

IN THE COUNTY COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

HERIBERTO VALIENTE,

Plaintiff,

CASE NO.:

v.

ESPLANADE AT BUTLER PLAZA, LLC,

Defendant.

STATEMENT OF CLAIMS

Plaintiff, HERIBERTO VALIENTE (“Plaintiff”), by and through undersigned counsel, hereby sues the Defendant, ESPLANADE AT BUTLER PLAZA, LLC, (“Defendant”), for damages, and in support thereof alleges as follows:

PARTIES, JURISDICTION, & VENUE

1. This is an action within the jurisdictional limits of this Court pursuant to Fla. Stat. § 34.01, as the amount in controversy is less than Eight Thousand Dollars (\$8,000.00) exclusive of interest, attorneys’ fees, and costs.
2. At all times material hereto, Plaintiff was and is a resident of Miami-Dade County, Florida, over the age of 18, and is otherwise sui juris.
3. At all times material hereto, Defendant was and is doing business in the state of Florida, which owns, publishes, and operates <https://www.shopatbutler.com/> (“Website”) for profit; Defendant’s Website is fully accessible by Florida consumers to interact with Defendant’s business, including, but not limited to: viewing content, browsing goods/services, communicating with Defendant, or otherwise engaging with Defendant through the Website.

4. Through operation of the Website, Defendant has purposefully conducted ongoing and systematic business activities with Florida residents, including interactions that implicate the statutory privacy rights of those residents.

5. Upon a user accessing the Website, Defendant deploys tracking technologies designed to capture and record electronic data such as Pen Registers for outgoing metadata, and Trap and Trace for incoming metadata ("Register & Trap").

6. The Register & Trap mechanisms were activated on Plaintiff's web browser while Plaintiff and its computer were located in Florida, in a manner that violated Florida law. On information and belief, Defendant has done the same to other Floridians who visited the Website.

7. Defendant's activities constitute substantial and non isolated business conduct within the state of Florida in the form of marketing, sales, and distribution of products to Florida consumers. As a result, Defendant is subject to personal jurisdiction pursuant to Fla. Stat. § 48.193(2).

8. The alleged interception of Plaintiff's electronic data, which forms the subject matter of this lawsuit, took place in Miami-Dade County, Florida. As a result, venue is proper where the cause of action accrued in Miami-Dade County, Florida pursuant to Fla. Stat. § 47.011.

9. Defendant violated the privacy rights of Floridians in Florida by installing electronic surveillance processes on their computers, capturing their electronic data without consent, deanonymizing their otherwise private digital identity and data, which was then used to surveil and spy on Floridians in Florida resulting in tortious conduct in violation of the Florida's Security of Communications Act ("FCSA").

GENERAL ALLEGATIONS

10. This action is brought in accordance with FSCA, arising out of Defendant's unauthorized deployment of third-party tracking scripts, better known to most as third party cookies and/or Register & Trap software, without user consent.

11. There is a widespread phenomenon of targeted advertisements appearing in response to private conversations and web browsing. A person may visit a website that sells a particular product and then move on to a different website or to social media. But now, advertisements for that product are everywhere, reinforcing public concern regarding intrusive data-collection practices such as those employed by Defendant that follow the visitor around the internet.

12. Florida law prohibits websites like Defendant's from installing and/or using Register & Trap software on visitors' computers to intercept and gather personal information without consent.

13. Florida law prohibits websites like Defendant's from installing and/or using Register & Trap software to permit undisclosed third parties to monitor, intercept, or track users' online activity across multiple websites without their knowledge or consent.

14. In violation of FSCA, the cookies and data obtained through Defendant's Register & Trap software were then used to analyze and profile Plaintiff's online presence, intercept electronic communications, and track Plaintiff across digital platforms.

15. Floridians have a recognized expectation of privacy in their online browsing, however a substantial commercial industry has developed around "identity resolution", which seeks to de-anonymize users and monetize their digital activity in a form of commercial cyber stalking, infringing upon Americans' most basic expectation of privacy.

16. Defendant is among many entities within the identity resolution industry that power the scripts on unsuspecting users, effectively eliminating anonymity while deriving financial benefit from this collection of user data without consent.

