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NCLA Asks Eleventh Circuit to Revive Suit Against Marco Island, FL's Warrantless Tracking of Drivers

Shannon Schemel, Stephen Overman and Michael Tschida v. City of Marco Island, Florida

Washington, DC (December 16, 2025) – The New Civil Liberties Alliance filed an [opening brief](#) today urging the U.S. Court of Appeals for the Eleventh Circuit to reverse a district court's dismissal of the [Schemel, et al. v. City of Marco Island](#) privacy rights lawsuit. The City of Marco Island has continuously monitored its residents' movements for years without suspicion, probable cause, or warrants by using automated license plate recognition systems (ALPRs), in violation of the Fourth Amendment. The U.S. District Court for the Middle District of Florida dismissed NCLA's lawsuit against this unconstitutional arrangement by misconstruing U.S. Supreme Court precedent on privacy. The Eleventh Circuit should correct the error and send the case back for further proceedings.

The City of Marco Island has strategically installed ALPRs to ensure complete coverage of all traffic on the small island. It stores time-stamped photos of NCLA clients Shannon (Schemel) Druen, Stephen Overman, Michael Tschida, and other residents' vehicles, and it compiles this information into an aggregated, searchable database. By retaining this data for at least three years, the City can easily deduce patterns that reveal its residents' daily movements. The total extent of this intrusive program remains to be fully revealed, but as alleged, it clearly defies the Supreme Court's 2018 ruling in *Carpenter v. United States* that individuals have a legitimate expectation of privacy in the whole of their movements over time.

The district court in NCLA's case wrongly interpreted *Carpenter* to mean that only the government's warrantless access to the technological equivalent of cell-site location information—cell phone tower data that can be used to track a person's movements—violates people's privacy expectations. That cramped and untenable reading of *Carpenter* ignores a core goal of the Fourth Amendment: preventing police surveillance that permeates every aspect of an American's life. Fourth Amendment case law dictates that technology, like ALPRs, that did not exist prior to the digital age must be judged based on its particular circumstances and with special attention to the original meaning of the Fourth Amendment.

Whether a specific ALPR scheme violates legitimate expectations of privacy by retroactively revealing people's movements largely depends on how often an individual is surveilled, how much data is collected, whether it is aggregated, and how long it is kept. NCLA's clients deserve discovery to resolve the full scope of this matter.

NCLA released the following statements:

"The City of Marco Island cannot compile a large database of its residents' movements spanning at least three years—through which it can piece together details of those residents' personal lives and habits—without a warrant based on probable cause. We look forward to the Eleventh Circuit's reversing this mistaken decision and restoring the fight to uphold our clients' privacy rights."

— **Andreia Trifoi, Staff Attorney, NCLA**

“The pervasive feeling, and now reality, that the Government is watching and recording you is not consistent with a free people or a free society.”

— **John Vecchione, Senior Litigation Counsel, NCLA**

“ALPRs are the next step on the road to a Chinese-style surveillance state. Fortunately, the U.S. Constitution’s Fourth Amendment protects people from states and municipalities that try to institute warrantless searches.”

— **Mark Chenoweth, President, NCLA**

For more information visit the case page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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