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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**

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| STATE OF WASHINGTON,<br><br>Plaintiff,<br><br>v.<br><br>META PLATFORMS, INC., formerly doing business as FACEBOOK, INC.,<br><br>Defendant. | NO. 20-2-07774-7 SEA<br>D.A.N.<br>~~[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;



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10. Second Declaration of Tracie Bryant in Support of Defendant's Opposition to Plaintiff's Motion for Summary Judgment, with Exhibits 63–92;
11. Plaintiff State of Washington's Response to Defendant's Motion for Summary Judgment;
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;
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;
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;
15. Plaintiff State of Washington's Reply in Support of Motion for Summary Judgment;
16. Second Declaration of S. Todd Sipe in Support of Plaintiff State of Washington's Motion for Summary Judgment, with Exhibits II–KK;
17. Second Declaration of Tony Perkins in Support of Plaintiff State of Washington's Motion for Summary Judgment;
18. Declaration of Dr. Laura Edelson in Support of Plaintiff State of Washington's Motion for Summary Judgment, with Exhibits A–B;
19. Defendant's Reply in Support of Motion for Summary Judgment;
20. Third Declaration of Tracie Bryant in Support of Defendant's Reply in Support of Motion for Summary Judgment, with Exhibits 93–94; and
21. The prior pleadings, briefings, and evidence filed in this case, including motions, their supporting declarations, and their supporting documents.

The Court hereby grants Plaintiff's Motion for Summary Judgment.

## I. ABSENCE OF GENUINE ISSUES OF MATERIAL FACT

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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

## II. CONCLUSIONS OF LAW

The Court makes the following Conclusions of Law:

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

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

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

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

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

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



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7. Meta's violations of RCW 42.17A.345 and WAC 390-18-050 set out herein were committed intentionally for purposes of RCW 42.17A.780 and support trebling the base judgment amount assessed against Meta, including the State's attorneys' fees and costs, as punitive damages. The intentional nature of Meta's violations, along with other factors, is based on: (1) Meta's compliance history, which includes Meta's pattern of knowing and repeated violations of RCW 42.17A and WAC 390-18-050 despite enforcement actions by the State related to Meta's conduct; (2) Meta's extensive experience with campaign finance law and procedures and the substantial resources at Meta's disposal for compliance with such requirements; and (3) Meta's lack of good faith and failure to acknowledge and take responsibility for its violations.

8. Meta failed to demonstrate a legal basis or the existence of genuine issues of material fact for its affirmative defenses that would preclude entry of judgment for the State.

## III. INJUNCTION

The State has also established its entitlement to an injunction, which the Court will enter in substantially the following form, as part of a final judgment:

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that within 30 days of the final judgment and into the future that:

Meta shall come into full compliance with the requirements of RCW 42.17A.345 and WAC 390-18-050 for any and all political advertising and electioneering communications that pertain to Washington state or local elections and ballot measures (Washington Political Advertisements) that have appeared or will appear on any of Meta's platforms. These requirements, include, but are not limited to, (1) timely responding to all inspection requests Meta receives from any member of the public for information about Washington Political Advertisements that Meta is required to maintain under RCW 42.17A.345 and/or WAC 390-18-050; and (2) timely making available for public inspection all information that Meta is required to maintain under RCW 42.17A.345 and/or WAC 390-18-050.



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

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

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

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

## IV. ORDER

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

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

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



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

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

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

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

THE HONORABLE DOUGLASS A. NORTH
King County Superior Court Judge

Presented by:

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*/s/ S. Todd Sipe*
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