

Cause No. 2018-69816

JANE DOE	§	In the District Court of
	§	
v.	§	
	§	
FACEBOOK, INC.; MICHAEL LACEY;	§	334 th Judicial District
JAMES LARKIN; JOHN BRUNST;	§	
AMERICA'S INNS, INC. d/b/a	§	
AMERICA'S INN 8201 SOUTHWEST	§	
FWY, HOUSTON, TX 77074; and TEXAS	§	
PEARL, INC.	§	
	§	Harris County, Texas

**JANE DOE'S APPLICATION FOR
TEMPORARY RESTRAINING ORDER AND INJUNCTION**

A. SUMMARY

Facebook threatens to allow its users—including those who participated in the human trafficking scheme at issue in this lawsuit—to destroy vital evidence in this case. Facebook has already refused to provide any discovery responses or production at all in this case, and has now publicly promised its users it will, in fact, destroy this very same, critical evidence.

Jane Doe asks this Court to immediately restrain and enjoin Facebook and its officers, servants, employees, attorneys, and any other agent from in any way altering, changing, destroying, damaging, or deleting critical data and user information and stop the roll out of Facebook's new "Off Facebook Activity" feature.

B. FACTUAL BACKGROUND

Jane Doe was trafficked through Facebook beginning when she was only a 16-year-old minor. For years now, Facebook has permitted sex traffickers unfiltered access to children like Jane Doe and others particularly vulnerable to sex trafficking. Facebook's website is now most often the first point of contact between a large portion of sex traffickers and their victims.

Meanwhile, Facebook has been partnering with third parties to track and utilize user data on third-party websites. Among these third-party websites are 22,484 pornography and sex sites. Charlie Warzel, N.Y. TIMES, *Facebook and Google Trackers Are Showing Upon on Porn Sites*, <https://www.nytimes.com/2019/07/17/opinion/google-facebook-sex-websites.html?ref=collection%2Ftimestopic%2FPornography> (Jul. 17, 2019).

Jane Doe’s suit alleges various causes of action against Facebook related to its sex trafficking activities, including negligence and violation of Texas Civil Practice and Remedies Code chapter 98.

After the lawsuit was filed, Jane Doe propounded discovery requests to Facebook requesting critical information for the prosecution of her lawsuit. Relying on global and unparticularized objections, Facebook has not produced a single document or substantive response in this case, or others.

Now, Facebook has announced the implementation of a new tool called “Off-Facebook Activity” that would enable users themselves to remove entirely the third-party website information that Facebook has been storing and utilizing for advertising and other business purposes for years—which is the same information Jane Doe has been requesting, and Facebook has refused to provide, in discovery for months.

As Facebook put it to users:

If you clear your off-Facebook activity, we’ll remove your identifying information from the data that apps and websites choose to send us. We won’t know which websites you visited or what you did there, and we won’t use any of the data you disconnect to target ads to you on Facebook, Instagram or Messenger.

Facebook, *Now You Can See and Control the Data That Apps and Websites Share With Facebook*, <https://newsroom.fb.com/news/2019/08/off-facebook-activity/> (Aug. 20, 2019).

Allowing Facebook to delete and alter critical information already subject to discovery contained on users' itemized browsing history before allowing Jane Doe to fully investigate her claim will certainly harm Jane Doe and critically impair her ability to prosecute this case, leaving her without any remedy—as Facebook itself has made clear is its goal.

C. ARGUMENT & AUTHORITIES

Jane Doe's application for Temporary Restraining Order is authorized by Texas Civil Practice and Remedies Code § 65.001.

If Jane Doe's temporary restraining order is not granted, harm is imminent as Facebook has failed to protect the subject data and failed to provide it through discovery.

The harm that will result if the temporary restraining order is not issued is irreparable as the data will be forever lost with no way for Jane Doe to have it recovered.

D. RELIEF REQUESTED

Jane Doe request the Court set this application for hearing at the earliest practicable time. Upon hearing, the Court should enter a temporary restraining order:

- (a) Restraining and enjoining Facebook and its officers, servants, employees, attorneys, and any other agents from in any way altering, changing, destroying, damaging, or deleting user information in relation to application and website tracking;
- (b) Restraining and enjoining Facebook and its officers, servants, employees, attorneys, and any other agents from rolling out and/or implementing the "Off-Facebook Activity" feature;
- (c) Restraining and enjoining Facebook and its officers, servants, employees, attorneys, and any other agents from allowing users or third parties to in any way alter, change, destroy, damage, or delete user information in relation to application and website tracking;
- (d) Awarding Jane Doe's costs of Court; and
- (e) Granting Jane Doe all other relief to which she may be entitled.

Respectfully submitted,

By: /s/ Annie McAdams

Annie McAdams

Texas Bar No. 24051014

Matthew S. Parmet

Texas Bar No. 24069719

ANNIE MCADAMS, PC

1150 Bissonnet

Houston, Texas 77005

Phone 713 785 6262

Fax 866 713 6141

annie@mcadmaspc.com

matt@mcadamspc.com

David E. Harris

Texas Bar No. 24049273

Louie J. Cook

Texas Bar No. 24101191

Jeffrey H. Richter

Texas Bar No. 24061614

SICO HOELSCHER HARRIS LLP

802 N. Carancahua, Ste. 900

Corpus Christi, Texas 98401

phone 361 653 3300

fax 361 653 3333

dharris@shhlaw.com

lcook@shhlaw.com

jrichter@shhlaw.com

Michael T. Gallagher

Texas Bar No. 07586000

Pamela McLemore

Texas Bar No. 24099711

Boyd Smith

Texas Bar No. 18638400

THE GALLAGHER LAW FIRM

2905 Sackett Street

Houston, Texas 77098

Phone 713 222 8080

Fax 713 222 0066

pamm@gld-law.com

mike@gld-law.com

Attorneys for Jane Doe

CERTIFICATE OF SERVICE

On August 22, 2019, I served a copy of this electronically filed document on all registered parties and/or their counsel of record, via the electronic filing manager.

/s/ David E. Harris
David E. Harris