

Court of Appeals

STATE OF NEW YORK



SYLVESTER GREGG,

Plaintiff-Appellant,

against

SN SERVICING CORPORATION, SECURITY NATIONAL
MASTER HOLDING COMPANY, LLC,

Defendants-Respondents.

NOTICE OF MOTION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE

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Date Completed: December 16, 2025

**COURT OF APPEALS
OF THE STATE OF NEW YORK**

SYLVESTER GREGG

Plaintiff-Appellant,

v.

SN SERVICING CORPORATION,
SECURITY MASTER HOLDING
COMPANY, LLC

Defendant-Respondents.

Appellate Division No. 2024-01769
Queens County Index No. 707588/2023

**NOTICE OF MOTION FOR LEAVE TO APPEAR AS *AMICI CURIAE* IN
SUPPORT OF PLAINTIFF-APPELLANT GREGG'S MOTION FOR
LEAVE TO APPEAL**

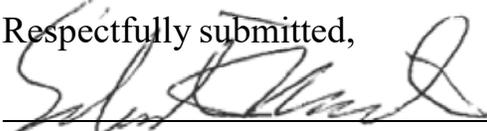
PLEASE TAKE NOTICE, that upon the annexed affirmation of Sebastian Riccardi, co-counsel for proposed *Amici Curiae*, dated December 15, 2025, the memorandum of law annexed as an exhibit thereto, and all prior papers and proceedings in this matter, the undersigned will move the Court of Appeals of the State of New York, at a term thereof, to be held at the Court of Appeals Hall, 20 Eagle Street, Albany, New York, 12207-1095 on December 24, 2025, or as soon thereafter as counsel may be heard, for an Order:

1. Granting leave for several consumer nonprofits, legal services organizations, and private law firms, identified in the annexed affirmation, to appear as *Amici Curiae* and to file the attached *amicus curiae* memorandum of law in support of Plaintiff- Appellant's motion for leave to appeal the Decision and Order of the Supreme Court, Appellate Division for the Second Department (Lasalle, P.J., Brathwaite Nelson, Dowling, and Ventura, JJ.), dated October 15, 2025, affirming the Decision & Order of the Supreme Court, Queens County (Caloras, J.) November 17, 2023, granting Defendant's motion pursuant to CPLR 3211(a) to dismiss the complaint, on the grounds that such Decisions and Orders incorrectly apply New York standing law, conflict directly with decisions from the Court of Appeals, and affect large public interest.

2. Granting such other and further relief as may be just and proper under the circumstances.

Dated: December 16, 2025
New York, NY

Respectfully submitted,



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**COURT OF APPEALS
FOR THE STATE OF NEW YORK**

SYLVESTER GREGG

Plaintiff-Appellant

v.

SN SERVICING CORPORATION,
SECURITY MASTER HOLDING
COMPANY, LLC

Defendants-Respondents.

Appellate Division No. 2024-01769

Queens County Index No. 707588/2023

**AFFIRMATION IN SUPPORT OF MOTION TO APPEAR AS *AMICI
CURIAE***

Sebastian Riccardi, an attorney duly admitted to practice before the courts of the State of New York, hereby affirms the truth of the following under the penalties of perjury:

1. I am an attorney duly admitted to practice law in the State of New York. I am a Staff Attorney with the Special Litigation Project of Mobilization for Justice.

2. I submit this Affirmation in Support of the Motion of *Amici Curiae*, several nonprofits, legal services organizations, and law firms, in support of Plaintiff-Appellant Sylvester Gregg's Motion for Leave to Appeal. The proposed *Amici*

Curiae are: Bromberg Law Office, P.C.; Build Up Justice NYC; CAMBA Legal Services, Inc.; Center for Elder Law and Justice; Dombrow Law Firm; Feerick Center for Social Justice – Fordham Law School; Hudson Consumer Law; Jones, Wolf & Kapasi, LLC; The Law Office of Ahmad Keshavarz; Legal Services NYC; Mobilization for Justice, Inc.; National Association of Consumer Advocates; National Center for Law and Economic Justice; New Economy Project; New York Legal Assistance Group (NYLAG); Public Good Law Center; and The St. Vincent De Paul Legal Program, Inc. (hereinafter “*Amici*”).

