

## Recent Decisions Highlight Divergent Approaches to VPPA Claims Involving Meta Pixel

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April 2, 2026

Two federal courts just reached different conclusions on whether sharing Meta Pixel data tied to video-viewing activity can violate the Video Privacy Protection Act (VPPA). The result: VPPA exposure for video content may now depend heavily on where a lawsuit is filed.

Last month, we highlighted a significant development in data privacy litigation in our update, **The Privacy Map Expands: Michigan Emerges in Website Tracking Litigation**, where we examined the Western District of Michigan’s decision in *Goodman v. Hillsdale College*.

But on March 12, 2026, the Southern District of New York in *Berryman v. Reading International, Inc.*, reaching a markedly different result, holding use of Meta Pixel technology (owned by the same company that owns Facebook) did not violate the Video Privacy Protection Act (“VPPA”). Meta Pixel allegedly transmits video-viewing events plus user identifiers from a video website to Meta, forming the basis for an alleged unlawful disclosure of viewing history. The disparity in the *Goodman* and *Berryman* opinions highlights the increasingly unsettled legal terrain surrounding data privacy.

### ***Goodman v. Hillsdale College*: Court allows VPPA claim to proceed**

The plaintiff in *Goodman v. Hillsdale College* alleged that Hillsdale College’s use of Meta Pixel tracking technology on users viewing its online distance learning videos violated the VPPA. The VPPA generally prohibits “video tape service providers” from “knowingly disclosing” the “personally identifying information” (“PII”) of consumers without permission. The Western District of Michigan denied Hillsdale College’s motion to dismiss, holding that the alleged transmission of Facebook IDs paired with specific course-viewing URLs via the Meta Pixel could be a disclosure of PII under the VPPA.

In short, *Goodman* signaled a significant expansion of VPPA exposure for entities—especially nonprofits and educational organizations—that use Meta Pixel or comparable third-party trackers. The case settled shortly thereafter.

### ***Berryman v. Reading International*: Court applies narrower VPPA view and dismisses**

The Southern District of New York reached a substantially different conclusion than *Goodman*, rejecting plaintiff’s parallel allegations involving the Meta Pixel, Facebook IDs, and video-viewing behavior on the defendant’s website. Plaintiff’s allegations, according to the SDNY, failed to establish that the defendant was transmitting personal identifying information as contemplated in the VPPA. Citing to last year’s decision from the Second Circuit, *Solomon v. Fipps Media, Inc.*, 136 F.4<sup>th</sup> 41 (2d Cir. 2025), the SDNY held that the appropriate standard is whether an “ordinary person” in the shoes of the plaintiff could discern the identity of the user based on the information being transmitted. And an ordinary person, according to the SDNY, would not be able to tell from the format of the information being transmitted that the defendant was sending a user’s Facebook ID along with information about what videos the user was watching. In other words, SDNY did not extend the VPPA beyond conventional commercial contexts.

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**Key Implications: VPPA Risk Is Increasingly Forum-Dependent**

The sharp divergence between these opinions highlights an emerging jurisdictional split in VPPA claims involving Meta Pixel and similar technology. Companies that host videos on their websites and that utilize technology like Meta Pixel should be aware that their exposure to liability for their use of that technology now varies significantly by jurisdiction.

**Supreme Court Watch: Who Counts as a “Consumer” Under the VPPA?**

In January 2026, the U.S. Supreme Court granted certiorari in *Salazar v. Paramount Glob.*, 133 F.4th 642 (6th Cir. 2025), to resolve a split among courts as to who qualifies as a “consumer” under the VPPA. The Supreme Court’s decision is set to clarify whether free, non-video subscriptions such as email newsletters create a VPPA “consumer” relationship when a publisher also provides video content on the publisher’s sites. While it remains to be seen, the split highlighted in the *Goodman* and *Berryman* opinions may soon be before the highest Court as well.

If you have questions about how this fragmented legal landscape regarding data privacy impacts you or your business, contact your Miller Canfield attorney or one of the authors of this alert.