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EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

META PLATFORMS, INC.,

Defendant.

AND ALL RELATED CASES AND PARTIES

Case No.: A-24-886110-B

Dept. No.: XXXI

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, and ORDER GRANTING IN
PART AND DENYING IN PART STATE
OF NEVADA'S MOTION FOR
PRELIMINARY INJUNCTION**

(Document Applies to Messenger Case
A-24-886110-B)

This matter, having come on for hearing before the Court on March 20-21, 2024, with Plaintiff State of Nevada ("Plaintiff" or the "State") represented by Aaron D. Ford, Esq., Mark J. Krueger, Esq., Whitney F. Digesti, Esq., Raquel Y. Fulghum, Esq., Michael J. Gayan, Esq., Randall Jones, Esq., Don Springmeyer, Esq., David F. Slade, Esq., Brian Moore, Esq., and Philip Carlson, Esq.; and Defendant Meta Platforms, Inc. f/k/a Facebook, Inc., ("Defendant" or "Meta") represented by Tamara B. Peterson, Esq., Timothy C. Hester, Esq., David N. Sneed, Esq., Michael Imbroscio, Esq., Dan R. Waite, Esq., Daniel F. Polsenberg, Esq., Stephen Steele, Esq., and Abraham Smith, Esq. Also appearing was Christopher Peterson, Esq., and Athar Haseebullah, Esq., from the ACLU; Daniel Bravo, Esq., from Child USA; and Marc Zwilliner, Esq., from the Chamber of Progress.

The Court, having reviewed and considered the parties' respective briefing and the evidence admitted during the evidentiary hearing; and, having heard and carefully considered the evidence, including the testimony of the witnesses, with

1 good cause appearing, makes the following Findings of Fact, Conclusions of
2 Law, and Order¹:

3 **I. FINDINGS OF FACT**

4 **A. Relevant Procedural Background.**

5 1. Before the Court is the State's Motion for a Preliminary Injunction asking
6 the Court to enjoin conduct that is stated to effect minors while leaving adult
7 users unaffected.

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9 2. On February 20, 2024, the State filed its Motion for Temporary Restraining
10 Order and Preliminary Injunction on an Order Shortening Time. (Doc. No. 9). In
11 its Motion, the State asserted that it was seeking relief pursuant to the Nevada
12 Deceptive Trade Practices Act ("NDTPA"), NRS 598, et seq., to enjoin and
13 restrain Meta from engaging in end-to-encryption ("E2EE") as a default setting - a
14 practice that it asserted violates the NDTPA.² It contended that its requested
15 relief applies not only to the Messenger platform ("Messenger"), but also
16 Messenger's integration with Meta's Instagram and Facebook platforms, when
17 the Messenger platform is used by Young Users (defined in the State's
18 Complaint³ and herein to refer to all users of Messenger that Meta knows, or has
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22 ¹ This matter was stayed for Decision pending other Orders of the Court for *inter alia*
23 Jurisdictional Discovery, Appellate Review, and other matters per either Stipulation or Order of
24 the Court.

25 ² The State's Complaint alleges numerous Causes of Action, but the only Claim(s) at issue for the
26 instant Motion for Preliminary Injunction involve alleged violations of the NDTPA; and thus, the
27 Court's analysis is limited to the relief that can be sought pursuant to that Statute.

28 ³ At the time of the Evidentiary Hearing in March 2024, the State's initial Complaint was the
operative Complaint. Subsequent to the Evidentiary Hearing, the State filed a First Amended
Complaint with leave of the Court after the ruling on Meta's first Motion to Dismiss. Where
appropriate, the State's proposed Findings of Fact and Conclusions of Law refer to the paragraph
numbers of the State's initial Complaint and First Amended Complaint.

1 reason to know, are located within the State of Nevada; and who Meta either
2 knows, or has reason to know, are under the age of 18).⁴

3 3. On February 21, 2024, Meta filed an Opposition to the Motion denying that
4 any violations occurred and setting forth its Opposition to the requested relief.
5 (Doc. No. 15). On February 23, 2024, the State filed a Reply in Support of the
6 Motion. (Doc. No. 20).

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8 4. At a hearing held on February 27, 2024, the parties agreed to withdraw
9 and/or convert the State's Motion for a Temporary Restraining Order and
10 proceed only on the State's Motion for Preliminary Injunction ("Motion for
11 Preliminary Injunction").

12 5. On March 7, 2024, Meta filed supplemental Opposition to the Motion for
13 Preliminary Injunction. (Doc. No. 28 [brief]; Doc. No. 29 [Appendix]).

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15 6. On March 14, 2024, the State filed a supplemental Reply in support of the
16 Motion for Preliminary Injunction. (Doc. No. 56).

17 7. The State attached declarations to its supplemental Reply, including the
18 declaration of Dr. Jennifer Golbeck, a computer scientist and professor at the
19 University of Maryland. On March 18, 2024, Meta moved to strike the State's
20 declarations which the State opposed the following day. After hearing oral
21 argument on March 20, 2024, the Court granted Meta's Motion, with respect to
22 Dr. Golbeck's declaration, on the basis that she had not been identified in the
23 State's Motion for Preliminary Injunction. The Court denied the Motion to Strike
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26 _____
27 ⁴ Meta has a separate program referred to informally as Messenger Kids. It was stated that Meta
28 does not use the default setting of E2EE on that platform, and thus, Messenger Kids is not within
the scope of the requested relief based on the Motion.

1 as to the remaining declarations because the witnesses had been previously
2 identified and were rebutting issues raised in Meta's Opposition.

3 8. On March 19, 2024, Meta filed an Objection to the State's supplemental
4 evidence in its Motion for Preliminary Injunction, arguing that the State should be
5 limited to the exhibits attached to its moving papers and that all other exhibits
6 were untimely. In oral argument, the State asserted that the parties had agreed
7 to exchange an exhibit list no later than 24 hours before the Evidentiary Hearing
8 and the State properly disclosed the supplemental exhibits prior to that deadline.
9 Further, each of the exhibits Meta sought to exclude were Meta's own documents
10 which it had previously produced to the State, and Meta had also identified
11 supplemental exhibits by the same agreed-upon deadline. The Court overruled
12 Meta's objection and did not preclude, as untimely, those exhibits that were
13 disclosed prior to the deadline agreed to by the parties. However, the parties
14 were free to raise all other objections regarding each individual exhibit.
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16 9. On March 20 and 21, 2024, the Court conducted an Evidentiary Hearing
17 on the Motion for Preliminary Injunction, including testimony from four witnesses
18 and three exhibits were admitted into evidence (*i.e.*, Exhibits L, 58A, and 64).
19 The four witnesses were: Anthony Gonzales, a criminal investigator for the
20 Nevada Attorney General's office; Chris DeFonseka, a digital forensic analyst for
21 the Nevada Attorney General's office; Antigone Davis, Meta's Global Head of
22 Safety; and Ime Archibong, Meta's Head of Product for Messenger. In advance
23 of the Evidentiary Hearing, these witnesses submitted sworn declarations that
24 are also before the Court as part of the evidentiary record. The record also
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1 includes other documentary evidence submitted to the Court by the parties, in
2 advance of the Evidentiary Hearing, and amicus briefs submitted by various
3 interested parties. The record, at the time, was closed as of the conclusion of the
4 Evidentiary Hearing on March 21, 2024.

5
6 10. At the Evidentiary Hearing, Aaron D. Ford, Esq., Mark J. Krueger, Esq.,
7 Whitney F. Digesti, Esq., Raquel Y. Fulghum, Esq., and Anthony J.A. Walsh,
8 Esq. of the Nevada Attorney General's office; J. Randall Jones, Esq., Michael J.
9 Gayan, Esq., and Don Springmeyer, Esq., of Kemp Jones, LLP; David F. Slade,
10 Esq., of the law firm WH Law; Katrina M. Stark, Esq., Brian Moore, Esq., and
11 Michaela Hohwieler, Esq., of Claggett & Sykes LLP; and Philip Carlson, Esq. and
12 Brian McMath, Esq., of Nachawati Law Group, appeared on behalf of the State of
13 Nevada.
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15 11. Timothy C. Hester, Esq., David N. Sneed, Esq., Michael Imbroscio, Esq.,
16 and Emily Henn, Esq., of the law firm Covington & Burling LLP; Tamara Beatty
17 Peterson, Esq., of the law firm Peterson Baker, PLLC; and Dan R. Waite, Esq.,
18 Daniel F. Polsenberg, Esq., Stephen Steele, Esq., and Abraham Smith, Esq., of
19 the law firm Lewis Roca LLP, appeared on behalf of Meta Platforms, Inc. f/k/a
20 Facebook, Inc.
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22 12. At the conclusion of the Evidentiary Hearing on March 21, 2024, the Court
23 ordered the parties to conduct jurisdictional discovery to allow the Court to
24 confirm whether it has jurisdiction over Meta as that would be proper prior to
25 consideration of the State's requested Preliminary Injunction.
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1 13. Thereafter, the parties engaged in jurisdictional discovery. Through a
2 series of stipulations and related Court Orders, jurisdictional discovery concluded
3 in August 2024, and the parties agreed to have the Court resolve Meta's
4 jurisdictional defense in connection with Meta's Motion to Dismiss filed on March
5 12, 2024. (Doc. No. 43).

