

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Smith v. Rack Room Shoes, Inc.

No. 24-cv-06709-RFL · No. No. 24-cv-06709-RFL · Decided August 4, 2025

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 and denied its motion to strike. The court held that plaintiffs plausibly stated claims under the California Comprehensive Computer Data and Access Fraud Act and the federal Wiretap Act, but dismissed their California Unfair Competition Law and Consumers Legal Remedies Act claims without leave to amend. The court also granted plaintiffs' motion to extend the deadline to amend the pleadings.

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	August 4, 2025
DOCKET	No. 24-cv-06709-RFL
DISPOSITION	other
PROCEDURAL POSTURE	Putative class action plaintiffs filed a Second Amended Complaint alleging violations of the California Comprehensive Computer Data and Access Fraud Act, California consumer-protection statutes, and the federal Wiretap Act based on website tracking and disclosure of personally identifiable communications. Defendant moved to dismiss under Rule 12(b)(6) and to strike portions of the complaint.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, construes the complaint in the light most favorable to the nonmoving party, and asks whether the allegations plausibly show entitlement to relief. Allegations that merely recite the elements of a claim are insufficient.
PRECEDENTIAL VALUE	unpublished district court opinion
PARTIES	Demetrius Smith, et al. v. Rack Room Shoes, Inc.

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Second Amended Complaint plausibly alleged compensable damage or loss under CDAFA through a theory that Rack Room and third parties unjustly profited from plaintiffs' personal information.
2. Whether plaintiffs adequately alleged injury in fact and loss of money or property under the UCL and a tangible increased cost or burden under the CLRA.
3. Whether plaintiffs plausibly alleged that Rack Room intentionally used intercepted communications and that the Wiretap Act's crime-tort exception defeated the party exception.
4. Whether allegations concerning additional third-party trackers and the proposed nationwide Wiretap Act class should be stricken under Rule 12(f).

HOLDINGS

1. Plaintiffs plausibly alleged compensable damage or loss under CDAFA by alleging that Rack Room and third parties unjustly profited from plaintiffs' personally identifiable information and online activity, including through targeted advertising.
2. Plaintiffs failed to state UCL and CLRA claims because generalized allegations concerning the value of web-browsing data and unjust enrichment did not establish UCL loss of money or property or the CLRA's required tangible increased cost or burden.
3. Plaintiffs plausibly alleged that Rack Room intentionally used intercepted communications and that the Wiretap Act's crime-tort exception applied because Rack Room allegedly had an independent tortious purpose beyond interception itself.
4. The motion to strike was denied because the challenged allegations concerning third-party trackers could bear on plaintiffs' claims and Rack Room's intent, and the proposed nationwide class challenge was premature before class certification.

KEY QUOTATIONS

"Plaintiffs are damaged by not having received a share of the allegedly unjust profits generated from their data." (IV.A)

"Thus, at the time of the interception, a defendant must have had an independent prohibited purpose beyond the act of interception itself for the crime-tort exception to apply." (IV.C)

"For the reasons discussed above, Rack Room's motion to dismiss (Dkt. No. 59) is DENIED as to Plaintiffs' CDAFA and Wiretap Act claims, and GRANTED WITHOUT LEAVE TO AMEND as to Plaintiffs' UCL and

FACTUAL BACKGROUND

Rack Room allegedly embedded Meta Pixel, Attentive Tag, and other third-party tracking code in its website. The code allegedly transmitted URLs, browsing and purchasing information, hashed identifying information, Facebook IDs, and unencrypted contact information to third parties, which allegedly used the information for Rack Room's services and their own commercial purposes. Plaintiffs alleged that Rack Room customized and deployed the code, received consumer profiles incorporating the intercepted information, and used those profiles for targeted advertising contrary to its privacy-policy commitments.

PROCEDURAL HISTORY

The court previously dismissed or denied portions of plaintiffs' original complaint, granting leave to amend the CDAFA, UCL, CLRA, and Wiretap Act claims. Plaintiffs filed a Second Amended Complaint adding allegations concerning injury, the financial value of browsing data, and Rack Room's role in deploying and using third-party tracking code. The court denied dismissal of the CDAFA and Wiretap Act claims, dismissed the UCL and CLRA claims without leave to amend, denied the motion to strike, denied the request for judicial notice as moot, and granted plaintiffs' motion to extend the pleading-amendment deadline.

DISPOSITION

other

CASES CITED

- Smith v. Rack Room Shoes, Inc., 2025 WL 1085169, at *1-*7 (N.D. Cal. Apr. 4, 2025)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 556 (2007)
- Levitt v. Yelp! Inc., 765 F.3d 1123, 1135 (9th Cir. 2014)
- Manzarek v. St. Paul Fire & Marine Ins. Co., 519 F.3d 1025, 1031 (9th Cir. 2008)
- Eclectic Props. E., LLC v. Marcus & Millichap Co., 751 F.3d 990, 996 (9th Cir. 2014)
- In re Facebook, Inc. Internet Tracking Litig., 956 F.3d 589, 600-601, 607 (9th Cir. 2020)
- Rodriguez v. Google LLC, 772 F. Supp. 3d 1093, 1109 (N.D. Cal. 2025)
- Meyer v. Sprint Spectrum L.P., 200 P.3d 295, 301 (Cal. 2009)
- Rojas v. Bosch Solar Energy Corp., 386 F. Supp. 3d 1116, 1130 (N.D. Cal. 2019)
- Lau v. Gen Digital Inc., No. 22-cv-08981-RFL, 2024 WL 1880161, at *4 (N.D. Cal. Apr. 3, 2024)
- Hazel v. Prudential Fin., Inc., No. 22-cv-07465-CRB, 2023 WL 3933073, at *6 (N.D. Cal. June 9, 2023)
- R.S. v. Prime Healthcare Servs., Inc., No. 24-cv-00330, 2025 WL 103488, at *4-*5 (C.D. Cal. Jan. 13, 2025)
- Sussman v. Am. Broad. Co., Inc., 186 F.3d 1200, 1202 (9th Cir. 1999)
- Planned Parenthood Fed'n of Am., Inc. v. Newman, 51 F.4th 1125, 1136 (9th Cir. 2022)
- Caro v. Weintraub, 618 F.3d 94, 98, 101 (2d Cir. 2010)

- *Brown v. Google LLC*, 525 F. Supp. 3d 1049, 1067 (N.D. Cal. 2021)
- *Luis v. Zang*, 833 F.3d 619, 637 (6th Cir. 2016)
- *Roe v. Amgen Inc.*, No. 23-cv-07448, 2024 WL 2873482, at *6 (C.D. Cal. June 5, 2024)
- *R.C. v. Walgreen Co.*, 733 F. Supp. 3d 876, 901 (C.D. Cal. 2024)
- *Shaterian v. Wells Fargo Bank, N.A.*, 829 F. Supp. 2d 873, 879 (N.D. Cal. 2011)
- *Colaprico v. Sun Microsystems, Inc.*, 758 F. Supp. 1335, 1339 (N.D. Cal. 1991)
- *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir. 1993)
- *Fogerty v. Fantasy, Inc.*, 510 U.S. 517 (1994)
- *Platte Anchor Bolt, Inc. v. IHI, Inc.*, 352 F. Supp. 2d 1048, 1057 (N.D. Cal. 2004)
- *Bristol-Myers Squibb Co. v. Superior Court of Cal.*, 582 U.S. 255 (2017)
- *Moser v. Benefytt, Inc.*, 8 F.4th 872, 878 (9th Cir. 2021)

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