

Sean Wieber Discusses the Ninth Circuit's Decision to Allow BIPA Claims Against Facebook to Go to Trial

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Winston & Strawn Litigation Partner Sean Wieber was quoted in Law360's article "[Facebook Ruling Extends Life Of Ill. Biometric Privacy Claims](#)" on the Ninth Circuit's decision to allow biometric privacy claims against Facebook to proceed to trial. As a result, the decision may make it easier for plaintiffs to bring similar class actions across the country.

Sean, who heads the firm's Regulated Personal Information specialty offering and chairs both the TCPA and BIPA practices at Winston, notes that by not creating a definitive standard for determining the reach of BIPA, the Ninth Circuit left the door open for plenty of future fights over whether plaintiffs can band together to sue for "the many permutations of Illinois and non-Illinois conduct [that courts] will inevitably be presented with as the use of biometric technology grows and these claims continue to get filed."

He goes on to explain that, "the flexible, fact-intensive 'primarily and substantially' standard provides fertile ground for zealous advocacy on both sides of the bar as to whether the conduct in each case has enough of a connection to Illinois such that it falls within the act's scope."

The article notes that while Thursday's ruling was significant for both sides of the bar, the dispute is far from over. Facebook asked the Ninth Circuit to give it until Sept. 5 to file a petition for rehearing, and an appeal to the Supreme Court could follow.

The case is *Nimesh Patel et al. v. Facebook Inc.*, case number 18-15982, in the U.S. Court of Appeals for the Ninth Circuit.

Sean will be watching.

[Read the full Law360 article here.](#)

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