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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

20 STATE OF NEVADA,  
21  
22 Plaintiff,  
23  
24 vs.  
25 META PLATFORMS, INC. f/k/a  
26 FACEBOOK, INC.,  
27  
28 Defendant.

Case No.:  
Dept. No.:  
**COMPLAINT AND DEMAND FOR JURY TRIAL**  
**Exempt from Arbitration:**  
Business Court Matter  
Declaratory Relief Sought  
Amount In Controversy Greater than \$50,000  
**Business Court Requested:**  
EDCR 1.61 – Enhanced Case Management

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1 Plaintiff, the State of Nevada, by and through Aaron D. Ford, Attorney General, and the  
2 undersigned attorneys (the “State”) brings this Complaint against Defendants Meta Platforms,  
3 Inc. (“Meta”) and its Messenger social media platform<sup>1</sup> (“Messenger”) (collectively  
4 “Defendants”) and alleges, upon information and belief, as follows:

## 5 INTRODUCTION

6 1. The State of Nevada, by and through Aaron D. Ford, Attorney General for the  
7 State of Nevada, and Ernest Figueroa, Consumer Advocate, files this Complaint on behalf of  
8 the State to eliminate the hazard to public health and safety caused by Defendants’ social media  
9 platform Messenger, and to recover civil penalties and other relief arising out of Defendants’  
10 false, deceptive and unfair marketing and other unlawful conduct arising from the design and  
11 implementation of Messenger.

12 2. Meta (formerly Facebook, Inc.) is the parent company of some of the world’s  
13 largest social media platforms, including its Messenger platform, an instant messaging app that  
14 enables users to send text, photos, videos, and other media within and outside of Meta’s equally  
15 ubiquitous Facebook app. Worldwide, users number 1.036 billion.<sup>2</sup> Because of its scale,  
16 Messenger is also wildly remunerative, with Meta generating billions of dollars in revenue from  
17 facilitating targeted advertising.

18 3. However, this revenue is only available as long as there is an audience to view  
19 those highly-targeted advertisements. Thus, Meta is incentivized to keep as many of its users  
20 on its platforms—including Messenger—for as long as possible. But Meta has crossed a line  
21 from simply enticing its audience to taking steps to keep its audience *addicted* to the platform.  
22 Highly-skilled and highly-paid employees have invested years of research and analysis into  
23 designing and deploying features on Messenger that make it impossible not just to quit using  
24 the app, but simply to put our phones down to attend to the most basic functions of our daily

---

25 <sup>1</sup> In general, the term “social media platform” refers to a website and/or app (often operating in  
26 conjunction, under the same name) that allows people to create, share, and exchange content  
27 (such as posts of text, photos, videos, etc.) with other users of the platform. Examples of popular  
28 social media platforms include Messenger, Facebook, Instagram, Snapchat, and TikTok.

<sup>2</sup> <https://datareportal.com/essential-facebook-messenger-stats> (last visited Jan. 27, 2024).

1 lives. It demands our attention first thing in the morning and last thing at night, at the dinner  
2 table, while we are walking down the street, even when we are driving.

3 4. This addiction to social media—and its consequences—is increasingly being  
4 called out by stakeholders and advocates. One of the most succinct critiques can be found in  
5 the documentary film, *The Social Dilemma*, which addresses our addiction to posts, likes, pokes,  
6 chats, and all of the other prompts that Big Tech<sup>3</sup> has deployed to keep us addicted to their apps.  
7 As an interviewee in the film notes: “*There are only two industries that call their customers*  
8 *‘users’: illegal drugs and software.*”<sup>4</sup>

9 5. And, much like an illegal drug, Messenger has been designed to be an addiction  
10 machine, targeting people under the age of 18 (“Young Users”) and more insidiously children  
11 under the age of 13 (“Youngest Users”) who, as Meta well knows, have developmentally limited  
12 capacity for self-control. Children are the most vulnerable to these intentionally addictive  
13 design elements. As one specialist in social media addiction notes, “[a]dolescence is second  
14 only to infancy when it comes to growth. Therefore, the impact of social media on a developing  
15 teen’s mind and body can be huge.”<sup>5</sup> Social media platforms like Messenger, with design  
16 elements that intentionally keep children engaged for as long as possible—to the exclusion of  
17 all other activities—harm their users emotionally, developmentally, and physically. They lead  
18 to a condition known as “problematic internet use,”<sup>6</sup> which is associated with a range of harms,

21 <sup>3</sup> “Big Tech” is a term commonly used to describe the largest global technology corporations—  
22 most typically, this group includes Meta, Alphabet (Google), Amazon, Apple, and Microsoft.  
23 However, more broadly, the term refers to the amalgam of large technology companies that  
24 create and maintain technologies and platforms that are intertwined with our daily lives.

25 <sup>4</sup> *The Social Dilemma*. Directed by Jeff Orlowski-Yang; Produced by Exposure Labs, Argent  
26 Pictures. The Space Program; 2020. *Netflix*, <https://www.netflix.com/watch/81254224> (last  
27 visited Jan. 27, 2024).

28 <sup>5</sup> <https://www.newportacademy.com/resources/mental-health/teens-social-media-addiction/>  
(last visited Jan. 27, 2024).

<sup>6</sup> Wen Li, et al., *Diagnostic Criteria for Problematic Internet Use among U.S. University*  
*Students: A Mixed-Methods Evaluation*, PLOS ONE (Jan. 11, 2016),  
<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0145981> (last visited Jan. 27,  
2024).

1 including but not limited to exposure to predators and online bullies, age-inappropriate content,  
2 damage to children’s self-esteem, and increased risk of eating disorders and even suicide.

3 6. As the U.S. Surgeon General recently explained, children’s and parents’  
4 attempts to resist social media is an unfair fight: “You have some of the best designers and  
5 product developers in the world who have designed these products to make sure people are  
6 maximizing the amount of time they spend on these platforms. And if we tell a child, use the  
7 force of your willpower to control how much time you’re spending, you’re pitting a child  
8 against the world’s greatest product designers.”<sup>7</sup>

9 7. Unlike other consumer products that have appealed to children for generations—  
10 like candy or soda—with social media platforms there is no natural break point where the  
11 consumer has finished the unit of consumption. Instead, social media platforms are a bottomless  
12 pit where users can spend an infinite amount of their time. And Meta profits from each  
13 additional second a user spends on its platforms.

14 8. Meta has designed Messenger to exploit that dynamic by embedding within the  
15 platform an array of design features that maximize youth engagement, peppering them with  
16 reminders to “log on” and making it psychologically difficult to “log off.” Specifically,  
17 Defendants rely on design elements to make Messenger addictive to all users, and to Young  
18 Users in particular (“Design Elements”). These Design Elements—Low-Friction Variable  
19 Rewards; Social Manipulation; Ephemeral Content; Push Notifications; Harmful Filters; and  
20 End-to-End Encryption of Young User Private Messages (each defined below)—each serve as  
21 an obstacle to Young User’s free decision-making.

22 9. Messenger’s design and platform features have fueled the explosive increase in  
23 the amount of time that Young Users spend on these platforms. [REDACTED]  
24 [REDACTED]—and as anyone who has recently spent time with adolescents can attest—Meta has  
25 successfully induced Young Users to spend vast amounts of time on its social media platforms.

26  
27 <sup>7</sup> Allison Gordon & Pamela Brown, *Surgeon General says 13 is ‘too early’ to join social media*,  
28 CNN (Jan. 29, 2023), <https://www.cnn.com/2023/01/29/health/surgeon-general-social-media/index.html> (last visited Jan. 27, 2024).

1 Indeed, for many Young Users, social media platforms are viewed as an indispensable part of  
2 their identity, a forum to share a carefully cultivated personality “highlight reel,” and a place  
3 where they must constantly be “present”—whether they want to be or not.

4 10. All the while, Meta understands that Young Users’ time spent on its social media  
5 platforms is not the product of free choice. [REDACTED]

6 [REDACTED]—Young Users feel  
7 addicted to these platforms. They widely report difficulty controlling their time spent on the  
8 applications (also referred to as “app” or “apps”). And they frequently express that they would  
9 prefer to spend meaningfully less time on social media platforms but feel powerless to do so.  
10 Still, Meta has not introduced any product changes to meaningfully reduce its platforms’  
11 addictiveness.

12 11. The widespread compulsive use that Meta induced—and allowed to continue  
13 unabated—has come at a massive societal cost. In effect, Meta is conducting a potentially  
14 society-altering experiment on a generation of Young Users’ developing brains.<sup>8</sup> While this  
15 experiment’s full impact may not be realized for decades, the early returns are alarming.

16 12. Researchers warn that compulsive use of social media platforms impose a wide  
17 range of harms, including increased levels of depression, anxiety, and attention deficit  
18 disorders; altered psychological and neurological development; and reduced sleep, to name a  
19 few. And that is to say nothing of the immense opportunity cost imposed when youth spend  
20 critical years glued to social media platforms, not engaged in the varied and profound  
21 experiences associated with growing up in the physical world.

22  
23  
24 <sup>8</sup> At least one recent study involving children’s use of Facebook, Instagram, and Snapchat  
25 “suggests that social media behaviors in early adolescence may be associated with changes in  
26 adolescents’ neural development, specifically neural sensitivity to potential social feedback.”  
27 Maria T. Maza, Kara A. Fox, Seh-Joo Kwon, et al., Association of Habitual Checking Behaviors  
28 on Social Media With Longitudinal Functional Brain Development, *JAMA Pediatr.* (Jan. 3,  
2023), <https://jamanetwork.com/journals/jamapediatrics/article-abstract/2799812> (last visited  
Jan. 27, 2024). These changes in adolescents’ neural development may permanently alter their  
brains with unknown long-term impacts. *Id.*

1           13.     In short, Meta’s business strategy that purposefully addicts Young Users to its  
2 social media platforms has caused widespread and significant injury to Nevadans, and young  
3 Nevadans in particular.

4           14.     Meta also deceived and continues to deceive Nevada consumers—and, critically,  
5 parents—on a large scale. Here, Meta misled consumers, parents, and guardians by concealing  
6 the various and significant risks social media platforms present to its users, particularly Young  
7 Users. Meta further made multiple, affirmative misrepresentations and engaged in material  
8 omissions regarding the safety of its platforms, to the detriment of Nevadans.

9           15.     First, Meta has long known that Messenger was on-balance harmful for users.  
10 But Meta did not share that information materially important information with consumers using  
11 their products. Instead, Meta’s leadership

12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]

16           16.     In one particularly distressing episode, Zuckerberg  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]

20 [REDACTED] harmful effects of this feature, which is exceedingly popular across all of  
21 Meta’s platforms, including Messenger.<sup>9</sup>

22           17.     Second, Meta publicizes its “Community Standards Enforcement Reports,” or  
23 CSER, to create the façade that its social media platforms are a safe platform where harmful  
24 content was rarely encountered. Specifically, these reports touted the low “prevalence” of  
25 Community Standards violations, which the Company used as evidence that its platforms are

26 <sup>9</sup> See, e.g., <https://www.womenshealthmag.com/beauty/a33264141/face-filters-mental-health-effect/> (“Even if you’re not going out of your way to pay \$3.99 for Facetune, you might be one  
27 of the 1 billion people using built-in face perfectors across Facebook, Instagram, [and]  
28 Messenger[.]”) (Last visited Jan. 27, 2024).

1 safe. But that is a false narrative that misleads consumers about the true extent of harmful  
2 experiences on Messenger.

3 18. To illustrate, in the third quarter 2021 Community Standards Enforcement  
4 Report, Meta showcased the low “prevalence” of violating content, estimating for example that  
5 “between 0.05% to 0.06% of views were of content that violated our standards against bullying  
6 & harassment [on Instagram].” That creates the impression that bullying and harassing content  
7 is extremely rare on Instagram—5 or 6 in 10,000 pieces of content.

8 19. In reality, [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]

17 20. While reasonable consumers could not have understood the difference between  
18 Meta’s reported “prevalence” metrics and the actual incidence of harm, Meta’s [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

23 [REDACTED] The State obtained testimony from the [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

26 <sup>10</sup> [REDACTED] (pg. 35)

27 <sup>11</sup> *Id.*

28 <sup>12</sup> *Id.*

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED] minimized (or downplayed) the harms users were experiencing on  
5 Meta's platforms, he testified:

6 [REDACTED]  
7 [REDACTED]  
8 22. Third, Meta misled the public through false, affirmative statements about its  
9 commitment to well-being related products and features. As one example, it long touted its  
10 [REDACTED]  
11 [REDACTED] as a demonstration of Meta's commitment to well-being. But when Meta learned that its  
12 [REDACTED]  
13 preferring to mislead its users (and parents) than suffer a public-relations hit for rolling back or  
14 fixing a purported "wellness" feature.

15 23. Fourth, Meta made material misrepresentations to develop trust among  
16 consumers, parents, and guardians that its social media platforms are a safe place for Young  
17 Users. In various public channels, Meta deceptively represented (1) that it does not prioritize  
18 increasing users' time on its platforms; (2) that it protects Young Users from harmful or  
19 inappropriate content on its platforms (in reality, and specific to the Messenger platform, Meta  
20 deploys end-to-end encryption, which the company internally acknowledges is a profound  
21 obstacle to protecting children from harmful actors); (3) that it does not place a monetary value  
22 on Young Users' use of Meta platforms; (4) that it has not changed its internal data and research  
23 access policies in response to The Wall Street Journal's 2021 coverage of its internal research  
24 findings; and (5) that its platforms are not addictive.

25 24. In sum, through its acts, omissions, and statements, Meta carefully created the  
26 impression that its social media platforms were and *are still* a safe platform where users were

27 \_\_\_\_\_  
28 <sup>13</sup> [REDACTED]

1 unlikely to experience significant harm and where users’ security and mental health were an  
2 important Company priority. That representation was material, false, and misleading.

3 25. Based on this misconduct, and as more fully described below, Nevada brings  
4 this action pursuant to the Nevada Deceptive Trade Practices Act, N.R.S. §§ 598.0903 through  
5 598.0999 (“NDTPA”), and further brings claims of negligence, products liability, and unjust  
6 enrichment.

7 26. The State brings this action exclusively under the laws of the State of Nevada.  
8 No federal claims are being asserted, and to the extent that any claim or factual assertion set  
9 forth herein may be construed to have stated any claim for relief arising under federal law, such  
10 claim is expressly and undeniably disavowed and disclaimed by the State. The Attorney  
11 General is authorized to bring an action—independently in the name of the State as well as in a  
12 *parens patriae* capacity on behalf of the persons residing in Nevada—to remedy violations of  
13 Nevada law.

14 27. Nor does the State bring this action on behalf of a class or any group of persons  
15 that can be construed as a class. The claims asserted herein are brought solely by the State and  
16 are wholly independent of any claims that individual Nevadans may have against Defendants.

17 **PARTIES**

18 28. The State of Nevada is a body politic created by the Constitution and laws of the  
19 State; as such, it is not a citizen of any state. This action is brought by the State in its sovereign  
20 capacity in order to protect the interests of the State of Nevada and its residents as *parens patriae*,  
21 by and through Aaron D. Ford, the Attorney General of the State of Nevada. Attorney General  
22 Ford is acting pursuant to his authority under, inter alia, NRS 228.310, 338.380, 228.390, and  
23 598.0963(3).

24 29. Meta Platforms, Inc. (“Meta”) is a Delaware corporation with a principal place  
25 of business in Menlo Park, California. From 2005 until October 28, 2021, Meta was known as  
26 Facebook, Inc. Meta is a multinational technology company that designs, distributes, and  
27 promotes multiple social media platforms, including Messenger.



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1 sets forth herein exclusively viable state law claims against Defendants. Nowhere herein does  
2 Plaintiff plead, expressly or implicitly, any cause of action or request any remedy that arises  
3 under federal law. The issues presented in the allegations of this Complaint do not implicate  
4 any substantial federal issues and do not turn on the necessary interpretation of federal law. No  
5 federal issue is important to the federal system as a whole under the criteria set by the Supreme  
6 Court in *Gunn v. Minton*, 568 U.S. 251 (2013) (e.g., federal tax collection seizures, federal  
7 government bonds). Specifically, the causes of action asserted, and the remedies sought herein,  
8 are founded upon the positive statutory, common, and decisional laws of Nevada. Further, the  
9 assertion of federal jurisdiction over the claims made herein would improperly disturb the  
10 congressionally approved balance of federal and state responsibilities. Accordingly, any  
11 exercise of federal jurisdiction is without basis in law or fact.

12 35. In this Complaint, to the extent Plaintiff cites federal statutes and regulations.  
13 Plaintiff does so to state the duty owed under Nevada law, not to allege an independent federal  
14 cause of action and not to allege any substantial federal question under *Gunn v. Minton*. “A  
15 claim for negligence in Nevada requires that the plaintiff satisfy four elements: (1) an existing  
16 duty of care, (2) breach, (3) legal causation, and (4) damages.” *Turner v. Mandalay Sports*  
17 *Entertainment, LLC*, 124 Nev. 213, 180 P.3d 1172 (Nev. 2008). The element of duty is to be  
18 determined as a matter of law based on foreseeability of the injury. *Estate of Smith ex rel. Smith*  
19 *v. Mahoney’s Silver Nugget, Inc.*, 127 Nev. 855, 265 P.3d 688, 689 (2011). To be clear, to the  
20 extent Plaintiff cites federal statutes and federal regulations, it is for the sole purpose of stating  
21 the duty owed under Nevada law to the residents of Nevada. Thus, any attempted removal of  
22 this complaint based on a federal cause of action or substantial federal question is without merit.

23 36. Venue is proper in this Court pursuant to NRS § 598.0989(3) because  
24 Defendants’ conduct alleged herein took place in Clark County, Nevada.

## FACTS

### I. MESSENGER, GENERALLY.

37. Messenger is used to send messages and exchange photos, videos, stickers, audio, and files, and also react to other users' messages and interact with bots. The service also supports voice and video calling.

38. Messenger is an instant messaging platform—consisting of a free-standing app and a free-standing website—developed by Meta. Originally it was released as Facebook Chat in 2008, and was the private-messaging component of the larger Facebook platform (i.e., Facebook users could communicate privately via Facebook Chat while on Facebook). Messenger was released as a standalone app in 2011. In April 2015, Meta (which at that time was still called Facebook) launched a dedicated website interface, Messenger.com, and separated the messaging functionality from the main Facebook platform. This required Facebook users to use Messenger's web interface or download the standalone app.

