JACOB M. HEATH (BAR NO. 238959)
jheath@orrick.com
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, CA 94025-1015
Telephone: +1 650 614 7400
Facsimile: +1 650 614 7401

Attorneys for Defendant
Meta Platforms, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JOSEPH DEAN,

Plaintiff,

v.

META PLATFORMS, INC.,

Defendant.

Case No. 5:25-cv-10597-NMC

DEFENDANT META PLATFORMS, INC.'S AMENDED MOTION TO DISMISS PLAINTIFF'S SECOND AMENDED COMPLAINT

Date: February 12, 2026
Time: 11:00 a.m.
Dept: Courtroom 5 – 4th Floor
Judge: Honorable Nathanael M. Cousins

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Defendant Meta Platforms, Inc. (f/k/a Facebook, Inc., "Meta"),[1] through its undersigned counsel, respectfully moves to dismiss Plaintiff Joseph Dean's ("Plaintiff") Second Amended Complaint (ECF No. 14) ("SAC") with prejudice, because Plaintiff lacks standing to prosecute a case on behalf of his corporation, the statute of limitations bars Plaintiff's claims, and the SAC fails to state a claim upon which relief can be granted. This case was recently transferred to this District from the Middle District of Florida. While Meta's original Motion to Dismiss remained pending at the time of transfer, Meta submits this amended motion in order to brief the issues under Ninth Circuit law (as opposed to Eleventh Circuit law) where applicable.

I. INTRODUCTION

On September 22, 2024, *pro se* Plaintiff Joseph Dean filed this suit against Meta for alleged violations of federal antitrust law, based on allegations that by 2018 Meta had begun disabling certain functionalities on Meta's app developer platform of an app (Veamcast) that his company Veamcast Corporation developed. This is not the first time Plaintiff has brought this claim, however.

In November 2020, Plaintiff, on behalf of Veamcast Corporation (hereinafter, "Veamcast"), filed a complaint against Meta in the Middle District of Florida based on the exact same conduct (the "Veamcast Complaint"). The Veamcast Complaint is substantively identical to the operative SAC filed almost five years later. The court originally dismissed the Veamcast Complaint because federal law does not permit Plaintiff as a nonlawyer to litigate his company's interests. The exact same result should hold here, and the SAC should be dismissed with prejudice.

First, Plaintiff, in his individual capacity, lacks standing to pursue claims on behalf of his corporation. Even if Plaintiff could sue on behalf of Veamcast, he has failed to allege a plausible antitrust injury. Plaintiff, moreover, cannot plead around the prior dismissal against Veamcast by substituting himself in as the plaintiff. As the Middle District of Florida has repeatedly informed Plaintiff, companies may not be represented in court by a nonlawyer officer or executive of the

[1] Facebook, Inc. changed its name to Meta Platforms, Inc. in October 2021. *See, e.g.*, Form 8-K filed by Meta Platforms (Oct. 28, 2021), available at https://www.sec.gov/ix?doc=/Archives/edgar/data/0001326801/000132680121000071/fb-20211028.htm (last visited April 23, 2025).

company. It is clear from the pleadings that the interests to be vindicated are Veamcast's, not Plaintiff's. Plaintiff has no standing to proceed.

Second, the four-year statute of limitations for private antitrust actions has run. The exact same conduct was at issue in the 2020 Veamcast Complaint. The SAC alleges the cause of action accrued by the end of 2019, nearly five years ago, when Meta allegedly disabled the at-issue API functionalities. Plaintiff's suit is time-barred.

Third, Plaintiff has failed to sufficiently or plausibly allege either a monopolization claim under Section 2 of the Sherman Act or an exclusive dealing claim under Section 3 of the Clayton Act. He, for example, has failed to define his proposed "social networking services" product market, asserts no geographic market, and fails to assert (because he cannot) factual allegations establishing that Meta's disabling of its own API functionalities constitutes anticompetitive conduct prohibited by the federal antitrust laws.

Meta accordingly requests the Court dismiss Plaintiff's action in its entirety and with prejudice.

II. BACKGROUND

A. THE PARTIES

1. Meta Platforms, Inc.

Meta Platforms, Inc. (f/k/a Facebook, Inc.) operates Facebook, a service that enables users to connect, share, discover, and communicate with friends and communities on mobile devices and personal computers.[2] Meta facilitates the ability of third-party application (or app) developers to create applications (or apps) that interact with Facebook by allowing them access to its application programming interfaces ("APIs").

2. Plaintiff Dean and Veamcast Corp.

Plaintiff is founder and CEO of Veamcast, a Florida C-Corp.[3] *See Veamcast Corp. v.*

[2] *See* Form 10-K filed by Meta Platforms, Inc. (December 31, 2024), Part I(1), available at https://www.sec.gov/ix?doc=/Archives/edgar/data/0001326801/000132680125000017/meta-20241231.htm (last accessed April 30, 2025).

[3] *See* Florida Department of State, Division of Corporations, Veamcast Corporation, https://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=VEAMCAST%20P160000195390&aggregateId=do

Facebook, Inc., No. 8:20-cv-2667, Complaint, ECF No. 1 (attached hereto as Exhibit 1) at 1, 6.[4] Veamcast develops an app (also known as Veamcast) that is "a platform of apps and an API for a video/voice/photo publishing and sharing services." SAC ¶ 5. Plaintiff claims that Veamcast's app functionality initially relied on access to Meta's APIs. *Id*. ¶ 6.

B. PROCEDURAL HISTORY

1. Plaintiff's 2020 Lawsuit Against Facebook, Inc.

On November 12, 2020, Veamcast filed a lawsuit in the Middle District of Florida against Facebook, Inc. *See* Ex. 1. The Veamcast Complaint claimed that Facebook, Inc. engaged in anticompetitive conduct by, among other things, disabling APIs that the Veamcast app relied on. *See id*. at 2-3, 5 ("Plaintiff implemented functionality for their app and then defendants disabled that functionality piece by piece."). Veamcast attempted to appear *pro se* and Plaintiff (a non-lawyer) sought to represent the company as its founder and CEO.

