



Does Michigan Require Two-Party Consent To Record A Private Conversation?

October 8, 2020 | [The GEE Blog, Privacy](#)



**Anthony C.
Sallah**
Partner

For decades, Michigan has been referred to as a “one-party” consent state for eavesdropping purposes. This means that it is not illegal to record a private conversation if the person recording is a party to that conversation, even without the consent of the other party. However, a recent ruling from the U.S. District Court for the Eastern District of Michigan calls that interpretation into question.

In *AFT Michigan v. Project Veritas*, the Michigan district court held that Michigan’s eavesdropping statute, MCL 750.539c, requires all parties in a private conversation – not just one party – to consent to recording it. In its ruling, the district court predicted that despite the Michigan Court of Appeals’ decisions to the contrary, the Michigan Supreme Court would interpret Michigan’s eavesdropping statute to require two-party consent.

Following the district court’s ruling, Michigan Attorney General Dana Nessel intervened in the case and asked the district court to certify the issue of whether Michigan is a one- or two-party consent state to the Michigan Supreme Court. Recognizing that its interpretation was an “unsettled issue of State law,” the district court granted the request. While the Michigan Supreme Court has discretion to deny ruling on the certified question, its input would provide clarity on an issue that has wide-ranging impacts for businesses and individuals alike.

For more analysis on this ruling: [Michigan Supreme Court To Clarify](#)

RELATED PRACTICE AREAS

Appeals and Critical Motions
Compliance and Monitorships
Government Litigation

RELATED TOPICS

Michigan

