



***SPOKEO* "STANDING" RULING NOT CAST IN CONCRETE**

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May 16, 2016

In a much anticipated decision, the Supreme Court held today in [*Spokeo, Inc. v. Robins*](#), No. 13-1339, that alleging a “bare procedural violation” of a federal statute may not be enough to confer a plaintiff with standing to sue. On the other hand, the Court’s 6-2 opinion, authored by Justice Alito, indicated that “the violation of a procedural right granted by a statute can be sufficient in some circumstances to constitute injury in fact”—the foremost element that a plaintiff must satisfy to establish standing.

This holding in a case alleging violation of the Fair Credit Reporting Act by an online “people search engine” does not deliver the bright-line rule that lawyers in both the plaintiffs and defense bars were seeking. But what is clear from the Court’s majority opinion is that to demonstrate

injury in fact, a plaintiff must show that he or she suffered harm that is not only “particularized,” but also "concrete." According to the Court, a concrete injury can be tangible or intangible, but “it must actually exist.” Since the violation of a statutory procedural right may not result in concrete harm, alleging such a violation does not automatically demonstrate injury in fact.

Lower courts now will be confronted with the challenge of applying *Spokeo* in individual cases, including putative class actions, seeking money damages for alleged violations of federal statutory procedural rights.