This case involves a lawsuit by Mr. Gregg under the Fair Debt Collections Practices Act (“FDCPA”) and General Business Law 349 seeking declaratory relief and damages because Defendants-Respondents attempted by means of a misleading and deceptive letter to collect a debt that Mr. Gregg had discharged in bankruptcy a decade earlier. The Supreme Court granted Defendants-Appellants’ motion to dismiss, finding that Mr. Gregg lacked standing to bring the case because he had not suffered an “injury-in-fact” because Mr. Gregg had not made any payments on the discharged debt due to the deceptive notice, and the Appellate Division, Second Department affirmed.

3. Those who seek to appear as *Amici Curiae* are organizations that share a mission of protecting the rights of consumers by providing legal services to financially distressed consumers in debt collection cases, by bringing consumer

protection lawsuits on behalf of New Yorkers, and by engaging in related legislative and educational advocacy.

4. *Amici* are well acquainted with the issues before the Court, including, how debt collectors operate in New York, the systemic problems consumers face in protecting their rights, the power and information imbalances between businesses and debt collectors and the vulnerable consumers that they take advantage of. *Amici* also have experience vindicating consumers' rights through affirmative litigation.

5. *Amici's* interest in this case stems directly from our concerns about the impact the decision has on the vulnerable consumers who are our clients. The Second Department's decision, if allowed to stand, will place an additional obstacle in the way of consumers vindicating their rights.

6. *Amici's* brief will show that the lower courts misapplied the legal standard to determine when a litigant has standing under a statute that provides a private right of action and will educate the Court about the consequences for New Yorkers of the Second Department's radical departure from this Court's statutory standing caselaw.

7. No party's counsel has contributed content to the proposed *amicus* brief or participated in its preparation in any other manner.

8. No party or counsel for any party contributed money that was intended to fund preparation of the proposed *amicus* brief.

9. No person or entity other than movants or movants' counsel have contributed money that was intended to fund preparation or submission of the proposed *amicus* brief.

10. For the reasons stated above, *Amici Curiae* respectfully request leave to file a brief as *Amici Curiae* and that the Court grant such other and further relief as the Court deems just and proper.

Date: December 15, 2025
New York, New York



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EXHIBIT A:

***Amici Curiae* Memorandum of Law in Support of
Defendant-Appellant Sylvester Gregg's Motion for Leave to Appeal**

Court of Appeals

STATE OF NEW YORK



SYLVESTER GREGG,

Plaintiff-Appellant,

against

SN SERVICING CORPORATION, SECURITY NATIONAL
MASTER HOLDING COMPANY, LLC,

Defendants-Respondents.

BRIEF FOR AMICI CURIAE
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Date Completed: December 16, 2025

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INTEREST OF AMICI

Those seeking to appear here as *amici curiae* are nonprofits, legal services organizations, and private law firms (“Consumer Advocate Amici”) who share a mission of protecting the rights of consumers and curbing unfair, deceptive, and abusive business practices by creditors and debt collectors. The Consumer Advocate Amici include: Bromberg Law Office, P.C.; Build Up Justice NYC; CAMBA Legal Services, Inc.; Center for Elder Law and Justice; Dombrow Law Firm; Feerick Center for Social Justice – Fordham Law School; Hudson Consumer Law; Jones, Wolf & Kapasi, LLC; The Law Office of Ahmad Keshavarz; The Legal Aid Society, Inc.; Legal Services NYC; Mobilization for Justice, Inc.; National Association of Consumer Advocates; National Center for Law and Economic Justice; New Economy Project; New York Legal Assistance Group (NYLAG); Public Good Law Center; and The St. Vincent De Paul Legal Program, Inc.

Many *amici* provide legal advice and representation to people with low incomes who are sued in consumer debt and foreclosure cases; many represent consumers as plaintiffs in affirmative cases challenging unlawful business practices; and some participate in policy and other advocacy efforts to protect and further consumers’ rights.

