

The Honorable Douglass A. North
Noted for Hearing: September 2, 2022, 10:00 a.m.
With Oral Argument

**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,

Plaintiff,

v.

META PLATFORMS, INC., formerly doing
business as FACEBOOK, INC.,

Defendant.

NO. 20-2-07774-7 SEA

~~PROPOSED~~ ORDER GRANTING
PLAINTIFF STATE OF
WASHINGTON'S MOTION FOR
SUMMARY JUDGMENT

THIS MATTER came on for hearing before the Court on Friday, September 2, 2022, on Plaintiff State of Washington's Motion for Summary Judgment. The Court considered the arguments of counsel, for both the Plaintiff's and Defendant's Motions for Summary Judgment, as well as the records and pleadings in this case, including, but not limited to:

1. Plaintiff State of Washington's Motion for Summary Judgment;
2. First Declaration of S. Todd Sipe in Support of Plaintiff State of Washington's Motion for Summary Judgment, with Exhibits A-HH;
3. First Declaration of Tony Perkins in Support of Plaintiff State of Washington's Motion for Summary Judgment, with Exhibits 1-22;
4. First Declaration of Phil Stutzman in Support of Plaintiff State of Washington's Motion for Summary Judgment, with Exhibits A-C;
5. Declaration of Zach Wurtz, with Exhibits A-W (filed September 3, 2021);
6. Defendant's Motion for Summary Judgment;
7. Declaration of Tracie Bryant in Support of Defendant's Motion for Summary Judgment, with Exhibits 1-62;
8. Declaration of Dr. Steven Weber in Support of Defendant's Motion for Summary Judgment, with Exhibit A;
9. Defendant's Opposition to Plaintiff's Motion for Summary Judgment;

- 1 10. Second Declaration of Tracie Bryant in Support of Defendant’s Opposition to
Plaintiff’s Motion for Summary Judgment, with Exhibits 63–92;
- 2 11. Plaintiff State of Washington’s Response to Defendant’s Motion for Summary
Judgment;
- 3 12. Declaration of Dr. Travis Ridout in Support of Plaintiff State of Washington’s
Response to Defendant’s Motion for Summary Judgment, with Exhibits A–B;
- 4 13. Declaration of Tony Perkins in Support of Plaintiff State of Washington’s Response
to Defendant’s Motion for Summary Judgment, with Exhibits 1–9;
- 5 14. Declaration of Elana S. Matt in Support of Plaintiff State of Washington’s
Response to Defendant’s Motion for Summary Judgment, with Exhibits A–RRR;
- 6 15. Plaintiff State of Washington’s Reply in Support of Motion for Summary
Judgment;
- 7 16. Second Declaration of S. Todd Sipe in Support of Plaintiff State of Washington’s
Motion for Summary Judgment, with Exhibits II–KK;
- 8 17. Second Declaration of Tony Perkins in Support of Plaintiff State of Washington’s
Motion for Summary Judgment;
- 9 18. Declaration of Dr. Laura Edelson in Support of Plaintiff State of Washington’s
Motion for Summary Judgment, with Exhibits A–B;
- 10 19. Defendant’s Reply in Support of Motion for Summary Judgment;
- 11 20. Third Declaration of Tracie Bryant in Support of Defendant’s Reply in Support of
Motion for Summary Judgment, with Exhibits 93–94; and
- 12 21. The prior pleadings, briefings, and evidence filed in this case, including motions,
their supporting declarations, and their supporting documents.

13 The Court hereby grants Plaintiff’s Motion for Summary Judgment.

14 **I. ABSENCE OF GENUINE ISSUES OF MATERIAL FACT**

15 Based on the foregoing, the Court determines that there are no genuine issues of material
16 fact, including regarding the following:

17 1. Meta Platforms, Inc., formerly doing business as Facebook, Inc., (Meta) is an
18 international online social media and social networking service company that sells the service of
19 communicating messages for distribution to the general public or segments of the general public
20 through paid internet or digital communications, for the purpose of appealing, directly or
21 indirectly, for votes or for financial or other support in any campaign in support of, or in
22 opposition to, a candidate for election to public office and any campaign in support of, or in
23 opposition to, a ballot proposition in Washington (collectively, “Washington Political
24 Advertising” or “Washington Political Advertisement”).

