

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

JUN 05 2019

JAMES W. McCORMACK, CLERK
By:  DEP CLERK

AMERICAN TIGER FIREARMS LLC, FARM DIVA LLC, and
FIRST SHOT, LLC

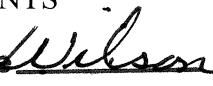
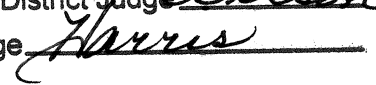
PLAINTIFFS

vs.

Case No. 4:19cv388 -BRW

FACEBOOK, INC. and FACEBOOK PAYMENTS INC.

DEFENDANTS

This case assigned to District Judge 
NOTICE OF REMOVAL to Magistrate Judge 

Please take notice that Defendants Facebook, Inc. and Facebook Payments Inc. (collectively, "Facebook") hereby remove the above-captioned action to this Court from the Arkansas Circuit Court for Saline County pursuant to 28 U.S.C. §§ 1332(a), 1332(d), 1441, 1446, and 1453. In support of this Notice of Removal, Facebook states as follows:

BACKGROUND

1. On or about May 1, 2019, Plaintiffs American Tiger Firearms LLC ("American Tiger"), Farm Diva LLC ("Farm Diva"), and First Shot, LLC ("First Shot") (collectively, "Plaintiffs"), individually, and on behalf of all others purportedly similarly situated, filed a Complaint against Facebook in the Arkansas Circuit Court for Saline County (the "Complaint"), styled as *American Tiger Firearms LLC et al. v. Facebook, Inc. et al.*, Case No. 63CV-19-505-3 (the "Action"). A true and correct copy of the Complaint, and all of the process, pleadings, orders, and documents from this Action, is attached hereto as **Exhibit 1**.

2. Facebook, Inc. was served with the Complaint and the summons on May 6, 2019. Facebook Payments Inc. was served with the Complaint and the summons on May 7, 2019. As such, this Notice of Removal is timely filed. *See* 28 U.S.C. § 1446(b)(1).

3. Plaintiffs generally allege that Facebook improperly blocked or removed advertising content that Plaintiffs wanted to post or posted on Facebook's platform while allowing other users to post similar advertising content. Plaintiffs generally allege that Facebook's alleged blocking or removal of their respective advertising content was arbitrary and capricious, or that Facebook applies a different advertising content standard to larger commercial marketers who also compete with smaller commercial marketers like Plaintiffs. *See* Compl. ¶ 10.

4. On these core allegations, Plaintiffs bring the following claims, arising under Arkansas law:

a. Declaratory Judgment that Defendant is a Non-Regulated Public Utility and Has Acted Contrary to the Rules That Govern a Public Utility (First Claim For Relief); and

b. Declaratory Judgment that Defendant is an Unlawful Monopoly (Second Claim For Relief).

Compl. ¶¶ 59-66; 67-72.

5. Plaintiffs' prayer for relief seeks, among other things, "a declaratory judgment that Defendant is a non-regulated public utility"; "a declaratory judgment that Defendant is a monopoly in violation of A.C.A. § 4-75-301 *et seq.*"; an order to "[e]njoin Defendant to conduct itself generally as a public utility in accordance with the duties and obligations of a public utility and specifically not to discriminate in favor of larger commercial marketers against smaller commercial marketers such as the Plaintiffs and the Class members"; an order to "[e]njoin Defendant to act in a manner consistent with its status as a non-regulated public utility with respect to Class members and not in an arbitrary or capricious manner with respect to" their use of Facebook's platforms; and an order to "[e]njoin Defendant from retaliation against Plaintiffs for bringing this Action." *Id.*, Prayer for Relief.

6. Plaintiffs bring these claims and seek relief on behalf of themselves and on behalf of a putative class, defined as “All Arkansas residents who have commercial or business accounts with Defendant who are subject to having their advertising efforts interrupted by Defendant due to Defendant’s intentional selective enforcement or erroneous, inconsistent, and capricious application of the Facebook Commercial Policies.” Compl. ¶ 36.

DIVERSITY JURISDICTION

7. Removal to this Court is proper because the Court has original jurisdiction over the action under 28 U.S.C. § 1332(a), as Plaintiffs and Facebook are completely diverse and the amount in controversy exceeds \$75,000.

Diversity of Citizenship

8. According to the Complaint, Plaintiff American Tiger Firearms LLC is a limited liability company organized under the laws of Arkansas and has its principal place of business in Pulaski County, Arkansas. Compl. ¶ 18.

9. According to the Complaint, Plaintiff Farm Diva LLC is a limited liability company organized under the laws of Arkansas and has its principal place of business in Pulaski County, Arkansas. *Id.* ¶ 19.

10. According to the Complaint, Plaintiff First Shot, LLC is a limited liability company organized under the laws of Arkansas and has its principal place of business in Saline County, Arkansas. *Id.* ¶ 20.

11. Defendant Facebook, Inc. is a corporation organized under the laws of Delaware and has its principal place of business in Menlo Park, California.

12. Defendant Facebook Payments Inc. is a corporation organized under the laws of Florida and has its principal place of business in Menlo Park, California.

Amount in Controversy

13. Plaintiffs do not allege that the requested declaratory and injunctive relief has any particular value. While Facebook denies that Plaintiffs or any class member is entitled to obtain any relief, the Complaint's allegations place in controversy an amount greater than \$75,000, assessed from either Plaintiffs' or Defendants' perspectives.

14. In actions seeking declaratory or injunctive relief, the amount in controversy is measured by the value of the object of the litigation. *See Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 347 (1977).

15. The object of this Action is, in part, an order declaring Facebook subject to Arkansas' public utility regulatory regime. Plaintiffs seek injunctive relief establishing that Facebook "is a non-regulated public utility" and to enjoin Facebook "to conduct itself generally as a public utility in accordance with the duties and obligations of a public utility" and "to act in a manner consistent with its status as a non-regulated public utility." Compl., Prayer for Relief.

16. The pecuniary effect on Facebook if such relief were granted, and the difference in the value of Facebook if left unregulated and if such relief were granted, exceeds \$75,000. In order to comply with Arkansas' public utility statutory scheme, rules, and regulations, Facebook would incur costs exceeding \$75,000. Moreover, the value of its business would decrease by more than \$75,000 if Facebook were subjected to Arkansas' public utility rules and regulations. *See infra* ¶ 28.

17. Plaintiffs seek expansive declaratory and injunctive relief in order to prevent the "economic harm to the Plaintiffs and the Class members" that occurs when "they are denied access or use of an essential advertising medium in which they have previously invested time and money and upon which they have come to rely." Compl. ¶ 11. Plaintiffs allege "it takes thousands of

Dollars and months, or even years, to develop a large number of ‘Likes’ and ‘Followers’ using the Facebook Apps.” *Id.* Facebook’s alleged arbitrary and capricious actions denying Plaintiffs advertising access to the Facebook platform, followers, and users—comprised of over 1.4 million individuals in Arkansas alone according to the Complaint, *id.* ¶ 70—places an amount in controversy exceeding \$75,000 from any one of the Plaintiffs’ point of view.

18. Plaintiffs also appear to seek compensatory damages of an unspecified amount, but less than \$5,000,000. *See* Compl. ¶ 23 (“The damages being claimed by Plaintiffs and the Class, exclusive of attorney’s fees and costs, are below . . . \$5,000,000 . . .”); *id.*, Prayer for Relief (seeking “such other relief as this Court deems just and proper”); *id.* ¶ 43(a). While Facebook does not concede these allegations properly state a request for money damages, Plaintiffs’ attempts to do so also show the amount in controversy exceeds \$75,000.

JURISDICTION UNDER CLASS ACTION FAIRNESS ACT (“CAFA”)

19. Removal to this Court is also proper because the Court has original jurisdiction over the Action under the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d).

20. CAFA defines a “class action” as “any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representative persons as a class action.” 28 U.S.C. § 1332(d)(1)(B). Plaintiffs bring the Action pursuant to Arkansas Rule of Civil Procedure 23. Compl. ¶ 35.

21. “Under CAFA, federal courts have jurisdiction over class actions in which the amount in controversy exceeds \$5,000,000 in the aggregate; there is minimal (as opposed to complete) diversity among the parties, i.e., any class member and any defendant are citizens of different states; and there are at least 100 members in the class.” *Westerfeld v. Indep. Processing, LLC*, 621 F.3d 819, 822 (8th Cir. 2010) (citing 28 U.S.C. § 1332(d)).

Diversity of Citizenship

22. There is complete diversity of citizenship between Plaintiffs and Facebook. *Supra* ¶¶ 8-12.

Numerosity

23. Plaintiffs bring the Action on behalf of an expansive, statewide putative class unbounded by any temporal limitation comprised of “All Arkansas residents who have commercial or business accounts with Defendant who are subject to having their advertising efforts interrupted by Defendant due to Defendant’s intentional selective enforcement or erroneous, inconsistent, and capricious application of the Facebook Commercial Policies.” Compl. ¶ 36.

24. There are more than 100 residents of Arkansas who have commercial or business accounts with Facebook or who have purchased and placed advertisements on Facebook.

25. Plaintiffs allege that “the Class consists of at least hundreds of members.” Compl. ¶ 39.

Amount in Controversy

26. While Facebook denies that Plaintiffs or any class member is entitled to obtain any relief, the Complaint’s allegations place in controversy an amount greater than \$5,000,000.

