

Spokeo, Inc. v. Robins Briefs

Fair Credit Reporting Act || Fair Debt Collection Practices Act || Truth in Lending and Mortgage Related Telephone Consumer Protection Act || Other

Sample briefs addressing *Spokeo* in consumer-side cases from around the nation are available below. Relevant briefs may be submitted to NCLC's Director of Litigation Stuart Rossman at spokeo-upload@nclc.org. Please submit a Word version and a PDF of the document as filed with the court, including the date stamp. Note: NCLC has neither proofread nor edited submitted materials.

Model Language for Spokeo Briefs

Model language for *Spokeo* briefs, with statute specific arguments focusing on the nature of harm as it applies to various aspects of consumer law, are available below.

- Roadmap for Addressing *Spokeo* Issues-a guide prepared by Elizabeth Adams, Terrell Marshall Law Group PLLC, Seattle, WA.
- Model brief arguing that robocalls cause concrete harm to a plaintiff who is not charged for calls and whose cell phone plan does not provide only a limited number of minutes
- Model Brief arguing that the understatement of the finance charge and the APR create concrete harm to the Plaintiff seeking statutory damages pursuant to the Truth in Lending Act

Fair Credit Reporting Act

- ***Connolly v. Umpqua Bank and Sterling Infosystems, Inc.***, Case No. 2:15-cv-00517 (W.D. Wash.)
 - Plaintiff's brief in opposition to Defendant's motion to dismiss in a claim brought under the FCRA, 15 U.S.C. §§ 1681b(b)(2)(A)(I), 1681b(b)(2)(A)(II), 1681m(a)(2), 1681b(b)(3), 1681m(a)(2), and 1281m(a)(3). Plaintiff argues that she suffered two particularized and concrete harms as a result of Defendant's actions and that *Spokeo* supports her position.
 - Plaintiff's first and second notice of supplemental authority in a case brought under the FCRA, 15 U.S.C. §§ 1681b(b)(2)(A)(I), 1681b(b)(2)(A)(II), 1681m(a)(2), 1681b(b)(3), 1681m(a)(2), and 1281m(a)(3).
- ***Cruper-Weinmann v. Paris Baguette***, Case No. 14-3709-cv (2nd Cir.)
 - Amicus brief filed in support of Appellant's Article III standing under *Spokeo* in a claim brought under the FCRA, 15 U.S.C. § 1681 et seq. (MS Word)
 - Plaintiff's Letter submitted in response to Second Circuit order seeking the parties' positions on the impact of *Spokeo* on dismissed claims brought under the Fair and Accurate Credit Transactions Act of 2003 ("FACTA") and FCRA, 15 U.S.C. § 1681 et seq.
- ***Evers v. TJX Companies***, Case No. 1:15-cv-13071-RGS (D. Mass. Aug. 5, 2016)
Plaintiffs' brief in response to Defendant's motion to dismiss the amended complaint in an action brought under 15 U.S.C. 1681(b)(2). Plaintiffs argue that Defendants misread *Spokeo*, and that even if Plaintiffs lacked standing, that the appropriate action would be to remand rather than dismiss.
- ***Gorshek v. Time Warner Cable Inc. together with Groshek v. Great Lakes Higher Education Corporation***, Nos. 16-3355 and 16-3711 (consolidated) (7th Cir. Nov. 28, 2016)
Plaintiff-Appellant's brief in opposition to Defendants' motion to dismiss for lack of standing in a case alleging violation of the FCRA, 15 U.S.C. § 1681b(b)(2)(A). Plaintiff-Appellant argues that a concrete injury was suffered in both cases, because the FCRA's disclosure requirement

provides a substantive protection.