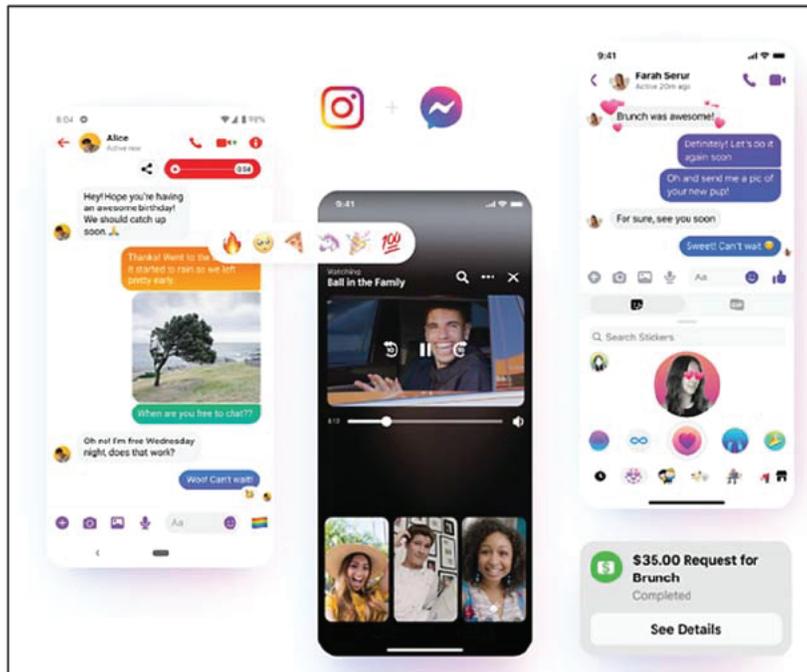


Fig. 1<sup>16</sup>

<sup>16</sup> <https://www.messenger.com/features> (last visited Jan. 27, 2024; see also <https://techcrunch.com/2021/09/30/facebook-messenger-releases-cross-app-group-chats-further-integrating-with-instagram/> (last visited Jan. 27, 2024)).

1           **A.    Meta Offers Its Platforms in Exchange for Consumers’ Valuable**  
2           **Consideration that Enables Meta to Sell Advertising.**

3           39.    Like all social media platforms, Messenger does not charge money from its users  
4 for access. Instead, it monitors its users and surreptitiously collects data related to their online  
5 lives—including the way in which they use the product, the posts with which they interact, the  
6 friends they have, the places they go, the advertisements they view, and even what users do on  
7 other sites or apps. Meta, Messenger’s parent company, is consistently the target of regulatory  
8 actions, lawsuits, and news reports related to the vast troves of personal data it acquires on  
9 individuals, which it uses to create detailed, individual profiles that in turn are employed to  
10 serve users targeted advertising.

11           40.    As Meta explains in its most recently filed Form 10-K: “We generate  
12 substantially all of our revenue from advertising. Our advertising revenue is generated by  
13 displaying ad products on Facebook, Instagram, Messenger, and third-party mobile  
14 applications. Marketers pay for ad products either directly or through their relationships with  
15 advertising agencies or resellers, based on the number of impressions delivered or the number  
16 of actions, such as clicks, taken by users.”<sup>17</sup>

17           41.    As Zuckerberg further explained, “based on what pages people like, what they  
18 click on, and other signals, we create categories...and then charge advertisers to show ads to  
19 that category. Although advertising to specific groups existed well before the internet, online  
20 advertising allows much more precise targeting and therefore more-relevant ads.”<sup>18</sup>

21           42.    The practical effect of this arrangement—free access to Messenger in exchange  
22 for personal data—is best expressed in the documentary “The Social Dilemma,” which quotes

23  
24  
25  
26 <sup>17</sup> <https://d18rn0p25nwr6d.cloudfront.net/CIK-0001326801/e574646c-c642-42d9-9229-3892b13aabfb.pdf> (last visited Jan. 27, 2024).

27 <sup>18</sup> Mark Zuckerberg, *Understanding Facebook’s Business Model*, Mark Zuckerberg (January  
28 24, 2019), <https://about.fb.com/news/2019/01/understanding-facebooks-business-model/> (last  
visited Jan. 27, 2024).

1 Google’s former design ethicist, Tristan Harris: “*if you’re not paying for the product, then you*  
2 *are the product.*”<sup>19</sup>

3 43. Because Meta views its users as its product, and because it can best monetize  
4 and collect information about its users while they are on its various platforms (including  
5 Messenger), Meta is incentivized to keep its users on the platforms as long as possible, and as  
6 often as possible. Via his current project, The Center for Humane Technology, Tristan Harris  
7 further explains this concept:

8 Our attention is a limited resource. There are only so many waking hours in the  
9 day, and therefore only so many things we can focus on. When we pay attention  
10 to one thing, we’re not paying attention to something else.

11 This fact of life has been deeply complicated by technology. With more  
12 information and more choices at our fingertips than ever before, there are  
13 unprecedented demands on our attention.

14 This feeling of constant distraction is fueled by tech companies that rely on  
15 capturing your attention to make money, normally by selling it to advertisers.

16 ...

17 Each app is caught in a race for your attention, competing not just against other  
18 apps, but also against your friends, your family, your hobbies, and even your  
19 sleep.

20 ...

21 *[S]ocial media companies don’t sell software, they sell influence. They collect*  
22 *in-depth data about how to influence your decisions, then sell that influence to*  
23 *the highest bidder. The more time they can get you to spend scrolling and*  
24 *clicking, the more data they can collect and the more ads they can sell.*<sup>20</sup>

25 44. Competition for users’ attention is fierce, and social media platforms—like  
26 Defendants’—are purposely designed to addict their users. Defendants have both in-house and  
27 external research initiatives designed to document and improve engagement reporting and have  
28

<sup>19</sup> Abigail McCormick, *Review: The Social Dilemma* (Aug. 8, 2021), <https://sauconpanther.org/2535/arts-and-entertainment/if-youre-not-paying-for-the-product-then-you-are-the-product/> (last visited Jan. 27, 2024).

<sup>20</sup> Center for Humane Technology, *The Attention Economy – Why do tech companies fight for our attention?* (Aug. 17, 2021), <https://www.humanetech.com/youth/the-attention-economy> (last visited Jan. 27, 2024).

1 projects that use neuromarketing and virtual reality techniques to measure effectiveness.<sup>21</sup> The  
2 mobilization of all these resources indicates that Messenger—along with all of Meta’s other  
3 platforms—is built not for user experience, but for maximization of profit.

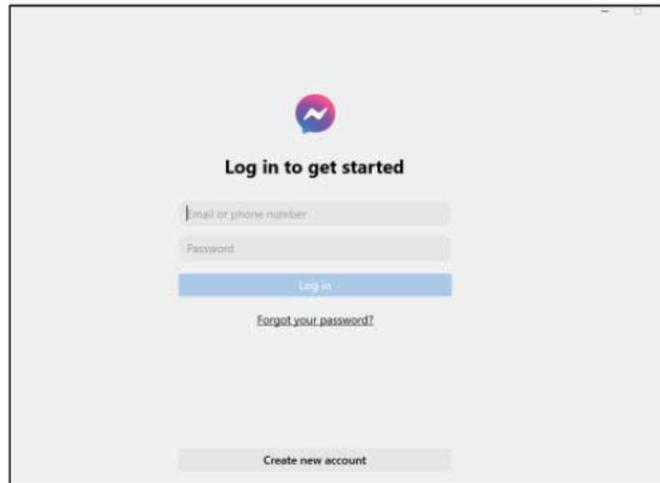
4 45. And this maximization of profit is achieved through addiction. As set forth  
5 below, Defendants employ sophisticated principles first identified by psychologists and other  
6 academics, which they manifest through intentional design elements that exploit those  
7 psychological principles.

8 46. These design elements are not subjective—instead they are part and parcel of  
9 Messenger’s code. They operate consistently, and universally, across the platform, for all users,  
10 including the vulnerable children who Defendants know—to a certainty—are using Messenger.

11 47. Worse still, [REDACTED]  
12 [REDACTED]  
13 [REDACTED]

14 **B. Account Creation for Messenger.**

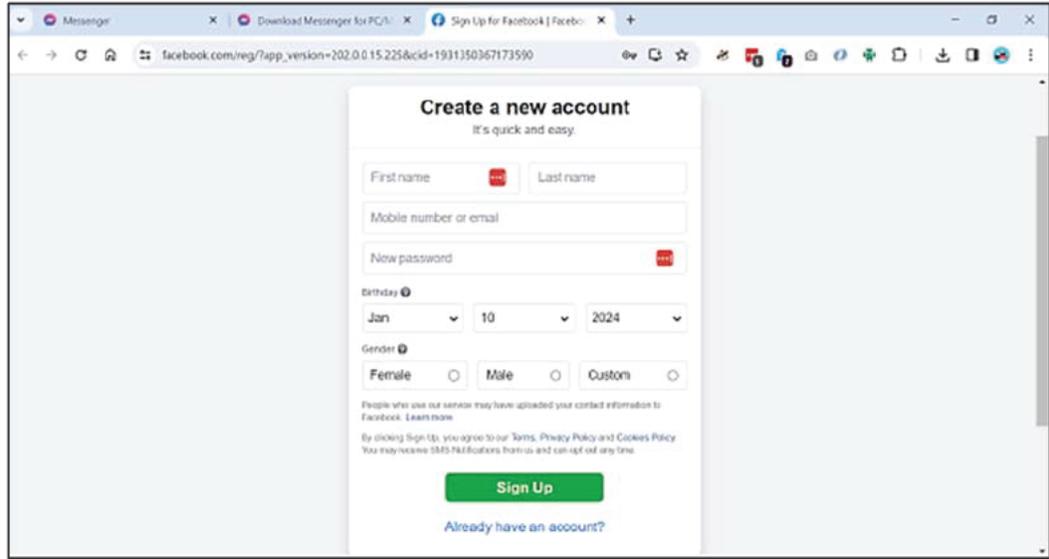
15 48. To fully access Messenger, consumers must create an account. *E.g.*,



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24 Fig. 2

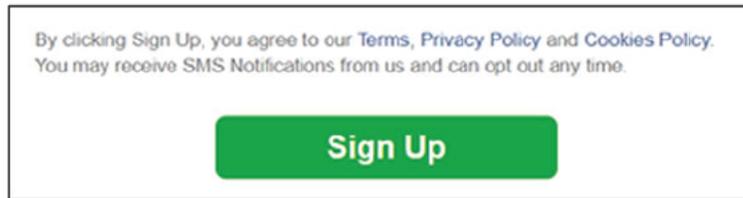
25  
26 <sup>21</sup> See, e.g., Meta Careers, *Shape the Future of Marketing with the Marketing Science Team*,  
27 Meta (Sept. 19, 2018), [https://www.metacareers.com/life/come-build-with-the-facebook-  
28 marketing-science-team/](https://www.metacareers.com/life/come-build-with-the-facebook-marketing-science-team/) (last visited Jan. 27, 2024); *How Virtual Reality Facilitates Social  
Connection*, Meta, [https://www.facebook.com/business/news/insights/how-virtual-reality-  
facilitates-social-connection](https://www.facebook.com/business/news/insights/how-virtual-reality-facilitates-social-connection) (last visited Jan. 27, 2024).

1 49. If a new user clicks “Create new account,” he or she is then redirected to the  
2 login page for Facebook—one of Meta’s main social media platforms:



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12 Fig. 3

13 50. As part of the Messenger account-creation process, consumers enter into a  
14 contract with Meta. Among other portions of the agreement, users agree to comply with Meta’s  
15 Terms of Service.<sup>22</sup>



16  
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20 Fig. 4

21 51. As noted above, although users can establish accounts on Messenger without  
22 paying a fee, Defendants do not provide their products and services for free—rather, they charge  
23 users by collecting their data and time, which Meta then converts into advertising dollars.

24 52. In exchange for the right to use Meta, consumers agree to a host of terms that  
25 power Meta’s advertising business. For example, this is confirmed by Meta’s Terms of Service:  
26

27 <sup>22</sup> Facebook Terms of Service, <https://www.facebook.com/legal/terms> (last visited Jan. 27,  
28 2024).

1 These Terms govern your use of Facebook, Messenger, and the other products,  
2 features, apps, services, technologies, and software we offer...We don't  
3 charge you to use Facebook or the other products and services covered by these  
4 Terms, unless we state otherwise. Instead, businesses and organizations, and  
5 other persons pay us to show you ads for their products and services. By using  
6 our Products, you agree that we can show you ads that we think may be  
7 relevant to you and your interests. We use your personal data to help determine  
8 which personalized ads to show you.<sup>23</sup>

6 53. Consumers also pay for Messenger by agreeing to give Meta access to vast reams  
7 of data arising out of their platform use. Pursuant to Meta's Privacy Policy (which users also  
8 agree to upon account creation), each consumer must agree that Meta may collect a host of data,  
9 ranging from information about the consumer's activity on Messenger; the messages the  
10 consumer sends and receives; the content the consumer provides through Messenger's camera  
11 feature and the consumer's camera roll; the ways the consumer interacts with ads, the time the  
12 user spends interacting with various pieces of content; the hardware and software the consumer  
13 is using, the GPS, Bluetooth signals, nearby Wi-Fi access points, beacons and cell towers; and  
14 many other categories of data.

15 54. Meta also represents itself as a common enterprise. Meta's financial disclosures  
16 describe Messenger, Instagram, Facebook, and WhatsApp, as Meta's "'family' of products,"  
17 and report revenue and expenses for the entire "family" together.<sup>24</sup>

18 55. Consumers' payment for Messenger in the form of time, attention, and data  
19 enables Meta to sell highly targeted, data-informed advertising opportunities, which is the  
20 foundation of Meta's business.

21  
22 **C. Meta Prioritizes Acquiring Young Users and Maximizing Their Time Spent  
on its Platforms.**

23 56. In Meta's business model, not all consumers are created equal. Young Users are  
24 Meta's prized demographic.

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26 \_\_\_\_\_  
27 <sup>23</sup> *Id.*

28 <sup>24</sup> Meta Platforms, Inc. Form 10-Q, 1, 4, 33, (Q2 2023), <https://archive.ph/MSvSt> (last visited Jan. 27, 2024).

1           57.     Accordingly, Meta has pursued increasing Young Users’ time spent on its  
2 platforms as one of the Company’s most important goals.

3           58.     For instance, as of November [REDACTED]

4 [REDACTED]<sup>25</sup>

5           59.     This strategy was [REDACTED]

6 [REDACTED]<sup>26</sup>

7           [REDACTED] Even prior to this, Meta had developed a project titled “Teen App Sentiment  
8 Tracker.” In an internal message [REDACTED]

9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]

17           62.     [REDACTED]  
18 [REDACTED] These  
19 additions paid off, but at the cost of young Users’ well-being.

20           63.     Meta pursues Young Users because Meta’s advertising customers value that  
21 audience. Among other reasons, Meta’s advertising partners want to reach Young Users because  
22 they: (1) are more likely to be influenced by advertisements, (2) may become lifelong  
23 customers, and (3) set trends that the rest of society emulates.

25 [REDACTED]  
26 [REDACTED]  
27 [REDACTED]

28 <sup>28</sup> *Id.*

1           64. Advertisers pay Meta a premium to serve advertisements to Young Users. And  
2 many advertisers are willing to pay Meta for the opportunity to reach Young Users in specific  
3 geographic markets, such as those in Nevada.

4           65. Meta is motivated to increase Young Users' time spent on its platforms not only  
5 because it is a meaningful stream of advertising business, but also, because the data that Meta  
6 collects from that use is itself highly valuable to the Company.

7           66. Meta has worked to maximize Young Users' [REDACTED]  
8 [REDACTED]  
9 [REDACTED]

10          67. In short, Meta has many strong short-term and long-term financial incentives to  
11 increase the time that Young Users spend on its platforms, including Messenger. And as  
12 described in further detail below, Meta has chased that goal with incredible success, capturing  
13 a mind-boggling amount of time and attention from a generation of Young Users.

14          68. This approach has been profitable. Meta reported earning \$116.6 billion in  
15 revenue in 2022, with \$23.2 billion in net income, making Meta one of the largest companies  
16 in the United States by revenue and income. And because of his ownership stake in Meta,  
17 Zuckerberg is one of the wealthiest people in the world.

18          69. In addition to financial success, Zuckerberg's role as Meta's CEO and Founder  
19 has made him a public figure able to exert significant influence not only over the Company, but  
20 also over society at large. In a private email exchange with [REDACTED]

21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED] 29

26  
27  
28 <sup>29</sup> [REDACTED]

1           **D. Social Media Use—and Ensuing Exposure to Harms—is Especially**  
2           **Prevalent Among Young Users of Color.**

3           70. Research shows that a higher percentage of children of color in America use  
4 social media platforms—including Meta’s platforms—than their white counterparts.

5           71. A recent study by Pew, entitled *Teens, Social Media and Technology 2023*,  
6 reveals that Black and Hispanic teenagers between ages 13 and 17 spend more time on social  
7 media platforms than their white counterparts.<sup>30</sup>

8           72. Another study similarly found that Black and Hispanic children, ages 8 to 12,  
9 also use social media platforms more than their white counterparts.<sup>31</sup>

10          73. Researchers have found that due to lower income levels, Black and Hispanic  
11 teenagers are less likely to have broadband access or computers at home, causing  
12 disproportionate reliance on smartphones and corresponding use of social media platforms.

13          74. Thus, while 95% of children between the ages of 13 and 17 have access to a  
14 smartphone at home, having access to a home computer remains less common for those in  
15 lower-income households.

16          75. Experts believe that internet usage among teenagers may be displacing other  
17 activities, including sports participation, in-person socializing, and reading, among other things.

18          76. With respect to reading, the 2023 *Scholastic Kids & Family Reading Report*  
19 found that the average amount of reading across all racial groups is in decline and continues to  
20 trend downward as children transition to their teenage years.<sup>32</sup>

21          77. The *Scholastic* study found that while 46% of kids between the ages of 6 and 8  
22 report reading for pleasure, only 18% of children between the ages of 12 and 17 report the same.

23 \_\_\_\_\_  
24 <sup>30</sup> Pew Research Center, *Teens, Social Media and Technology 2023* (Dec. 11, 2023),  
25 <https://www.pewresearch.org/internet/2023/12/11/teens-social-media-and-technology-2023/>  
(last visited Jan. 27, 2024).

26 <sup>31</sup> Rideout, V., Peebles, A., Mann, S., & Robb, M. B. (2022), *The Common Sense Census: Media*  
27 *Use by Tweens and Teens, 2021*, [https://www.common sense media.org/sites/default/](https://www.common sense media.org/sites/default/files/research/report/8-18-census-integrated-report-final-web_0.pdf)  
[files/research/report/8-18-census-integrated-report-final-web\\_0.pdf](https://www.common sense media.org/sites/default/files/research/report/8-18-census-integrated-report-final-web_0.pdf) (last visited Jan. 27, 2024).