The magistrate judge recommended that the Veamcast Complaint be dismissed because it was simply "an airing of grievances" and did not contain sufficient factual allegations "to determine whether the Court has jurisdiction . . . or whether Plaintiff can state a viable claim." *Veamcast Corp. v. Facebook, Inc.*, 2020 WL 7248226, at *1 (M.D. Fla. Nov. 19, 2020), *report and recommendation adopted*, 2020 WL 7238519 (M.D. Fla. Dec. 9, 2020). The magistrate judge further found that Plaintiff could not, as a non-lawyer, represent Veamcast because "a corporation may appear in federal court only through counsel." *Id*. at *2 (listing cases). The district judge then dismissed the action without prejudice on February 11, 2021, after Plaintiff failed to obtain counsel to appear on behalf of Veamcast or to allege claims on behalf of himself (rather than on behalf of Veamcast) within the timeline ordered by the court. *See* No. 8:20-cv-2667, ECF Nos. 7, 12.

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mp-p16000019539-fccd0d13-d9be-41c4-b9ea-f281accc8cf0&searchTerm=veamcast&listNameOrder=VEAMCAST%20P120000707380 (last visited April 27, 2025). The Court may take judicial notice of the Florida Department of State Records. *See Greenlight Sys., LLC v. Breckenfelder*, No. 19-CV-06658, 2021 WL 2651377, at *5 (N.D. Cal. June 28, 2021) ("The Court also takes judicial notice of the Ohio and Montana Secretaries of State's records. ... These records are public documents, and they are not in dispute, nor is there doubt of their accuracy.") (citing cases), *aff'd*, No. 21-16245, 2022 WL 17222415 (9th Cir. Nov. 25, 2022).

[4] Courts may take judicial notice of filings made in prior proceedings. *See Alvarez v. City of Santa Ana*, 2025 WL 2860324, at *24 n.7 (C.D. Cal. Sept. 30, 2025).

2. Plaintiff's Current Suit Against Meta Platforms, Inc.

Plaintiff waited nearly four years after the initial Veamcast Complaint to file the current action against Meta on September 22, 2024. *See* ECF No. 1. Plaintiff amended on September 30, 2024. *See* ECF No. 9 ("FAC"). On October 21, 2024, the magistrate judge recommended that the FAC be dismissed, finding it "rambling and disorganized," and thus "a form of a shotgun pleading." ECF No. 13 at 2-3. Plaintiff subsequently filed the SAC, which was ultimately permitted to proceed in forma pauperis. *See* ECF Nos. 16-19.

On May 5, 2025, Meta filed its Motion to Dismiss Plaintiff's SAC. *See* ECF No. 26. The same day, Meta also filed a Motion to Transfer the case to this District. ECF No. 28. On October 28, 2025, the Middle District of Florida entered an order granting Meta's Motion to Transfer but deferring ruling on Meta's Motion to Dismiss for consideration by the transferee court. ECF No. 55. The case was then opened in the Northern District of California on December 11, 2025. *See* ECF No. 56.

3. Plaintiff's Antitrust Claims Against Others

Plaintiff has taken a similar approach in other private antitrust actions. For example, in *Veamcast Corp. v. Roku, Inc.*, No. 8:24-cv-02113-SDM-AEP (M.D. Fla.), Plaintiff also brought suit against Roku through Veamcast but was not able to obtain legal counsel for the company. The court dismissed this action on September 12, 2024. Similar to Plaintiff's case against Meta, Plaintiff then filed another suit against Roku on October 8, 2024, naming himself as plaintiff; the Middle District of Florida granted Roku's motion to dismiss on August 8, 2025. *See Dean v. Roku, Inc.*, No. 8:24-cv-02383-WFJ-TGW, 2025 WL 2299403, at *7 (M.D. Fla. Aug. 8, 2025) (determining, *inter alia*, that Mr. Dean did not have standing and that Veamcast had "unsuccessfully filed prior cases asserting these same allegations").

4. Plaintiff's Second Amended Complaint Against Meta

Although Plaintiff this time lists himself as the plaintiff, *see* SAC at 1, 2 ¶ 3, all of the alleged conduct and harm is to Veamcast, not Plaintiff personally. *See, e.g.*, SAC ¶¶ 22(a)-(d), 23, 30(c). The allegations here track the allegations asserted in the original, dismissed Veamcast Complaint. *See* Ex. 1.

Plaintiff alleges that he has been developing Veamcast since 2010. SAC ¶ 5. Plaintiff claims that he provided Veamcast to the Facebook Service's "App Review Process" in 2018 for renewed access to Meta's API. *Id.* ¶ 7. Plaintiff claims that "[b]efore and after reviewing Veamcast's functionality through" testing, Meta "[s]ystematically disabl[ed] several API functionalities that Veamcast relied upon" based on erroneous reports of abusive content, and "unilaterally delet[ed] all Veamcast-related content from its platform without prior notice or justification" for violations of Meta's Community Standards. *Id.* ¶ 9; *id.* Ex. C. Plaintiff further alleges that Veamcast posts on the Facebook service have been blocked since 2018 for violations of Facebook Community Standards. *Id.* Ex. C at 29. On this basis, Plaintiff claims that Meta is a monopoly in violation of the Sherman Act, 15 U.S.C. § 2, and that Meta engaged in exclusive dealing in violation of the Clayton Act, 15 U.S.C. § 14. *Id.* at 11, 15. The SAC, however, does not include any allegations of any anticompetitive conduct by Meta, any geographic market, or, in fact, a relevant product market beyond a conclusory allegation that Meta "possesses monopoly power in the social networking services market." *Id.* ¶ 21.

For alleged conduct dating back to 2010, Plaintiff seeks $300 million in treble damages pursuant to 15 U.S.C. § 15(a) and $100 million in punitive damages, as well as costs, interest, and an order directing Meta to acknowledge its conduct and modify its practices. *Id.* at 19-20.

III. ARGUMENT

A. STANDARD OF REVIEW

Under Rule 12(b)(1), a court may dismiss a plaintiff's complaint if the allegations in the complaint, taken as true, show that the plaintiff lacks standing and thus fails to establish a basis for subject matter jurisdiction. *Leite v. Crane Co.*, 749 F.3d 1117, 1121 (9th Cir. 2014). It is the plaintiff's burden to establish that a court has subject matter jurisdiction. *Friends of the Earth v. Sanderson Farms, Inc.*, 992 F.3d 939, 944 (9th Cir. 2021).

