No. 21-428

In The
Supreme Court of the United States

ROCKET MORTGAGE, LLC, ET AL.,

Petitioners,

v.

PHILLIP ALIG, ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

BRIEF OF WASHINGTON LEGAL FOUNDATION AS *AMICUS CURIAE* SUPPORTING PETITIONERS

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November 12, 2021

QUESTIONS PRESENTED

1. Whether basing Article III standing to seek damages on a mere risk of harm conflicts with *TransUnion LLC v. Ramirez*.

2. Whether purchasers suffer an Article III injury if they received the benefits they bargained for.

3. Whether a district court can certify a class if the representatives and absent class members suffered no Article III injury.

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INTEREST OF *AMICUS CURIAE*[*]

Washington Legal Foundation is a nonprofit, public-interest law firm and policy center with supporters nationwide. WLF promotes free enterprise, individual rights, limited government, and the rule of law. It often appears as *amicus* urging strict adherence to rules barring federal-court adjudication of claims by those who lack Article III standing. *See*, *e.g.*, *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190 (2021); *Thole v. U.S. Bank N.A.*, 140 S. Ct. 1615 (2020). WLF also participates in litigation to advance its view that the Constitution's separation of powers bars any one branch from exercising powers rightfully reserved to another branch. *See, e.g.*, *Lucia v. SEC*, 138 S. Ct. 2044 (2018); *Util. Air Regul. Grp. v. EPA*, 573 U.S. 302 (2014).

INTRODUCTION

Over the past two years, this Court has reined in the lower courts' practice of adjudicating uninjured plaintiffs' claims. As the Court has properly held, these uninjured plaintiffs lack Article III standing to maintain suit in federal court. The Fourth Circuit, however, ignored the message. It conferred Article III standing on thousands of plaintiffs who suffered no concrete injury. That holding conflicts with this Court's *TransUnion* decision, among others.

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[*] No party's counsel authored any part of this brief. No person or entity, other than Washington Legal Foundation and its counsel, paid for the brief's preparation or submission. After timely notice, all parties consented to WLF's filing this brief.

The Fourth Circuit's decision also expands the legislative and judicial powers—at the expense of the executive power—by allowing the plaintiffs' bar to enforce statutes outside Article III's framework. Allowing private parties to bring federal lawsuits to vindicate harm to others violates the separation of powers central to our republican form of government.

This case is a good vehicle to answer the questions left unanswered in *TransUnion*. There, the Court considered several issues about class certification and Article III's injury-in-fact requirement. But the Court only addressed one of those issues, leaving the other questions unanswered. Now is the time to answer those questions. This Court should vindicate the separation of powers by granting review and rejecting the Fourth Circuit's attempt at unfettered federal jurisdiction.

But even if this Court doesn't grant full review, it should grant, vacate, and remand for the Fourth Circuit to consider *TransUnion*'s effect on this case. At a minimum, the Fourth Circuit should grapple with the standing principles *TransUnion* explains—principles that require reversal. Doing otherwise would deny Rocket Mortgage its right to have *TransUnion* govern this case.

STATEMENT

When applying for a mortgage or refinancing a loan, borrowers must complete a loan application. Companies use this information to decide whether borrowers are credit risks. To fulfill this purpose, borrowers agree that mortgage companies can share

application information with their servicers and agents.

Among the information borrowers must provide is their home's estimated value. But mortgage companies don't take these self-reported estimates as gospel. Rather, the companies use independent appraisers to determine the values. Before 2009, appraisal companies received borrowers' estimates. But then a standards amendment forced mortgage companies to withhold that information when borrowers refinance mortgages.

Respondents refinanced their mortgages with Quicken Loans in 2007 and 2008. Because this was before the 2009 standards change, the appraisal companies received their estimated house values. The four named plaintiffs successfully refinanced their mortgages and gave Quicken perfect reviews.

The two couples sued Quicken under West Virginia's Consumer Credit and Protection Act. They moved to certify a class of 2,769 West Virginians who refinanced their mortgages before 2009 and whose estimated house values were shared with appraisal companies. The District Court certified the class, granted Respondents summary judgment, and awarded more than $10 million in damages. *See* Pet. App. 76a-232a. A sharply divided Fourth Circuit panel affirmed. *See id.* at 1a-75a. Because the Fourth Circuit's decision skirted the Court's recent standing precedent, Rocket Mortgage seeks certiorari.