28 <sup>32</sup> Scholastic, *Kids & Family Reading Report™*, [https://www.scholastic.com/content/corp-](https://www.scholastic.com/content/corp-home/kids-and-family-reading-report/reading-lives.html)  
[home/kids-and-family-reading-report/reading-lives.html](https://www.scholastic.com/content/corp-home/kids-and-family-reading-report/reading-lives.html) (last visited Jan. 27, 2024).

1           78.     These statistics raise the concern that the disparities in internet and social media  
2 platforms use may, in turn, intensify overall declines and existing differences in reading across  
3 racial groups.

4           79.     As of the 2020 Census, Nevada’s Black community constitutes roughly 12.1%  
5 of the State’s population, and the Hispanic community constitutes 28.7% of the State’s  
6 population.<sup>33</sup>

7           **E.     Meta Directs Its Business Towards Nevada.**

8           80.     Notably, Meta allows advertisers to target Young Users based on their age and  
9 location,<sup>34</sup> and Facebook is popular among Young Users in Nevada.

10          81.     While there is a dearth of granular data on Facebook usage (and therefore,  
11 Messenger usage, since Messenger must be downloaded by Facebook users in order to engage  
12 in direct messaging) by age and State, a 2012 resource shows that 12% of all Facebook users in  
13 Nevada are between the ages of 13 and 17.<sup>35</sup>

14          82.     Moreover, more recent data suggests that 20.5% of *all* people ages 13 and older  
15 use Messenger, as of April 2023, thereby indicating a significant amount of Young Users in  
16 Nevada.<sup>36</sup>

17          83.     And of course, Meta enriches itself by selling advertisements targeted to Nevada.  
18 According to Meta’s public advertising library, Meta regularly sells advertisements specific to  
19 Nevada, and it allows businesses to target specific cities in Nevada.<sup>37</sup> All manner of Nevada  
20  
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23 <sup>33</sup> <https://www.census.gov/library/stories/state-by-state/nevada-population-change-between-census-decade.html> (last visited Jan. 27, 2024).

24 <sup>34</sup> [REDACTED]

25 <sup>35</sup> <https://web.archive.org/web/20141119085350/http://innovationsimple.com/wp-content/uploads/2012/07/Facebook-Age-Distribution-in-Nevada.jpg> (last visited Jan. 27, 2024).

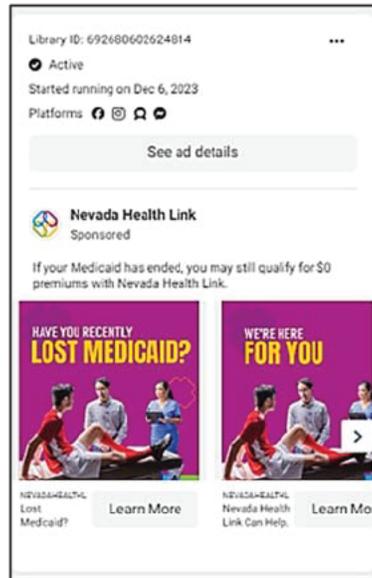
26 <sup>36</sup> <https://datareportal.com/essential-facebook-messenger-stats> (Last visited Jan. 27, 2024).

27 <sup>37</sup> *Designated market areas for ad targeting*, Facebook, <https://www.facebook.com/business/help/1501907550136620> (last visited Jan. 27, 2024).

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kjc@kempjones.com

1 entities advertise on Facebook to reach a Nevada audience and expand their business in Nevada.

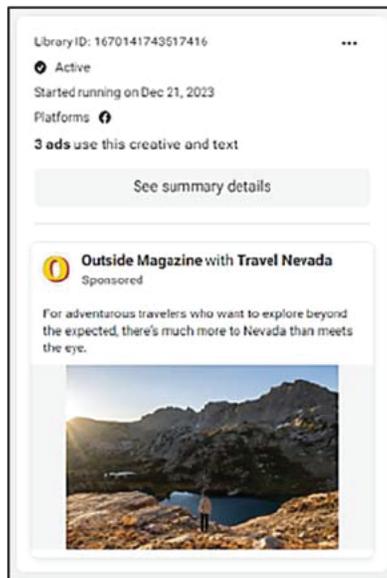
2 Some examples include:<sup>38</sup>



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13 Nevada Health Link



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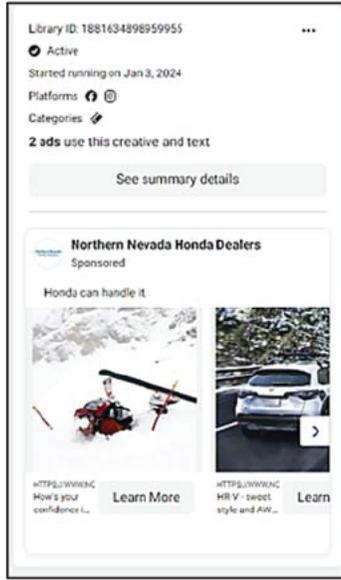
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Outside Magazine, with Travel Nevada

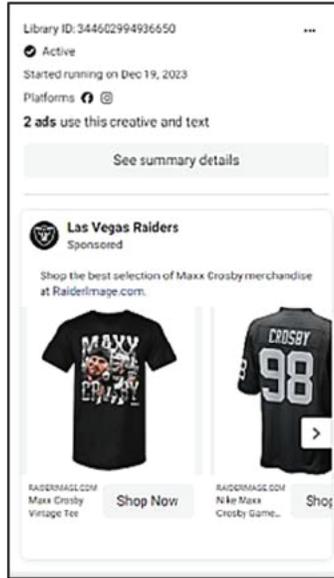
<sup>38</sup> Each of the following examples comes from a natural language search of Meta’s “Ad Library” tool, when enables users to “[s]earch all the ads currently running across Meta technologies,” [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&media_type=all) (last visited Jan. 27, 2024).

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Northern Nevada Honda Dealers



The Las Vegas Raiders

84. In sum, Meta not only makes its social media platforms available in Nevada. It also—at a minimum—promotes its brand in Nevada, touts its investments in Nevada, [REDACTED], and sells advertisements to Nevada entities so that they can expand their businesses in Nevada. And by virtue of Meta’s business model, Meta has entered into (at least) hundreds of thousands of

1 contracts with consumers in Nevada and sold the opportunity to serve ads specifically to those  
2 Nevada consumers.

3 **II. META UTILIZES MULTIPLE DESIGN PRACTICES PURPOSELY INTENDED TO HOOK**  
4 **YOUNG USERS AND KEEP THEM ON ITS PLATFORMS IN PERPETUITY.**

5 **A. By Meta’s Design, its Platforms Induce Compulsive Use Among Young**  
6 **Users.**

7 85. For generations, companies have marketed products to Young Users – from  
8 bikes to Barbies to baseball cards. Unquestionably, products like those appealed to a young  
9 audience, and their creators marketed them accordingly and achieved success.

10 86. Meta could have followed a similar course. It might have offered a version of its  
11 platforms that was simply appealing, but not addictive.

12 87. Instead, Meta intentionally designed its platforms to exploit known  
13 vulnerabilities in Young Users’ neurological development, making its platforms profoundly  
14 difficult—and in some cases impossible—for children and teens to resist.

15 88. As Meta’s founding president, Sean Parker, explained in 2018:

16 The thought process that went into building these applications, Facebook being  
17 the first of them ... was all about: ‘How do we consume as much of your time  
18 and conscious attention as possible?’ That means that **we need to sort of give**  
19 **you a little dopamine hit every once in a while**, because someone liked or  
20 commented on a photo or a post or whatever. And that’s going to get you to  
21 contribute more content and that’s going to get you ... more likes and  
22 comments. It’s a social-validation feedback loop ... exactly the kind of thing  
23 that a hacker like myself would come up with, **because you’re exploiting a**  
24 **vulnerability in human psychology**. The inventors, creators—**me, [Meta**  
25 **founder] Mark [Zuckerberg], [Instagram founder] Kevin Systrom on**  
26 **Instagram**, all of these people—**understood this consciously. And we did it**  
27 **anyway.**<sup>39</sup>

28 89. On an ongoing basis, Meta pours massive resources into understanding Young  
Users’ cognitive vulnerabilities.

<sup>39</sup> Alex Hern, ‘Never get high on your own supply’ – why social media bosses don’t use social media, The Guardian (January 23, 2018), <https://www.theguardian.com/media/2018/jan/23/never-get-high-on-your-own-supply-why-social-media-bosses-dont-use-social-media> (last visited Jan. 27, 2024). Emphasis in this Complaint is added unless otherwise noted.

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90. For example, in [REDACTED]

40

91. But that [REDACTED]

42

92. But efforts like the [REDACTED]

93. In certain instances, this [REDACTED]

43

94. [REDACTED]

44

40

41 *Id.*

42 *Id.*

43

(pg. 2)

44

1 95. On information and belief, the [REDACTED]  
2 [REDACTED]  
3 [REDACTED] study Young Users and capture, exploit, and monetize more of their time and  
4 attention.

5 **B. Meta Studies** [REDACTED]

6 96. A [REDACTED]  
7 [REDACTED]  
8 [REDACTED]<sup>45</sup>

9 97. [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]

14 98. The first section of the [REDACTED]  
15 [REDACTED]<sup>48</sup>

16 99. As part of the [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]<sup>49</sup>

22 100. The [REDACTED]  
23 [REDACTED]

24  
25 <sup>45</sup> [REDACTED]

26 <sup>46</sup> *Id.* (pg. 1)

27 <sup>47</sup> *Id.* (pg. 6)

28 <sup>48</sup> *Id.* (pg. 7)

<sup>49</sup> *Id.* (pgs. 10-11)

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[REDACTED]

[REDACTED] 50

101. The next [REDACTED] 51

102. Offering [REDACTED]

[REDACTED] 52

103. The next [REDACTED]

[REDACTED] 53

104. And the following [REDACTED]

[REDACTED] 54

105. Suggesting another [REDACTED]

[REDACTED] 55

106. Building [REDACTED]

[REDACTED] 56

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<sup>50</sup> *Id.* (pg. 12)  
<sup>51</sup> *Id.* (pgs. 13-14)  
<sup>52</sup> *Id.* (pg. 22)  
<sup>53</sup> *Id.* (pg. 23)  
<sup>54</sup> *Id.* (pg. 24)  
<sup>55</sup> *Id.* (pg. 47)  
<sup>56</sup> *Id.* (pg. 54)

1 107. In several places, the [REDACTED]

2 [REDACTED]

3 [REDACTED] For example, [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED] But that was [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 110. In the end, [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED] <sup>62</sup>

20 111. The [REDACTED]

21 [REDACTED]

22 [REDACTED] <sup>63</sup>

23 <sup>57</sup> *Id.* (pg. 48)

24 <sup>58</sup> *Id.* (pg. 13)

25 <sup>59</sup> *Id.* (pg. 24)

26 <sup>60</sup> *Id.* (pg. 27)

27 <sup>61</sup> *Id.* (pgs. 56-57)

28 <sup>62</sup> *Id.* (pg. 58)

<sup>63</sup> [REDACTED]

1 112. In response to the [REDACTED]

7 113. As noted in the preceding section, while this [REDACTED]

12 114. On information and belief, the [REDACTED]

16 **C. Meta Implements Specific Design Elements Into Messenger to Induce Compulsive Use.**

17 115. Leveraging its [REDACTED]

18 Young Users' diminished capacity for self-control through an array of platform features,  
19 including Messenger's Design Elements.

20 116. Collectively, these features created and exploited obstacles to Young Users' free  
21 decision-making, causing them to spend more time on Messenger than they otherwise would.

22 117. Several categories of engagement-optimizing design features are especially  
23 pernicious: Low-Friction Variable Rewards; Social Manipulation; Ephemeral Content; Push  
24 Notifications; Harmful Filters; and End-to-End Encryption. The State discusses each, in turn.

1                                   **1.       Low-Friction Variable Rewards**

2                   118.    The “Low-Friction Variable Reward” design element (also called the “Hook  
3 Model”<sup>66</sup>) is a powerful cognitive manipulation principle, first identified by the psychologist  
4 B.F. Skinner in the early 20<sup>th</sup> Century.<sup>67</sup> It is premised on the observation that when test  
5 subjects—both humans and other animals—are rewarded unpredictably for a given action, they  
6 will engage in the action for a longer period of time than if the reward is predictable.<sup>68</sup> In his  
7 testing, Skinner observed that lab mice responded voraciously to random rewards. The mice  
8 would press a lever and sometimes they would get a small treat, other times a large treat, and  
9 other times nothing at all. Unlike the mice that received the same treat every time, the mice that  
10 received variable rewards seemed to press the lever compulsively.

11                   119.    At a chemical level, this is because the brain generates more dopamine in  
12 response to an uncertain reward than in response to an expected and reliable one.<sup>69</sup> The  
13 tendency of variable rewards to drive compulsive behavior is sometimes referred to as the  
14 “Vegas Effect,” and is the primary mechanism at work in slot machines, keeping players sitting  
15 in front of machines for hours on end (machines that, due to their limited mental development,  
16 Young Users and Youngest Users are of course forbidden from using or interacting with).<sup>70</sup>

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18 <sup>66</sup> Bart Krawczyk, *What is the hook model? How to build habit-forming products*, Log Rocket  
19 Frontend Analytics (Dec. 2, 2022), <https://blog.logrocket.com/product-management/what-is-the-hook-model-how-to-build-habit-forming-products/> (last visited Jan. 27, 2024).

20 <sup>67</sup> B. F. Skinner, *Two Types of Conditioned Reflex: A Reply to Konorski and Miller*, 16 J. Gen.  
21 Psychology, 272-279 (1937), <https://doi.org/10.1080/00221309.1937.9917951> (last visited Jan.  
27, 2024).

22 <sup>68</sup> Laura MacPherson, *A Deep Dive into Variable Designs and How to Use Them*, DesignLi  
23 (Nov. 8, 2018), <https://designli.co/blog/a-deep-dive-on-variable-rewards-and-how-to-use-them/> (last visited Jan. 27, 2024); Mike Brooks, *The “Vegas Effect” of Our Screens*, Psychol.  
24 Today (Jan. 4, 2019), <https://www.psychologytoday.com/us/blog/tech-happy-life/201901/the-vegas-effect-our-screens> (last visited Jan. 27, 2024).

25 <sup>69</sup> Anna Hartford & Dan J. Stein, *Attentional Harms and Digital Inequalities*, 9 JMIR Mental  
26 Health 2, 3 (Feb. 11, 2022), <https://pubmed.ncbi.nlm.nih.gov/35147504/> (last visited Jan. 27,  
2024) (“At the level of our neural reward system, an uncertain reward generates a more  
significant dopamine response than those generated by a reliable reward.”).

27 <sup>70</sup> Mike Brooks, *The “Vegas Effect” of Our Screens*, Psychol. Today (Jan. 4, 2019),  
28 [https://www.psychologytoday.com/us/blog/tech-happy-life/201901/the-vegas-effect-our-  
screens](https://www.psychologytoday.com/us/blog/tech-happy-life/201901/the-vegas-effect-our-screens) (last visited Jan. 27, 2024).

1           120. Defendants are aware not only of the value of variable rewards for driving users'  
2 online time and maximizing profits, but also the risks associated with these types of rewards.

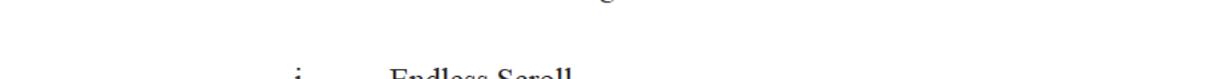
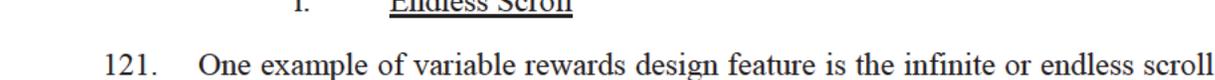
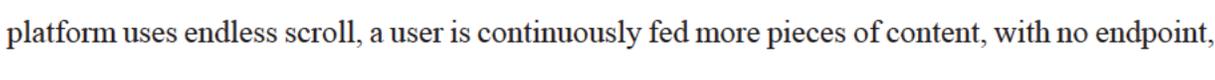
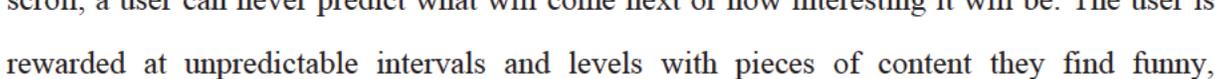
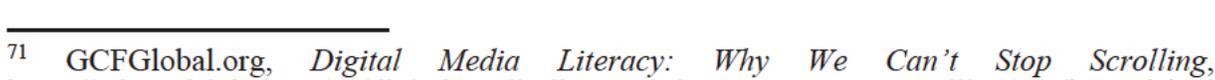
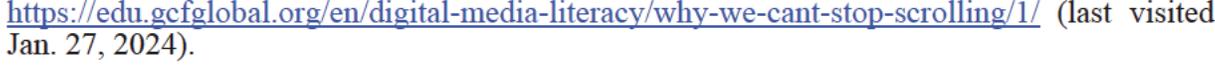
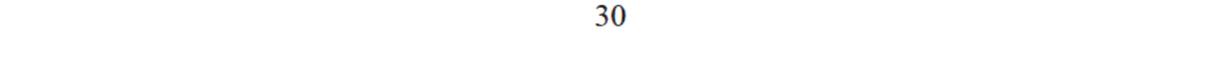
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Fig. 5

17           i. Endless Scroll

18           121. One example of variable rewards design feature is the infinite or endless scroll  
19 mechanism with variable content that is deployed across social media platforms. When a  
20 platform uses endless scroll, a user is continuously fed more pieces of content, with no endpoint,  
21 as they scroll down a feed or page. When platforms load content into streams viewed by endless  
22 scroll, a user can never predict what will come next or how interesting it will be. The user is  
23 rewarded at unpredictable intervals and levels with pieces of content they find funny,  
24 entertaining, or otherwise interesting.<sup>71</sup>

27 <sup>71</sup> GCFGlobal.org, *Digital Media Literacy: Why We Can't Stop Scrolling*,  
28 <https://edu.gcfglobal.org/en/digital-media-literacy/why-we-cant-stop-scrolling/1/> (last visited  
Jan. 27, 2024).

1 122. Critically, the action required by the user is “low-friction” – that is to say, there  
2 is little commitment required of the user beyond simply scrolling through the app. This enables  
3 the user to engage in the pursuit of the next “rewarding” piece of content in perpetuity.

4 123. Messenger employs the endless scroll, supplying minor users with unpredictable  
5 variable rewards by strategically and intermittently surfacing content within Messenger.

