

1 Benjamin P. Tryk  
2 TRYK LAW, P.C.  
3 750 N. Fresno, Ste. 210  
4 Fresno, CA 93720

5 **UNITED STATES DISTRICT COURT**  
6 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
7 **FRESNO DIVISION**

8 **VICKI BLAKELY, STEVEN LAWSON,**  
9 **CHRISTY MITCHELL, LESLIE**  
10 **WILLIAMS, JAMES ROLLAND,**  
11 **JAYNELLIS SALINAS, KATHLEEN**  
12 **JONES, ANNIE BLUITT, SAMUEL**  
13 **CARTER & KEVIN GREIF, on behalf of**  
14 **themselves and all others similarly situated,**

15 **Plaintiffs,**

16 v.

17 **SANTANDER CONSUMER USA, INC.,**

18 **Defendant.**

19 **Case No.**

20 **Class Action Complaint**

21 **CLASS ACTION COMPLAINT**

22 Plaintiffs Vicki Blakely, Steven Lawson, Christy Mitchell, Leslie Williams, James Rolland,  
23 Jaynellis Salinas, Kathleen Jones, Annie Bluitt, Samuel Carter, and Kevin Greif file this complaint,  
24 on behalf of themselves and all others similarly situated, because Defendant Santander Consumer  
25 USA, Inc., (“Santander”) collected unauthorized fees from them and numerous other California  
26 consumers. Santander charged these fees in partnership with non-party payment processor Western  
27 Union and retained a portion of the fees for itself, in violation of California’s Rosenthal Fair Debt  
Collection Practices Act (“Rosenthal FDCPA”). Santander’s unlawful action in charging these fees  
is already the subject of another case in this Court, Lindblom v. Santander Consumer USA, Inc.,

1 No. 1:15-CV-00990-LJO-BAM, which is before the Honorable Magistrate Judge Barbara A.  
2 McAuliffe. Each of the Plaintiffs have filed a motion to intervene in the Lindblom matter. Should  
3 Magistrate Judge McAuliffe allow Plaintiffs to intervene in Lindblom, it would be the first-filed  
4 case and this case need not go forward. However, if Plaintiffs' motions to intervene are denied,  
5 Plaintiffs intend to press this case as a class action.

6 **THE PARTIES**

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8 1. Plaintiff Vicki Blakely is an adult resident citizen of Sacramento County, California.  
9 She purchased a vehicle through an auto loan that came to be serviced by Defendant Santander.  
10 She paid on this loan over the phone and was charged the Speedpay fee, which Santander collected.

11 2. Plaintiff Steven Lawson is an adult resident citizen of Los Angeles County, California.  
12 He purchased a vehicle through an auto loan that came to be serviced by Defendant Santander. He  
13 paid on this loan over the phone and was charged the Speedpay fee, which Santander collected.

14 3. Plaintiff Christy Mitchell is an adult resident citizen of Riverside County, California.  
15 She purchased a vehicle through an auto loan that came to be serviced by Defendant Santander.  
16 She paid on this loan over the phone and was charged the Speedpay fee, which Santander collected.

17 4. Plaintiff Leslie Williams is an adult resident citizen of Alameda County, California.  
18 She purchased a vehicle through an auto loan that came to be serviced by Defendant Santander.  
19 She paid on this loan over the phone and was charged the Speedpay fee, which Santander collected.

20 5. Plaintiff James Rolland is an adult resident citizen of Los Angeles County, California.  
21 He purchased a vehicle through an auto loan that came to be serviced by Defendant Santander. He  
22 paid on this loan over the phone and was charged the Speedpay fee, which Santander collected.

23 6. Plaintiff Jaynellis Salinas is an adult resident citizen of Riverside County, California.  
24 She purchased a vehicle through an auto loan that came to be serviced by Defendant Santander.  
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1 She paid on this loan over the phone and was charged the Speedpay fee, which Santander collected.

2 7. Plaintiff Kathleen Jones is an adult resident citizen of Sacramento County, California.

3 She purchased a vehicle through an auto loan that came to be serviced by Defendant Santander.

4 She paid on this loan over the phone and was charged the Speedpay fee, which Santander collected.

5 8. Plaintiff Annie Bluitt is an adult resident citizen of San Joaquin County, California.

6 She purchased a vehicle through an auto loan that came to be serviced by Defendant Santander.

7 She paid on this loan over the phone and was charged the Speedpay fee, which Santander collected.

8 9. Plaintiff Samuel Carter is an adult resident citizen of Los Angeles County, California.