- **Graham v. Pyramid Healthcare Solutions, Inc.**, Case No. 8:16-cv-1324-T-30UAM (M.D. Fla.)
Plaintiff's response in opposition to Defendant's motion to dismiss in a case brought under the FCRA, 15 U.S.C. §§ 1681b(b)(2)(A)(i) and 1681b(b)(2)(A)(ii), arguing that Plaintiff suffered a concrete and particularized injury.
- **Katz v. The Donna Karan Company LLC**, Case No. 15-464-cv (2nd Cir.)
Amicus brief filed in support of Appellant's Article III standing under *Spokeo* in a claim brought under the FCRA, 15 U.S.C. §§ 1681c(g)(1) and 1681n (MS Word)
- **Hancock v. Urban Outfitters Inc.**, Case No. 14-7047 (D.C. Cir.)
Appellant's Motion in Further Support of Article III Standing, supplemental briefing filed at the request of the Court, after oral argument and issuance of the *Spokeo* decision, in an FCRA case.
- **In Re: Horizon Healthcare Services, Inc. Data Breach Litigation**, Case No. 15-2309 (3rd Cir.)
 - Submission from Plaintiffs-Appellants to the Court about a recent decision, *Galaria v. Nationwide Mutual Insurance Co.*, — Fed App'x —, 2016 WL 4728027 (Sept. 12, 2016), in a case alleging a violation of the FCRA, 15 U.S.C. § 1681, et seq. Plaintiffs-Appellants argue that this decision is directly relevant to the case and is supportive of Plaintiff-Appellants' Article III standing claim.
 - Submission from Horizon Healthcare in response to Appellant's letter.
- **Lewis v. Southwest Airlines Co.**, Case No. 3:16-cv-00749-JCS 2016 U.S. Dist. LEXIS 74887 (N.D. Cal.)
Motion for Remand to State Court for lack of Article III standing under *Spokeo* in a claim brought under the FCRA, 15 U.S.C. § 1681 et seq., the California Investigative Consumer Reporting Agencies Act ("ICRAA"), Cal. Civ. Code § 1786 et seq., and the California Consumer Credit Reporting Agencies Act ("CCRAA"), Cal. Civ. Code § 1785 et seq.
- **Milbourne v. JRK Residential America**, C.A. 12-00801 (E.D. Va)
Opposition to Motion to Dismiss FCRA claim brought under 15 U.S.C. § 1681b(b)2 and 3 PDF || MS Word
- **Perrill v. Equifax**, Case No. 1:14-cv-00612-SS (W.D. Tex.)
Brief in response to Defendant's motion to dismiss a case brought under the FCRA, §15 U.S.C. 1681 et seq. Plaintiffs argue that *Spokeo* compels the conclusion that Plaintiffs suffered an injury-in-fact.
- **Shapiro v. T-Mobile USA, Inc.**, Case No. 2:16-cv-04698-RGK-(MRWx) (C.D. Cal.)
Plaintiff's brief in opposition to Defendant's motion to dismiss the first amended complaint in a case brought under the FCRA, California's Consumer Credit Reporting Act, California's Unfair Competition Law, and California's Consumer Legal Remedies Act. Plaintiff argues that he has asserted a concrete injury under *Spokeo*.
- **Witt v. Corelogic**, C.A. 15-386 (E.D. Va)
Plaintiff's memorandum in opposition to defendant's motion for reconsideration in light of *Spokeo* in a claim brought under the FCRA, 15 U.S.C. §§ 1681(a)(1) , 1681b, 1681e(e), and 1681e(b) MS Word
- **William Jones v. Waffle House, Inc.**, Case No. 6:15-cv-1637-Orl-37DAB (M.D. Fla.)
 - Plaintiff's opposition brief in response to Defendant's motion to dismiss for lack of standing in a claim brought under the FCRA, 15 U.S.C. §§ 1681b(f), 1681b(b)(3)(A), 1681m(a), 1681b(a) and 1681e(a), 1681e(b), 1681e(d), 1681b(b)(1), 1681j(a)(1)(C), 1681k(a)(1), and 16 C.F.R. § 610.3.
 - Defendant's reply memorandum in response to Plaintiff's opposition brief
- **SEE RELEVANT FCRA COURT DECISIONS >>>**

Fair Debt Collection Practices Act

- **Bock v. Pressler & Pressler**, No. 15-1056 (3rd Cir.)
 - Supplemental brief requested by Court seeking parties' position on Article III standing in light of *Spokeo* in a claim brought under the FDCPA, 15 U.S.C. §§ 1692(e), et seq.
 - Supplemental amicus brief submitted by the CFPB in response to Court seeking parties' position on Article III standing in light of *Spokeo* in a claim brought under the FDCPA, 15 U.S.C. §§ 1692(e), et seq
- **Dickens v. GC Services Limited Partnership**, Case No. 8:16-cv-803-T-30TGW. See 2016 WL 3917530 (M.D. Fla., July 20, 2016)
 - Plaintiff's response in opposition to Defendant's motion to dismiss for lack of standing claims arising under the FDCPA, 15 U.S.C. § 1692 et seq. Plaintiff points out that Defendant wholly ignores the 11th Circuit's decision in *Church v. Accretive Health, Inc.* ___ Fed.Appx. ___, 2016 WL 3611543 (11th Cir. July 6, 2016) where the 11th Circuit found that standing existed in a case nearly identical to this one.
 - Defendant's memorandum in support of its motion to dismiss, misreading *Spokeo* as confirmed by a subsequent court order. See 2016 WL 3917530 (M.D. Fla., July 20, 2016).
- **Collier v. SP Plus Corp.**, Case No. 3:15-cv-00180 (S.D. Ohio)

Plaintiffs requested voluntary dismissal without prejudice in a claim brought under FACTA, 15 U.S.C. §§ 1681 et seq.. Defendants in this case had submitted a motion to dismiss based on an alleged lack of Article III standing, and while Plaintiffs do not concede that they lack standing, they nevertheless move for dismissal without prejudice arguing that dismissal based on standing is a jurisdictional issue.
- **Hagy v. Demers & Adams**, Case NO. 2:11CV530 (S.D. Ohio)