6 ii. Autoplay

7 124. Another form of navigation manipulation called “Autoplay,” is similar to endless  
8 scrolling, and is especially prevalent on social media platforms, like Messenger, that provide  
9 video content for users. Simply put, video playback begins without any prompting from the  
10 user.

11 125. Meta deploys the Autoplay feature to keep Young Users on Messenger,  
12 automatically and continuously playing video content in their Feed and elsewhere and  
13 encouraging Young Users to remain on the platform *ad infinitum*.

14 126. Autoplay is enabled by default in Messenger,<sup>72</sup> yet it takes away a user’s sense  
15 of control, increasing the chances of binge-watch or going down a “rabbit hole.” Moreover,  
16 because there is no longer any user choice in the interaction, there is an increased risk of children  
17 being exposed to inappropriate, harmful content.

18 127. Meta understands that these are powerful tools. Tellingly, when [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]<sup>73</sup>

26 \_\_\_\_\_  
27 <sup>72</sup> <https://www.howtogeek.com/316365/how-to-stop-facebook-messenger-videos-from-autoplaying/> (last visited Jan. 27, 2024).

28 <sup>73</sup> [REDACTED]

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iii. Visual and Sonic Cues Related to Sending and Receiving Messages

128. In an academic article titled “A Survey of Addictive Software Design,”<sup>74</sup> the author ranks Messenger as having the highest use of variable rewards among social media platforms (competitor platforms in the article included Facebook, Instagram, Twitter, and YouTube, among others).<sup>75</sup> Per the article, “[i]ntermittent variable rewards are used most often in the form of notifications. The Facebook Messenger app relies on notifications and pop ups to alert the user to new messages. The pop ups used by Messenger are some of the most unique of all the major apps, as they appear as bubbles that the user can move around their screen.”<sup>76</sup>

129. The notification variable rewards don’t just occur when a message is received. Instead, Messenger also deploys sounds to trigger anticipation and reward in its users. When a user composes a message, he or she hears a series of “clicks” as each letter is typed. Similarly, when someone else is replying to the user in a Messenger chat, there will be a sound as they type their—as of yet unseen and undelivered—message. Additionally, an ellipsis, in a dialog bubble, appears on the user’s screen, indicating that their correspondent is in the process of typing out a message.

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<sup>74</sup> Chauncey Neyman. 2017. A Survey of Addictive Software Design. 1, 1, Article 1 (June 2017), <https://digitalcommons.calpoly.edu/cgi/viewcontent.cgi?article=1127&context=cscsp> (last visited Jan. 27, 2024).

<sup>75</sup> *Id.* at Fig. 1, “An illustration of the use of addictive design strategies in popular phone apps.”

<sup>76</sup> *Id.* at p. 5.



Fig. 6<sup>77</sup>

130. This design is not by accident. Rather, it establishes sonic and visual cues that are meant to keep the user in the app for longer, in anticipation of the forthcoming (but as of yet, unrevealed) message.

## 2. Social Manipulation

131. Defendants utilize social manipulation to keep Young Users addicted to their platforms, including Messenger. At its most basic form, this design practice leverages a Young User's desire for social relationships in order to encourage more time spent on the platform and more engagement with the platform (which in turn leads to more opportunities for Defendants to monetize the Young Users).

132. Children are particularly vulnerable to social manipulation techniques. Younger adolescents have specific developmental needs for social connectedness and are particularly attuned to social validation.<sup>78</sup> This can "lead to greater relinquishing of security in certain arenas to gain social validation and belonging, for example, disclosing publicly to participate in online

<sup>77</sup> <https://techcrunch.com/2021/09/30/facebook-messenger-releases-cross-app-group-chats-further-integrating-with-instagram> (last visited Jan. 27, 2024).

<sup>78</sup> Nicholas D. Santer et al., *Early Adolescents' Perspectives on Digital Privacy, Algorithmic Rights and Protections for Children* (2021) at 6, 30.

1 communities and accrue large amounts of likes, comments, and followers.”<sup>79</sup> One pair of  
2 researchers investigating the phenomena write:

3 [T]o tweens and teens, the kind of “rewards” social media promise are even  
4 more meaningful. Teens are primed to crave and value social validation, which  
5 is part of how they make sense of where they fit into their social worlds. Their  
6 biological sensitivity to social feedback makes them more susceptible to the  
7 pull of social media, which is at the ready with a promise of 24/7 access to likes  
8 and praising comments. Capacities for self-regulation and impulse control are  
9 also a work in progress during the teen years, which adds to the challenge of  
10 pulling away.<sup>80</sup>

11 133. Many social manipulation design features induce anxiety in children that they or  
12 their content may not be as popular as that of their peers. In the words of a Massachusetts high  
13 school student who spoke with Common Sense Media, “[I]f you get a lot of likes, then ‘Yay,’  
14 you look relevant, but then if you don’t get a lot of likes and/or views, it can completely crush  
15 one’s confidence. Especially knowing that you’re not the only one who’s able to see it.”<sup>81</sup> Not  
16 only are children spotting and seeing posts, but now they are obsessing over the popularity of  
17 their posts and those of others. These factors all converge to create a feedback loop: because  
18 children crave this social reinforcement, they seek it out, but ultimately children are unequipped  
19 with the tools to protect themselves against the allure of “rewards” that these manipulative  
20 social media designs purportedly promise.

21 iv. Popularity/Reciprocity of a Young User’s Account or Content

22 134. Generally, this design element is associated with social comparison, which  
23 “gamifies” a user’s popularity by displaying (publicly, privately, or both) the number of friends  
24 or connections a user has, the number of interactions their content has received, and sometimes

25 <sup>79</sup> *Id.* at 6 (citing J.C. Yau & S. M. Reich, “It’s Just a Lot of Work”: Adolescents’ Self-  
26 Presentation Norms and Practices on Facebook and Instagram, 29 J. Res. on Adolescence 196,  
27 196-209 (2019)).

28 <sup>80</sup> Emily Weinstein & Carrie James, *Behind Their Screens: What Teens Are Facing (And Adults  
Are Missing)*, MIT Press, at 33 (2022) (citing Lucy Foulkes and Sarah-Jayne Blakemore, *Is  
There Heightened Sensitivity to Social Reward in Adolescence?*, 40 Current Opinion  
Neurobiology 81 (2016)).

<sup>81</sup> Katie Joseff, *Social Media Is Doing More Harm than Good*, Common Sense Media (Dec. 17,  
2021), <https://www.commonsensemedia.org/kids-action/articles/social-media-is-doing-more-harm-than-good> (last visited Jan. 27, 2024).

1 also the names or usernames of specific other users who have interacted with the user or their  
2 content.

3 135. These tallies act as quantified proof of popularity and exploit children's natural  
4 tendency to pursue social relevance.

5 136. [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]

12 137. Meta knows that [REDACTED]  
13 [REDACTED]  
14 [REDACTED] 85

15 138. An [REDACTED]  
16 [REDACTED]  
17 [REDACTED]

18 139. A [REDACTED]  
19 [REDACTED]  
20 [REDACTED] 87

21 [REDACTED]  
22 82 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]  
26 [REDACTED]  
27 [REDACTED]  
28 [REDACTED]

1           140. Social comparison manifests in a host of different ways across Meta’s family of  
2 platforms. For example, on Facebook and Instagram, one of the principal drivers of social  
3 comparison is the “Like” feature, in which a user’s posted content is “liked,” or otherwise  
4 reacted to by other users. In theory, the more reactions a post gets, the more bolstered the user  
5 feels; but in reality, users simply end up perceiving others—either their peers or celebrity  
6 accounts—as having more reactions/likes, which in turn leads to negative feelings on the part  
7 of the user.

8           141. While Messenger does allow for quantified reactions to a given post within a  
9 chat (see the discussion of Stories, Live, and Notes, *infra*), its principle harmful design  
10 element—pertaining to social comparison—is based more on a concept called “social  
11 reciprocity.” The above-cited journal article, “A Survey of Addictive Software Design”  
12 explains as follows:

13           Social reciprocity is either a feature or an emergent property in many social  
14 media apps. Apps like Instagram and Twitter have a social etiquette that  
15 demands “following back” somebody who has followed you, and the liking and  
16 favoriting features can instill a sense of obligation in users to do the same back.  
17 Facebook and LinkedIn require friend and connection requests to be accepted  
18 before a friendship is made official. And Facebook Messenger messages are  
19 shown as “read” to the sending party when opened, motivating users to  
20 respond.<sup>88</sup>

21           142. Thus, in the Messenger context, users are “nudged” to stay engaged with the  
22 platform and to continue the chat, in light of the knowledge that both parties can see when  
23 messages are or are not read.

24           143. Social reciprocity also taps into Young Users’ vulnerability to “FOMO” or “fear  
25 of missing out.” Knowing that the proverbial ball is in the Young User’s court (i.e., that they’ve  
26 received a message that their interlocutor(s) can see has been read) then prompts the Young  
27 User to continue the conversation, leading to more time on the platform. [REDACTED]  
28 [REDACTED]

<sup>88</sup> Chauncey Neyman. 2017. A Survey of Addictive Software Design. 1, 1, Article 1 (June 2017), <https://digitalcommons.calpoly.edu/cgi/viewcontent.cgi?article=1127&context=cscsp> (last visited Jan. 27, 2024).

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### 3. Ephemeral Content

144. As research shows and Meta knows, Young Users are developmentally wired such that the fear of missing out (“FOMO”) is a “repeatedly identified driver of smartphone and social media use[.]”<sup>91</sup> Meta induces constant engagement by making certain content ephemeral. This dovetails with a psychological concept identified by B.F. Skinner as “avoidance,” meaning that an individual performs a behavior to avoid a negative outcome.<sup>92</sup>

145. Messenger utilizes avoidance as a design element by creating ephemeral posts, called “Stories,” which disappear 24 hours after being originally posted.

146. Similarly, Messenger allows users to post “Notes,” which are text-based prompts that all of a Young User’s Messenger contacts can then see, and with which they can interact.<sup>93</sup> Per Meta: “Notes are short posts of up to 60 characters using just text and emojis. To leave a note, go to the top of your inbox, select the followers you follow back or people on your Close Friends list, and your note will appear at the top of their inbox for 24 hours. Replies to notes will arrive as DMs in your inbox.”<sup>94</sup>

<sup>89</sup> [REDACTED] (pg. 1)

<sup>90</sup> *Id.* (pg. 17)

<sup>91</sup> Laura Marciano, Anne-Linda Camerini, Rosalba Morese, *The Developing Brain in the Digital Era: A Scoping Review of Structural and Functional Correlates of Screen Time in Adolescence*, *Front. Psychol.*, Vol. 12 (Aug. 27, 2021) <https://www.frontiersin.org/articles/10.3389/fpsyg.2021.671817/full> (last visited Jan. 27, 2024).

<sup>92</sup> *GameQuitters, Are Video Games Designed to Be Addictive?*, <https://gamequitters.com/are-video-games-addictive/> (last visited Jan. 27, 2024).

<sup>93</sup> <https://www.socialmediatoday.com/news/meta-brings-inbox-notes-messenger/700117/#:~:text=Today%2C%20Messenger%20has%20confirmed%20that.more%20conversation%20and%20interaction%20opportunities> (last visited Jan. 27, 2024).

<sup>94</sup> <https://www.socialmediatoday.com/news/Instagram-Adds-BeReal-Like-Feature-New-DM-Connection-Tools/638663/> (last visited Jan. 27, 2024).

1 147. Another example is “Live,” which gives users the ability to livestream videos to  
2 followers or the public.<sup>95</sup> An [REDACTED]

3 [REDACTED]  
4 [REDACTED]<sup>96</sup>

5 148. Live has been a driver of Messenger engagement. An [REDACTED]

6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]<sup>97</sup>

11 149. Because of the impermanence of Stories, Notes, and Live, users are incentivized  
12 to check their Messenger feeds more often, and for longer periods, so as not to miss out on any  
13 posts that may soon vanish. A recent analysis correlated use of Stories with addiction:

14 [U]ser engagement with Instagram Stories has a significant positive impact on  
15 psychological dependency, denoted by cognitive preoccupation and compulsive  
16 use of Instagram Stories. The literature has shown that a high level of  
17 engagement plays a predictive role in addictive use of Internet activities, and  
18 the findings of this study indicate that users who are highly engaged with  
19 Instagram Stories tend to become dependent on it. As users obtain a variety of  
20 gratifications from using Instagram Stories, they are likely to become more  
21 reliant on it, potentially leading to excessive use. ...[Further] it is clear that  
22 negative feelings exert an even stronger influence than pleasant feelings on the  
23 development of psychological dependency in the current context. On the one  
24 hand, the positive feelings that users experience from using Instagram Stories  
25 may reinforce their addictive patterns of its usage. On the other hand, because  
26 users may also experience negative emotions as a result of engaging in social  
27 interactions and self- and identity-related activities using Instagram Stories  
28 (e.g., unsuccessful self-promotion, missed opportunities, social comparison),  
they may become more dependent on the platform to help regulate and alter  
such mood states with the hope of bringing their affect back to optimal levels.  
However, this is alarming, as recent studies conducted by Facebook show that  
frequent use of Instagram could lead to detrimental effects on young users’  
mental health.<sup>98</sup>

25 <sup>95</sup> [https://help.instagram.com/272122157758915/?helpref=hc\\_fnav](https://help.instagram.com/272122157758915/?helpref=hc_fnav) (last visited Jan. 27, 2024).

26 <sup>96</sup> [REDACTED]  
27 [REDACTED] (pg. 4)

28 <sup>98</sup> Jia-Dai (Evelyn) Lu, Jhieh-Syuan (Elaine) Lin, *Exploring uses and gratifications and psychological outcomes of engagement with Instagram Stories*, *Computers in Human Behavior*

1 150. Unlike content delivery systems that permit a user to view existing posts on a  
2 schedule convenient for the user, ephemeral content is only available on a temporary basis—  
3 incentivizing users to engage with the ephemeral content immediately.

4 151. [REDACTED]

8 99 [REDACTED]

9 152. Meta could make Stories, Notes, and Live available for viewing days or weeks  
10 after they are created, allowing Young Users to take meaningful breaks from its platforms (for  
11 instance, during the school week or while on vacation) without missing content. Instead, Meta  
12 deploys ephemeral content features because it knows Young Users' fear of missing out on  
13 content will keep them glued to its platforms.

14 153. For instance, [REDACTED]

16 100 [REDACTED]

17 154. That [REDACTED]

19 101 [REDACTED]

20 155. Even though it knew [REDACTED]

25 Reports, Vol. 6 (May 2022), 100198, <https://www.sciencedirect.com/science/article/pii/S245195882200032X> (last visited Jan. 27, 2024) (internal citations omitted).

26 99 [REDACTED]

27 [REDACTED] (pg. 3)

28 <sup>101</sup> *Id.* (pg. 25)

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**4. Push Notifications: Audio, Visual, and Haptic Alerts**

156. Meta causes Young Users to increase their time spent on its platforms by inundating them with notifications when they are off the platforms, including Messenger, in an effort to entice them to stop whatever else they are doing and return to engaging with social media. By default, Messenger peppers users (including Young Users) with frequent alerts or notifications intended to cause users to open the application.

157. Meta relies heavily on alerts in efforts to monopolize young users' attention through push notifications. These include haptic alerts, banner notifications, sound notifications, badge notifications (persistently displayed red indication of the number of events that have not yet been viewed by the user), and e-mail notifications.<sup>104</sup>

158. These alerts are disruptive for all users but are especially harmful for minor children, who are particularly vulnerable to distraction and psychological manipulation. [REDACTED] independent academics have observed that these notifications impact the brain in similar ways as narcotic stimulants:

Although not as intense as [sic] hit of cocaine, positive social stimuli will similarly result in a release of dopamine, reinforcing whatever behavior preceded it . . . Every notification, whether it's a text message, a "like" on Instagram, or a Facebook notification, has the potential to be a positive social stimulus and dopamine influx.<sup>105</sup>

159. Preying on that vulnerability, by default Meta notifies Young Users when another user interacts with them via Messenger. But Meta has known for years that Young

<sup>102</sup> [REDACTED] (pg. 32)

<sup>103</sup> *Id.*

<sup>104</sup> [REDACTED]

<sup>105</sup> <https://sitn.hms.harvard.edu/flash/2018/dopamine-smartphones-battle-time/> (last visited Jan. 27, 2024).

1 Users have a particularly difficult time resisting these notifications, and this problem is  
2 particularly acute on the Messenger platform.

3 160. [REDACTED]

7 161. [REDACTED]

10 107 [REDACTED]

13 • [REDACTED]

23 Fig. 7<sup>109</sup>

25 <sup>106</sup> [REDACTED] (pg. 1)

26 <sup>107</sup> *Id.*

27 <sup>108</sup> *Id.* (pg. 2); *see also, id.* (pg. 4)

28 <sup>109</sup> *Id.* (pg. 4)

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

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20 [REDACTED]

21 [REDACTED]

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25 <sup>110</sup> *Id.* (pg. 2)

26 <sup>111</sup> *Id.*

27 <sup>112</sup> *Id.*

28 <sup>113</sup> *Id.* (pg. 7)

<sup>114</sup> *Id.* (pg. 9)

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168.

**5. Harmful Filters**

169. On September 30, 2021 while testifying before Congress, Meta executive Antigone Davis denied that Meta contains features that promote eating disorders, stating: “[w]e do not direct people towards content that promotes eating disorders. That actually violates our policies, and we remove that content when we become aware of it. We actually use AI to find content like that and remove it.”

170. She also testified that for teen girls struggling with “loneliness, anxiety, sadness, and eating disorders,” they “were more likely to say that Instagram was affirmatively helping them, not making it worse,” and that Meta “work[s] with experts to help inform our product and policies” around eating disorders. Meta publishes this same statement in a section devoted to “[e]ating disorders” and “negative body image” in its “parent and guardian’s guide to Instagram,” which it makes available on its website.

[REDACTED]

In contrast

115 [REDACTED] (pg. 9)  
116 [REDACTED] (pg. 14)  
117 [REDACTED] (pg. 51)

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<sup>118</sup> See, e.g., <https://www.womenshealthmag.com/beauty/a33264141/face-filters-mental-health-effect/> (“Even if you’re not going out of your way to pay \$3.99 for Facetune, you might be one of the 1 billion people using built-in face perfectors across Facebook, Instagram, [and] Messenger[.]”) (last visited Jan. 27, 2024).