27. Plaintiffs allege that “damages being claimed by Plaintiffs and the Class, exclusive of attorney’s fees and costs, are below the \$5,000,000 federal jurisdiction threshold under the Class Action Fairness Act.” Compl. ¶ 23. This allegation does not consider the value of the object of the litigation—here, declaratory and other relief requiring Facebook to “conduct itself generally as a public utility in accordance with the duties and obligations of a public utility”—that must be assessed to determine whether the amount-in-controversy requirement is met. *See* Compl., Prayer for Relief.

28. Facebook would incur costs exceeding \$5,000,000 if it were ordered to operate “in accordance with the duties and obligations of a public utility,” which are statutorily enumerated. *Id.* Facebook would be required to spend millions of dollars on salaries, analysis, and compliance efforts to satisfy all of the duties and obligations of an Arkansas public utility. For example, Facebook would incur significant costs in evaluating what changes would need to be made to Facebook’s methods for pricing advertisements, and how to design and implement such changes, so as to ensure compliance with the requirement that its rates are sufficiently “just and reasonable” to warrant approval by the Public Utilities Commission or to avoid a Commission investigation into such rates for being excessive or discriminatory. *See* Ark. Code §§ 23-4-102–103. Facebook would likewise incur significant costs in connection with rate publication requirements applicable to public utilities. *See id.* § 23-4-105.

29. Facebook would also suffer competitive harm from the public disclosure of Facebook’s pricing, and from the requirement that public utilities provide 30 days’ notice before modifying pricing. *See id.* § 23-4-105; *id.* §23-4-110, -402.

30. Facebook may also be required to pay an annual fee to the Public Utilities Commission of up to “two-fifths of one percent (2/5 of 1%) of [Facebook’s] gross earnings.” *Id.* § 23-3-110.

31. In addition, the value of the relief sought by Plaintiffs on behalf of the putative class exceeds \$5,000,000. Plaintiff American Tiger attaches to the Complaint documents allegedly showing that Facebook allegedly declined \$220 in American Tiger’s ad spending in 2018, allegedly as a result of Facebook’s alleged arbitrary or capricious enforcement of its advertising guidelines and/or alleged favoring of larger marketers. Compl., Ex. A. The value of that advertising spending to American Tiger is equal to or greater than the cost of running the ads.

Based on Facebook’s best estimates at the time of this filing, which Facebook reserves the right to refine, approximately 110,000 Arkansans have purchased Facebook advertisements since 2013. All of these individuals are potentially members of the putative class. Thus, extrapolating American Tiger’s attempted spending to this population, the amount in controversy significantly exceeds \$5 million.

32. As noted above, *see infra* ¶ 18, any claim for compensatory damages (which Facebook does not concede)—when combined with the value of declaratory and injunctive relief—would assure an amount in controversy in excess of \$5,000,000.

33. It is proper to use the purported value of relief to a named plaintiff to determine the aggregate amount in controversy. *See Doss v. Am. Family Home Ins. Co.*, 47 F. Supp. 3d 836, 840 (W.D. Ark. 2014) (“Using the named Plaintiffs as ‘typical’ class members and multiplying their claims by the number of persons estimated in a class is precisely how courts generally determine the estimated amount in controversy.”); *Alexander v. Pipeline Prods., Inc.*, No. 1:16-CV-00005-KGB, 2018 WL 3045179, at *4 (E.D. Ark. Feb. 15, 2018).

PROCEDURAL REQUIREMENTS FOR REMOVAL

34. All procedural requirements for removal are met.

35. This Notice of Removal is timely filed under 28 U.S.C. § 1446(b) because it was filed within 30 days of service of the summons and Complaint.

36. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because the U.S. District Court for the Eastern District of Arkansas, Western Division, is the federal judicial district embracing the Arkansas Circuit Court for Saline County, where the Action was originally filed.

37. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of all of the process, pleadings, orders, and documents from this Action, regardless of whether they have been served (properly or improperly) upon Facebook, are being filed with this Notice of Removal, and are attached hereto as **Exhibit 1**.

38. A Notice of Filing of Notice of Removal is being simultaneously filed with the clerk of the state court in which the Action is pending and served on Plaintiff's counsel, pursuant to 28 U.S.C. § 1446(d).

RESERVATION OF RIGHTS

39. By this Notice of Removal, Facebook does not waive any objections, defenses, obligations, or exceptions it may have as to service, jurisdiction, or venue, or any other matter, and expressly reserves all such rights.

40. Facebook does not waive, and expressly reserves, its right to arbitrate the claims brought in the Action. *See, e.g., PR Grp., LLC v. Windmill Int'l, Ltd.*, No. 14-0401-CV-W-BP, 2016 WL 3033617, at *6 (W.D. Mo. Feb. 1, 2016); *Fleischli v. N. Pole US, LLC*, No. 4:12CV1618 CDP, 2013 WL 1965120, at *12 (E.D. Mo. May 10, 2013).

41. In making the allegations in this Notice of Removal, Facebook does not concede in any way that the allegations in the Complaint are true, that Plaintiffs have asserted claims upon which relief can be granted, or that any relief which Plaintiffs seeks is authorized or appropriate.

42. Facebook reserves the right to amend or supplement this Notice of Removal. If any questions arise as to the propriety of the removal of this matter, Facebook requests the opportunity to present such further evidence as necessary to show that this matter is removable. *See Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 554 (2014) (“[A] defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the

jurisdictional threshold,” and evidence establishing that removal statutes are satisfied is necessary “only when the plaintiff contests, or the court questions, the defendant’s allegation.”); *Pudlowski v. St. Louis Rams, LLC*, 829 F.3d 963, 965 (8th Cir. 2016) (holding that a notice of removal “did not need to be accompanied by a submission of evidence,” and vacating district court order which refused to consider affidavits establishing federal court jurisdiction submitted in opposition to motion to remand, citing *Dart Cherokee*).

WHEREFORE, for the foregoing reasons, Facebook respectfully removes this Action from Arkansas Circuit Court for Saline County to this Court, and respectfully requests that the Court make whatever orders are necessary to effect the removal of this Action from state court to this Court, and to effect the filing of a true record in this case of all proceedings that have been had in the Action.

Dated: June 5, 2019

Respectfully submitted,

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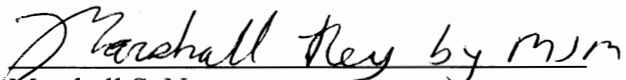
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*Attorneys for Defendants Facebook, Inc. and
Facebook Payments Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of June 2019, I caused to be served the foregoing Notice of Removal, via email and United States mail, postage prepaid, upon the following individuals:

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David Slade
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and First Shot, LLC
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*Attorneys for Defendants Facebook Inc. and
Facebook Payments Inc.*

EXHIBIT 1

FILED
SALINE COUNTY
CIRCUIT CLERK

IN THE CIRCUIT COURT OF SALINE COUNTY, ARKANSAS
CIVIL DIVISION

2019 MAY -1 PH 3: 24

American Tiger Firearms LLC,
Farm Diva LLC, and
First Shot, LLC
on behalf of themselves and all others similarly situated,

BY: [Signature]

PLAINTIFFS

VS.

CASE NO. 19CV-19-505-3

Facebook, Inc. and
Facebook Payments Inc.

DEFENDANTS

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

American Tiger Firearms LLC, Farm Diva LLC, and First Shot, LLC ("Plaintiffs"), on behalf of themselves and all others similarly situated, bring this action and demand for jury trial against Facebook, Inc. and Facebook Payments, Inc. (collectively, "Defendant"), and state and allege, upon personal knowledge as to themselves and otherwise upon information and belief, as follows:

INTRODUCTION

1. Plaintiffs bring this action on behalf of themselves and other commercial marketers in Arkansas who use Defendant's services (the "Class") and who (a) have suffered and continue to suffer arbitrary or capricious blocking by Defendant of their advertising on their Facebook Apps, and (b) have suffered and continue to suffer as a result of Defendant's pattern and practice of favoring large marketers over smaller ones.

Defendant's Social Networking Monopoly

2. Defendant owns and controls the world's three largest social-networking sites that

together boast more than two billion users. Computer software applications have become known as “apps,” and apps are downloaded by those two billion users to their respective mobile devices and thus become a “social network” that is the most powerful advertising platform in the world today. More than 1.5 billion people use the Facebook app every day, and more than 2.7 billion people use the Defendant’s group of apps (which group includes Facebook, Instagram, WhatsApp, Facebook Messenger, and Audience Network; collectively, all of these apps are referred to herein as the “Facebook Apps”). More than 90% of all mobile device users in the United States access the Facebook mobile social networking app in a given month, and approximately 60% of all mobile device users in the United States access each of the Defendant’s “Instagram” and “Facebook Messenger” social networking apps in a given month. For perspective, while Facebook owns and controls the top three most-used social networking apps in the United States, the fourth most-used, Twitter, is only visited by 38% of all mobile app users in the United States in a given month. All Facebook Apps, as owned and controlled by the Defendant, have the dominant market share of the social network advertising market, thus constituting the quintessential monopoly as defined in Arkansas law (*See* A.C.A. § 4-75-301).

3. According to the Defendant, almost the entirety of Defendant’s revenues come from the sale of commercial advertising services. Defendant uses its market dominance to its great advantage in selling advertising functionality only on Defendant’s terms and conditions. Defendant emphasizes to its customers, the marketers, that by using the Facebook Apps they are able to target their customers, followers, and prospective customers and followers based upon the personal data the Defendant acquires about those same commercial users, the commercial users’ networks of customers and followers, and other data Defendant collects from any user of one or more of the Facebook Apps. In 2018, Facebook received almost \$34 billion in advertising revenue

on a worldwide basis, and for the fourth quarter of 2018 Facebook's revenue grew to nearly \$17 billion. By any measure, Defendant's dominance of commercial social networking is increasing. If Plaintiffs and the Class members wish to advertise on social networking media, there is no effective alternative to using the Facebook Apps.