Many Consumer Advocate Amici have served as counsel or amicus, offering background and perspective to various courts in cases related to consumer protections, including: *Portfolio Recovery Assocs., LLC v. King*, 14 N.Y.3d 410 (2010); *Eric M. Berman, P.C. v. City of New York*, 770 F.3d 1002 (2d Cir.), *certified question accepted*, 24 N.Y.3d 1029 (2014), and *certified question answered*, 25 N.Y.3d 684 (2015); *Sykes v. Mel S. Harris & Assocs. LLC*, 780 F.3d 70 (2d Cir. 2015); *Arias v. Gutman, Mintz, Baker & Sonnenfeldt LLP*, 875 F.3d 128 (2d Cir. 2017); *Collazo v. Netherland Prop. Assets LLC*, 33 N.Y.3d 1111 (2019); *Esgro Cap. Mgmt., LLC v. Banks*, 222 A.D.3d 433, 201 N.Y.S.3d 33 (App. Div. 1st Dep't 2023); *Upsolve, Inc. James*, 155 F.4th 133 (2d Cir. 2025).

Consumer Advocate Amici respectfully provide this Court with information and analysis to inform the Court's assessment of the merits of granting Plaintiff-Appellant's motion for leave to appeal.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Court of Appeals Rule 500.1(f), Consumer Advocate Amici make the following disclosures. Bromberg Law Office, P.C., Build Up Justice NYC, Center for Elder Law and Justice, Dombrow Law Firm, Feerick Center for Social Justice – Fordham Law School, Hudson Consumer Law, Jones, Wolf & Kapasi, LLC, The Law Office of Ahmad Keshavarz, The Legal Aid Society, Mobilization for Justice, Inc., National Association of Consumer Advocates, National Center for Law and Economic Justice, New York Legal Assistance Group (NYLAG), and Public Good Law Center all state that they have no parents, affiliates, or subsidiaries.

CAMBA Legal Services, Inc., an organizational amicus curiae, states that it is a not-for-profit, non-stock corporation. It has no parent corporations, no publicly held corporations have ownership interests in it, and it has not issued shares.

CAMBA Legal Services, Inc. is related to CAMBA, Inc.; the organizations share board members. CAMBA, Inc. is a not-for-profit, non-stock corporation. It has no parent corporation, no publicly held corporations have ownership interests in it, and it has not issued shares.

Legal Services NYC states that it has no parents, and has the following affiliates: Bronx Legal Services, Brooklyn Legal Services, Queens Legal Services, Staten Island Legal Services, and Manhattan Legal Services.

New Economy Project states that it has no parents or affiliates, and that it has a wholly-owned subsidiary, New Economy Loan Fund, LLC.

The St. Vincent De Paul Legal Program, Inc., an organizational amicus curiae, states that is a nonprofit, non-stock corporation. It is a law firm through which St. John's University School of Law operates its in-house clinical legal education program, and has no parents, affiliates, or subsidiaries.

SUMMARY OF ARGUMENT

This case presents issues of importance with far-reaching consequences for access to justice beyond the Parties. Consumer Advocate Amici ask the Court to grant their motion to appear as *amici curiae* on Appellant's motion for permission to appeal and to grant Appellant's motion for leave to appeal.

In this brief, Consumer Advocate Amici identify arguments that might otherwise escape the Court's consideration and provide a perspective of how consumer protection laws protect vulnerable New Yorkers. Specifically, Consumer Advocate Amici discuss how the Second Department's decision conflicts with case law and will have far-reaching impact on consumers in New York State if left to stand, and how the Second Department's reasoning will harm consumers. Under this Court's well-established standing doctrine, Plaintiff-Appellant here has standing to bring his claims because the Fair Debt Collection Practices Act ("FDCPA") provides a private right of action to sue debt collectors who send

misleading debt collection notices. No further demonstration of “injury-in-fact” beyond the statutory violation is necessary. The Second Department’s new additional standing requirement for statutory claims contradicts the intent of Congress and the New York State Legislature in passing certain consumer protection statutes like the FDCPA. Allowing the Second Department’s decision to stand would invalidate the enforcement schemes developed by Congress and the Legislature, leaving New York consumers at the mercy of unscrupulous businesses that seek to take advantage of them.