<sup>119</sup> [REDACTED] (pg. 10)  
<sup>120</sup> [REDACTED] (pg. 7)  
<sup>121</sup> [REDACTED]  
<sup>122</sup> [REDACTED] (pg. 20)  
<sup>123</sup> *Id.*

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124 [REDACTED] (pg. 19)  
22 [REDACTED] (pg. 1)  
23 126 *Id.* (pg. 3)  
24 127 *Id.* (pg. 4)  
25 128 [REDACTED] (pg. 12) (emphasis in original)  
26 129 *Id.* (pg. 3)  
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<sup>132</sup> [REDACTED] (pg. 7)

<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

<sup>135</sup> *Id.* (pgs. 1-2)

<sup>136</sup> [REDACTED] (pg. 3)

<sup>137</sup> *Id.*; see also [REDACTED]

<sup>138</sup> [REDACTED] (pg. 7)

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24 <sup>139</sup> *Id.* (pg. 6); *cf.* [REDACTED]  
25 [REDACTED]

26 <sup>140</sup> [REDACTED] (pg. 6)  
27 <sup>141</sup> [REDACTED] (pg. 1)  
28 <sup>142</sup> <https://www.linkedin.com/in/margaretgstewart> (last visited Jan. 27, 2024).  
<sup>143</sup> [REDACTED]

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23 144 [REDACTED] (pg. 19)  
24 145 [REDACTED]  
25 146 [REDACTED]  
26 147 [REDACTED] (pg. 3)  
27 148 [REDACTED]

28 149 How To Add Filter In Whatsapp Video Call? Add Beauty Filter, <https://gadgetrekt.com/add-filter-whatsapp-video-call/> (last visited Jan. 27, 2024).

## 6. End-to-End Encryption of Young User Private Messages

202. While this Design Element does not inherently foster addiction in users, its harm is even more pernicious. Meta employs end-to-end encryption (“E2E” or “E2EE”) in its messaging services, including the Messenger platform. Per a December 2023 announcement from Meta, “Since 2016, Messenger has had the option for people to turn on end-to-end encryption, but we’re now changing private chats and calls across Messenger to be end-to-end encrypted by default.”<sup>150</sup>

203. In the digital privacy ecosystem, this is a move that might be lauded—as Meta notes, “The extra layer of security provided by end-to-end encryption means that the content of your messages and calls with friends and family are protected from the moment they leave your device to the moment they reach the receiver’s device. This means that nobody, including Meta, can see what’s sent or said, unless you choose to report a message to us.”<sup>151</sup>

204. However, with regard to Young Users, E2EE has been a confounding safety threat. Among other stakeholders, the National Center of Sexual Exploitation has decried E2EE in social media, and has called out Meta, in particular:

“By implementing end-to-end encryption, Meta has guaranteed that child sexual abuse cannot be investigated on its platforms. Meta has enabled, fostered, and profited from child exploitation for *years*, and continues to be an incredibly dangerous platform as recent evidence from several *Wall Street Journal* investigations, child safety organization data, and whistleblower testimonies have confirmed. Yet in face of these damning revelations, Meta has done the exact opposite of what it should do to combat child sexual exploitation on its platforms. Meta has effectively thrown up its hands, saying that child sexual abuse is not its problem,” said Dawn Hawkins, CEO, National Center on Sexual Exploitation.

“Meta’s ‘see no evil’ policy of E2EE without exceptions for child sexual abuse material places millions of children in grave danger. **Pedophiles and predators around the globe are doubtlessly celebrating – as their crimes against kids will now be even more protected from detection.**<sup>152</sup>

<sup>150</sup> Loredana Crisan, *Launching Default End-to-End Encryption on Messenger*, (Dec. 6, 2023), <https://about.fb.com/news/2023/12/default-end-to-end-encryption-on-messenger/> (last visited Jan. 27, 2024).

<sup>151</sup> *Id.*

<sup>152</sup> <https://endsexualexploitation.org/articles/meta-effectively-ends-child-sexual-abuse-investigations-via-end-to-end-encryption-implementation/#:~:text=WASHINGTON%2C%20>

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[REDACTED] These critics are not wrong: [REDACTED]

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<sup>153</sup> [DC%20\(December%207%2C,implement%20E2EE%20on%20Instagram%20Direct](#) (last visited Jan. 27, 2024).

<sup>154</sup> [REDACTED] (pg. 2)

<sup>154</sup> <https://about.fb.com/de/wp-content/uploads/sites/10/2021/02/Public-position-on-the-draft-Interim-CSAM-derogation-1.pdf> (last visited Jan. 27, 2024).

<sup>155</sup> *Id.*

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212.

**D. The Challenged Platform Features Have No Relation to Traditional Publishing Activities—Any Content They Utilize Is Distinct From Their Functionality and the Harm They Cause.**

203. The State does not challenge or seek to curtail the publishing of any specific type of content by challenging the above-described addicting Design Elements.

<sup>156</sup> <https://theintercept.com/2020/06/18/facebook-moderator-ptsd-settlement-accenture/> (last visited Jan. 27, 2024).

[REDACTED]

(pg. 2)  
(emphasis, alterations original)

1           204. Notably, these Design Elements—Low-Friction Variable Rewards; Social  
2 Manipulation; Ephemeral Content; Push Notifications; Harmful Filters; and End-to-End  
3 Encryption of Young User Private Messages—are not tethered to any specific third-party  
4 content. Indeed, the substance of any content incorporated into or used by the Design Elements  
5 is immaterial. Instead, the Design Elements themselves create the risk of harm of addiction or  
6 risk to physical safety, which is separate and apart from other harms caused by the platform.

7           205. Regardless of the substance of *any* content on Messenger—either first- or third-  
8 party—the purpose of deploying the Design Elements is to extract additional time and attention  
9 from Young Users whose developing brains were not equipped to resist those manipulative  
10 tactics.

11           **III. M K T [REDACTED] AMONG YOUNG USERS.**

12           206. Because of Meta’s design choices, its platforms—including Messenger—have  
13 already hooked a generation of Young Users.

14           207. Defendants knew.<sup>162</sup> [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
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19 [REDACTED]  
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21           [REDACTED] For example, [REDACTED]  
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25 <sup>162</sup> Under Nevada law, “‘knowingly’ means that the defendant is aware that the facts exist that  
26 constitute the act or omission.” *Poole v. Nev. Auto Dealership Invs., LLC*, 2019 Nev. App.  
27 LEXIS 4, \*2. Similarly, “a ‘knowing[ ]’ act or omission under the NDTPA does not require  
28 that the defendant intend to deceive with the act or omission, or even know of the prohibition  
against the act or omission, but simply that the defendant is aware that the facts exist that  
constitute the act or omission.” *Id.* at \*8 (alteration original).

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24 <sup>163</sup> [REDACTED]  
25 [REDACTED]

26 <sup>165</sup> *Id.*  
27 <sup>166</sup> *Id.* (pg. 15)  
28 <sup>167</sup> *Id.*  
<sup>168</sup> *Id.* (pg. 29)

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21 [REDACTED]  
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169 [REDACTED]

171 *Id.*

172 *Id.*

173 *Id.*

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20 [REDACTED]

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24 174 [REDACTED]

25 175 *Id.*

26 176 *Id.*

27 177 *Id.*

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226.

**A. Meta Harms Young Users by Inducing Compulsive Use.**

227. Defendants have substantially injured Young Users by designing their platforms, including Messenger, to induce compulsive and excessive use, which interferes with important developmental processes and behaviors.

228. These injuries include Young Users’ lack of sleep and related health outcomes, diminished in-person socialization skills, reduced attention, increased hyperactivity, self-control challenges and interruption of various brain development processes.

**1. Mental Health Harms**

229. Maximizing children’s time and activities online is linked with worse psychological well-being in children in concrete and serious ways that cannot be ignored in the context of the current youth mental health crisis. Defendants have caused Young Users to experience mental health harms, such as increased levels of depression and anxiety. In addition, Defendants have caused Young Users to have diminished social capacity and other developmental skills by virtue of the “opportunity cost” associated with devoting significant time to social media, rather than partaking in other developmentally important, in-person life experiences.

<sup>180</sup> [REDACTED]

<sup>181</sup> *Id.*

1           230. The United States Surgeon General’s May 2023 Advisory, titled “Social Media  
2 and Youth Mental Health” (the “Advisory”), describes some of the harms caused by  
3 Defendants.<sup>182</sup> As the Advisory explains, “[a] Surgeon General’s advisory is a public statement  
4 that calls the American people’s attention to an urgent public health issue . . . . Advisories are  
5 reserved for significant public health challenges that require the nation’s immediate awareness  
6 and action.”<sup>183</sup> According to the Surgeon General, Young Users’ social media use is one such  
7 significant public health challenge.

8           231. As the Advisory explains, “[e]xcessive and problematic social media use, such  
9 as compulsive or uncontrollable use, has been linked to sleep problems, attention problems, and  
10 feelings of exclusion among adolescents.”<sup>184</sup>

11           232. The Advisory also identifies “changes in brain structure,” “altered neurological  
12 development,” “depressive symptoms, suicidal thoughts, and behaviors,” “attention  
13 deficit/hyperactivity disorder (ADHD,)” and “depression, anxiety and neuroticism,” as  
14 additional harms to Young Users associated with compulsive social media use.<sup>185</sup>

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24 <sup>182</sup> U.S. Dep’t of Health & Hum. Servs., Social Media and Youth Mental Health: The U.S.  
25 Surgeon General’s Advisory 4 (2023), <https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf> (last visited Jan. 27, 2024).

26 <sup>183</sup> *Id.*

27 <sup>184</sup> *Id.*

28 <sup>185</sup> To be clear, this Complaint is focused on harms arising out of compulsive or “problematic” platform use, not harms caused by exposure to any particular pieces or categories of content on the Social Media Platforms.

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235. By serving content to young users according to variable reward schedules (discussed *supra*), Meta manipulates dopamine releases in its young users, inducing them to engage repeatedly with its platforms—much like a gambler at a slot machine.

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186 [REDACTED]

1 [REDACTED]  
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3 239. In 2020, a longitudinal study investigated whether “Facebook Addiction  
4 Disorder” predicted suicide-related outcomes and found that children and adolescents addicted  
5 to Facebook are more likely to engage in self-injurious behavior, such as cutting and suicide.<sup>191</sup>  
6 Other studies examining the link between these increases found that adolescents who spent more  
7 time on screen activities were significantly more likely to have high depressive symptoms or  
8 have at least one suicide-related outcome, and that the highest levels of depressive symptoms  
9 were reported by adolescents with high social media use and fewer in-person social  
10 interactions.<sup>192</sup>

11 240. Fueled by social media addiction, youth suicide rates are up an alarming 57%.<sup>193</sup>  
12 In the decade leading up to 2020, there was a 40% increase in high school students reporting  
13 persistent sadness and hopelessness,<sup>194</sup> and a 36% increase in those who attempted to take their  
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17 <sup>189</sup> *Id.*

18 <sup>190</sup> *Id.* (pg. 22)

19 <sup>191</sup> See, e.g., Julia Brailovskaia, et al., *Positive mental health mediates the relationship between*  
20 *Facebook addiction disorder and suicide-related outcomes: a longitudinal approach*, 00(00)  
21 *Cyberpsychology, Behavior, and Social Networking* (2020), <https://doi.org/10.1089/cyber.2019.0563> (last visited Jan. 27, 2024); Jean M. Twenge et al., *Increases in Depressive*  
22 *Symptoms, Suicide-Related Outcomes, and Suicide Rates Among U.S. Adolescents After 2010*  
23 *and Links to Increased New Media Screen Time*, 6 *Clinical Psych. Sci.* 3–17 (2017),  
24 <https://doi.org/10.1177/2167702617723376> (last visited Jan. 27, 2024).

25 <sup>192</sup> Jean M. Twenge et al., *Increases in Depressive Symptoms, Suicide-Related Outcomes, and*  
26 *Suicide Rates Among U.S. Adolescents After 2010 and Links to Increased New Media Screen*  
27 *Time*, 6 *Clinical Psych. Sci.* 3–17 (2017), <https://doi.org/10.1177/2167702617723376> (last  
28 visited Jan. 27, 2024); see also Anthony Robinson, et al., *Social comparisons, social media*  
*addiction, and social interaction: An examination of specific social media behaviors related to*  
*major depressive disorder in a millennial population*, *Journal of Applied Biobehavioral*  
*Research* (Jan. 8, 2019), <https://doi.org/10.1111/jabr.12158> (last visited Jan. 27, 2024).

<sup>193</sup> *Protecting Youth Mental Health: The U.S. Surgeon General’s Advisory* at 8, U.S. Dep’t of  
Health & Hum. Servs. (Dec. 7, 2021), [https://www.hhs.gov/sites/default/files/surgeon-general-](https://www.hhs.gov/sites/default/files/surgeon-general-youth-mental-health-advisory.pdf)  
[youth-mental-health-advisory.pdf](https://www.hhs.gov/sites/default/files/surgeon-general-youth-mental-health-advisory.pdf) (last visited Jan. 27, 2024).

<sup>194</sup> *Id.*

1 own lives. In 2019, one in five high school girls had made a suicide plan.<sup>195</sup> By 2018, suicide  
2 was the second leading cause of death for youth ages 10–24.<sup>196</sup>

3 241. Because of this shortage of psychiatrists and the extent of the youth mental health  
4 crisis fueled by social media addiction, the number of teens and adolescents waiting in  
5 emergency rooms for mental health treatment for suicide nationwide tripled from 2019 to  
6 2021.<sup>197</sup>

## 7 2. Harm to Body Image

8 242. Design features that maximize time spent on social media can also lead to  
9 heightened exposure to negative body image–related content, which increases children’s  
10 susceptibility to poor body image and, consequently, disordered eating. A study of data from  
11 7th and 8th graders published in 2019 in the *International Journal of Eating Disorders*  
12 “suggest[ed] that [social media], particularly platforms with a strong focus on image posting  
13 and viewing, is associated with elevated [disordered eating] cognitions and behaviors in young  
14 adolescents.”<sup>198</sup> Personal stories from sufferers of disordered eating have highlighted the link  
15 to social media.<sup>199</sup>

16 243. Time spent on social media can harm children’s body image and increase their  
17 susceptibility to disordered eating in multiple ways. First, visual social media platforms trigger  
18 social comparison as children compare their appearance to others, including influencers. For

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19 <sup>195</sup> *Id.*

20 <sup>196</sup> *AAP-AACAP-CHA Declaration of a National Emergency in Child and Adolescent Mental*  
21 *Health*, Am. Acad. Pediatrics (Oct. 19, 2021), <https://www.aap.org/en/advocacy/child-and-adolescent-healthy-mental-development/aap-aacap-cha-declaration-of-a-national-emergency-in-child-and-adolescent-mental-health/> (last visited Jan. 27, 2024).

22 <sup>197</sup> Stephen Stock, et al., *Children languish in emergency rooms awaiting mental health care*,  
23 CBS News (Feb. 27, 2023, 8:02 am), <https://www.cbsnews.com/news/emergency-rooms-children-mental-health/> (last visited Jan. 27, 2024).

24 <sup>198</sup> Simon M. Wilksch, et al., *The Relationship Between Social Media Use and Disordered*  
25 *Eating in Young Adolescents*, 53 Int. J. Eat. Disord. 96, 104 (2020).

26 <sup>199</sup> See, e.g., Jennifer Neda John, *Instagram Triggered My Eating Disorder*, Slate (Oct. 14,  
27 2021), <https://slate.com/technology/2021/10/instagram-social-media-eating-disorder-trigger.html> (last visited Jan. 27, 2024); Clea Skopeliti, *‘I Felt My Body Wasn’t Good Enough’*:  
28 *Teenage Troubles with Instagram*, The Guardian (Sept. 18, 2021), <https://www.theguardian.com/society/2021/sep/18/i-felt-my-body-wasnt-good-enough-teenage-troubles-with-instagram> (last visited Jan. 27, 2024).

1 example, an exploratory study performed internally at Meta concluded that 66% of teen girls  
2 on Instagram experienced negative social comparison, and 52% of those who experienced  
3 negative social comparison attributed this experience to viewing images on the platform that  
4 were related to beauty.<sup>200</sup> None of these findings was shared with the public.

5 244. The documents Frances Haugen shared with the *Wall Street Journal* in 2021  
6 revealed that Facebook has been aware at least since 2019 that “[w]e make body image issues  
7 worse for one in three teen girls.”<sup>201</sup> Haugen has explained how this becomes a vicious  
8 feedback cycle for children: they feel bad about themselves so they go to social media for  
9 distraction in order to self-soothe, only to end up seeing the type of posts that led to their anxiety  
10 in the first place.<sup>202</sup> Negative self-comparison on social media is experienced by cisgender girls  
11 and boys; specifically, boys feel pressure to lose weight and build muscle as a result of the  
12 muscular men they see on social media platforms, including Meta’s platforms. Eliot, a 17-year-  
13 old, told the *New York Times*, “Girls discuss those pressures more, but it’s completely the same  
14 for boys.”<sup>203</sup>

15 245. Second, platforms use algorithms to deliver content related to topics or themes  
16 that the platform believes will maximize a user’s time spent on the platform. These  
17 recommendation systems create “bubbles” or “rabbit holes” of content around a specific theme  
18 and also expose users to increasingly extreme content on a given topic.<sup>204</sup> This has proven true

19 \_\_\_\_\_  
20 <sup>200</sup> *Spence v. Meta Platforms*, N.D. Cal. Case No. 3:22-cv-03294 at 9 (June 6, 2022) (citing  
21 Facebook Papers: “Teen Girls Body Image and Social Comparison on Instagram – An  
22 Exploratory Study in the US” (March. 2020), at p. 8).

23 <sup>201</sup> Georgia Wells, et al., *Facebook Knows Instagram Is Toxic for Teen Girls, Company  
24 Documents Show*, W.S.J. (Sept. 14, 2021), [https://www.wsj.com/articles/facebook-knows-  
25 instagram-is-toxic-for-teen-girls-company-documents-show-11631620739](https://www.wsj.com/articles/facebook-knows-instagram-is-toxic-for-teen-girls-company-documents-show-11631620739) (last visited Jan. 27,  
26 2024).

27 <sup>202</sup> Allison Slater Tate, *Facebook Whistleblower Frances Haugen Says Parents Make 1 Big  
28 Mistake with Social Media*, TODAY (Feb. 7, 2022, 7:06 PM EST),  
<https://www.today.com/parents/teens/facebook-whistleblower-frances-haugen-rcna15256> (last  
visited Jan. 27, 2024).

<sup>203</sup> Alex Hawgood, *What Is ‘Bigorexia’?*, N.Y. Times (Mar. 5, 2022, updated May 17, 2022),  
<https://www.nytimes.com/2022/03/05/style/teen-bodybuilding-bigorexia-tiktok.html> (last  
visited Jan. 27, 2024).

<sup>204</sup> Fairplay, *Designing for Disorder: Instagram’s Pro-eating Disorder Bubble* at 1 (Apr. 2022),  
[https://fairplayforkids.org/wp-content/uploads/2022/04/designing\\_for\\_disorder.pdf](https://fairplayforkids.org/wp-content/uploads/2022/04/designing_for_disorder.pdf) (last  
visited Jan. 27, 2024).

