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SCOTUS Opinion: Mere Violation Of A Statutory Right Not Inherently Sufficient To Provide Standing In Class Action

25 Jun 2021

Over 8,000 individuals sued as a class under the Fair Credit Reporting Act, alleging that TransUnion falsely inserted alerts on their credit histories because they happened to have the same first and last name as serious criminals monitored by the Treasury Department's Office of Foreign Assets Control (OFAC), and that TransUnion had formatting errors in its reports. At trial, the parties agreed that only 1,853 class members had OFAC alerts on their credit reports, and only one plaintiff proved that the formatting errors caused him harm. The district court held that all of the class plaintiffs had standing to sue, and a jury awarded about $60 million to them all.

A divided Ninth Circuit upheld the judgment, but the Court, in a 5-4 decision by Justice Kavanaugh, reversed, holding that only the smaller group of class members had standing to recover for the OFAC alerts because they proved reputational harm, and only the single plaintiff had standing to recover for the formatting errors. The majority emphasized that a plaintiff must have suffered a "concrete" injury to recover – a violation of a statutory right in itself is not enough. To allow suits by unharmed plaintiffs to enforce federal law would violate the inherent separation of powers. Justice Thomas, joined by Justices Breyer, Sotomayor, and Kagan, dissented, arguing that TransUnion violated duties it owed to each class member, and therefore each had been injured sufficiently to have standing to sue, disputing whether the requirement for a "concrete" injury must be the sole inquiry. Justice Kagan, joined by Justices Breyer and Sotomayor, filed another dissent arguing that the majority's decision "transforms standing law from a doctrine of judicial modesty into a tool of judicial aggrandizement."

A link to the opinion in *TransUnion LLC v. Ramirez* is here:
https://www.supremecourt.gov/opinions/20pdf/20-297_4g25.pdf

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TAGGED: Standing, class action, Fair Credit Reporting Act, Office of Foreign Assets Control, TransUnion LLC v. Ramirez, concrete