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June 4, 2026

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WLF Urges Ninth Circuit to Reject Privacy Claims Over Routine IP-Address Transmissions (*Drummer v. CoStar Group, Inc.*)

“Greenlighting litigation over routine IP-address transmissions would flood the courts with no-harm class actions and threaten the digital economy.”

— Cory L. Andrews, WLF General Counsel & Vice President of Litigation

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Court of Appeals for the Ninth Circuit to reverse a district court order that permits privacy claims based on the routine transmission of IP addresses. WLF contends that the ruling contravenes Article III standing requirements, misapplies California law, and exposes virtually every website operator in America to massive liability.

The case stems from a putative class action in which plaintiffs allege that CoStar violated California Penal Code § 638.51 when its websites used standard third-party pixels and tags to capture and transmit visitors’ IP addresses and basic device metadata. The district court denied CoStar’s motion to dismiss for lack of standing and for failure to state a claim, and later certified the order for interlocutory appeal to the Ninth Circuit.

In its amicus brief, WLF argues that plaintiffs lack Article III standing because the routine transmission of IP addresses—the basic routing mechanism of the internet—bears no close historical or common-law analogue to a traditionally actionable harm. Plaintiffs also fail to state a plausible claim under California law, as a growing number of California courts have rejected this exact theory of liability under § 638.51. The statute was enacted to target telephone surveillance rather than website analytics.

Celebrating its 49th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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