Memorandum in response to motions to dismiss and for reconsideration of the summary of judgment decision entered in a case brought under the FDCPA, 15 U.S.C. §§ 1692, et seq., and the Ohio Consumer Sales Practices Act ("CSPA"), O.R.C. §§ 1345.01 et seq. PDF || MS Word
- **Long v. Fenton & McGarvey**, C.A. No. 1:15-cv-1924 (S.D. Ind),
 - Plaintiff's opposition brief in response to Defendant's motion to dismiss and for judgment on the pleadings in a case brought under the FDCPA, 15 U.S.C. § 1692g(a)(2). (MS Word)
 - Plaintiff's reply in support of her amended motion for class certification, arguing that Plaintiff suffered a concrete injury as a result of violations of the FDCPA, 15 U.S.C. §1962g(a)(2).
 - Defendant's brief in support of its motion to dismiss and motion for judgment on the pleadings for lack of standing.
 - Defendant's opposition to Plaintiff's motion to certify class, arguing that Plaintiff does not have standing.
- **Lou Ellen Chapman v. Bowman, Heintz, Boscia & Vician, P.C.**, Case No. 2:15-CV-120 JD (N.D. IN)
 - Defendant's brief in response to court order seeking parties' position on Article III standing in light of *Spokeo* in a claim brought under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692g(a)(4). Court has subsequently granted final approval of class action settlement.
 - Plaintiff's brief in response to court order seeking parties' position on Article III standing in light of *Spokeo* in a claim brought under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692g(a)(4). Court has subsequently granted final approval of class action settlement.
- **Remington v. Financial Recovery Services, Inc.**, Case No. 3:16-cv-865 (JAM) (D. Conn.)

Plaintiff's opposition to Defendant's motion to dismiss a claim brought under the FDCPA, 15 U.S.C. § 1692 et seq. Plaintiff argues that she suffered a concrete injury, as evident by the fact that defendants "created a false sense of urgency".
- **Tourgeman v. Collins Financial Services, Inc.**, Case No. 08-CV-1392 CAB (NLS). See 2016 WL 3919633 (S.D. Cal., June 16, 2016)

- Plaintiff's briefing in response to a request for a status conference on the impact of *Spokeo* on the scope and timing of the trial of two FDCPA claims brought under 15 U.S.C. § 1692(e)(1) &(3).
- Plaintiff's briefing in response to order on motion for hearing re impact of *Spokeo* on the claims filed by Plaintiff.
- **SEE RELEVANT FDCPA COURT DECISIONS >>>**

Truth in Lending and Mortgage Related

- ***Keen v. JPMorgan Chase Bank***, Case No. 15-17188 (9th Cir.)
 - Appellant's motion for Court to determine its own subject matter jurisdiction in light of *Spokeo* for a claim brought under the Truth in Lending Act, 15 U.S.C. § 1640(a)
 - Appellee's response to Appellant's motion for Court to determine its own subject matter jurisdiction in light of *Spokeo* for a claim brought under the Truth in Lending Act, 15 U.S.C. § 1640(a), and cross-motion to dismiss appeal
 - Appellant's reply to Appellee's response to its motion for Court to determine its own subject matter jurisdiction in light of *Spokeo* and response to Appellee's cross-motion to dismiss including a new *Spokeo* argument
 - The CFPB filed an amicus brief in a case involving a claim under the Truth in Lending Act for alleged failure of a creditor to accurately disclose the finance charge on a mortgage loan. In its brief, the CFPB argues that receiving a disclosure that incorrectly states the finance charge in violation of TILA is a concrete harm sufficient to support Article III standing.
- ***McLaughlin v. Wells Fargo Bank***, NA, Case No. 3:25-cv-02904 (N.D. CA)
 - Plaintiff's memorandum discussing the impact of *Spokeo* on class certification in a claim brought under the Truth in Lending Act, 15 U.S.C. 1640(a)(1)-(a)(2)
 - Plaintiff's reply memorandum discussing *Spokeo* and its impact on class certification
 - Defendant's response brief in re impact of *Spokeo* decision on class certification
 - Defendant's briefing on the impact of *Spokeo* on class certification in a claim brought under the Truth in Lending Act, 15 U.S.C. 1640(a)(1)-(a)(2)
- ***Whittenburg v. Bank of America***, Case No. 14 cv 947 (VB) (S.D. N.Y.)
 Brief in response to Court Order seeking parties' positions on the impact of *Spokeo, Inc. v. Robins* on the Courts' subject matter jurisdiction N.Y. Real Prop. Acts. Law § 1921; N.Y. Real Prop. Law § 275

