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7 **IN THE UNITED STATES DISTRICT COURT FOR**  
8 **THE CENTRAL DISTRICT OF CALIFORNIA**  
9 **WESTERN DIVISION**

10 PEOPLE FOR THE ETHICAL TREATMENT OF  
11 ANIMALS, INC.

12 Plaintiff,

13 vs.

14  
15 LOS ANGELES COUNTY METROPOLITAN  
16 TRANSPORTATION AUTHORITY, and  
17 STEPHANIE WIGGINS, Chief Executive Officer  
18 of Los Angeles County Metropolitan  
19 Transportation Authority, in her official  
20 capacity,

21 Defendants.

Case No:

**Complaint for Injunctive and  
Declaratory Relief**

22 **Introduction**

23 1. Los Angeles County Metropolitan Transportation Authority, commonly  
24 known as Metro, operates the third-largest public transit system in the United States. Paid  
25 advertising in and on its buses and bus shelters reach millions of people daily. Plaintiff  
26 People for the Ethical Treatment of Animals, Inc., commonly known as PETA, would like  
27 to buy advertising space on Metro’s buses and bus shelters for its advertisements. Metro  
28 rejected PETA’s proposed advertisements based on its purported ban on noncommercial

1 advertising. But in practice, Metro runs all kinds of noncommercial advertising. Metro  
2 does not have a legitimate, let alone a compelling, government interest in prohibiting  
3 noncommercial advertising or in rejecting PETA's advertising. Metro's purported  
4 prohibition on noncommercial advertising allows Metro to discriminate against advertisers  
5 based on the advertiser's identity, the advertiser's known or presumed viewpoints, the  
6 content of the advertisement's message, or the advertiser's line of business. By rejecting  
7 PETA's advertisements, Metro violated PETA's First Amendment rights.

### 8 **Jurisdiction and Venue**

9 2. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343  
10 as this is an action to redress the deprivation, under color of state law, of rights secured by  
11 the Constitution and laws of the United States. PETA seeks remedies under 42 U.S.C.  
12 §§ 1983 and 1988 (protection of constitutional rights), Fed R. Civ. P. 65 (injunctive  
13 relief), and 28 U.S.C. §§ 2201 and 2202 and Fed. R. Civ. P. 57 (declaratory relief).

14 3. Venue is proper under 28 U.S.C. § 1391 because Metro's acts in violation of  
15 the United States Constitution have arisen and continue to arise in the Central District of  
16 California.

### 17 **Parties**

18 4. Plaintiff PETA is a section 501(c)(3) animal-protection advocacy  
19 organization and charity located in Norfolk, Virginia. Founded in 1980, PETA is  
20 dedicated to protecting animals from abuse, neglect, and cruelty. It undertakes these  
21 efforts through public education, cruelty investigations, research, animal rescue,  
22 legislation, special events, celebrity involvement, protest campaigns, and administrative  
23 petitions. It is the largest animal rights organization in the world. Committed to fighting  
24 animal exploitation and asserting animals' rights to have humans consider their best  
25 interests and to be free from suffering, PETA particularly advocates against the pain  
26 caused to animals by the food, clothing, domestic breeding, and entertainment industries,  
27 as well as by laboratory experimentation.



1 clearly, on the face of the advertising, identify the Governmental Agency. It is  
2 Metro's intent that government advertising will not be used for comment on  
3 issues of public debate.

4 Exception 2: Metro will accept paid advertising from non-profit organizations  
5 that partner with a Governmental Agency (as defined in Exception 1 above)  
6 and submit advertising that advances the joint purpose of the non-profit  
7 organization and the Governmental Agency, as determined by each of them.  
8 In order for advertising to qualify under this exception, the advertising must  
9 clearly, on the face of the advertising, identify the Governmental Agency and  
10 indicate that the Governmental Agency approves, sponsors, or otherwise  
11 authorizes the advertising. The non-profit organization must also provide a  
12 Statement of Approval (attached) from the Governmental Agency describing  
13 the joint purpose to be advanced and setting forth a statement acknowledging  
14 support and approval for the submitted advertising. Any message displayed  
15 under this exception must adhere to all other content restrictions stated in this  
16 policy.

