

Job Applicant Who Filed 562 Applications Then Alleged FCRA Violations Denied Standing by Seventh Circuit

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We have another court decision relying on the Supreme Court's recent *Spokeo* decision that found a class action plaintiff did not meet the injury-in-fact requirement under Article III of the United States Constitution. In [Groshek v. Time Warner Cable, Inc.](#), the Seventh Circuit concluded that a plaintiff's claim of statutory violations under the Fair Credit Reporting Act ("FCRA") alone did not create an injury-in-fact sufficient to establish standing to sue.

Cory Groshek appeared to need a job. Over the course of a year and half, he submitted 562 job applications to a variety of employers including defendants Time Warner Cable and Great Lakes Higher Corporation. Each employment application included a disclosure and authorization form that the prospective employer may procure Groshek's consumer report. After Time Warner and Great Lakes obtained the reports, Groshek filed class action complaints alleging violations of the FCRA. Groshek did not allege that he never received disclosure informing him these prospective employers would obtain his credit report, nor did he allege that any information provided through the application process caused confusion, and also did not allege he was unaware that a consumer report would be procured. Rather, simply by virtue of these prospective employers obtaining his consumer report, Groshek claimed technical violations of 15 U.S.C. § 1681(b)(2)(A)(i)-(ii), which only permit prospective employers to obtain a consumer report if 1) a "clear and conspicuous disclosure" is first made on a "stand-alone form," and 2) the applicant authorizes the procurement in writing.

The Seventh Circuit affirmed dismissal of these class complaints for lack of standing, concluding that Groshek alleged a "statutory violation completely removed from any concrete harm or appreciable risk of harm." The court distinguished cases where plaintiffs had alleged an informational injury because Groshek conceded that he signed an authorization and did not allege receipt of extraneous information. Indeed, the court distinguished a recent Ninth Circuit decision, [Syed v. M-I, LLC](#), where the plaintiff had alleged that a defendant obtained a consumer report for employment purposes based on an illegal disclosure and authorization form because Groshek had not alleged any facts to suggest that he was confused by the disclosure form or would not have signed the form had the disclosure complied with FCRA.

On close scrutiny of Groshek’s allegations, the Seventh Circuit concluded that Groshek had not alleged facts demonstrating a real, concrete appreciable risk of harm and, as a result, lacked standing to pursue his claims.

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Topics

FCRA, Fair Credit Reporting Act