9 He purchased a vehicle through an auto loan that came to be serviced by Defendant Santander. He

10 paid on this loan over the phone and was charged the Speedpay fee, which Santander collected.

11 10. Plaintiff Kevin Greif is an adult resident citizen of Sacramento County, California. He

12 purchased a vehicle through an auto loan that came to be serviced by Defendant Santander. He

13 paid on this loan over the phone and was charged the Speedpay fee, which Santander collected.

14 11. Defendant Santander Consumer USA, Inc., is a corporation existing under the laws of  
15 Illinois, with its principal place of business in Dallas, Texas. It is a corporate citizen of Illinois and  
16 Texas.  
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### 19 JURISDICTION AND VENUE

20 12. Jurisdiction is proper in this Court under 28 U.S.C. § 1332 because these claims form  
21 part of a class action in which the amount in controversy exceeds the sum of \$5,000,000 and the  
22 class contains citizens of different states than the Defendant.

23 13. Venue is proper in this court under 28. U.S.C. § 1391(b)(2) because a substantial part  
24 of the events giving rise to Plaintiffs' claims took place in the Eastern District of California.  
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### 26 FACTUAL BACKGROUND

1 14. Plaintiffs are all consumers who purchased vehicles in consumer credit transactions,  
2 as defined by the Rosenthal FDCPA codified at Cal. Civ. Code 1788.2.

3 15. Plaintiffs all financed their purchases with loans that came to be acquired or serviced  
4 by Santander. Santander's own records contain all information surrounding the acquisition or  
5 servicing of these loans.

6 16. Under the Rosenthal FDCPA, Santander is a debt collector because it regularly engages  
7 in debt collection, on behalf of itself as well as others. Cal. Civ. Code § 1788.2(c).

8 17. On numerous occasions within the statute of limitations, Plaintiffs attempted to pay  
9 their debt through the internet or over the telephone. When they did so, Santander accepted their  
10 payments through the services of a third-party payment processor, Western Union. Santander  
11 partnered with Western Union in order to collect a large portion of the fees paid for their services  
12 and increase its overall profitability.

13 18. Western Union states on its website, "[o]ur services help you evaluate your payment  
14 strategy and find opportunities to help reduce costs, improve efficiency, migrate customers to more  
15 profitable payment channels and more." (Id. (emphasis added)). In other words, Santander, with  
16 Western Union's help, made more profit by charging the customer for paying online or over the  
17 phone and retaining or receiving a portion of that fee.

18 19. When Plaintiffs attempted to use the telephone or internet to pay on their loan with  
19 Santander, Western Union demanded an additional payment, in the form of a fee for using  
20 Speedpay. The payment processor collected this money from Plaintiffs and remitted a portion of it  
21 back to Santander.  
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### 25 CLASS ACTION ALLEGATIONS

26 20. This statewide class action against Santander is maintainable pursuant to Rule 23 of  
27

1 the Federal Rules of Civil Procedure. Plaintiffs seek to represent the following class against  
2 Santander:

3 All individuals in the state of California, who, during the applicable limitations  
4 period, paid a convenience fee through Western Union's Speedpay service in  
5 connection with any consumer loan held and/or serviced by Santander. All  
employees of the Court and Plaintiff's counsel are excluded from this class.

6 21. Pursuant to Rule 23(a)(1), the class is so numerous that joinder of all class members is  
7 impracticable. Santander claims on its website that it services over two million accounts. A  
8 significant number of these customers likely pay over the telephone on a regular basis and reside  
9 in California, the most populous state in the nation.

10 22. Pursuant to Rule 23(a)(2), this case is predominated by one question of law and fact  
11 that is common to all members of the class: does charging a fee, not authorized by the contract or  
12 any provision of existing law, violate the Rosenthal FDCPA.

13 23. Pursuant to Rule 23(a)(3), the claims of the named Plaintiffs are typical of those of the  
14 class.

15 24. Pursuant to Rule 23(a)(4), the named Plaintiffs will fairly and adequately represent the  
16 interests of the class. The named Plaintiffs have no interests adverse to the interests of absent class  
17 members. The named Plaintiffs have hired experienced class action plaintiff lawyers as class  
18 counsel, who will diligently and competently represent the interests of the class.