Telephone Consumer Protection Act

- ***Bais Yaakov of Spring Valley v. Houghton Mifflin, et al.***, Case No. 13-CV-4577 (D. Minn.)
 Letter explaining why *Spokeo* has no impact on claim brought under TCPA, 47 U.S.C. § 227 PDF || MS Word
- ***Davis Neurology v. DoctorDirectory.com LLC***, Case No. 4:16-cv-00095 BSM (E.D. Ark.)
 - Plaintiff's brief responding to Defendant's allegation that Plaintiff did not suffer an injury sufficient to claim Article III standing
 - Defendant's memorandum in support of motion for judgment on the pleadings alleging that Plaintiff did not suffer an injury sufficient to claim Article III standing in a case brought under the TCPA, 47 U.S.C. § 227, and C.F.R. § 64.1200(a)(3)(iii) and (iv)
- ***Duguid v. Facebook, Inc.***, Case No. 3:15-cv-00985-JST (N.D. Cal.)
 Memorandum of law in opposition to Defendant's motion to dismiss Plaintiff's first amended complaint for lack of standing. Plaintiff alleges violation of the TCPA, 47 U.S.C. § 227(a)(1). Plaintiff argues that he suffered an injury-in-fact because he was "frustrated with [Facebook's] text message bombardment," because Facebook committed an "extreme" invasion of privacy, and because he suffered economic harm.
- ***In Re: Monitronics International, Inc.***, No. 1:13-md-02493-JPB-MJA (N.D. W. Va.)

Plaintiff's post-stay briefing requested by the Court on *Spokeo's* impact on a pending TCPA MDL PDF || MS Word

- ***Johnson v. Navient Solutions Inc.***, Case No. 1:15-cv-00716-LJM-MJD (S.D. Ind.)
 - Plaintiff's memorandum of law in support of his motion for summary judgment in a case alleging violation of the TCPA, 47 U.S.C. § 227, et seq. Plaintiff argues that Defendant violated the TCPA by placing autodialed calls to Plaintiff's cellular telephone number, and by leaving artificial or prerecorded messages on his cellular telephone.
 - Plaintiff's memorandum in opposition to Defendant's motion for summary judgment.
- ***Klein v. Hyundai Capital America***, Case No. 8:16-cv-01469-JLS-JCG (S.D. Cal.)
 - Plaintiff's memorandum in opposition to Defendant's motion to dismiss for lack of standing in a case brought under the TCPA, 47 U.S.C. § 227(b)(1)(A).
 - Defendant's memorandum in support of its motion to dismiss for lack of standing.
- ***Melito v. American Eagle Outfitters, Inc.***, Case No. 1:14-cv-02440 (S.D.N.Y.)
 - Plaintiff's brief in response to the Third Party Defendant's motion to dismiss a claim brought under the TCPA, 47 U.S.C. § 227(b)(1)(A), arguing that Plaintiff suffered a concrete injury under *Spokeo*.
 - Third Party Defendant, Experian, filed a motion to dismiss alleging that Plaintiff did not suffer an injury.
- ***Rose v. Wells Fargo Advisors, LLC***, Case No. 1:16-cv-00562-CAP (N.D. Ga.)

Plaintiff's supplemental brief to inform the Court of *Spokeo* and its relevance to plaintiff's standing in a claim brought under the Telephone Consumer Protection Act, 47 U.S.C. §§ 227(b)(3)(A), 227(b)(3)(B), and 227(c)(5), 47 C.F.R. § 64.1200(d)(3)
- ***Sartin v. EKF Diagnostics, Inc. & Stanbio Laboratory, L.P.***, C.A. No. 16-1816 (E.D. La.)
 - Plaintiff's response to Defendant's motion to dismiss alleging that Plaintiff has alleged actual damages and has Article III standing in a claim brought under the TCPA as amended by the Junk Fax Prevention Act of 2005, 47 U.S.C. § 227.
 - Defendant's motion to dismiss for lack of standing and Defendant's reply to Plaintiff's opposition memorandum.
- ***Sterling v. Mercantile Adjustment Bureau, LLC***, No. 14-1247 (2d Cir.)
 - Plaintiff-Appellant's supplemental briefing on injury-in-fact as requested by court order in light of *Spokeo* in a claim brought under the TCPA, 47 U.S.C. § 227(b)(1)(A). Plaintiff-Appellant argues that he alleges a number of concrete injuries.
 - Defendant-Appellee's supplemental briefing on injury-in-fact, conceding that Plaintiff-Appellant would likely meet his burden to establish that he suffered an injury-in-fact sufficient to establish standing due to records exchanged during discovery which indicate that voicemail messages were left for Plaintiff-Appellant in a claim arising under the TCPA.
- ***Van Patten v. Vertical Fitness Group, LLC***, No. 14-55980 (9th Cir.)