1 for negative body image and pro-eating disorder content.<sup>205</sup> Indeed, research shows that social  
2 media platforms' content selection algorithms have pushed disordered eating and harmful diet  
3 techniques to teenage girls.<sup>206</sup> Girls who express an interest in dieting or dissatisfaction with  
4 their looks are bombarded with content targeted to these insecurities and often pushed to more  
5 extreme content such as pro-anorexia posts and videos. And because platforms know teenage  
6 girls disproportionately engage with this type of content,<sup>207</sup> even minor users who do not express  
7 interest in these topics are often delivered this content.

8 246. The harm that social media does to children's body image and eating habits has  
9 been widely discussed in public discourse in recent months, but even as of the filing of this  
10 Action, content depicting disordered eating remains widely available to children and profitable  
11 to platforms,<sup>208</sup> and even popular among teens, who are exposed to more of it as they spend  
12 more time online.

### 13 3. "Problematic" Internet Use

14 247. Maximizing time and activities online also fosters "problematic internet use"—  
15 psychologists' term for excessive internet activity that exhibits addiction, impulsivity, or  
16 compulsion.<sup>209</sup> Indeed, the design features discussed in this Action plainly impede children's  
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18 visited Jan. 27, 2024); *Inside TikTok's Algorithm: A WSJ Video Investigation*, W.S.J. (July 21,  
19 2021), <https://www.wsj.com/articles/tiktok-algorithm-video-investigation-11626877477> (last  
20 visited Jan. 27, 2024).

21 <sup>205</sup> Fairplay, *Designing for Disorder: Instagram's Pro-eating Disorder Bubble* at 6-7 (Apr.  
22 2022), [https://fairplayforkids.org/wp-content/uploads/2022/04/designing\\_for\\_disorder.pdf](https://fairplayforkids.org/wp-content/uploads/2022/04/designing_for_disorder.pdf)  
23 (last visited Jan. 27, 2024).

24 <sup>206</sup> See generally *id.*; Jim Waterson & Alex Hern, *Instagram 'Pushes Weight-Loss Messages to*  
25 *Teenagers*, The Guardian (Jul 19, 2021, 7:01 AM), [https://www.theguardian.com/society/](https://www.theguardian.com/society/2021/jul/20/instagram-pushes-weight-loss-messages-to-teenagers)  
26 [2021/jul/20/instagram-pushes-weight-loss-messages-to-teenagers](https://www.theguardian.com/society/2021/jul/20/instagram-pushes-weight-loss-messages-to-teenagers) (last visited Jan. 27, 2024).

27 <sup>207</sup> See Fabrizio Bert, et al., *Risks and Threats of Social Media Websites: Twitter and the Proana*  
28 *Movement*, 19 *Cyberpsychology, Behav. Soc. Networking* (Apr. 2016),  
<https://pubmed.ncbi.nlm.nih.gov/26991868/> (last visited Jan. 27, 2024).

<sup>208</sup> Fairplay, *Designing for Disorder: Instagram's Pro-eating Disorder Bubble* (Apr. 2022),  
[https://fairplayforkids.org/wp-content/uploads/2022/04/designing\\_for\\_disorder.pdf](https://fairplayforkids.org/wp-content/uploads/2022/04/designing_for_disorder.pdf) (last  
visited Jan. 27, 2024).

<sup>209</sup> Chloe Wilkinson, et al., *Screen Time: The Effects on Children's Emotional, Social, and*  
*Cognitive Development* at 6 (2021), <https://informedfutures.org/screen-time/> (last visited Jan.  
27, 2024).

1 ability to put their devices down, even when they want to use them less. For example, a high  
2 school student told Common Sense Media,

3           One of the challenges I face with social media is getting off it. Once I get on, I  
4           have to really force myself off it because it's so addictive. All I'm doing is  
5           scrolling, but I'm subconsciously looking for an end so I can feel accomplished.  
6           But the scrolling never stops.<sup>210</sup>

7           248. Problematic internet use, in turn, is linked to a host of additional problems. For  
8           example, in one study of 564 children between the ages of 7 and 15 spearheaded by the Child  
9           Mind Institute in New York, researchers found that problematic internet use was positively  
10          associated with depressive disorders, Attention Deficit Hyperactivity Disorder, general  
11          impairment, and increased sleep disturbances.<sup>211</sup> A meta-analysis of peer-reviewed studies  
12          involving cognitive findings associated with problematic internet use in both adults and  
13          adolescents found “firm evidence that PIU . . . is associated with cognitive impairments in motor  
14          inhibitory control, working memory, Stroop attentional inhibition and decision-making.”<sup>212</sup>  
15          Another study of over 11,000 European adolescents found that among teens exhibiting  
16          problematic internet use, 33.5% reported moderate to severe depression; 22.2% reported self-  
17          injurious behaviors such as cutting; and 42.3% reported suicidal ideation.<sup>213</sup> The incidence of  
18          attempted suicide was also ten times higher for teens exhibiting problematic internet use than  
19          their peers who exhibited healthy internet use.<sup>214</sup>

20 <sup>210</sup> Katie Joseff, *Social Media Is Doing More Harm than Good*, Common Sense Media (Dec.  
21 17, 2021), <https://www.commonsensemedia.org/kids-action/articles/social-media-is-doing-more-harm-than-good> (last visited Jan. 27, 2024).

22 <sup>211</sup> Restrepo, et al., *Problematic Internet Use in Children and Adolescents: Associations with*  
23 *Psychiatric Disorders and Impairment*, 20 *BMC Psychiatry* 252 (2020), <https://doi.org/10.1186/s12888-020-02640-x> (last visited Jan. 27, 2024).

24 <sup>212</sup> Konstantinos Ioannidis et al., *Cognitive Deficits in Problematic Internet Use: Meta-Analysis*  
25 *of 40 Studies*, 215 *British Journal of Psychiatry* 639, 645 (2019), <https://pubmed.ncbi.nlm.nih.gov/30784392/> (last visited Jan. 27, 2024).

26 <sup>213</sup> Michael Kaess et al., *Pathological Internet use among European adolescents:*  
27 *psychopathology and self-destructive behaviours*, 23 *Eur. Child & Adolescent Psychiatry* 1093,  
1096 (2014), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4229646/> (last visited Jan. 27,  
2024).

28 <sup>214</sup> *Id.*

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**4. Harm to Physical Health**

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252. Maximizing children’s time spent online at the expense of sleep or movement also harms children’s physical health. When children are driven to spend more time online, they

<sup>215</sup> See generally [REDACTED]

<sup>216</sup> *Id.* (pg. 13)

<sup>217</sup> [REDACTED]

<sup>218</sup> *Id.* (pg. 7)

1 sleep less—because it is impossible to be online and sleep at the same time, because stimulation  
2 before bedtime disrupts sleep patterns, and because many of the design features discussed in  
3 this Action make users feel pressured to be connected constantly, and that feeling doesn’t  
4 always go away at nighttime. Indeed, research shows that children who exhibit problematic  
5 internet use often suffer from sleep problems.<sup>219</sup> One-third of teens say that at least once per  
6 night, they wake up and check their phones for something other than the time, such as to check  
7 their notifications or social media.<sup>220</sup> Some teens set alarms in the middle of the night to remind  
8 them to check their notifications or complete video game tasks that are only available for a  
9 limited time.<sup>221</sup> In addition, screen time before bed is known to inhibit academic performance  
10 in children.<sup>222</sup> Teenagers who use social media for more than five hours per day are about 70%  
11 more likely to stay up late on school nights.<sup>223</sup> A lack of sleep in teenagers has been linked to  
12 inability to concentrate, poor grades, drowsy-driving incidents, anxiety, depression, thoughts of  
13 suicide, and even suicide attempts.<sup>224</sup>

14 253. Decades of research have shown that more time online is consistently correlated  
15 with children’s risk of obesity, which in turn increases their risk of serious illnesses like

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19 <sup>219</sup> Restrepo et al., *Problematic Internet Use in Children and Adolescents: Associations with*  
*Psychiatric Disorders and Impairment*, 20 *BMC Psychiatry* 252 (2020), <https://doi.org/10.1186/s12888-020-02640-x> (last visited Jan. 27, 2024).

20 <sup>220</sup> Common Sense, *Screens and Sleep: The New Normal: Parents, Teens, Screens, and Sleep*  
*in the United States* at 7 (2019), [https://www.commonsensemedia.org/sites/default/files/](https://www.commonsensemedia.org/sites/default/files/research/report/2019-new-normal-parents-teens-screens-and-sleep-united-states-report.pdf)  
21 [research/report/2019-new-normal-parents-teens-screens-and-sleep-united-states-report.pdf](https://www.commonsensemedia.org/sites/default/files/research/report/2019-new-normal-parents-teens-screens-and-sleep-united-states-report.pdf)  
22 (last visited Jan. 27, 2024).

23 <sup>221</sup> Emily Weinstein & Carrie James, *Behind Their Screens: What Teens Are Facing (And Adults*  
*Are Missing)*, MIT Press, at 31 (2022).

24 <sup>222</sup> Chloe Wilkinson, et al., *Screen Time: The Effects on Children’s Emotional, Social, and*  
*Cognitive Development* at 6 (2021), <https://informedfutures.org/screen-time/> (last visited Jan.  
25 27, 2024).

26 <sup>223</sup> *Heavy Social Media Use Linked to Poor Sleep*, BBC News (Oct. 23, 2019),  
<https://www.bbc.com/news/health-50140111> (last visited Jan. 27, 2024).

27 <sup>224</sup> *Among teens, sleep deprivation an epidemic*, Stanford News Ctr. (Oct. 8, 2015),  
[https://med.stanford.edu/news/all-news/2015/10/among-teens-sleep-deprivation-an-](https://med.stanford.edu/news/all-news/2015/10/among-teens-sleep-deprivation-an-epidemic.html)  
28 [epidemic.html](https://med.stanford.edu/news/all-news/2015/10/among-teens-sleep-deprivation-an-epidemic.html) (last visited Jan. 27, 2024).

1 diabetes, high blood pressure, heart disease, and depression.<sup>225</sup> Spending time online displaces  
2 time when children could be engaging in physical activity.<sup>226</sup> Further, when children spend more  
3 time online, they are exposed to more advertisements for unhealthy products,<sup>227</sup> which are  
4 heavily targeted toward children.<sup>228</sup> In addition, poor sleep quality—which, as discussed above,  
5 is associated with problematic internet use—increases the risk of childhood obesity by 20%.<sup>229</sup>  
6 Broadly, the harms of social media use include increased rates of major depressive episodes,  
7 anxiety, eating disorders, body image problems, sleep disturbances, suicidal ideation, and  
8 suicide attempts.<sup>230</sup>

## 9 5. Privacy Harms

10 254. Design features that maximize children’s time and activities online also  
11 exacerbate privacy harms. Like all users, children are tracked as they engage in online  
12 activities.<sup>231</sup> Data about what children do online is collected by a vast network that includes

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14 <sup>225</sup> Jeff Chester et al., *Big Food, Big Tech, and the Global Childhood Obesity Pandemic* at 3  
(2021), [https://democraticmedia.org/assets/resources/full\\_report.pdf](https://democraticmedia.org/assets/resources/full_report.pdf) (Last visited Jan. 27,  
15 2024).

16 <sup>226</sup> E de Jong, et al., *Association Between TV Viewing, Computer Use and Overweight,  
Determinants and Competing Activities of Screen Time in 4- to 13-Year-Old Children*, 37 *Int’l  
J. Obesity* 47, 52 (2013), <https://pubmed.ncbi.nlm.nih.gov/22158265/> (last visited Jan. 27,  
17 2024).

18 <sup>227</sup> *Id.*

19 <sup>228</sup> Jeff Chester, et al., *Big Food, Big Tech, and the Global Childhood Obesity Pandemic* at 3  
(2021), [https://democraticmedia.org/assets/resources/full\\_report.pdf](https://democraticmedia.org/assets/resources/full_report.pdf) (Last visited Jan. 27,  
20 2024).

21 <sup>229</sup> Yanhui Wu, et al., *Short Sleep Duration and Obesity Among Children: A Systematic Review  
and Meta-Analysis of Prospective Studies*, 11 *Obesity Rsch. & Clinical Prac.* 140, 148 (2015),  
<https://pubmed.ncbi.nlm.nih.gov/27269366/> (last visited Jan. 27, 2024); Michelle A. Miller et  
22 al., *Sleep Duration and Incidence of Obesity in Infants, Children, and Adolescents: A Systematic  
Review and Meta-Analysis of Prospective Studies*, 41 *Sleep* 1, 15 (2018),  
23 <https://pubmed.ncbi.nlm.nih.gov/29401314/> (last visited Jan. 27, 2024).

24 <sup>230</sup> See, e.g., Jonothan Haidt & Jean Twenge, *Social Media and Mental Health: A Collaborative  
Review*, (New York University, unpublished manuscript), [tinyurl.com/  
SocialMediaMentalHealthReview](https://tinyurl.com/SocialMediaMentalHealthReview) (last visited Jan. 27, 2024); Jacqueline Nesi et al., *Handbook  
of Adolescent Digital Media Use and Mental Health*, Cambridge Univ. Press (2022).

26 <sup>231</sup> See, e.g., Reyes, et al., “Won’t Somebody Think of the Children?” *Examining COPPA  
Compliance at Scale*, 3 *Proceedings on Privacy Enhancing Technologies* 63, at 77 (2018),  
27 <https://petsymposium.org/2018/files/papers/issue3/popets-2018-0021.pdf> (finding that out of  
28 5,855 child-directed apps, roughly 57% were collecting personal information in potential  
violation of the Children’s Online Privacy Protection Act) (last visited Jan. 27, 2024).

1 platforms, marketers, and third-party data brokers all over the world that use the information  
2 apps, websites, and other services collect and retain about children to profile them, make  
3 predictions about their choices, and influence their behavior. Children do not developmentally  
4 understand digital privacy. The constant surveillance they are subjected to as a result of these  
5 techniques is manipulative, limits creativity and experimentation, and perpetuates  
6 discrimination, substantially harming children and teens.

7 255. Invasion of privacy has been recognized as a common law tort for over a century.  
8 *See Matera v. Google Inc.*, 15-CV-0402, 2016 WL 5339806, at \*10 (N.D. Cal, Sept. 23, 2016)  
9 (citing Restatement (Second) of Torts §§ 652A-I for the proposition that “the right to privacy  
10 was first accepted by an American court in 1905, and ‘a right to privacy is now recognized in  
11 the great majority of the American jurisdictions that have considered the question’”); *see also*,  
12 Restatement (Second) of Torts § 652B and defining an intrusion claim as follows: “One who  
13 intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his  
14 private affairs or concerns, is subject to liability to the other for invasion of his privacy, if the  
15 intrusion would be highly offensive to a reasonable person.”

16 256. As Justice Brandeis explained in his seminal article, *The Right to Privacy*, “[t]he  
17 common law secures to each individual the right of determining, ordinarily, to what extent his  
18 thoughts, sentiments, and emotions shall be communicated to others.” Samuel D. Warren &  
19 Louis Brandeis, *The Right to Privacy*, 4 HARV. L. REV. 193, 198 (1890). The Supreme Court  
20 similarly recognized the primacy of privacy rights, explaining that the Constitution operates in  
21 the shadow of a “right to privacy older than the Bill of Rights.” *Griswold v. Connecticut*, 381  
22 U.S. 479, 486 (1965).

23 257. More recently, the Supreme Court explicitly recognized the reasonable  
24 expectation of privacy an individual has in her cell phone, and the Personal Data generated  
25 therefrom, in its opinion in *Carpenter v. United States*, 138 S. Ct. 2206 (2018). There, the Court  
26 held that continued access of an individual’s cell phone location data constituted a search under  
27 the Fourth Amendment because “a cell phone—almost a “feature of human anatomy[.]”—tracks  
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1 nearly exactly the movements of its owner . . . A cell phone faithfully follows its owner beyond  
2 public thoroughfares and into private residences, doctor’s offices, political headquarters, and  
3 other potentially revealing locales . . . Accordingly, when the Government tracks the location  
4 of a cell phone it achieves near perfect surveillance, as if it had attached an ankle monitor to the  
5 phone’s user.” *Id.* at 2218 (internal citations omitted).

6 258. And, even more recently, the Northern District of California, in an order denying  
7 a motion to dismiss an intrusion upon seclusion claim for the exfiltration of children’s personal  
8 data in different mobile apps, held that “current privacy expectations are developing, to say the  
9 least, with respect to a key issue raised in these cases – whether the data subject owns and  
10 controls his or her personal information, and whether a commercial entity that secretly harvests  
11 it commits a highly offensive or egregious act.” *McDonald v. Killoo ApS*, 385 F. Supp.3d 1022,  
12 1035 (N.D. Cal. 2019). The *McDonald* court’s reasoning was subsequently adopted in the  
13 District of New Mexico in analogous litigation. *See New Mexico ex rel. Balderas v. Tiny Lab*  
14 *Prods.*, 457 F. Supp. 3d 1103, 1127 (D.N.M. 2020), *on reconsideration*, No. 18-854 MV/JFR,  
15 2021 WL 354003 (D.N.M. Feb. 2, 2021).

16 259. It is precisely because of Messenger’s capacity for “near perfect surveillance”  
17 that courts have consistently held that time-honored legal principles recognizing a right to  
18 privacy in one’s affairs naturally apply to online monitoring. Defendants’ unlawful intrusion  
19 into their minor users’ privacy is made even more egregious and offensive by the fact that the  
20 Defendants are targeting and collecting *children’s* information, without obtaining parental  
21 consent. The conduct described herein violates children’s expectations of privacy, as well as a  
22 parent’s inherent right to protect his or her child and set the parameters of what, when, and how  
23 information pertaining to the child will be obtained. Parents’ interest in the care, custody, and  
24 control of their children is perhaps the oldest of the fundamental liberty interests recognized by  
25 society. The history of Western civilization reflects a strong tradition of parental concern for  
26 the nurture and upbringing of children in light of children’s vulnerable predispositions. Our  
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1 society recognizes that parents should maintain control over who interacts with their children  
2 and how, in order to ensure the safe and fair treatment of their children.

### 3 **6. Risk to Physical Safety**

4 260. Finally, Defendants’ platform provides fertile ground for child predators.  
5 Defendants have been excoriated by stakeholders in the child-safety space for their use of end-  
6 to-end encryption in Messenger and other products.<sup>232</sup>

7 261. In May 2021, the child protection non-profit Thorn published quantitative  
8 research, based on data collected in 2020.<sup>233</sup> According to this report, Messenger ranked at  
9 the top among platforms for various harms caused to minors. Thorn found the following  
10 regarding harm on Messenger:

- 11 • 18% of surveyed minors reported having had a potentially harmful online  
12 experience through Messenger (tied with TikTok).
- 13 • 11% of the survey participants said they have had an online sexual interaction (a  
14 higher percentage than Facebook, WhatsApp, TikTok, Twitter, and YouTube). Sexually  
15 explicit interaction could include being asked to send a nude photo or video, go ‘on cam’ with  
16 a sexually explicit stream, being sent a sexually explicit photo (of themselves or another child),  
17 or sexually explicit messages, etc.