BACKGROUND

The facts of this case involve collection efforts of a mortgage debt allegedly owed by Plaintiff-Appellant Sylvester Gregg. *See* Plaintiff-Appellant Motion for Leave to Appeal to the New York State Court of Appeals Brief (“Plaintiff-Appellant Brief”) at 2. In an attempt to collect on this debt, Defendant-Appellee SN Servicing sent letters to Mr. Gregg in 2020 claiming that he owed money. *Id.* at 6-7. The letters included disclosures and notices about statutes of limitations and debts discharged in bankruptcy. *Id.* Mr. Gregg’s alleged debt had in fact been discharged in bankruptcy in 2010. *Id.* at 5. Mr. Gregg brought a putative class action case against SN Servicing in federal court in 2021, which was dismissed in 2023 based on lack of Article III standing after the Supreme Court rendered its decision in *TransUnion v. Ramirez*, 594 U.S. 413 (2021). *Id.* at 7-8. Plaintiff-

Appellant refiled his class claims in Queens Supreme Court in 2023, and the Supreme Court dismissed the case on standing grounds, relying on *TransUnion*. *Id.* at 8. Plaintiff-Appellant appealed and the Appellate Division Second Judicial Department affirmed by Decision & Order dated October 15, 2025. *Id.* at 9. Plaintiff-Appellant timely filed his motion for leave to appeal. Attorney Affirmation in Support of Motion by Plaintiff-Appellant for Leave to Appeal.

The Second Department relied on *TransUnion LLC*, a decision rendered by a bitterly divided court, including a dissent by Justice Thomas,¹ that held that plaintiffs lack standing to bring a lawsuit in federal court for damages unless they have suffered an injury that is sufficiently “concrete,” notwithstanding that the statute in question in the case, the Fair Credit Reporting Act (“FCRA”), provided for a cause of action with statutory damages. 594 U.S. at 435.

The *TransUnion* decision has effectively erected a blockade at the courthouse door for consumers wishing to assert their rights under federal consumer protection statutes. *See generally* Travis C. Murphy, *Sitting This One Out: Standing Doctrine After TransUnion v. Ramirez*, 100 Denv. L. Rev. Forum 1 (2023). In response, many consumers have turned to state courts, where federal

¹ Indeed, while not necessary for determining this appeal, Consumer Advocate Amici submit that the four dissenters in *TransUnion* had far more persuasive interpretations of Article III’s “injury-in-fact” requirement than the majority opinion.

Article III standing is not a requirement to bring a lawsuit, to seek redress. *See Id.* at 36 (2023) (“After *TransUnion*, however, when the underlying injury is intangible and not similar to a traditional common-law action in American courts, state courts with sufficiently broad standing requirements are the only forums available to plaintiffs to vindicate their rights.”) Consumers, including Plaintiff-Appellant here, rely on New York State courts, which are courts of general jurisdiction, to vindicate their rights.

ARGUMENT

I. LEAVE TO APPEAL SHOULD BE GRANTED BECAUSE THE SECOND DEPARTMENT’S REQUIREMENT THAT PLAINTIFFS SEEKING TO ENFORCE CONSUMER PROTECTION STATUTES LACK STANDING UNLESS THEY HAVE SUFFERED A MONETARY LOSS CONFLICTS WITH DECISIONS OF THIS COURT AND RAISES ISSUES OF PUBLIC IMPORTANCE.

Under 22 N.Y. C.R.R. § 500.22(b)(4), leave to appeal should be granted when a decision “presents a conflict with prior decisions of this Court” or an appeal raises issues of “public importance.” The decision below is a radical change from New York State courts’ well-settled standing doctrine. It overrules longstanding precedent and frustrates the intention of Congress and the New York State Legislature to enact legislation with private rights of action that empower consumers. The Second Department’s holding that consumers cannot sue to enforce consumer protection statutes in New York State courts unless they can

demonstrate pecuniary harm, conflicts with numerous standing decisions of this Court and raises issues of public importance. For these reasons, this Court should grant Plaintiff-Appellants leave to appeal.

Under longstanding New York State law, where a statute provides a private cause of action, a plaintiff automatically has standing to bring the case and no further showing is required. *See Soc’y of Plastics Indus., Inc. v. Cnty. of Suffolk*, 77 N.Y.2d 761, 769, 573 N.E.2d 1034 (1991) (“The question of standing to challenge particular governmental action may, of course, be answered by the statute at issue, which may identify the class of persons entitled to seek review.”); *Harkenrider v. Hochul*, 38 N.Y.3d 494, 508, 197 N.E.3d 437, 444–45 (2022) (“Moreover, statutes may identify the class of persons entitled to challenge particular governmental action, relieving courts of the need to resolve the question under common-law principles.”).