Marketing Using the Facebook Apps

4. Defendant sells special advertising methods, labelled by Defendant as "Business Tools", to the Plaintiffs and the Class members. Plaintiffs and Class members use the Business Tools to place ads for their businesses on the Facebook Apps. An example of a Business Tool is a "boost", which entails posting on a business's Facebook page, targeting a specific audience, and paying Defendant a fee to push the posting – or content – to the pages of the targeted audiences.

5. Each network created by the work and expense of a commercial marketer such as the Plaintiffs and the Class members has significant inherent value, not only to the business that created its network but also to Defendant. Defendant instructs and encourages its customers, commercial marketers such as the Plaintiffs and the Class members, to build networks of people who, when using the Facebooks Apps, indicate that they "Like" the advertising and the businesses. Because of the viral nature of building a social network, a marketer's exposure on the Facebook Apps grows exponentially; every time someone "Likes" a marketer's page or something on it, that person exposes the page or the thing on it to all of that person's friends who are also using the Facebook Apps, and they in turn have the opportunity to expose it to their friends. When people "Like" a marketer's page or its content, that person's friends will notice, either in advertisements appearing on their screens when using the Facebook Apps or on the "News Feeds" they receive when using the Facebook Apps. Since friends often share common interests, when someone likes a product or business, that person exposes it to other people who are more likely to have similar

preferences than someone picked at random. In this way, a business marketer creates its own network, using the Business Tools to target the people who are most likely to be interested in its business, its services, and its products.

6. Facebook users who "Like" a marketer's Facebook page receive updates about that page in their News Feeds. In this way, they have the opportunity to stay informed about a business marketer and can even engage in conversations with that marketer using the Facebook Apps. This builds a customer community around the marketer's page and generates customer loyalty; at the same time the marketer's network becomes accessible to Defendant, which in turn sells access to that network to other marketers, including those who compete with the marketer who built the original network. The proof of a marketer's marketing effectiveness using the Facebook Apps is in the size of a marketer's network. People who "Like" a marketer's page and their friends are more likely to visit the marketer's website, visit the marketer's business (in person or virtually), and purchase its products or services. When a person who uses the Facebook Apps "Likes" a webpage, that person is signing up for a relationship with that marketer.

7. The size and quality of the social networks established by the respective time, expense, and effort of the Plaintiffs and Class members correlate to a significant portion of the revenue of their respective businesses. Advertising using the Defendant's Business Tools drives sales. As a result, access to the social network created by businesses such as those of the Plaintiffs and Class members becomes increasingly valuable, both to the Plaintiffs and Class members as well as to Defendant.

Defendant's Unlawful Practices and Harm to the Plaintiffs and Class Members

8. Defendant states on its website that all marketers must comply with its numerous published rules (labelled by Facebook as "Advertising Policies", "Commerce Policy",

“Commercial Terms”, “Community Standards”, and “Terms of Service”; collectively, the “Facebook Commercial Policies”). In reality not all commercial marketers must comply with the Facebook Commercial Policies; Defendant does not enforce the Facebook Commercial Policies uniformly against all commercial marketers, and Defendant’s lack of uniform enforcement is particularly evident as against larger commercial marketers who pay Defendant more than the Plaintiffs and Class members pay Defendant.

9. While encouraging the Plaintiffs and Class members to build a social network, given the nature of social network advertising and Defendant’s thorough knowledge of the workings of the networks created on the Facebook Apps, Defendant is actually using the Plaintiffs and Class members to grow Defendant’s network, which Defendant monetizes by selling access to other commercial marketers who compete with the Plaintiffs and Class members. The businesses to which Defendant sells the social networks built by the Plaintiffs and Class members are larger and, directly or indirectly, competitors of the Plaintiffs and Class members. When Defendant denies, for any reason, access by the Plaintiffs and the Class members to the networks they built, but simultaneously sells access to others to those same networks, Defendant is favoring larger marketers that pay Defendant more money.

10. Although the Plaintiffs and the Class members comply with the Facebook Commercial Policies, their advertisements, or even their access to their respective networks, are blocked by Defendant. At the same time Defendant allows access the networks built by the Plaintiffs and the Class members to larger marketers who are advertising using the Business Tools in the same manner. Defendant blocks the content attempted by the Plaintiffs and the Class members while simultaneously allowing the larger, favored commercial marketer to post the same content. By its conduct Defendant demonstrates that the Facebook Commercial Policies do not

apply to the to the larger commercial marketers; for the Plaintiffs and the Class members, either Defendant (a) capriciously and arbitrarily applies those policies only to them or (b) intentionally holds the larger commercial marketers to a less arduous standard; regardless as to which, the negative effects upon the Plaintiffs and the Class members are the same.

11. When Defendant denies, for any reason, access by the Plaintiffs and the Class members to the networks they built, Defendant is denying them access to a public utility. If Defendant's denials of service are not arbitrary and capricious, then they are intentional. In either case, Defendant's denial of service causes an economic harm to the Plaintiffs and the Class members as they are denied access or use of an essential advertising medium in which they have previously invested time and money and upon which they have come to rely. It takes thousands of Dollars and months, or even years, to develop a large number of "Likes" and "Followers" using the Facebook Apps; Defendant's denial of access (to the public utility - the Facebook Apps - on which the Plaintiffs and Class members rely) economically harms the Plaintiffs and Class members in much the same manner as would denial of broadcast radio advertising, telecommunications connectivity, electricity, or water by the providers of those public utilities.

12. In first enticing the Plaintiffs and Class members to commence their use of the Facebook Apps, Defendant described the Facebooks Apps as a demonstrably and measurably effective: "Get personal with one of the world's biggest communities. Communicate with people in familiar ways on Facebook. Whether your business is global or rooted in a local community, you can find your customers here." [and] "Facebook ads work because they're relevant for people, and easy to create and measure for businesses." (from Defendant's homepage, <https://www.facebook.com/business>). Having no reasonable alternative to doing business with Defendant due to the size and ubiquity of the Facebook Apps, the Plaintiffs and the Class members

then become dependent upon the Facebook Apps and completely at risk for the adverse consequences of Defendant's anticompetitive decisions, or whims, to provide, or not provide, access by the Plaintiffs and Class members to their respective networks on the Facebook Apps.

13. Using its near-absolute market dominance, Defendant has assumed a role of controlling a material segment of commercial advertising in America, deciding from day-to-day which types of businesses can advertise using the Facebook Apps and which cannot. Even among competitors within categories of advertising allowed by Defendant, Defendant picks and chooses favored customers (often its larger preferred customers) and allows them to continue advertising using the Facebook Apps in spite of a supposed categorical ban; at the same time, the Plaintiffs and Class members (most often Defendant's smaller customers), which do not have executives who have the title "Facebook Advertising Manager" or the like, have their advertising blocked by Defendant. Two comparisons illustrate the discriminatory treatment of the Plaintiffs and Class members by Defendant:

First Comparison: Exhibit A is a listing of ads for concealed carry permit classes that were attempted by Plaintiff American Tiger Firearms LLC and blocked by Defendant because the ads, according to Defendant, "might lead to the use of firearms"; the examples of contemporaneous postings that advertise firearms and training classes that were posted to Facebook attached at Exhibit B were undertaken by marketers such as Hyatt Guns (which advertises itself as America's largest gun store) and four randomly selected manufacturers of firearms, all of whom are large and well respected in America: Colt, Henry Repeating Arms, Ruger, and Winchester. Beyond the size of Plaintiffs American Tiger Firearms LLC compared to the sizes of the group of advertisers represented in Exhibit B, there are no

material differences in the core businesses of any of them (*i.e.*, they all are engaged in the distribution and sale of firearms).

Second Comparison: Exhibit C is a short compendium of postings attempted by Plaintiff Farm Diva LLC that were denied by Defendant (*quoting Defendant*) “for failure to follow Facebook’s Advertising Policies” in that they “promote the sale or use of weapons, ammunition . . .”; compare those to the contemporaneous examples in Exhibit D from competing marketers named Bullet Designs, Gun Goddess, Jectz Bullet Jewelry, High Caliber Creations, and The Well Armed Woman LLC; again, there are no material differences in the ads of any of these marketers, whose ads were allowed by Defendant, and the ads of Plaintiff Farm Diva LLC, whose ads were rejected by Defendant.

14. Defendant also retroactively blocks previously approved ads, supposedly to conform, retroactively, to its then-current position regarding an ad.

15. While a specific ad or total access is denied to the Plaintiffs and the Class members, Defendant nevertheless continues to (a) make the Plaintiff’s and Class member’s networks available to their competitors, and (b) use the networking data from the networks built by the Plaintiffs and the Class members.

16. There is no reasonable functional alternative to the Facebook Apps available for digital social networking advertising for the Plaintiffs and the Class members. The Facebook Apps are the essential medium for businesses wishing to launch and maintain a social network advertising program, but the Plaintiffs and the Class members fear Defendant’s regulation of their advertising, or worse, denial of all access to their accounts on the Facebook Apps. The unlawful behavior is so common on the part of the Defendant that the term “Facebook Jail” has been coined

to refer to those marketers who, for whatever reason, have had their content and even their entire pages blocked by Defendant for any period of time.