17. These practices are used to collect personal electronic data, including IP addresses, which allows third parties to de-anonymize users and intercept, monitor, and target information uniquely associated with Plaintiff.

18. These tactics are used to capture personal electronic data, i.e. IP addresses, enabling third parties to de-anonymize, intercept, monitor, and target information uniquely traceable to Plaintiff's identity.

19. Pursuant to Fla. Stat. §934.10(1): Any person whose ... electronic communication is intercepted, disclosed, or used in violation of §934.03-§934.09 shall have a civil cause of action against any person or entity who intercepts, discloses, or uses, or procures any other person or entity to intercept, disclose, or use, such communications and shall be entitled to recover from any such person or entity which engaged in that violation such relief as may be appropriate, including: (a) Preliminary or equitable or declaratory relief as may be appropriate; (b) Actual damages, but no less than liquidated damages computed at the rate of \$100 a day for each day of violation or \$1000, whichever is higher; (c) Punitive damages; and (d) A reasonable attorney's fee and other litigation cost reasonably incurred.

20. Defendant intercepted and used electronic "routing, addressing, or signaling information," including IP addresses and similar identifying data, which constitutes a "pen register" and/or "trap and trace" as defined in Fla. Stat. §934.02 (20)(21).

21. The Federal Wire Tap Act ("WTA"), broadens and clarifies the scope of Register & Trap to address modern technologies and the continuously evolving landscape of the digital age.

22. Accordingly, the WTA and FSCA both identically define Register & Trap as follows:

“Pen register” means a device or process that records or decodes dialing, routing, addressing, or signaling information transmitted by an instrument of facility from which a wire or electronic communication is transmitted, but such information does not include the contents of any communication. Fla. Stat. §934.02(20)

“Trap and trace device” means a device 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 such information does not include the contents of any communication. Fla. Stat. §934.02(21)

23. Specifically, Defendant installed tracking technologies, such as third-party scripts, pixels, and others, which are then used to identify otherwise anonymous users online through electronic addressing, routing, and/or signaling information and to then secretly intercept and surveil that user’s activity across multiple websites and platforms, without consent.

24. The installation or use of a pen register or trap and trace device without a court order or express consent violates Florida law. See Fla. Stat. § 934.31(1).

25. A violation of these provisions constitutes a criminal offense under Florida law. See Fla. Stat. § 934.31(5).

26. Obtaining user consent is not only a legal requirement, but it is an easy and widely implemented practice across the internet. Website operators commonly provide clear disclosures through cookie consent banners, which notify users of data collection practices and request authorization prior to deploying tracking technologies.

27. Whether a website operator chooses a simple or detailed consent interface, some form of prior disclosure and affirmative consent must be obtained before installing and running Register & Trap software. There are plenty of companies offering consent banners for use by website operators, some of which are free and widely accessible. Yet, Defendant has failed and refused to deploy a consent banner which would not only advise its visitors that it is capturing their electronic data but would also comply with legal requirements.

28. Prior to the filing of this lawsuit, a comprehensive analysis of the Defendant's website, as it existed at or around the time of the Plaintiff's access, showed that no consent banner was present, or that any banner that did appear did so only after third-party cookies had already been deployed without the Plaintiff's consent.¹

29. In addition to prohibiting unauthorized use of Register & Trap technologies, the FSCA also prohibits the interception, attempted interception, or procurement of another to intercept any electronic communication. Fla. Stat. § 934.03(1)(a).

30. Florida law prohibits the interception of electronic communications unless all parties to the communication have provided prior consent. Fla. Stat. § 934.03(2)(d).

31. The FSCA defines "intercept" as "acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device." Fla. Stat. §934.02(3).

32. Personally identifiable information ("PII") collected by Defendant includes, but is not limited to, IP addresses, browser and device information, operating systems, language settings, geolocation data, email addresses, and other digital identifiers.

33. From an IP address alone, companies can extrapolate vast amounts of sensitive personal information about a user.

¹See Exhibit "A"

34. When combined with data obtained through Register & Trap technologies, this information is shared with third parties, including marketers and data aggregators, for commercial use.