18 262. Messenger is uniquely positioned to place children in contact with predators,  
19 without the knowledge of their parents, and to date, they have operated with flagrant disregard  
20 for the safety of their child users.

24 <sup>232</sup> [https://www.theguardian.com/technology/2023/dec/08/facebook-messenger-encryption-  
25 child-sexual-abuse](https://www.theguardian.com/technology/2023/dec/08/facebook-messenger-encryption-child-sexual-abuse) (last visited Jan. 27, 2024)

26 <sup>233</sup> Thorn, *Responding to Online Threats: Minors’ Perspectives on Disclosing, Reporting, and*  
27 *Blocking Findings from 2020 quantitative research among 9–17 year olds*, (May 2021),  
[https://info.thorn.org/hubfs/Research/Responding%20to%20Online%20Threats\\_2021-Full-  
28 Report.pdf?utm\\_campaign=H2D%20report&utm\\_source=website](https://info.thorn.org/hubfs/Research/Responding%20to%20Online%20Threats_2021-Full-Report.pdf?utm_campaign=H2D%20report&utm_source=website) (last visited Jan. 27, 2024).

1 **IV. META ENGAGES IN DECEPTIVE CONDUCT BY OMITTING AND MISREPRESENTING**  
2 **MATERIAL FACTS ABOUT MESSENGER.**

3 263. Under the NDTPA, a business engages in deceptive conduct when its acts,  
4 statements, or omissions have a capacity or tendency to deceive whether that is intentional or  
5 not.<sup>234</sup>

6 264. For years, [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]

13 **A. Meta Did Not Disclose Its Knowledge That [REDACTED]**

14 265. Meta has long known that their platforms are likely harming a significant portion  
15 of its Young Users.

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17 [REDACTED]  
18 [REDACTED]  
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27 <sup>234</sup> *Watson Laboratories, Inc. v. State*, 241 So.3d 573 (Miss. 2018).

28 <sup>235</sup> *See generally* [REDACTED]

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<sup>236</sup> [REDACTED] (pgs. 1-2)

<sup>237</sup> See, e.g., Julia Brailovskaia, et al., *Positive mental health mediates the relationship between Facebook addiction disorder and suicide-related outcomes: a longitudinal approach*, 00(00) *Cyberpsychology, Behavior, and Social Networking* (2020), <https://doi.org/10.1089/cyber.2019.0563> (last visited Jan. 27, 2024); Jean M. Twenge et al., *Increases in Depressive Symptoms, Suicide-Related Outcomes, and Suicide Rates Among U.S. Adolescents After 2010 and Links to Increased New Media Screen Time*, 6 *Clinical Psych. Sci.* 3–17 (2017), <https://doi.org/10.1177/2167702617723376> (last visited Jan. 27, 2024)

<sup>238</sup> Jean M. Twenge et al., *Increases in Depressive Symptoms, Suicide-Related Outcomes, and Suicide Rates Among U.S. Adolescents After 2010 and Links to Increased New Media Screen Time*, 6 *Clinical Psych. Sci.* 3–17 (2017), <https://doi.org/10.1177/2167702617723376> (last visited Jan. 27, 2024); see also Anthony Robinson, et al., *Social comparisons, social media addiction, and social interaction: An examination of specific social media behaviors related to major depressive disorder in a millennial population*, *Journal of Applied Biobehavioral Research* (Jan. 8, 2019), <https://doi.org/10.1111/jabr.12158> (last visited Jan. 27, 2024).

<sup>239</sup> [REDACTED] (pg. 6)

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24 <sup>240</sup> [REDACTED]  
25 [REDACTED]  
26 <sup>242</sup> *Id.*  
27 <sup>243</sup> *Id* (pg. 21)  
28 <sup>244</sup> [REDACTED]  
<sup>245</sup> *Id.*

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imposed by Facebook and others.

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those harms.

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<sup>246</sup> [REDACTED]

<sup>247</sup> *Id.*

<sup>248</sup> *Id.*

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26 <sup>249</sup> *Id.*  
27 <sup>250</sup> [REDACTED]  
28 <sup>251</sup> *Id.*  
<sup>252</sup> [REDACTED]

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<sup>253</sup> *Id.*

<sup>254</sup> [REDACTED]

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<sup>257</sup> *Id.*

<sup>258</sup> [REDACTED]

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<sup>260</sup> *Id.*

<sup>261</sup> [REDACTED] (pg. 28)

<sup>262</sup> *Id.*

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2. Meta

As described above, Meta

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<sup>263</sup> [REDACTED]  
<sup>264</sup> *Id.*  
<sup>265</sup> [REDACTED]  
<sup>266</sup> *Id.*

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[REDACTED]

[REDACTED]

308. On information and belief, Meta’s internal culture of secrecy was designed to keep consumers, parents, guardians, and policy makers in the dark about the harm Meta was causing its users, including Messenger users.

**3. Meta Did Not Disclose Its Knowledge That [REDACTED] Young Users.**

Meta’s decision-making [REDACTED]

<sup>267</sup> *Id.*

<sup>268</sup> [REDACTED]

[REDACTED]

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25 <sup>270</sup> [REDACTED]  
26 <sup>272</sup> *Id.* (pg. 3)  
27 <sup>273</sup> *Id.* (pg. 20)  
28 <sup>274</sup> [REDACTED]

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[REDACTED]

<sup>275</sup> *Id.*

<sup>276</sup> *Id.*

<sup>277</sup> [REDACTED]

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25 <sup>279</sup> [REDACTED]  
26 [REDACTED] (pg. 1)  
27 <sup>281</sup> *Id.* (pgs. 10-11)  
28 <sup>282</sup> *Id.* (pg. 9)  
<sup>283</sup> *Id.* (pgs. 9-10)

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<sup>284</sup> *Id.* (pg. 9)  
<sup>285</sup> [REDACTED]  
<sup>286</sup> [REDACTED]  
<sup>287</sup> *Id.*  
<sup>288</sup> [REDACTED]

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[REDACTED]

339.

[REDACTED]

**B. Meta**

**1. Meta's Community Standards Enforcement Reports**

340. Through public representations, Meta creates the impression that its platforms—including Messenger—are safe spaces, in which harmful content is rarely encountered.

341. For example, Meta broadcasts that message through its Community Standards Enforcement Reports (“the Reports”), which the Company publishes quarterly on its online “Transparency Center” and amplifies through press releases.

342. The Reports describe the percentage of content posted on the platforms that Meta removes for violating its community standards. Meta often refers to that percentage as its “prevalence” metric.

343. Through

[REDACTED]

291

344. The Reports create the impression that because Meta aggressively enforces platform community standards—thereby reducing the “prevalence” of community-standards-

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<sup>289</sup> *Id.*

<sup>290</sup> *Id.*

<sup>291</sup> [REDACTED]

1 violating content—Messenger (along with the other platforms) is a safe product that only rarely  
2 exposes users (including Young Users) to harmful content.

3 345. However, this is a false equivalency intended to sow confusion. As Meta well  
4 understands, the “prevalence” of community-standards-violating content, which is often quite  
5 low, is not the same as the *actual* “prevalence” of harmful content, which is rampant on  
6 Messenger.

7 346. The “community standards,” which are drafted by Meta, address only a narrow  
8 subset of harmful content; indeed, Meta purposely designed those standards narrowly so that  
9 they are rarely violated.

10 347. This allows Meta to expressly represent that Messenger is safe due to  
11 enforcement of these community standards. But this simply is artful misclassification—  
12 enabling Meta to engage in a conversation that purposely excludes and ignores the larger swath  
13 of harmful content on Messenger.

14 348. For example, [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]

18 349. [REDACTED]  
19 [REDACTED]  
20 [REDACTED]

21 350. This representation—publicly accessible on Meta’s online Transparency  
22 Center—creates the impression that through the Reports, Meta is disclosing its information  
23 most relevant to the safety of Messenger and the incidence of harmful content on that platform.  
24 In other words, Meta posts these reports to its online Transparency Center so that users, parents,

25  
26 <sup>292</sup> [REDACTED]  
27 <sup>293</sup> <https://transparency.fb.com/data/community-standards-enforcement/> (last visited Jan. 27,  
28 2024).

<sup>294</sup> [REDACTED]

1 and guardians who visit that site will wrongly believe that Young Users are unlikely to  
2 experience harm on Messenger.

3 351. Indeed, documents show that Meta intended the Reports to create that exact  
4 (mis)understanding.

5 352. In [REDACTED]

9 One such [REDACTED]

24  
25 <sup>295</sup> [REDACTED] (pg. 12)

26 <sup>296</sup> *Id.*

27 <sup>297</sup> *Id.*

28 <sup>298</sup> [REDACTED]

<sup>299</sup> [REDACTED] (pg. 3)

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24 300 [REDACTED] (pg. 21)  
25 301 *Id.*  
26 302 [REDACTED]  
27 303 [REDACTED] (pg. 21)  
28 304 *Id.*  
305 *Id.*

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[REDACTED]

367.

Largely, this is because Meta employs “sleights of hand” in its enforcement policies, mechanisms, measurement, and reporting. As a recent Wall Street Journal exposé explains, “Meta had come to approach governing user behavior as an overwhelmingly automated process,” meaning that it relied on machine learning to (1) identify and (2) handle objectionable content.<sup>308</sup>

368. But this also meant that Meta “shifted resources away from” any human-led review, a shift which also included paying less attention to user-reported harmful content.<sup>309</sup> Meta “added steps to the reporting process” in 2019 in an effort “[t]o discourage users from filing reports.”<sup>310</sup>

369. This move to automated review created two critical problems: first, “[t]he systems didn’t catch anywhere near the majority of banned content—only the majority of what the company ultimately removed,” and second, “[a]s a data scientist warned Guy Rosen,

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<sup>306</sup> *Id.*

<sup>307</sup> *Id.*

<sup>308</sup> Jeff Horwitz, *His Job Was to Make Instagram Safe for Teens. His 14-Year-Old Showed Him What the App Was Really Like*, The Wall Street Journal (Nov. 2, 2023), <https://www.wsj.com/tech/instagram-facebook-teens-harassment-safety-5d991be1> (last visited Jan. 27, 2024).

<sup>309</sup> *Id.*

<sup>310</sup> *Id.*

1 Facebook’s head of integrity at the time, *Meta’s classifiers were reliable enough to remove*  
2 *only a low single-digit percentage of hate speech with any degree of precision.*”<sup>311</sup>

3 370. And, as noted above, this has additional problems, as Meta’s [REDACTED]  
4 [REDACTED]  
5 [REDACTED]

6 371. “There’s a grading-your-own-homework problem,” said Zvika Krieger, a former  
7 director of responsible innovation at Meta who worked with the Well-Being Team. “Meta  
8 defines what constitutes harmful content, so it shapes the discussion of how successful it is at  
9 dealing with it.”<sup>312</sup>

10 372. In other words, contrary to the impression the Reports created, Messenger’s  
11 users in general—and Young Users in particular—regularly encounter content related to self-  
12 harm, bullying, and harassment on Messenger. Through its Reports, Meta affirmatively  
13 drastically, and materially misrepresents the actual prevalence of such harms.

14 **2. Meta’s** [REDACTED]  
15 [REDACTED]

16 373. [REDACTED]  
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26 <sup>311</sup> *Id.*

27 <sup>312</sup> *Id.*

28 <sup>313</sup> [REDACTED]

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24 <sup>314</sup> *Id.*  
25 <sup>315</sup> *Id.*  
26 <sup>316</sup> *Id.*  
27 <sup>317</sup> *Id.*  
28 <sup>318</sup> *Id.*  
<sup>319</sup> *Id.*

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386.

**C. Meta Deceived Consumers by [REDACTED]**

387. For years, Meta has affirmatively deceived consumers by promoting and maintaining inaccurate time-tracking tools on Meta platforms.

388. On August 1, 2018, Meta announced “new tools to help people manage their time” on its platforms. The announcement touted platform-specific activity dashboards, daily use reminders, and a push notification-limiting tool engineered “based on collaboration and inspiration from leading mental health experts and organizations, academics, [Meta’s] own extensive research and feedback from [Meta’s] community.”<sup>323</sup>

389. In that announcement, Meta acknowledged that it has “a responsibility to help people understand how much time they spend on [Meta] platforms so they can better manage

<sup>320</sup> *Id.*

<sup>321</sup> [REDACTED]

<sup>322</sup> [REDACTED] (pg. 2)

<sup>323</sup> Ameet Ranadive, *New Tools to Manage Your Time on Facebook and Instagram*, Facebook (Aug. 1, 2018), <https://about.fb.com/news/2018/08/manage-your-time/#:~:text=To%20access%20the%20tools%2C%20go,total%20time%20for%20that%20day> (last visited Jan. 27, 2024).

1 their experience.” Meta stated that it hopes “that these tools give people more control over the  
2 time they spend on our platforms and also foster conversations between parents and teens about  
3 the online habits that are right for them.”<sup>324</sup>

4 [REDACTED] Through these public statements and others, Meta led Nevada consumers,  
5 parents, and guardians to believe they could rely on Meta’s so-called [REDACTED]

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<sup>324</sup> *Id.*

<sup>325</sup> [REDACTED]  
[REDACTED]

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[REDACTED]

399.

**D. Through Public Misrepresentations, Meta Leads the Public to Trust That**

[REDACTED]

400. The Time Spent episode is not the only time Meta has prioritized winning trust over telling the truth. To the contrary, Meta has repeatedly misrepresented facts about its business to convince consumers, parents, and guardians that Meta can be trusted to keep Young Users safe on Messenger.

**1. To Engender Public Trust, Meta Created the False Impression That It Does Not**

[REDACTED]

[REDACTED] To downplay concerns that its platforms are addictive, Meta has repeatedly created the public impression that it [REDACTED]

[REDACTED]

329

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[REDACTED]

409. [REDACTED] Meta

affirmatively misled the public—including Nevada consumers, parents, and guardians—about the Company’s motivations and internal business practices. This is a material misrepresentation, as reasonable consumers, parents, and guardians would be less likely to trust a platform that works to capture ever-increasing shares of users’ time.

**2. Meta Deceptively Testified That It Age-Gates Content Inappropriate for Young Users**

410. Meta also cultivated the impression that it protects Young Users from harmful or inappropriate content on Messenger.

331 [REDACTED]

1           411. In the opening remarks to her September 2021 Congressional testimony about  
2 the mental health effects of Meta’s platforms, Antigone Davis—Meta’s Global Head of  
3 Safety—told lawmakers: “We have put in place multiple protections to create safe and age-  
4 appropriate experiences for people between the ages of 13 and 17.”

5           412. During subsequent questioning from senators, Davis explained that “[w]hen it  
6 comes to those between 13 and 17, we consult with experts to ensure that our policies properly  
7 account for their presence, for example, by age-gating content.” Davis added, Meta does not  
8 “allow young people to see certain types of content. And we have age gating around certain  
9 types of content.”<sup>335</sup>

10           413. Davis also specifically testified that Meta does not “direct people towards  
11 content that promotes eating disorders.”<sup>336</sup>

12           414. Through Davis’s testimony, Meta led the public to believe that Meta successfully  
13 age-gates content that is inappropriate or harmful for Young Users.

14           But [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

25 \_\_\_\_\_  
26 <sup>335</sup> <https://www.rev.com/blog/transcripts/facebook-head-of-safety-testimony-on-mental-health-effects-full-senate-hearing-transcript> (last visited Jan. 27, 2024).

27 <sup>336</sup> *Id.*

28 <sup>337</sup> [REDACTED]

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418.

[REDACTED]

This is a material misrepresentation, as reasonable consumers, parents, and guardians would be less likely to trust a platform that exposes users to age-inappropriate or harmful content.

**3. Meta Deceptively Testified That It Does Not Place a Monetary Value on Young Users**

419. In a similar vein, Meta deceptively led the public to believe that it does not place a monetary value on Young Users’ use of Meta platforms. Meta created the impression that it does not discuss its youngest users in terms of their financial value to the Company.

420. For example, during Davis’s September 2021 Congressional testimony, Senator Amy Klobuchar asked Davis for the monetary value that Meta places upon a young user’s lifetime use of Meta products.

421. Davis responded, “That’s not how we think about building products for young people . . . It’s just not the way we think about it.”

422. Through Davis’s testimony, Meta led the public to believe that it does not place a monetary value on Young Users’ use of Meta’s platforms.

But

425.

This is a material misrepresentation, as

1 reasonable consumers, parents, and guardians would be less likely to trust a platform that  
2 calculates the monetary value that the platform may extract from a Young User’s lifetime  
3 engagement.

4  
5 **4. Meta Created the Misleading Impression That It Was Not**  
6 [REDACTED]

7 426. Through Congressional testimony, Meta deceptively led the public to believe  
8 that it had not changed its internal data and research access policies in response to The Wall  
9 Street Journal’s 2021 coverage of Meta’s internal research findings. Meta wanted to create that  
10 impression so consumers, parents, and guardians would believe that the Company had no reason  
11 to lock down internal information about Instagram’s mental health impacts.

12 427. During Davis’s September 2021 Congressional testimony, Tennessee Senator  
13 Marsha Blackburn asked Davis “how are you restricting access to data internally? Have your  
14 policies changed since The Wall Street Journal articles [describing the Meta’s internal well-  
15 being research]?”

16 428. Davis succinctly responded, “Senator, not that I am—not that I’m aware of  
17 certainly.”

18 429. Through Davis’s testimony, Meta led the public to believe Meta did not change  
19 its internal access policies—such as restricting internal access to data and research—following  
20 The Wall Street Journal’s coverage of Meta’s internal well-being research.

21 [REDACTED]  
22 [REDACTED] But [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

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28 339 [REDACTED]

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[REDACTED]

433.

**5. Meta Created the Impression That Its Platforms Are Not [REDACTED]**

434. Through Congressional testimony, Meta led the public to believe that its platforms are not addictive, despite the Company’s internal research to the contrary.

435. In her September 2021 Congressional testimony, Davis said that Meta does not build its products to be addictive and disputed the addictive nature of Meta’s products.

436. Similarly, in Congressional testimony from December 2021, Adam Mosseri said, “I don’t believe that research suggests that our products are addictive.”

437. Through Davis’s and Mosseri’s respective testimony, Meta led the public to believe Meta’s platforms are not addictive.

