



News Release

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Supreme Court Vacates Ninth Circuit Ruling in *Spokeo, Inc. v. Robins*

DRI Amicus Brief in the 2014 Case Had Urged the Court to Overturn the Ninth's Decision

CHICAGO – (May 16 2016)—The Supreme Court has vacated a Ninth Circuit ruling in *Spokeo Inc. v. Robins* and remanded it back to that court for reconsideration. In its June, 2014 amicus brief, DRI – The Voice of the Defense Bar had argued for the High Court to overturn the Ninth's decision. The class action case turned on the issue of "harm."

Spokeo, Inc., operates a people search engine that aggregates publicly available information from phone books, social networks, marketing surveys, real estate listings, business websites, and other public sources and displays the results of searches in an easy-to-read format. Plaintiff Thomas Robins brought a putative class action against Spokeo, in the Central District of California, alleging that Spokeo is a "consumer reporting agency" that issues "consumer reports" in violation of the Fair Credit Reporting Act. Robins alleged that the search results for him included inaccurate information indicating that he has more education and professional experience than he actually has, that he is married (although in fact he is not), and that he is better situated financially than he really is. Robins alleged that the misinformation hurt his "employment prospects." The district court ultimately dismissed the case for lack of a showing of harm. The Ninth Circuit reversed.

The DRI brief maintained that constitutional standing, which requires a showing of "actual injury," is an indispensable requirement of any federal suit and cannot be satisfied by the mere violation of a statutory right. DRI's *amicus* brief emphasized that the Ninth Circuit's decision enables individuals who have suffered no "actual injury" or concrete harm to enter federal courts through the "back door", a practice which the Court has expressly disapproved. The brief also stressed to the Court that public policy considerations supported a reversal of the Ninth Circuit's decision and a reaffirmation of Article III's actual injury requirement.

The Ninth Circuit's February 2014 ruling stated that plaintiffs can maintain a statutory class action under the Fair Credit Reporting Act of 1970 without alleging some "actual injury."

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The Supreme Court took exception. In the majority's view, the plaintiff must allege an injury that is both "concrete *and* particularized."

The majority's decision (to which Justices Ginsburg and Sotomayor disagreed) is limited in that it took no position as to whether the Ninth Circuit's ultimate conclusion – that Robins adequately alleged an injury-in-fact – was correct. That determination will be left to the Ninth Circuit to make on remand.

Co-authors of the DRI brief, Mary Massaron and Hilary Ballentine of Plunkett Cooney in Bloomfield Hills, MI, are available for comment through the DRI Communications Department.

The full text of the brief can be found [here](#).

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About DRI – The Voice of the Defense Bar

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