

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

WALLBUILDER PRESENTATIONS,

Plaintiff,

v.

RANDY CLARKE, in his official capacity as
General Manager and Chief Executive Officer of
the Washington Metropolitan Area Transit
Authority,

Defendant.

Civil Action No. 23-3695 (BAH)

Judge Beryl A. Howell

ORDER

Upon consideration of the Motion to Dismiss, ECF No. 23, filed by Randy Clarke, in his official capacity as General Manager and Chief Executive Officer of the Washington Metropolitan Area Transit Authority (“WMATA”); plaintiff WallBuilder Presentations’ (“WallBuilders”) Motion for a Preliminary Injunction, ECF No. 9; Motion for Leave to File Supplemental Declarations, ECF No. 28; and Motion for Leave to File Supplemental Dulin Declaration, ECF No. 34, and the related legal memoranda in support and in opposition, for the reasons set forth in the accompanying Memorandum Opinion, it is hereby:

ORDERED that WMATA’s Motion to Dismiss, ECF No. 23, is **GRANTED IN PART AND DENIED IN PART**; it is further

ORDERED that WMATA’s Motion to Dismiss the claim in Count I, under 42 U.S.C. § 1983, that Guideline 9 of WMATA’s Guidelines Concerning Commercial Advertising (the “Guidelines”) is a facially unreasonable regulation on speech, in violation of the First Amendment, is **DENIED**; it is further

ORDERED that WMATA's Motion to Dismiss the claim in Count II, under 42 U.S.C. § 1983, that Guideline 9 is an unreasonable regulation on speech as applied to WallBuilders, in violation of the First Amendment, is **DENIED**; it is further

ORDERED that WallBuilders' claim in Count III, under 42 U.S.C. § 1983, that Guideline 9 facially discriminates based on viewpoint, in violation of the First Amendment, is **DISMISSED**; it is further

ORDERED that WallBuilders' claim in Count IV, under 42 U.S.C. § 1983, that Guideline 9 discriminates based on viewpoint as applied to WallBuilders, in violation of the First Amendment, is **DISMISSED**; it is further

ORDERED that WallBuilders' claim in Count V, under 42 U.S.C. § 1983, that Guideline 12 facially discriminates based on viewpoint, in violation of the First Amendment, is **DISMISSED**; it is further

ORDERED that WallBuilders' claim in Count VI, under 42 U.S.C. § 1983, that Guideline 12 is an unreasonable regulation on speech, in violation of the First Amendment, is **DISMISSED**; it is further

ORDERED that WallBuilders' Motion for Preliminary Injunction, ECF No. 9, is **GRANTED IN PART AND DENIED IN PART AS MOOT**; it is further

ORDERED that WallBuilders' Motion for Preliminary Injunction is **GRANTED** insofar as it seeks preliminarily to enjoin WMATA from enforcing Guideline 9 against WallBuilders; it is further

ORDERED that Randy Clarke, in his official capacity as General Manager and Chief Executive Officer of WMATA, and his agents, servants, employees, attorneys and all persons and

entities directly or indirectly in active concert or participation with him, are **PRELIMINARILY ENJOINED** from enforcing Guideline 9 against WallBuilders; it is further

ORDERED that any security that would be required pursuant to Federal Rule of Civil Procedure 65(c) is **WAIVED**; it is further

ORDERED that this injunction shall be effective upon service of WMATA; it is further

ORDERED that WallBuilders' Motion for Preliminary Injunction is **DENIED AS MOOT** insofar as it seeks preliminarily to enjoin WMATA from enforcing Guideline 12 against WallBuilders; it is further

ORDERED that WallBuilders' Motion for Leave to File Supplemental Declarations, ECF No. 28, is **GRANTED**; and it is further

ORDERED that WallBuilders' Motion for Leave to File Supplemental Dulin Declaration, ECF No. 34, is **GRANTED**.

SO ORDERED.

Date: May 21, 2024

BERYL A. HOWELL
United States District Judge