6
7 14. On September 3, 2024, the State filed its Opposition to Meta's Motion to
8 Dismiss along with an appendix of exhibits with evidence gathered during the
9 jurisdictional discovery process. (Doc. No. 210 [Opp.]; Doc. No. 211 [App'x]). On
10 September 24, 2024, Meta filed its Reply in support of its Motion to Dismiss.
11 (Doc. No. 220).

12
13 15. In issuing these Findings of Fact and Conclusions of Law, the Court notes
14 that Meta opposed the Motion for Preliminary Injunction on several "threshold"
15 legal grounds. These are: (1) the Court lacks Personal Jurisdiction Over Meta;
16 (2) Section 230 bars the State's Claims and Proposed Preliminary Injunction; and
17 (3) the First Amendment Bars the State's Requested Injunction. (collectively
18 referred to as "threshold defenses") See (Doc. No. 28 at 6-9, 11-15). Meta also
19 opposed the Motion for Preliminary Injunction on the grounds that the State did
20 not meet its burden for a Preliminary Injunction to issue.

21
22 16. The Court considered and addressed the three threshold defenses in the
23 Court's Order resolving Meta's Motion to Dismiss Plaintiff's Complaint (Doc. No.
24 252).

25 17. Specifically, the Court ruled that: (1) Meta is subject to personal
26 jurisdiction in the State of Nevada for the State's claims against Meta, including
27

1 the claims related to Messenger and E2EE; (2) Section 230 of the
2 Communications Decency Act does not bar the State's claims; and (3) the First
3 Amendment does not bar the State's claims. (Doc. No. 252).

4 18. The Court's ruling that the First Amendment does not bar the State's
5 claims is further supported by the recent United States Supreme Court decision,
6 *Free Speech Coalition, Inc. v. Paxton*, issued after entry of this Court's orders
7 resolving Meta's Motions to Dismiss. 606 U.S. 461, 499, 145 S. Ct. 2291, 2319
8 (2025). The *Paxton* Court held that where, as here, a state "appropriately
9 tailor[s]" an action to advance an "important interest in shielding children" from
10 accessing harmful online platforms, while leaving adult users unaffected,
11 intermediate scrutiny applies and is satisfied. *Id.*

12 19. In its Order resolving Meta's Motion to Dismiss Plaintiff's Complaint, the
13 Court dismissed Plaintiff's NDTPA claims, product liability claims, and its unjust
14 enrichment claim, with leave to amend. (Doc. No. 252).

15 20. The State filed an Amended Complaint on November 21, 2024. (Doc. No.
16 259). Meta subsequently moved to dismiss it. (Doc. No. 273).

17 21. The Court denied Meta's Motion to Dismiss Plaintiff's First Amended
18 Complaint in its entirety. (Doc. No. 286). Notice of Entry of the Court's Order was
19 entered on April 25, 2025. In that Order, the Court found *inter alia* that the
20 State's First Amended Complaint sufficiently alleges that Messenger (and Meta's
21 Facebook and Instagram platforms) fall within the definition of a "good" or
22 "service" under the NDTPA, and that permitting the collection of user data as a
23 prerequisite for using Messenger could represent valuable consideration
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1 sufficient to qualify as a “sale or lease” under the NDTPA.

2 22. On September 26, 2024, the State moved to supplement the evidentiary
3 record of its Motion for Preliminary Injunction to include additional Meta
4 documents. (Doc. No. 223). Meta opposed that Motion, in part, on the basis that
5 the evidentiary record had closed on the State’s Motion for Preliminary Injunction.
6 (Doc. No. 231 [Opp.], Doc. No. 292 [Supp. Opp.]). In its Order, entered on June
7 13, 2025, the Court denied the State’s Motion and ruled “that it had the evidence
8 it needed to make its determination with regards to the preliminary injunction at
9 the conclusion of the Evidentiary Hearing, subject only to confirming personal
10 jurisdiction over Defendant.” (Doc. No. 304 at 3:10-13). Thus, based on the
11 Court’s ruling, the Motion for Preliminary Injunction is based on the Record
12 submitted regarding the Preliminary Injunction Motion and consistent with the
13 Court’s subsequent Orders as well as consistent with any new legal authority that
14 occurred between the date of the Evidentiary Hearing and the ruling on the
15 Motion. (*Id.* at 3:20-23).

16 23. On May 12, 2025, Meta sought leave to file post-hearing briefing on the
17 Motion for Preliminary Injunction, which the Court granted, as modified, on July 2,
18 2025, inviting the parties to submit proposed Findings of Facts and Conclusions
19 of Law. (Doc. No. 293).

20 24. During the time the jurisdictional discovery was pending, Meta filed
21 various Petitions with the Nevada Supreme Court. As a result of the Appellate
22 process, this Court ruled that it would not issue its ruling on the Preliminary
23 Injunction Motion while the Nevada Supreme Court’s resolution of Meta’s
24

1 Petitions for Prohibition and Mandamus challenging this Court's Orders regarding
2 the Motions to Dismiss were pending⁵.

3 25. On April 24, 2026, the Nevada Supreme Court DENIED Meta's Petitions.
4 In so doing, the Court set forth that "[r]eal party in interest, the State, filed three
5 separate Complaints against Petitioner Meta Platforms, Inc. regarding its three
6 social media platforms—Messenger, Facebook, and Instagram—asserting claims
7 under the Nevada Deceptive Trade Practices Act (NDTPA), NRS 598.0903
8 through NRS 598.0999, as well as product liability, negligence, and unjust
9 enrichment claims." *Meta Platforms, Inc. v. Eighth Jud. Dist. Ct.*, Nos. 89920,
10 89921, and 89922, 2026 WL 1129147, at *1 (Nev. Apr. 24, 2026) (unpublished
11 disposition). The State alleged that "Meta knowingly made misrepresentations
12 and material omissions about the platforms' safety and failed to warn users about
13 the risks associated with using the platforms." *Id.* Meta "moved to dismiss all
14 three cases, arguing lack of personal jurisdiction and that the claims were
15 otherwise barred by the Communications Decency Act (CDA), codified as 47
16 U.S.C. § 230, and the First Amendment. The district court denied Meta's
17 Motions to Dismiss insofar as they were based on these arguments. (Footnote
18 omitted)." *Id.* The Court went on to hold that the District Court properly exercised
19 personal jurisdiction over Meta. *See id.* at *1-3. It also held that "[b]ecause the
20 State has alleged facts that would entitle the State to relief on its claims without
21 invoking the immunity protections of section 230 of the CDA or the First
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26 ⁵ While there is a detailed record of the various rulings by the Nevada Supreme Court, for
27 purposes of the instant Motion, the Court only cites to the Order Denying Petitions to clarify the
28 scope of this Court's analysis as to the pending Motion for a Preliminary Injunction.

1 Amendment, the district court correctly denied Meta's motions to dismiss." *Id.* at
2 *4.

3 26. On May 15, 2026, the Nevada Supreme Court filed a Notice in Lieu of
4 Remittitur. Thereafter, the Court set a hearing to lift the stay effective May 19,
5 2026. (See May 19, 2026, Transcript, Doc. No. 410)

6 27. The Court also allowed the parties to provide a summation of their
7 positions regarding the outstanding Motion for Preliminary Injunction. Based on
8 the availability of counsel, the summation hearing was scheduled for June 22,
9 2026. At that hearing, each party was provided an opportunity to summarize
10 its/their position. (See June 22, 2026, Transcript, Doc. No. 426)

11 28. Given these rulings confirming the Court's jurisdiction over Meta, and the
12 scope of the briefing and evidence, the following Findings of Fact and
13 Conclusions of Law specifically address the elements required for the State to
14 obtain the requested injunctive relief and whether the State has met its burden⁶.
15

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17 **B. The Messenger Platform and the State's Allegations Under the**
18 **NDTPA, NRS 598, ET SEQ.**

19 29. Messenger is an online platform designed by Meta for sending messages
20 and exchanging photographs, videos, stickers, audio, and other files. Users can
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22 ⁶ Given the Nevada Supreme Court's ruling, this Court will not address the three threshold
23 defenses asserted by Meta which were in Meta's original briefing and argument, to wit: (1) the
24 Court lacks Personal Jurisdiction Over Meta; (2) Section 230 bars the State's Claims and
25 Proposed Preliminary Injunction; and (3) the First Amendment Bars the State's Requested
26 Injunction. At the June 22, 2026, hearing, the Court asked if Meta waived those arguments in
27 light of the Nevada Supreme Court's ruling. Meta contended it did not waive those arguments.
28 Given the law of the case, and as shown in the Nevada Supreme Court's denial of Meta's
Petitions, these threshold defenses do not bar the issuing of a Preliminary Injunction. The Court
incorporates its reasoning and that of the Nevada Supreme Court in finding that these three
threshold defenses do not bar the potential issuing of a Preliminary Injunction. As set forth
herein, the Court's analysis will focus on whether the State has met its burden to have an
Injunction issue pursuant to NRS 598 et. seq., as set forth in its original Motion; and, if so, what is
the scope of that Preliminary Injunction.

