

CASE NO. 352-332141-22

CHAD PRATHER,

Plaintiff,

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IN THE DISTRICT COURT OF

v

_____ JUDICIAL DISTRICT

META PLATFORMS, INC., formerly
known as FACEBOOK, INC.,

Defendant.

TARRANT COUNTY, TEXAS

**PLAINTIFFS’ ORIGINAL PETITION AND APPLICATION FOR
TEMPORARY RESTRAINING ORDER AND TEMPORARY INJUNCTION**

COMES NOW, Chad Prather (“Prather” or “Plaintiff), and brings this his Original Petition and Application for Temporary Restraining Order and Temporary Injunction and respectfully represents the following:

**I.
DISCOVERY CONTROL PLAN**

1. Plaintiff intends to conduct discovery under Level 2 of Rule 190.3 of the Texas Rules of Civil Procedure (“TRCP”) and affirmatively pleads that this suit is not governed by the expedited-actions process in Texas Rule of Civil Procedure 169 because she seeks injunctive relief.

**II.
CLAIM FOR RELIEF**

2. Plaintiffs seeks only nonmonetary relief.

III.
PARTIES

3. Plaintiff Chad Prather is an individual residing in Tarrant County, Texas.

4. Defendant Meta Platforms, Inc. (“Defendant” or “Facebook”), formerly known as Facebook, Inc. is a foreign corporation whose corporate office is located at 156 University Avenue, Palo Alto, CA 94301 and who may be served with process through their registered agent, Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, TX 78701-3218 or wherever it may be found.

IV.
JURISDICTION

5. The Court has subject matter jurisdiction over this claim pursuant to Tex. Civ. Prac. & Rem. Code chapter 143A.

6. The Court has personal jurisdiction over Defendant because of its continuous and systematic contacts with the State of Texas and because Plaintiff’s claim arises out of Defendant’s specific contact with the State of Texas in censoring Plaintiff. Defendant has purposefully availed itself to be sued in Texas by its actions.

V.
FACTUAL ALLEGATIONS

7. Plaintiff, Chad Prather, is a candidate for Texas Governor running against Governor Greg Abbott, among others, in the Republican Party primary election (the “Election”) set to take place on March 1, 2022. Early voting is currently underway.

8. On February 21, 2022, just 8 days before the Election, Defendant suspended Prather from its Facebook social media platform for at least 7 days. *See Exhibit A*, attached hereto.

9. Facebook's action against Prather severely inhibits his ability to communicate with potential voters and will cause immediate and irreparable harm by damaging his chances at winning the Election. *Id.* There is no available remedy at law to Plaintiff for this interference with his ability to effectively campaign through social media.

10. It is likely no coincidence that Facebook chose to censor Prather so close to this hotly contested Election against Gov. Abbott. While publicly speaking out against censorship on social media, Gov. Abbott has been privately negotiating a deal with Facebook to bring the company's new data center to Texas.

11. An organization known as Tech Transparency Project ("TTP") made an open records request to obtain communications between Gov. Abbott's office and employees of Facebook, among other tech companies. Gov. Abbott's office has refused to release any documents, and according to open records, the governor's office asked Attorney General Ken Paxton to take action to justify withholding the information, which has still not been released.

12. TTP's open records request did, however, uncover a letter from an attorney representing Facebook who argued that releasing the 100-plus pages of communications between the governor's office and the social media giant would uncover restricted information—such as the nondisclosure agreement between

Abbott's office and Facebook, the new data center's project codename, and the fact they were even considering another facility in Texas. The letter, attached hereto as **Exhibit B** along with an article by Texas Scorecard attached as **Exhibit C**, reveals that Gov. Abbott has been privately dealing with Facebook to give it exclusive perks, paid with taxpayer money, to build their data center in Texas.

13. The implications of this letter and the timing of Facebook's censorship of Chad Prather should shock the conscience of this Court. Prather has a massive following on Facebook and has been a vocal critic of Gov. Abbott on his social media. It appears Facebook has likely censored a highly popular grassroots candidate for governor running against Gov. Abbott for the purpose of shoring up Abbott's chances of winning the primary in order to protect Facebook's pending deal with Gov. Abbott.

14. In other words, a California-based social media platform is actively interfering in the Texas gubernatorial elections to tip the scales in favor of the sitting governor of Texas so that he can give them a sweetheart business deal using taxpayer money.

15. The Court must intervene immediately to order Facebook to reinstate Chad Prather's account without further restrictions to avoid immediate and irreparable harm not only to Prather, but to the citizens of Texas who have an interest in free and fair elections. Every passing moment that Prather's account remains suspended is continuing irreparable harm to his right to free speech, ability to campaign, and to the public interest of the citizens of Texas.

