

Breaking: Supreme Court Orders Fourth Circuit to Reconsider Standing Ruling in Light of *TransUnion* Decision.

Article By:

Marissa Black

Kristin L. Bryan

The Supreme Court has vacated a \$9.7 million judgment against Rocket Mortgage, LLC (formerly Quicken Loans) and ordered the Fourth Circuit Court of Appeals to reconsider its ruling in light of [TransUnion LLC v. Ramirez \(2021\)](#). Read on to learn more.

First, some background. As a reminder, any party wishing to sue in federal court must have Article III standing, which requires that a plaintiff is able to demonstrate: (1) an injury in fact; (2) the injury was caused by defendant's conduct; and (3) the injury can likely be redressed by a favorable judicial decision.

In *TransUnion v. Ramirez*, the Supreme Court reconsidered the question of what constitutes an "injury in fact" under Article III, five years after its significant holding in *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540. In doing so, the Supreme Court held that "[o]nly plaintiffs concretely harmed by a defendant's statutory violation have Article III standing to seek damages against that private defendant in federal court." (emphasis added). The Court reaffirmed that "Article III standing requires a concrete injury even in the context of a statutory violation" and it was not the case that "a plaintiff automatically satisfies the injury-in-fact requirement whenever a statute grants a person a statutory right and purports to authorize that person to sue to vindicate that right." As the Court explained, "[a]n injury in law is not an injury in fact." (emphasis added). The Court's opinion resolved a circuit split on whether increased risk of future harm could constitute an injury in fact sufficient to confer standing.

Early last year, the Fourth Circuit in *Alig v. Quicken Loans Inc.*, 990 F.3d 782 (4th Cir. 2021) affirmed a district court's class certification and entry of summary judgment in favor of a plaintiffs' class of 2,769 West Virginia homeowners who refinanced their mortgages with Rocket Mortgage. Plaintiffs alleged that pressure tactics used by Rocket Mortgage and an appraisal management company, Title Source, Inc., constituted a breach of contract and unconscionable inducement under the West Virginia Consumer Credit and Protective Act. Specifically, plaintiffs alleged that Rocket Mortgage and Title Source pressured appraisers to value plaintiffs' homes higher than their fair market value.

In *Alig*, Rocket Mortgage argued that plaintiffs lacked standing because they were uninjured and

instead benefited from obtaining the loans. The Fourth Circuit disagreed, finding that plaintiffs paid for independent home appraisals and instead received appraisals that were tainted by Rocket Mortgage and Title Source's tactics. This financial harm, the Fourth Circuit opined, "is a classic and paradigmatic form of injury in fact[.]" This sufficed for purposes of Article III.

Rocket Mortgage requested last fall that the Supreme Court revisit this ruling, which resulted in Fourth Circuit's conditional certification of a class that was comprised of thousands of home mortgage refinance applicants and cleared the way for them to recover \$3,500 each in statutory damages for their claims that the company unlawfully put estimates of their homes' value on appraisal request forms.

Rocket Mortgage argued to the Supreme Court that this "fundamentally unjust" holding was inconsistent with its prior ruling in *Ramirez*, which Rocket Mortgage said stood for the proposition that **every** class member must be concretely harmed by an alleged statutory violation.

The Supreme Court granted this request Monday. The Court held that "[t]he petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Fourth Circuit for further consideration in light of *TransUnion LLC v. Ramirez*." No additional analysis for this outcome was provided.

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