Only where the statute under which the plaintiff sues lacks an explicit private right of action do common law standing doctrines, like the requirement for a plaintiff to prove an “injury-in-fact,” come into play. *Harkenrider*, 38 N.Y.3d at 508; *Soc’y of Plastics Indust.*, 77 N.Y.2d at 771; *see also Wein v. Comptroller*, 46 N.Y.2d 394, 399 (1979) (“In our view, now that the Legislature has spoken, the statute should be considered controlling where applicable. . . [i]n suits not covered

by the statute. . . the question of standing must be resolved by the courts under common-law principles.”).

Article III standing does not apply to New York State courts. *See Soc’y of Plastics Indust.*, 77 N.Y.2d at 772 (“The standing requirement in Federal actions has been grounded in the Federal constitutional requirement of a case or controversy, a requirement that has no analogue in the State Constitution.”) (internal citations omitted). Because New York State courts are not bound by a “case and controversy” analysis, state courts have no ground to second-guess the Legislature’s judgment when the Legislature enacts a statute with a private right of action and imposes additional standing requirements such as the requirement to demonstrate an injury-in-fact. *See Saratoga Cnty. Chamber of Com., Inc. v. Pataki*, 100 N.Y.2d 801, 813, 798 N.E.2d 1047, 1053 (2003) (“Unlike other plaintiffs, citizen-taxpayers need not demonstrate an injury-in-fact to acquire standing. Instead, pursuant to State Finance Law § 123–b (1), a citizen-taxpayer may bring suit to prevent the unlawful expenditure of state funds ‘whether or not such person is or may be affected or specially aggrieved’ by the challenged action.”).

Based on these standing principles, this Court has repeatedly held that plaintiffs have the right to bring suit despite not having suffered any injury-in-fact when there is legislation that gives the plaintiffs a cause of action. In *Harkenrider*, for example, this Court held that voters had standing to challenge gerrymandered

districts where they did not reside because section 4221 of New York's Unconsolidated Laws provides that any citizen may file suit to challenge electoral apportionment. 38 N.Y.3d at 508. Similarly, in cases involving violations of section 123-b of New York's Finance Law, which grants taxpayers the right to sue to prevent illegal expenditures by the government, this Court has held that plaintiffs are not required to demonstrate that they have suffered an injury-in-fact. *E.g. Saratoga Cnty. Chamber of Com.*, 100 N.Y.2d at 813; *Delgado v. State*, 39 N.Y.3d 242, 250, 206 N.E.3d 598, 605 (2022) (deciding lawsuit by taxpayers and assemblymember challenging pay increase for state legislature); *see also Godfrey v. Spano*, 13 N.Y.3d 358, 373 (2009) (deciding taxpayer lawsuit under Gen. Mun. L. § 51 challenging county executive's order to recognize public employees out of state same sex marriages).

Many consumer protection statutes include causes of action without imposing an injury requirement, including the FDCPA, which provides for a cause of action for consumers who receive a misleading debt collection notice without imposing any additional requirement that they have suffered a pecuniary injury as a result. *See Miller v. Wolpoff & Abramson, L.L.P.*, 321 F.3d 292, 307 (2d Cir. 2003). Here, Plaintiff-Appellant received debt collection letters that he alleged included confusing and misleading information about whether the debt was validly owed. Plaintiff-Appellant Brief at 6-7 (citing to Record). He did not claim to have

suffered any pecuniary harm. *Id.* Because the FDCPA includes a provision for bringing such a cause of action, Plaintiff-Appellant—similar to the taxpayers in *Saratoga Cnty. Chamber of Com.*, 100 N.Y.2d at 813—had statutory standing without the need to demonstrate injury-in-fact.

The decision below reverses the proper standing analysis to apply a prudential common law requirement to demonstrate an “injury-in-fact” with serious negative consequence. The decision, were it allowed to stand, would invalidate Congress’ and the State Legislature’s determination that individuals like the Plaintiff-Appellant and putative class members should be able to sue to enforce their rights under a consumer protection statute like the FDCPA. The Second Department’s holding that Plaintiff-Appellant lacked statutory standing because he had not demonstrated a pecuniary injury conflicts with this Court’s many statutory standing decisions, as discussed above. In fact, this Court has never invalidated a statutory grant of a cause of action based on the common law standing requirement to show an injury-in-fact as the court below did in this case.