#### 17 Metro's Ad Policy in Practice

18 11. In practice, Metro runs a variety of non-commercial advertising, including  
19 advertising that does not appear to fall within either of Metro's two exemptions to the  
20 non-commercial advertising prohibition. These ads often "comment on issues of public  
21 debate." For example, Metro approved each of the following advertisements:

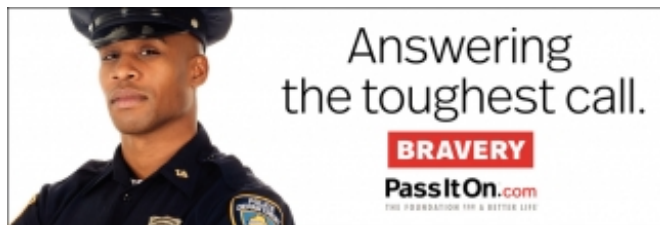




# GET THE FACTS



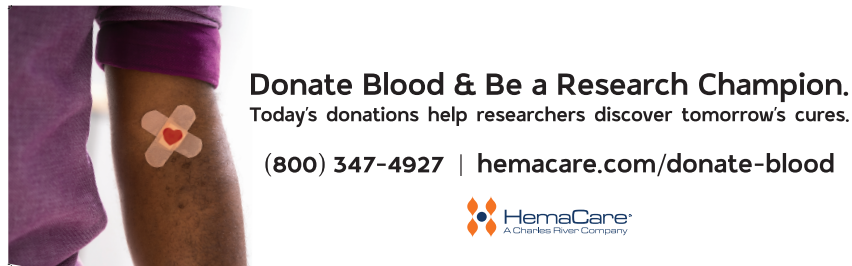
12. Despite the non-commercial advertising prohibition, Metro approved the following advertisements to run on its buses from the Foundation for a Better Life:



The Foundation for a Better Life is an organization that purports to “promote good values.” The organization’s website declares on its main webpage that, “We don’t sell

1 anything or accept monetary donations.” On information and belief, the Foundation for a  
2 Better Life is funded solely by The Anschutz Family Foundation, which is run and funded  
3 by billionaire conservative activist Phillip Anschutz.

4 13. Despite the non-commercial advertising prohibition, Metro runs  
5 advertisements that do not “promote for sale, lease or other form of financial benefit a  
6 product, service, event or other property interest in primarily a commercial manner for  
7 primarily a commercial purpose,” including the following advertisements that Metro  
8 approved to run on its buses:



21 14. Metro also runs advertisements promoting government agencies even when it  
22 is not the government agency purchasing the advertising. For instance, the University of  
23 Southern California's Keck School of Medicine was approved to run the following  
24 advertisement:



1           15. And Metro allows advertising by entities that purport to be government  
2 agencies but, in fact, are not. For instance, the South Los Angeles Health Projects, a  
3 federally funded but nevertheless private entity, was approved to run the following  
4 non-commercial advertisement after merely identifying itself as “a non-profit federally  
5 funded Special Nutrition Program for Women, Infant[s], and Children.”



12                           Metro Rejects PETA’s Proposed Ads

13           16. Public advertising is one of the major ways in which PETA carries out its  
14 advocacy campaigns.

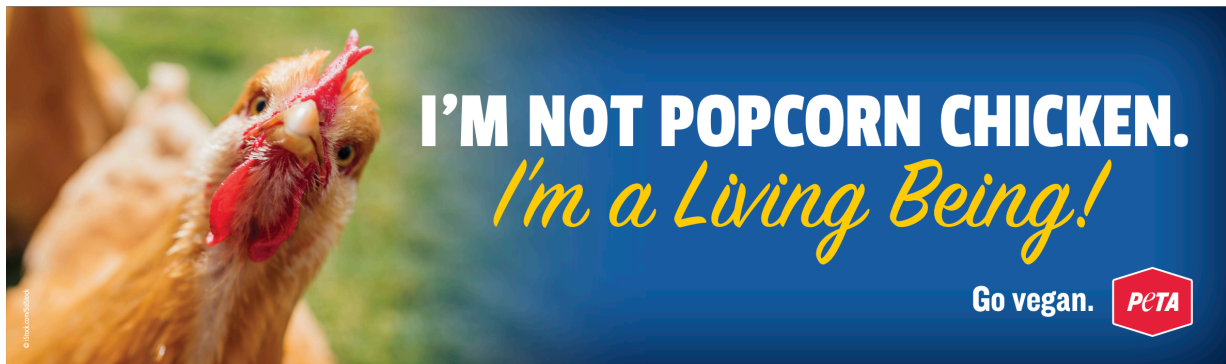
15           17. In furtherance of its mission, on August 6, 2019, PETA reached out to  
16 Metro’s agent, Outfront, seeking to place the following advertisement at a Metro bus  
17 shelter:



