No. 24-933

In the
Supreme Court of the United States

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY and STATE FARM FIRE AND CASUALTY COMPANY,

Petitioners,

v.

FAYSAL A. JAMA, JAMES KELLEY, and ANYSA NGETHPHARAT,

Respondents.

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

BRIEF OF WASHINGTON LEGAL FOUNDATION AS AMICUS CURIAE SUPPORTING PETITIONERS

Cory L. Andrews
Saad Gul
Counsel of Record
WASHINGTON LEGAL FOUNDATION
2009 Massachusetts Ave. NW
Washington, DC 20036
(202) 588-0302
sgul@wlf.org

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QUESTIONS PRESENTED

1. Whether a Rule 23(b)(3) damages class can be certified based on an alleged violation of a statute, regulation, or contract, even if determining whether the violation resulted in any real-world harm to each class member would require highly individualized proceedings.

2. Whether a Rule 23(b)(3) damages class can be certified when some members of the proposed class lack any Article III injury.

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INTEREST OF AMICUS CURIAE*

Washington Legal Foundation (WLF) is a nonprofit public-interest law firm and policy center dedicated to defending free enterprise, individual rights, limited government, and the rule of law. WLF often appears as amicus curiae before this Court, advocating strict adherence to Article III's limits on federal judicial authority. *See*, *e.g.*, *Thole v. U.S. Bank N.A.*, 590 U.S. 538 (2020). WLF also participates in litigation to reinforce separation-of-powers principles, opposing the judicial usurpation of legislative or executive powers. *See*, *e.g.*, *Lucia v. SEC*, 585 U.S. 237 (2018).

INTRODUCTION

Just four years ago, this Court reaffirmed that Article III demands a concrete injury before the federal courts may act. *TransUnion LLC v. Ramirez*, 594 U.S. 413, 426 (2021). There, the Court warned against permitting federal jurisdiction where no real harm occurred, reaffirming that injury is not a formality but a foundational requirement. The Ninth Circuit ignored that command yet again here. It certified a class action composed of untold numbers of individuals who suffered no injury at all.

That decision is not a close call. It defies Article III. It misunderstands Rule 23. And it violates basic

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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. WLF timely notified all parties of its intent to file this brief.

principles of due process. The federal courts are not agencies of general oversight. They resolve actual disputes. They do not referee hypothetical adversaries. This Court should grant review to reaffirm the limits the Constitution imposes on judicial power. At the very least, the Court should grant, vacate, and remand after it decides *Laboratory Corp. of Am. Holdings v. Davis*, No. 24-304 (*Labcorp*).

STATEMENT

Standard auto insurance policies promise to compensate the owner of a totaled vehicle at its "actual cash value," defined as the fair market value immediately before the crash. To establish that sum, insurers weigh multiple metrics, including advertised prices of similar automobiles. Still, no two vehicles match perfectly, prompting nuanced adjustments for each car's specific attributes.

Plaintiffs allege that one such adjustment—the "negotiation adjustment"—violates a Washington regulation. But even assuming a violation, the adjustment would not adversely affect every insured. Some may have been fully compensated, having received the vehicle's fair market value. Others may have received more than their vehicle was worth. Proving actual harm would require an individualized analysis for each policyholder.

That presents a problem under Rule 23. Rather than litigating whether each insured was underpaid, plaintiffs seek to certify a class based solely on the alleged illegality of State Farm's practice. But certification under Rule 23(b)(3) requires more: Common issues must predominate, and class

treatment must be superior to other methods of resolution. The district court's treatment of these Rule 23 issues is troubling, creates a recognized circuit conflict, and warrants review (*see* Pet. 11-30).

The case presents serious Article III and separation-of-powers questions that this Court recently recognized in granting review in *Labcorp*. Above all, federal courts cannot sidestep the question of actual harm. By greenlighting certification without injury, the Ninth Circuit not only departs from its sister circuits but also contradicts this Court, imperils Article III, and paves the way for abusive awards. Review is warranted now—or, at minimum, this petition should be held for *Labcorp*.

SUMMARY OF ARGUMENT

The Constitution confines the judicial power to resolving real disputes between parties with concrete stakes in the outcome. That foundational limit—enshrined in Article III's case-or-controversy requirement—demands that every plaintiff, including every class member, demonstrates injury-in-fact. Without it, there is no standing. No standing, no jurisdiction. *See TransUnion*, 594 U.S. at 426; *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992).

Consistent with its practice, *see Labcorp*, the Ninth Circuit's decision here elides that constitutional constraint. It allows federal courts to entertain a class action where most claimants are uninjured. And it does so in context of a regulation that's under the responsibility of a state insurance commissioner. That approach is incompatible with this Court's precedents. It also invites grave

structural harms. When courts adjudicate abstract claims, they morph into regulators rather than neutral arbiters—assuming authority that belongs to the political branches.