SUMMARY OF ARGUMENT

I.A. Named plaintiffs must have standing to sue on behalf of a class. If the class representatives suffered no Article III injury, federal courts lack subject-matter jurisdiction over the case. The four class representatives here suffered no Article III injury. They received exactly what they paid for and incurred no financial injury. The speculative injury that the Fourth Circuit relied on cannot sustain Article III standing.

B. Even if the named plaintiffs have Article III standing, the District Court still erred by certifying the class. For a federal court to certify a class, every member of the class—named and absent—must have Article III standing. Otherwise, a court would be exercising jurisdiction without a case or controversy between the uninjured class members and the defendants. The exercise of such jurisdiction defies this Court's well-settled precedent.

II.A. The principle of separation of powers is a central tenet of our constitutional republic. By ensuring any one branch does not have too much power, the Framers sought to prevent the accumulation of power that leads to tyranny. Article III, § 2 of the Constitution safeguards the separation of powers by extending the judicial power of the United States to only cases and controversies. An essential element of any case or controversy is standing. And a plaintiff must suffer a concrete, particularized injury to establish standing to sue in federal court.

B. The Framers limited the judiciary's power to cases and controversies because "neither department may invade the province of the other and neither may control, direct or restrain the action of the other." *Frothingham v. Mellon*, 262 U.S. 447, 488 (1923). The Fourth Circuit's holding is sharply at odds with this Court's historical understanding that federal courts may not entertain citizen suits to vindicate a generalized interest in the proper administration of the laws, even when the legislature has explicitly authorized such suits by statute.

III. Unless the lower courts adhere strictly to Article III's injury-in-fact requirement, private plaintiffs and the judiciary will enforce the laws—a role exclusively reserved to the Executive Branch. The Framers viewed it as the Executive's "most important constitutional duty[] to take Care that the Laws be faithfully executed." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 577 (1992*)* (quotation omitted). The only way to uphold core separation-of-powers principles is to grant review and reverse the Fourth Circuit's decision.

ARGUMENT

I. REVIEW IS NECESSARY BECAUSE THE FOURTH CIRCUIT'S DECISION CONFLICTS WITH *TRANSUNION*.

Federal courts' jurisdiction is limited to "'Cases' and 'Controversies.'" *California v. Texas*, 141 S. Ct. 2104, 2113 (2021) (quoting U.S. Const. art. III, § 2). For a case or controversy to exist, plaintiffs must have standing. *See Ariz. Christian Sch. Tuition Org. v. Winn*, 563 U.S. 125, 133 (2011) (citation omitted).

Plaintiffs bear the burden of establishing standing. *See FW/PBS, Inc. v. Dallas*, 493 U.S. 215, 231 (1990). Respondents did not satisfy that burden.

"[T]he irreducible constitutional minimum of standing consists of three elements." *Spokeo v. Robins*, 578 U.S. 330, 338 (2016) (citations omitted). A plaintiff must show "(i) that he suffered an injury in fact that is concrete, particularized, and actual or imminent; (ii) that the injury was likely caused by the defendant; and (iii) that the injury would likely be redressed by judicial relief." *TransUnion*, 141 S. Ct. at 2203 (citing *Lujan*, 504 U.S. at 560-61). Respondents failed to satisfy the first element because Quicken's actions harmed neither the named plaintiffs nor the absent class members.

A. Class Representatives Must Have Article III Standing To Certify A Class.

Even if some absent class members had standing, the District Court erred in certifying the class. The Court has explained that "standing is not dispensed in gross." *Lewis v. Casey*, 518 U.S. 343, 358 n.6 (1996). Rule 23 does not change that reality.

Federal courts can "provide relief to claimants, in individual or class actions," but only if those claimants "have suffered, or will imminently suffer, actual harm." *Lewis*, 518 U.S. at 349. "That a suit may be a class action," in other words, "adds nothing to the question of standing" under Article III. *Spokeo*, 578 U.S. at 338 n.6 (citing *Simon v. E. Ky. Welfare Rts. Org.*, 426 U.S. 26, 40 n.20 (1976)). At least one named plaintiff must have standing to assert every claim in

a class-action complaint—even if putative class members would have standing to sue. *E.g.*, *In re Equifax Inc. Customer Data Sec. Breach Litig.*, 999 F.3d 1247, 1263 n.10 (11th Cir. 2021).

