

Supreme Court will Address whether Each Class Member Must Have an Injury to Establish Standing

On December 16, 2020, the Supreme Court agreed to hear argument in *TransUnion LLC v. Ramirez* (Case No. 20-297). The Supreme Court will determine whether Article III of the US Constitution or Rule 23 of the Federal Rules of Civil Procedure precludes class actions where “the vast majority of the class suffered no actual injury, let alone an injury anything like what the class representative suffered.”

In June 2017, a jury awarded \$8.1 million in statutory damages and \$52 million in punitive damages to a class of 8,185 members after finding that TransUnion had willfully violated the Fair Credit Reporting Act (“FCRA”) by linking consumers to similarly named criminals and terrorists in a government database. The plaintiff, who was the class representative, suffered harm when he was denied a car loan due to being flagged as a potential match for two names on the watch list. The Ninth Circuit Court of Appeals vacated part of the decision with respect to punitive damages and the case has been stayed due to TransUnion’s appeal to the Supreme Court.

The Supreme Court has the potential to clarify its decision in *Spokeo v. Robins* from 2016. *Spokeo* only addressed the required injury an individual needs to establish standing. The Supreme Court will now evaluate whether each class member has to also demonstrate the same level of injury as the class representative. Oral argument will be scheduled to take place within the next several months.

KD’s Consumer Financial Services Group will provide updates regarding this case and can assist you with any questions regarding class action lawsuits.