A complaint may also be dismissed when it fails to "state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). "[A] complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Factual allegations "must be enough to raise a right to relief above the speculative level on

the assumption that all of the complaint's allegations are true." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 545 (2007). Legal conclusions—even if couched as factual allegations—need not be accepted as true. *See Papasan v. Allain*, 478 U.S. 265, 286 (1986). Although pleadings from *pro se* litigants are generally construed "liberally," dismissal is proper where it is clear that "the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Weilburg v. Shapiro*, 488 F.3d 1202, 1205 (9th Cir. 2007); *see also Taylor v. Marin County Clerk's Office*, 2011 U.S. Dist. LEXIS 114788, at *4 (N.D. Cal. Oct. 5, 2011) (dismissing *pro se* complaint for failure to state a claim).

B. PLAINTIFF DOES NOT HAVE STANDING TO SUE META

Plaintiff lacks standing to sue Meta in his individual capacity under Article III of the Constitution, 28 U.S.C. § 1654, or the antitrust laws. The SAC must be dismissed based on each of these three separate defects.

First, to establish Article III standing, as required to invoke federal jurisdiction, a plaintiff must plead allegations establishing that they (1) "suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." *Unified Data Servs., LLC v. FTC*, 39 F.4th 1200, 1210 (9th Cir. 2022) (quoting *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016)). Plaintiff has not done so here. *See Popa v. Microsoft Corp.*, 153 F.4th 784, 791 (9th Cir. 2025) (affirming dismissal where complaint failed to allege that plaintiff suffered an injury in fact).

To the contrary, the SAC makes clear that any purported injury was suffered by Veamcast, *not* Plaintiff personally. *See, e.g.*, SAC ¶ 22(a) ("Meta systematically eliminated Veamcast's ability to compete"); ¶ 22(b) ("Meta imposed restrictive policies on Veamcast"); ¶ 22(d) ("Meta's actions deprived users of Veamcast's innovative features"); ¶ 23 ("Meta's monopolistic conduct has directly harmed . . . [Veamcast]"); ¶ 30(c) ("Meta disabled Veamcast's API"). This tracks Plaintiff's prior Veamcast Complaint, which contends Veamcast was the allegedly injured party. *See* Ex. 1 at 1-3.[5] But "[s]hareholders, officers, and employees of corporations generally do not have standing

[5] *See also American Title Ins. Co. v. Lacelaw Corp.*, 861 F.2d 224, 226 (9th Cir. 1988) ("[A]dmissions in the pleadings are generally binding on the parties and the Court.").

to sue" for an antitrust violation causing injury to the corporation. *Program Eng'g, Inc. v. Triangle Publ'ns., Inc.*, 634 F.2d 1188, 1191 (9th Cir. 1980); *see also Stein v. United Artists Corp.*, 691 F.2d 885, 896 (9th Cir. 1982) (collecting cases). Plaintiff has not alleged that Meta's alleged conduct caused him, personally, to suffer any injury in fact, and he therefore lacks the requisite Article III standing. *Dean*, 2025 WL 2299403, at *4 ("[...] any personal harm Mr. Dean suffered was the indirect result of the allegedly anticompetitive conduct that directly concerns Veamcast.").

Plaintiff also lacks standing to sue on behalf of his corporation under 28 U.S.C. § 1654 because corporations must be represented by counsel. *See Licht v. America W. Airlines (In re America W. Airlines)*, 40 F.3d 1058, 1059 (9th Cir. 1994) (affirming order barring non-attorney partner from representing partnership) (28 U.S.C.S. § 1654 "does not allow corporations, partnerships, or associations to appear in federal court otherwise than through a licensed attorney."). Indeed, the court previously considered and rejected the Veamcast Complaint because Veamcast, as a corporate entity, could not proceed with representation from a non-lawyer, *pro se* plaintiff.[6] *Veamcast Corp.*, 2020 WL 7248226, at *2 ("[A]s a non-lawyer, Dean may not represent Veamcast in this action." (listing cases, including *Palazzo v. Gulf Oil Corp.*, 764 F.2d 1381, 1385 (11th Cir. 1985))).

Where, as here, the two complaints are based on the same facts, Plaintiff, as CEO of Veamcast, cannot simply substitute himself as the plaintiff in an attempt to plead around the court's 2020 ruling. *See* p. 5, *supra*. Plaintiff admitted in the Veamcast Complaint that the rights alleged were on behalf of Veamcast, not Plaintiff personally. *See* Ex. 1. "It is a longstanding rule that corporations and other unincorporated associations must appear in court through an attorney." *D-Beam, Ltd. P'ship v. Roller Derby Skates, Inc.*, 366 F.3d 972, 973-974 (9th Cir. 2004); *see also Palazzo*, 764 F.2d at 1385 ("The rule is well established that a corporation is an artificial entity that

[6] While collateral estoppel may not apply because the issue of whether Veamcast could proceed *pro se* was not "actually litigated," the policy animating the doctrines of res judicata and collateral estoppel—to prevent parties from relitigating issues that were raised (or could have been raised) in a previous action—applies with full force here. *See San Remo Hotel, L.P. v. City and County of San Francisco, California*, 545 U.S. 323, 337 (2005); *Manufactured Home Cmtys., Inc. v. City of San Jose*, 420 F.3d 1022, 1031 (9th Cir. 2005); *Adam Bros. Farming, Inc. v. County of Santa Barbara*, 604 F.3d 1142, 1149 (9th Cir. 2010).

can act only through agents, cannot appear *pro se*, and must be represented by counsel."); *see also Rowland v. Cal. Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 202 (1993) (same). Once again, Plaintiff "cannot pursue claims on behalf of Veamcast in this action, but rather [Veamcast] must do so through counsel." *Veamcast Corp.*, 2020 WL 7248226, at *2.

