

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

Central Justice Center
700 W. Civic Center Drive
Santa Ana, CA 92702

SHORT TITLE: Blalock vs. Swinerton Incorporated**CLERK'S CERTIFICATE OF MAILING/ELECTRONIC
SERVICE****CASE NUMBER:**
30-2025-01525012-CU-MC-CJC

I certify that I am not a party to this cause. I certify that that the following document(s), Minute Order dated 08/13/26, was transmitted electronically by an Orange County Superior Court email server on August 13, 2026, at 9:53:16 AM PDT. The business mailing address is Orange County Superior Court, 700 Civic Center Dr. W, Santa Ana, California 92701. Pursuant to Code of Civil Procedure section 1013b, I electronically served the document(s) on the persons identified at the email addresses listed below:

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, Deputy

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER**

MINUTE ORDER

DATE: 08/13/2026

TIME: 09:32:00 AM

DEPT: C27

JUDICIAL OFFICER PRESIDING: Bradley Erdosi

CLERK: S. Martinez

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT:

CASE NO: **30-2025-01525012-CU-MC-CJC** CASE INIT.DATE: 11/10/2025

CASE TITLE: **Blalock vs. Swinerton Incorporated**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Misc Complaints - Other

EVENT ID/DOCUMENT ID: 74926636

EVENT TYPE: Under Submission Ruling

APPEARANCES

There are no appearances by any party.

The Court, having taken the above-entitled matter under submission on August 10, 2026 and having fully considered the argument of the parties, both written and oral, as well as the evidence presented, now rules as follows:

Defendant Swinerton, Inc.'s demurrer to Plaintiff Wendy Blalock's First Amended Complaint ("FAC") is overruled.

Defendant's request for judicial notice is granted.

This matter concerns California's "Trap and Trace Law," which is part of California's Invasion of Privacy Act, Penal Code, §§ 630 et seq.

Plaintiff alleges a single cause of action for violation of Penal Code § 638.51 which provides in part that with exceptions, "a person may not install or use a pen register or a trap and trace device without first obtaining a court order pursuant to Section 638.52 or 638.53."

A "pen register" is "a device or process that records or decodes dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted, but not the contents of a communication." (Penal Code, § 638.50(b). A "trap and trace device" is "a device or process that captures the incoming electronic or other impulses that identify the originating number or other dialing, routing, addressing, or signaling information reasonably likely to identify the source of a wire or electronic communication, but not the contents of a communication." (Penal Code, § 638.50(c).)

In the FAC, Plaintiff alleges that Defendant in operating its website, www.swinerton.com, violated Penal Code § 638.51 because "Defendant installed and operated a device or process—through the LinkedIn Software it installed on its Website and operating on visitors to the Website—that captures and transmits electronic impulses from visitors' devices that contain routing, addressing and/or signaling information

reasonably likely to identify the source of electronic communications (including internet-based communications between Plaintiff's browser/device and Defendant's Website)." (FAC, ¶ 69.) Plaintiff alleges that this software identified Plaintiff via his visit to the website without his consent and without court authorization as is required by Penal Code, § 638.51. (FAC, ¶¶ 70-72.)

Plaintiff alleges that he was injured as a result, and suffered "Defendant's invasion of Plaintiff's legally protected privacy rights; Plaintiff's loss of control over personal identifying information due to Defendant's actions; the diminution in value of Plaintiff's data and identity to Plaintiff; Defendant's unauthorized creation of detailed behavioral profiles of Plaintiff; Plaintiff's mental anguish from knowledge of Defendant's secret monitoring; and chilling effects on Plaintiff's free online expression and inquiry due to Defendant's conduct." (FAC, ¶ 74.)

In demurring to Plaintiff's FAC, Defendant argues that Plaintiff fails to allege injury required to invoke the private right of action in Section 637.2 of the Penal Code, and thus lacks standing. (See Cal. Penal Code § 637.2(a) ("Any person who has been injured by a violation of this chapter may bring an action against the person who committed the violation"); *Mendoza v. JPMorgan Chase Bank, N.A.* (2016) 6 Cal.App.5th 802, 809 ("[s]tanding is a threshold issue necessary to maintain a cause of action, and the burden to allege and establish standing lies with the plaintiff").)