VI.
CAUSE OF ACTION

A. Declaratory Relief for Social Media Censorship – Tex. Civ. Prac. & Rem. Code § 143A and

16. Plaintiff incorporates all of the factual allegations stated above and in the attached exhibits as though fully set forth herein.

17. Tex. Civ. Prac. & Rem. Code (“CPRC”) Chapter 143A was passed into law by the 87th Texas Legislature and became effective on December 2, 2021. For convenience, a complete copy of Chapter 143A is attached hereto as **Exhibit D**. This is a case of first impression regarding this new statute.

18. CPRC § 143A.002 provides: “(a) a social media platform may not censor a user, a user’s expression, or a user’s ability to receive the expression of another person based on: (1) the viewpoint of the user or another person; (2) the viewpoint represented in the user’s expression or another person’s expression; or (3) a user’s geographic location in this state or any part of this state.”

19. CPRC § 143A.007 provides: “(a) a user may bring an action against a social media platform that violates this chapter with respect to the user. (b) If the user proves that the social media platform violated this chapter with respect to the user, the user is entitled to recover: (1) declaratory relief under Chapter 37, including costs and reasonable and necessary attorney’s fees under Section 37.009; and (2) injunctive relief.”

20. Subsection (c) provides: “If a social media platform fails to promptly comply with a court order in an action brought under this section, the court shall hold the social media platform in contempt and shall use all lawful measures to secure immediate compliance with the order, including daily penalties sufficient to secure immediate compliance.” CPRC § 143A.007(c).

21. Facebook is a social media platform that has more than 50 million active users in the United States during a calendar month.

22. Plaintiff is a Facebook user who resides in the State of Texas.

23. Facebook has censored Plaintiff in violation of CPRC chapter 143A when it suspended, restricted, blocked, banned, and/or deplatformed his Facebook account on February 21, 2022 and discriminated against his expression on Facebook by denying him equal access and visibility on Facebook’s platform. Accordingly, Plaintiff seeks a declaratory relief under Chapters 37 and 143A of the CPRC that Facebook has unlawfully censored him and seeks a temporary restraining order against Facebook ordering it to immediately reinstate his account without restrictions.

VII.
APPLICATION FOR TEMPORARY RESTRAINING ORDER AND
TEMPORARY INJUNCTION

24. Plaintiff incorporates all of the factual allegations stated above and in the attached exhibits and declarations to this Petition as though fully set forth herein.

25. Plaintiff asks the Court to restrain Facebook from suspending his account and to order Facebook to fully reinstate his account with no restrictions.

26. Plaintiff requests that the Court impose daily penalties on Facebook for each day that Facebook continues to censor Plaintiff pursuant to Tex. Civ. Prac. & Rem. Code 143A.006(c) in an amount sufficient to deter Facebook.

27. Plaintiff has a probable right to relief on the merits at trial because the fact that Facebook has suspended his account is undeniable and in clear violation of CPRC Chapter 37.

28. If Plaintiff's application for temporary restraining order is not granted, Plaintiff will continue to suffer immediate and irreparable harm from not being able to communicate with his supporters and potential voters during the crucial last few days of the Election, at a time when many voters are likely still making up their minds on which candidate to choose in the Election or whether to vote at all.

29. Plaintiff has no adequate remedy at law because monetary damages are not available under any applicable law to remedy the loss of an election from inability to effectively campaign through social media, which is Plaintiff's primary way of communicating with his supporters and potential voters.

30. There is no time for notice to Defendant and a hearing on this matter because Plaintiff suffers continuing enormous harm with each passing moment he is unable to communicate on social media with his supporters and potential voters and therefore needs immediate relief.

31. Plaintiff has, nonetheless, given notice to Defendant of the relief sought in this Petition.

32. Plaintiff further requests a temporary injunction hearing to determine whether Facebook should continue to be restrained from censoring Plaintiff pending trial of this matter.

VIII.
ATTORNEYS' FEES

33. Plaintiff requests his reasonable attorneys' fees and costs of filing this lawsuit pursuant to Tex. Civ. Prac. & Rem. Code § 37.009 and 143A.007(a)(1).

IX.
CONDITIONS PRECEDENT

34. All conditions precedent to Plaintiff's claim for relief have been performed or have occurred.

X.
JURY DEMAND

35. Plaintiff demands a jury trial and tenders the appropriate fee with this petition

XI.
PRAYER FOR RELIEF

WHEREFORE, Plaintiff Chad Prather prays that the Court grant his application for temporary restraining order in the form of order attached hereto, and upon trial, award Plaintiff his reasonable attorneys' fees and court costs, grant a temporary injunction restraining Facebook from further censoring Plaintiff, grant a permanent injunction after trial on the merits, grant prejudgment and postjudgment

interest, and grant all other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

/s/ Paul M. Davis
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