Finally, even if Plaintiff could somehow sue on behalf of Veamcast, he still fails to allege that either he or Veamcast has antitrust standing. *City of Oakland v. Oakland Raiders*, 20 F.4th 441, 456 (9th Cir. 2021) (antitrust injury "is necessary" to establish statutory antitrust standing). To successfully plead antitrust injury, Plaintiff must have plead facts plausibly showing that the alleged injury arose from "harm to the process of competition and consumer welfare, not harm to individual competitors" due to Meta's allegedly anticompetitive acts. *LiveUniverse, Inc. v. MySpace, Inc.*, 304 Fed. Appx. 554, 557 (9th Cir. 2008); *Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc.*, 429 U.S. 477, 489 (1977); *Reilly v. Apple Inc.*, 578 F. Supp. 3d 1098, 1110-11 (N.D. Cal. 2022) (A plaintiff must allege "injury to competition in the market as a whole . . . not merely injury to itself as a competitor.").

Here, the only act causing injury alleged in the SAC is that Meta allegedly disabled or otherwise removed API functionalities on which Veamcast relied at some point in 2018 or 2019, resulting in Plaintiff himself having to undertake "a huge effort" to remove all of Veamcast's calls and interfaces to the Facebook API and "catastrophic"—but otherwise undescribed—"damage to [Veamcast]'s user base and reputation." SAC ¶¶ 6, 9(a), (c). Simply put, Plaintiff alleges only individualized harm to Veamcast, not the requisite harm to competition itself. *See, e.g.*, *Dean*, 2025 WL 2299403, at *5 (finding Mr. Dean had "no antitrust standing because antitrust law protects competition, not individual competitors"). This fails to state a claim under the antitrust laws. *See, e.g.*, *LiveUniverse*, 304 Fed. Appx. at 557 (affirming dismissal for failure to allege harm to consumer choice or quality in the relevant market); *Reilly*, 578 F. Supp. 3d at 1110-11 (dismissing antitrust claims where allegations of injury were confined to "specific harms experienced by Plaintiffs or a small group of competitors, rather than harm to the market."); *Coronavirus Reporter v. Apple Inc.*, 2021 WL 5936910, at *46 (N.D. Cal. Nov. 30, 2021) (same). Plaintiff's conclusory assertion that Veamcast was a "competitor" to Meta cannot convert this alleged individual injury

into harm to competition. *See Reveal Chat Holdco, LLC v. Facebook, Inc.*, 471 F. Supp. 3d 981, 998 (N.D. Cal. 2020) ("*Reveal Chat I*") (dismissing complaint for failure to plead antitrust injury where plaintiffs alleged they were competitors of Facebook); *Dean*, 2025 WL 2299403, at *5 ("That Mr. Dean made use of Roku's APIs does not make him a competitor."). Nor has Plaintiff alleged (because he cannot) that Veamcast is unable to compete against Meta using a different API.

C. PLAINTIFF'S CLAIMS ARE TIME-BARRED

1. The Statute of Limitations Bars Plaintiff's Claims

Plaintiff's claims also must be dismissed as time-barred. The statute of limitations on antitrust actions is four years, 15 U.S.C. § 15b, and Plaintiff's antitrust claims are based on claims that accrued no later than 2019. Plaintiff has repeatedly admitted that the alleged disabling of the API functionalities occurred before the end of 2019—more than four years before Plaintiff initiated the present action on September 22, 2024. SAC ¶¶ 6, 8-9 & Exs. B-C (with Facebook copyright date of 2019); SAC Ex. C at 29 ("Facebook had been blocking us since 2018."); *see also* Ex. 1 at 3 (by October 2019, Facebook removed Veamcast content). In so alleging, Plaintiff has pleaded himself out of court. *See Klehr v. A.O. Smith Corp.*, 521 U.S. 179, 288 (1997) ("a[n antitrust] cause of action accrues and the statute begins to run when a defendant commits an act that injures . . . plaintiffs' business"); *In re Animation Workers Antitrust Litig.*, 87 F. Supp. 3d 1195, 1208 (9th Cir. 2015) (same).

This court has dismissed antitrust claims as time-barred based on similar facts. In *Reveal Chat I*, app developers brought antitrust claims against Meta in January 2020, challenging conduct that occurred between 2012 and 2015, including, as Plaintiff does here, Meta's withdrawal of the apps' access to certain APIs. 471 F. Supp. 3d at 981, 988-89 . The court dismissed their damages claims as time-barred because "they had notice of their injury by April 30, 2015 when the Core APIs that their businesses relied on were withdrawn" but "did not commence th[eir] lawsuit until January 16, 2020." *Reveal Chat Holdco LLC v. Facebook, Inc.*, 2021 WL 1615349, at *5 (N.D. Cal. Apr. 26, 2021) ("*Reveal Chat II*"). In *Klein v. Facebook, Inc.*, consumers and advertisers sued Meta in December 2020, alleging Meta had obtained an unlawful monopoly through "a three part strategy to eliminate potential competitors" in which Meta allegedly copied its competitors,

acquired them, and induced them "to build their products using Facebook's 'Platform' then removed access to the Platform." 580 F. Supp. 3d 743, 805 (N.D. Cal. 2022). There, too, the court dismissed the plaintiffs' Section 2 claim on timeliness grounds because they failed to allege unlawful conduct after December 2016. *See id.* at 822, 824; *see also New York v. Facebook, Inc.*, 549 F. Supp. 3d 6, 29 (D.D.C. 2021), *aff'd sub nom. New York v. Meta Platforms, Inc.*, 66 F.4th 288 (D.C. Cir. 2023) (dismissing Section 2 claim when Meta allegedly revoked API access because five-year delay was "fatal" to claim for equitable relief).

To the extent Plaintiff attempts to toll the limitations period through allegations that Meta "fraudulently concealed the existence of [the] cause of action in such a way that [Plaintiff], acting as a reasonable person, did not know of its existence," Plaintiff failed his burden to plead fraudulent concealment with particularity. *Reveal Chat II*, 2021 WL 1615349, at *7; *see also* SAC ¶ 9(d). Moreover, fraudulent concealment is inapplicable here because, as the Veamcast Complaint establishes, Plaintiff had "actual . . . knowledge of the facts giving rise to his claim" by 2020. *Id.* (citation omitted); Veamcast Complaint at 2 (playlists could no longer be posted by 2015), 3 ("In October 2019 or before, Facebook removed all posts that pointed to Veamcast content."). Plaintiff cannot "contest that [he] knew of the[] alleged exclusion by Facebook by" 2018—when Facebook allegedly blocked Veamcast posts (SAC, Ex. C)—or the alleged disabling of API functionalities on which Veamcast relied before or by 2019 (*id.*).