35. Defendant was required to obtain user consent before intercepting electronic communications or deploying Register & Trap technologies to capture routing, addressing, or signaling information.

36. An analysis of Defendant's Website reveals the absence of any meaningful consent mechanism, while simultaneously employing multiple Register & Trap technologies that transmit private user data and information to third parties.

37. Defendant's conduct violates the FSCA, entitling Plaintiff to all remedies permitted by law, including actual damages, liquidated damages, punitive damages, legal fees, and costs.

38. Plaintiff further seeks recovery grounded in tort due to the commercial value of the private information obtained and used without consent.

39. Plaintiff has retained counsel to represent him in this matter and is entitled to recover all reasonable legal fees and costs. Fla. Stat. § 934.10(1)(d).

**COUNT I – VIOLATION OF FSCA BY UNAUTHORIZED USE OF
REGISTER & TRAP PROCESSES FLA. STAT. §934.31**

Plaintiff re-alleges and incorporates paragraphs 1-39 as if fully set forth herein.

40. Prior to filing this lawsuit, Plaintiff visited Defendant's website from within Florida.

41. At that time, Defendant installed and utilized Register & Trap processes on Plaintiff's web browser without obtaining a court order or Plaintiff's consent in violation of Fla. Stat. §934.31(1).

42. At no time was Plaintiff given any notice that Defendant's website was installing such tracking technologies, Plaintiff was never asked for consent to have the Website install anything

on his web browser, nor did he ever consent to the installation of any Register & Trap processes during his online visit.

43. Defendant used the Website and Register & Trap processes, to collect, intercept, and monitor Plaintiff's electronic activity and online browsing behavior.

44. The scripts installed on Plaintiff's web browser captured electronic addressing, routing, and signaling information from Plaintiff's computer, including his IP address.

45. The script monitored Plaintiff's movement around the Internet and transmitted Plaintiff's data to multiple third parties, to whom Plaintiff did not agree to provide such personal information.

46. Plaintiff's consent was required when Defendant's Website intercepted electronic communications and/or used Register & Trap processes to capture electronic routing, addressing, and installing third-party scripts.

47. To comply with Florida law and the inherent reasonable expectation of privacy, all Defendant had to do was place a consent banner on the Website and obtain consent prior to installing any Register & Trap technologies on its visitor's web browsers. These consent banners are widely accessible and available at little to no cost.

48. Defendant's actions violated FSCA and Florida's electronic privacy rights guaranteed to residents like Plaintiff.

49. Plaintiff is entitled to recover all available relief under Florida law, including actual damages, liquidated damages, punitive damages, legal fees, and costs.

**COUNT II – VIOLATION OF FSCA BY UNAUTHORIZED INTERCEPTION OF
ELECTRONIC COMMUNICATIONS FLA STAT. §934.03**

Plaintiff re-alleges and incorporates paragraphs 1-39 as if fully set forth herein.

50. The FSCA prohibits any person or entity from intercepting, endeavoring to intercept, or procuring any third party to intercept or endeavor to intercept any electronic communication. Fla. Stat. §934.03(1)(a).

51. It is unlawful to intercept any electronic communication under Florida law “unless all of the parties to the communication have given prior consent to such interception.” Fla. Stat. §934.03(2)(d).

52. The FSCA defines “intercept” of an electronic communication as “acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.” Fla. Stat. §934.02(3).

53. The FSCA defines electronic communication as “any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo optical system.” Fla. Stat. §934.02(12).

54. The real time interception of Plaintiff’s electronic data starts as soon as the Website loads in his web browser and without the Plaintiff’s consent.

55. The third-party Register & Trap scripts that Defendant loads without consent, collects and processes massive amounts of user data, including Personally Identifiable Information of consumers like Plaintiff.

56. The Register & Trap processes used by the Website to intercept this information is not visible to the user during normal browsing and can only be identified through inspection of the Website’s underlying code.

57. Immediately upon visiting the Website, electronic data transmitted and communicated electronically from Plaintiff’s web browser, such as the IP address and other related PII, is

intercepted by the Register & Trap devices and transmitted to third parties with whom Plaintiff has no relationship.

