Mary-Christine Sungaila, Marco Pulido Provide Law360 Expert Analysis: The State of Article III Standing 3 Years After Spokeo

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Three years ago on May 16, 2016, the U.S. Supreme Court issued its landmark *Spokeo v. Robins* decision, which held that the standing requirements under Article III of the U.S. Constitution require a plaintiff to establish a "concrete injury even in the context of a statutory violation." After *Spokeo*, as one court put it, "there is no such thing as an 'anything-hurts-so-long-as-Congress-says-it-hurts theory of Article III injury.'"

In this article, we first examine how courts have applied *Spokeo* to violations of statutory provisions designed to protect substantive and procedural rights. Next, we detail an open question after *Spokeo*: what role congressional findings have on whether a procedural violation will be deemed sufficiently concrete to satisfy Article III's standing requirements. We conclude with a discussion of a developing trend for defendants to be aware of after *Spokeo*: Defendants may see increased litigation of federal statutory violations in state court, where state law may impose standing requirements that are not as stringent as those that exist under Article III.

Overview: Spokeo v. Robins

To establish Article III standing to sue in federal court, a plaintiff must show: that he suffered an injury, traceable to the defendant, that a judicial decision could redress. In *Spokeo*, Thomas Robins sued a website operator, alleging that the website willfully violated the Fair Credit Reporting Act by publishing inaccurate information about him. The U.S. Court of Appeals for the Ninth Circuit held that Robins had Article III standing to sue because his "personal interests in the handling of his credit information" meant that the harm he suffered was "individualized rather than collective."

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