Plaintiff-Appellant's supplemental briefing on Article III standing in a case brought under the TCPA, 47 U.S.C. §227. Plaintiff-Appellant argues that Defendant violated his substantive, rather than procedural rights, under the TCPA and that the harm suffered has both a "close relationship" to a harm recognized at common law and is of the type recognized by Congress to satisfy Article III.
- **SEE RELEVANT TCPA COURT DECISIONS >>>**

Other

- ***Alleruzzo v. SuperValu Inc.***, Case No. 16-2528 (8th Cir.)
 - Plaintiff-Appellants' brief on appeal in a claim brought under various state consumer protection acts as well as state data breach notification statutes, arguing that they satisfy Article III standing as a result of substantial risk of suffering identity fraud and theft, as well as time, money, and efforts required to mitigate the ongoing risk of fraud and identity theft.

- Electronic Privacy Information Center submitted an amicus brief in support of Plaintiff-Appellants, arguing that they sustained an injury-in-fact. The brief explains that a company causes legal injury when it violates its customers' statutory or common law rights by failing to protect their data or failing to inform them of a data breach.
- **Altman v. White House Black Market, Inc.**, C.A. No. 1:15-cv-2451-SCJ (N.D. Ga.)
 - Plaintiff submitted objections to the Magistrate's Final Report and Recommendation in light of the *Spokeo* ruling, arguing that the report misreads and misapplies *Spokeo* in a claim brought under FACTA, 15 U.S.C. § 1681(g)(1), and that the suit should not be dismissed because Plaintiff has standing.
 - Defendant submitted a reply to Plaintiff's objections.
- **Boelter v. Advance Magazine Publishers Inc.**, Case No. 15-cv-05671-NRB (S.D.N.Y.)
 - Plaintiff submitted a letter advising the Court of the *Spokeo* decision and its impact on a claim brought under the Video Rental Privacy Act, M.C.L. § 445.1712
 - Plaintiff submitted a letter advising the Court of the Third Circuit's recent decision in *In re Nickelodeon Consumer Privacy Litigation*, — F.3d—, 2016 WL 3513782 (3d Cir. June 27, 2016)
 - Defendant submitted a letter detailing the implications of *Spokeo*
 - Defendant submitted a letter responding to Plaintiff's letter advising the Court of the decision rendered in *Boelter v. Hearst Comm'snc, Inc.*, No. 15-cv-03934 (S.D.N.Y.)
- **Braitberg v. Charter Communications**, No. 14-1737 (8th Cir.)

Plaintiff-Appellant's response to Defendant-Appellee's notice of new authority regarding the affect of *Spokeo* on a claim brought under §551(e) of the Cable Communications Policy Act
- **Boelter v. Hearst** (CA No. 15-cv-03934-AT (S.D.N.Y)

Plaintiffs' opposition to Supplemental Brief in Further Support of its Motion to Dismiss suit brought under the Michigan Preservation of Personal Privacy Act, M.C.L. §§ 445.1711 et seq.
- **Carpenters Industrial Council v. Ashe**, Case No. 15-5304 and 15-5334 (DC Cir.)

Appellant Reply Brief in opposition to Appellee's Brief alleging lack of standing Oregon and California and Coos Bay Wagon Road Grant Lands Act of 1937, 43 U.S.C. § 1181a; Federal Land Policy and Management Act, 43 U.S.C. § 1732(a); Administrative Procedure Act, 5 U.S.C. §§ 551-706; the National Environmental Policy Act, 42 U.S.C. §§ et. seq.; and the Endangered Special Act, 16 U.S.C. § 1531, et. seq.
- **Cruper-Weinman v. Paris Baguette**, Case No. 13-cv-07013-JSR (S.D.N.Y.)

Plaintiff's memorandum of law in opposition to Defendant's motion to dismiss the amended class action complaint which alleges violation of FACTA, 15 U.S.C. § 1681 et seq. Plaintiff argues that she suffered a concrete injury sufficient to satisfy Article II when a merchant violated her substantive, statutorily protected rights by printing her personal financial information in violation of FACTA.
- **Derek Gubala v. Time Warner Cable, Inc.**, Case No. 16-2613 (7th Cir.)

Plaintiff-Appellant's brief arguing that Plaintiff's complaint establishes Article III standing, and that The Cable Act creates substantive rather than procedural requirements.
- **Emilio v. Sprint Spectrum L.P.**, Case No. 1:11-cv-03041 (S.D.N.Y.): OTHER
 - Plaintiff's first and second responses to Defendant's briefing on the implications of the *Spokeo* ruling on Plaintiff's claim brought under the Kansas Consumer Protection Act, Kan. Stat. 50-623, et seq.
 - Defendant's briefing on *Spokeo*, and letter claiming that the case must be dismissed for lack of injury.
- **Fraser et al. v. Wal-Mart Stores Inc.** et al., Case No. 2:13-cv-00520 (E.D. Cal.)