Likewise, it would be unavailing for Plaintiff to assert that there is a "continuing violation" based on his allegation that Meta employees purportedly "downloaded and tested" the Veamcast app "multiple times between 9/25/2019 and 9/23/2020" (SAC ¶ 8) because the clock starts with the alleged antitrust injury, *Klehr*, 521 U.S. at 288. Plaintiff fails to plead that downloading and testing an app present a "new and independent" "overt act" that "inflict[s] new . . . injury." *Reveal Chat II*, 2021 WL 1615349, at *6; *see also Garrison v. Oracle Corp.*, 159 F. Supp. 3d 1044, 1071 (N.D. Cal. 2016) (dismissing claims as untimely where plaintiffs failed to allege overt acts beyond initial agreement). *Reveal Chat II* is once again instructive: there, the plaintiffs claimed Facebook violated the Sherman Act by removing access to a set of APIs in 2015 that they relied on to develop and operate their apps. *Id.* at *1. The *Reveal Chat II* plaintiffs argued that the continuing violation

doctrine applied because Facebook, similar to Plaintiff's allegations here (*see* SAC ¶ 8) subsequently acted to "clon[e]" Snapchat's functionality, purportedly restarting the statute of limitations. *Id.* at *5. The court rejected the plaintiffs' argument and dismissed the antitrust claim with prejudice, stating that the plaintiffs' only alleged injury was "when they were excluded from the social data market by virtue of losing access to the Core APIs by April 30, 2015." *Id.* at *6. The same is true here, and Plaintiff's antitrust claims must be dismissed as time-barred.

2. Laches Bars Plaintiff's Claims

Alternatively, given the passage of time, the equitable doctrine of laches bars Plaintiff's claims. *See Reveal Chat I*, 471 F. Supp. 3d at 991 (noting four-year limitations period in 15 U.S.C. § 15b "furnishes a guideline for computation of the laches period" for antitrust claims (citations omitted)). Where, as here, a complaint shows on its face that the doctrine of laches bars relief, it is subject to dismissal under Rule 12(b)(6). *See Yelp Inc. v. Google LLC*, 2025 WL 1168900, at *21 (N.D. Cal. Apr. 22, 2025) (citing *Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 969 (9th Cir. 2010)). Under laches, a suit "will be barred if a party has inexcusably delayed pursuing his claim and his adversary has been prejudiced as a result." *Oliver v. SD-3D LLC*, 751 F.3d 1081, 1085 n.4 (9th Cir. 2014); *see also Jarrow Formulas, Inc. v. Nutrition Now, Inc.*, 304 F.3d 829, 838 (9th Cir. 2002).

Here, Plaintiff is seeking relief for allegedly anticompetitive conduct dating back to 2010. *See* SAC at 19 (seeking damages "based on 14 years of" alleged conduct). Plaintiff alleges knowledge of purportedly anticompetitive conduct by no later than 2019. *See Danjaq LLC v. Sony Corp.*, 263 F.3d 942, 952 (9th Cir. 2001) (relevant delay is time from when plaintiff knew or should have known of allegedly unlawful conduct). This is corroborated by the substantively identical Veamcast Complaint, filed in 2020. *See generally* Ex. 1. Moreover, Plaintiff cannot show that the delay was excusable as he does not allege why he waited nearly five years to file this present action (and four years after his dismissed 2020 action). *See, e.g.*, *Danjaq*, 263 F.3d at 955 (finding inexcusable delay when plaintiff "offered no viable justification for the delay"). In addition, "[t]he bare fact of delay beyond the analogous four-year statute of limitations creates a rebuttable presumption of prejudice." *New York*, 549 F. Supp. 3d at 37; *see also ITT Corp. v. Gen. Tel. &*

Elecs. Corp., 518 F.2d 913, 926 (9th Cir. 1975). Because evidence and witnesses may no longer be available given the passage of time, Plaintiff's delay prejudices Meta's defense. *See Danjaq*, 264 F.3d at 955-56 (finding prejudice when certain records were no longer available and defendant would be "hamstrung by the absence of key witnesses").

D. THE SAC FAILS TO PLAUSIBLY ALLEGE ANTITRUST CLAIMS

Plaintiff fails to plausibly allege a claim for monopolization under Section 2 of the Sherman Act or exclusive dealing under Section 3 of the Clayton Act because he has not alleged any anticompetitive conduct or a relevant market.[7] *See Eastman v. Quest Diagnostics, Inc.*, 724 Fed. Appx. 556, 557 (9th Cir. 2018) (Section 2 monopoly claim "has two elements: (1) the possession of monopoly power in the relevant market and (2) the willful acquisition or maintenance of that power as distinguished from growth or development as a consequence of a superior product, business acumen, or historical accident."); *Tampa Elec. Co. v. Nashville Coal Co.*, 365 U.S. 320, 327-28 (1961) (exclusive dealing arrangements violate Section 3 only if they "substantially lessen competition in a line of commerce."). His failure to allege either is fatal to both claims. *See, e.g.*, *Tanaka v. Univ. of S. Cal.*, 252 F.3d 1059, 1063 (9th Cir. 2001) ("Failure to identify a relevant market is a proper ground for dismissing a Sherman Act claim."); *Eastman*, 724 Fed. Appx. at 558-60 (affirming dismissal where complaint failed to allege any anticompetitive conduct).

1. The SAC Does Not Allege Any Anticompetitive Conduct

Both claims fail because the SAC fails to allege anticompetitive conduct.

