

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Demetrius Smith, et al. v. Rack Room Shoes, Inc.

Smith v. Rack Room Shoes, Inc., No. 24-cv-06709-RFL (N.D. Cal. Jan. 23, 2026) · No. 24-cv-06709-RFL ·
Decided January 23, 2026

SUMMARY

The United States District Court for the Northern District of California partially granted and partially denied Rack Room Shoes, Inc.'s motion to dismiss claims arising from alleged third-party interception and use of consumers' electronic communications and personally identifiable information. The court allowed the plaintiffs' Electronic Communications Privacy Act, California Invasion of Privacy Act wiretap-use, and California Comprehensive Computer Data Access and Fraud Act claims to proceed, but dismissed the CIPA wiretap claim based on server-side technology for failure to adequately allege contemporaneous interception. The dismissal was without leave to amend, and a related motion to certify an earlier order for interlocutory appeal was denied as moot.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Rita F. Lin
JURISDICTION	United States District Court for the Northern District of California
DECIDED	January 23, 2026
DOCKET	24-cv-06709-RFL
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs brought a putative class action alleging that Rack Room Shoes permitted third parties to intercept personally identifiable communications without consent. On the defendant's motion to dismiss the Third Amended Complaint, the court dismissed the CIPA wiretap claim based on server-side technology and denied the motion in all other respects.
STANDARD OF REVIEW	On a motion to dismiss, the court applied the traditional pleading standard. Permitting an amended complaint requires a new determination on a subsequent motion to dismiss; the court may reconsider the issues without finding its prior decision clearly erroneous.

PRECEDENTIAL VALUE	Unknown; federal district court order
PARTIES	Demetrius Smith, et al. v. Rack Room Shoes, Inc.

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QUESTIONS PRESENTED

1. Whether the Wiretap Act claims were adequately pleaded despite plaintiffs' failure to identify the specific statutory subsection allegedly violated.
2. Whether the alleged intercepted information constituted content under the Wiretap Act.
3. Whether the Wiretap Act's party-to-the-communication exception was defeated by the statutory crime-or-tort exception.
4. Whether Rack Room could be liable under CDAFA through California Penal Code section 31.
5. Whether plaintiffs adequately pleaded a CIPA section 631 use claim.
6. Whether plaintiffs adequately pleaded a CIPA section 631 claim based on server-side tracking technology and interception of communications in transit.
7. Whether the case should be dismissed without leave to amend.

HOLDINGS

1. The Wiretap Act claim was adequately pleaded because the Third Amended Complaint provided sufficient notice of plaintiffs' legal theory and alleged Rack Room's active role in using computer code to intercept and use electronic communications.
2. Plaintiffs adequately alleged the interception of content and plausibly alleged that the content was incorporated into consumer profiles received and used by Rack Room.
3. Plaintiffs adequately alleged that the crime-or-tort exception applied to the party-to-the-communication exemption, and therefore stated a Wiretap Act claim.
4. Plaintiffs adequately pleaded their CDAFA claim, including a theory of secondary liability through California Penal Code section 31.
5. Plaintiffs adequately pleaded their CIPA section 631 use claim by alleging intercepted content and its subsequent use.
6. The server-side CIPA section 631 claim was inadequately pleaded because the Third Amended Complaint did not allege facts showing that the communications were read, attempted to be read, or learned in transit contemporaneously with their receipt.

7. The court declined to decide whether server-side routing occurring after a communication reaches its destination can violate CIPA section 631 when the technology permits real-time eavesdropping.

KEY QUOTATIONS

“permitting the filing of an amended complaint requires a new determination”

“This is sufficient at the pleading stage.”

FACTUAL BACKGROUND

Rack Room allegedly used client-side and server-side tracking technologies involving Meta, Attentive, Zeta, Salesforce, and other third parties to intercept consumers' electronic communications and personally identifiable information. The alleged communications included full-string URLs, button clicks, form-field entries, hashed email addresses, and universal user IDs linked to consumer profiles. Plaintiffs alleged that Rack Room used the intercepted content to guide advertising and marketing efforts. The Third Amended Complaint did not specify how soon server-side forwarding occurred or whether it was contemporaneous with receipt of the communications.

PROCEDURAL HISTORY

The court had previously ruled on two motions to dismiss and had found that several claims were adequately stated. Plaintiffs then filed a Third Amended Complaint. Rack Room moved to dismiss the previously asserted Wiretap Act and CDAFA claims and the CIPA wiretap use and server-side technology claims. The court granted dismissal of the server-side CIPA claim without leave to amend and denied the motion otherwise.

DISPOSITION

other

CASES CITED

- Askins v. U.S. Department of Homeland Security, 899 F.3d 1035, 1043 (9th Cir. 2018)
- Smith v. Rack Room Shoes, Inc., No. 24-cv-06709-RFL, 2025 WL 1085169, at *4-6 (N.D. Cal. Apr. 4, 2025)
- Smith v. Rack Room Shoes, Inc., No. 24-cv-06709-RFL, 2025 WL 2210002, at *4-5 (N.D. Cal. Aug. 4, 2025)
- Vera v. O'Keefe, 791 F. Supp. 2d 959, 963 (S.D. Cal. 2011)
- Doe v. Eating Recovery Center LLC, No. 23-cv-05561-VC, 2025 WL 2971090, at *5-6 & n.10 (N.D. Cal. Oct. 17, 2025)
- Konop v. Hawaiian Airlines, Inc., 302 F.3d 868, 874, 877-78 & n.6 (9th Cir. 2002)
- In re Facebook, Inc. Internet Tracking Litigation, 956 F.3d 589, 598, 607 (9th Cir. 2020)
- Ribas v. Clark, 696 P.2d 637, 639-41 (Cal. 1985)

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