No named plaintiff suffered an Article III injury here. First, both couples needed house appraisals only because they were seeking to refinance their mortgages. And they succeeded in that goal. After refinancing, both couples had lower payments and were satisfied with their experience. Second, the appraisers who appraised their homes testified that the estimated values were nonfactors in their appraisals. Third, both couples either sold or refinanced their homes soon after the Quicken refinancing. Where is the injury? None exists.

The Fourth Circuit twisted itself into a pretzel by holding that the couples did not receive "independent appraisals." Pet. App. 14a. But as described above, there is no evidence this is true. The couples offered no evidence to contradict the appraisers' testimony that the couples received independent appraisals. As the District Court granted summary judgment without an evidentiary hearing, it could not have made a credibility determination.

The best that the named plaintiffs could muster was evidence that the appraisals were too high. This, however, was insufficient to show an Article III injury. It may have sufficed to survive a motion to dismiss. But it could not prove standing at the summary-judgment stage.

The four named plaintiffs' failure to establish an Article III injury deprived the District Court of jurisdiction over the case. The Fourth Circuit compounded this error by affirming. The Court should not let this constitutionally defective exercise of jurisdiction stand.

B. Absent Class Members Must Have Article III Standing To Certify A Class.

Besides the named class members, all putative class members must have suffered an Article III injury. Because the "constitutional requirement of standing is equally applicable to class actions," "each [class] member must have standing." *Halvorson v. Auto-Owners Ins. Co.*, 718 F.3d 773, 778-79 (8th Cir. 2013) (citations omitted). In other words, "a named plaintiff cannot represent a class of persons who lack the ability to bring suit themselves." *In re Zurn Pex Plumbing Prod. Liab. Litig.*, 644 F.3d 604, 620 (8th Cir. 2011) (quotation omitted).

TransUnion highlights this requirement. There, the Court held that every member of a class must have standing to assert claims against a defendant. *See TransUnion*, 141 S. Ct. at 2203-07. *TransUnion* shows that, to sustain a class-certification order, all absent class members must have standing to maintain their claims. Although the Court held that over 1,800 absent class members had standing to assert one claim, it held that those same absent class members lacked standing to assert two other claims.

The Court distinguished between those whose credit reports were distributed to third parties and those whose credit reports were not. *TransUnion*, 141 S. Ct. at 2207-13. It analyzed standing for each subgroup; it did not paint with a broad brush.

This case is easier. Even if the Court believes that the two named couples suffered an injury-in-fact, there was no evidence that the absent class members suffered one. To show that the absent class members suffered an injury-in-fact, Respondents had to clear several hurdles.

First, they had to show that the appraisers themselves received the estimated home values. Yet they proved only that the appraisal companies got the estimated home values. Second, they had to show that the estimated home values affected the appraisals. Again, at most Respondents showed that there was a material issue of fact about whether appraisals for the named plaintiffs were affected by Quicken disclosing the estimated home values. There was not enough evidence about the absent class members to establish standing for final judgment. Third, Respondents had to show that any non-independent appraisal harmed the absent class members. There was zero evidence of such harm. It is insufficient to show that the absent class members might have received an appraisal that was anchored by the estimated home value. The absent class members only bore the appraisal costs because they were refinancing a mortgage. So they had to show that the refinancing was affected by the home value disclosures. Because the refinancings were not affected, Respondents could not meet that burden.

Respondents cleared no hurdle, much less all the hurdles. So rather than having to split the absent class members into different groups, the entire absent class lacks standing to assert any claims in the complaint. The District Court therefore lacked subject-matter jurisdiction to certify the class.

Permitting certification of a class including those who suffered no Article III injury raises the same separation-of-powers issues as allowing uninjured plaintiffs to sue individually on their own behalf. If anything, the concerns here are greater than when a single uninjured plaintiff sues in federal court. In those cases, the uninjured plaintiff decides what violations of law to vindicate. Here, however, the uninjured class members are not choosing to vindicate a right. Rather, Respondents and their counsel are purportedly vindicating interests for these uninjured individuals. This Court should reject this skirting of important separation-of-powers principles and grant review to ensure that federal courts stay in their lane.