Plaintiff's response and opposition to Defendant's motion to determine whether subject matter jurisdiction exists in a claim brought under California's Song-Beverly Credit Card Act.
- **Friends of Animals v. Sally Jewell**, Case No. 15-5223 (D.C. Cir.)

Plaintiff's response to Defendant's submittal of supplemental authority regarding *Spokeo*,

distinguishing the FCRA claim in *Spokeo* from the ESA claim at issue. Plaintiff explains that “[t]here is a difference between Congress providing a petitioner the right to sue for general violations of an Act and providing a petitioner with means of enforcing a statutory provision that certain information be publically disclosed”.

- ***Goertzen v. Great American Life Insurance Co.***, Case No. 4:16-cv-00240-YGR (N.D. Cal.)
Plaintiff’s opposition to Defendant’s motion for summary judgment regarding standing in a case brought under the Unfair Competition Law, Bus. & Prof. Code § 17200, et seq. Plaintiff argues that she suffered real injury as a direct result of the issuance of an illegal annuity contract, and that her claim is one of statutory violation not fraud.
- ***Guarisma v. Microsoft***, No. 1:15-cv-24326 (S.D. Fla.)
 - Plaintiff’s opposition to Defendant’s motion to dismiss a claim brought under FACTA, 15 U.S.C. § 1681c(g), arguing that Plaintiff suffered a concrete injury.
 - Defendant’s motion to dismiss alleging that Plaintiff did not allege a concrete injury under *Spokeo*.
- ***Gubala v. Time Warner Cable, Inc.***, Case No. 16-02613 (7th Cir.)
 - Amicus brief submitted by Electronic Privacy Information Center in support of Plaintiff-Appellant and in support of reversal in a case brought under the Cable Communications Policy Act (“CCPA”), 47 U.S.C. § 551(e). Electronic Privacy Information Center argues that the lower court failed to apply the *Spokeo* test and that Plaintiff-Appellant has standing under Article III.
 - Plaintiff-Appellant’s brief arguing that Plaintiff’s complaint establishes Article III standing and that the Cable Act Creates substantive rather than procedural requirements.
- ***Hardaway v. DC Housing Authority***, Case No. 14-7144 (DC Cir.)
Amicus brief in support of Plaintiff-Appellants’ claim under the Fair Housing Act, the ADA, and Rehabilitation Act § 504
- ***Holstein v. Banner Life Insurance Company***, Civil Action No. 3:16-cv-00462-MAS-TJB (D.N.J.)
Plaintiff’s supplemental brief regarding *Spokeo, Inc. v. Robins* in a case alleging violations of the Junk Fax Prevention Act, 47 U.S.C. § 227, the New Jersey Junk Fax Statute, N.J.S.A. § 56:8-1, and the New Jersey Consumer Fraud Act 56:8-1.
- ***In Re Barnes & Noble Pin Pad Litigation***, Case No. 1:12-cv-08617 (N.D. Ill.)
 - Plaintiffs’ opposition to Defendant’s motion to dismiss the consolidated class action complaint alleging violations of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2, and §§ 1798.80 of the California Civil Code. Plaintiffs argue that they have Article III standing.
 - Plaintiffs submit additional authority in a case brought under the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2, and §§ 1798.80 of the California Civil Code. Plaintiff raises *Galaria v. Nationwide Mutual Insurance Co.*, — Fed App’x —, 2016 WL 4728027 (Sept. 12, 2016) as supportive of the fact that Defendant’s motion to dismiss should be denied.
 - Defendant’s submission in response to Plaintiffs’ supplemental authority.
- ***In re Facebook Biometric Information Privacy Litigation***, No. 3:15-cv-3747-JD (N.D. Cal.)
Plaintiffs’ opposition to Facebook’s motion to dismiss a case brought under the Biometric Information Privacy Act, 740 ILCS 14/1 et seq., for lack of subject matter jurisdiction. Plaintiffs argue that they suffered both a tangible injury to their property rights and an informational injury as a result of Facebook’s actions.
- ***Martinez v. Burlington Stores Inc.***, Case No. 1:16-cv-02064 (D.N.J.)
Plaintiff’s memorandum in opposition to Defendant’s motion to dismiss, arguing that plaintiffs have Article III standing to bring claims under New Jersey’s Truth-in-Consumer Contract, Warrant and Notice Act as a result of concrete informational injuries as supported by the New Jersey Legislature. Plaintiff alleges that Defendant violated TCCWNA, N.J.S.A. §56:12-14, et seq.

