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Rocket Mortgage Appeal May Push Justices To Curb Classes

By **Matthew Berkowitz and Kelsey Williams** (July 1, 2025, 4:22 PM EDT)

Matthew Berkowitz

Kelsey Williams

On May 20, a purported class of borrowers **asked** the U.S. Supreme Court to take up an appeal to consider whether a class action may move forward when some of the proposed class members were not harmed or may not have been harmed by inaccurate home appraisals.

This petition for writ of certiorari follows the U.S. Court of Appeals for the Fourth Circuit's January ruling in Alig v. Rocket Mortgage LLC, in which the circuit court **reversed** the district court's decision that certified a class action. The Fourth Circuit ruled that all proposed class members must have suffered a concrete injury in order to have standing under Article III of the U.S. Constitution.

Should the Supreme Court grant the petition and affirm the Fourth Circuit's ruling, such a decision may limit potential sizes of class actions, which in turn, may have nationwide legal and economic impacts.

As for real-world implications, first, the prospect of fewer class actions or smaller class sizes may result in less class action filings. Second, and as a result, the limitation of potential class actions and class sizes may limit costs to both consumers and businesses.

For the legal implications, the Supreme Court has signaled that it may base a decision not on Article III standing and the need for concrete harm, but on Rule 23 of the Federal Rules of Civil Procedure, requiring that a class have "commonality" by having damages in common among them. Therefore, such a decision may further define commonality requirements under Rule 23.

In Alig, the plaintiffs filed a class action against Quicken Loans Inc., now Rocket Mortgage, in 2011, alleging that the appraisals for the refinancing of their homes were not independent because the defendants provided the homeowners' estimates of their homes' value to the appraisers.

Thus, the plaintiffs alleged that the appraisals that they paid for were not independent, and in fact were "worthless." The plaintiffs asserted that the estimate-sharing scheme contributed to the 2008 housing crisis by baselessly inflating home values.

On June 2, 2016, the U.S. District Court for the Northern District of West Virginia certified a class of "[a]ll West Virginia citizens who refinanced mortgage loans with Quicken, and for whom Quicken obtained appraisals through an appraisal request form that included an estimate of value of the subject property," which amounted to 2,769 loans.[1]

The court then granted summary judgment to the plaintiffs and class members and awarded them more than $10.6 million.

On the first appeal in 2021, the Fourth Circuit **affirmed** the district court's decision.[2]

In January 2022, the Supreme Court **reversed** and remanded "for further consideration in light of TransUnion LLC v. Ramirez."[3]

In TransUnion, the Supreme Court in 2021 **reiterated** its standing jurisprudence that "only those plaintiffs who have been concretely harmed by a defendant's statutory violation" have standing to sue in federal court and applied that principle to class actions, holding that "every class member must have Article III standing in order to recover individual damages."[4]

Despite the Supreme Court's instruction, the district court nonetheless reinstated the judgment, stating that "nothing in TransUnion" changed their decision.[5]

In the instant appeal and in reversing, the Fourth Circuit concluded that based on TransUnion, and although perhaps a statutory violation, the plaintiffs have not established that the class members have suffered a concrete harm as a result of the defendants providing the estimated values to the appraisers.

The court reasoned that "while the plaintiffs' and the district court's theory is that injury of class members was shown because they each paid a fee for an appraisal that was tainted by the borrowers' home-value estimates and therefore was worthless, there is no evidence that the class members' appraisals were in fact tainted, rendering them worthless."[6]

As such, the plaintiffs did not establish that all of the class members suffered actual harm.

As noted above, the plaintiffs then filed a petition for writ of certiorari to the Supreme Court on May 20, 2025. The question presented is as follows: "Whether a federal court may certify a class action pursuant to Federal Rule of Civil Procedure 23(b)(3) when some members of the proposed class lack any Article III injury."[7]

At the time of the petition, the Supreme Court was considering this question in Labcorp v. Davis. The plaintiffs requested that the court hold its petition pending its decision in Labcorp because the question presented, "at a minimum, substantially overlaps" between both cases.[8]

Substantively, the Alig plaintiffs argued in their petition that TransUnion did not impose any Article III requirement on class certification, but it held only that every class member must have Article III standing to recover individual damages.[9]

The plaintiffs contend that the Supreme Court declined to resolve the "distinct question of whether every class member must demonstrate standing before a court certifies a class."[10]

The plaintiffs argue that TransUnion did not change the long-standing rule that only the named plaintiff, as the party invoking federal jurisdiction, needs to show Article III standing in order to certify a class.