19 25. Pursuant to Rule 23(b), questions of law and fact common to all class members  
20 predominate over any questions affecting only individual class members. The claims of the named  
21 Plaintiffs, like those of all the class members, arise out of a common course of conduct by  
22 Santander to partner with Western Union to charge illegal fees. Any questions individual to the  
23 class members, such as how many times they were charged such fees, can be answered by the  
24 Defendants' own records. For this reason, a class action is far superior to other available methods  
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1 of adjudicating this controversy. Individual lawsuits would be inefficient and duplicative by  
2 comparison.

3 **COUNT I: VIOLATION OF THE ROSENTHAL FDCPA**

4 26. All previous paragraphs are herein incorporated by reference.

5 27. The Rosenthal FDCPA applies to Santander because it regularly engages in debt  
6 collection as defined by the statute. Cal. Civ. Code § 1788.2.

7 28. By charging the Speedpay fee, a portion of which it retains, Santander acted in  
8 violation of the federal Fair Debt Collection Practices Act, which prohibits “[t]he collection of any  
9 amount (including any interest, fee, charge, or expense incidental to the principal obligation)  
10 unless such amount is expressly authorized by the agreement creating the debt or permitted by  
11 law.” 15 U.S.C. 1692f(1).

12 29. The plain instruction of § 1692f(1) is that the collection of any amount incidental to  
13 the principal obligation, unless expressly authorized by agreement creating the debt or permitted  
14 by law, violates the FDCPA. Courts have interpreted the FDCPA broadly. See, e.g., Pipiles v. Credit  
15 Bureau of Lockport, Inc., 886 F.2d 22, 27 (2d Cir. 1989) (“It is clear that Congress painted with a  
16 broad brush in the FDCPA to protect consumers from abusive and deceptive debt collection  
17 practices, and courts are not at liberty to excuse violations where the language of the statute clearly  
18 comprehends them.”). Accord; Acosta v. Credit Bureau, 2015 U.S. Dist. LEXIS 55870 (N.D. Ill.,  
19 Apr. 29, 2015). The phrase “permitted by law” means that “a debt collector may not collect any  
20 amount if either ‘(A) state law expressly prohibits collection of the amount or (B) the contract does  
21 not provide for collection of the amount and state law is silent.’” Acosta, 2015 Dist. LEXIS 55870  
22 at \*8 (quoting FTC Staff Commentary on the FDCPA, 53 Fed. Reg. 50,097, 50,108 (Dec. 13,  
23 1988).

1 30. Because Santander violated 15 U.S.C. 1692f(1), it also violated Cal. Civ. Code §  
2 1788.17, which prohibits any entity covered by the Rosenthal FDCPA from violating the federal  
3 FDCPA.

4 **PRAYER FOR RELIEF**

5 Plaintiffs pray for the following relief:

- 6 (A) An order allowing the intervention of the individuals named herein  
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8 (B) An order certifying the above-described statewide class pursuant to Fed. R. Civ. P. 23,  
9 with notice as applicable to the absent class members  
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11 (C) An order appointing Intervenor's counsel as class counsel for the statewide class;  
12  
13 (D) A declaratory ruling that the Defendant has engaged in the practices alleged herein in  
14 violation of California law.  
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16 (E) Upon a jury verdict, an award of compensatory and statutory damages under the  
17 Rosenthal FDCPA  
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19 (F) An award of attorneys' fees and costs as authorized by the Rosenthal FDCPA  
20  
21 (G) Such further and different relief as the Court may deem appropriate

22 **JURY DEMAND**

23 Intervenor's demand trial by struck jury of all issues

24 /s/ Benjamin P. Tryk  
25 One of the Attorneys for Plaintiffs

26 OF COUNSEL:

27 Benjamin P. Tryk  
TRYK LAW, P.C.  
7050 N. Fresno St. #210  
Fresno, CA 93720  
Phone: (559) 840-3240  
Fax: (888) 528-5570  
ben@tryklaw.com

John E. Norris  
DAVIS & NORRIS, LLP

1 2154 Highland Ave. S.  
2 Birmingham, AL 35205  
3 Tel: (205) 930-9900  
4 Fax: (205) 930-9989  
5 fdavis@davisnorris.com  
6 jnorris@davisnorris.com

7 **CERTIFICATE OF SERVICE**

8 The undersigned hereby certifies that the foregoing was served on all counsel of record on  
9 May 25, 2018 through the CM/ECF Electronic Filing System of the United States District Court  
10 for the Eastern District of California.

11 /s/ Benjamin P. Tryk  
12 One of the Attorneys for Plaintiffs  
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# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Santander Sued Over Allegedly Charging Fee to Customers Who Repaid Loans through 'Speedpay'](#)

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