II. REVIEW IS NECESSARY TO REAFFIRM THAT CORE SEPARATION-OF-POWERS PRINCIPLES REQUIRE THAT PLAINTIFFS HAVE AN INJURY-IN-FACT TO SUE IN FEDERAL COURT.

The Constitution extends the "judicial Power" of the United States to only "Cases" and "Controversies." U.S. Const. art. III, § 2. A plaintiff's standing to sue is a necessary element of a case or controversy. *Lujan*, 504 U.S. at 560. Standing includes a prerequisite that the plaintiff "suffered an injury in fact." *Spokeo*, 578 U.S. at 338 (citation omitted). Some in Congress have recently criticized

this requirement. *See, e.g.*, Louie Gohmert, Twitter (@replouiegohmert) (Jan. 1, 2021 11:29 p.m.), https://bit.ly/39SqoG3. But such criticism proves the point: Article III's standing requirements are necessary to maintain the separation of powers.

A. The Constitution Demands A Clear Separation Of Powers Among The Three Branches Of Government.

The Framers viewed tyranny as both the abuse of power and the accumulation of power. When discussing the separation of powers, James Madison stated, "[n]o political truth is certainly of greater intrinsic value, or is stamped with the authority of more enlightened patrons of liberty" than the separation of powers. *Dep't of Transp. v. Ass'n of Am. Railroads*, 575 U.S. 43, 74 (2015) (Thomas, J., concurring) (quoting *The Federalist* No. 47, 301 (C. Rossiter ed. 1961)). The Constitution thus "vest[s] the authority to exercise different aspects of the people's sovereign power in distinct entities." *Gundy v. United States*, 139 S. Ct. 2116, 2133 (2019) (Gorsuch, J., dissenting).

"To the [F]ramers," each branch's powers "had a distinct content." *Gundy*, 139 S. Ct. at 2133 (Gorsuch, J., dissenting). As this Court has recognized, the "principle of separation of powers was not simply an abstract generalization in the minds of the Framers: it was woven into the document that they drafted in Philadelphia in the summer of 1787." *INS v. Chadha*, 462 U.S. 919, 946 (1983) (quoting *Buckley v. Valeo*, 424 U.S. 1, 124 (1976) (*per curiam*)).

This focus on the separation of powers was not new. Montesquieu explained that, without the separation of powers, "there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner." Charles de Montesquieu, *Spirit of the Laws*, 113 (Lonang Institute ed., T. Nugent trans. 2005) (1748). "There is no liberty if the power of judging be not separated from the legislative and executive powers." *Id.* This is because citizens "would be exposed to arbitrary control; for the judge would then be the legislator. Were it joined to the executive power, the judge might behave with all the violence of the oppressor." *Id.*

The Framers adopted the Montesquieu model. The Constitution divides federal power among three branches—Legislative, Executive, and Judicial. Each may perform only specific duties. This distribution of power "is not merely a matter of convenience or of governmental mechanism." *O'Donoghue v. United States*, 289 U.S. 516, 530 (1933), *superseded on other grounds*, District of Columbia Court Reform and Criminal Procedure Act of 1970, Pub. L. No. 91-358, 84 Stat. 473. Rather, this Court has recognized that the "ultimate purpose" of the separation of powers is "to protect the liberty and security of the governed." *Metro. Wash. Airports Auth. v. Citizens for Abatement of Aircraft Noise, Inc.*, 501 U.S. 252, 272 (1991).

This structure "assure[s] full, vigorous, and open debate on the great issues affecting the people and [provides] avenues for the operation of checks on the exercise of governmental power." *Bowsher v. Synar*, 478 U.S. 714, 722 (1986). So "[w]hile the Constitution diffuses power * * * to secure liberty, it

also contemplates that practice will integrate the dispersed powers into a workable government." *Seila Law LLC v. Consumer Fin. Prot. Bureau*, 140 S. Ct. 2183, 2245 (2020) (Kagan, J., concurring and dissenting) (quoting *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635 (1952) (Jackson, J., concurring)).