58. The Register & Trap processes the Website installs on unsuspecting visitors are also deployed over hundreds or thousands of other websites and capable of correlating user data across platforms to identify and track individual users over time.

59. Defendant is thus committing a serious offense against online privacy, and a “double violation” of the FSCA by using unlawful Register & Trap processes to intercept and transmit personal information, without consent.

60. Plaintiff is entitled to recover all available relief under Florida law, including actual damages, liquidated damages, punitive damages, legal fees, and costs.

COUNT III – INVASION OF PRIVACY

Plaintiff re-alleges and incorporates paragraphs 1-39 as if fully set forth herein.

61. Defendant intentionally and without consent intruded upon Plaintiff’s private electronic system by installing third party scripts and Register & Trap processes on Plaintiff’s web browser.

62. Defendant publicly disclosed facts private to Plaintiff’s internet user activity with the intention to gather and disseminate PII for commercial use.

63. Plaintiff had a reasonable expectation of privacy that information stored on his personal computer in his internet browsing activity was private and that third parties were not installing software on their computer without notice, to gather and transmit PII.

64. Defendant did not request Plaintiff’s consent, nor did it provide any notice before intruding on Plaintiff’s electronic systems and installed processes to gather and disseminate PII.

65. A reasonable person would be highly offended upon learning that Defendant intruded upon Plaintiff's private affairs when it had installed a software process on their computer without consent or notice, to gather and disseminate PII.

66. Plaintiff requests disgorgement of all profits generated by Defendant's invasion of privacy, i.e. its installation of Register & Trap on visitor websites.

67. Plaintiff is entitled to recover all available relief under Florida law, including actual damages, liquidated damages, punitive damages, legal fees, and costs.

WHEREFORE, Plaintiff, HERIBERTO VALIENTE, respectfully request that this Court enter Judgement in his favor as follows:

a. Awarding Plaintiff the sum of \$100.00 per day for every day from the date on which Defendant installed Register & Trap processes, in the form of third-party scripts/cookies or otherwise, through the date of the final judgement in this case (in an amount not to exceed \$8,000.00), or \$1,000.00, whichever is greater;

b. Awarding Plaintiff such other compensatory or punitive damages as may be deemed appropriate pursuant to the FSCA;

c. Award Plaintiff such additional compensatory damage as may be deemed appropriate to compensate Plaintiff for invasion of privacy;

d. Awarding Plaintiff all reasonable legal fees and litigations costs incurred in this matter and;

e. Awarding all such other relief as may be deemed just and equitable under the circumstances presented herein.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable as a matter of right.

DATED: 8/06/2026

Respectfully submitted,

/s/ Juan J. Perez

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NOTICE OF APPEARANCE

COMES NOW, the undersigned attorneys of record for the Plaintiff hereby give notice that Plaintiff, HERIBERTO VALIENTE, has retained PereGonza The Attorneys, PLLC, to represent it in the above styled action. All further correspondence relating to this case should be addressed to PereGonza The Attorneys, PLLC, and directed to eservice@peregonza.com.

[See Certificate of Service on Next Page]

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the Defendant along with the Summons and Statement of Claims.

DATED: 8/06/2026

Respectfully submitted,

/s/ Juan J. Perez

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EXHIBIT A

Website Privacy Audit Report



WEBPAGE SCANNED
shopatbutler.com

SCAN DATE
July 29, 2026

PAGES SCANNED
5

OVERALL RISK
98 / 100 · Likely
non-compliant

98 / 100

Likely non-compliant

1 tracker, 5 third-party cookies, and 5 domains fired before user consent.

Issues 3 found

High Risk

Cmp Missing

Potential Risk

No consent banner observed during this scan

Potential Risk

Third-party tracking requests detected

ad.doubleclick.net, analytics.google.com, api.mpc.placewise.com, www.google--
analytics.com, www.google.com

TRACKERS · PRE-CONSENT

1

www.google.com

COOKIES · PRE-CONSENT

5

test_cookie
_ga
_ga_966GK9652E
+2 more

DOMAINS · PRE-CONSENT

5

ad.doubleclick.net
analytics.google.com
api.mpc.placewise.com
+2 more