That is precisely why Article III's injury requirement is not a technical detail. It is a structural guarantee. It protects the separation of powers by preventing courts from exercising executive power under the guise of adjudication. Permitting private plaintiffs to pursue damages without concrete harm impermissibly shifts prosecutorial power from the Executive Branch to the Judiciary. That shift undermines democratic accountability and judicial neutrality.

Nor can Rule 23 override constitutional limits. It is a procedural device, not a license to aggregate claims that do not meet core jurisdictional requirements. *See* 28 U.S.C. § 2072(b); Fed. R. Civ. P. 82. This Court has made clear that each class member must have Article III standing. *See TransUnion*, 594 U.S. at 431. A class that includes uninjured members cannot satisfy that rule.

That failure carries significant and immediate consequences. The circuits are openly divided. The Ninth Circuit's rule directly conflicts with decisions of the First, Second, Fifth, and D.C. Circuits, all which require common proof of injury for *all* class members. *See In re Asacol Antitrust Litig.*, 907 F.3d 42, 51–52 (1st Cir. 2018); *Denney v. Deutsche Bank AG*, 443 F.3d 253, 264 (2d Cir. 2006); *Sampson v. United Servs. Auto. Ass'n*, 83 F.4th 414, 422–23 (5th Cir. 2023); *In re Rail Freight Fuel Surcharge Antitrust Litig.*, 934 F.3d 619, 624–25 (D.C. Cir. 2019). This is not an

abstract conflict. It creates federal jurisdiction where none constitutionally exists. It imposes liability on those who caused no harm. And it renders the uniformity of federal law a dead letter.

The Constitution tasks federal courts with deciding real cases, not abstract disputes. The decision below crosses that line. It unsettles class-action law across the country. This Court should grant certiorari and reaffirm that Article III's injury-in-fact requirement applies in full measure to every member of a Rule 23(b)(3) damages class. The decision below ignores those limits. This Court should intervene and set things right.

ARGUMENT

I. REVIEW IS NEEDED TO CLARIFY THAT A RULE 23(B)(3) CERTIFIED CLASS CANNOT INCLUDE MEMBERS WHO SUFFERED NO INJURY.

No concrete harm, no standing. Article III limits federal courts to deciding "Cases" and "Controversies." U.S. Const. art. III, § 2. Courts enforce this limit by requiring standing. Every plaintiff, including every class member, must show an actual or imminent injury, fairly traceable to the defendant, and redressable by judicial relief. *Lujan*, 504 U.S. at 560. *Lujan* calls these elements the "irreducible constitutional minimum" of standing. *Id.*

Standing is no procedural formality. It ensures that courts resolve only real disputes—not theoretical debates—between genuinely adverse parties. As this Court put it, judges do not sit in "the rarefied atmosphere of a debating society," but decide actual

controversies with real-world stakes. *Valley Forge Christian Coll. v. Ams. United for Separation of Church & State, Inc.*, 454 U.S. 464, 472 (1982).

These principles govern class actions just as they govern individual suits. Every "class member must have Article III standing" to recover damages. *TransUnion*, 594 U.S. at 431. True to that command, *TransUnion* decertified a class dominated by uninjured plaintiffs: "No concrete harm, no standing." *Id.* at 442. Jurisdiction cannot be manufactured by aggregation. If a claim would fail standing alone, it must fail in a class.

Even so, courts have allowed the tide to pull them off course. They certify classes based on the standing of certain plaintiffs alone. They defer the question of absent class members. That misunderstands the nature of a Rule 23(b)(3) damages class. Because certification binds all members, each one must satisfy Article III. Anything less turns Article III courts into forums for policy, not judgment. *C.f. Simon v. E. Ky. Welfare Rts. Org.*, 426 U.S. 26, 37–38 (1976).

Yet that is the very line the Ninth Circuit chose to blur. It certified a class of insured drivers, many of whom suffered no injury or were fully compensated. But the appeals court treated standing as a procedural technicality. That was error. As *TransUnion* clarified, an injury-in-law is not automatically an injury-in-fact. 594 U.S. at 427–28. The injury-in-fact requirement is a constitutional necessity, not a dispensable detail.

The flaw in the Ninth Circuit's view of Article III's role at class certification is plain to see. Suppose a football player suffers an illegal hit. Other players on the same team may witness the foul—but they are not injured. They cannot claim damages. The same is true in class litigation. Uninjured parties cannot ride along on someone else's harm. Standing is not transferable. *Lewis v. Casey*, 518 U.S. 343, 358 n.6 (1996).