As for Plaintiff's Sherman Act Section 2 claim, it is a hallmark of antitrust law that "monopoly power will not be found unlawful unless it is accompanied by an element of anticompetitive *conduct*." *Verizon Commc'ns Inc. v. Law Offices of Curtis V. Trinko, LLP*, 540 U.S. 398, 407 (2004). Here, Plaintiff fails to allege any anticompetitive conduct because the SAC's

[7] After Meta filed its original Motion to Dismiss, Plaintiff filed five notices of "newly discovered evidence," that Plaintiff contends were relevant to the resolution of Meta's Motion. *See* ECF Nos. 32, 36, 38, 39, and 42. Meta filed an objection to the first notice (ECF No. 34) and an omnibus objection to the second, third, fourth, and fifth notices (ECF No. 45) explaining that the notices should be disregarded as procedurally and substantively improper because, among other reasons, the purported evidence was not "new," the exhibits to the notices are not part of the SAC and many have no apparent connection to Plaintiff's claims, and Plaintiff's notices misrepresent the law.

allegations amount to no more than complaints about Meta's refusal to make its APIs available to Plaintiff's company Veamcast. But Meta has no duty under the antitrust laws to allow anyone—competitors or not—access to its APIs. *See Pac. Bell Tel. Co. v. linkLine Commc'ns, Inc.*, 555 U.S. 438, 448 (2009) ("As a general rule, businesses are free to choose the parties with whom they will deal, as well as the prices, terms, and conditions of that dealing."); *Reveal Chat I*, 471 F. Supp. 3d at 1002 (dismissing similar Platform-based claim of refusal to deal with rivals under Rule 12(b)(6)).

All of the conduct Plaintiff alleges concerns only Meta's operation of its own products and its choices about whether to assist another company. To the extent cognizable, the SAC repeats only general allegations of harm to Veamcast as a result of Meta's app developer platform policies.[8] *See* SAC ¶¶ 22(a)-(d). Specifically, Plaintiff alleges that Meta disabled several Facebook API functionalities upon which Veamcast relied and removed Veamcast-related content from Facebook. SAC ¶¶ 8(a), (c). But Plaintiff does not assert—nor can he—that Meta interfered with Veamcast's ability to reach users independently of Facebook, e.g., through other API platforms or market channels. At bottom, rather than alleging conduct that "'involves some assay by [Meta] into the marketplace that interfere[d] with the relationship between [Veamcast] and third parties," Plaintiff pleads only "a standard refusal to deal." *New York*, 549 F. Supp. 3d at 31-32. As such, his Section 2 claim fails as a matter of law. *Novell, Inc. v. Microsoft Corp.*, 731 F.3d 1064, 1074 (10th Cir. 2013) ("Even a monopolist generally has no duty to share (or continue to share) its intellectual or physical property with a rival."); *LiveUniverse, Inc. v. MySpace, Inc.*, 2007 WL 6865852, at *13 (C.D. Cal. June 4, 2007).[9]

Plaintiff's Clayton Act Section 3 exclusive dealing claim similarly should be dismissed for

[8] The SAC supplements these generic allegations with irrelevant references to allegations (not findings) from another case altogether: *FTC v. Meta Platforms, Inc.*, 20-cv-3590 (D.D.C.). Notably, the United States District Court for the District of Columbia has *twice* found inadequate the same platform-based allegations Plaintiff incorporates by reference in his SAC. *See FTC v. Facebook, Inc.*, 560 F. Supp. 3d 1, 29 (D.D.C. 2021); *FTC v. Facebook, Inc.*, 581 F. Supp. 3d 34, 59 (D.D.C. 2022). The Court ultimately entered judgment in favor of Meta after a bench trial, finding that Meta "holds no monopoly in the relevant market." *FTC v. Meta Platforms, Inc.*, 2025 WL 3211725, at *9 (D.D.C. Nov. 18, 2025).

[9] Nor has Plaintiff pleaded facts to fit within the narrow exception to the general no-duty-to-deal rule that derives from *Aspen Skiing Co. v. Aspen Highlands Skiing Corp.*, 472 U.S. 585 (1985). Plaintiff has not, for example, pled any facts showing a voluntary and profitable course of dealing the termination of which could support a cognizable refusal-to-deal claim.

failing to allege anticompetitive conduct. Plaintiff has failed to allege any facts that would establish an exclusive dealing arrangement under the statute. Section 3 of the Clayton Act makes it unlawful "for any person engaged in commerce . . . to lease or make a sale or contract for sale of goods . . . on the condition, agreement, or understanding that the lessee or purchaser . . . not use or deal in the goods . . . of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale . . . may be to substantially lessen competition or tend to create a monopoly." 15 U.S.C. § 14. Here, the SAC contains no allegations from which a court could even infer that Meta conditioned Plaintiff's use of Meta's Facebook Graph API on him not using or dealing with other APIs, of which there are many. *See* SAC ¶¶ 26-27. Plaintiff's failure to identify an exclusive dealing arrangement is fatal to his Section 3 claim against Meta. *E.g.*, *Walker Distributing Co. v. Lucky Lager Brewing Co.*, 323 F.2d 1, 9 (9th Cir. 1963) (affirming dismissal of Section 3 claim, where there was "simply no allegation" of an exclusive sale or contract for sale "although it should not be difficult to make such an allegation"); *Tevra Brands, LLC v. Elanco Animal Health Inc.*, 2025 WL 964694, at *31 (N.D. Cal. Mar. 31, 2025) (dismissing Section 3 claim where plaintiff "failed to adequately plead" an exclusive agreement with retailers and distributors).[10]

2. The SAC Does Not Allege a Relevant Market

Plaintiff's monopolization and exclusive dealing claims both fail for the additional reason that Plaintiff has not plausibly established a relevant market. Plaintiff makes a conclusory allegation that Meta operates within a "social networking services" market, yet fails to allege any facts in support of his proposed market. SAC ¶ 21. This is insufficient. Moreover, to the extent Plaintiff relies on the proposed market alleged in *FTC v. Meta Platforms, Inc.*, the court ultimately rejected "personal social networking services" as a separate market and found that "Meta competes in the

[10] *See also Omega Env't, Inc. v. Gilbarco, Inc.*, 127 F.3d 1157, 1163 (9th Cir. 1997) (holding defendant did not, as a matter of law, violate Section 3 where plaintiff could have sold product directly to end-users or used distribution channels other than those used by defendant); *Petroleum for Contractors, Inc. v. Mobil Oil Corp.*, 493 F. Supp. 320, 324-25 (S.D.N.Y. 1980) ("threats and enforcement of minimum purchase requirements alone, with no showing that [plaintiff] was ever forced to deal exclusively [with supplier's product], cannot support an exclusive dealing claim under Section 3"); *cf. K-Flex, Inc. v. Armacell, Inc.*, 299 F. Supp. 3d 730, 736-37 (E.D.N.C. 2017) (finding plaintiff had stated Section 3 claim in part because plaintiff "alleged a particular arrangement between Armacell and Sunbelt in order to exclusively deal Armacell's elastomeric foam.").

market for social media, and that market includes — at minimum — TikTok and YouTube as well." 2025 WL 3211725 at *114; *see also id*. at 130-31 ("The Court ultimately finds that YouTube and TikTok belong in the product market, and they prevent Meta from holding a monopoly.").