1 also react to other users' messages and interact with bots. Messenger also
2 supports voice and video calling. See Mot. (Doc. No. 9) at 11:17–21; FAC at ¶
3 45. According to Meta, Messenger “regularly serves” more than 1 billion people.
4 See Opp. (Doc. No. 15), Ex. A (Archibong Decl.) at ¶ 3. It was also contended
5 that more than three billion people across the world use Messenger on any given
6 day to send messages to each other. See March 20, 2024, Tr. at 204:19–205:24.

7
8 30. End-to-end encryption (“E2EE”) is a technology that permits only the user
9 and sender of an encrypted message to see it. Hearing Transcript, March 20,
10 2024, at 206:8–10 (hereafter “March 20, 2024, Tr.”) (Doc. No. 76).

11 31. As set forth more fully in the State’s Complaint (and its subsequently filed
12 Amended Complaint), E2EE has been an optional feature in Messenger since
13 2016. In December 2023, Meta announced that it was reconfiguring Messenger
14 to make E2EE the default setting for all messages that are the subject of the
15 Complaint. Mot. (Doc. No. 9) at 11:22-24; FAC at ¶ 222.

16
17 32. According to Meta’s witnesses, E2EE is widely used across the internet
18 by many different messaging services. For example:

- 19
20 a. Ms. Davis testified that communications services like
21 Apple iMessage, Google RCS, and Signal all use default
22 E2EE. *Id.* at 169:15–16, 207:23–208:3.
23 b. Mr. Archibong testified that Apple iMessage, which is
24 used by an estimated 80 to 85 percent of young people in
25 the United States, has been encrypted since 2011.
26 Hearing Transcript, 3/21/24, Doc ID# 77 (hereafter
27 “March 21, 2024, Tr.”) at 45:23–46:3.
28 c. Mr. Archibong also testified that “more than 95 percent of
websites are end-to-end encrypted or at least secure[d]”
to protect user information today. *Id.* at 43:17–19.

1 33. Regarding the change to default E2EE, Meta has stated: “The extra layer
2 of security provided by E2EE means that the content of [users] messages and
3 calls with friends and family are protected from the moment they leave your
4 device to the moment they reach the receiver’s device. This means that nobody,
5 including Meta, can see what’s sent or said, unless you choose to report a
6 message to us.” FAC at ¶ 223.

7
8 34. The State has alleged that making E2EE the default setting on Messenger
9 creates a safety risk for Young Users by removing Meta’s ability to scan the
10 content of Young Users’ messages and proactively report suspicious behavior to
11 the National Center for Missing & Exploited Children (“NCMEC”), including
12 messages with potential child predators and/or messages containing Child
13 Sexual Abuse Material (“CSAM”), consistent with Meta’s legal obligations to help
14 protect children. *Id.* at ¶¶ 224-237.

15
16 35. Meta admits that the change to E2EE as the default setting on Messenger
17 removes Meta’s ability to scan the content of Young Users’ messages. See Opp.
18 (Doc. No. 29), Ex. A (Archibong Decl.) at ¶ 11: “Its [E2EE’s] purpose in
19 Messenger is to help protect people’s communications with each other, so that
20 nobody else—including Meta—can view or interfere with their contents.”

21
22 36. The State has further alleged that Meta is aware that the switch to E2EE
23 as the default for messages on Messenger will make it harder for Nevada law
24 enforcement officers to protect young users, and that Inappropriate Interactions
25 with Children (“IIC”) are likely to increase as a result of the change. See MT-IG-
26 AG-00015075, quoted in Compl. at ¶ 211; see *also* FAC at ¶¶ 228-232.

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1 37. The State asserts that these allegations, and others, relate to - and
2 support - the State's Cause of Action for violations of the Nevada Deceptive
3 Trade Practices Act (NDTPA), including unconscionable trade practices. In
4 particular, the State has alleged that Meta has falsely and/or misleadingly touted
5 the change to E2EE as a benefit for Young Users despite the negative impacts
6 the change will have on preventing, discouraging, and/or stopping IIC and similar
7 harms, which were well-known to Meta and not disclosed to the public or
8 Messenger's users and potential users. Compl. at ¶¶ 203-212, 459-497; FAC at
9 ¶¶ 223-231, 489-531.

11 38. Specifically, the State has three theories for the NDTPA violations in
12 the present case. The State asserts that Meta's made misrepresentations
13 and material omissions, engaged in an unconscionable practice, and
14 interfered with a criminal statute. Each of these alleged actions are stated to
15 be violations of NRS 598 which would merit injunctive relief. For example,
16 the State contends that Meta violated various provisions of NRS 598.0915,
17 Subsection 15, which prohibits knowingly making a false statement or a false
18 representation in any transaction. The State contends that Meta exaggerated
19 or created ambiguities in material facts regarding the safety of end-to-end
20 encryption, and they did that publicly through *inter alia* Exhibit L, which was
21 also referred to as the White Paper.

24 39. The State also asserted an Injunction should issue pursuant to NRS
25 598.093, Subsection (2)(b)(1) which precludes unconscionable trade practices.
26 The State claimed that Meta took advantage of the lack of knowledge, ability,
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1 experience or capacity of the consumer to a grossly unfair degree by *inter*
2 *alia*, providing only information it considers beneficial to end-to-end
3 encryption to the public, hoping that the public won't fully understand, or have
4 the ability, or experience, or capacity, to understand the harms that could be
5 caused by end-to-end encryption.
6

7 40. Finally, the State alleged that Meta violated NRS 598.0923(1)(c) which
8 sets forth that it is a deceptive trade practice to violate a State or federal
9 statute relating to the sale, or lease of goods or services. They base their
10 claim on their contention that Meta violated NRS 205.486, which precludes
11 the willful use of encryption to facilitate or conceal a crime or delay, hinder, or
12 obstruct the administration of the law.
13

14 **C. Facts and Evidence Relevant to the State's Motion for Preliminary Injunction.**

15 41. At the Evidentiary Hearing on March 20-21, 2024, the State presented
16 testimony from Anthony Gonzales and Chris DeFonseka; and Meta presented
17 testimony from Antigone Davis and Ime Archibong. The parties cross-examined
18 each other's witnesses. The Court admitted various exhibits during the witness
19 examinations (*i.e.*, Exhibits L, 58A, and 64). There were also declarations and
20 other pleadings submitted by third parties.
21

22 **1. Investigator Anthony Gonzales.**

23 42. At the time of the Evidentiary Hearing, Inv. Gonzales worked as a Criminal
24 Investigator II with the State of Nevada, Office of Attorney General. March 20,
25 2024, Tr. at 141:13-23. Inv. Gonzales investigates potential violations of multiple
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1 laws including human trafficking, missing children, and other harms against
2 children. *Id.* at 141:13-23.

3 43. Many crimes against children frequently begin with, and are carried out by,
4 contact between the perpetrator and the minor victim over the internet, including
5 on Messenger. *Id.* at 143:20-144:17; Gonzales Decl. at ¶¶ 8, 13.

6
7 44. Messages that are sent using E2EE on various platforms, including those
8 sent via Messenger, are very difficult for law enforcement to obtain from the
9 service provider, such as Meta, via legal processes such as a search warrant or
10 subpoena because Meta is unable to provide any message content. March 20,
11 2024, Tr. at 152:2-6, 153:15-17. The contents of direct messages provide much
12 more useful information to Nevada's law enforcement officers investigating
13 crimes against children than the limited information Meta provides to law
14 enforcement for Messenger users' E2EE messages. *Id.* at 153:9-154:25.
15 Message content is often critical to a successful criminal investigation and
16 prosecution for those who commit crimes against Nevada's children. *Id.* at
17 153:15-155:19, 183:14-24.

18
19 45. According to Gonzales, the use of E2EE for messages lowers the risk of
20 detection or prosecution of perpetrators of these crimes against children. *Id.* at
21 183:14-24. Although there is still a risk that a perpetrator will get caught while
22 using an encrypted message, E2EE gives perpetrators comfort because it often
23 shields them from getting caught and provides greater anonymity. These
24 perpetrators can still be caught, but not through traditional means. *Id.* at 173:18-
25 174:25.
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1 46. Inv. Gonzales testified that perpetrators of crimes against children choose
2 certain platforms to use in perpetration of internet-based crimes against children
3 often due to the E2EE feature. He also noted that such platforms were not
4 limited to the Messenger platform, but could be any one of several, including Kik
5 and iMessage. *Id.* at 161:11-162:7.

6
7 47. Messenger's E2EE feature allows potential criminals to easily and secretly
8 message Nevada children and, because Messenger is directly connected to
9 Meta's Instagram and Facebook platforms, which many Nevada children use, the
10 risk and impact is greater than compared to other platforms, such as Apple
11 iMessage and Google Message. *Id.* at 145:23-146:20, 147:11-18, 148:2-9,
12 181:14-23. This is because Messenger's integration on Facebook and Instagram
13 as their direct messaging platform provides a pipeline of contact and access
14 between Nevada Young Users and adults. *Id.* at 145:23-146:20, 147:6-148:9.
15 But for this easy access to search for and communicate secretly with children on
16 Meta's platforms, Inv. Gonzales believes that individuals intending to commit
17 crimes against children would have a more difficult time locating and
18 communicating with Nevada children. *Id.* at 144:18-145:22.