17. Accordingly, to give the Plaintiffs and the Class members access to the use of their accounts on the Facebook Apps, the Plaintiffs bring this action against Defendant on behalf of themselves and the proposed Class members requesting (a) declaratory judgment that Defendant is a non-regulated public utility under Arkansas law and as such is not afforded the protections from prosecution as a monopoly that a regulated utility has, (b) declaratory judgment that Defendant is an unlawful monopoly under Arkansas law, (c) the Court to enjoin Defendant to manage the use of the public utility (that is, the Facebook Apps) in a manner consistent with its legal duties as a non-regulated public utility, (d) the Court to enjoin Defendant to conduct itself generally as a public utility in accordance with the duties and obligations of a public utility and specifically not to discriminate in favor of larger commercial marketers against smaller commercial marketers such as the Plaintiffs and the Class members, and (e) the Court to enjoin Defendant from terminating the Plaintiffs' accounts on the Facebook Apps in retaliation for the commencement of this action.

THE PARTIES

18. Plaintiff American Tiger Firearms LLC is a limited liability company organized under the laws of Arkansas and conducting a business under the name of American Tiger Firearms in Pulaski County, Arkansas. Plaintiff American Tiger Firearms LLC operated its business during the relevant time hereto and continues to operate it.

19. Plaintiff Farm Diva LLC is a limited liability company organized under the laws of Arkansas and conducting a business under the name of Farm Diva in Pulaski County, Arkansas. Plaintiff Farm Diva LLC operated its business during the relevant time hereto and continues to operate it.

20. Plaintiff First Shot LLC is a limited liability company organized under the laws of Arkansas and conducting a business under the name of First Shot in Saline County, Arkansas. Plaintiff First Shot LLC operated its business during the relevant time hereto and continues to operate it.

21. Defendant Facebook, Inc. is headquartered at 1601 Willow Rd., Menlo Park, California 94025, and incorporated under the laws of the State of Delaware but is not registered to do business in the State of Arkansas. Defendant Facebook Payments Inc. is also headquartered at 601 Willow Rd., Menlo Park, California 94025 and is registered as a Foreign For Profit Corporation in the State of Arkansas. Upon information and belief, Facebook, Inc., and Facebook Payments Inc. are affiliates.

JURISDICTION AND VENUE

22. Plaintiffs and all proposed Class members are citizens of the State of Arkansas. Facebook, Inc., is a social media company and non-regulated public utility doing business in the State of Arkansas. Facebook Payments, Inc., has filed as a foreign corporation with the Arkansas Secretary of State's office and is listed by the Arkansas Secretary of State's office as being in good standing. At all relevant times hereto, Facebook, Inc., was engaged in the marketing, sale, and operation of a well-known social media and advertising network in the State of Arkansas known as and doing business under the names of the Facebook Apps (*i.e.*, Facebook, Instagram, WhatsApp, Facebook Messenger, and Audience Network, among others).

23. The damages being claimed by Plaintiffs and the Class, exclusive of attorney's fees and costs, are below the \$5,000,000 federal jurisdictional threshold under the Class Action Fairness Act.

24. Accordingly, this Court has jurisdiction over the parties and the subject matter of this action, and venue is proper.

COMMON FACTUAL ALLEGATIONS

25. The Plaintiffs and the Class members have business marketing accounts with Defendant. The Plaintiffs and the Class members use these accounts to advertise their businesses.

26. Defendant derives almost all of its revenue from businesses such as those of the Plaintiffs and the Class members. As Defendant Facebook, Inc. states in its 2018 Annual Report to its stockholders: “We generate substantially all of our revenue from selling advertising placements to marketers. Our ads enable marketers to reach people based on a variety of factors including age, gender, location, interests, and behaviors. Marketers purchase ads that can appear in multiple places including on Facebook, Instagram, Messenger, and third-party applications and websites.” (Facebook, Instagram, and Facebook Messenger, are applications are owned by Defendant and are included within the definition of the Facebook Apps as used in this Complaint.)

27. Defendant offers a variety of methods to advertise on the Facebook Apps, including photo ads, video ads, carousel ads, slideshow ads, connection ads, instant experience ads, lead ads (lead ads are designed for mobile devices to make it easy for people to give a business their contact information without a lot of typing), and other alternatives. Advertising on the Facebook Apps uses micro-targeting features, developed and promoted by Defendant, that allow businesses to reach an exact target audience based on demographics, location, interests, and even behaviors of the customers a business is trying to reach.

28. The network of “followers” created by marketers using the Facebook Apps becomes more valuable to a marketer, and to Defendant, over time. When marketers are denied access to the networks they built, that constitutes a material interruption in communication with that marketer’s existing and potential customers. While a marketer’s access to the Facebook Apps may be interrupted, or denied altogether, intentionally by or at the whim of Defendant, Defendant

at all times maintains the network followers created by the marketer and uses that network for its own purposes, including the sale of access to competitors of the Plaintiffs and the Class members.

29. Inherent in any business decision to advertise on the Facebook Apps is the size of the networks and the technology of the Facebook Apps. More than 2.2 billion people use the Facebook Apps, and more than 95 percent of young adults on the internet use one of the Facebook Apps, making the Facebook Apps an essential advertising network for businesses.

30. While the marketers set the targets and write the content for their advertising on the Facebook Apps, Defendant reviews the advertising and from time to time interrupts or blocks the business's advertisement. Defendant arbitrarily or capriciously, or intentionally, ignores its own Facebook Commercial Policies to block advertising attempted by the Plaintiffs and Class members by enforcing its Facebook Commercial Policies against them but not against its larger customers (who pay Defendant more money).

31. Plaintiff American Tiger Firearms LLC uses the Facebook Apps to advertise its retail store, merchandise offered, gun safety classes, training classes using a simulated firing range, and concealed-carry and enhanced concealed-carry permit classes. Plaintiff American Tiger Firearms always strictly adheres to the Facebook Commercial Policies; for example, American Tiger Firearms never sells firearms on the Facebook Apps because that is prohibited by the Defendant as a condition of use of the Facebook Apps. On the other hand, advertising the existence of the American Tiger Firearms store, goods the store sells (including firearms), and classes taught at or through the store are allowed by the Facebook Commercial Policies and advertisements of such are attempted to be placed on the Facebook Apps by American Tiger Firearms. It is of particular importance to note that (a) Plaintiff American Tiger Firearms is licensed by and strictly adheres to all Federal and State laws applying to it, and (b) the concealed carry classes taught by

or through American Tiger Firearms are explicitly sanctioned by the State of Arkansas and constitute an essential element of the State's permitting program (those courses are taught by State-certified instructors and some if not all of the instructors have formerly served or are currently serving as law enforcement officers). In contravention of the Facebook Commercial Policies, Defendant blocks advertising by Plaintiff American Tiger Firearms on the Facebook Apps. When appeals are made, electronically (because no other method of appeal is available), to anonymous e-mail addresses within Defendant's company, no relief is given; the only explanation offered is an automatically generated statement that the advertising content does not conform to the Facebook Commercial Policies, even though the content is identical or nearly identical to (y) what had been posted on the Facebook Apps in prior years by this Plaintiff and (z) other ads posted by other marketers on the Facebook Apps. Defendant, by blocking Plaintiff American Tiger Firearms' advertising on the Facebook Apps, harms this Plaintiff by impeding this Plaintiff's sales.

32. Plaintiff Farm Diva LLC uses the Facebook Apps to advertise its merchandise. Plaintiff Farm Diva LLC designs, creates, and offers for sale jewelry made of metal from ammunition casings. A shell casing is a component of ammunition that is made of metal, a combination of metal and plastic, or a combination of metal and paper. The casing by itself is inert; other components such as gunpowder, wadding, one or more projectiles, and oftentimes a primer must be added to make the casing into ammunition that can be used in a firearm. The metal component of the ammunition is often made of brass, but it can be made of other metals. Spent ammunition casings are left over from any kind of ammunition that is fired from a pistol, rifle, or shotgun. Plaintiff Farm Diva uses spent ammunition casings to fashion jewelry such as earrings, bracelets, and necklaces, which this Plaintiff then advertises using the Facebook Apps. Defendant blocks this Plaintiff's advertisements of jewelry while neither the jewelry nor the advertising

thereof are prohibited by the Facebook Commercial Policies. Defendant blocks Plaintiff Farm Diva's access to the Facebook Apps, advising this Plaintiff in an auto-generated message that the proposed uses of the Business Tools are not allowed because they could encourage the purchase or use of guns. Defendant, by blocking Plaintiff Farm Diva's advertising on the Facebook Apps, harms this Plaintiff by impeding this Plaintiff's sales.