- ***Matera v. Google, Inc.***, No. 5:15-cv-04062 LHK (N.D. Cal.)
 Supplemental briefing in response to *Spokeo* for a claim brought under the California Invasion of Privacy Act, Cal. Pen. Code §§ 630, et seq., and the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510 et seq. (Plaintiff's and Defendant's Supplemental Briefs) PDF || MS Word
 Plaintiff's Reply brief
 Defendant's Reply Brief
- ***Medellin v. IKEA U.S. West, Inc.***, Case No. Case No. 15-55174 (9th Cir.)
 - Plaintiff-Appellant's motion to dismiss appeal for lack of subject matter jurisdiction with directions to the District Court to remand a claim brought under the California Civil Code, section 1747.08(e).
 - Defendant-Appellee's brief in opposition to Plaintiff-Appellant's motion to dismiss and directions to remand.
- ***In re: Nickelodeon Consumer Privacy***, No. 15-1441 (3rd Cir.)
 Supplemental briefing on standing in light of *Spokeo* in a claim brought under the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510 et seq., and Video Privacy Protection Act, 18 U.S.C. §§ 2710, et seq.
- ***O'Shea v. P.C. Richard & Son, LLC***, Case No. 2:15-cv-09069-KPF (S.D.N.Y.)
 Memorandum in opposition to Defendants' motion to dismiss a case brought under FACTA, 15 U.S.C. § 1681c(g)(1). Plaintiffs argues that they have established Article III standing.
- ***Parker v. Hey, Inc.***, Case No. 3:16-cv-4884-WHA (N.D. Cal. Nov. 16, 2016)
 Plaintiff's response in opposition to Twitter's motion to dismiss a case brought under Alabama's Rights of Publicity Act, Ala. Code 1975 § 6-5-770 et seq. Plaintiff argues that he has suffered an injury-in-fact and that he therefore has Article III standing.
- ***Perry v. Cable News Network Inc.***, Case No. 16-13031 (11th Cir.)
 - Appellant's brief discussing a claim brought under the Video Privacy Act, 18 U.S.C. § 2710(a)(3) and (b)(1), and arguing that Appellant has Article III standing. The district court found that the Appellant did indeed have Article III standing and Appellant defends that ruling while arguing that the district court erred in denying leave to amend.
 - Appellant's brief in opposition to Defendant's motion to dismiss for lack of standing and subject matter jurisdiction, arguing that the VPPA protects a concrete interest.
- ***Potocnik v. Carlson***, Case No. 0:13-cv-02093 (D. Minn.)
 - Plaintiff's letter brief on the impact of *Spokeo* in a claim brought under the Driver's Privacy Protection Act ("DPPA"), 18 U.S.C. § 2721, et seq., and 42 U.S.C. § 1983. Plaintiff argues that she satisfies the injury-in-fact requirement of Article III as supported by her articulation of emotional distress suffered as a result of Defendant's alleged violation of the DPPA.
 - Defendant's letter brief on the impact of *Spokeo* in a DPPA claim, conceding that Plaintiff has alleged a concrete injury by alleging that she suffered injury in the form of emotional distress. Defendant disputes that allegation and argues that Plaintiff must prove the existence of her alleged injury-in-fact before trial can proceed on the issues of liquidated or punitive damages.
- ***Pundt v. Verizon Commc'n, Inc.***, Case No. 3:12-cv-4834 (5th Cir.):
 - Plaintiff-Appellants' supplemental brief in a case brought under the Employment Retirement Income Security Act, 29 U.S.C. §§ 1132(a)(2) and (a)(3). The case was vacated and remanded to the Fifth Circuit for further consideration in light of *Spokeo*. Plaintiff-Appellant argues that a fiduciary breach is a de facto injury and that Pundt suffered a concrete injury-in-fact when Defendant's breached their fiduciary duties to the class.
 - Defendant-Appellee's supplemental brief in a case brought under the Employment Retirement Income Security Act, 29 U.S.C. §§ 1132(a)(2) and (a)(3). Defendant-Appellee argues that *Spokeo* does not affect the Fifth Circuit's original standing analysis, and claims that Plaintiff-Appellants' bare allegation of a fiduciary breach is not a concrete harm.
- ***Roldan v. Toys R Us, Inc.***, Civil Action No. 2:16-CV-01929-SDW-LDW (D.N.J.)
 - Plaintiff's brief in opposition to Defendant's motion to dismiss for lack of injury in a claim

brought under the New Jersey Truth-in-Consumer Contract, Warranty and Notice Act, N.J.S.A. 56:12-15 and 56:12-16

- Defendant's motion to dismiss alleging that Plaintiff failed to allege any injury suffered.

• **Rose Coulter-Owens v. Time Inc.**, Case No. 16-01321 (6th Cir.)

Plaintiff-Appellant's Response to Defendant-Appellee's motion to dismiss a claim brought under Michigan's Video Rental Privacy Act ("VRPA"), M.C.L. § 445.1712, for lack of Article III standing. Plaintiff-Appellant argues that Time's motion should be denied because *Spokeo* confirms - rather than undermines - that Plaintiff-Appellant suffered an injury-in-fact, and that the dispute is not really one of standing but rather about whether a cause of action exists under a recent Michigan statutory amendment.

