

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

LOU ELLEN CHAPMAN, individually and on) behalf of others similarly situated,)) Plaintiff,)	Case No. 2:15-cv-00120-JD-JEM
v.)	
BOWMAN, HEINTZ, BOSCIA & VICIAN,)) Defendant.)	

**DEFENDANT’S BRIEF ON THE EFFECT OF THE SUPREME COURT’S DECISION
IN SPOKEO, INC. V. ROBINS ON PLAINTIFF’S STANDING**

Pursuant to this Court’s Order of May 17, 2016, Bowman, Heintz, Boscia & Vician, P.C. (“Defendant”), respectfully submits this brief to address whether Lou Ellen Chapman (“Plaintiff”) has Article III standing to bring this action in light of the Supreme Court’s decision in *Spokeo, Inc. v. Robins*, --- S. Ct. ----, 2016 WL 2842447 (May 16, 2016) (No. 13-1339). Dkt. 24. On May 23, 2016, Plaintiff submitted a brief addressing the impact of *Spokeo* on this case, (Dkt. 26), and Defendant offers only a few additional points. Defendant respectfully submits that the ultimate impact of *Spokeo* on Article III’s requirements is uncertain, but that the decision does not appear to clearly deprive Plaintiff of Article III standing to bring her claim under the Fair Debt Collection Practices Act (“FDCPA”).

In *Spokeo*, the Supreme Court reaffirmed existing precedent on Article III and remanded for further proceedings to address a case-specific issue: whether the plaintiff in that case had alleged a “concrete” injury in fact. *See* 2016 WL 2842447 at *7-9. The Court held that a violation of the statutory procedures set forth in the Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681 *et seq.*, did not inherently establish a “concrete” injury for purposes of Article

III standing. *Id.* But the Court made clear that “the violation of a procedural right granted by statute can be sufficient in some circumstances to constitute injury in fact,” and that “a plaintiff in such a case need not allege any *additional* harm beyond the one Congress has identified.” *Id.* The Court, however, did not elaborate on which statutory or procedural violations would suffice for purposes of Article III and which violations would not. *See id.* Given the remand in *Spokeo*, and the questions left open by the Court’s opinion, *Spokeo*’s ultimate impact on Article III’s requirements, if any, will likely become clear only over an extended period of time.

As a result, Defendant respectfully submits that *Spokeo* is not an obstacle to confirmation of the settlement in this case. And there are additional reasons supporting a timely grant of Plaintiff’s motion for final approval. Dkt. No. 21. Defendant recently underwent an asset sale, and it is in the process of winding down its business affairs. This case is one of Defendant’s final liabilities, and the resources available to satisfy the final settlement are limited. Consequently, any delay in approving final settlement will make it less certain that there will be assets to fund the settlement. Moreover, in negotiating the class action settlement, Defendant entered into a settlement agreement that required it to cooperate in finalizing class settlement; Defendant does not wish to take a position on *Spokeo*’s impact on the propriety of the settlement that may contravene Defendant’s obligations under that agreement.

For the foregoing reasons, Defendant respectfully submits that the Supreme Court’s decision in *Spokeo, Inc. v. Robins* does not clearly impact this case in a way that deprives the Court of Article III jurisdiction.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 10th day of June, 2016, a copy of the foregoing BRIEF was filed electronically. Notice of this filing will be sent to all Counsel of Record via the Court's electronic filing system.

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