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WLF Urges Fourth Circuit To Properly Apply Supreme Court's Article III Standing Precedent

(*Alig v. Quicken Loans*)

“The Fourth Circuit cannot ignore Supreme Court precedent and allow plaintiffs who suffered no Article III injury to sue in federal court.”

—John Masslon, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) yesterday filed an *amicus curiae* brief urging the United States Court of Appeals for the Fourth Circuit to properly apply the Supreme Court's recent *TransUnion v. Ramirez* decision. The case returns to the Fourth Circuit after the Supreme Court granted certiorari, vacated the Fourth Circuit's prior decision, and remanded for further proceedings in light of *TransUnion*.

The appeal arises from Quicken Loans's pre-2009 practice of providing appraisal companies with the estimated home values of borrowers seeking to refinance their mortgages. Although they successfully refinanced their mortgages, the named plaintiffs alleged that this practice denied them an independent appraisal in violation of West Virginia's Consumer Credit and Protection Act. The District Court certified a class of almost 3,000 people, granted the class summary judgment, and awarded over \$10 million in damages.

The first time it decided this appeal, the Fourth Circuit said that there was a possibility that the absent class members suffered an Article III injury. That, it said, was sufficient for standing purposes. As WLF's brief shows, the Fourth Circuit's decision cannot be squared with the Supreme Court's recent decision in *TransUnion*. As the Supreme Court explained, all plaintiffs must suffer an actual, not hypothetical, Article III injury for district courts to have jurisdiction to certify a class. Absent such an injury-in-fact, district courts lack jurisdiction over the case.

WLF's brief also explains why granting summary judgment and class certification in the same order violated all parties' due-process rights. Federal Rule of Civil Procedure 23 was amended to eliminate one-way intervention. But granting summary judgment and class certification in the same order is a variation on one-way intervention. So for two reasons, the Fourth Circuit should reverse the District Court's class-certification order.

Celebrating its 45th year, WLF is America's premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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