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21 48. Inv. Gonzales explained that the process of a perpetrator meeting a child
22 on Facebook or Instagram and then transitioning that relationship to a non-public
23 messaging platform, including Messenger, is a part of the grooming process. *Id.*
24 at 182:10-183:4.

25 49. According to Gonzales, social media platforms and other online
26 communications platforms that do not use E2EE (such as Yahoo) are
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1 significantly better at identifying and reporting child sexual abuse material,
2 including message content, and are quicker to provide responses to law
3 enforcement legal process. Gonzales Decl. at ¶ 22.

4 50. Gonzales also testified, however, that outside of Messenger, “a lot of
5 service providers . . . are providing encrypted messages,” such as Signal and
6 Google’s messaging service. March 20, 2024, Tr. at 169:4–23.

7 51. He also acknowledged that Apple iPhones are used by an estimated 80 to
8 85 percent of young people in the United States. March 21, 2024, Tr. at 45:23–
9 46:2. Apple iMessage, the instant messaging service for iPhones, has used
10 default E2EE since 2011. *Id.* at 45:23–46:3.

11 52. FaceTime, the video messaging service on Apple iPhones, has used
12 default E2EE since 2013. Davis Decl. ¶ 28. “Signal has existed as a stand-alone
13 app with E2EE since 2014.” *Id.*; see also Archibong Decl. ¶ 29. And Google
14 announced in August 2023 that Google Message RCS would move to default
15 E2EE as well. Davis Decl. ¶ 28.

16 53. Gonzales testified that online harms to minors are “not just limited to
17 Meta’s services” and that a “good portion” happens on other end-to-end
18 encrypted services. March 20, 2024, Tr. at 164:16–17, 175:1–21.

19 54. Investigator Gonzales agreed that “even if Messenger is unencrypted,
20 predators could still use other [encrypted] services.” *Id.* at 170:12–15.

21 55. Gonzales confirmed that, by the State’s own evidence, other services
22 aside from Meta, accounted for approximately 90 percent of crimes reported to
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1 the Attorney General's human trafficking and child exploitation unit in 2023 in
2 Southern Nevada. *Id.* at 166:25–167:20

3 56. Investigator Gonzales stated that the use of E2EE may complicate and
4 delay the investigation of crimes, including crimes against children. Without
5 access to the message content, Nevada law enforcement is often unable to: (a)
6 establish probable cause for prompt arrests; (b) identify further potential victims
7 of the suspected perpetrators; or (c) prosecute the suspected perpetrators, which
8 leaves them free to harm additional children. March 20, 2024, Tr. at 153:18-
9 155:19; Gonzales Decl. at ¶ 21. The use of E2EE can, and does, also result in
10 the destruction of valuable evidence needed to prosecute crimes against
11 children. March 20, 2024, Tr. at 158:7-159:6.

13 57. Although Nevada law enforcement sometimes receives direct reports of
14 these behaviors from citizens, the majority of the reports that they receive are
15 from the National Center for Missing and Exploited Children (“NCMEC”). Inv.
16 Gonzales further explained that NCMEC receives these reports from various
17 platforms like Meta, Yahoo, or Google as those entities are legally obligated to
18 flag, identify, and report messages that may contain CSAM and send to NCMEC.
19 NCMEC provides those reports to the law enforcement agencies responsible for
20 the geographic area of the report, including Nevada. *Id.* at 148:10-24.

22 58. In the twelve months prior to the Evidentiary Hearing, 6,773 “Cyber tips”
23 were reported to the Southern Nevada Internet Crimes against Children (ICAC)
24 Taskforce; approximately 721 of those were related to Meta. *Id.* at 160:2-21.
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1 59. According to the testimony, since December 2023, when Meta announced
2 that it would make E2EE the default standard for Messenger, Nevada has
3 received fewer CSAM reports from Meta (via NCMEC) than it used to receive. *Id.*
4 at 160:2-21. No evidence has been presented that would suggest any alternate
5 reason for this reduction in the number of received reports other than the
6 introduction of E2EE.
7

8 60. For reports involving Meta, the process to serve a search warrant on Meta
9 starts with creating a law enforcement account, or profile, on the Meta Law
10 Enforcement Portal. Nevada law enforcement must submit all requests and
11 documents through that portal. For an individual investigation, Nevada law
12 enforcement must attach any identifying information for the account they are
13 seeking information on, the preservation request, and then any legal
14 correspondence giving authorization from a court (e.g., warrant or subpoena).
15 Once fully submitted, Nevada law enforcement typically waits 14-30 days for
16 Meta to return information. *Id.* at 152:10-153:8.
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18 61. When Meta does not provide message content to law enforcement,
19 investigations are prolonged by a period stretching from two weeks to a month or
20 longer. This delay is in addition to the 14-30 days it typically takes to get
21 information from Meta in the first place. *Id.* at 155:1-19.
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23 62. If investigations of potential crimes against children took less time, Nevada
24 law enforcement would be able to follow up on more of the cyber tips they
25 received. *Id.* at 184:12-14.
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1 63. During the pendency of criminal investigations, suspects may become
2 aware of the State's investigation if there is no agreement to not notify the
3 suspect entered between Inv. Gonzales' office and the third-party entity he is
4 seeking information from. In those cases, the suspected perpetrator of these
5 crimes typically destroys any evidence that they have control over. This could
6 include getting a different phone, destroying the phone that contains evidence, or
7 seeking other means of masking their identity in the interactions that they have
8 with children. Additionally, such a perpetrator could continue the criminal
9 interactions with children during delayed investigations. *Id.* at 158:7-159:6.
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11 64. Inv. Gonzales described challenges with getting minor victims and/or their
12 parents or guardians to cooperate and provide the message contents for his
13 investigations. Minors often do not understand, or are embarrassed by, the
14 circumstances of inappropriate situations they are placed in with adults, including
15 online interactions and are therefore reluctant to and/or do not report them. *Id.* at
16 155:20-158:6, 159:7-160:2.
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18 65. Inv. Gonzales stated that he believed parents and/or guardians of minor
19 victims often refuse to cooperate with law enforcement due to the shame and/or
20 embarrassment caused by the victimization of their children, so law enforcement
21 cannot obtain message contents, including photos and/or videos. *Id.* at 184:20-
22 185:24, 196:10-197:16. Because E2EE prevents anyone, besides the parties to
23 a message, from viewing the contents, and minors and/or their parents or
24 guardians often do not report or decline to assist law enforcement, E2EE reduces
25 the number of reports of IIC and CSAM materials and interferes with law
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1 enforcement's investigations, arrests, and prosecutions of individuals who
2 commit crimes against Nevada children. *Id.* at 159:7-160:7, 165:18-21, 183:14-
3 185:24.

4 66. Inv. Gonzales noted that, when he is working an investigation into these
5 matters, he uses subpoenas to collect evidence, including usernames, email
6 addresses, and digital devices used in potential crimes. *Id.* at 149:3-15.

7 67. After collecting digital devices, Inv. Gonzales submits those devices for
8 forensic analysis by specialists. *Id.* at 149:16-23.

9 68. Chris DeFonseka is one of the three individuals in Inv. Gonzales's ICAC
10 task force that conducts forensic analyses of digital devices gathered during
11 investigations. *Id.* at 150:12-14.

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13 **2. Chris DeFonseka (Digital Forensic Analyst).**
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15 69. At the time of the Evidentiary Hearing, Chris DeFonseka worked as a
16 Digital Forensic Analyst with the Investigations Division of the Nevada Attorney
17 General's Office. Mr. DeFonseka had been actively involved with the Internet
18 Crimes Against Children ("ICAC") task force for more than 20 years. *Id.* at 188:3-
19 8.

20 70. Mr. DeFonseka's work involves forensic examination and analysis of
21 software, hardware, and devices that potentially contain evidence of human
22 trafficking and sexual exploitation of minors. *Id.* at 188:11-18, 189:13-190:6.
23 About 50% of Mr. DeFonseka's cases involve CSAM. *Id.* at 188:15-18.

24 71. Mr. DeFonseka has been dealing with E2EE issues with Messenger since
25 2016. E2EE makes it much more difficult, and often impossible, for law
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1 enforcement to obtain message contents during their investigations. *Id.* at 194:9-
2 25. This is because criminal suspects rarely cooperate and provide the
3 credentials needed for digital forensic analysts to recover the messages from the
4 suspect's device. *Id.* at 197:11-16. Minor victims and/or their parents or
5 guardians often refuse to provide that information for electronic devices used by
6 the minor victims. *Id.* at 184:20-185:24. Without cooperation from a device's
7 owner, unlocking a digital device is nearly impossible. *Id.* at 191:19-193:9. With
8 E2EE, Meta no longer provides message contents to law enforcement in
9 response to subpoenas. *Id.* at 153:15-17.

11 **3. Antigone Davis (Meta Global Head of Safety).**

12 72. As of March 20, 2024, Antigone Davis was a Meta employee with the title
13 of Global Head of Safety; however, her role had remained the same for more
14 than a decade. *Id.* at 202:14-19. Ms. Davis oversaw her own team within Meta,
15 which included, *inter alia*, individuals formerly employed as prosecutors
16 specializing in child exploitation crimes and executives from various non-profits
17 such as the National Network to End Domestic Violence and the Family Online
18 Safety Institute. *Id.* at 203:14-20.

