

Case No. S297573

**IN THE SUPREME COURT
OF CALIFORNIA**

TERRY ASKINS,
on behalf of himself and all others similarly situated,
Plaintiff and Appellant,

v.

CRST EXPEDITED, INC.,
Defendant and Respondent.

ANSWER TO PETITION FOR REVIEW

After Decision by the First Appellate District, Division Three, Case No. A172921
San Mateo County Superior Court, Case No. 19CIV00644

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PRELIMINARY STATEMENT

Petitioner CRST Expedited, Inc. is correct that Court of Appeals’ decision below creates an express, irreconcilable conflict with *Limon v. Circle K Stores* (2022) 84 Cal.App.5th 671 (*Limon*) and *Muha v. Experian Information Solutions, Inc.* (2024) 106 Cal.App.5th 199 (*Muha*), as to whether a plaintiff bringing claims for statutory damages under the federal Fair Credit Reporting Act must demonstrate actual damages to have standing to bring those claims in California state court. The cases also conflict on the broader issue of whether California has a default rule that a plaintiff must show a concrete injury-in-fact to have standing to bring a claim. Respondent Terry Askins agrees with CRST that only this Court can resolve those conflicts and, for the reasons below, likewise urges this Court to grant review.

BACKGROUND

A. The Fair Credit Reporting Act

Congress enacted the federal Fair Credit Reporting Act (FCRA) in 1970 to regulate how consumer reporting agencies collect, use, and share information about individual consumers. Specifically, Congress found that there was “a need to insure that consumer reporting agencies exercise their grave responsibilities

with fairness, impartiality, and a respect for the consumer’s right to privacy.” (15 U.S.C. § 1681(a)(4).) Under the FCRA, reporting agencies are required to use “reasonable procedures” “in a manner which is fair and equitable to the consumer.” (15 U.S.C. § 1681(b).) In particular, reporting agencies must have procedures that aim to ensure “the confidentiality, accuracy, relevancy, and proper utilization” of consumer information. (*Ibid.*) As originally enacted, the statute only provided a right of action for consumers to recover actual damages. (*See Slip Op. at 7.*)

In 1996, the FCRA was substantially amended to rectify numerous deficiencies with the original legislation. Among other things, it sought to address the concern that employers were using consumer reports in ways that violated employees’ privacy rights. (*See Slip Op. at 6 [discussing 1996 amendments].*) To that end, the FCRA was amended to prohibit the use of consumer reports for employment purposes unless “(i) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment

purposes; and (ii) the consumer has authorized in writing . . . the procurement of the report.” (15 U.S.C. § 1681b(b)(2)(A).)

The 1996 amendments also expanded the remedies available to consumers suing for violations of the statute, including the addition of statutory damages. The amendment, entitled “Minimum Civil Liability for Willful Noncompliance,” provided that anyone “who willfully fails to comply with” the FCRA’s requirements “is liable to that consumer” for “any actual damages sustained by the consumer as a result of the failure or damages of not less than \$100 and not more than \$1,000.” (15 U.S.C. § 1681n(a)(1)(A); Omnibus Consolidated Appropriations Act, 1997, Pub. L. No. 104-208 § 2412(b) (Sept. 20, 1996) 110 Stat 3009.) Consumers suing for negligent violations remain limited to “actual damages.” (15 U.S.C. § 1681o(a)(1).)

B. Relevant Procedural History

CRST employed Plaintiff Terry Askins as a truck driver. (Slip Op. at 2-3.) Both as part of the application process for the position and during his time working for CRST, CRST obtained multiple background checks—which constitute consumer reports under the FCRA—about Mr. Askins. (Slip Op. at 2.) While CRST did give Mr. Askins forms related to obtaining background

checks, those documents did not exclusively relate to background checks. (*Ibid.*) As the First District below explained, “the disclosure forms he received were lengthy and confusing and contained extraneous information, and he was not aware that CRST would conduct a background check. As a result, he was not placed in a position to meaningfully understand, object to, or decline the background check, or to take steps to verify or correct any information that might be obtained through it.” (Slip Op. at 16.)

