

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Dawn Fregosa v. Mashable, Inc.

No. 25-cv-01094-CRB (N.D. Cal. Jan. 23, 2026) · No. 25-cv-01094-CRB · Decided January 23, 2026

SUMMARY

The United States District Court for the Northern District of California denied Mashable, Inc.’s motion to certify the court’s order denying dismissal for interlocutory appeal under 28 U.S.C. § 1292(b). The court found that, although the proposed appeal involved a controlling legal question and could materially advance the litigation, Mashable failed to show substantial grounds for a difference of opinion regarding whether the California Invasion of Privacy Act applies to the alleged use of website pen registers.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Charles R. Breyer
JURISDICTION	United States District Court for the Northern District of California
DECIDED	January 23, 2026
DOCKET	25-cv-01094-CRB
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved under 28 U.S.C. § 1292(b) to certify the court's order denying its motion to dismiss for interlocutory appeal and sought a stay of the proceedings.
STANDARD OF REVIEW	Certification under 28 U.S.C. § 1292(b) is discretionary, but the moving party must establish all three statutory requirements: a controlling question of law, substantial grounds for difference of opinion, and that an immediate appeal may materially advance termination of the litigation. The requirements are jurisdictional and the statute is construed narrowly.
PRECEDENTIAL VALUE	Unpublished federal district court order; persuasive value only.
PARTIES	Mashable, Inc. v. Dawn Fregosa

TOPICS

interlocutory appeal

appellate jurisdiction

final judgment rule

statutory interpretation

consumer protection

PRACTICE AREAS

civil procedure

appellate procedure

privacy law

consumer protection

QUESTIONS PRESENTED

1. Whether the court's order denying Mashable's motion to dismiss presented a controlling question of law, substantial grounds for difference of opinion, and an issue for which immediate appeal could materially advance termination of the litigation under 28 U.S.C. § 1292(b).
2. Whether the proceedings should be stayed pending the requested interlocutory appeal.

HOLDINGS

1. Certification was denied because Mashable failed to demonstrate substantial grounds for difference of opinion, even though the court agreed that the CIPA applicability question was controlling and that an immediate appeal could potentially resolve the litigation.
2. A stay was denied because the motion to certify for interlocutory appeal was denied.

KEY QUOTATIONS

“Section 1292(b) is a departure from the normal rule that only final judgments are appealable, and therefore must be construed narrowly.” (at 1)

“Mashable loses the Court on the requirement that there be substantial grounds for differences of opinion.” (at 2)

“mere disagreement with the Court’s conclusion is insufficient to show that there is a ‘substantial ground for difference of opinion.’” (at 2)

“novelty alone is insufficient” (at 2)

FACTUAL BACKGROUND

Fregosa alleged that Mashable violated the California Invasion of Privacy Act by embedding third-party trackers on its website. Her operative complaint characterized the software as pen registers and did not advance an alternative theory that the software constituted a trap-and-trace device. Mashable contended that CIPA's pen-register prohibition did not apply to the website software and argued that the issue warranted interlocutory review.

PROCEDURAL HISTORY

Fregosa brought a putative class action alleging that Mashable violated the California Invasion of Privacy Act by embedding third-party trackers on its website. Mashable moved to dismiss the Second Amended Complaint, but

the court denied that motion. Mashable then moved to certify the denial order for interlocutory appeal and to stay the proceedings; the court denied the motion.

DISPOSITION

other

CASES CITED

- Couch v. Telescope, Inc., 611 F.3d 629, 633 (9th Cir. 2010)
- In re Cement Antitrust Litigation, 673 F.2d 1020, 1026 (9th Cir. 1981)
- James v. Price Stern Sloan, Inc., 283 F.3d 1064, 1067 n.6 (9th Cir. 2002)
- Spread Your Wings, LLC v. AMZ Grp. LLC, No. 20-CV-03336-VKD, 2020 WL 7122513, at *2 (N.D. Cal. Dec. 4, 2020)
- Fandom, Inc., 754 F. Supp. 3d 924, 933 (N.D. Cal. 2024)
- Camplisson v. Adidas Am., Inc., 2025 WL 3228949, at *8 (S.D. Cal. Nov. 18, 2025)
- Shah v. Fandom, Inc., No. 24-CV-01062-RFL, 2024 WL 6903081, at *2 (N.D. Cal. Dec. 16, 2024)
- Reese v. BP Exploration (Alaska) Inc., 643 F.3d 681, 688 (9th Cir. 2011)
- Steshenko v. Gayrard, No. 13-CV-03400-LHK, 2014 WL 7204784, at *2 (N.D. Cal. Dec. 16, 2014)
- Lewis v. Magnite, Inc., 2025 WL 3687546, at *13 (C.D. Cal. Dec. 4, 2025)