"To make a determination as to whether monopoly power exists, it is necessary to define the relevant market in which the power over price or competition is alleged. Without a definition of that market there is no way to measure a defendant's ability to lessen or destroy competition." *FTC v. Qualcomm Inc.*, 969 F.3d 974, 992 (9th Cir. 2020). The plaintiff's allegations must define both a relevant product market and a relevant geographic market. *Hicks v. PGA Tour, Inc.*, 897 F.3d 1109, 1120-21 (9th Cir. 2018). The relevant product market "must encompass the product at issue as well as all economic substitutes for the product," and a complaint may be dismissed under Rule 12(b)(6) if the complaint's relevant market definition is facially unsustainable. *Id*.

Plaintiff has failed to establish either part of his burden here. Plaintiff's bare allegation of a "social networking services" market is not sufficient. Plaintiff provides no definition for that market; no descriptions of the products and services of which it is comprised; or identification of the other competitors in that market. Nor does Plaintiff describe any geographic market relevant to the allegations made in the SAC. Even if a market were plausibly alleged, Plaintiff also fails to allege that Veamcast competes in the same market as Meta. Such a pleading is "facially unsustainable," leaving Meta—and the Court—without a reasonable basis to ascertain the confines, if any, of Plaintiff's alleged market or to assess Meta's alleged monopoly power within that market. *See Hicks*, 897 F.3d at 1120-21; *see also Pistacchio v. Apple Inc.*, 2021 WL 949422, at *7 (N. D. Cal. Mar. 11, 2021) (dismissing complaint where plaintiff failed to adequately allege the relevant market).

Plaintiff's Section 3 claim fails for this same reason. To plausibly allege an exclusive dealing claim under Section 3, a plaintiff must allege both a relevant market and substantial foreclosure within that market. *United States v. Microsoft Corp.*, 253 F.3d 34, 69 (D.C. Cir. 2001). Here, and as set forth immediately above, Plaintiff has failed to plead a relevant market—constituting a second, independent basis for dismissal of Plaintiff's Section 3 claim. *See Apple Inc. v. Psystar Corp.*, 586 F. Supp. 2d 1190, 1195 (N.D. Cal. 2008) (dismissing Section 3 claims where

complaint failed to plead a relevant market); *see also Twin City Sportservice, Inc. v. Charles O. Finley & Co.*, 676 F.2d 1291, 1304 (9th Cir. 1982) ("The Court in *Tampa Electric* held that before a Clayton Act section 3 violation can be found, lower courts must determine whether exclusive-dealing arrangements have the requisite anticompetitive effect upon a substantial share of the relevant market.").

IV. AMENDMENT WOULD BE FUTILE

A district court may dismiss a complaint without granting leave to amend when "further amendment would be futile." *Rutman Wine Co. v. E. & J. Gallo Winery*, 829 F.2d 729, 738 (9th Cir. 1987) (affirming dismissal and denial of leave to amend where second amended complaint failed to cure deficiencies); *see also Hip Hop Bev. Corp. v. Monster Energy Co.*, 733 Fed. Appx. 380, 382 (9th Cir. 2018) (affirming dismissal with prejudice where amended complaint "fail[ed] to cure the pleading deficiencies explained in the district court's original order."). Counting the Veamcast Complaint, this is Plaintiff's fourth attempt to assert a cognizable claim against Meta. But he has again failed to do so because he cannot. Among other reasons, his claims are time-barred; he lacks standing under Article III, 28 U.S.C. § 1654, and the antitrust laws; and he cannot show that Meta engaged in anticompetitive conduct in connection with the events at issue. He should be foreclosed from filing a third amended complaint. Indeed, in granting Roku's motion to dismiss Plaintiff's complaint, the Middle District of Florida, denied Plaintiff leave to amend. "Having determined that Mr. Dean cannot establish antitrust standing, and Veamcast having unsuccessfully filed prior cases asserting these same allegations, the Court will not permit more opportunities to replead when any further amendment would be futile" *See Dean v. Roku, Inc.*, 2025 WL 2299403, at *7 (M.D. Fla. Aug. 8, 2025); *see also Henderson v. Torres*, 33 Fed. Appx. 342, 342 (9th Cir. 2002) (affirming dismissal of *pro se* complaint, where plaintiff was "granted three opportunities for to craft a successful complaint, the court did not abuse its discretion in denying him a fourth.").

V. CONCLUSION

For the above reasons, Meta respectfully requests the Court dismiss this action, in its entirety, with prejudice and without leave to amend.

Dated: January 8, 2026

Respectfully submitted,

/s/ Jacob M. Heath

JACOB M. HEATH (BAR NO. 238959)
jheath@orrick.com
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, CA 94025-1015
Telephone: +1 650 614 7400
Facsimile: +1 650 614 7401

EXHIBIT 1

CASE NO. 8:20-cv-2667-T-36AEP

PETITIONERS: **VEAMCAST CORP**, a Florida C corporation	IN THE UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA
DEFENDANTS: **FACEBOOK INC**, a Delaware corporation	TAMPA DIVISION

COMPLAINT OF ANTICOMPETITIVE BEHAVIOR BY A MONOPOLY

Since 2010, Veamcast Corp (a Florida C-Corp), has been developing apps and an API for a video/voice/photo publishing and sharing service. The Veamcast apps rely heavily on the use the Facebook Graph API. Veamcast allows its users to publish, share and communicate very much in the way the Facebook platform does with more of an emphasis on user created playlists. VEAM is an acronym for “Video Email and More”. It would be accurate to say that Veamcast does nearly all of what Facebook does but in a very different way. On multiple occasions, Veamcast passed the Facebook App Review and was granted all the permissions necessary to implement its functionality. Facebook requested and was given detailed specifications and videos explaining how Veamcast planned to use their API. Facebook had employees download the Veamcast app to audit. Facebook employees setup at least three Veamcast users and logged on the Veamcast Windows app with the email addresses ruiwotjhhk_1540803256@tfbnw.net

(John H. Robert who logged on once on 9/25/2019), jmozctateu_1555372771@tfbnw.net (James P. Hendrix who logged on multiple times between 9/25/2019 and 9/23/2020) and qieezhwpks_1541428725@tfbnw.net (John Crichton who logged on 8/23/2019) [1]. There was never any acknowledgement or communication from Facebook about these accounts however we were always granted the functionality we needed or appealed until we were.

