

Supreme Court Considers Whether Federal Courts May Certify Class Actions When Some Proposed Class Members Are Uninjured

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On April 29, 2025, the Supreme Court heard [oral argument](#) in *Laboratory Corporation of America Holdings v. Davis* (*Labcorp v. Davis*) about whether federal courts may certify class action lawsuits seeking money damages when some members of the proposed class have not suffered an injury cognizable under [Article III](#) of the U.S. Constitution. This Legal Sidebar provides background on class action lawsuits and constitutional standing requirements under Article III, briefly discusses the arguments in *Labcorp v. Davis*, and identifies potential considerations for Congress.

Class Actions

[Class action lawsuits](#) aggregate the claims of numerous individuals or entities into a single proceeding in which named class representatives litigate on behalf of absent class members. Under [Rule 23 of the Federal Rules of Civil Procedure](#) (Rule 23), a lawsuit may not proceed on a class basis in federal court until the court “[certifies](#)” the lawsuit as a class action after conducting a “[rigorous analysis](#)” to determine whether the lawsuit satisfies certain certification requirements. In particular, the proposed class must satisfy four prerequisites listed in [Rule 23\(a\)](#), and the class also must fit within one of the types of class actions permitted under [Rule 23\(b\)](#).

Lawsuits seeking money damages under [Rule 23\(b\)\(3\)](#) are the most common type of class action. Plaintiffs seeking certification of money-damages classes not only must satisfy the prerequisites in Rule 23(a), but also must [establish](#) that “questions of law or fact common to class members predominate over any questions affecting only individual members,” and that proceeding as a class action “is superior to other available methods for fairly and efficiently adjudicating the controversy.” [Rule 23\(b\)\(3\)](#)’s “predominance” requirement generally focuses on whether the proposed class is “[sufficiently cohesive](#)” to ensure that litigating on a representative basis will be beneficial.

A court’s class certification decision often has a “[decisive effect](#)” on the litigation. By aggregating the claims of numerous individuals into a single lawsuit, granting certification of a class action sometimes can create [intense pressure](#) on a defendant to settle the case rather than risking massive liability.

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Alternatively, [denying](#) class certification can “sound[] the death knell of the litigation,” because it may be [uneconomical](#) for plaintiffs to bring their claims in individual lawsuits.

Constitutional Standing

[Article III](#) of the Constitution limits the federal judiciary to resolving “Cases” and “Controversies,” and the Supreme Court has held that a plaintiff therefore must have a “[personal stake](#)” in a case to sue in federal court. Demonstrating a sufficient personal stake—often called *Article III standing*—[requires](#) plaintiffs to establish, [among](#) other things, that they have “suffered an injury in fact that is concrete, particularized, and actual or imminent.”

Although lawsuits often assert claims under statutes that give private parties a cause of action to sue defendants who violate the statute, the Supreme Court has [held](#) that “Article III standing requires a concrete injury even in the context of a statutory violation.” [For example](#), the Fair Credit Reporting Act (FCRA) creates a [cause of action](#) for consumers to sue violators of the Act for [statutory damages](#) under certain circumstances. In *TransUnion v. Ramirez*, consumers brought a class action lawsuit alleging that TransUnion (a credit reporting company) violated the FCRA by [failing](#) to use reasonable procedures to assure the accuracy of the class members’ credit files, and by sending the class members correspondence about their credit files in an [improper format](#). The Court [determined](#) that a subset of the class members had suffered concrete “reputational harm” sufficient for Article III standing, because TransUnion had provided their misleading credit information to third-party businesses. For most of the class members, however, TransUnion maintained their credit files internally without providing the misleading information to third parties. The Court [concluded](#) that those class members had not established a concrete injury sufficient for Article III standing, even if TransUnion’s conduct violated the FCRA. The Court [similarly](#) ruled that the plaintiffs had not established that the alleged formatting violations caused class members a concrete injury, [apart](#) from a single plaintiff.