19 73. Ms. Davis worked with multiple teams at Meta to assess Meta's
20 technology and policies regarding safety on all platforms, including Messenger.
21 *Id.* at 202:14-17.

22 74. Ms. Davis testified that child predators on online platforms including, but
23 not limited to, Meta's platforms, are "very adversarial" and that these actors
24 consistently try to get around systems that platform operators - including Meta -
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1 put into place to protect children. *Id.* at 204:9-12. Accordingly, Meta must
2 “constantly evol[v]e” the techniques it employs to attempt to keep children safe
3 from predators on its platforms. *Id.* at 204:11-12.

4 75. Ms. Davis testified that 3,190,000,000 daily active users of Meta’s
5 Messenger platform around the globe send messages via the platform on any
6 given day. *Id.* at 205:18-21. When Meta “look[ed] at” those messages, it
7 identified evidence of child exploitation in 0.0001 (0.001 percent) of them
8 (approximately 319,000 messages each day). *Id.* at 205:21-24.

9 76. Ms. Davis’s estimate of 319,000 messages involving evidence of child
10 exploitation being sent per day, via Messenger, is based upon her knowledge of
11 the number of daily messages sent on the platform and the number of messages
12 that Meta has found and reported due to their containing content involving child
13 exploitation. *Id.* at 205:25-206:2.

14 77. Ms. Davis further testified that in 2022, Meta made more than 27 million
15 reports to the National Center for Missing and Exploited Children (“NCMEC”). *Id.*
16 at 241:21-25. Of those 27 million reports, Ms. Davis “would assume that many of
17 those would be captured” in the 319,000 daily messages that Meta identified as
18 having child exploitation content. *Id.* at 242:1-5.

19 78. Meta’s 27 million reports to NCMEC in 2022 accounted for 85% of all
20 CSAM reports made to NCMEC in that year. *Id.* at 248:6-14. In other words,
21 Meta reported to NCMEC over five (5) times more than all others combined.

22 79. Ms. Davis testified that private messaging is important to teens, and that
23 Meta has “seen people move more and more” to private messages - such as
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1 those facilitated by Messenger - to “share their most intimate information.” *Id.* at
2 206:13-16. For teens, this most intimate information includes, *inter alia*, sharing
3 intimate images via Messenger, which could potentially result in “sextortion” of
4 the sender. *Id.* at 207:1-6.

5 80. Ms. Davis also testified that “[a] significant amount of children who are
6 exploited, are exploited by people they know.” *Id.* at 207:16-18.

7 81. Ms. Davis testified that Meta decided to employ default E2EE on
8 Messenger in 2019, but Meta’s implementation, or roll out, of E2EE did not begin
9 until December 2023. *Id.* at 207:5-13, 218:21-23.

10 82. Ms. Davis further testified that E2EE “ensures that . . . the content of the
11 message is seen only by the person who sent it and the person who received it.”
12 *Id.* at 206:8–10. Ms. Davis testified that child safety “[c]ertainly [is] a priority for
13 Meta.” March 20, 2024, Tr. at 203:22–23.

14 83. She also testified that “[b]roadly speaking, we try to put in place strict
15 policies to ensure the safety of children.” *Id.* at 203:1–2.

16 84. Ms. Davis testified that Meta has invested \$20 billion in safety and security
17 between 2016 and 2023, including \$5 billion in just 2023, with a significant
18 portion specifically directed at Meta’s child safety efforts. *Id.* at 204:15–17,
19 213:6–11.

20 85. Ms. Davis testified that Meta takes a “significantly proactive and industry-
21 leading approach” to child safety issues. *Id.* at 228:5–15.

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1 86. Ms. Davis also testified that Meta is an industry leader in developing
2 cross-industry technology to share data and signals with other social media
3 services to fight child sexual exploitation. See *id.* at 227:2–15, 228:5–15.

4 87. Beginning in 2019, after the announcement that Messenger would shift to
5 default E2EE, Meta developed enhanced machine-learning that could identify
6 predators and predatory conduct through their conduct on the public surfaces of
7 Messenger, Facebook, and Instagram. These detection methodologies are still
8 available to Meta following implementation of default E2EE. Ms. Davis testified
9 that Meta uses approximately “60 different signals” that allow it to “take action
10 against accounts that may look like they are suspicious accounts and remove
11 some of those accounts,” and “to prevent those accounts from or to try to restrict
12 those accounts from finding, following and interacting with minors.” March 20,
13 2024, Tr. at 212:5–12.
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16 88. Ms. Davis stated that “Meta’s machine learning tools look across the
17 public-facing surfaces on our services—including account information,
18 Messenger profile photos, Messenger chat names, and photos uploaded to
19 public-facing spaces like Facebook and Instagram—to detect potential violations
20 of [Meta’s] rules.” Davis Decl. ¶ 9.
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22 89. For example, Ms. Davis testified that if an account attempts to “friend”
23 multiple minors to whom they are not otherwise connected, or makes explicit
24 comments on a public page or group, Meta can use those signals to either
25 remove those accounts or restrict them from “finding, following and interacting
26 with minors.” March 20, 2024, Tr. at 212:5–12, 214:17–22. Meta has developed
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1 technology to identify approximately 60 different signals that it can use to
2 automatically surface a safety notice to a minor. March 20, 2024, Tr. at 212:5–12,
3 213:19–214:3.

4 90. Ms. Davis testified that if Meta sees “a minor trying to block or unblock
5 somebody that may indicate that there’s a problem.” *Id.* at 213:24–25. She
6 testified that Meta can “use those signals to then surface safety notices to minors
7 to encourage them to either block that person, report that person, [or] restrict that
8 person.” *Id.* at 213:25–214:3.

10 91. Ms. Davis testified that Meta has “made it easier to find” the reporting
11 option, and “surface[s] reporting at particular moments in time when we thought it
12 would be most valuable. So if there was any hesitancy to reporting, sort of
13 offering up that reporting to encourage that kind of reporting.” *Id.* at 221:2–6.

15 92. Ms. Davis testified that Meta “added a tag in” its user reporting -
16 specifically identifying the report as addressing “child safety.” *Id.* at 221:7–9. In
17 connection with the rollout of default E2EE on Messenger, Meta enhanced child
18 safety programs that focus on prevention of harms, and other means for
19 detection of predatory conduct that are not dependent on scanning the content of
20 messages.

22 93. Ms. Davis testified that by implementing changes that do not depend on
23 scanning messages - such as not allowing adults over age 19 to message
24 unknown minors, or using signals to detect violations on public areas of Meta’s
25 services - Meta implemented changes that can help prevent harms in an end-to-
26 end encrypted environment. March 20, 2024, Tr. at 216:19–24.

1 94. Ms. Davis testified that Meta also increased its ability to detect harms to
2 children in public spaces in anticipation of the rollout of default E2EE. For
3 example, Ms. Davis testified that Meta conducts “network disruptions” of groups
4 of accounts that “indicate, for example, sexual interest in children in different
5 public spaces.” *Id.* at 216:2–11. Ms. Davis testified that “many of these harms”
6 manifest in “places that are public,” and she testified that Meta is able to “find this
7 kind of activity and behavior[]” in public areas on its services. *Id.* at 215:18–24.
8 Ms. Davis testified that Meta is able to conduct this type of detection in an end-to-
9 end encrypted environment because this type of detection does not rely on
10 scanning the content of private messages. *Id.* at 215:18.

12 95. Ms. Davis testified that, historically, Meta detected child exploitation
13 content in users’ messages sent and received via Messenger by “scan[ning] the
14 content of messages” but that employing E2EE would (and does) prohibit Meta
15 from continuing to do so; and, therefore, Meta would have to find new ways to
16 identify child exploitation content shared on the Messenger platform. *Id.* at
17 210:17-25, 211:4-6, 254:17-20 (“Q: Okay. And so isn’t it true that [E2EE] has
18 dramatically reduced Meta’s access to information in the end-to-end encrypted
19 messages? A: Within the content of those messages, yes[.]”).

22 96. Specifically, Ms. Davis testified that Meta is “powerless to scan that
23 content” of messages its users, including Young Users, send and receive due to
24 the decision to use E2EE on Messenger. *Id.* at 262:12-13.

25 97. Ms. Davis also testified that “[p]eople share their most intimate
26 information in messages” (*id.* at 206:12–20) such as their sexual orientation,
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(March 20, 2024, Tr. at 206:16–20); Social Security numbers (*id.* at 219:11–14); or private health information. March 21, 2024, Tr. at 47:3–9.

98. Ms. Davis testified that E2EE protects encrypted communications from hackers or other bad actors. March 20, 2024, Tr. at 206:23–207:8; *see also* Davis Decl. ¶ 24; Archibong Decl. ¶ 16.

99. Ms. Davis testified that default E2EE’s benefits for younger users are “the same benefits that you would find for an adult.” March 20, 2024, Tr. at 207:9–13.

Ms. Davis testified that the benefits of E2EE can be important for younger users “who are exploring their identity [and] understanding who they are.” *Id.* at 219:11–20.

