

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE**

**GENEVIEVE MAHONEY, a/k/a  
@genmahoney19, an individual,**

**Plaintiff,**

**vs.**

**FACEBOOK, INC.,**

**Defendant.**

**Case No. 21-cv-607**

**DECLARATION OF JENNIFER  
PRICER**

I, Jennifer Pricer, declare as follows:

1. I am an eDiscovery and Litigation Case Manager in the Legal Department of Facebook. I work at Facebook's headquarters in Menlo Park, California. My duties and responsibilities in this role include managing litigation matters involving Facebook. As part of my current role, I am regularly involved in assisting to collect evidence about aspects of services across the company's platforms, and have become familiar with the way in which the services have been delivered over time. As part of my responsibilities for Facebook, I have access to Instagram's current and prior Terms of Use, as they are maintained. The Terms of Use for Instagram, including prior versions of the Terms of Use, are kept in the normal course of business. If called to testify regarding the facts set forth in this declaration. I could and would testify competently thereto.

**Instagram's Terms of Use**

2. A true and correct copy of the Instagram Terms of Use dated January 19, 2013 (the "2013 Terms of Use") is attached hereto as Exhibit 1.

3. Instagram's Terms of Use were updated in April 2018. A true and correct copy of the Terms of Use dated April 19, 2018 (the "2018 Terms of Use") is attached hereto as Exhibit 2.

4. Instagram's Terms of Use were again most recently updated in December 2020. A

true and correct copy of the Terms of Use dated December 20, 2020 (the “2020 Terms of Use”) is attached hereto as Exhibit 3.

5. Based on a review of Facebook’s records kept in the normal course of business, it is my understanding that Instagram users received up to two separate notifications about the 2020 Terms of Use update. First, beginning on or about November 17, 2020, an email notification about the 2020 Terms of Use update was sent to all Instagram users who provided an email address for their account. A true and correct copy of the email that Instagram users received regarding the 2020 Terms of Use update is attached hereto as Exhibit 4. The phrase “Terms of Use” in the email contained a hyperlink in blue type that, if clicked, directed the user to a copy of the 2020 Terms of Use.

6. Second, beginning on or about November 19, 2020, users received a direct in-app notice about the 2020 Terms of Use update at the top of their Instagram feed. A true and correct copy of the notice regarding the 2020 Terms of Use update is attached hereto as Exhibit 5.

7. Users could respond to the in-app notice in one of three ways. Users could press the button at the bottom of the notice that read, “Learn More,” which, if pressed, directed the user to a copy of the 2020 Terms of Use. Users could also dismiss the notice by pressing the “X” located at the top-right corner of the notice. Alternatively, users could decline to interact with the notice, in which case the notice would appear at the top of the user’s Instagram feed three times before it was taken down.

**Plaintiff Genevieve Mahoney**

8. Plaintiff Genevieve Mahoney has an Instagram account with the username “genmahoney19.”

9. Ms. Mahoney registered this Instagram account on [REDACTED]. Ms. Mahoney associated an email address with her Instagram account.

10. Records maintained in the ordinary course of business show that Ms. Mahoney registered her Instagram account using an [REDACTED].

11. Records maintained in the ordinary course of business show that Ms. Mahoney received both the email notification and in-app notice regarding the 2020 Terms of Use update. These records further indicate that Ms. Mahoney viewed and dismissed the in-app notice regarding the 2020 Terms of Use update on [REDACTED].

12. Records maintained in the ordinary source of business show that Ms. Mahoney has a second Instagram account with the username “[REDACTED].” This account is currently active.

13. Ms. Mahoney registered her second Instagram account on [REDACTED]. Ms. Mahoney associated the same email address with this Instagram account as she did with her first Instagram account (“genmahoney19”).

14. The 2013 Terms of Use were in effect when Ms. Mahoney registered both of her Instagram accounts.

15. Records maintained in the ordinary course of business show that Ms. Mahoney registered her second Instagram account using an [REDACTED] as well.

16. Records maintained in the ordinary course of business show that Ms. Mahoney’s counsel mailed a letter to Facebook on her behalf indicating that Ms. Mahoney was opting out of Instagram’s arbitration provision. A true and correct copy of the letter that Facebook received from Ms. Mahoney’s counsel is attached hereto as Exhibit 6.

17. Facebook considers the above information regarding the account records of individual Instagram users to be non-public information, and takes reasonable steps to prevent such information from becoming publicly available.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 30, 2021 in Menlo Park.

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*J. Pricer*  
Jennifer Pricer

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was electronically filed and served upon the following via the Court's ECF system on this the 30th day of August, 2021:

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