

[Banking and Finance Law Daily Wrap Up, SUPREME COURT DOCKET—Recent decisions, cases, and petitions pending High Court review, \(Sept. 14, 2020\)](#)

Banking and Finance Law Daily

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This *Banking and Finance Law Daily* feature presents a chart highlighting the decisions, arguments, briefs, and petitions on banking and finance issues before the current term of the U.S. Supreme Court.

Most recently, nationwide consumer reporting agency TransUnion LLC filed a petition asking the High Court to review whether statutory and punitive damages awarded under the Fair Credit Reporting Act in a class action against the credit bureau were supportable and/or commensurate with any injury suffered by the plaintiff class, as opposed to the injury suffered by the named class representative.

FCRA class-action damages. More specifically, according to the petition in *TransUnion LLC v. Ramirez* (No. 20-297), TransUnion [asks](#) the Court: (1) whether "either Article III or Rule 23 permits a damages class action where the vast majority of the class suffered no actual injury, let alone an injury anything like what the class representative suffered;" and (2) whether "a punitive damages award that is multiple times greater than an already-substantial classwide award of statutory damages, and is orders of magnitude larger than any actual proven injury, violates due process."

Ninth Circuit's decision. In the underlying case (*Ramirez v. TransUnion LLC*) the U.S. Court of Appeals for the Ninth Circuit affirmed an \$8 million statutory damages award against TransUnion, which allegedly had incorrectly placed terrorist alerts on the credit reports of thousands of consumers, but decreased a \$52 million punitive-damages award by nearly 40 percent for the company's FCRA violations. The federal appellate court held that the class members had standing on each of the class claims under the FCRA because TransUnion's "reckless handling of the terrorist alerts" exposed them to a material risk of harm to their interests protected by the FCRA.

According to the Ninth Circuit, the egregiousness of TransUnion's procedures supported a finding that the credit bureau's violations were willful and supported the jury's award of \$8 million in statutory damages. However, only a 4-to-1 ratio of statutory to punitive damages was constitutionally supportable, so the Ninth Circuit reduced the punitive-damages award from about \$52 million to approximately \$32 million. The federal appellate court also concluded that the class representative's claims were typical of the class (see [Banking and Finance Law Daily](#), Feb. 28, 2020).

TransUnion's stance. Among other things, the petition argues that although the named plaintiff "claimed that an inaccurate credit report hindered his effort to secure credit, caused him embarrassment in front of family, and led him to cancel a vacation," the named plaintiff "sought to represent a class of thousands of individuals, the vast majority of whom (>75%) never had a credit report disseminated to any third party, let alone suffered a denial of credit or other injury anything like the class 'representative'." Moreover, TransUnion contends that the "trial court nonetheless let the class proceed on the theory that the absent class members all suffered Article III injury and that the vast differences between the experiences of the named plaintiff and the class he purported to represent were immaterial."

According to the credit bureau, "[h]aving heard only about the named plaintiff's entirely atypical injuries, the jury awarded the entire class statutory damages near the statutory maximum and then awarded classwide punitive damages that dwarfed the statutory damages," and the majority of a three-judge panel of the Ninth Circuit "then affirmed across the board, save for minimally trimming the punitive damages award."

Supreme Court docket. For details about this and other petitions and cases pending before the Supreme Court, please consult [this list](#). Issued opinions, granted petitions, pending petitions, and denied petitions are listed separately, along with a summary of the questions presented and the status of each case.

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Companies: TransUnion LLC

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