100. Ms. Davis testified that when a teenager shares an intimate photo with another teenager in a chat, E2EE can prevent a bad actor from gaining access to that message and using that image to extort the minor in a scheme commonly known as “sextortion.” *Id.* at 206:23–207:8, 225:5.

101. Ms. Davis testified that minors who are exploited can use private, secure messages to reach out for help safely. *Id.* at 207:15–20.

102. Ms. Davis provided specific examples of Meta’s new approach towards identifying child exploitation content on the Messenger platform, which include Meta “encourag[ing] reporting” from users who had experienced unwanted or harmful contact, or else “putting in place . . . protection so that people wouldn’t be able to find and interact with people on the platform for unwanted purposes.” March 20, 2024, Tr. at 210:21–25.

1 103. Ms. Davis testified that much of Meta's approach towards child safety on
2 Messenger, post-E2EE, would be preventative and/or reactive in a much different
3 way than when it reported messages to NCMEC based on message contents.
4 Meta would look for "suspicious behavior" to identify whether a potentially
5 harmful communication has taken place. If Meta believed that suspicious
6 behavior occurred, its plan is to "surface safety notices to minors to encourage
7 those minors "to either block that person, report that person, [or] restrict that
8 person." *Id.* at 213:19-214:3.

10 104. Ms. Davis conceded, however, that for messages not reported to Meta by
11 users, "[t]he contents of those messages cannot be seen by end-to-end
12 encryption." March 21, 2024, Tr. at 22:23-23:19. Meta cannot review those
13 messages for content, nor can it provide any message content to NCMEC or law
14 enforcement. *Id.*

16 105. Ms. Davis also testified about the distinction between prevention (that is,
17 preventing harmful contact with a minor in the first place) and detection
18 (detecting harmful content being exchanged between a minor and a predator)
19 and that "[w]hen you get to detection, you're already, you know, past that fact [of
20 being able to prevent the unwanted contact in the first place]," and that "if you're
21 detecting after the fact, the harm has already happened." March 20, 2024, Tr. at
22 216:15-20, 217:6-7.

24 106. Ms. Davis further testified that because Meta can no longer detect
25 dangerous content, via screening the content of messages sent to or from
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1 children, Meta has to move towards an approach to child safety on Messenger
2 predominantly reliant on prevention. *Id.* at 218:13-20.

3 107. Ms. Davis further testified that “if you’re not screening content and you are
4 no longer screening content, that is something that you’re going to lose. So that
5 might be thought of as a blind spot.” *Id.* at 220:7-9.

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7 108. Ms. Davis testified that Meta provides cyber tips to NCMEC, which
8 reporting is required by law. *Id.* at 225:25-226:7.

9 109. Ms. Davis further testified that NCMEC has asked Meta to change its
10 reporting format for CSAM because some reports from Meta are without specific
11 context. For example, content can be a product of “viral sharing” of CSAM
12 content and, without more, law enforcement is unable to conduct any meaningful
13 follow-up. *Id.* at 229:13-23; see *id.* at 230:24-231:3. (“As I mentioned earlier, a
14 large number of the reports that go to NCMEC, there’s no indication of a sexual
15 interest in the child. And so those reports are much more complicated to actually
16 action or do anything with.”).

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18 110. Ms. Davis testified that under Meta’s new approach to reporting child
19 endangerment on the Messenger platform due to its shift to E2EE, “that sort of
20 informational bucket will be shifted and changed.” *Id.* at 232:3-4.

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22 111. Ms. Davis further testified that she believes - and Meta has produced a
23 blog post to this same effect - “that cyber tips [to NCMEC] certainly is not a highly
24 accurate measure at all[.]” *Id.* at 233:12-14.

25 112. When asked whether Meta’s new reliance on preventative safety
26 measures over the scanning of content would be guaranteed to be effective, Ms.
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1 Davis testified, "I don't think we could ever guarantee something is 100 percent
2 effective. As I stated earlier, people are incredibly adversarial and will try to get
3 around our systems, but I do think that these – there's no one thing that solves
4 this problem." *Id.* at 242:10-14. When asked how many "highly adversarial bad
5 actors" have gotten around Meta's preventative measures to contact children,
6 Ms. Davis testified "I don't have an answer to that number." *Id.* at 242:15-18.
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8 113. When asked, Ms. Davis could not identify any individual - whether minor
9 or adult - in the State of Nevada who had asked Meta to employ E2EE on
10 Messenger. *Id.* at 245:20-246:15.

11 114. Ms. Davis testified that years before switching to default E2EE on
12 Messenger, Meta was aware that "[b]ad actors . . . attempt to abuse and exploit
13 minors across the Internet, including on our apps." *Id.* at 247:17-22.
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15 115. When asked about how quickly Meta's preventative approach of relying on
16 "signals" could identify harmful interactions between children and predators, Ms.
17 Davis testified, "I think some of those technologies take time to see the activity of
18 an account on our platform. Some of those may take less time depending on the
19 activity of the individual on the platform. It will depend on the activity, but, yes, it
20 can take time." *Id.* at 249:25-250:4.
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22 116. Ms. Davis further testified that, due to E2EE, Meta "cannot apply those
23 signals to know what's happening in terms of the content" shared between a
24 minor child and a predator on the Messenger platform. *Id.* at 250:11-12.

25 117. Ms. Davis testified - when presented with Exhibit 58A - that as of June
26 2019, Meta knew that the introduction of E2EE onto the Messenger platform
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1 would dramatically reduce its access to the information that it then relied upon to
2 identify harmful child endangerment content. *Id.* at 254:5-13.

3 118. When asked whether Meta would know, post-implementation of E2EE,
4 whether a bad actor sends CSAM to a minor, Ms. Davis responded that Meta
5 would know only if the minor “reports that message to us” and “as part of that
6 reporting, sends the content from their device to us.” *Id.* at 257:23-258:4.

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8 119. Ms. Davis further acknowledged that neither she, nor Meta more broadly,
9 knew precisely what information law enforcement needed to effectively prosecute
10 a case against a child predator; instead, she only knew what type of information
11 law enforcement typically requests of Meta and what Meta is required, under law,
12 to report to NCMEC. *Id.* at 259:5-14.

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14 120. Ms. Davis testified that in or about June 24, 2019, she and Meta’s CEO,
15 Mark Zuckerberg, met with individuals from NCMEC to discuss, *inter alia*, Meta’s
16 plans to deploy E2EE on Messenger; specifically, NCMEC had “concerns as
17 [Meta was] moving to a new way of approaching safety.” March 21, 2024, Tr. at
18 11:13-12:4. Ms. Davis testified that she helped draft a document, identified in the
19 Evidentiary Hearing as Exhibit 64, for Mr. Zuckerberg in preparation for that
20 meeting with NCMEC in June 2019. *Id.* at 15:1-7. Ms. Davis also confirmed that
21 in that document, Meta stated, “[w]e will never find all the potential harm we do
22 today on Messenger when our security systems can see the messages
23 themselves.” March 21, 2024, Tr. at 21:4-11, Exhibit 64. This same document
24 acknowledges that Meta “understand[s] that [Meta] will degrade or interfere with
25 law enforcement and safety capabilities” by enabling E2EE on Messenger. March
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1 21, 2024, Tr. at 22:6-11; see *id.* at 23:22-24:2. The above language, and opinion
2 offered therefrom, was what Meta believed NCMEC felt and “would raise during
3 the conversation.” *Id.* at 22:9-11.

4 121. Ms. Davis also acknowledged that this document, which she helped
5 create, states “[w]e know there is a specific risk to minors who are at risk of being
6 identified in the town square and then taken into a living room by individuals
7 wishing to harm them.” *Id.* at 15:24-16:2.

9 122. Ms. Davis further testified that the term “town square” means the public
10 spaces on Meta’s Instagram and Facebook platforms. *Id.* at 17:20-18:7. “Living
11 room” in this context “refers to more private spaces” which include Messenger’s
12 end-to-end-encrypted messaging. *Id.* at 17:25-18:12.

13 123. Ms. Davis further acknowledged that the document states “You are locking
14 kids in an unsafe place even if you build protections and locking us out.” *Id.* at
15 18:16-20.

17 124. However, Ms. Davis explained that this statement is “not Meta’s words.
18 Those are designed to reflect somebody else’s words [T]his was designed
19 to say this is what other people our [*sic*] saying and then providing comments
20 underneath.” *Id.* at 18:22-23, 19:1-2.

21 125. Ms. Davis further clarified that while the statement was written by
22 someone at Meta, it was meant to be read from the perspective of someone at
23 NCMEC, as Meta believed that this was a concern that NCMEC had or would
24 have about Meta’s shift to E2EE. *Id.* at 20:19-23.
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1 126. Ms. Davis further testified that, in that private, internal, document she and
2 others at Meta drafted for Mr. Zuckerberg in anticipation of the NCMEC meeting,
3 Meta acknowledges that “[u]sers want privacy but not at the expense of child
4 safety from sexual exploitation.” *Id.* at 21:16-23 (emphasis added).