Mr. Askins brought a class action suit against CRST under § 1681n, alleging that its background check documents do not meet the FCRA’s notice and authorization requirements—including the requirements that the notice be clear and conspicuous and in a standalone document. For purposes of the appeal, CRST does not dispute that its background check disclosures do not comply with the FCRA. (*Ibid.*)

Mr. Askins moved for class certification of a class of all individuals about whom CRST obtained a consumer report for employment purposes, as well as a class of those within the first class who, like Mr. Askins, worked as drivers for CRST. (Slip Op. at 3.) He also sought to certify subclasses of (1) those for whom

CRST has no record that they authorized a background check, and (2) those for whom CRST has no record of providing the FCRA-mandated summary of rights. (*Ibid.*) The trial court eventually granted class certification. (*Ibid.*)

And then the Fifth District issued *Limon*, which held that a plaintiff must demonstrate a concrete injury to have standing in California court to sue for statutory damages under § 1681n, and that any informational injury suffered by the plaintiff as a result of not receiving the mandated disclosures in a standalone document was insufficient to meet that standard. (*Limon, supra*, 84 Cal.App.5th at 703-04.) CRST moved to decertify the class, contending that *Limon* meant that Mr. Askins lacked standing. The trial court granted the motion for decertification because it understood *Limon* to be binding authority. (Slip Op. at 4.)

Mr. Askins appealed the order decertifying the class to the First District, which reversed. As explained in more detail below, the appellate court expressly disagreed with *Limon*, holding that alleging a willful violation of the FCRA under § 1681n is sufficient for a plaintiff to have standing to bring that claim in California court. CRST has now sought review by this Court.

ARGUMENT

I. There Is an Irreconcilable Conflict as to the Requirements for Standing in California Courts.

The decision below is in direct conflict with *Limon*, *supra*, 84 Cal.App.5th 671 and *Muha*, *supra*, 106 Cal.App.5th 199, and that conflict warrants this Court's review. All three decisions asked and answered the same question: Does a plaintiff need to demonstrate actual damages to have standing to bring a claim under the FCRA in California state court? In *Limon*, the Fifth District (and the Fourth District in *Muha*, which followed *Limon* absent independent analysis) held that yes, even a plaintiff seeking statutory damages under the FCRA needs to show actual damages to have their claim considered in California courts. Below, the First District expressly broke with those decisions, holding that having one's FCRA rights violated was a sufficient injury in and of itself to proceed in California court. (Slip Op. at 14 ["The statutory violation itself supplies the concrete injury necessary to maintain the action."].)

In getting to those decisions, the courts of appeals approached the analysis in fundamentally different ways. *Limon* started from the premise that the default standing rule in

California is the “beneficial interest” test, which it equated with the Article III injury-in-fact requirement for standing in federal court—that is, that the plaintiff must have an interest that is “concrete and actual” beyond a violation of a legal right. (*Limon, supra*, 84 Cal.App.5th at 697-700.) It then went on to consider whether Congress, in enacting the FCRA, intended to displace that general rule and permit plaintiffs to bring claims absent a showing of concrete injury-in-fact. (*Limon, supra*, 84 Cal.App.5th at 700-03.)

The court of appeals here, however, started from the understanding that, in California, prudential standing considerations “generally require a plaintiff to have a personal interest to ensure that relevant facts and issues are adequately presented.” (Slip Op. at 5 [cleaned up].) Where the plaintiff is alleging a statutory violation, whether the plaintiff has a “personal interest” is governed entirely by the statute, and standing becomes “a matter of statutory interpretation.” (Slip Op. at 5 [quoting *Adolph v. Uber Technologies, Inc.* (2023) 14 Cal.5th 1104, 1120.]) Standing, it explained, “is determined by the language of the statute itself along with the underlying legislative intent and statutory purpose.” (Slip Op. at 5 [citing,

among other cases, *Kim v. Reins International California, Inc.* (2020) 9 Cal.5th 73, 83.]) (See also *Parsonage v. Wal-Mart Associates, Inc.* (2026) 118 Cal.App.5th 399, 423-25 (*Parsonage*) [explaining why *Limon* was wrong to hold the beneficial interest test is the general, default standing requirement in California].)

Those differing starting places colored the courts’ analyses of whether the FCRA requires a plaintiff to have actual damages to bring a claim: *Limon* thought it was necessary for the legislature to have intended to depart from the beneficial interest injury-in-fact requirement, whereas the First District here interpreted the intent of the statute on a clean slate. In other words, the courts used different standards to measure whether the statute allowed plaintiffs with statutory violations to seek statutory damages.

Unsurprisingly, then, *Limon* and the court below reached differing conclusions as to whether a plaintiff seeking statutory damages for willful violations of the FCRA needed to demonstrate actual damages or injury in addition to the inherent injury caused by the statutory violation itself. Recall that the statute provides that a “person who willfully fails to comply” with the statute’s requirements “with respect to any consumer is liable

to the consumer in an amount equal to the sum of—(1)(A) any actual damages sustained by the consumer as a result of the failure or damages of not less than \$100 and not more than \$1000[.]” (15 U.S.C. § 1681n(a)(1)(A).) There is no dispute that a plaintiff must have actual damages to sue for actual damages; the disagreement is over whether a plaintiff seeking the statutory remedy of between \$100 and \$1000 must also do so.