1 18. The advertisement was intended to raise viewers' awareness that animals  
2 have consciousness and to encourage viewers not to purchase animal products—especially  
3 wool.

4 19. Outfront informed PETA that it could not run nonprofit advertising without  
5 government approval and provided Metro's advertising policy. Outfront forwarded to  
6 PETA a "Statement of Approval" form for PETA and an approving government agency to  
7 jointly submit to seek approval under Metro's Exception 2 to its non-commercial  
8 advertising prohibition.

9 20. On July 29, 2021, PETA reached out to Outfront again seeking approval to  
10 run a different advertisement:



18 21. Metro had previously accepted and run the following ads for Jack in the Box:



27 22. PETA's proposed advertisement was intended to raise viewers' awareness  
28 that animals have consciousness and to encourage viewers not to purchase and eat animal



1 products. PETA intended the advertisement to present a counter viewpoint to the  
2 viewpoint expressed in the Jack in the Box ads that Metro approved and ran.

3 23. Metro again rejected PETA's ad and informed PETA, by attaching Metro's  
4 advertising policy, that it could only run the ad if PETA obtained a government sponsor  
5 that would add its logo to the ad.

6 24. Metro regularly accepts and displays advertisements that are intended to  
7 influence riders and the rest of the public to buy, do, and believe things that are at odds  
8 with PETA's viewpoint on humans' proper relationship with animals, such as eating  
9 animal-based foods, wearing clothing made from animals, and attending entertainment in  
10 which animals are made to perform in unnatural ways.

11 25. Those viewpoints are accepted, but PETA's opposing viewpoints on these  
12 issues are censored.

13 26. Metro's prohibition on non-commercial advertising, and Metro's  
14 implementation of that prohibition, is viewpoint discriminatory. And it has resulted in  
15 discriminatory enforcement against controversial or unpopular viewpoints.

16 27. For instance, under the prohibition, Metro could permit the display of an  
17 advertisement promoting a "fracking" convention in the city, but environmental activists  
18 would be prohibited from running an advertisement criticizing the fracking industry. A  
19 military contractor could advertise weapons of war, but anti-war activists would be  
20 prohibited from running an advertisement criticizing the same military contractor. The  
21 American Red Cross could run an advertisement with Metro extolling the organization's  
22 virtues, but critics of the America Red Cross's sometimes-questionable spending practices<sup>1</sup>  
23 would be prohibited from running their own advertisement. McDonald's could run  
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26 <sup>1</sup> See, e.g., Linda Bever, *People are urging donations for Harvey relief efforts — just not to*  
27 *the Red Cross*, WASHINGTON POST, August 28, 2017, available at:

28 <https://www.washingtonpost.com/news/post-nation/wp/2017/08/28/people-are-urging-donations-for-harvey-relief-efforts-just-not-to-the-red-cross/>.

1 advertisements saying, “Buy Hamburgers,” but animal rights activists are prohibited from  
2 running advertisements saying, “Don’t Buy Hamburgers.”

3 28. Similarly, by allowing advertisements that would otherwise violate its  
4 guidelines to run if (and only if) the advertiser partners with a government entity, Metro’s  
5 policy discriminates on the basis of the identity of the speaker. Metro allows ads to run by  
6 a speaker who is partnered with a local government entity but rejects the exact same  
7 advertisement by another unpartnered advertiser.