Specifically, Defendant contends that Plaintiff can have no reasonable expectation of privacy when it comes to visiting a commercial website. In support of this, Defendant, in its moving papers and at oral argument, relies in part on *People v. Stipo* (2011) 195 Cal.App.4th 664. The Court does not find this case instructive or on point. *People v. Stipo* is a criminal case wherein the defendant challenged the validity of a warrant, asserting that he had a reasonable expectation of privacy in the information he provided to his internet service provider. (*Id.* at 668.) The Court held that a subscriber has no expectation of privacy in the subscriber information he supplies to his internet provider.

The Court has not been able to find any published California case law applying Penal Code § 638.51 to claims of tracking website visitors and transmitting their data, like this matter.

However, federal court decisions, while not binding on this Court, are persuasive and provide guidance. (See *Rubin v. Ross* (2021) 65 Cal.App.5th 153, 163.)

In *Hassid v. Alex and Ani, LLC* (C.D. Cal. 2026) 816 F.Supp.3d 1196, plaintiff alleged that the operator of jewelry sales website installed third-party tracking software on website that collected his identifying information without consent in violation of the California Invasion of Privacy Act, specifically, the Trap and Trace Law.

Like here, the defendant argued that the plaintiff did not sufficiently allege an invasion of the right to privacy and thus lacked standing. (*Id.* at 1201.) The court disagreed and held that the "right to privacy" encompass[es] the individual's control of information concerning his or her person." (*Id.*, [citing *In re Facebook, Inc. Internet Tracking Litig.*, 956 F.3d 589, 598 (9th Cir. 2020)].)

In this case, Plaintiff alleges that she maintains a reasonable expectation of privacy when browsing websites, and that Defendant's installation of the LinkedIn Software on its website violated her privacy by identifying her, tracking her and transmitting identifying information. (See FAC, ¶¶ 12, 26, 27, 38, 46, 69, 70.)

The Court finds that these allegations are sufficient to establish standing and the required injury element.

Defendant next argues that Plaintiff cannot state a claim under § 638.51 against a website operator as the law only applies to telephone communications.

This is contrary to the law in *Hassid v. Alex and Ani, LLC* (C.D. Cal. 2026) 816 F.Supp.3d 1196, above. Defendant there was a website operator.

Furthermore, other courts have expressly held that Penal Code, § 638.50 applies to more than just telephones. For example, in *Wiley v. Universal Music Group, Inc.* (N.D. Cal. 2025) 826 F.Supp.3d 1121, the court in addressing arguments similar to those made by Defendant here, noted that the text of the statute contained no such limitation. (*Id.* at 1136-1137.) It held the legislative intent of the California Invasion of Privacy Act (of which Penal Code §§ 638.50 and 638.51 are part) – to protect individuals' privacy – “would be ill-served by limiting Section 638.51 to telephones in the absence of a strong textual basis for that limitation.” (*Id.*)

The case law cited by Defendant dates back to 2014, 1979, 1987, 1995, 1948, etc. (See Demurrer, pgs. 19-22.) Not only are these decisions not applicable because Penal Code, § 638.51 was not enacted until 2015, but much has changed with respect to computers, the internet, etc. just in the last ten years.

“Courts have determined that the trap and trace provision should be construed broadly and that ‘courts should focus less on the form of the data collector and more on the result.’” (*Hassid v. Alex and Ani, LLC* (C.D. Cal. 2026) 816 F.Supp.3d 1196, 1205 [citing *Greenley v. Kochava, Inc.* 684 F.Supp.3d 1024, 1050 (S.D. Cal 2023) (concluding that tracking software could suffice as a pen register under California's Trap and Trace Law).].)

Based on the foregoing, Defendant's demurrer is overruled. Plaintiff has alleged sufficient facts to state a claim pursuant to Penal Code, § 638.51.

The clerk is ordered to give notice.