Limon found use of the word “damages” preceding “of not less than \$100 and not more than \$1000” to indicate Congress intended to require a plaintiff have actual damages to recover those statutory remedies. (*Limon, supra*, 84 Cal.App.5th at 700-03.) According to *Limon*, the use of “damages” necessarily connotes that any remedy is compensatory—that is, that it is intended to compensate for actual damages and not serve as punishment for a statutory violation untethered to measurable harm. (*Ibid.*) It contrasted Congress’s use of “damages” in § 1681n(a)(1)(A) with the use of “penalties” in the provision of the FCRA authorizing the Federal Trade Commission to “commence a civil action to recover a civil penalty” of up to “\$2,500 per violation.” (*Limon, supra*, 84 Cal.App.5th at 701; 15 U.S.C. § 1681s(a)(2)(A).) “Damages” and “penalty,” *Limon* reasoned,

have different meanings, with “damages” being compensatory and “penalty” serving as “punishment for wrongdoing.” (*Limon, supra*, 84 Cal.App.5th at 702.) Therefore, according to *Limon*, Congress did not displace the beneficial interest actual injury requirement, and unless a plaintiff has actual damages, they lack standing to bring a § 1681n FCRA claim in California court. (*Limon, supra*, 84 Cal.App.5th at 703.)

The First District below expressly disagreed, holding that, under the plain text of the statute, a plaintiff need not have actual damages to recover statutory damages for willful violations under § 1681n(a)(1)(A). (Slip Op. at 8.) The court noted that the text provides for *either* “actual damages” *or* damages between \$100 and \$1000; both the use of the disjunctive “or,” as well only using “actual” to modify “damages” in the first clause indicate that Congress intended “damages” to have different meanings in the two clauses. (Slip Op. at 8-10.) In other words, “damages” used without the modifier “actual” in the second clause must mean something other than “actual damages.” Further, “damages,” as Congress would have understood the word in 1996 when it amended the FCRA to provide for statutory damages, simply meant a violation of a legally protected right

such as a right created by statute—not necessarily an actual injury. (Slip. Op. at 9.) That understanding, the court explained, was confirmed by looking to the statute as a whole, which limits the remedies available for negligent violations to actual damages: “Congress’s decision to include statutory damages for willful violations while limiting negligent violations to actual damages demonstrates that proof of actual injury is not required under section 1681n.” (Slip Op. at 11.) The court was unpersuaded by *Limon*’s reliance on the distinction between “damages” and “penalties,” explaining that use of “penalties” in the provision allowing for federal agency enforcement reflects that the agency lacks any injury, not even a violation of its legal rights. (Slip Op. at 14.) Ultimately, because nothing in the statute required actual injury, the statutory violation alone is a concrete injury sufficient to confer standing in California. (Slip Op. at 12, 16.)

Thus, *Limon* and the First District’s decision below present a direct and irreconcilable conflict both as to the initial approach to the standing analysis and to the ultimate result. Only this Court can resolve this conflict by providing guidance as to the correct standing framework writ large and the

requirements to have standing bring a claim for a willful violation of the FCRA.

II. The First District Was Correct to Hold that Actual Damages Are Not Necessary to Bring FCRA Claims in California Court.

While Mr. Askins agrees with CRST that there is a division of authority on the question presented, he disagrees as to whether *Limon* or the court below got it right. In Mr. Askins's view, the First District's approach—to begin with the statutory text rather than the beneficial interest test—and conclusion—that the text of the FCRA does not require actual damages to recover statutory damages for willful violations—are mandated by this Court's caselaw and the text of the statute.¹

Mr. Askins is in good company. In *Parsonage*, a case not involving the FCRA, but involving a California statute also regulating background checks, the appellate court explained in detail why the beneficial interest test, and its concrete injury-in-fact standard, is not the default standing test in California, as

¹ To be clear, Mr. Askins also disagrees with CRST's position that the informational injury he suffered is not a concrete injury under California law. (*See* Pet. at 5.) Because no showing of injury beyond the statutory violation is required, this Court need not reach that dispute.

