UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Sergio Ramirez v. TransUnion LLC

No. 17-17244, United States Court of Appeals for the Ninth Circuit (February 27, 2020)

SUMMARY

Key Legal Topics: Fair Credit Reporting Act (FCRA) – standing for damages class members – Article III injury-in-fact – willful violation – class certification – punitive damages excessiveness. **Holding:** The Ninth Circuit held that every class member must satisfy Article III standing at the final judgment stage of a money damages class action, but concluded that all 8,185 class members had standing because TransUnion’s reckless handling of inaccurate OFAC (terrorist) alerts exposed them to a real risk of harm to concrete privacy, reputational, and informational interests protected by the FCRA. The court affirmed willfulness findings and class certification, but reduced the punitive damages award as constitutionally excessive.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Mary H. Murguia; M. Margaret McKeown; William A. Fletcher
JURISDICTION	Federal
DECIDED	February 27, 2020
DOCKET	17-17244
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the United States District Court for the Northern District of California, Jacqueline Scott Corley, Magistrate Judge, Presiding. After a jury trial, the district court entered judgment for the class. TransUnion appealed.
STANDARD OF REVIEW	We review the district court's rulings regarding standing de novo. We review the denial of a motion for judgment as a matter of law de novo. We review the denial of a motion for a new trial for abuse of discretion. We review the constitutionality of punitive damages de novo.
PRECEDENTIAL VALUE	Published
PARTIES	TransUnion LLC v. Sergio L. Ramirez

TOPICS

civil procedure standing class actions consumer protection damages punitive damages due process statutory interpretation appellate procedure

PRACTICE AREAS

Consumer Protection Class Actions Civil Procedure

QUESTIONS PRESENTED

1. 1. Whether every member of a class certified under Rule 23 must have Article III standing at the final stage of a money damages suit when class members are to be awarded individual monetary damages?
2. 2. Whether each of the 8,185 class members had standing on each of the three FCRA claims?
3. 3. Whether there was sufficient evidence to support the jury's finding of willfulness?
4. 4. Whether the class certification was proper under Rule 23(a)(3) typicality?
5. 5. Whether the statutory damages award was excessive?
6. 6. Whether the punitive damages award was unconstitutionally excessive?

HOLDINGS

1. Every member of a class certified under Rule 23 must satisfy the basic requirements of Article III standing at the final judgment stage of a class action in order to recover monetary damages in federal court.
2. All class members suffered a material risk of harm to their concrete interests protected by § 1681e(b) because TransUnion's inaccurate OFAC alerts were severe, involved a third-party vendor, and were made available to potential creditors, creating a risk of harm to privacy, reputational, and informational interests.
3. All class members had standing because TransUnion's disclosure violations exposed them to a material risk of harm to their concrete informational interests, as the mailings were inherently confusing and left consumers unaware of the false label and how to dispute it.
4. Substantial evidence supported the jury's finding of willful violations because TransUnion had guidance from the Third Circuit in Cortez that its practices were unlawful, yet continued to use name-only searches and treat OFAC information as separate.
5. The punitive damages award of $6,353.08 per class member, a 6.45:1 ratio to statutory damages, was excessive. The Constitution permits a maximum ratio of 4:1 on this record.

KEY QUOTATIONS

> *“every member of a class certified under Rule 23 must satisfy the basic requirements of Article III standing at the final stage of a money damages suit when class members are to be awarded individual monetary damages.”* (20)

> *“TransUnion's reckless handling of OFAC information exposed every class member to a real risk of harm to their concrete privacy, reputational, and informational interests protected by the FCRA.”* (2-3)

> *“the punitive damages award was excessive in violation of constitutional due process.”* (3)

FACTUAL BACKGROUND

TransUnion, a credit reporting agency, developed a product called OFAC Advisor that added an alert to consumers' credit reports if their name matched a name on the OFAC list of Specially Designated Nationals. TransUnion used a rudimentary name-only search without additional identifiers, resulting in many false positives. When consumers requested copies of their credit reports, TransUnion sent them a report with the OFAC alert redacted and a separate letter informing them they were a potential match, but without a summary of rights. The class representative, Sergio Ramirez, was denied credit at a car dealership due to the false alert. He experienced confusion and distress. The class included 8,185 consumers who received similar treatment.

PROCEDURAL HISTORY

The district court certified a class action under Rule 23. The case proceeded to a jury trial on three FCRA claims. The jury found in favor of the class and awarded statutory and punitive damages. The district court denied TransUnion's post-trial motions. TransUnion appealed.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

Reduce the punitive damages award from $6,353.08 per class member to $3,936.88 per class member.

CASES CITED

- Lujan v. Defs. of Wildlife, 504 U.S. 555 (1992)
- Robins v. Spokeo, Inc. (Spokeo I), 742 F.3d 409 (9th Cir. 2014)
- Spokeo, Inc. v. Robins (Spokeo II), 136 S. Ct. 1540 (2016)
- Robins v. Spokeo, Inc. (Spokeo III), 867 F.3d 1108 (9th Cir. 2017)
- Cortez v. Trans Union, LLC, 617 F.3d 688 (3d Cir. 2010)
- Safeco Ins. Co. of Am. v. Burr, 551 U.S. 47 (2007)
- Town of Chester, N.Y. v. Laroe Estates, Inc., 137 S. Ct. 1645 (2017)
- Tyson Foods, Inc. v. Bouaphakeo, 136 S. Ct. 1036 (2016)
- State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408 (2003)
- BMW of N. Am., Inc. v. Gore, 517 U.S. 559 (1996)
- Owner-Operator Indep. Drivers Ass'n v. U.S. Dep't of Transp., 879 F.3d 339 (D.C. Cir. 2018)
- Gubala v. Time Warner Cable, Inc., 846 F.3d 909 (7th Cir. 2017)
- Braitberg v. Charter Commc'ns, Inc., 836 F.3d 925 (8th Cir. 2016)