The separation-of-powers implications are serious. Delegating core functions to the politically unaccountable upends the delicate balance among the branches. Not even Congress may erase the Article III standing requirement. *Gladstone Realtors v. Village of Bellwood*, 441 U.S. 91, 100 (1979). Permitting uninjured plaintiffs to sue shifts enforcement power from the Executive Branch to the Judiciary. Courts risk becoming regulatory overseers rather than neutral arbiters. That is not their role. *Raines v. Byrd*, 521 U.S. 811, 820 n.3 (1997); *Spokeo, Inc. v. Robins*, 578 U.S. 330, 341 (2016).

Worse still, aggregation amplifies that error. Class certification brings pressure. It coerces settlement, even when claims lack merit. That structural leverage magnifies the constitutional drift at work here.

Article III's concrete-harm requirement is not negotiable. This Court should grant review and reaffirm that federal courts may not adjudicate claims brought by those who were not harmed—individually or in the aggregate.

II. REVIEW IS NEEDED TO SAFEGUARD RULE 23 AND FUNDAMENTAL FAIRNESS.

Even setting constitutional concerns aside, certifying a class that includes uninjured members violates both the text and purpose of Rule 23. Rule 23(b)(3) permits class treatment only when common issues predominate and class adjudication is superior to individual litigation. Including plaintiffs who suffered no harm undermines both conditions. It introduces fundamental differences among class members. And it turns common questions into individualized inquiries.

This approach also raises serious due process concerns. It risks binding uninjured individuals to judgments that do not affect them while forcing defendants to compensate those with no valid claims.

The problem does not stop there. Permitting recovery for uninjured plaintiffs runs afoul of the Rules Enabling Act. Rule 23 is a rule of procedure. It cannot be interpreted to enlarge substantive rights or expand jurisdiction. Yet that is precisely what the Ninth Circuit's decision allows—contrary to this Court's precedent and the constitutional limits it enforces.

A. This Court Should Stop Uninjured Class Members From Defeating Predominance And Undermining Class-Action Superiority.

Rule 23(b)(3) is not a blank check. It authorizes damages classes only when two conditions are met: Common questions must predominate, and the class

format must be superior to individual litigation. *Amchem Prods. v. Windsor*, 521 U.S. 591, 623–24 (1997). Certification is improper in the absence of either. When both fail—as they do with no-injury classes—certification becomes untenable.

Predominance requires more than a shared allegation. It requires a class so cohesive that the court can resolve the dispute across the board. *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). Cohesion breaks down when the class includes members who were never harmed. Instead of a common answer, the court must sort through individualized questions about who, if anyone, was injured, how, and by whom.

That's not theory—it's this case. Determining whether each insured received less than the fair market value of her vehicle demands detailed, case-specific evidence.

Courts across the country have recognized the same problem. *See Kohen v. Pac. Inv. Mgmt. Co.*, 571 F.3d 672, 677 (7th Cir. 2009). They rightly reject class certification where injury must be proven person by person. That level of individual scrutiny defeats predominance and collapses the case into a series of minitrials.

And where predominance fails, superiority falls with it. Trying claims that lack injury advances no public interest and wastes judicial resources. Rule 23 does not allow certification by convenience. The Constitution and the Rule alike demand more. So should this Court.

B. This Court Should Defend The Rules Enabling Act And Due Process.

Rule 23 is a rule of procedure. It is not a license for legal make-believe. It does not authorize courts to conjure liability where none exists. Certifying a class that includes uninjured plaintiffs violates the Rules Enabling Act and offends due process. *See* 28 U.S.C. § 2072(b). The Act forbids using procedural rules to enlarge substantive rights. Yet here, recovery is granted to those who suffered no injury at all—creating entitlements where none exist and denying defendants the right not to pay for unproven claims.

Due process is no more forgiving. It forbids courts from imposing judgment without real harm. A system that compels defendants to answer fictional grievances is not a system of justice—it is arbitrary power. *Wal-Mart* makes the point explicit: Every defendant is entitled to challenge each claim. 564 U.S. at 367.

And the problem cuts both ways. No plaintiff lacking a stake in the outcome could have been "represented." They are dragged along in litigation that means nothing to them, by representatives whose interests do not align with theirs. That is not adequate representation. It is misrepresentation.

The Ninth Circuit's decision pushes Rule 23 well beyond its textual limits. It transforms a procedural device into a tool of economic redistribution—a function courts were never meant to perform. Federal courts exist to resolve cases and

controversies, not to supervise compliance or reallocate losses in the absence of injury.

This Court should step in and say so plainly: Class actions require real claims, real harm, and real standing. Anything less is not adjudication—it is magical thinking.

CONCLUSION

This Court should grant review. Alternatively, this petition should be held pending decision in *Labcorp*.

Respectfully submitted,

Cory L. Andrews
Saad Gul
Counsel of Record
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2009 Massachusetts Ave. NW
Washington, DC 20036
(202) 588-0302
sgul@wlf.org

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