Limon held. (*Parsonage, supra*, 118 Cal.App. 5th at 423-25.) The beneficial interest test originates from a statute, Cal. Code Civ. Pro. § 1086, governing writs of mandate—a context in which the higher bar for injury matches the extraordinary remedy a writ provides. (*Parsonage, supra*, 118 Cal.App. 5th at 424.) There is no basis in either this Court’s caselaw or California legislation for applying the beneficial interest test outside the writ context, nor did any of the standing cases cited by *Limon* justify expanding its reach. (*Ibid.*) Thus, like the First District here, *Parsonage* held that where there is a non-writ statutory claim at issue, the beneficial interest test is entirely irrelevant. (*Ibid.*) Instead, because standing in California to bring a statutory claim depends purely on what claims the statute permits, the only standing question is one of ordinary statutory interpretation. (*Parsonage, supra*, 118 Cal.App. 5th at 411.)

And when it comes to that statutory interpretation, other courts (well, other than *Limon* and *Muha*) are aligned with the First District’s understanding of the FCRA that actual damages or injury are not required to have statutory standing to bring a claim for statutory damages under § 1681n. Indeed, “[e]very circuit to [interpret § 1681n(a)(1)(A)] agrees that ‘the plain

language of the provision permits recovery of statutory damages in the absence of actual damages.” (*Santos v. Healthcare Revenue Recovery Group, LLC* (11th Cir. 2024) 90 F.4th 1144, 115; *see also* Slip Op. at 11-12 [collecting cases].)

And the First District’s view that statutory damages, like those available for willful violations of the FCRA, are not necessarily designed to be compensatory is shared by other California courts of appeal. *Guracar v. Student Loan Solutions, LLC* (2025) 111 Cal.App.5th 330, 345, for example, likewise rejected the argument that statutory damages are exclusively meant to compensate plaintiffs with hard-to-measure actual damages—and not as a penalty regardless of actual damages—explaining that such an argument contains “an obvious flaw.” That’s because “in many instances, such as with exemplary or punitive damages, ‘statutory damages serve to motivate compliance with the law and punish wrongdoers.’” (*Ibid.* [quoting *Beeman v. Burling* (1990) 216 Cal.App.3d 1586, 1598].) (*See also Kashanian v. National Enterprise Systems, Inc.* (2025) 114 Cal.App.5th 1037, 1045 [interpreting a statute to permit the award of statutory damages “even in the absence of actual damage”].)

In short, though Mr. Askins concurs that there is an irreconcilable conflict between the decision below and *Limon* and *Muha*, CRST is wrong that *Limon* is the better-reasoned case. That's true for the reasons discussed here, the reasons cited by the First District below, and the arguments Mr. Askins would press in more detail if this Court grants review.

III. Review Is Warranted to Resolve this Clear Conflict.

As explained above, there is a conflict between *Limon*, *Muha*, and the decision below as to both the ultimate answer to the question whether actual damages are required for a plaintiff to have standing to bring an FCRA claim for statutory damages in California court and the method for deciding the question. That conflict should be resolved by this Court.

The divergent caselaw on what a plaintiff must be able to show to bring a FCRA claim has real impacts on consumers and employees, like Mr. Askins, whose statutory rights have been violated. Currently, even if a company *willfully* violates the FCRA, the consumers and employees who are victims of those statutory violations are out of luck if they can't demonstrate they suffered actual damages as a result of the violation and their

jurisdiction is governed by *Limon* or *Muha*. And consumers and employees may be unwilling to take the risk in jurisdictions that have yet to address the question. The result is that employers who obtain consumer reports have little incentive to comply with the statute's requirements, at least in places where there is little chance they will be held accountable. That result undermines the purpose of the FCRA to regulate consumer reporting and protect consumers. This Court should grant review to make clear that the statute is enforceable in every California court.

But even beyond the issues presented by the division of authority as to the FCRA specifically, granting review would also give this Court an opportunity to clarify the proper framework for considering standing for plaintiffs bringing claims under any statute. Specifically, is there any role for the beneficial interest test, as *Limon* held, or does a court, as the First District did here, look to the relevant statute on a clean slate to determine what a plaintiff must show to have standing? The answer to that question impacts every statutory claim brought in California courts and that, too, is a reason why this Court ought to grant review.

CONCLUSION

For these reasons, this Court should grant CRST's petition for review.

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CERTIFICATE OF COMPLIANCE

I certify that, pursuant to California Rule of Court 8.504(d)(1), the attached brief contains 3,160 words, not including the tables of contents and authorities, the caption page, signature blocks, the verification, or this certification page, as counted by the word processing program used to generate it.

August 19, 2026

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STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 years and not a party to this action. My business address is 420 N. Camden Drive, Suite 100, Beverly Hills, California 90210.

On **August 19, 2026**, I served true copies of the following document(s) described as: **ANSWER TO PETITION FOR REVIEW** on interested parties in this action to:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on August 19, 2026 at Beverly Hills, California.

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