

TransUnion L.L.C. v. Ramirez Resources

On June 25, 2021 in *TransUnion L.L.C. v. Ramirez*, 2021 WL 2599472 (U.S. June 25, 2021) the Supreme Court issued a 5-4 decision addressing whether consumers suffered concrete harm due to violations of the Fair Credit Reporting Act (FCRA), including inaccurate credit reports, that met the requirement for Article III standing. *Ramirez* follows up on the Court's 2016 decision in *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016), which also addressed FCRA violations. These decisions control standing in federal court generally.

This webpage provides resources to consumer attorneys and will be updated as more materials become available. Please email ramirez@nclc.org with any submissions of relevant materials.

Sample Ramirez Briefing

- *Attebury v. Earn Company*, Case No. 210400637 (Court of Common Pleas, Philadelphia County 2021) (Opposition to Defendants' Preliminary Objections). Class claims under Credit Repair Organizations Act (CROA). Responds to the claim that there is no standing in Pennsylvania state court.
- *Curry v. Money One Fed. Credit Union*, Case No. 19-3467 (D. Md. 2021) (Supplemental *Ramirez* Briefing). Class claims under FDCPA and several state laws. Includes allegations that defendants conveyed false information regarding accounts to third parties. Analogizes to common law claims of reputational harms, disclosure of private information, and intrusion upon seclusion.
- *Maddox v. The Bank of New York Mellon Trust Co.*, 997 F.3d 436 (2d Cir. 2021) (Supplemental *Ramirez* Briefing). Class action seeking penalties authorized by state statute for untimely filing mortgage loan satisfactions of record. Includes argument of analogue to common law defamation of title.
- *Olean Wholesale Grocery Cooperative, Inc. v. Bumble Bee Foods*, Case No. 19-56514 (9th Cir. 2021) (*Ramirez* Amicus Briefing). Amicus Briefs submitted on behalf of antitrust plaintiffs in an *en banc* proceeding to determine class certification predominance issues concerning uninjured class members. The *Ramirez* standing issues are addressed in Argument Section I of the Public Justice brief; Argument Section II (b) of the American Antitrust Institute and Section II (b) of the Committee to Support the Antitrust Laws.
- *TeWinkle v. Capital One, N.A.*, Case No. 20-2049 (2d Cir. 2021) (Supplemental *Ramirez* Briefing). Claim under ECOA. Includes argument of analogue to common law duty of good faith and fair dealing in contracts.

Articles Discussing Case Development

- Practice Implications of June 25 Supreme Court *Ramirez* Decision by National Consumer Law Center (NCLC) Deputy Director Carolyn Carter, June 30, 2021

Additional Resources

- Joint Report re: Post-Appeal Proceedings, *Ramirez v. TransUnion*, N.D. CA, November 10, 2021
 - After the Supreme Court's *Ramirez* opinion the case was remanded to the District Court (N.D. CA) for further proceedings consistent with the decision. The Plaintiffs have proposed three stages in the Joint Case Management Statement (11/10/21): First, a factual determination of which class members can satisfy the Supreme Court's Article III

standing rule announced in *TransUnion LLC v. Ramirez*. Second, a reassessment of class certification under Rule 23(c)(1)(C). Third, a process for arriving at an amended or new judgment through a combination of briefing and/or a limited new trial. A preliminary description of each side's arguments on these issues is included in the Statement.

- Letter to CFPB Acting Director Uejio re: Effect of the Supreme Court's Standing Decision on the CFPB's Work, August 11, 2021
- Issue Brief: Ramirez, Faux-Federalism, and the Futility of Consumer Disclosure Protections, August 2021
- *TransUnion L.L.C. v. Ramirez*, Supreme Court Decision, June 25, 2021
 - Amicus briefs, including submission by NCLC
- **Webinars:** *NOTE: Consumer advocates that are not National Association of Consumer Advocates (NACA) members must be vetted to access these materials.*
 - *TransUnion v. Ramirez* – Part I: What does the Supreme Court's decision mean for your FCRA practice, July 15, 2021. (Co-sponsored by NACA, NCLC, and Public Justice)
 - *TransUnion v. Ramirez* – Part II: What does the Supreme Court's decision mean for your FDCPA practice, July 21, 2021. (Co-sponsored by NACA, NCLC, and Public Justice)
 - Litigating Auto Dealer Claims Post-Ramirez, October 20, 2021. (Sponsored by NACA)
 - Navigating a State Practice Post-Ramirez, November 16, 2021. (Sponsored by NACA)

Standing Discussions found in NCLC Treatises (Subscription Required)

Links are to the existing sections of books in NCLC's Consumer Law Practice Series. NCLC treatises discussing standing. Discussions of *Ramirez* and cases interpreting *Ramirez* will be added.

The treatises in the Consumer Law Practice Series cover every facet of consumer law, and are available in print and continuously updated digital format. Learn more at nclc-old.ogosense.net/library.

- Fair Debt Collection
 - 11.15 Article III Constitutional Standing Under Spokeo As Applied to the FDCPA
- Fair Credit Reporting
 - 11.3 Standing
- Consumer Class Actions
 - 10.3.3.2 Standing Issues
- Federal Deception Law
 - 7.4 Article III Standing for Telephone Consumer Protection Act cases
- Mortgage Lending
 - 7.4.6.1 Article III Standing
- Truth in Lending
 - 11.2 Standing
 - 13.7.1.1 Disclosure Violations
- Mortgage Servicing and Loan Modifications
 - 3.12.2 Standing
- Consumer Banking and Payments Law
 - 5.17.6 Article III Standing to Bring EFTA Claims
- Credit Discrimination
 - 11.3 Does the Plaintiff Have Standing?
- Unfair and Deceptive Acts and Practices
 - 12.6.3.2.1 Article III standing