25 2. Meta collects, in the regular course of its business, the information required for
26 digital commercial advertisers under RCW 42.17A.345 and WAC 390-18-050 (Commercial

1 Advertiser Law). This information includes demographic information (i.e., age, gender, race,
2 and location) of the audiences targeted and reached and the total number of impressions
3 generated.

4 3. Meta launched the Ad Library (then known as the Ad Archive) in May 2018.
5 Meta does not display, through the Ad Library or otherwise, all information required to be made
6 available for public inspection under the Commercial Advertiser Law.

7 4. This is the second enforcement action brought by the State of Washington (State)
8 against Meta for violations of the Commercial Advertiser Law. The first case, which resulted in
9 a stipulated judgment against Meta, was filed in 2018. At all relevant times for this case, Meta
10 was therefore fully aware of the requirements of the Commercial Advertiser Law.

11 5. In 2018, Meta announced that it would no longer accept Washington Political
12 Advertising. Despite its announced “ban” on Washington Political Advertising, Meta continued
13 to knowingly display Washington Political Advertising on its platform. Meta not only continued
14 to solicit Washington Political Advertisements, but Meta was aware that its announced “ban”
15 would not, and did not, stop all such advertising from continuing to be displayed on its platform.

16 6. Meta received at least the following requests under the Commercial Advertiser
17 Law for information about Washington Political Advertising appearing on Meta’s platform: on
18 February 12, 2019 and July 12, 2021, from Eli Sanders (Sanders); on July 23, 2019, from
19 Tallman Trask (Trask); on October 16, 2019, October 19, 2020, October 30, 2020, November 20,
20 2020, November 24, 2020, December 31, 2020, January 4, 2021, March 1, 2021, and July 19,
21 2021, from Zach Wurtz (Wurtz).

22 7. Meta never provided all of the required information in response to any of these
23 requests. In the instances that Meta provided some information beyond what is publicly available
24 in the Ad Library, Meta’s response often took weeks or months and was incomplete when
25 provided. Meta also intentionally redacted required information from the records it provided in
26 response to requests.

1 8. In response to investigative requests from the Washington Public Disclosure
2 Commission (PDC), Meta identified 254 separate 2019 Washington Political Advertisements
3 displayed on Meta that were responsive to the 2019 Sanders and Trask requests.

4 9. Based on documents produced by Meta during discovery, there were at least 157
5 separate Washington Political Advertisements displayed on Meta that were responsive to the
6 2021 Sanders request.

7 10. Meta refused to provide Wurtz with any records in response to his 2020 and 2021
8 requests (and in response to Wurtz's 2019 request, provided incomplete information
9 approximately nine months after the request was made). Notably, Wurtz's July 19, 2021, request
10 was "to inspect the public file for every political ad shown in Washington State since 2016."
11 This request therefore included Washington Political Advertisements displayed in the
12 Ad Library since 2018, which the State has established exceeds 1,600. Even at minimum, this
13 request alone covered at least: (1) the 157 separate Washington Political Advertisements
14 responsive to Sanders' 2021 request, which sought information about Washington Political
15 Advertisements from between January 1, 2021 to July 12, 2021; and (2) the 254 Washington
16 Political Advertisements responsive to the 2019 Sanders and Trask requests.

17 11. Since at least April 14, 2020, the date of the Original Complaint in this case, Meta
18 implemented a new process for handling inspection requests made under the Commercial
19 Advertiser Law. The process involves a Kirkland and Ellis attorney emailing to a requestor a
20 Meta-sanctioned form with the file name "WA Resident Request Form.pdf" (Form). Kirkland
21 and Ellis attorneys also instruct the requestor in writing to complete and return the Form "if they
22 are a resident of Washington and would like to request information regarding political
23 advertising in Washington pursuant to the [Commercial Advertiser Law]."

24 12. The Form contains the following language: "If you are a resident of Washington
25 state and would like to request information regarding political advertising in Washington, please
26

1 fill out the form below and submit it via email” and “Date Range Requested (cannot exceed one
2 year and must begin January 1, 2019 or later).”

3 13. As part of this process, Meta also makes manual redactions of location targeting
4 information more specific than state level (i.e., Washington State) in any records provided to
5 requestors.

6 14. Although Meta argued that it could not comply with the Commercial Advertiser
7 Law, Meta failed to provide evidence to create a genuine issue of material fact regarding its
8 inability to comply, whereas the State presented sufficient evidence explaining both how and
9 why Meta could comply.

