

RULING ON ANOTHER WEBSITE WIRETAPPING ACTION OFFERS PATHWAY FOR NATIONWIDE CLASS ACTIONS: 4 STEPS TO TAKE NOW

Insights
Jan 8, 2026

A California federal court recently allowed a Federal Wiretap Act case to proceed against Six Flags Entertainment Corporation, opening a potential avenue for a nationwide class action against the theme park. The court's December 15, 2025 decision to greenlight the case could provide plaintiffs' attorneys with a roadmap for filing such lawsuits, greatly expanding the threat of privacy litigation for businesses nationwide. While many similar privacy claims have been successful under state laws, the Federal Wiretap Act applies to businesses and users across the nation. With the threat of a potential nationwide class action now on the table, here is what you need to know to protect yourself from one of these privacy claims.

The Case at a Glance

The plaintiff claimed she visited a website owned and operated by Six Flags that allowed her to choose to browse without being tracked, followed, or targeted by third-party data brokers and advertisers. But, even after users elected to "deny non-essential" cookies, she claims Six Flags permitted third-party cookies to be placed on users' devices, which then tracked users' website browsing activities and eavesdropped on users' private communications with the website, according to the lawsuit. Specifically, the plaintiff alleges that third-party cookies intercepted personal information such as "search queries," "products searched for," "user interests," and "browsing habits."

Related People



Darcey M. Groden,
CIPP/US

Partner

858.597.9627



Usama Kahf, CIPP/US

Partner

949.798.2118

The court ruled that the allegations were sufficient to state claims alleging violations of the Federal Wiretap Act and the California Invasion of Privacy Act (CIPA) as well as common law claims for intrusion of seclusion, invasion of privacy, and unjust enrichment. In addition to privacy claims, the court ruled that the plaintiff had sufficiently pleaded fraud arising from the ineffective opt-out.

Why This Matters for Businesses

Because the Federal Wiretap Act is a federal law, it applies businesses and users in every state. The bottom line: business could face extremely costly *nationwide* class actions rather than just state class actions.

What You Can Do Next

1. Review What Data Your Website is Collecting: Some of the key allegations in the Six Flags suit involved tracking technologies intercepting search terms. If your website has a search bar function, be sure to audit whether the queries entered are being disclosed to third parties. More broadly, be sure to review all website tracking technologies in use, including cookies, pixels, chatbots, and similar tools, to understand all data they may be collecting – not just data from search bars.

2. Ensure Your Consent Management Platform Works as Advertised: Six Flags allegedly prompted users with the option to reject all “non-essential” cookies, despite not actually implementing the user’s preferences. Consider hiring an independent third party engaged through outside counsel (for attorney-client privilege purposes) to regularly test your cookie consent process – you can’t rely on your website operator or consent management platform alone.

3. Understand the Import of Your Tracking Technologies. Your business’s strategy on website tracking technologies is going to be led by the need for such technologies and your risk tolerance. Decisions to turn off such technologies altogether, sanitize data, or disclose data with appropriate permissions should be driven by considerations unique for your business.

4. Utilize Tools to Minimize the Ability of Litigants to Identify Visitors Based on The Data Collected. For example, URL sanitation technology removes potential identifiers like



David Shannon, CIPP/US

Associate

615.488.7401

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user IDs or website activity (via redirects) that may be included in a URL, before storing or transmitting URL data to third parties.

Conclusion

If you have any questions, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney on our [Privacy and Cyber team](#) or [Digital Wiretapping team](#). You can also visit [FP's US Consumer Privacy Hub](#) and our [Digital Wiretapping Litigation Map](#) for additional resources to help you navigate this area. Make sure you are subscribed to the [Fisher Phillips' Insight System](#) to receive the latest developments straight to your inbox.