Although "each branch has traditionally respected the prerogatives of the other two," this "Court has been sensitive to its responsibility to enforce the principle when necessary." *Metro. Wash. Airports Auth.*, 501 U.S. at 272. Unfortunately, this is another in a recent string of cases in which this Court's intervention is needed to protect the separation of powers.

B. Article III's Injury-In-Fact Requirement For Standing Is Grounded In Separation-Of-Powers Concerns.

To have standing, plaintiffs must seek redress for an "injury in fact." *Whitmore v. Arkansas*, 495 U.S. 149, 155 (1990). This bedrock requirement of Article III jurisdiction "cannot be removed." *Summers v. Earth Island Inst.*, 555 U.S. 488, 497 (2009).

The Constitution's strict limits on federal jurisdiction ensure that courts stay within their lanes. *See Ziglar v. Abbasi*, 137 S. Ct. 1843, 1857 (2017). Article III's standing requirements accomplish this goal by ensuring that only parties with a concrete injury can sue in federal court. Only those that are accountable to the people can enforce

statutory violations that result in no concrete injury to citizens.

In short, Article III's concrete injury-in-fact requirement is "a crucial and inseparable element" of separation-of-powers principles embedded in the Constitution. Antonin Scalia, *The Doctrine of Standing as an Essential Element of the Separation of Powers*, 17 Suffolk U. L. Rev. 881, 881 (1983). It is the injury-in-fact requirement that "makes possible the gradual clarification of the law through judicial application." *Allen v. Wright*, 468 U.S. 737, 752 (1984), *abrogated on other grounds, Lexmark Int'l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118 (2014); *see DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 340-41 (2006).

Failure to enforce Article III's core standing requirements leads to "an over-judicialization of the processes of self-governance." Scalia, 17 Suffolk U. L. Rev. at 881 (citing Donald Horowitz, *The Courts and Social Policy*, 4-5 (1977)). The Fourth Circuit's decision, however, severely erodes the Constitution's carefully balanced separation of powers by allowing uninjured plaintiffs to seek money damages in federal court. This Court should reject this undermining of separation-of-powers principles by granting review.

III. PERMITTING FEDERAL COURTS TO ADJUDICATE CLAIMS BY PLAINTIFFS WHO LACK A CONCRETE INJURY VIOLATES THE SEPARATION OF POWERS.

A. Any time one branch of government increases its power at the expense of another it violates the separation of powers. *See Clinton v.*

Jones, 520 U.S. 681, 701 (1997). The same is true when one branch undermines the constitutionally granted powers of another without expanding its own power. *See id.* Allowing federal-court adjudication of claims by uninjured class members, as the Fourth Circuit did, violates the separation of powers by enlarging judicial and legislative power at the expense of executive power.

A federal court's adjudication of claims absent an injury-in-fact violates fundamental separation-of-powers principles. "[I]f the judicial power extended * * * to every question under the laws * * * of the United States," then "[t]he division of power [among the three branches of government] could exist no longer, and the other departments would be swallowed up by the judiciary." 4 Papers of John Marshall 95 (C. Cullen ed. 1984); *see Ariz. Christian Sch. Tuition Org.*, 563 U.S. at 133.

Ultimately, the courts' seizure of power comes at the expense of the people and their elected representatives. By preventing an unelected judiciary from exercising executive or legislative powers—which are the exclusive province of the political branches—Article III's injury-in-fact requirement cabins the federal judiciary to its historical adjudicatory role.

By allowing the judiciary to decide only cases and controversies, "the Constitution restricts it to the traditional role of Anglo-American courts, which is to redress or prevent actual or imminently threatened injury to persons caused by private or official violation of the law." *Summers*, 555 U.S. at 492. The injury-in-fact requirement thus "ensures that the courts will

more properly remain concerned with tasks that are, in Madison's words, 'of a Judiciary nature.'" John G. Roberts, Jr., *Article III Limits on Statutory Standing*, 42 Duke L.J. 1219, 1232 (1993) (citation omitted).

The injury-in-fact requirement also ensures that cases will be resolved "not in the rarified atmosphere of a debating society" but with "a realistic appreciation of the consequences of judicial action." *Valley Forge Christian Coll. v. Ams. United for Separation of Church & State*, 454 U.S. 464, 472 (1982). The Fourth Circuit's rule, on the other hand, "create[s] the potential for abuse of the judicial process, distort[s] the role of the Judiciary in its relationship to the Executive and the Legislature, and open[s] the Judiciary to an arguable charge of providing 'government by injunction.'" *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208, 222 (1974) (citation omitted).

