

**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.

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**PLAINTIFF'S OBJECTIONS TO MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

Plaintiff Joseph Dean ("Plaintiff"), proceeding pro se, respectfully submits these objections to the Magistrate Judge's Report and Recommendation dated November 20, 2024 ("R&R") (Doc. 16), pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b).

I. INTRODUCTION

The R&R recommends dismissing Plaintiff's Second Amended Complaint ("SAC") with prejudice, finding it to be a "shotgun pleading" that fails to state cognizable claims. Plaintiff respectfully objects to these findings and recommendations for the following reasons:

II. SPECIFIC OBJECTIONS

A. The SAC Is Not a "Shotgun Pleading"

The R&R incorrectly characterizes the SAC as a "shotgun pleading." While the SAC includes detailed legal precedent, this information provides context for the clearly stated factual allegations and does not obscure the claims. The SAC contains:

1. Clear chronological presentation of events showing Meta's anticompetitive conduct
2. Specific examples of Meta's actions, supported by dated exhibits
3. Direct connection between Meta's conduct and Plaintiff's injuries
4. Two distinct causes of action with supporting elements

The inclusion of relevant legal precedent does not transform a detailed complaint into a "shotgun pleading," particularly when filed by a pro se plaintiff entitled to liberal construction of pleadings. See *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998).

B. The Sherman Act Claim Is Cognizable

The R&R incorrectly states that "15 U.S.C. § 2 does not state a private cause of action." This conclusion contradicts established law. The Clayton Act explicitly provides a private right of action for Sherman Act violations:

1. 15 U.S.C. § 15(a) states that "any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor..."

2. The Supreme Court has consistently recognized private rights of action under the Sherman Act. See, e.g., *Blue Shield of Virginia v. McCready*, 457 U.S. 465, 472 (1982)

C. The Clayton Act Claims Are Well-Pleaded

The R&R incorrectly dismisses the Clayton Act claims as "conclusory." The SAC provides specific factual allegations showing:

1. Meta's Anticompetitive Conduct:

- Documented testing of Veamcast through multiple tfbnw.net accounts (SAC ¶8)
- Systematic disabling of API functionalities after review (SAC ¶9)
- Deceptive error messages claiming "abuse" of newly created content (SAC ¶9(b))
- Deletion of content without notice (SAC ¶9(c))

2. Market Power:

- Over 3 billion monthly users (SAC ¶21)
- \$135 billion in revenue in 2023 (SAC ¶21)
- Control over critical APIs (SAC ¶21)

3. Competitive Injury:

- Prevention of user base building (SAC ¶13)
- Wasted development resources (SAC ¶13)

- Lost business opportunities (SAC ¶13)

D. The Exhibits Support Rather Than Contradict the Claims

The R&R incorrectly states that "the plaintiff's exhibits attached to the SAC contravene the plaintiff's allegations of anticompetitive conduct." This mischaracterizes the evidence:

1. Exhibit A shows Veamcast's functionality before Meta's actions
2. Exhibit B documents the systematic disabling of features
3. Exhibit C demonstrates Meta's pattern of evasive responses and stonewalling
4. The "community standards violations" referenced in support threads were pretextual, as evidenced by error messages claiming "abuse" of newly created content

III. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court:

1. Reject the R&R's recommendation to dismiss the SAC with prejudice
2. Find that the SAC states valid claims under both the Sherman and Clayton Acts
3. Allow the case to proceed to discovery

Alternatively, if the Court finds any deficiencies in the SAC, Plaintiff requests leave to file a Third Amended Complaint addressing those specific issues.

Respectfully submitted,



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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.



Joseph Dean

November 21, 2024