

Syllabus Reading List

Updates on the Role of Article III's Injury-in-Fact Requirement in Privacy Class Actions

Panelists: David Poell, Josef Ansorge

Date & Time: Friday, May 10, 2024: 10:10 AM-11:10 AM

Location: The George Washington University - University Student Center (3rd Floor)
800 21st St NW, Washington, DC 20052

1. Emily Bazelon, *How 'History and Tradition' Rulings Are Changing American Law*, N.Y. Times Mag. (Apr. 29, 2024), <https://www.nytimes.com/2024/04/29/magazine/history-tradition-law-conservative-judges.html>.
2. *Fontanez v. Wolverine World Wide, Inc.*, 647 F. Supp. 3d 1286 (M.D. Fla. Dec. 27, 2022) (finding no standing for alleged Florida Telephone Solicitation Act claim based on receipt of one unsolicited text message).
3. *Drazen v. GoDaddy.com, LLC*, 74 F.4th 1336 (11th Cir. 2023) (en banc) (holding that consumers who received a single unsolicited text message suffered concrete injury necessary for concrete injury), *overruling* 41 F.4th 1354 (11th Cir. 2022), and *abrogating* *Fontanez, supra*.
4. *Church v. Collection Bureau of the Hudson Valley, Inc.*, --- F. Supp. 3d ----, 2023 WL 8185669, **at *2-15** (D.N.J. Nov. 27, 2023) (finding no standing for alleged Fair Debt Collection Practices Act claim because there was no "traditional" tort sufficiently similar to the underlying statutory violation).
5. *Barclift v. Keystone Credit Servs., LLC*, 93 F.4th **136-48** (3d Cir. Feb. 16, 2024) (holding, as a matter of first impression, that the "kind of harm" test, as opposed to the "element-for-element" approach, is the proper framework for analyzing whether intangible harms suffice as a concrete injury for Art. III standing purposes).
 - *But see* 93 F.4th at **148-63** (Matey, J., concurring in part, dissenting in part, and dissenting in the judgment).
6. *Eletson Holdings, Inc. v. Levona Holdings Ltd.*, --- F. Supp. 3d ----, 2024 WL 1724592, **at *19-25** (S.D.N.Y. Apr. 19, 2024) (holding that alleged breach of contract, without actual harm, was sufficient for Art. III standing and noting Circuit split).
7. *James v. Walt Disney Co.*, --- F. Supp. 3d ----, 2023 WL 7392285, **at *3-7** (N.D. Cal. Nov. 8, 2023) (holding that website visitors had alleged enough facts to establish Art. III standing at the pleading stage).
8. *Deanda v. Becerra*, 96 F.4th 750, **754-60** (5th Cir. Mar. 12, 2024) (conducting full-scale *TransUnion* standing analysis to determine that aggrieved father had standing because his alleged injuries fell within an "enduring American tradition").