33. Plaintiff First Shot LLC uses the Facebook Apps to advertise its retail store and the merchandise and services offered there, gun safety classes, training classes, and concealed-carry and enhanced concealed-carry permit classes. Plaintiff First Shot always strictly adheres to the Facebook Commercial Policies; for example, First Shot has never sold firearms on the Facebook Apps because that is prohibited by the Defendant as a condition of use of the Facebook Apps and so stated in the Facebook Commercial Policies. On the other hand, advertising the existence of the First Shot store, goods the store sells (including firearms), and classes taught at or through the store are allowed by the Facebook Commercial Policies. It is of particular importance to note that (a) Plaintiff First Shot is licensed by and strictly adheres to all Federal and State laws applying to it, and (b) the concealed carry classes taught by or through First Shot are explicitly sanctioned by the State of Arkansas and constitute an essential element of the State's permitting program (those courses are taught by State-certified instructors and some if not all of the instructors have formerly served or are currently serving as law enforcement officers). In contravention of the Facebook Commercial Policies, Defendant blocks advertising by Plaintiff First Shot on the Facebook Apps. When appeals are made, electronically (because no other method of appeal is available), to anonymous e-mail addresses within Defendant's company, no relief is given; the only explanation offered is an automatically generated statement that the advertising content does not conform to the Facebook Commercial Policies, even though the content is identical or nearly identical to (y)

what had been posted on the Facebook Apps in prior years by this Plaintiff and (z) other ads posted by other marketers on the Facebook Apps. These denials of service became the subject of inquiry by a local television station in response to complaints by another Arkansas gun retailer (and Class member), and in 2017 the following was reported by Little Rock television station KTHV: "We reached out to Facebook. They tell us that when posts are flagged, it is directed to their Community Operations Team. That team reviews those reports continuously. Facebook admitted to us they were wrong, saying: "We're very sorry about this mistake. The posts were removed in error. We restored them as soon as we were able to investigate. Our team processes millions of reports each week, and we sometimes get things wrong." Since the local television station intervened on behalf of Plaintiff First Shot, this Plaintiff's use of the Facebook Apps still meets with intermittent albeit continuing interference, particularly with reference to its offering of concealed carry classes. This Plaintiff has been placed in "Facebook Jail" three times, once for posting a letter to the White House that complained about Defendant's business practices. Defendant, by blocking Plaintiff First Shot's advertising on the Facebook Apps, harms this Plaintiff by impeding this Plaintiff's sales.

34. While Defendant denies the Plaintiffs and Class members access to their respective networks on the Facebook Apps, Defendant does not interrupt access to the same services to Defendant's accounts which compete with the Plaintiffs and Class members. many of the competing marketers whose advertising is allowed by Defendant are larger than the Plaintiffs and Class members. Visitors to, people who "Like," and "Followers" of the Plaintiffs and Class members whose advertising or pages are blocked by Defendant see links to competitors of the Plaintiffs and Class members as a result of Defendant's appropriation and use of the networks built

by the Plaintiffs and Class members. Defendant thus diverts customers or potential customers of the Plaintiffs and Class members to their (most often larger) competitors.

CLASS ALLEGATIONS

35. Plaintiffs bring this action on behalf of themselves and all others similarly situated pursuant to Arkansas Rule of Civil Procedure 23. This action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of Rule 23(a) and (b).

36. The proposed Class is defined as: All Arkansas residents who have commercial or business accounts with Defendant who are subject to having their advertising efforts interrupted by Defendant due to Defendant's intentional selective enforcement or erroneous, inconsistent, and capricious application of the Facebook Commercial Policies.

37. Plaintiffs reserve the right to modify or amend the definition of the proposed Class before the Court determines whether certification is appropriate.

38. Excluded from the Class are Defendant, and Defendant's parents, subsidiaries, affiliates, officers and directors, any entity in which any defendant has a controlling interest, all customers who make a timely election to be excluded, governmental entities, and all judges assigned to hear any aspect of this litigation, as well as their immediate family members, and members of the staffs of the judges to whom this case should be assigned.

39. The members of the Class are so numerous that joinder is impractical. While the exact number of members of the Class cannot be determined without discovery, Plaintiffs believe that the Class consists of at least hundreds of members, the identity of whom, upon information and belief, can be readily determined upon review of records maintained by Defendant.

40. The claims of the representative Plaintiffs are typical of the claims of the Class in that the representative Plaintiffs, like all members of the Class, have had their advertising blocked

by Defendant in derogation of the Facebook Commercial Policies. As such, the factual basis of Defendant's misconduct is common to all members of the Class, and represents a common thread of bad faith, unfair and/or unconscionable conduct resulting in injury to all members of the Class and potential injury to all members of the Class.

41. There are numerous questions of law and fact common to the Class and those common questions predominate over any questions affecting only individual Class members.

42. The predominating common questions of law and fact include:

a. Whether and under what conditions or circumstances Defendant, as a general policy and business practice, arbitrarily or capriciously blocks or otherwise prevents commercial advertising on the Facebook Apps;

b. Whether Defendant, as a general policy and business practice, allows its employees to block or otherwise prevent commercial advertising or cause it to be blocked (for example, through the design of algorithms or other code) based upon personal preferences, individual employee or companywide prejudices, or other criteria not set forth in the Facebook Commercial Policies;

c. Whether Defendant's actions or omissions thereby deprived the Class of the advertising benefits for which they paid and to which they were entitled, thus constituting unjust enrichment;

d. Whether Defendant's actions or omissions prior to the sale of its Business Tools, and prior to the construction by the Plaintiffs and the Class members of their respective networks, constituted constructive fraud;

e. Whether Defendant allows larger, or favored, marketers to use the Facebook Apps while blocking or otherwise preventing commercial advertising using the Facebook Apps by competitors of the larger, or favored, marketer;

f. Whether Defendant is a business or service engaged in regularly supplying the public with a service of public consequence; and

g. Whether Defendant, as a non-regulated public utility under Arkansas law, is subject to prosecution under Arkansas Code Annotated § 4-75-301 *et seq.* as a “monopoly”.

43. Other questions of law and fact common to the Class include:

a. The proper method or methods by which to measure damages;

b. The declaratory and injunctive relief to which the Class is entitled;

c. Declaratory judgment as to the status of Defendant as a non-regulated public utility; and

d. Declaratory judgment as to the potential for prosecution of Defendant as an unlawful monopoly.

44. Plaintiffs’ claims are typical of the claims of other members of the Class, in that they arise out of the same actions by Defendant, namely Defendant’s sale of commercial advertising to the Plaintiffs and Defendant’s blocking of those ads. Plaintiffs have suffered the harm alleged and have no interests antagonistic to the interests of any other member of the Class.

45. Plaintiffs are committed to the vigorous prosecution of this action and have retained competent counsel experienced in the prosecution of class actions and, in particular, class actions on behalf of businesses and other persons against Defendant and other similar enterprises. Accordingly, Plaintiffs are adequate representatives and will fairly and adequately protect the interests of the members of the Class.

46. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Since the amount of each individual Class member's claim is small relative to the complexity of the litigation, and due to the financial resources of Defendant, no Class member could afford to seek legal redress individually for the claims alleged herein. Therefore, absent a class action, the members of the Class will continue to suffer losses and Defendant's misconduct will proceed without remedy.

47. Even if members of the Class themselves could afford such individual litigation, the court system could not. Given the complex legal and factual issues involved, individualized litigation would significantly increase the delay and expense to all parties and to the Court. Individualized litigation would also create the potential for inconsistent or contradictory rulings. By contrast, a class action presents far fewer management difficulties, allows claims to be heard which might otherwise go unheard because of the relative expense of bringing individual lawsuits, and provides the benefits of adjudication, economies of scale and comprehensive supervision by a single court.

FIRST CLAIM FOR RELIEF

Declaratory Judgment that Defendant is a Non-Regulated Public Utility Under Arkansas Law and Has Acted Contrary to the Rules That Govern a Public Utility

59. Plaintiffs repeat and reallege the above paragraphs as if set forth herein.

60. The Arkansas Supreme Court has defined a public utility as follows: "A public utility is generally defined as a business or service which is engaged in regularly supplying the public with some commodity or service of public consequence, such as electricity, gas, water, transportation, telephone or telegraph service." Arkansas Charcoal Co. v. Arkansas Public Service Com., 299 Ark. 359 (1989).

61. Defendant is a non-regulated public utility in that (a) Defendant conducts a business that is engaged in regularly supplying the public with a service of public consequence, and (b) Defendant has as one of its determinative characteristics service to, or readiness to serve, an indefinite public or a portion of the public.

62. Plaintiffs and the Class members are dependent upon Defendant to allow them access to the social networks they have developed on the Facebook Apps to the same extent that they are dependent upon their other public utilities to continue supplying them with access to broadcast radio advertising, telecommunications connectivity, electricity, or water.

63. As defined in A.C.A. § 23-1-101 (9) (A), a “public utility ... includes persons and corporations ... owning or operating in this state equipment or facilities for ... (iii) Conveying or transmitting messages or communications by telephone or telegraph where such service is offered to the public for compensation....” But for the lack of an Arkansas statute specifically addressing the digital social network utility, Defendant would be a public utility subject to regulation by the Arkansas Public Service Commission. Thus Defendant is a non-regulated public utility.

64. Under the General Service Rules of the Arkansas Public Service Commission, revised December 8, 2015, effective February 19, 2016, certain requirements are imposed upon public utilities for the public good, including (a) a duty not to retaliate against any new or existing customer for exercising a right or enforcing an obligation created by any Commission Rule or for acting within the law, and (b) a duty not to suspend service of an existing customer except for very specific reasons enumerated under the General Service Rules.

65. Defendant’s arbitrary or capricious - or intentional - suspensions of service to the Plaintiffs and the Class members constitute breaches of the duties and obligations owed by Defendant, as a non-regulated public utility, to Plaintiffs and the Class members. Defendant’s

threats, based upon its past conduct, to the Plaintiffs and Class members to suspend or permanently block their access to their respective social networks, also constitute breaches of the duties and obligations owed by Defendant, as a non-regulated public utility, to Plaintiffs and the Class members.

66. As a non-regulated public utility Defendant should be enjoined to conduct its operations with due and requisite regard for the good of the public.