Finally, the plaintiffs noted that there is a significant dispute in Labcorp regarding "whether the pre-certification showing — assuming one exists — arises from Article III or from [Rule] 23(b)(3)'s predominance requirement."[11]

However, since the plaintiffs submitted the petition, the Supreme Court, in an 8-1 decision issued on June 5, **dismissed** the Labcorp petition after hearing oral arguments in April.

The justices orally expressed concern for the threshold issue of mootness at oral arguments, but they did not provide a reason for the dismissal of the case in their written dismissal. Justice Brett Kavanaugh, the lone dissenter, stated in his dissent that the majority dismissed the petition because they did not "want to tackle the threshold mootness question."[12]

Given that the overlapping question in Labcorp went unresolved, this potentially opens the door for the Supreme Court to make this landmark decision in Alig v. Rocket Mortgage.

Justice Kavanaugh indicated how he might resolve this issue in his Labcorp dissent. Justice Kavanaugh noted he would not base a decision on Article III standing.

Instead, he suggested that a court may not certify a class that includes both injured and uninjured members because Rule 23 of the Federal Rules of Civil Procedure requires that common questions

predominate, and when a class includes injured and uninjured members, common questions do not predominate.[13]

Justice Kavanaugh connected his decision to the real-world implications on businesses, and how companies pass on settlement costs to higher prices for consumers, lower salaries to workers, etc.

He concluded: "So overbroad and incorrectly certified classes can ultimately harm consumers, retirees, and workers, among others. Simply put, the consequences of overbroad and incorrectly certified damages class actions can be widespread and significant."[14]

If Justice Kavanaugh's dissent is any indication, the Supreme Court's decision — should it decide to hear Rocket Mortgage — may be based upon commonality under Rule 23 as opposed to standing under Article III.

If Rocket Mortgage is affirmed or the petition is rejected, the Fourth Circuit's decision to limit class actions to only those who have suffered a concrete injury may have significant effects.

Such a decision further supports the notion that plaintiffs may not maintain a class action where the class's alleged damages are based on barren statutory violations with speculative or even presumed harm. The plaintiff must show that the class members suffered actual harm.

As indicated by Justice Kavanaugh, such a limiting decision may have net positive effect on consumers and workers because of a potential reduction in litigation and settlement costs.

Furthermore, such a decision will not only provide businesses with yet another decision to defend against class actions, but it could significantly limit class sizes going forward, which in turn, could drive threats of in terrorem class actions down and lower the value of class action settlements.

Additionally, with the prospect of smaller class sizes and less recovery, plaintiffs counsel may be reluctant to take on certain so-called overbroad cases that were previously certified. Time will tell, but moving forward, we may see less class action filings.

Matthew D. Berkowitz is a partner and Kelsey B. Williams is an associate at Carr Maloney PC.

[1] Alig, et al. v. Quicken Loans, Inc., et al. , No. 5:12-CV-114, 2016 WL 10489897 at * 23 (N.D.W. Va. June 2, 2016).

[2] Alig, et al. v. Quicken Loans, Inc., et al., 990 F.3d 782 (4th Cir. 2021).

[3] Rocket Mortgage, LLC, et al. v. Alig, et al ., 142 S. Ct. 748 (2022).

[4] TransUnion LLC v. Ramirez [,]" 594 U.S. 413, 427, 431 (2021).

[5] Alig, et al. v. Quicken Loans, Inc., et al., No. 5:12-CV-114, 2022 WL 22906514 at *4 (N.D.W. Va. Nov. 28, 2022).

[6] Alig, et al. v. Rocket Mortgage, LLC, et al., 126 F.4th 965, 975 (4th Cir. 2025).

[7] Petition for a Writ of Certiorari ("Petition"), Dkt No. __, at i_(United States Supreme Court, May 20, 2025).

[8] Id. at 11.

[9] TransUnion, 549 U.S. at 431.

[10] Id. at 431 n.4.

[11] Petition, at 14.

[12] Laboratory Corp. of America Holdings v. Davis, et al. , 605 U.S. ___, No. 24-304, slip op. at 1 (2025) (Kavanaugh, J., dissenting).

[13] Id.

[14] Id. at 6.