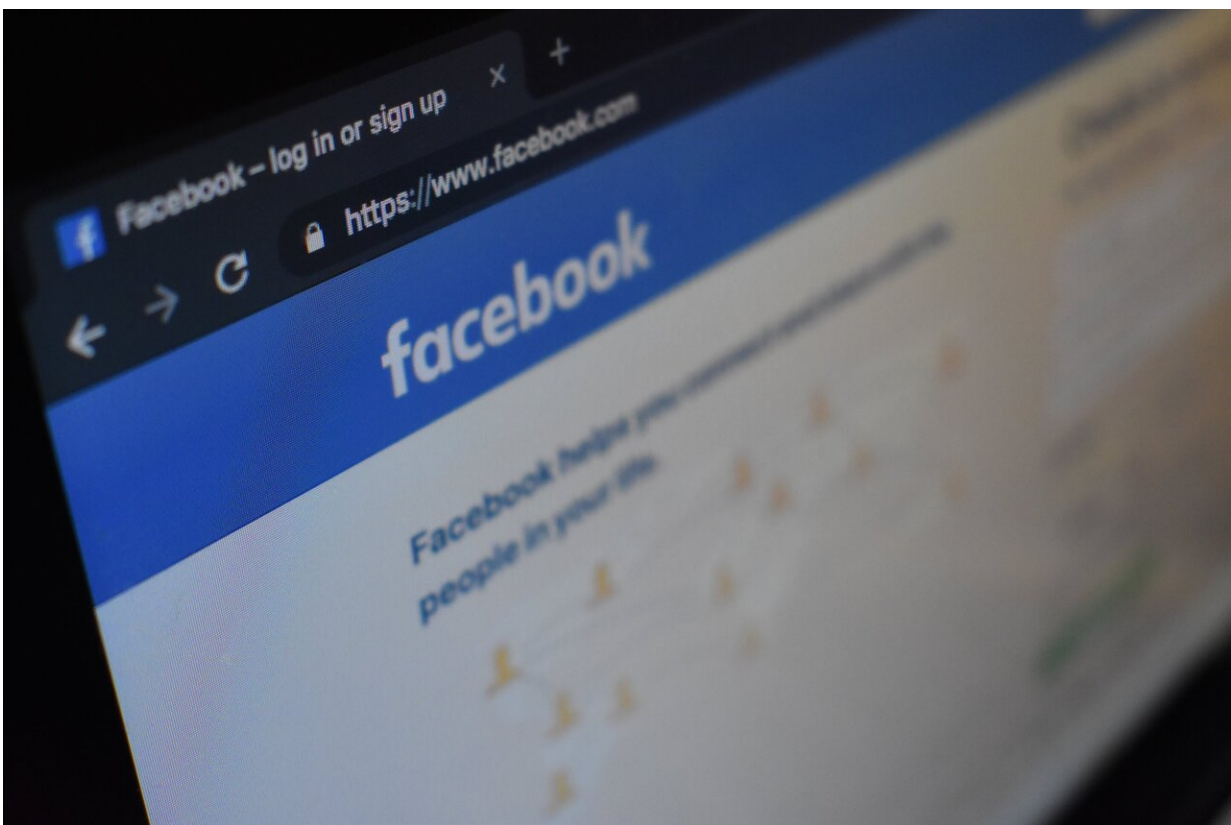


Facebook provided false testimony in campaign transparency lawsuit, Washington attorney general says

October 14 2021, by David Gutman



Credit: Unsplash/CC0 Public Domain

A Facebook representative provided false testimony in a lawsuit that accuses the social media giant of violating state campaign finance laws,

Washington Attorney General Bob Ferguson alleges in court filings.

Both Facebook and Facebook's attorneys knew the testimony was false, Ferguson says in [court filings](#). He also alleges that Facebook set up a formalized process for people seeking [information](#) on political ads that requires them to limit their requests "in direct contravention of Washington law."

Ferguson sued Facebook last year, for the second time, alleging the company has "repeatedly and openly" violated state campaign transparency laws by selling political ads without providing legally required details of the spending.

"Facebook is a commercial advertiser, yet it views itself above this law," Ferguson writes in a new filing. "Even after a previous lawsuit and the original complaint in this case, it still refuses to provide the public access to all required information about political ads."

Facebook did not immediately respond to a request for comment. The company has argued, and continues to, that Washington's campaign finance laws are unconstitutional and violate both the First Amendment's free speech protections and the Commerce Clause, which gives Congress the power to regulate interstate commerce.

In a court filing, it says that it did not provide false testimony because the issue the Attorney General's Office was asking about was outside the agreed upon scope and time frame.

Ferguson's first lawsuit against Facebook, filed in 2018 over the same issue, ended with the company paying a \$238,000 fine.

Both lawsuits essentially allege the same thing: That Facebook has been selling political ads in Washington without making information, required

by state law, about the ads and the people buying them available to the public.

Washington's strict campaign finance laws require ad sellers such as Facebook to disclose specific information on the names and addresses of people who buy ads, who ads target and the total number of views of each ad.

Facebook calls the law "onerous" and says it violates the First Amendment by compelling the company to make political speech—information about who is buying political ads—that it would not otherwise make.

"Washington's law forces private parties to convey state-mandated messages to the public on demand, on pain of severe fines for failure to do so," the company wrote last year, asking for the lawsuit to be dismissed.

It is not illegal for Facebook to sell political ads, nor is it illegal for candidates or outside groups to buy them. But, after the 2018 lawsuit, Facebook voluntarily announced that it would stop selling political ads in Washington.

It didn't.

The company sold at least 171 ads to Washington state political committees, which paid the company at least \$525,000 since November 2018, according to the Attorney General's Office. For example, the company accepted ads in Seattle's 2019 City Council races, as well as for a wide array of other campaigns across the state, including candidates for state representative, the Port of Tacoma commission, Spokane's City Council and Vancouver's school board.

Facebook, in a court filing, admits it has sold political ads in Washington after it said it would stop doing so. It said people and organizations who buy those ads are violating its policies and that it takes them down when it discovers them.

Facebook has made some details of political ads across the country available through a searchable public Ad Library. However, the library does not include all the legally required information for ads running in Washington state.

The lawsuit against Facebook was initially spurred by requests for ad information from two people: independent journalist Eli Sanders and political consultant Tallman Trask. (Both Sanders and Trask are now students at the University of Washington School of Law.)

Sanders and Trask asked for information on ads Facebook was selling and when they didn't get it, the state Public Disclosure Commission started an investigation. That eventually led to the attorney general's lawsuit, after the PDC declined to settle with Facebook.

As part of the [lawsuit](#), the Attorney General's Office deposed a Facebook program manager. Lawyers asked him if there were any instances, other than the ones brought by Sanders and Trask, when people had requested information on Washington [political ads](#) on Facebook.

He said there were none, according to court documents.

"Both Facebook and its counsel were aware that testimony was false," Ferguson writes.

Facebook's attorneys did not object, court filings say, and later, when Facebook attorneys corrected the deposition transcript, they made no

changes on that question.

In fact, Zach Wurtz, a political researcher, had made at least nine separate requests and had been in direct communication with Facebook's counsel, according to court filings.

"Facebook's misconduct prevented the State from learning about the additional undisclosed violations," Ferguson wrote.

And, Ferguson says, Facebook told Wurtz to fill out a form in order to get information, asking him to confirm he was a Washington resident and asking him for specific URLs of the ads he was interested in. State law allows anyone to request information, not just Washington residents, and it does not require a requester to provide specific URLs.

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