SECOND CLAIM FOR RELIEF
Declaratory Judgment that Defendant is an Unlawful Monopoly Under Arkansas Law

67. Plaintiffs repeat and reallege the above paragraphs as if set forth herein.

68. Much as the case with any other public utility, Defendant offers for sale an infrastructural necessity for businesses where the supply conditions are such that a business may not be provided with the same or equivalent service at reasonable prices because of the monopoly Defendant now possesses. A business's only negotiating leverage against Defendant is the amount of revenue that business represents to Defendant; if a business is a large customer, it has leverage, and its access to the Facebook Apps is not blocked by Defendant.

69. While Defendant is a public utility, it is not regulated by the Arkansas Public Service Commission and therefore does not have the legal protections from the application of antitrust laws normally afforded a regulated monopoly.

70. Defendant states that it had "2.27 billion monthly active users on Defendant as of September 30, 2018" (<https://newsroom.fb.com/company-info/>). For 2017 there were over 312 million internet users living in the United State of America, and over 240 million were subscribers to the Facebook Apps. Within Arkansas there are over 1.9 million internet users, of whom 1.4 million use the Facebook Apps.

71. As a monopoly, the Defendant exists in violation of Arkansas law: “A monopoly, as defined in § 4-75-301, is declared to be unlawful and against public policy, and any and all persons, firms, corporations, or association of persons engaged therein shall be deemed and adjudged to be guilty of a conspiracy to defraud...” (A.C.A. § 4-75-301). Defendant should therefore be declared to be a monopoly that is unlawful, existing and acting against public policy, and guilty of a conspiracy to defraud.

72. As a monopoly, Defendant should not be allowed to conduct its operations without regard to the economic harm it causes for its customers. By unlawfully picking and choosing larger winners and smaller losers in the access to the social networks each business has created on the Facebook Apps, Defendant is conducting itself as the prototypical monopolist for which antitrust laws were originally conceived.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves, the Class members, and others similarly situated, respectfully request that this Court:

1. Determine that this action may be maintained as a class action under Rule 23 of the Arkansas Rules of Civil Procedure, that Plaintiffs are proper class representatives, and that their counsel are appointed Class Counsel;
2. Enter a declaratory judgment that Defendant is a non-regulated public utility;
3. Enter a declaratory judgment that Defendant is a monopoly in violation of A.C.A. § 4-75-301 *et seq.*;
4. Enjoin Defendant to conduct itself generally as a public utility in accordance with the duties and obligations of a public utility and specifically not to discriminate in favor of larger commercial marketers against smaller commercial marketers such as the Plaintiffs and the Class members;

5. Enjoin Defendant to act in a manner consistent with its status as a non-regulated public utility with respect to the Class members and not in an arbitrary or capricious manner with respect to use of the Business Tools or access to the Facebook Apps by Plaintiffs or the Class members;

6. Enjoin Defendant from retaliation against Plaintiffs for bringing this Action;

7. Award costs and reasonable attorneys' fees pursuant to applicable law; and

8. Award such other relief as this Court deems just and proper.

JURY DEMAND

Plaintiffs and the Class hereby request a trial by jury.

Dated: April __, 2019

Respectfully submitted,

William P. Creasman (ABN 92043)
David Slade (ABN 20130143)
CARNEY BATES & PULLIAM, PLLC
519 W. 7th St.
Little Rock, AR 72201
Tel: (501) 312-8500
Fax: (501) 312-8505

BY:


WILLIAM P. CREASMAN
Of Counsel

By:

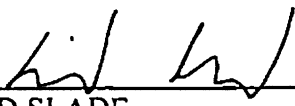








DAVID SLADE

EXHIBIT A

Help Your Audience Take Action
 Want more people to click the call-to-action button on your Page? You can create an ad that promotes it to the people who matter to you. [Promote](#) [Send Message](#)

Followers				Create New Promotion
Recent Promotions on American Tiger Firearms				
Ads activity is reported in the time zone of your ad account.				
	Boosted Post Looking for something Monday at 8:00 central... Promoted by Bryan Hearn on Nov 16, 2018 Page Provider: approved	— People Reached	— Link Clicks	\$0.00 Spent of \$60.00 View Results
	Event Promotion American Tiger Firearms Saturday, June 2, 2018 at 7:20 AM Promoted by Bryan Hearn on May 11, 2018 Not Approved	— People Reached	— Event Responses	\$0.00 Spent of \$60.00 View Results
	Boosted Post We are teaming with American Tiger Firearms L... Promoted by Bryan Hearn on Apr 5, 2018 Not Approved	— People Reached	— Link Clicks	\$0.00 Spent of \$20.00 View Results
	Boosted Post Here's our dates for the Concealed and Enhanc... Promoted by Bryan Hearn on Apr 4, 2018 Not Approved	— People Reached	— Post Engagement	\$0.00 Spent of \$60.00 View Results
	Event Promotion Arkansas concealed carry class Saturday, February 24, 2018, 7:20 AM - 5:00 PM Promoted by Bryan Hearn on Feb 2, 2018 Not Approved	3,786 People Reached	64 Event Responses	\$62.00 Spent of \$62.00 View Results
	Event Promotion Arkansas Concealed Carry Class Saturday, January 27, 2018, 7:20 AM - 5:00 PM Promoted by Bryan Hearn on Jan 9, 2018 Not Approved	3,900 People Reached	76 Event Responses	\$50.00 Spent of \$50.00 View Results
	Event Promotion Arkansas concealed carry class 12/30/17 Saturday, December 30, 2017 at 7:30 AM Promoted by Bryan Hearn on Dec 13, 2017 Not Approved	2,090 People Reached	34 Event Responses	\$30.00 Spent of \$30.00 View Results

Looking for all promotions for your ad account? [Go to Ads Manager](#)

EXHIBIT B

(5) Facebook

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Fundraisers

Movies

See More...

Create

Ad Page Group Event Fundraiser

Photo/Video Tag Friends Feeling/Activ...

You're seeing posts from Hyatt Guns first

Hyatt Guns 52 mins ·



410,390 Views

Wide Open Spaces April 7 at 3:15 PM ·

Like Page

We would love to open up this discussion, and see what our sportsmen and women think! https://bit.ly/2uNO36h

4

1 Comment

(1) Facebook

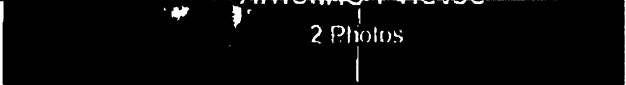
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News Feed ...

Messenger

Watch

Explore

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Groups

Events

Fundraisers

Movies

See More...

Create

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In the new historical crime film, The Highwaymen, the main chara (Woody Harrelson & Kevin Costner) both carry 5 3/4" barrel, .45 Single Action Army revolvers as their sidearms. #MovieMonday http://bit.ly/2UVUFyn



1.5K

156 Comments 96

Like

Comment

Share

(6) Facebook

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Fundraiser

You're seeing posts from Henry Repeating Arms first.



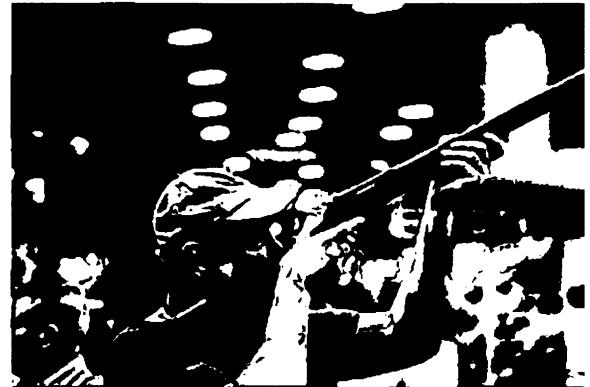
Henry Repeating Arms added an event.

18 hrs ·

Join us at the 2019 NRA Annual Meeting and Exhibits! W this will be our biggest year yet. We'll be unveiling a very release, displaying over 50 firearms, and hosting a huge us, you won't want to miss it.

Stop by booth #4608 to handle the Henry you've had you: the Henry team, and shake hands with MMA Superstar, C "Cowboy" Cerrone from 10:00 AM to Noon on the 27th.

We're also proud to sponsor the NRA Foundation Nation.



Henry at the 2019 NRA Annual Meeting

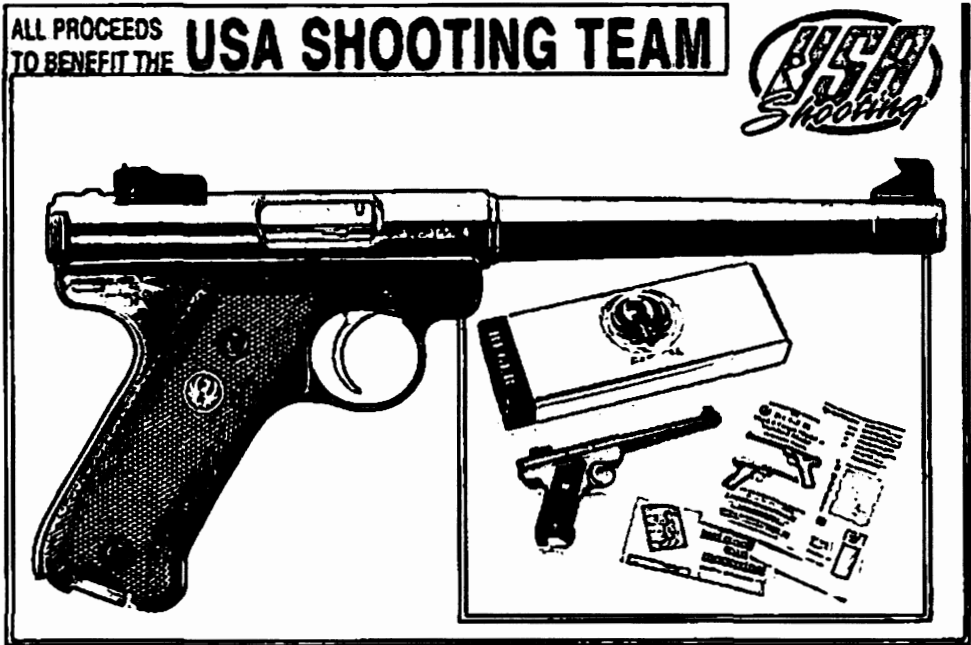
Henry Repeating Arms · Bayonne, NJ

FRI, APR 26

8:00 AM - 5:00 PM

★ Interested

82




 **Ruger**
Like This Page · Ap


Up for auction today begi
Mark I Target Model Pistc
100% of the proceeds fro
GunBroker.com #auction:
Shooting - National Gove
Shooting Sports
For more info & to place :
<https://bit.ly/2HTQYIN>

433

Like C

Most Relevant

 **Nikolas Koleczek**
was made in the ea

 Write a comment...

