

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

JOSEPH DEAN,
Plaintiff,

v. Case No. 8:24-cv-02242-MSS-TGW

META PLATFORMS, INC.,
Defendant.

**PLAINTIFF'S MOTION REQUESTING AMENDMENT OF
MAGISTRATE'S REPORT AND RECOMMENDATION**

Plaintiff Joseph Dean ("Plaintiff"), proceeding pro se, respectfully moves the Court to amend its Report and Recommendation dated November 20, 2024 ("R&R"), on the following grounds. Correction of these errors is particularly crucial at this stage because they not only affect the R&R's analysis but also implicate fundamental issues about the proper evaluation of antitrust evidence that will likely arise in subsequent motions.

I. FACTUAL ERROR REQUIRING CORRECTION

The R&R states on page 4 that "Count II of the SAC, which alleges violations of the Clayton Act, includes more than two pages of purported holdings and findings from a Supreme Court case." and states "The plaintiff relies heavily on this information, even though it is irrelevant to establishing the plaintiff's claim."

These statements contain material errors that affects the R&R's analysis of the complaint's structure. This mischaracterization transforms substantive factual evidence of anticompetitive conduct, documented by a federal regulatory agency through independent investigation, into mere legal citation - a fundamental error that could prejudice evaluation of the complaint's merits.

The extensive case analysis in Count II that the R&R refers to is from *FTC v. Facebook*, No. 1:20-cv-03590 (D.D.C.), which is a district court case, not a Supreme Court case. Moreover, this case analysis was not gratuitous legal citation but rather crucial evidence of Meta's systematic anticompetitive conduct.

The FTC case was referenced at length because:

1. It documents the exact same pattern of conduct:
 - o "Meta used the same pattern of anticompetitive conduct that the FTC found, specifically that 'Facebook has enforced its platform policies selectively to benefit its own business interests' and 'cut off

API access to harm threatening firms, while maintaining access for others' (SAC ¶28) - exactly matching Meta's treatment of Veamcast where Meta first approved functionality through App Review (SAC ¶7, Exhibit A) then systematically disabled that same functionality (SAC ¶9(a), (b), Exhibit B)."

2. It provides evidence through independent investigation:

- The FTC found that "Facebook cut off API access to harm threatening firms, while maintaining access for others" (SAC ¶28). Plaintiff's experience precisely mirrors this finding, as "Meta approved Veamcast's functionality through App Review, then selectively disabled that same functionality after seeing it demonstrated, while maintaining similar functionality for its own services" (SAC ¶30(a)).

3. It confirms Meta's surveillance tactics:

- The FTC documented how Meta used platform review to identify competitive threats before removing access - directly paralleling how Meta used test accounts (ruiwojtjhhk_1540803256@tfnw.net, jmozctateu_1555372771@tfnw.net, and

qieezhwps_1541428725@tfnw.net) (SAC ¶8) to examine

Veamcast's functionality before restricting API access;

4. It validates Plaintiff's experience through official findings:

- The FTC's investigation confirmed Meta's pattern of using deceptive error messages and support responses to mask anticompetitive intent (SAC ¶10) - exactly matching Meta's use of false "abuse" reports for newly created content and stonewalling support responses (SAC ¶9(b), (c)).

5. It demonstrates Meta's pattern of using vague "community standards" violations as pretext:

- Meta unilaterally deleted all Veamcast-related content from its platform without prior notice or explanation (SAC ¶9(c))
- When questioned through support channels, Meta provided only general references to "community standards" violations (SAC ¶10)
- Meta never identified any specific content that violated its standards
- Meta never provided any opportunity to appeal or address alleged violations
- The timing of content deletion coincided with Meta's systematic restriction of Veamcast's API access, suggesting the true motivation was anticompetitive rather than any legitimate content concern

- The FTC found that "Facebook has enforced its platform policies selectively to benefit its own business interests" and "cut off API access to harm threatening firms, while maintaining access for others" (SAC ¶28) - exactly matching Meta's treatment of Veamcast where it used vague "community standards" claims to mask anticompetitive actions
- As the FTC documented, Meta's pattern of using policy enforcement as pretext for anticompetitive conduct was central to its strategy, with numerous specific findings directly paralleling Plaintiff's experience (SAC ¶30-31).

The extensive documentation of parallel conduct through both contemporaneous evidence (Exhibits A-D) and independent regulatory findings provides far more than "conclusory allegations" - it presents a coherent, detailed narrative supported by specific facts, dates, and communications. Each element of anticompetitive conduct is supported by concrete evidence:

- API access changes documented through technical records and exhibits:
 - Initial approval and functionality (Exhibit A)
 - Systematic disabling of features (Exhibit B)
 - Pattern of deceptive responses (Exhibit C)

- Long history of platform engagement (Exhibit D)
- Platform surveillance proven through specific test account data, including exact email addresses and dates (SAC ¶8)
- Pattern of deception evidenced through preserved support communications (SAC ¶9(d), ¶10)
- Timing of restrictions corroborated by dated exhibits showing the progression from approval to restriction

The FTC case analysis is not excessive legal citation but rather crucial evidence that the conduct Plaintiff experienced was part of Meta's documented pattern of anticompetitive behavior. Each parallel between the FTC's findings and Plaintiff's experience is supported by specific exhibits.

