

## Third Circuit: Class Representative with Over-Detailed Receipt Lacks Standing to Bring FACTA Case against J. Crew

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We spend most of our time at FCRAland studying those rights included in the Fair Credit Reporting Act, as it was established in 1970. Yet Congress has amended FCRA over the years, including by adding additional statutory schemes and causes of action. For instance, in 2003, Congress passed the Fair and Accurate Credit Transactions Act (“FACTA”), which is now a part of FCRA. Under that statute, companies accepting credit card payments may not print more than the last five digits of a credit card number on a receipt. 15 U.S.C. § 1681c(g)(1).

Thus, the clothing retailer J. Crew found itself defending class action allegations that it had wrongfully printed as many as ten numbers on various credit card receipts. *See Kamal v. J. Crew Grp., Inc.*, 2019 U.S. App. LEXIS 7053 (3rd Cir. Mar. 8, 2019). J. Crew responded by arguing that the allegations of harm were insufficient, under *Spokeo*, to demonstrate that the class representative had standing to bring any FACTA claim. The trial court agreed, holding that FACTA only protected consumers suffering from *actual harm* to their credit or identity.

The Third Circuit likewise agreed with J. Crew, holding that the procedural violation of FACTA did not necessarily equate to harm, and that the plaintiff had not presented a sufficient degree of risk that his identity would be stolen. Thus, any injury was speculative. The Third Circuit therefore affirmed the trial court’s dismissal of the case. However, it noted that the dismissal should be *without* prejudice, since it was based in subject matter jurisdiction and did not operate as an adjudication on the merits.

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National Law Review, Volume IX, Number 72

Source URL: <https://natlawreview.com/article/third-circuit-class-representative-over-detailed-receipt-lacks-standing-to-bring>