8 29. PETA still wishes to place the same advertisements, and similar  
9 advertisements, in Metro advertising spaces. PETA is suffering irreparable injury during  
10 the time its advertisements are not permitted to run on Metro advertising spaces.

11 30. The display of PETA’s advertisements will cause no harm of any kind to  
12 Metro, the County of Los Angeles, the passengers who ride Metro buses, or the public who  
13 view Metro’s advertising space.

14  
15 **Causes of Action**

16 **FIRST CAUSE OF ACTION**

17 Infringement of Freedom of Speech

18 First and Fourteenth Amendments (42 U.S.C. § 1983)

19 31. PETA incorporates the allegations contained in the preceding paragraphs as if  
20 set forth fully herein.

21 32. Metro’s purported prohibition on noncommercial advertising, and/or Metro’s  
22 interpretation and implementation of that prohibition, is facially viewpoint-based and not  
23 narrowly tailored to promote a compelling government interest, in violation of the First  
24 and Fourteenth Amendments to the United States Constitution.

25 33. Metro’s purported prohibition on non-commercial advertising allows an  
26 industry position or goal to be expressed in advertisements sponsored by those with a  
27 “primarily . . . commercial purpose,” but prohibits the expression of any viewpoints on  
28 those topics by speakers whose advertisements do not have a “primarily . . . commercial

1 purpose,” thereby excluding the viewpoints of all speakers who are not speaking for their  
2 own commercial advantage. This discrimination based on viewpoint, and on the speaker’s  
3 identity unrelated to the purpose of the forum, applies to all advertising submitted to Metro  
4 that relates to any content that “promote[s] for-sale, lease or other form of financial benefit  
5 a product, service, event or other property interest in primarily a commercial manner.”  
6 Accordingly, Metro’s prohibition on non-commercial advertising violates the First  
7 Amendment on its face and as-applied to PETA.

8 34. Metro’s purported prohibition on noncommercial advertising, and/or Metro’s  
9 interpretation and implementation of that prohibition, is not capable of reasoned  
10 application, in violation of the First and Fourteenth Amendments to the United States  
11 Constitution.

12 35. Metro’s purported prohibition on noncommercial advertising, and/or Metro’s  
13 interpretation and implementation of that prohibition, gives Metro unfettered discretion in  
14 enforcement, in violation of the First and Fourteenth Amendments to the United States  
15 Constitution.

16 36. Metro’s exception to allow non-commercial advertising when it is  
17 co-sponsored by a government entity is viewpoint discriminatory and a prior restraint on  
18 speech.

19 37. Metro’s refusal to run PETA’s proposed advertisements amounts to  
20 discrimination based on viewpoint as applied to PETA, in violation of the First and  
21 Fourteenth Amendments to the United State Constitution.

22 38. PETA has suffered and will continue to suffer irreparable harm and the  
23 deprivation of its rights because of Metro’s unconstitutional advertising policy and  
24 practices.

### 25 **Request for Relief**

26 PETA requests that this Court:

- 27 a. Declare that Metro has violated and is violating PETA’s rights under the First  
28 and Fourteenth Amendment to the United States Constitution;

- 1 b. Declare that Metro’s prohibition on non-commercial advertising is facially  
2 unconstitutional under the First and Fourteenth Amendments to the United  
3 States Constitution;
- 4 c. Declare that Metro’s interpretation and implementation of its prohibition on  
5 non-commercial advertising is unconstitutional as applied under the First and  
6 Fourteenth Amendments to the United States Constitution;
- 7 d. Grant PETA preliminary and permanent injunctive relief ordering Metro to  
8 accept and display PETA’s proposed advertisement on terms no less favorable  
9 than those given to other advertisers;
- 10 e. Grant PETA preliminary and permanent injunctive relief enjoining Metro, their  
11 employees, agents, successors, and assigns, and all persons acting in concert  
12 with them, from continuing to enforce Metro’s prohibition on non-commercial  
13 advertising;
- 14 f. Award PETA its costs and reasonable attorneys’ fees in this action;
- 15 g. Grant such other and further relief as the Court deems appropriate.

16  
17 Dated: September 27, 2021

By: /s/ Matthew Strugar  
Matthew Strugar

*Attorney for Plaintiff*