The R&R's characterization of this analysis as "Supreme Court" citation and its dismissal of its relevance fundamentally misunderstands both the nature and purpose of this evidence in the complaint.

This analysis was necessary to demonstrate the pattern of conduct, not excessive legal citation, and thus the R&R's characterization of the complaint as a "shotgun pleading" stems from a misunderstanding of why this case was discussed in detail.

The R&R's mischaracterization of the FTC analysis as "irrelevant" Supreme Court citation overlooks how these FTC findings help establish the plausibility of Plaintiff's claims. The FTC's independent investigation and findings demonstrate that the pattern of conduct Plaintiff experienced was not only possible, but part of Meta's documented business strategy. These findings transform Plaintiff's allegations from possible to plausible by showing that Meta engaged in exactly this type of anticompetitive conduct as standard practice. This is precisely the type of factual context that helps a complaint cross the plausibility threshold required by *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007).

II. LEGAL STANDARD

A Magistrate Judge has inherent authority to reconsider and amend recommendations prior to the District Court's final determination. See Fed. R. Civ. P. 72(b); also, *Weekley v. Jones*, 927 F.3d 1306, 1310 (11th Cir. 2019) (holding that "Because the district court had not yet adopted Weekley's R&R when Weekley vacated it, Weekley was free to reconsider the matter").

III. BASIS FOR AMENDMENT

Amendment is warranted because:

1. The error affects core analysis:

- Characterization of complaint structure
- Assessment of legal citations
- "Shotgun pleading" determination

2. Correction would aid District Court review:

- Accurate assessment of complaint organization
- Proper evaluation of legal citations
- Clear record for appeal if needed

3. Material impact on recommendations:

- Error supports primary basis for dismissal
- Affects analysis of complaint format
- Influences assessment of amendment futility

IV. CLEAR CAUSATION AND SPECIFIC HARM

The chronological presentation of events establishes clear causation: Meta first examined Plaintiff's competitive features through test accounts (SAC ¶8), then systematically disabled those same features (SAC ¶9), while maintaining them for its own services. This is not mere correlation - the sequence and timing

demonstrate direct causation between Meta's surveillance and subsequent anticompetitive actions:

1. July 2018: Meta approved Veamcast's API functionality (SAC ¶7, Exhibit A)
2. September 2019: Meta employees tested Veamcast using tfbnw.net accounts (SAC ¶8)
3. Post-testing: Meta systematically disabled the examined functionality (SAC ¶9(a), (b))
4. Concurrent with restrictions: Meta provided deceptive error messages (SAC ¶9(b))
5. Following restrictions: Meta deleted all Veamcast-related content without notice (SAC ¶9(c))

The complaint establishes specific, concrete harm flowing directly from Meta's conduct. Beyond mere speculative damages, Plaintiff documents:

- Actual loss of functioning API access, turning a working application into a non-functional one
- Destruction of existing content and user relationships through unexplained deletion
- Concrete technical barriers to market participation through API restrictions
- Specific features rendered inoperable by Meta's actions

- Direct economic impact through:
 - Wasted development resources
 - Lost user base
 - Destroyed content
 - Terminated platform access
 - Reputational damage from error messages

V. SPECIFIC AMENDMENTS REQUESTED

Plaintiff respectfully requests:

- Review of the Supreme Court case citation matter, which, if corrected, would provide valuable clarity for:
 - Understanding the complaint's organizational structure
 - Evaluating the role of case analysis in supporting factual allegations
 - Assessing the complaint's compliance with pleading standards
- Reconsideration of the "shotgun pleading" analysis considering:
 - The complaint's chronological presentation of events
 - Each exhibit's direct support of specific claims
 - The necessary context provided by parallel case analysis
 - Any aspects that could benefit from further refinement

- Further examination of the private right of action discussion to ensure:
 - Proper consideration of statutory authority
 - Clear understanding of precedential support
 - Appropriate framework for factual allegations
 - Complete analysis of available remedies

Plaintiff acknowledges the Court's expertise in these matters and would be grateful for any guidance that would help ensure proper presentation of these important antitrust claims.

VI. CONCLUSION

For these reasons, Plaintiff respectfully requests that the Court amend the R&R to correct the factual error and reconsider its recommendations in light of the corrected record.

Dated: November 24, 2024

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Joseph Dean', written in a cursive style.

Joseph Dean, Pro Se

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on [Date], I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification to all counsel of record.

A handwritten signature in black ink, appearing to read 'Joe D.', is positioned above the typed name.

Joseph Dean, November 24, 2024

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