

FCRA Defendant Falls Victim of its Own Success, Gets Caught in Catch-22 of Subject Matter Jurisdiction

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Yesterday, a federal court ruled that it did not have subject matter jurisdiction to decide a FCRA-related case. Specifically, the court ruled that the plaintiff did not allege sufficient facts for him to have standing under *Spokeo*. While such rulings often represent victories for defendants, here it was the plaintiff that did not want the Court to assert subject matter jurisdiction. This is because of the unique history of this particular case.

In *Ratliff v. LTI Trucking Services, Inc.*, the plaintiff first filed a FCRA suit in federal court in Illinois. That court, citing *Spokeo*'s requirement that a plaintiff must have a concrete injury to establish standing, dismissed the case for lack of subject matter jurisdiction. The plaintiff re-filed in state court. The defendant removed the case to federal court, and simultaneously moved to dismiss the case for lack of subject matter jurisdiction. The plaintiff argued that the court did not have the subject matter needed to dismiss the case and moved to remand the case back to state court.

The Court agreed with the plaintiff. In other words, while the defendant was successful in convincing the Court that it lacked subject matter jurisdiction, the Court elected to impose the plaintiff's preferred remedy of removal. The case will now go back to state court over the defendant's objections.

In spite of this ruling, defendants should not ignore *Spokeo* arguments for fear of their case being re-filed in state court. Such cases already dismissed from federal courts would often be meritless and should frequently be dismissed by state courts. Moreover, the *Ratliff* Court considered whether the state court lawsuit was futile and noted that a circuit split exists which allows courts to dismiss futile cases outright in the Fifth and Ninth Circuits.

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