• **Rupel v. Consumers Union of United States, Inc.**, Civil Action No. 16-cv-02444-KMK (S.D.N.Y.)

Plaintiff's opposition to Defendant's motion to dismiss in a case brought under the Michigan Preservation of Personal Privacy Act, M.C.L. §§ 445.1711, et seq. Plaintiff argues that he alleges a injury sufficient to satisfy Article III standing.

• **Schwartz v. HSBC Bank USA, N.A.**, Case No. 14-cv-9525 (KPF) (S.D.N.Y.):

Plaintiff's Memorandum of Law in Opposition to Defendant's motion to dismiss under *Spokeo* in a case alleging a violation of the Truth in Lending Act, 15 U.S.C. § 1601 et seq. Plaintiff argues that he suffered a concrete and particularized injury when Defendant exposed him to a material risk that he would be misled into overpaying for credit.

• **Strubel v. Comenity Bank, C.A.** No.15-528 (2nd Cir.)

Plaintiff's supplemental *Spokeo* briefing filed at the request of the Second Circuit in a case dismissed under the Fair Credit Billing Act ("FCBA")

CFPB amicus brief in support of Plaintiff's standing in a case dismissed under the Fair Credit Billing Act ("FCBA")

• **Sweeney v. Bed Bath & Beyond Inc.**, Case No. 2:16-cv-01927 (D.N.J.)

- Plaintiff's response to Defendant's motion to dismiss, arguing that Plaintiff suffered a concrete injury under *Spokeo* in a case alleging violations of the New Jersey Product Liability Law, New Jersey Punitive Damages Act, Uniform Commercial Code, N.J.S.A. 12A:2-275, N.J.S.A.2A:14-1, and N.J.S.A.2A:14-2, and the TCCWNA, N.J.S.A. 56:12-15.

- Defendant's brief in support of its motion to dismiss alleging that Plaintiff did not suffer an injury sufficient to create Article III standing.

• **Storm v. Paytime, Inc.**, No. 15-03690 (3rd. Cir.)

- Appellant Reply Brief in opposition to Appellee's Brief alleging lack of standing in a breach of contract claim

- Amicus brief submitted by the National Association of Consumer Advocates ("NACA") in support of Appellants seeking reversal and/or vacatur of the District Court's ruling.

• **Vigil, et al. v. Take-Two Interactive Software, Inc.**, Case No. 1:15-cv-8211 (JGK) (S.D.N.Y.)

Notice of authority filed by Plaintiff about the *Spokeo* case in a claim brought under 740 Ill. Comp. Stat. 14/1 to 14/99

• **Villanueva v. Wells Fargo Bank, N.A.**, 2016 WL 5220065, 13CV5429 (CS)(LMS), 14CV648 (CS0(LMS) (S.D.N.Y. Aug 5, 2016)

- Second amended complaint in a case brought under N.Y. Real Prop. Acts. Law § 1921 and N.Y. Real Prop. Law § 275. The court granted leave to submit an amended complaint to meet the standards set out in *Spokeo*.

- Plaintiff's objection to the Report and Recommendation which finds that Plaintiff did not suffer an injury-in-fact, and therefore lacks Article III standing.

• **Whitaker v. Appriss, Inc.**, No. 3:13-cv-00826-RLM-CAN (N.D. Ind.)

Plaintiffs' opposition to Defendant's motion to dismiss in a case alleging violations of the Driver's Privacy Protection Act, 18 U.S.C. §§ 2721-22. Plaintiffs argue that they have suffered the type of harm specified by Congress and which the DPPA was enacted to prohibit and

remedy. They further argue that it is immaterial whether this harm is physical or monetary.

- ***Yershov v. Gannet Satellite Information Network Inc.***, Case No. 1:14-cv-13112 (D. Mass.)
- Plaintiff's response in opposition to Defendant's motion to dismiss a claim brought under the Video Privacy Protection Act, 18 U.S.C. § 2710. Plaintiff argues that Defendant misreads *Spokeo* and that Plaintiff suffered a concrete injury sufficient to satisfy Article III.
- ***Zink v. First Niagara Bank***, N.A., Case No. 13-CV-01076-RJA-JJM, (W.D.N.Y.)
Plaintiff submitted a memorandum of law in response to the court's order seeking the parties' respective positions on the impact of *Spokeo* on the court's subject matter jurisdiction. The claim arises under New York's Real Property Law, § 275(1), and Real Property Actions and Proceedings Law, § 1921(1), and was stayed pending *Spokeo*. Plaintiff argues that he suffered a concrete injury-in-fact.
- **SEE RELEVANT COURT DECISIONS >>>**