II. REQUIRING PLAINTIFFS IN NEW YORK STATE COURT TO SATISFY *TRANSUNION*’S STANDING REQUIREMENTS WOULD IMPOSE SIGNIFICANT OBSTACLES ON NEW YORKERS VINDICATING THEIR RIGHTS UNDER FEDERAL AND STATE CONSUMER PROTECTION STATUTES.

Imposing the U.S. Supreme Court’s injury-in-fact requirement in *TransUnion* on plaintiffs in New York State courts would render many federal and

New York State consumer protection laws that protect consumers from abuse by market actors void. Many consumer protection statutes grant consumers specific rights—to accurate information, privacy, and fair procedures, for example—to ensure that they are not taken advantage of by unscrupulous lenders or merchants. These statutes often use disclosure or other procedural requirements to protect consumers. These laws also rely on a “private attorney general” model of enforcement, giving consumers a private right of action, armed with statutory damages, to ensure that entities comply with those statutory requirements. *See Jacobson v. Healthcare Fin. Servs., Inc.*, 516 F.3d 85, 91 (2d Cir. 2008) (noting how the FDCPA “enlists the efforts of sophisticated consumers. . . as ‘private attorneys general’ to aid their less sophisticated counterparts, who are unlikely themselves to bring suit under the Act, but who are assumed by the Act to benefit from the deterrent effect of civil actions brought by others”). These statutes include private rights of action and mandate the imposition of statutory damages without the need to demonstrate pecuniary harm. Because these laws do not require a monetary or pecuniary loss in addition to the violation of the statute, the imposition of such a requirement for standing purposes would render toothless many provisions of these statutes, contrary to their legislative purpose and intent.

Federal statutes like the Electronic Fund Transfer Act, the Telephone Consumer Protection Act, the FDCPA, the FCRA, and the Truth in Lending Act

(“TILA”) all fit this model, as do many New York State laws. Condoning the Appellate Division’s decision in this case to apply *TransUnion’s* injury-in-fact criterion will deny standing to consumers suing under those statutes and will undermine Congress’s and the New York State Legislature’s statutory enforcement schemes.

A. Notice and Disclosure Requirements Provide a Critical Function and a Strong Private Right of Action Serves to Empower New Yorkers and Deter Bad Behavior

Consumer protection statutes ensure a trustworthy marketplace, encourage fair competition, promote consumer confidence, and deter unfair, abusive, and deceptive practices, as illustrated by the following examples. To protect consumers from abusive debt collectors, Congress passed the FDCPA—the statute at issue in this case—which prohibits abusive and misleading debt collection practices. In addition to prohibiting debt collectors from collecting money that is not owed, the FDCPA prohibits a host of misleading and abusive practices to ensure that consumers are not harassed by debt collectors or misinformed about the nature and character of their debts. To provide these protections, the FDCPA requires debt collectors to make certain disclosures, and prohibits false or misleading communications or the use of threats to collect a debt. 15 U.S.C. § 1692e.

The FDCPA includes a private right of action and statutory damages of up to \$1,000. 15 U.S.C. § 1692k(a). A successful FDCPA action does not require that

the consumer actually be misled and pay a debt that they do not owe, and it does not require that the consumer suffer harm other than being subjected to a prohibited debt collection practice. *Miller*, 321 F.3d at 307. The imposition of *TransUnion*'s injury-in-fact requirement into New York State courts' analysis of claims would mean that New York consumers would have no forum in which to bring these claims.

Congress also enacted the federal the FCRA, the statute at issue in *TransUnion*, to ensure that that consumer credit reports are as accurate as possible. *See* 15 U.S.C. § 1681(a)(1) (setting forth Congressional finding that “inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence which is essential to the continued functioning of the banking system”). Congress determined that a credit reporting agency's failure to ensure that the information it keeps about a consumer is accurate pursuant to the FCRA's requirements damages the functioning of a fair and accurate credit reporting system. *Id.* To accomplish this goal, the FCRA requires, among other things, that credit reporting agencies to take steps to ensure that information appearing on credit reports is accurate, places restrictions on the use of consumer credit reports, and provides consumers with a right to receive certain disclosures. 15 U.S.C. §§ 1681e(b), 1681b, 1681g, and 1681i(a)(6). Under the FCRA, a harmed consumer is entitled to actual damages, statutory damages of

not less than \$100 and not more than \$1,000, as well as punitive damages and attorney's fees. 15 U.S.C. § 1681n(a). These requirements are not procedural or technical. Rather, inaccurate information and incomplete disclosures under FCRA harm consumers.

