

United States District Court  
Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ELIZABETH LARROQUE,  
Plaintiff,  
v.  
FIRST ADVANTAGE LNS SCREENING  
SOLUTIONS, INC.,  
Defendant.

Case No. [15-cv-04684-JSC](#)

**ORDER GRANTING MOTION TO  
STAY**

Re: Dkt. No. 8

In this putative class action, Defendant First Advantage LNS Screening Solutions, Inc. (“Defendant”) moves to stay the action pending the United States Supreme Court’s decision in *Spokeo, Inc. v. Robins*. (Dkt. No. 8.)<sup>1</sup> Upon consideration of the parties’ submissions, the Court concludes that oral argument is not necessary, see Civ. L.R. 7-1(b), and GRANTS Defendant’s motion to stay.

**BACKGROUND**

**A. Procedural History**

On August 11, 2015, Plaintiff filed the instant case in the San Mateo County Superior Court. (Dkt. No. 1-1 at 38, 31-37.) Defendant timely removed the action to this Court on October 9, 2015. (Dkt. No. 1.) In the complaint, Plaintiff alleges that Defendant furnished a consumer report regarding Plaintiff to Pacific Hotel Management, LLC (“Pacific”) without first having Pacific certify that it had complied with the disclosure and authorization requirements set forth in Section 1681b(b)(1) of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681. (Dkt. No. 1-1

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<sup>1</sup> Record citations are to material in the Electronic Case File (“ECF”); pinpoint citations are to the ECF-generated page numbers at the top of the documents.

1 at 33-35.) Plaintiff seeks to represent a class of all persons as to whom Defendant furnished  
2 consumer reports for employment purposes without first obtaining certification of the employer’s  
3 compliance with Section 1681b(b)(1). (Id. at 35.) She seeks only statutory and punitive damages.  
4 (Id. at 37.) Plaintiff does not allege that either she or any putative class member suffered actual  
5 harm or actual damages. (See generally id.)

6 **B. The Supreme Court’s Pending Spokeo Decision**

7 On April 27, 2015 the Supreme Court granted certiorari in *Spokeo, Inc. v. Robins*, No. 13-  
8 1339, 134 S. Ct. 1892 (Apr. 15, 2015). The question the Supreme Court will resolve in *Spokeo* is  
9 whether a statutory violation in the absence of concrete harm is enough to confer Article III  
10 standing upon a plaintiff. There is a circuit split on this issue, but the Ninth Circuit answered the  
11 question in the affirmative, holding that an individual has standing to sue a defendant for violation  
12 of the FCRA without alleging actual harm—that is, “violation of a statutory right is usually  
13 sufficient injury in fact to confer standing[.]” *Spokeo, Inc. v. Robins*, 742 F.3d 409, 412-13 (9th  
14 Cir. 2014). The Supreme Court held oral argument in *Spokeo* on November 2, 2015 and is  
15 expected to issue its opinion in 2016.

16 **DISCUSSION**

17 “[T]he power to stay proceedings is incidental to the power inherent in every court to  
18 control the disposition of the causes of action on its docket with economy of time and effort for  
19 itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). “A trial  
20 court may, with propriety, find it is efficient for its own docket and the fairest course for the  
21 parties to enter a stay of an action before it, pending resolution of independent proceedings which  
22 bear upon the case.” *Leyva v. Certified Grocers of Cal., Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979).  
23 In deciding whether to grant a stay, a court may weigh the following: (1) the possible damage  
24 which may result from the granting of a stay; (2) the hardship or inequity which a party may suffer  
25 in being required to go forward; (3) the orderly course of justice measured in terms of the  
26 simplifying or complicating of issues, proof, and questions of law which could be expected to  
27 result from a stay.” *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962) (internal quotation  
28 marks and citation omitted). However, “[o]nly in rare circumstances will a litigant in one case be

1 compelled to stand aside while a litigant in another settles the rule of law that will define the rights  
2 of both.” Landis, 299 U.S. at 255. A district court’s decision to grant or deny a Landis stay is a  
3 matter of discretion. See Dependable Highway Exp., Inc. v. Navigators Ins. Co., 498 F.3d 1059,  
4 1066 (9th Cir. 2007). The proponent of a stay has the burden of proving such a discretionary stay  
5 is justified. Clinton v. Jones, 520 U.S. 681, 708 (1997).

6 Defendant moves to stay the action pending the Supreme Court’s review of the Ninth  
7 Circuit’s decision in Spokeo. The Spokeo decision will directly impact whether, as a matter of  
8 law, Plaintiff has standing to bring this action. Under these circumstances, the Landis factors  
9 weigh strongly in favor of staying this action pending the Spokeo decision. In fact, Plaintiff’s  
10 counsel has brought the same Section 1681b(b)(1) claim on behalf of another individual against a  
11 different credit reporting agency on two other occasions, and those courts both stayed the litigation  
12 pending the Spokeo decision. See Stone v. Sterling Infosys., Inc., No. 2:15-cv-00711-MCE-DAD,  
13 2015 WL 4602968, at \*2-3 (E.D. Cal. July 29, 2015) (“Stone I”); see also Stone v. Sterling  
14 Infosys., Inc., No. 1:15-cv-007351-SJO-PJW (C.D. Cal. Oct. 21, 2015) (Dkt. No. 28 at 6) (“Stone  
15 II”). The same conclusion is appropriate here.

16 The possible prejudice to Plaintiff is minimal, as the Spokeo decision will likely be issued  
17 within the next six months per the Supreme Court’s customary practice. The prejudice to Plaintiff  
18 is particularly low where, as here, Plaintiff has not alleged that she or any members of the class  
19 suffered any actual harm. Moreover, this case is in its early stages, so there are no deadlines that  
20 will be affected by a stay. In contrast, Defendant will suffer significant hardship if the case is not  
21 stayed because it will be required to defend a large putative class action—engaging in expansive  
22 discovery and possibly class certification briefing—that may be rendered moot and unnecessary  
23 within in the next six months by the Spokeo decision. Judicial resources also may be  
24 unnecessarily expended reviewing the adequacy of the pleadings, resolving discovery disputes,  
25 and considering class certification in a case that the Court may not have subject matter jurisdiction  
26 to entertain. Because the Spokeo decision is squarely on point, the orderly course of justice  
27 likewise weighs in favor of a stay. Notably, Plaintiff does not dispute Defendant’s argument that  
28 the Landis favors support a stay.