[REDACTED] In fact, as described in detail above, [REDACTED]

<sup>340</sup> *Id.*

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[REDACTED]

441.

[REDACTED]

This is a material misrepresentation, as reasonable consumers, parents, and guardians would be less likely to trust an addictive platform.

V. M A [REDACTED]

442. Meta’s disregard for the health and well-being of its Young Users is even more repugnant because its *Youngest* Users include children under age 13, who are prohibited from having accounts on Meta’s platforms without verified consent from parents prior to collecting personal information of those under age 13.

443. Meta routinely obtains “actual knowledge” that its Youngest Users are on Meta’s platforms, including Messenger, without parental consent.

444. Meta surreptitiously and unfairly targets very young individuals to become users of its platforms, making the platforms directed to children.

Instead of obtaining verifiable parental consent, Meta [REDACTED]

[REDACTED]

341 [REDACTED]

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[REDACTED]

<sup>343</sup> [REDACTED] (pgs. 3, 6)

<sup>344</sup> [REDACTED] (pgs. 11-13); *see also*, [REDACTED]

<sup>345</sup> [REDACTED] (pgs. 11-13)

<sup>346</sup> *Id.* (pg. 20)

<sup>347</sup> [REDACTED] (pg. 6)

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[REDACTED]

455.

456. Upon information and belief, Meta has confirmed its knowledge of specific under age 13 user accounts through its review of data generated by Meta's age-estimation

<sup>348</sup> <https://www.facebook.com/dating> (last visited Jan. 27, 2024).

<sup>349</sup> [REDACTED]  
<sup>350</sup> [REDACTED]  
<sup>351</sup> [REDACTED]

1 algorithms confirming that millions of individual Facebook accounts belong to children under  
2 age 13.

3 457. In sum, [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]

10 458. Children under the age of 13 are particularly vulnerable to the harms caused by  
11 Defendant’s social media platforms, and Meta’s conduct violates longstanding societal norms  
12 meant to protect children, and to preserve parents’ autonomy to ensure the same.

13 **CAUSES OF ACTION**

14 **COUNT I: DECEPTIVE ACTS OR PRACTICES BY DEFENDANTS**  
15 **IN VIOLATION OF NEVADA’S DECEPTIVE TRADE PRACTICES ACT**  
16 **(N.R.S. §§ 598.0903 THROUGH 598.0999)**

17 459. Plaintiff repeats and realleges the preceding paragraphs of this Complaint as if  
18 fully set forth herein.

19 460. The Attorney General is authorized to bring an action—independently in the  
20 name of the State as well as in a *parens patriae* capacity on behalf of the persons residing in  
21 Nevada—to remedy violations of the Deceptive Trade Practices Act. *See, e.g.*, NRS 598.0963  
22 and 598.0999.

23 461. At all times relevant herein, the Defendants violated the Nevada Deceptive Trade  
24 Practices Act, §§ 598.0903 to 598.0999, by repeatedly and willfully committing deceptive acts  
25 or practices, in the conduct of commerce, which are violations of the Act.

26 462. The Attorney General is authorized to bring an action in the name of the State to  
27 remedy violations of the Deceptive Trade Practices Act. NRS §§ 598.0999. This action is proper  
28

1 in this Court because Defendants are using, have used, and are about to use practices that are  
2 unlawful under the Act. NRS § 598.0915(5).

3 463. Defendants willfully committed deceptive trade practices because of false  
4 representations as well as omission of material facts. *See* NRS § 598.0915(5); *see also* §§  
5 598.0915(2) (“[k]nowingly makes a false representation as to the source, sponsorship,  
6 approval or certification of goods or services for sale...”), 598.0915(3) (“[k]nowingly makes  
7 a false representation as to affiliation, connection, association with or certification by another  
8 person”), and 598.0915(15) (“[k]nowingly makes any other false representation in a  
9 transaction”).

10 464. Defendants acted knowingly under Nevada law, which states that under the  
11 NDTPA, “‘knowingly’ means that the defendant is aware that the facts exist that constitute the  
12 act or omission.” *Poole v. Nev. Auto Dealership Invs., LLC*, 2019 Nev. App. LEXIS 4, \*2.  
13 Similarly, “a ‘knowing[ ]’ act or omission under the NDTPA does not require that the defendant  
14 intend to deceive with the act or omission, or even know of the prohibition against the act or  
15 omission, but simply that the defendant is aware that the facts exist that constitute the act or  
16 omission.” *Id.* at \*8 (alteration original).

17 465. As set forth in Sections IV and V, *supra*, Defendants knowingly failed to  
18 disclose the material facts concerning the true nature of the risks of harm posed to Young Users  
19 on Messenger.

20 466. As set forth in Sections IV and V, *supra*, Defendants knowingly misrepresented  
21 to regulators and the public that Messenger was safe for Young Users, and prioritized the  
22 wellbeing of Young Users, when in fact Defendants knew that those representations were false.

23 467. As set forth in Sections IV and V, *supra*, Defendants, at all times relevant to this  
24 Complaint, willfully violated the Deceptive Trade Practices Act by committing deceptive trade  
25 practices by representing that Messenger “ha[s] ... characteristics, ... uses, [or] benefits ...”  
26 that it does not have. NRS § 598.0915(5).

1           468. As set forth in Sections IV and V, *supra*, Defendants willfully committed further  
2 deceptive trade practices by causing confusion or misunderstanding as to the safety and risks  
3 associated with the Messenger social media platform. NRS § 598.0915(2).

4           469. As set forth in Sections IV and V, *supra*, Defendants willfully committed further  
5 deceptive trade practices by making “false representation as to [the] affiliation, connection,  
6 association with or certification” of Messenger. NRS § 598.0915(3).

7           470. As set forth in Sections IV and V, *supra*, Defendants willfully committed further  
8 deceptive trade practices by representing that Messenger was “of a particular standard, quality  
9 or grade” (to wit, designed to be safe for Young Users), despite knowing that this was not true.  
10 NRS § 598.0915(7).

11           471. As set forth in Sections IV and V, *supra*, Defendants willfully committed further  
12 deceptive trade practices by representing that Messenger was safe and not harmful to Young  
13 Users’ wellbeing when such representations were untrue, false, and misleading. NRS §  
14 598.0915(15).

15           472. As set forth in Sections IV and V, *supra*, Defendants willfully committed further  
16 deceptive trade practices by using exaggeration and/or ambiguity as to material facts and  
17 omitting material facts, which had a tendency to deceive and/or did in fact deceive. NRS §  
18 598.0915(15).

19           473. As set forth in Section V, *supra*, Defendants willfully committed further  
20 deceptive trade practices by violating one or more laws relating to the sale or lease of goods or  
21 services. NRS § 598.0923(1)(c).

22           474. As set forth in Sections IV and V, *supra*, Defendants willfully committed further  
23 deceptive trade practices by failing to disclose a material fact in connection with the sale or  
24 lease of goods or services. Nev. Rev. Stat. Ann. § 598.0923(1)(b).

25           475. As set forth in Sections IV, *supra*, Defendants willfully committed further  
26 deceptive trade practices by making false assertions of scientific, clinical or quantifiable facts  
27  
28

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1 in its advertisements and public statements which would cause a reasonable person to believe  
2 that such assertions were true. NRS § 598.0925(1)(a).

3 476. Defendants’ deceptive representations, concealments, and omissions were  
4 knowingly made in connection with trade or commerce, were reasonably calculated to deceive  
5 the public and the State, were statements that may deceive or tend to deceive, were willfully  
6 used to deceive the public and the State, and did in fact deceive the public and the State.

7 477. As described more specifically above, Defendants’ representations,  
8 concealments, and omissions constitute a willful course of conduct which continues to this day.  
9 Unless enjoined from doing so, Defendants will continue to violate the Nevada Deceptive Trade  
10 Practices Act.

11 478. But for these representations, concealments, and omissions of material fact,  
12 Nevada’s Young User citizens (and their families) would not have suffered the harms detailed  
13 herein.

14 479. Defendants’ deceptive trade practices are willful and subject to a civil penalty  
15 and equitable relief. NRS § 598.0999.

16 480. Because Defendants’ deceptive trade practices are toward minors, Defendants  
17 are subject to additional civil penalties and equitable relief. NRS § 598.09735.

18 481. Each exposure of a Nevada Young User to Messenger resulting from the  
19 aforementioned conduct of each and all Defendants constitutes a separate violation of the  
20 Deceptive Trade Practices Act.

21 482. Plaintiff, State of Nevada, seeks all legal and equitable relief as allowed by law,  
22 including *inter alia* injunctive relief and all recoverable penalties under all sections of the  
23 Deceptive Trade Practices Act including all civil penalties per each violation, attorney fees and  
24 costs, and pre- and post-judgment interest.

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1                   **COUNT II: UNCONSCIONABLE ACTS OR PRACTICES BY DEFENDANTS**  
2                   **IN VIOLATION OF NEVADA’S DECEPTIVE TRADE PRACTICES ACT**  
3                   **(N.R.S. §§ 598.0903 THROUGH 598.0999)**

4                   483. Plaintiff repeats and realleges the preceding paragraphs of this Complaint as if  
5 fully set forth herein.

6                   484. The Attorney General is authorized to bring an action—independently in the  
7 name of the State as well as in a *parens patriae* capacity on behalf of the persons residing in  
8 Nevada—to remedy violations of the Deceptive Trade Practices Act. *See, e.g.*, NRS 598.0963  
9 and 598.0999.

10                  485. At all times relevant herein, Defendants violated the Nevada Deceptive Trade  
11 Practices Act, §§ 598.0903 to 598.0999, by repeatedly and willfully committing unconscionable  
12 trade practices, in the conduct of commerce, which are violations of the Act.

13                  486. The Attorney General is authorized to bring an action in the name of the State to  
14 remedy violations of the Deceptive Trade Practices Act. NRS §§ 598.0999. This action is proper  
15 in this Court because Defendants are using, have used, and are about to use practices that are  
16 unlawful under the Act. NRS § 598.0915(5).

17                  487. As set forth in Sections I-III, *supra*, Defendants willfully committed  
18 unconscionable trade practices in designing and deploying the Design Elements on the  
19 Messenger social media platform. Such conduct violates the NDTPA’s prohibition of  
20 knowingly using “an unconscionable practice in a transaction.” NRS § 598.0923(1)(e).

21                  488. Defendants acted knowingly under Nevada law, which states that under the  
22 NDTPA, “‘knowingly’ means that the defendant is aware that the facts exist that constitute the  
23 act or omission.” *Poole v. Nev. Auto Dealership Invs., LLC*, 2019 Nev. App. LEXIS 4, \*2.  
24 Similarly, “a ‘knowing[ ]’ act or omission under the NDTPA does not require that the defendant  
25 intend to deceive with the act or omission, or even know of the prohibition against the act or  
26 omission, but simply that the defendant is aware that the facts exist that constitute the act or  
27 omission.” *Id.* at \*8 (alteration original).

1           489. The Design Elements identified in Sections I-III, *supra*, are “unconscionable  
2 trade practices” because they (1) “[t]ake[] advantage of the lack of knowledge, ability,  
3 experience or capacity of the consumer to a grossly unfair degree;” and (2) “[r]esult[] in a gross  
4 disparity between the value received and the consideration paid, in a transaction involving  
5 transfer of consideration.” NRS § 598.0923(2)(b)(1)-(2).

6           490. NRS § 598.0923(2)(b)(1): As discussed, *supra*, the Design Elements represent a  
7 vast asymmetry in sophistication and knowledge between Defendants, on the one hand, who  
8 have devoted extensive time, energy, and resources in identifying ways in which Young Users  
9 may be manipulated and exploited into compulsive use of Messenger; and Young Users (and  
10 their caretakers), on the other hand, who do not—and could not be expected to—have the same  
11 fundamental and sophisticated knowledge of behavioral psychology, biology of young people,  
12 and social media platform design principles. This asymmetry in knowledge is compounded by  
13 the fact that Defendants knowingly and intentionally hide, obscure, or minimize critical  
14 information, preventing public access to anything that might be damaging to their reputation  
15 and that would alert the public to the harms identified herein.

16           491. NRS § 598.0923(2)(b)(2): Further, as discussed, *supra*, use of the Messenger  
17 platform is a transaction that involves consideration (exemplified by the fact that Defendants  
18 seek to bind Young Users to, *inter alia*, a contract in the form of Messenger’s Terms of Use).  
19 Due to the harms identified herein that afflict Young Users as a result of using Messenger, and  
20 which are the result of the Design Elements deployed by Messenger for purposes of inducing  
21 compulsive use of the platform, the disparity between the value received and the consideration  
22 paid is so vast as to be unconscionable.

23           492. As described more specifically above, Defendants’ conduct is willful and  
24 continues to this day. Unless enjoined from doing so, Defendants will continue to violate the  
25 Nevada Deceptive Trade Practices Act.

26           493. But for this unconscionable conduct, Nevada’s Young User citizens would not  
27 have suffered the harms detailed herein.  
28

1 494. Defendants’ unconscionable practices are willful and subject to a civil penalty  
2 and equitable relief. NRS § 598.0999.

3 495. Because Defendants’ unconscionable practices are toward minors, Defendants  
4 are subject to additional civil penalties and equitable relief. NRS § 598.09735.

5 496. Each exposure of a Nevada Young User to Messenger resulting from  
6 Defendants’ aforementioned conduct constitutes a separate violation of the Deceptive Trade  
7 Practices Act.

8 497. Plaintiff, State of Nevada, seeks all legal and equitable relief as allowed by law,  
9 including *inter alia* injunctive relief and all recoverable penalties under all sections of the  
10 Deceptive Trade Practices Act including all civil penalties per each violation, attorney fees and  
11 costs, and pre- and post-judgment interest.

12 **COUNT III: PRODUCT LIABILITY – DESIGN DEFECT**

13 498. Plaintiff repeats and realleges the preceding paragraphs of this Complaint as if  
14 fully set forth herein.

15 499. The Attorney General is authorized to bring an action—independently in the  
16 name of the State as well as in a *parens patriae* capacity on behalf of the persons residing in  
17 Nevada—to remedy violations of Nevada law.

18 500. Defendants created and maintain Messenger, and therefore are manufacturers of  
19 Messenger.

20 501. As set forth in Sections I-III, *supra*, Messenger has a design defect (the Design  
21 Elements) that renders it unreasonably dangerous. Specifically, Messenger failed to perform in  
22 the manner reasonably to be expected in light of its nature and intended function and was more  
23 dangerous than would be contemplated by the ordinary user having the ordinary knowledge  
24 available in the community.

25 502. As set forth in Sections I-III, *supra*, the defect existed at all times relevant hereto,  
26 including the time the product left the manufacturer (*i.e.*, Defendants).

27 503. As set forth, *supra*, the defect caused injury to Young Users in Nevada.  
28

1           504. As a result of Defendants’ conduct, the State is entitled to—and does—seek  
2 damages (including punitive damages) in an amount to be proven at trial.

3                           **COUNT IV: PRODUCT LIABILITY – FAILURE TO WARN**

4           505. Plaintiff repeats and realleges the preceding paragraphs of this Complaint as if  
5 fully set forth herein.

6           506. The Attorney General is authorized to bring an action—independently in the  
7 name of the State as well as in a *parens patriae* capacity on behalf of the persons residing in  
8 Nevada—to remedy violations of Nevada law.

9           507. Defendants created and maintain Messenger, and therefore are manufacturers of  
10 Messenger.

11           508. As set forth in Sections I-V, *supra*, Messenger has a defective warning that  
12 renders it unreasonably dangerous. Any and all representations, misrepresentations, and  
13 omissions made in relation thereto that Defendants made regarding the suitability and safety of  
14 Messenger for Young Users have not been accompanied by suitable and adequate warnings  
15 concerning its safe and proper use.

16           509. As set forth in Sections I-V, *supra*, Defendants had reason to anticipate that a  
17 particular use of Messenger—*i.e.*, its use by Young Users—may be dangerous without such  
18 warnings.

19           510. As set forth in Sections I-V, *supra*, any warnings that Defendants made in  
20 connection with Young Users’ use of Messenger was not (1) designed so it can reasonably be  
21 expected to catch the attention of the consumer; (2) be comprehensible and give a fair indication  
22 of the specific risks involved with the product; and (3) be of an intensity justified by the  
23 magnitude of the risk.

24           511. As set forth in Sections I-V, *supra*, the defective warning existed at all times  
25 relevant hereto, including the time the product left the manufacturer (*i.e.*, Defendants).

26           512. As set forth in Sections I-V, *supra*, the defect caused injury to Young Users in  
27 Nevada.





1 D. On the Fourth Cause of Action, Judgment in favor of the State and against Defendants  
2 that Defendants failed to provide adequate warnings about the challenged social media platform  
3 and that failure caused damages as alleged herein;

4 E. On the Fifth Cause of Action, Judgment in favor of the State and against Defendants  
5 that Defendants' negligence caused damages as alleged herein;

6 F. On the Sixth Cause of Action, Judgment in favor of the State and against Defendants  
7 that Defendants were unjustly enriched as alleged herein;

8 G. That Plaintiff recover all measures of damages allowable under all applicable State  
9 statutes and the common law, but in any event more than \$15,000, that Judgment be entered  
10 against Defendants in favor of Plaintiff, and requiring that Defendant pay punitive damages;

11 H. That Defendants be ordered to pay civil penalties pursuant to the Deceptive Trade  
12 Practices Act including disgorgement and civil penalties of up to \$15,000 for each violation of  
13 the Deceptive Trade Practices Act, and up to \$25,000 for each violation of the Deceptive Trade  
14 Practices Act directed toward a minor person;

15 I. That Plaintiff be awarded all injunctive, declaratory, and other equitable relief  
16 appropriate and necessary based on the allegations herein;

17 J. That, in accordance with the Nevada Deceptive Trade Practices Act, Defendants, their  
18 affiliates, successors, transferees, assignees, and the officers, directors, partners, agents, and  
19 employees thereof, and all other persons acting or claiming to act on their behalf or in concert  
20 with them, be enjoined and restrained from in any manner continuing, maintaining, or renewing  
21 the conduct, alleged herein in violation of the above stated Nevada laws, or from entering into  
22 any other act, contract, or conspiracy having a similar purpose or effect;

23 K. That Plaintiff recover the costs and expenses of suit, pre- and post-judgment interest,  
24 and reasonable attorneys' fees as provided by law; and

25 L. That the Court order such other and further relief as the Court deems just,  
26 necessary, and appropriate.

27 ///

28

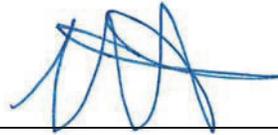
1 **JURY DEMAND**

2 Pursuant to NRCP 38(b), Plaintiff hereby demands a trial by jury on all issues so triable.

3 Dated January 30, 2024

4 Submitted By:

5 

6 

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