaintiff is entitled to the
23 remedies set forth in 15 U.S.C. § 1692k.

24 28. As a proximate result of defendants' violations of the Rosenthal Act, plaintiff has
25 been damaged in amounts that are subject to proof.

26 29. Plaintiff is entitled to recover her actual damages pursuant to Civil Code § 1788.17,
27 incorporating by reference 15 U.S.C. § 1692k(a)(1), or in the alternative, Civil Code § 1788.30(a).

28 30. Defendants' violations of the Rosenthal Act were willful and knowing. Plaintiff is

1 entitled to recover statutory damages pursuant to Civil Code § 1788.17, incorporating by reference
2 15 U.S.C. § 1692k(a)(2)(A), or in the alternative, Civil Code § 1788.30(b).

3 31. Plaintiff is entitled to recover her attorney's fees and costs pursuant to Civil Code
4 § 1788.17, incorporating by reference 15 U.S.C. § 1692k(a)(3), or in the alternative, Civil Code
5 § 1788.30(c).

6 WHEREFORE, plaintiff prays for relief as set forth below.

7 **Prayer for Relief**

8 WHEREFORE, plaintiff prays for the following relief:


- 9 1. For actual damages;
- 10 2. For statutory damages;
- 11 3. For punitive damages;
- 12 4. For pre-judgment interest to the extent permitted by law;
- 13 5. For an award of plaintiff's attorney's fees, costs and expenses incurred in the
14 investigation, filing and prosecution of this action; and
- 15 6. For such other and further relief as the Court may deem just and proper.

16 **Demand for Jury Trial**

17 Plaintiff hereby demands a trial by jury under the United States Constitution.

18 Dated: August 3, 2020

LAW OFFICES OF BRANDON A. BLOCK
A PROFESSIONAL CORPORATION

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21 _____
Brandon A. Block

22 Attorneys for Plaintiff
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