In determining that most of the class members in *TransUnion* lacked Article III standing, the Supreme Court [emphasized](#) that “an injury in law is not an injury in fact,” and that “[o]nly those plaintiffs who have been *concretely harmed* by a defendant’s statutory violation may sue that private defendant over that violation in federal court.” The court further [explained](#) that a central consideration in assessing whether a plaintiff has suffered a concrete injury is whether the alleged injury “has a ‘close relationship’ to a harm ‘traditionally’ recognized as providing a basis for a lawsuit in American courts.” [For instance](#), physical and monetary harms qualify as concrete injuries, and a variety of intangible harms may also qualify as concrete injuries, such as reputational harm and “harms specified by the Constitution itself.”

The Supreme Court has also [required](#) that “plaintiffs must demonstrate standing for each claim that they press and for each form of relief that they seek” and that in lawsuits with [multiple plaintiffs](#), “[a]t least one plaintiff must have standing to seek each form of relief requested in the complaint.” The Court has thus [determined](#) that Article III’s cases-and-controversies requirement was satisfied in lawsuits where multiple plaintiffs sought the same injunctive relief (i.e., a court order commanding a party to take or refrain from taking some action) and at least one of the plaintiffs satisfied Article III’s standing requirement.

Uninjured Class Members and Money Damages

While the Supreme Court has permitted multiple plaintiffs to sue for the same injunctive relief when at least one plaintiff had standing, the Court has required each plaintiff to have Article III standing in order to obtain an award of money damages. In *TransUnion v. Ramirez*, discussed above, the Court [held](#) that federal courts may not award money damages to class members who have not suffered an injury that satisfies Article III’s constitutional standing requirements. The Court [expressly declined](#), however, to

decide whether a court nonetheless may *certify* a lawsuit as a class action when some members of the proposed class did not suffer an Article III injury. The open question in the context of money-damages class actions that include class members who lack standing is thus not whether each class member eventually needs to establish an Article III injury in order to personally recover money damages—*TransUnion* held they must do so—but instead whether including uninjured class members in the putative class forecloses certifying the case as a class action at all.

Lower courts have taken differing approaches to certifying money-damages classes that include uninjured class members. A number of federal courts of appeals address the impact of uninjured class members as a [factor](#) in determining whether the case satisfies [Rule 23’s requirements](#)—such as whether issues common to the class will predominate over individualized questions about who suffered an Article III injury—rather than treating the presence of uninjured class members as a constitutional barrier to class certification. For instance, in cases where at least one named plaintiff had standing, [some](#) federal courts of appeals have held that a class may be certified under Rule 23(b)(3) even if it contains more than a de minimis number of uninjured class members.

The U.S. Court of Appeals for the Eighth Circuit has [adopted](#) a stricter rule, however, requiring that a Rule 23(b)(3) class may not be certified if it is not “defined in such a way that anyone within it would have standing.” In applying that rule, the Eighth Circuit appears to view Article III as an independent constitutional bar to certification of 23(b)(3) classes containing uninjured members.

Labcorp v. Davis

In *Labcorp v. Davis*, a group of legally blind plaintiffs sued Labcorp, a medical diagnostic and testing company, over its use of self-service kiosks at patient service centers. According to the plaintiffs, the kiosks illegally discriminated against blind patients who could not use the kiosks without assistance. The plaintiffs moved to certify a Rule 23(b)(3) class of blind individuals seeking statutory damages against Labcorp for violations of California’s Unruh Civil Rights Act. A federal district court certified the class action and issued a series of certification orders establishing a class definition. The U.S. Court of Appeals for the Ninth Circuit [affirmed](#) class certification.

On appeal to the Supreme Court, Labcorp (the petitioner) [argues](#) that the operative class definition includes a sizable number of class members who did not suffer an Article III injury, and that certifying the class violates both Article III’s standing requirement and Rule 23(b)(3)’s predominance requirement. The operative [class definition](#) includes “[a]ll legally blind individuals who visited a LabCorp patient service center with a ... kiosk in California ... and who, due to their disability, were unable to use the ... kiosk.” [According](#) to Labcorp, a significant number of blind individuals who visited patient service centers with kiosks were uninjured for purposes of Article III because they did not actually want to use a kiosk, and “a person merely *proximate* to an allegedly unlawful kiosk has not suffered any concrete injury.”