An injury-in-law is not an injury-in-fact. As the Fourth Circuit acknowledged, there is no proof that *any* of the class members were injured by Quicken's disclosures. Pet. App. 4a, 41a. Yet Respondents and the Fourth Circuit say that is fine because—in some alternative universe—they *might have* suffered an injury. This holding conflicts with well-settled precedent.

The alternative reality never materialized. In the real world, Respondents suffered no injury-in-fact. Any injury that those class members suffered is therefore "theoretical." *Lewis*, 518 U.S. at 351. And theoretical injuries are insufficient for Article III standing. *See id.* (citation omitted).

An Article III injury "must be likely, as opposed to merely speculative." *United States v. Windsor*, 570 U.S. 744, 757 (2013) (quotation omitted). The uninjured class members' purported injury is pure speculation because Quicken's disclosure of the estimated house values did not cause loan denials. No matter, Respondents contend, they suffered an injury because perhaps disclosure of the estimated house values caused some undefined economic injury. But that is just a dressed-up speculative injury.

B. For an alleged injury to satisfy Article III's injury-in-fact requirement, it also cannot be "based on third parties'" potential actions. *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 418 n.7 (2013) (citing *Laird v. Tatum*, 408 U.S. 1, 10-14 (1972)). As the District of Columbia Circuit has explained, courts "reject as overly speculative [an] assumption regarding the future behavior of third parties." *Turlock Irr. Dist. v. FERC*, 786 F.3d 18, 24 (D.C. Cir. 2015) (citation omitted). The flaw with Respondents' argument is even more glaring. Rather than rely on third-party behavior that may occur, their argument relies on third-party behavior that never occurred.

According to Respondents, the appraisers may have considered the estimated home values when doing the appraisals. But we know with certainty that never occurred for the named plaintiffs. *See* Joint Appendix at 347-48, 353-54, 358, *Alig v. Quicken Loans, LLC*, 990 F.3d 782 (4th Cir. 2021) (No. 19-1059). Similarly, no evidence suggests that absent class members' appraisers received, much less considered, the estimated values. So this is not a theoretical injury that might occur. Rather, it is a theoretical injury that never occurred.

By "ignoring the concrete injury requirement" the Fourth Circuit "discard[ed] a principle so fundamental to the separate and distinct constitutional role of the Third Branch—one of the essential elements that identifies those 'Cases' and 'Controversies' that are the province of the courts rather than of the political branches." *Lujan*, 504 U.S. at 576.

Even legislators cannot "erase Article III standing requirements by statutorily granting the right to sue to a plaintiff who would not otherwise have standing." *Raines v. Byrd*, 521 U.S. 811, 820 n.3 (1997) (citing *Gladstone Realtors v. Village of Bellwood*, 441 U.S. 91, 100 (1979)). But that is what the Fourth Circuit assumed here. By examining what injury a class member could have suffered in an alternative universe, it gave uninjured class members the ability to sue for CCPA violations. Courts lack this authority.

True, this case is a suit under West Virginia law—not federal law. But that is irrelevant to the standing inquiry. The class in *Frank v. Gaos*, 139 S. Ct. 1041 (2019), for example, asserted state-law claims. Still, the Court *sua sponte* considered whether they had standing to sue. It reiterated that "Article III standing requires a concrete injury even in the context of a statutory violation." *Id.* at 1045 (quotation omitted). So even when plaintiffs sue under state law, district courts lack subject-matter jurisdiction if the plaintiff did not suffer an Article III injury. Here, neither the named class members nor the absent class members suffered an Article III injury. Thus, the District Court lacked jurisdiction to hear the case and enter an eight-figure judgment.

* * *

The Fourth Circuit's decision cries out for review. It was issued before the Court's decision in *TransUnion* and conflicts with that binding precedent. So, at a minimum, the Court should grant, vacate, and remand for reconsideration after *TransUnion*. But this case also presents the chance to clarify Article III's requirements in the class-action context. The Court should seize the opportunity and grant the petition.

CONCLUSION

This Court should grant the petition.

Respectfully submitted,

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November 12, 2021