Press Enter to post.

Facebook <https://www.facebook.com>

Search

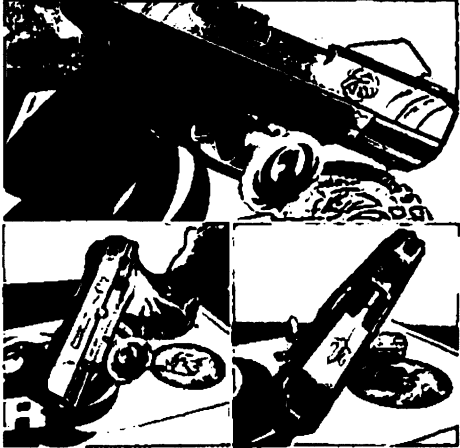
William Crossman See 4 more posts

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See More

Create
Ad Page Group Event Fundraiser

Ruger 1 hr

Check out the latest TALO Distributor's Inc. Special #Ruger Security-8 Compact Model Pistol! Proceeds from the sale of these limited edition pistols will benefit the Navy SEAL Foundation. For more info go to <https://bit.ly/2uMLbgn>



TALO Distributor's Inc. 21 hrs

Save \$ 001 Navy Seal Security 8 Compact Ask your dealer for Ruger 8220. To raise \$25,000 for Navy Seal Foundation. Thank you for making it possible


Like Page

56 Comments 25 Shares



Like Comment Share

Stories
Add to Your Story
Share a photo, video or write something

Sponsored Create Ad



Post Jobs For Free. Find Great Talent Today. Hire smarter companies - job. This year try ZipRecruiter for Free! The smartest way to hire. 88% of employers who post it.

L.L. Bean
Shorts sale
Elevate Freight Get 25% OFF, online and in stores. Use promo code BONUS25 Offer ends April 5

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Type here to search

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- Events
- Fundraisers
- Gaming Video
- See More
- Create
- Ad Page Group Event Fundraiser

140 4 Comments 5 Shares

Like Comment Share

Winchester 19 hrs · G

Grant Woods calls Winchester's Long Beard XR "ammo that gets the job done!" Check out Grant's video to see how Long Beard XR has proven itself time and time again.

24,514 Views

Grant Woods March 14 at 8:13 PM · G

We've been shooting the Long Beard XR for many seasons. Its proven itself time and time again! Winchester winchesterammo #hangpantz

30 5 Shares

Like Comment Share

Stories [Archive](#) [Settings](#)

Add to Your Story

Share a photo, video or write something

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Why Customer Centricity Matters salesforce.com

New research explains why 80% say experience is as important as product

Post Jobs For Free. Find Great Talent Today. www.ziprecruiter.com/post-a-job

Try ZipRecruiter for free. We take the work out of hiring. send your job post to 100+ job...

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Chat

Type here to search 11:05 AM 4/5/2019

EXHIBIT C

7. Weapons, Ammunition, or Explosives

Policy

Ads must not promote the sale or use of weapons, ammunition, or explosives. This includes ads for weapon modification accessories.

Examples

- Blogs or groups connecting people with weapon-related interests, as long as the service doesn't lead to the sale of these products
- Safety courses for firearm training or licenses, and books and videos about firearm safety
- Plastic guns, swords and toy weapons
- Mounted flashlights for firearms (must set ad audience minimum age to 18 years old or over)
- Scopes and sights for firearms (must set ad audience minimum age to 18 years old or over)
- Hunting, self-defense, and military clothing and gear such as shooting targets and clay throwers (must set ad audience minimum age to 18 years old or over)
- Holsters and belt accessories (must set ad audience minimum age to 18 years old or over)
- Gun safes, mounts (including bipods), gun cases, and slings (must set ad audience minimum age to 18 years old or over)
- Equipment and protective clothing (including vests) (must set ad audience minimum age to 18 years old or over)
- Paint, coatings or wraps for weapons and magazines (must set ad audience minimum age to 18 years old or over)
- Firearms, including firearms parts, ammunition, paintball guns and bb guns
- Firearm silencers or suppressors
- Weapons of any kind, including pepper spray, non-culinary knives/blades/spears, tasers, nunchucks, batons, or weapons intended for self-defense
- Fireworks and explosives
- Ads promoting the brandishing of firearms

View Results Not Approved | Delete Promotion

OVERVIEW EDIT AD



Ad Not Approved
Your post is still published on your Page, but it is no longer boosted because it doesn't follow Facebook's Advertising Policies.

Order Summary

You targeted women, ages 18 - 50 who live in 1 location, and have 2 interests.

Show full summary

This ad ran for 1 day.

Your total budget for this ad was \$10.00 USD

Pete Carter

Ad Issues

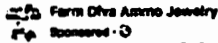
This ad isn't running because it doesn't follow our Advertising Policies. Your ad promotes the sale of ammunition, firearms, paintball guns, BB guns, or other weapons, including knives, daggers, swords, bows, arrows, truckle dusters, and nunchucks. Advertising the sale of weapons or leading to destinations where the business primarily focuses on the sale of weapons is not allowed.

Keep in mind that ads can promote advocacy or interest groups that help connect people who have interests related to these products, as long as it doesn't lead to the sale of any weapons.

If you've read our policies and think that we made a mistake, you can request a second review by our team.

[Request Review](#)

Preview: Desktop News Feed



[Boost Another Post](#) [Close](#)

View Results Not Approved | Delete Promotion



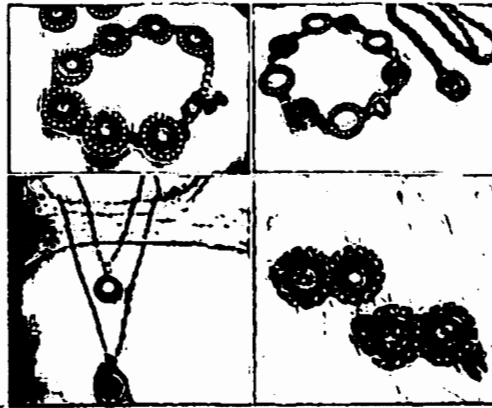
Ad Not Approved
Your post is still published on your Page, but it is no longer boosted because it doesn't follow Facebook's Advertising Policies.

Order Summary

- 1 You targeted women, ages 18 - 60 who live in 1 location, and have 2 interests.
[Show full summary](#)
- 2 This ad ran for 1 day.
- 3 Your total budget for this ad was \$10.00 USD
- 4 Mandy Sherrad's MasterCard *2483 will be billed.

[Help Center](#)

[Boost Another Post](#) [Close](#)



View Results Not Approved | Delete Promotion

- 1 Your total budget for this ad was \$5.00 USD

303 **25** **\$5.00**
People Reached Post Engagement Amount Spent

Actions People Placements Locations

Link Clicks

Page Likes

[Help Center](#)

[Boost Another Post](#) [Close](#)

SALE ALERT Now through July 4th, get 25% off your order & free shipping with coupon code AMERICA with our Red White & Bullets Sale!
(Shop www.farmdiva.net)



View Results Not Approved | Delete Promotion

- 1 You targeted men and women, ages 21 - 50 who live in 1 location, and have 2 interests.
[Show full summary](#)
- 2 This ad ran for 1 day.
- 3 Your total budget for this ad was \$5.00 USD

205 **0** **\$5.00**
People Reached Event Responses Amount Spent

Actions People Placements Locations

[Help Center](#)

[Close](#)

DESKTOP NEWS FEED **MOBILE NEWS FEED** MOBILE MARKETPLACE

Come See Farm Diva Ammo Jewelry at The Jonesboro Gun & Knife Show held on March 17th - 18th, 2017 in Jonesboro, Arkansas. Because every woman needs jewelry and accessories to match her gun. This gun show is... [More](#)



View Results Not Approved | Delete Promotion

- 1 You targeted men and women, ages 21 - 65+ who live in 1 location.
[Show full summary](#)
- 2 This ad ran for 2 days.
- 3 Your total budget for this ad was \$5.00 USD

428 **8** **\$5.00**
People Reached Event Responses Amount Spent

Actions People Placements Locations

Event Responses

[Help Center](#)

[Close](#)