Similarly, the federal Truth in Lending Act (TILA), 15 U.S.C. §§ 1601-1693r, is primarily a disclosure statute. 15 U.S.C. § 1601(a) (“The purpose of this title [is] to assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to him and avoid the uninformed use of credit.”). TILA requires a variety of disclosures depending on the credit product, including credit card application, account opening, and monthly statements disclosures, as well as closed-end credit disclosures with finance charge-related boxes for auto loans and mortgages. *Id.* §§ 1632, 1638. TILA also provides for a private right of action with statutory damages. 15 U.S.C. § 1640(a). Consumers are significantly harmed whenever creditors omit, misstate, or make confusing or incomprehensible these required disclosures: consumers would not know the interest rate on their credit card or the payment amount for their mortgage. If plaintiffs bringing a disclosure claim in New York State under TILA had to show a monetary or pecuniary loss in connection with the statutory violation, TILA’s disclosure requirements would be rendered meaningless in New York. And even worse, if this Court were to let stand

the Second Department's ruling that sending a misleading communication does not satisfy standing in New York courts, debt collectors will be emboldened to ignore or misstate required disclosures to vulnerable consumers and will face no accountability.

Importing *TransUnion's* injury-in-fact requirement into New York State courts would deprive New York consumers of any forum to bring a broad swath of claims, and thereby help ensure that creditors, credit reporting agencies, and debt collectors follow the law. Indeed, a ruling that upholds the Second Department's decision will empower businesses to violate statutes that the legislative branch determined should be enacted to hold those very actors accountable.

B. New York State Consumer Protection Statutes Also Rely on Private Enforcement and Statutory Damages for their Enforcement

By enacting statutes whose primary enforcement measure is a private right of action with statutory damages, the New York State Legislature, like Congress, has sought to protect consumers from unscrupulous businesses that would seek to harass or take advantage of them. The Appellate Division's importation of *TransUnion's* injury-in-fact requirement would jeopardize the enforcement scheme for state consumer protection statutes that provide a private right of action for statutory damages without any additional showing of harm by the consumer. These statutes include everything from New York State's Fair Credit Reporting Act, N.Y.

Gen. Bus. L. § 380 et seq., to the regulation of the use of automatic dialing and announcing devices for telemarketing. N.Y. Gen Bus. L. § 399-p(9) (providing private right of action for injunctive relief and “actual damages or fifty dollars whichever is greater”).

The imposition of *TransUnion*’s injury-in-fact requirement will eviscerate state consumer protection statutes that couple private rights of action with statutory damages is not a hypothetical concern. Federal courts have already found that under *TransUnion*, certain state statutes may not be enforced in federal court. For example, the Second Circuit Court of Appeals held that under a *TransUnion* standing analysis, section 275 of New Yorks’ Real Property Law, which requires that banks file a satisfaction of mortgage or be liable to a borrower for \$50 for each month of delay, may not be enforced in federal court absent a showing that the borrower suffered an additional injury as a result of the violation. *Maddox v. Bank of New York Mellon Tr. Co., N.A.*, 19 F.4th 58, 65 (2d Cir. 2021). If the decision below is allowed to stand, these state laws would no longer even be enforceable in New York State Courts as the Legislature intended.

CONCLUSION

The Appellate Division’s ruling is at odds with this Court’s precedent, flies in the face of Congress’s and the New York Legislature’s intent, will unquestionably harm New Yorkers, and will have far-reaching and unintended

consequences, meriting review by the Court. This Court should therefore grant Consumer Advocate Amici's motion for leave to file the instant *amici curiae* brief, and should grant Plaintiff-Appellant's motion for leave to appeal.

Dated: New York, New York
December 16, 2025

Respectfully submitted,

By:  _____

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CERTIFICATE OF COMPLIANCE

I hereby certify pursuant to 22 NYCRR § 500.13(c) that the foregoing brief was prepared on a computer.

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Dated: December 16, 2025

Respectfully submitted,



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