Each of the following Facebook API functionalities were implemented within the Veamcast Windows App and all, at one time, worked but all were either deprecated, removed from the API or just stopped working in Veamcast due to ambiguous error messages [2] for which Facebook refuses to explain or even acknowledge [3]:

- Logon (still works but requires an extra step by the user not required by Facebook apps when they are already logged on, undermining the Veamcast seamless logon process).
- Send VEAMs (playlists/messages) to Facebook Friends (shut off for everybody now… when Veamcast first did it, our users could access their friend's email address and that capability was removed as was sending VEAMS via instant messaging. Veamcast resorted to posting on friend's wall but currently getting a user's friends via the API is no longer supported at all).
- Post VEAMs (playlists/messages) to Facebook Groups - (shut off for everybody in 2015).

[1] tfbnw.net is a domain registered by Facebook Inc.to audit apps

[2] Video demonstrating the issues can be seen at https://veamcast.com/facebookcomplaint

[3] Exhibits 1 and 2

- Post VEAMs (playlists/messages) to Facebook Pages - (shut off for VEAMCAST APP with a 'Temporary error' message and a very suspicious support thread which was incorrectly marked as resolved and removed, a copy of which Veamcast had saved without which we could not prove deliberate intent [4].
- Post to the user's wall - (shut off for VEAMCAST APP with a 'Contains content other users have reported objectionable' message even if the content has just been recorded.[5]

In October 2019 or before, Facebook removed all posts that pointed to Veamcast content. Numerous support requests were made but Facebook refused to give any explanation.[6] All the content that all Veamcast users had created was removed from the Facebook platform.

Facebook Inc is the largest social network in the world with an estimated 2.7 billion users as of Q2 2020. Combined with the other assets they've purchased (most notably Instagram and WhatsApp) they have an estimated 3.14 billion monthly users [7]. They generated approximately $70 billion in revenue in 2019. They are a dangerous monopoly. They are being investigated by Congress, the Federal Trade Commission and the Department of Justice. A class action suit alleging anti-competitive action was filed which describes Facebook's rise and the actions it took to achieve such a high market share.

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[4] Exhibits 3 and 4

[5] Video demonstrating the issues can be seen at https://veamcast.com/facebookcomplaint

[6] Exhibits 1 and 2

[7] https://www.statista.com/statistics/264810/number-of-monthly-active-facebook-users-worldwide/

(Reveal Chat Holdco LLC et al v. Facebook, Inc., 3_20-cv-00363, No. 1 (N.D. Cal. Jan. 16, 2020). The Omidyar Network has released its findings in their "Roadmap for an Antitrust Case Against Facebook June 2020"[8]. In addition to a slew of other anti-competitive actions detailed, the defendants used their API as a lure to gain information about their competitors and then deprecated the functionality to prevent users from leaving the Facebook platform and to kill the competition. The Facebook website and apps originally were used for sharing content from all over the internet but as Facebook's dominance grew, they discouraged anything that would take users attention from their properties. Even YouTube videos now play within the Facebook app rather than taking the user to YouTube. Facebook monetizes all the traffic. This has far reaching consequences, not the least of which is that it kills monetization opportunities for local news and other democratic mainstays.

Facebook has brazenly grabbed dominance to a near total monopoly. They grabbed ownership of the social market space by scoffing at the Sherman and Clayton Acts. They took every action possible to thwart competitors. They used the Facebook Graph API to gain intelligence on the competition and then when the efforts threatened their market share, the defendants would systematically shut them down.

[8] https://www.omidyar.com/wp-content/uploads/2020/06/Roadmap-for-an-Antitrust-Case-Against-Facebook.pdf

In a proximate result of the aforementioned, Veamcast Corp has suffered devastating loss, recrimination, injury, suffering and damages in the following ways:

Plaintiffs implemented functionality for their app and then defendants disabled that functionality piece by piece. In circumstances where the defendants couldn't shut down the functionality for all apps, they used the guise of fake error messages to disable and distract the Plaintiffs. This strategy was an effective way to prevent the Plaintiffs from getting traffic and building a user base. It wasted a great deal of their resources and development efforts. Plaintiffs were not only unable to gain users through the Facebook platform but the work and money they put into all the Facebook Graph API interfaces was lost. That time and effort could have been used to get users through other sources.

Any developer of an app platform seeking investment will be asked how many users they have. The Plaintiffs efforts to raise funds were wasted due to this. The deceptive behavior of the defendants added to the delay in the Plaintiff efforts. They didn't know what happening for a long time. They never removed these functions from the apps, thinking the issues would be fixed. Plaintiffs disbelieved until finally the behavior became so blatant as to be indubitable.

The distraction and fallout have been near fatal to the company. The potential opportunity cost is the total market value of Facebook Inc or more. This complaint only contains information we know to be true but the Plaintiffs believe there is more to this, that the behavior

goes back even further and that Facebook has policies and procedures in place to do this to any company that threatens them or disagrees with their agenda.

In an industry that prides itself on companies that grow out of garages, the defendant's duplicity and deceit doubtlessly took out countless fledgling tech companies in its quest for dominance. Nothing could be less American. It's nothing less than criminal.

Veamcast Corp seek punitive damages, compensatory damages according to proof, the cost of the lawsuit and whatever else the court sees just and fit to award.

The statements above and the addendums are true to the best of my knowledge.

PETITIONER SIGNATURE
JOSEPH DEAN, VEAMCAST FOUNDER AND CEO
5940 30th AVE S, UNIT 111, GULFPORT FL 33707
310-593-4485
FILING PRO SE – NOVEMBER 12, 2020

