

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Andrew Forrest v. Meta Platforms, Inc.

Forrest v. Meta · No. 22-cv-03699-PCP (VKD) · Decided December 5, 2025

OPINION

Forrest

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 SAN JOSE DIVISION

7 8 ANDREW FORREST, Case No. 22-cv-03699-PCP (VKD) 9 Plaintiff,

ORDER RE NOVEMBER 24, 2025

10 v. DISCOVERY DISPUTE RE

PLAINTIFF'S REQUEST TO SERVE

11 META PLATFORMS, INC., RFAS

12 Defendant. Re: Dkt. No. 293 13 14 Plaintiff Andrew Forrest and defendant Meta Platforms,
Inc. (“Meta”) ask the Court to 15 resolve their dispute concerning whether Dr. Forrest should be
permitted to serve requests for 16 admissions (“RFAs”) on Meta after the deadline to complete
“first phase” fact discovery.¹ Dkt.

17 No. 293. The Court finds this dispute suitable for resolution without oral argument.² Civil L.R.
7-

18 1(b). 19 At present, discovery in this action is limited to a “first phase” of discovery directed to
20 facts bearing on Meta’s section 230 immunity defense. See Dkt. No. 172 at 1; Dkt. No. 213 at
21 Dkt. No. 273 at 1. This discovery specifically includes for each Scam Ad at issue,
information 22 23 1 See Dkt. No. 287 at ECF 3. 24 2 Mr. Forrest moves to seal portions of
discovery dispute letter and exhibits (Dkt. Nos. 293, 293-1) on the ground that Meta claims the
contents are confidential. Dkt. No. 294. Meta agrees 25 regarding the specific portions of the
discovery dispute letter and exhibits proposed to be sealed. Dkt. No. 297. As Mr. Forrest’s sealing
motion relates to a discovery matter, the good cause 26 standard applies. Ctr. for Auto Safety v.
Chrysler Group, LLC, 809 F.3d 1092, 1098-99 (9th Cir.), cert. denied sub nom FCA U.S. LLC v.
Ctr. for Auto Safety, 580 U.S. 815 (2016); Kamakana v. 27 City & Cnty. of Honolulu, 447 F.3d
1172, 1179- 80 (9th Cir. 2006). Good cause appearing, the 1 about what tools or processes were
applied to the ad, and what those tools or processes did to the 2 ad between “input” and “output.”
The Court has issued several orders resolving the parties’ 3 disputes about what discovery

properly falls within the scope of the “first phase.” See, e.g., Dkt.

4 Nos. 192, 213, 257, 259, 276, 289. Discovery relating to this “first phase” closed on October 29, 5 2025, except for the “completion of investigation and production regarding the matters addressed” 6 in the Court’s orders at Dkt. Nos. 284, 276, and 273. See Dkt. No. 287. These orders concern 7 Meta’s investigation of and production from its relevant data sources, and Dr. Forrest’s disclosure 8 of a privilege log that complies with Rule 26(b)(5) and the ESI order. 9 Dr. Forrest now asks for leave to serve 77 RFAs on Meta after the close of “first phase” 10 discovery.³ Dkt. No. 293 at 2, 3; Dkt. No. 293-1. He describes these RFAs as “directed at 11 recently disclosed preservation failures and technical topics going to the heart of Meta’s material 12 contribution defense, which will aid the Court in understanding how Meta’s ad tools work and 13 how Meta’s preservation failures should impact its consideration of material facts.” Dkt. No. 293 14 at 1. He claims these RFAs serve two purposes: First, Meta’s admissions will “confirm [its] 15 spoliation of evidence,” and will assist Dr. Forrest in demonstrating how Meta’s “discovery 16 misconduct” has prejudiced Dr. Forrest’s ability to oppose Meta’s section 230 immunity defense, 17 and in briefing his anticipated request for sanctions. *Id.* at 3. Second, Meta’s admissions will 18 “assist the Court in distilling material facts from a voluminous and complex record” that includes 19 16 terabytes of data and hundreds of technical documents. *Id.* Dr. Forrest argues that his RFAs 20 should be considered timely served because Meta did not comply with its own discovery 21 obligations, and so he could not have served his RFAs earlier. *Id.* at 3-4. 22 Meta argues that Dr. Forrest has not established good cause to serve belated RFAs. *Id.* at 23 4. It argues that all of Dr. Forrest’s RFAs could have been served before the October 29, 2025 24 deadline, and that his ability and obligation to do so are independent of any discovery conduct by 25 Meta. *Id.* at 5-6. 26 Because Dr. Forrest seeks to obtain answers to RFAs served after the “first phase” 27 1 discovery deadline, he must establish “good cause” to do so. See Civil L.R. 37-3 (“Discovery 2 requests that call for responses or depositions after the applicable discovery cut-off are not 3 enforceable, except by order of the Court for good cause shown.”); Fed. R. Civ. P. 16(b)(4) (“A 4 schedule may be modified only for good cause and with the judge’s consent.”). In assessing 5 whether there is good cause to modify a scheduling deadline, courts principally consider whether a 6 party has demonstrated diligence. See *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609- 7 10 (9th Cir. 1992); *Lawson v. BMW of N. Am. LLC*, No. 21-cv-02063-BLF, 2023 WL 6165697, at 8 *2 (N.D. Cal. Sept. 20, 2023). 9 Dr. Forrest consigns his discussion of “good cause” to a footnote in the joint discovery 10 dispute letter. Dkt. No. 293 at 3 n.3. Nevertheless, the Court has reviewed Dr. Forrest’s 77 RFAs 11 and has fully considered his explanation for why he believes he should be permitted to obtain 12 answers to them. As Dr. Forrest concedes, many of his RFAs ask Meta to admit facts about “the 13 capabilities of [the] tools and processes” applied to the Scam Ads. See *id.* at 3 (Dr. Forrest citing 14 RFAs 39, 42, 46, 54, 57, 60, 64, 71, 74). Others ask for admissions about Meta’s own actions 15 with respect to the Scam Ads, or the contents of data sources and documents it produced earlier in 16 the discovery period. See, e.g., Dkt. No. 293-1 (RFAs 1-5, 18,

21-24, 30, 31-77). These RFAs do 17 not reference or depend on any information belatedly disclosed by Meta at or near the October 29, 18 2025 deadline. See Dkt. No. 293 at 5-6 (discussing specific RFAs). Dr. Forrest does not explain 19 why he could not have served them earlier, and he does not respond to Meta’s RFA-specific 20 arguments. Instead, he argues that having Meta’s admissions to these RFAs would be helpful for 21 him and/or the Court. But “helpfulness” does not satisfy the good cause standard which requires 22 Dr. Forrest to show that he was diligent in seeking these admissions before the scheduling 23 deadline. He cannot simply “reserve the right” to serve RFAs after the deadline has passed. As 24 nothing prevented Dr. Forrest from timely serving most of the 77 RFAs, he has not established 25 diligence. 26 There are a few exceptions. As Meta concedes, some of Dr. Forrest’s RFAs are directed to 27 specific data sources that Meta produced and explained only a few weeks before the October 29, 1 additional discovery about these data sources. Accordingly, the Court will permit Dr. Forrest to 2 || obtain Meta’s responses to RFAs 6-17. These RFAs are deemed served as of the date of this 3 order. Meta shall serve written responses in compliance with Rule 36. 4 IT IS SO ORDERED. 5 Dated: December 5, 2025 6 7 nrsuia Z Win, Au Man ele. Virginia K. DeMarchi 8 United States Magistrate Judge 9 10 11 12 13 © 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28