With respect to constitutional standing, Labcorp [argues](#) that Article III prohibits courts from exercising judicial power to “‘declare[] the rights of individuals’ who lack standing” at the class certification stage. In Labcorp’s view, a court exercises judicial power over unnamed class members when it certifies a class, insofar as certification “[joins](#) the unnamed class members as parties to the litigation” and gives the court “the power to ‘render dispositive judgments’ affecting the unnamed class members.” With respect to Rule 23(b)(3), Labcorp [argues](#) that classes defined to include uninjured members will require “individualized mini-trials” to determine which of them suffered an Article III injury, and that classes containing an “appreciable number” of uninjured members will invariably fail to satisfy the requirement that questions common to the class must predominate over individual issues.

The respondents counter that Article III is satisfied for purposes of certifying a Rule 23(b)(3) class so long as [one named plaintiff](#) has standing, and that absent class members need not demonstrate standing “[until](#)

the court acts on them as individuals,” such as when ordering individual relief. With respect to whether classes containing uninjured members fail Rule 23(b)(3)’s predominance requirement, the respondents [argue](#) that in some cases the presence of uninjured class members will overwhelm common issues and defeat predominance, but in other cases it will not. In the respondents’ view, predominance [requires](#) a “case-specific inquiry” into “whether there is an administratively feasible way to identify [uninjured members] before they receive relief.”

Apart from the arguments over uninjured class members, the respondents also assert that the Supreme Court [lacks jurisdiction](#) to render a decision on the operative class certification order. The respondents argue that Labcorp did not properly appeal from the operative class certification order, and that the Court therefore should dismiss the appeal as improvidently granted, without deciding whether class actions may include uninjured class members.

At [oral argument](#), the question of [whether the Supreme Court has jurisdiction](#) over the appeal consumed a substantial amount of the total time, and a number of Justices appeared [skeptical](#) of the Court’s jurisdiction. With respect to the issue of uninjured class members, several [Justices questioned](#) whether Article III is an independent bar at the certification stage, and some Justices expressed [skepticism](#) over Labcorp’s argument that the presence of an appreciable number of uninjured class members will necessarily defeat predominance. Some Justices also expressed [concern](#) about plaintiffs inflating classes with uninjured members in order to exert settlement pressure on defendants.

Considerations for Congress

Labcorp v. Davis implicates broader policy concerns about balancing the potential benefits of class action lawsuits against the risks they pose. Courts and commentators have recognized that the class action mechanism serves a number of beneficial purposes in the American civil justice system, and also that the class action mechanism is subject to abuse. Class actions may improve litigation [efficiency and economy](#), such as by avoiding the time and expense of litigating large numbers of duplicative individual lawsuits that share common legal or factual questions. The Supreme Court has also [emphasized](#) the importance of class actions in enabling groups of people to vindicate their rights when each person’s claim may be too small to justify the expense of an individual lawsuit. On the other hand, given the potentially massive liability defendants may face when numerous parties’ claims are aggregated in a single lawsuit, defendants may feel [compelled](#) to settle even weak class claims where plaintiffs have only a small chance of winning. Some courts have observed that the structure of class actions can also create [financial incentives](#) for lawyers representing a class to put their own interests ahead of class members, such as by negotiating settlements with defendants that prioritize obtaining attorney’s fees over maximizing relief for class members.

The parties’ arguments in *Labcorp* echo some of these policy concerns. The respondents [assert](#) that requiring plaintiffs to weed out uninjured class members at the class certification stage will make it difficult or impossible to certify classes in some cases given that the relevant facts may not be known at the early stages of the case. According to the respondents, this would not only harm plaintiffs, but [also](#) make it harder for defendants to use class action settlements as a “litigation closure mechanism” for resolving cases where “liability is widespread and virtually unavoidable.” Labcorp, in turn, [asserts](#) that “[a]llowing plaintiffs to lard up classes with the uninjured serves only to coerce settlements.”

While Congress [does not](#) have the power to change the constitutional standing requirements in Article III, it does have authority to change the [federal procedural rules](#) governing class actions in federal court if it disagrees with those rules or how the Supreme Court interprets them. The Rules Enabling Act (codified at [28 U.S.C. §§ 2071-2077](#)) authorizes the Supreme Court to create and amend federal procedural rules, such as Rule 23, and it also imposes congressional oversight on the rulemaking process. Congress also may enact legislation [directly governing](#) class actions in federal courts.

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