5 127. When asked about a public-facing, so-called “white paper” Meta authored
6 and disseminated in 2022 to educate its users and the public at large about
7 E2EE (admitted as Exhibit L), Ms. Davis was unable to confirm that Meta’s white
8 paper disclosed and/or explained the specific child-safety risks from E2EE
9 identified in the earlier internal Meta document admitted as Exhibit 64. March 21,
10 2024, Tr. at 26:20-27:23. A comparison of the two documents shows Meta’s
11 white paper, published in 2022, does not disclose the specific child-safety risks
12 from E2EE that Meta was aware of as confirmed by Meta’s internal
13 memorandum. *Compare* Ex. L, *with* Ex. 64.

14 128. Meta’s internal documents confirm that it knew of, and appreciated, all of
15 these negative impacts that E2EE will have on its child safety practices before it
16 implemented default E2EE for all Messenger users, including children, in
17 December 2023. See (Doc. No. 1) Compl. at ¶ 209, n.157; (Doc. No.259) FAC at
18 ¶ 229, n. 168: “Over 90 percent of all Proactive Enforcement actions on
19 Messenger are Child Exploitation Imagery (CEI) and we see limited cases of CEI
20 in reactive reporting. As such, this will be a major blindspot with the move to
21 E2EE given proactive reports/enforcement requires scanning content which will
22 not be possible post-E2EE Shift.”
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1 **4. Ime Archibong (VP of Product Management & Head of Product,**
2 **Messenger).**

3 129. At the time of the Evidentiary Hearing, Ime Archibong was a Meta
4 employee with the title of Vice President of Product Management and Head of
5 Product of Messenger. March 21, 2024, Tr. at 40:6-8. He had worked at Meta for
6 more than 14 years. *Id.* at 40:9-10.

7 130. Meta's decision to employ E2EE on Messenger was a result of
8 competitors like iMessage and Signal using the feature first, resulting in Meta
9 having "to play a little bit of catch-up on this particular stead because, you know,
10 users' expectations have really shifted." *Id.* at 43:14-24; *see id.* at 45:23-46:11,
11 51:19-23 ("[W]e had gone from an app that was, you know, top of the app stores
12 to one that has fallen below on the app stores because a lot of the investment
13 and engineering capacity wasn't going towards rich product features to keep up
14 with the marketplace.").

15 131. Mr. Archibong testified that Meta rolled out default E2EE because "users'
16 expectations ha[d] really shifted towards encrypted experiences and safe
17 experiences," and because "society expect[ed]" it. March 21, 2024, Tr. at 43:22–
18 24, 48:6–10; *see also* Archibong Decl. ¶ 30.

19 132. Mr. Archibong testified that Meta had provided E2EE as an optional
20 feature for Messenger as early as 2016, where users could "toggle" E2EE on or
21 off within the application, until Meta switched to making E2EE the default setting
22 in December 2023. *Id.* at 61:5-10.

23 133. In 2019, Meta decided to make E2EE the default setting on all Messenger
24 accounts. *Id.* at 46:14-18. Mr. Archibong testified that default E2EE means that
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1 E2EE is “automatically on for the user” (March 20, 2024, Tr. at 210:3–5), and that
2 after implementation of the rollout, personal messages will “only be sent in an
3 E2EE state” across Messenger. Archibong Decl. ¶ 26.

4 134. As of the date of Mr. Archibong’s testimony, Meta was “still . . . in the
5 rollout” of universal, default E2EE for Messenger. March 21, 2024, Tr. at 51:12-
6 14. At the Evidentiary Hearing in March 2024, Mr. Archibong testified that default
7 E2EE, which Meta began to roll out in December 2023, would “take months to
8 roll out.” *Id.* at 61:11–16.

9 135. Meta produced a white paper intended to be reliable information for public
10 consumption, which addresses safety concerns surrounding E2EE on
11 Messenger. See Exhibit L; *Id.* at 77:19-24, 79:18-22.

12 136. Mr. Archibong was involved in discussions with others at Meta about the
13 “risks and trade-offs related to minors using end-to-end encryption.” *Id.* at
14 108:19-22.

15 137. Meta makes a version of Messenger for children, called “Messenger Kids”
16 under Mr. Archibong’s purview, and that Messenger Kids does not make E2EE
17 available as a feature. *Id.* at 114:17-21.

18 138. Mr. Archibong further testified that over a multi-year period, Meta
19 expended significant resources to implement default E2EE on Messenger.

20 139. Mr. Archibong testified that, over a five-year period, hundreds, if not
21 thousands, of engineers worked to implement default E2EE on Messenger.
22 March 21, 2024, Tr. at 51:7–14.

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1 140. Mr. Archibong also testified that Meta rebuilt over 100 different product
2 features for E2EE, which meant that Meta engineers “rearchitected” or rebuilt
3 millions of lines of code. *Id.* at 49:10–18, 50:4–11.

4 141. Mr. Archibong also testified as to whether changing the default setting
5 from E2EE was feasible. He testified that “any time that you introduce
6 complexity into a system” - such as removing default E2EE for only Nevada
7 minors - “you are introducing opportunities for bad actors to exploit that particular
8 system.” *Id.* at 57:21–58:1.

10 142. Mr. Archibong testified about the “multiple” technical “challenges” of
11 introducing an exception for Nevada minors to default E2EE. *Id.* at 57:2. He
12 explained that Meta would need to “maintain two code stacks” including
13 “hundreds, thousands, if not millions of lines of code.” *Id.* at 57:2–5. He also
14 testified that Meta would need to “keep feature parity” and “safety parity” between
15 the two code stacks, thereby “introducing opportunities for bad actors to exploit”
16 Messenger. *Id.* at 57:5, 57:21–23.

18 143. Mr. Archibong further testified that Meta’s prioritization of default E2EE
19 meant that it sacrificed developing other new product features for Messenger,
20 given that its top engineering talent was focused on E2EE. *Id.* at 51:15–52:4.

22 144. It was asserted that Meta rolled out default E2EE because it was the
23 industry “standard” and because consumers were seeking the benefits of default
24 E2EE as a privacy tool. March 20, 2024, Tr. at 207:21–208:3, 208:12–18.⁷

26 ⁷ The State contended that the injunctive relief request was not overbroad and could be tailored
27 to not impact other states. They relied on the deposition of Michael Winters, Meta’s NRCP
28 30(b)(6) witness who works with the data science, data engineering, and user research teams at

1 **D. Assertions That Many Government and Advocacy Organizations**
2 **Have Stated That E2EE Has Important Consumer Privacy Benefits**

3 145. In addition to the direct testimony of witnesses, the parties provided third-
4 party evidence. For example, Meta stated Government organizations such as
5 the Federal Trade Commission and the White House; groups like the American
6 Civil Liberties Union and Amnesty International; and business organizations such
7 as the Chamber of Commerce and Chamber of Progress have encouraged Meta
8 and other online messaging services to use encryption because of the privacy
9 benefits it affords. March 20, 2024, Tr. at 208:12–210:2; *see also* Doc ID# 29,
10 Declaration of Tamara Peterson (“Peterson Decl.”) (Ex. C), Exs. 5, 8; *see* Doc
11 ID# 41 (“ACLU Amicus Brief”) at 18–24; Doc ID# 51 (“COP Amicus Brief”).
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13 146. Meta also provided documents that other groups, such as the United
14 Nations High Commission for Human Rights, maintain that E2EE’s privacy
15 benefits foster free and open expression because users of Messenger know that
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19 Meta. He testified *inter alia* that: Messenger uses “location-related information” based, in part, on
20 a user’s IP address; that Meta sells advertisements based on a user’s zip code; and that Meta
21 provides its advertisers with data regarding the location and performance, per location, of
22 delivered ads. (Doc. No. 211) Opp. to MTD, App’x, Ex. 5 at APP00303-04, 08 (Winters Depo. Tr.
23 at 65:23-66:1, 71:8-12), APP00310 (73:10-19), APP00313 (76:6-10). The State also provided
24 records that show that Meta employs people and uses its resources to predict the location of its
25 users, including Messenger users, based on numerous data points. *Id.* at APP00303-04 (65:14-
26 66:16); Meta pays close attention to its daily reach on a county-by-county basis, including in
27 Nevada. *Id.* at APP00139 (Messaging Narratives Presentation at 8) (map of “Messenger Daily
28 Reach” broken down by U.S. counties); APP00146 (Emails re: Highest Messenger-usage Cities);
APP00149 (Messenger RTC Presentation at 17) (2019 breakdown of Messenger’s video-chat-
feature-usage by state); that Meta tracks Messenger’s primacy metrics by location down to at
least the county level within Nevada. *Id.* at APP00135 (Messenger Marketing Strategy
Presentation at 30); and that Meta identifies Messenger’s “teen users” and users that are “Under
18” or “Over 18” by state. *Id.* at APP00117 (breaks down Nevada users as Under 18 or Over 18);
APP00156-163; APP00190-193; APP00250 (breaks users down into being predicted to be “teen”
or “non-teen”); APP00257-260 (same).

1 their communications are protected. See, e.g., Peterson Decl., Ex. 6; see also
2 ACLU Amicus Brief at 23.

