US 9th Circuit Court of Appeals Revives Fair Credit Reporting Act Lawsuit

August 15, 2017 - The 9th Circuit Court of Appeals has revived a lawsuit against Spokeo for violations of the Fair Credit Reporting Act. Spokeo functions as a data aggregator; buying data from various sources and then assembling it into consumer files that can be purchased by businesses and individuals alike. The plaintiff in the case - Thomas Robins - claimed that the company violated the FCRA by assembling and reselling a file on him that contained a wide variety of inaccurate information. Robins sued for $1,000 - the maximum amount available under the FCRA - but also tried to have the case turned into a class action suit which could potentially leave the company on the hook for billions of dollars.

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Last May, the Supreme Court reversed a prior 9th Circuit decision favoring Robins and sent the case back down to the appellate level. The justices asked the lower court to determine if Robins had actually been damaged by Spokeo's inaccurate reporting. The new decision says that he was.

Robins' Spokeo file said that he was over 50 years old, had children, was married, had an advanced degree and was employed. According to Robins, all of those things were inaccurate.

In the Supreme Court's review, justices stated that not all inaccuracies cause harm. But in the 9th Circuit's most recent review, Judge Diarmuid O'Scannlain wrote that it didn't take "much imagination" to see how someone could be hurt by an inaccurate consumer report. Spokeo sells their reports to prospective employers but also to individuals who want background checks done before they go on a date. Given the extent of inaccurate data that was apparently included in Robin's file, he could easily have had issues on both fronts.

O'Scannlain further wrote for the three judge panel that the errors claimed by Robins "do not strike us as the sort of mere technical violations which are too insignificant to present a sincere risk of harm to the real-world interests that Congress chose to protect with FCRA."

Should Robins win his case the decision is likely to be appealed to the Supreme Court once again. Spokeo is far from the only company selling consumer reports and a decision in Robins favor could potentially cost firms billions of dollars. That fact alone guarantees a fight.
byJim Malmberg
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