



High Court FCRA Case Could Shake Up Class Action Standing, Law360, ft. Richard Perr

Richard J. Perr, co-managing partner of KD's Philadelphia office and chair of the Consumer Financial Services practice group, was quoted in a Law360 article written by Allison Grande, published on March 26, 2021

The U.S. Supreme Court will again tackle the hot-button issue of what conditions must be met for plaintiffs to press statutory privacy claims, when the justices hear arguments on Tuesday in a dispute that could drastically curtail or even eliminate large consumer privacy and data breach class actions.

In TransUnion v. Ramirez, a class action dispute alleging violations of the Fair Credit Reporting Act, the high court has been asked to consider whether federal courts can certify consumer classes in which the "vast majority" of members haven't alleged the type of concrete injuries necessary to establish Article III standing, even if the class representative has suffered an injury that meets this bar.

The upcoming oral arguments are expected to shed light on where the justices stand on the issue of how to apply Article III standing requirements, which allow plaintiffs to maintain lawsuits in federal court, to absent class members. They may also serve as a gauge for the high court's inclination toward elaborating on its 2016 decision in Spokeo v. Robins , which held that plaintiffs must allege concrete injuries and can't rely on mere procedural violations to prop up statutory privacy claims, and has led to divergent decisions across the country about when plaintiffs should be allowed through the courthouse doors.

"It is believed that Supreme Court took up the case to further limit standing for class actions in no-injury cases," said Richard Perr, chair of the consumer financial services practice group at Kaufman Dolowich & Voluck LLP. "While individual plaintiffs may continue to pursue specific harm done to them, the day of using the name plaintiff as a 'representative' to drive high-stakes consumer litigation in the form of class actions may be drawing to a close."