10 II. CONCLUSIONS OF LAW

11 The Court makes the following Conclusions of Law:

12 1. Meta is a commercial advertiser as that term is defined by RCW 42.17A.005.

13 2. Meta is a “digital communications platform” for purposes of WAC 390-18-050.

14 3. The Commercial Advertiser Law requires the commercial advertiser to timely
15 make available, to each requestor, all required information for each Washington Political
16 Advertisement requested.

17 4. Meta committed 254 violations of RCW 42.17A.345 and WAC 390-18-050 by
18 failing to timely make available for inspection all required information for 254 Washington
19 Political Advertisements covered by Sanders’ and Trask’s 2019 inspection requests.

20 5. Meta committed an additional 157 violations of RCW 42.17A.345 and
21 WAC 390-18-050 by failing to timely make available for inspection all required information for
22 157 Washington Political Advertisements covered by Sanders’ July 2021 inspection request.

23 6. Meta committed an additional 411 violations of RCW 42.17A.345 and
24 WAC 390-18-050 by failing to timely make available for inspection all required information
25 covered by Wurtz’s July 2021 inspection requests.

1 Meta is permanently enjoined from conditioning, limiting, or otherwise restricting its
2 compliance with RCW 42.17A.345 and/or WAC 390-18-050 to requests that (a) identify the
3 requestor's citizenship or residency status; (b) that include a timeframe less than authorized by
4 RCW 42.17A.345 or WAC 390-18-050; (c) that limit the number or scope of advertisements to
5 less than authorized by RCW 42.17A.345 or WAC 390-18-050; or (d) are otherwise limited or
6 burdened in a manner not authorized by RCW 42.17A.345 or WAC 390-18-050.

7 Furthermore, 30 days after the entry of the final judgment, Meta shall file with this Court
8 a sworn certification signed by a person or persons authorized to attest for Meta that Meta has
9 come into full compliance with the terms of this injunction set forth herein.

10 A violation of the Court's injunction will constitute a violation of RCW 42.17A.345 and
11 ~~absent compelling extenuating circumstances and based on the findings made herein, pursuant~~
12 ~~to RCW 42.17A.750(i), Meta will be assessed a penalty of \$10,000 for each Washington Political~~
13 ~~Advertisement within such violation, which will be subject to trebling in appropriate~~
14 ~~circumstances, and such other remedies as allowed by law.~~ D.A.N.

15 For the purposes of effectuating the injunction entered in this matter, the Court will retain
16 jurisdiction over the parties and the subject matter herein after entry of final judgment, as well
17 as the implementation, enforcement, and performance of the terms included in this injunction.

18 IV. ORDER

19 Based on these determinations, it is HEREBY ORDERED as follows:

20 1. The State's Motion for Summary Judgment is GRANTED. Defendant Meta
21 Platforms, Inc. is determined to have committed the violations of RCW 42.17A.345 and
22 WAC 390-18-050 as identified in the Conclusions of Law herein.

23 2. Pursuant to RCW 42.17A.750, Defendant Meta Platforms, Inc. is assessed a civil
24 penalty for the violations identified herein in an amount that will be determined based on a
25 motion for entry of judgment to be filed by the State.

1 3. Pursuant to RCW 42.17A.780, Defendant Meta Platforms, Inc. shall reimburse
2 the State its costs of investigation and trial, including all reasonable attorneys' fees incurred in
3 an amount that will be determined based on a separate cost bill to be filed by the State.

4 4. Based on the Court's finding that Defendant Meta Platforms, Inc.'s violations
5 were intentional pursuant to RCW 42.17A.780 and in consideration of the factors set forth in
6 RCW 42.17A.750(d), the base judgment amount, consisting of the total of the civil penalty
7 assessed against Meta and the amount of Meta's reimbursement of the State's costs and fees,
8 will be trebled as punitive damages.

9 5. Pursuant to RCW 42.17A.750(i), the Court will enter, as part of the final
10 judgment, the injunctive relief set out above in order to compel Defendant Meta Platforms, Inc.'s
11 compliance with RCW 42.17A.345 and WAC 390-18-050.

12 DATED this 6th day of October ~~September~~ 2022.

13 
14 THE HONORABLE DOUGLASS A. NORTH
15 King County Superior Court Judge

16 Presented by:

17 ROBERT W. FERGUSON
18 Attorney General

19 /s/ S. Todd Sipe
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