DESKTOP NEWS FEED **MOBILE NEWS FEED** MOBILE MARKETPLACE

Come See Farm Diva Ammo Jewelry at The Saline County Gun & Knife Show held on Mar 4th - 5th, 2017 in Benton, Arkansas. Because every woman needs jewelry and accessories to match her gun. The show is held at... [More](#)



EXHIBIT D

Bullet Designs - Home x +

← → ↻ https://www.facebook.com/bulletedesigns/

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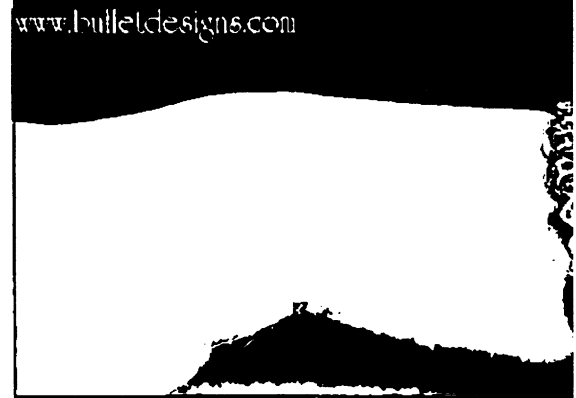
f Bullet Designs Q



Bullet Designs @bulletedesigns

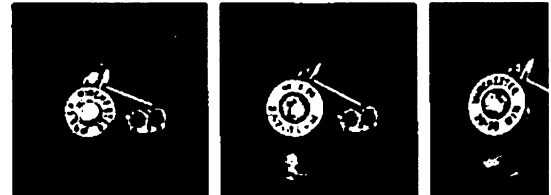
- Home
- About
- Shop
- Photos
- Posts
- Offers
- Community
- Info and Ads

Create a Page



Like Following Share

Shop



Nickel Pearl Stud Earrin... \$24.95	22-250 Bullet Head Stud... \$24.95	30-30 Bullet Hea... \$24.95
--	---------------------------------------	--------------------------------

See All

Photos



Like Following Share



GUNGODDESS.COM

43

3 Comments 3 Shares

Like Comment Share

GunGoddess.co

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@GunGoddess

- Home
- Posts
- Photos
- Shop
- Product Reviews
- Videos
- Email Newsletter Sign-Up
- About
- Community
- Info and Ads

Create a Page

GunGoddess.com 19 hrs · G

Have you modified your carry gun? If so, what did you upgrade?
<https://www.range365.com/should-you-modify-your-carry-gun>



RANGE365.COM

Should You Modify Your Carry Gun?

Its natural to want to add to and enhance a new firearm, but if it's a...

4

Like Comment Share

See All

Photos



I JUST WANT TO

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Jectz Bullet Jewelry
@JectzBulletJewelry

- Home
- About
- Photos
- Videos
- Posts
- Community
- Offers
- Info and Ads

Create a Page

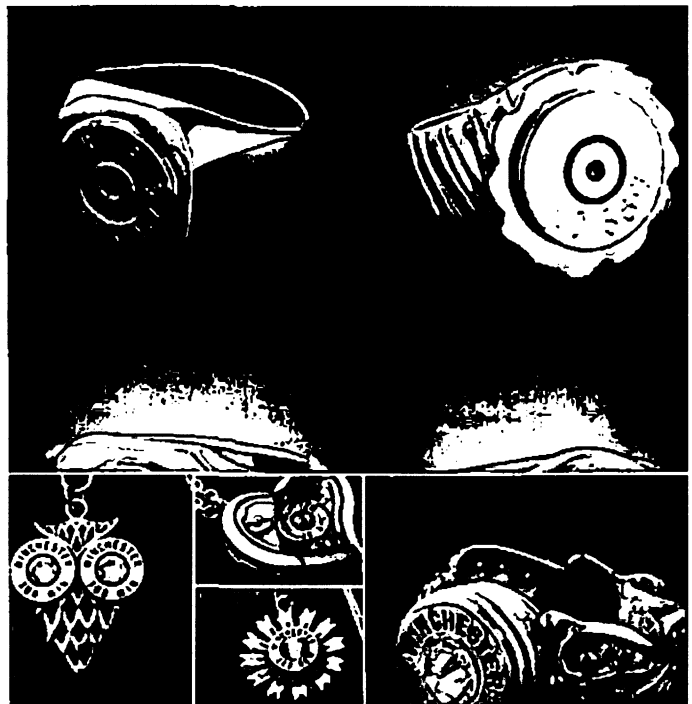
Like Following Share ...

Create Post

Write a post...

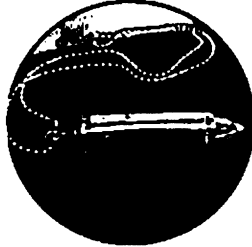
Tag Friends Check in ...

Photos



See All

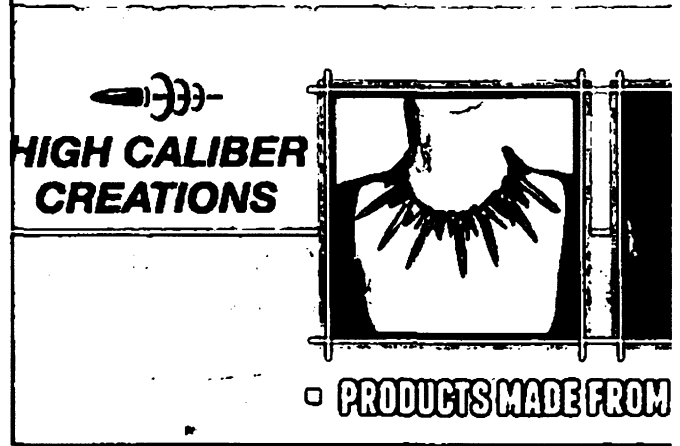
Videos



High Caliber Creations
@HighCaliberCreations

- Home
- About
- Photos
- Shop Now
- Videos
- Posts
- Offers
- Community
- Info and Ads

Create a Page



Like Following Share ...

Create Post

Write a post...

Tag Friends Check in ...

Photos



(1) The Well Armed Woman, LLC x +

→ C https://www.facebook.com/TheWellArmedWoman/

Apps The Wall Street Jour... PLU PLt Continuing Leg... Home - Supreme C... Lexis Advance Ho... Wikipedia FOIA Library - Offic... Morgan Stanley OnL...

The Well Armed Woman, LLC

William



The Well Armed Woman, LLC @TheWellArmedWoman

Home

Shop

About

Photos

WEBSITE

House Rules

Videos

Posts

Events

Community

Receive TAW Newsletter

Info and Ads

Create a Page



Like Follow Share

Create Post

Write a post...

Photo/Video Tag Friends Check In

Shop



TAW Instructor Hat \$24.99



Howard Leight Tortoise ... \$15.99



TAW Instructor Dry C... \$38.99

See All

Photos

**IN THE CIRCUIT COURT OF SALINE COUNTY, ARKANSAS
CIVIL DIVISION**

**American Tiger Firearms LLC,
Farm Diva LLC, and
First Shot, LLC
on behalf of themselves and all others similarly situated,**

PLAINTIFFS

VS.

CASE NO. 63CV-19-525-3

**Facebook, Inc., and
Facebook Payments Inc.**

DEFENDANTS

SUMMONS

THE STATE OF ARKANSAS TO DEFENDANTS:

Facebook, Inc.
1601 Willow Road
Menlo Park, CA 94025

Facebook Payments Inc.
c/o Corporation Service Company, Registered Agent
300 Spring Building, Suite 900
300 S. Spring Street
Little Rock, AR 72201

A lawsuit has been filed against you. The relief demanded is stated in the attached complaint. Within 30 days after service of this summons on you (not counting the day you received it) — or 60 days if you are incarcerated in any jail, penitentiary, or other correctional facility in Arkansas — you must file with the clerk of this court a written answer to the complaint or a motion under Rule 12 of the Arkansas Rules of Civil Procedure.

The answer or motion must also be served on the plaintiff or plaintiff's attorneys, whose names and address are:

William P. Creasman, Esq.
David Slade, Esq.
Carney, Bates & Pulliam PLLC
519 West 7th Street
Little Rock, AR 72201

If you fail to respond within the applicable time period, judgment by default may be entered against you

for the relief demanded in the complaint.

Additional Notices Included: (none).

[SEAL]



CLERK OF COURT
Saline County
200 N. Main Street, Suite 113
Benton, AR 72015

Myka Bono Sample
by: Debbie Tidball
[Signature of Clerk or Deputy Clerk]

Date: 5-1-19

FILED
SALINE COUNTY
CIRCUIT CLERK

2019 MAY -1 PM 3: 24

BY: DJ

63CV-19-505-3

IN THE CIRCUIT COURT OF SALINE COUNTY, ARKANSAS

**NOTICE OF RIGHT TO CONSENT
TO DISPOSITION OF CASE BY A STATE DISTRICT COURT JUDGE**

In accordance with Administrative Order Number 18, you are hereby notified that upon the consent of all the parties in a case, a State District Court Judge may be authorized to conduct all proceedings, including trial of the case and entry of a final judgment. Copies of appropriate consent forms are available from the Circuit Clerk.

You should be aware that your decision to consent or not to consent to the disposition of your case before a State District Court Judge is entirely voluntary, and by consenting to the reference of this matter to a State District Court Judge, the parties waive their right to a jury trial, and any appeal in the case shall be taken directly to the Arkansas Supreme Court or Court of Appeals as authorized by law.

You should communicate your consent by completing the Form — **CONSENT TO PROCEED BEFORE A STATE DISTRICT COURT JUDGE** — and return to the Circuit Clerk.