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The Impact of “Standing” Is Anything But Boring

Alan E Garfield



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The impact of “standing” is anything but boring



ALAN GARFIELD

The Constitution says that the Supreme Court and lower federal courts have the power to decide “cases” and “controversies.” The Supreme Court has said these words mean federal courts can hear only genuine disputes, and the Court has developed complex rules to ensure that this limitation is honored.

One of these rules requires plaintiffs to have “standing” to pursue a case. This means that the plaintiff must be the proper party to bring the lawsuit. Standing requires plaintiffs to claim that they have suffered a concrete injury, that the defendant caused the injury, and that a favorable court decision would remedy this injury.

The Supreme Court believes this rule promotes effective use of federal judicial power. The rule ensures that federal courts use their limited resources to resolve real disputes, not hypothetical ones. It also helps judges to make informed decisions because parties to genuinely adversarial disputes are likely to correct misinformation offered by the other party.

The rule also prevents courts from intruding on other branches of the federal government. One might think that federal courts should intervene whenever a federal law is not enforced, but the Constitution entrusts the President, not judges, with the responsibility to “take Care that the Laws be faithfully executed.” Judges should stay on the sidelines until a legal violation produces a concrete injury that a court can remedy.

The consequences of the standing doctrine are immense because a party that lacks standing will be denied the right to judicial relief. The doctrine’s sig-

nificance is well illustrated by a case being heard by the Supreme Court today.

The plaintiff, Thomas Robins, sued Spokeo, which operates a website that posts reports about individuals for employers, creditors, and others to consult. Robins claims that the report Spokeo produced about him was riddled with errors. It falsely stated that Robins had a graduate degree, was in his 50s, married, had children, and was currently employed. Even the supposed photograph of Robins was of someone else. The real, unemployed Robins feared that this false information was hampering his ability to find a job. He did not, however, allege any specific concrete injury.

Robins sued Spokeo for violating the federal Fair Credit Reporting Act (FCRA), which requires consumer reporting agencies to follow “reasonable procedures” to “assure maximum possible accuracy” of their reports about individuals. The Act allows victims of “willful” violations to recover statutorily set damages of up to \$1,000. Robins sued on his own behalf and also sought to bring a class action on behalf of millions of others whose rights have been similarly violated.

Spokeo says the lawsuit should be dismissed because Robins did not allege any concrete “real-world injury” that would give him standing to sue. Robins responds that he did not need to allege any real-world injury because Congress has the power, when it enacts a law like FCRA, to create new statutory rights and to provide that a violation of those rights is a sufficient injury for federal court standing.

The importance of this case can be seen from the many prominent organizations that have filed “amicus curiae” or “friend of the court” briefs in support of either Spokeo or Robins. Spokeo supporters include large Internet and media companies that fear becom-

ing targets of “opportunistic” multi-billion dollar class action lawsuits if plaintiffs can sue them based on bare statutory violations without having to allege real-world injuries.

Robins’ supporters include influential environmental and privacy groups. These groups say that violations of vital public interests, from polluting the environment to invading people’s privacy, frequently do not produce easily identifiable real-world injuries. If environmental and privacy interests are to be protected, these groups say, Congress must be able to create statutory rights to these interests and to authorize private parties to enforce these rights through federal court lawsuits.

As this debate suggests, the protection of substantive rights often depends upon the application of procedural rules. “Standing” may sound boring. Its impact is anything but.

Alan Garfield is a professor at Delaware Law School.

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