3 4 II. CONCLUSIONS OF LAW

5 A. The Standard of Injunctive Relief.

6 147. Where, as here, a statute expressly authorizes the State to seek injunctive
7 relief, the State need not satisfy the traditional elements necessary to obtain a
8 Preliminary Injunction under NRCP 65. See *State ex rel. Off. of the AG v. NOS*
9 *Commc'ns, Inc.*, 120 Nev. 65, 69, 84 P.3d 1052, 1055 (2004). Rather, the State
10 “need only show, through competent evidence, a reasonable likelihood that the
11 statute was violated and that the statute specifically allows injunctive relief.” *Id.*

12 148. “Every order granting an injunction and every restraining order must (A)
13 state the reasons why it issued; (B) state its terms specifically; and (C) describe
14 in reasonable detail—and not by referring to the complaint or other document—
15 the act or acts restrained or required.” N.R.C.P. 65(d). “[A] preliminary injunction
16 issued by a trial court of this state is void, not merely voidable, (if it fails to)
17 describ(e) in reasonable detail . . . the act or acts sought to be restrained.”
18 *Maheu v. Hughes Tool Co.*, 88 Nev. 592, 597, 503 P.2d 4, 7 (1972) (internal
19 quotation marks and citation omitted) (alterations in original).

20 149. Before awarding relief, “the court must consider the totality of the
21 circumstances concerning the alleged violation.” *Edwards v. Emperor’s Garden*
22 *Rest.*, 122 Nev. 317, 325, 130 P.3d 1280, 1285 (2006); see also *NOS*
23 *Commc'ns*, 120 Nev. at 68, 84 P.3d at 1054 (discussing statutory injunctive
24 relief).
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1 150. An Injunction that alters the status quo, rather than preserving it, is subject
2 to an even more exacting standard. Courts should exercise “restraint and
3 caution” in entering injunctive relief that alters the status quo. *Leonard v.*
4 *Stoebling*, 102 Nev. 543, 551–52, 728 P.2d 1358, 1363 (1986). “Courts require a
5 higher burden to be met in order to issue mandatory injunctions because the
6 requested action would force the non-moving party to go beyond simply
7 maintaining the status quo.” *Chudacoff v. Univ. Med. Ctr. of S. Nevada*, 609 F.
8 Supp. 2d 1163, 1178 (D. Nev. 2009).

10 151. The State is required to show “through substantial evidence that it is
11 entitled to the preliminary relief requested.” *Shores v. Glob. Experience*
12 *Specialists, Inc.*, 134 Nev. 503, 507, 422 P.3d 1238, 1242 (2018); *see also NOS*
13 *Commc’ns*, 120 Nev. at 69, 84 P.3d at 1055 (entitlement to preliminary injunction
14 must be shown “through competent evidence”). The State “bears the burden of
15 providing testimony, exhibits, or documentary evidence to support its request for
16 an injunction.” *Hosp. Int’l Grp. v. Gratitude Grp., LLC*, 132 Nev. 980, 2016 WL
17 7105065, at *2 (Dec. 2, 2016) (unpublished disposition).
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1 152. Here, as set forth above, the State seeks injunctive relief under NRS
2 598.0963(3), which provides in relevant part:⁸

3 If the Attorney General has reason to believe that a person
4 has engaged or is engaging in a deceptive trade practice,
5 the Attorney General may bring an action in the name of the
6 State of Nevada against that person to obtain a temporary
7 restraining order, a preliminary or permanent injunction, or
8 other appropriate relief, including, without limitation, the
9 recovery of a civil penalty, disgorgement, restitution or the
10 recovery of damages.

11 153. NRS 598.0963(3) authorizes the Attorney General to seek a variety of
12 forms of relief, including preliminary injunctive relief, sought via the Motion for
13 Preliminary Injunction, if it establishes, under the applicable standard, that Meta
14 has engaged - or is engaging - in one or more of the alleged deceptive trade
15 practices vis-à-vis Messenger. The relief sought has to relate to the asserted
16 deceptive trade practice and has to be appropriate as to whether the person “has
17 engaged” or “is engaging”. Put another way, the form of relief or remedy is tied
18 to not only the action taken, but whether the action(s) has(have) occurred and/or
19 are ongoing. The remedy(ies) that are available are also tied to the nature of the
20 deceptive trade practice such that the Court needs to evaluate the specific facts
21 and issues and whether the proposed remedy(ies) are appropriate to the alleged
22 deceptive trade practice.

23 154. While Meta contends that the Court should balance the hardships and
24 take into account public policy, Nevada law presumes irreparable harm when a
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26 ⁸ The Court notes that the 2025 Nevada Legislature, via SB 49, passed amendments to NRS
27 598.0963(3) that the Governor signed into law. The amended statute went into effect on July 1,
28 2025. Because the amendments added remedies available to the Attorney General, they do not
change the Court’s analysis.

1 statute is violated; and thus, the State “need not plead or prove irreparable injury
2 or an inadequate remedy at law.” *NOS Commc’ns.*, 120 Nev. at 68 n.6, 84 P.3d
3 at 1054 n.6 (noting that “where a state’s policy is declared by statute allowing a
4 government agency to seek injunctive relief, the sole conditions for the issuance
5 of such an injunction are those fixed by the act itself”) (citation omitted)⁹.

7 155. The NDTPA expressly authorizes the Attorney General to seek injunctive
8 relief to remedy NDTPA violations. Thus, the issues before this Court are
9 whether the State presented competent evidence establishing a reasonable
10 likelihood that Meta’s conduct in Nevada, relating to Young Users, constitutes at
11 least one violation of the NDTPA; and, that a Preliminary Injunction would be an
12 appropriate interim remedy.¹⁰ If the Court determines an Injunction is
13 appropriate, the Court must then determine the scope and breadth of the
14 injunction¹¹.

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20 ⁹ While the case law does not require the Court to take into consideration these additional factors,
21 pursuant to the alleged statutory violation, the Court did evaluate these factors to determine if its
ruling would be different - it would not. Even taking into account the balance of hardships and
public policy, a partial injunction would still issue as these factors weigh in favor of the State.

22 ¹⁰ The State need not provide security to obtain injunctive relief. NRCP 65(c).

23 ¹¹ Meta urged the Court to “make an equitable determination on injunctive relief” taking into
24 account the reality of the passage of time. In support of this request, Meta cited to *Aguayo v. S &*
F Market Street Healthcare LLC, 2006 WL 941183 (C.D. Cal. Mar. 22, 2006); *Matos ex rel. Matos*
v. Clinton Sch. Dist., 367 F.3d 68, 74 (1st Cir. 2004); and *McDermott v. Ampersand Pub., LLC*,
25 593 F.3d 950, 965 (9th Cir. 2010). The Court finds that the issue is ripe for determination, despite
the passage of time, as the time between the Evidentiary Hearing and the instant Order is mostly
26 the result of Meta exercising its right to file multiple Petitions, re-hearings etc., and asking the
Court to stay its decision pending resolution of those avenues. Independently, none of the cases
27 cited are similar to the instant proceeding and are thus distinguishable. Additionally, as set forth
herein, the matter is ripe for review.

B. The State Has Demonstrated a Reasonable Likelihood that Meta Violated the NDTPA with some its Communications and/or Omissions in Violation of NRS 598.0915.

156. As noted above, the State is required only to show a reasonable likelihood that Meta engaged in a *single* violation of the NDTPA to obtain the requested injunctive relief. The State has alleged Meta's conduct and communications with the public vis-à-vis default E2EE on Messenger violated numerous provisions of the NDTPA.

157. The State's Complaint details its claims against Meta. Specifically, for the purposes of the Motion for Preliminary Injunction, the Complaint alleges that several key design elements of Meta's Messenger platform including, but not limited to E2EE, violate the NDTPA in various ways. See, e.g. FAC ¶¶ 523-524; Compl. ¶¶ 118-130, FAC ¶¶ 138-150 (Low-Friction Variable Rewards); Compl. ¶¶ 131-143, FAC ¶¶ 151-163 (Social Manipulation); Compl. ¶¶ 144-155, FAC ¶¶ 164-175 (Ephemeral Content); Compl. ¶¶ 156-168, FAC ¶¶ 176-188 (Push Notifications); Compl. ¶¶ 169-201, FAC ¶¶ 189-221 (Harmful Filters); Compl. ¶¶ 202-212, FAC ¶¶ 222-235 (End-to-End Encryption).

158. For purposes of the Motion for Preliminary Injunction, however, the Court has to focus on the allegations relating to the interplay between NRS 598 et. seq., and the conduct sought to be enjoined. Specifically, as set forth above, the State contends that Meta's own internal documents, and the testimony from witnesses, demonstrate a likelihood of success on the merits that Meta's use of E2EE in Nevada violates the NDTPA in that it made misrepresentations and material omissions. The State also contends E2EE can place Young Users at

1 increased risk of sexual exploitation on the Messenger platform. The State
2 further contends E2EE renders Messenger unsafe for Young Users, despite
3 Meta's public statements to the contrary. Compl. at ¶¶ 46:2-52:11, FAC at ¶¶
4 222–235.

5 159. The State alleges that Meta's use of E2EE, and various public comments
6 and omissions related to its use of E2EE on Messenger, violate various NDTPA
7 provisions including, but not limited to:

- 8 a. NRS 598.0915(5)—represented Messenger with E2EE
9 has characteristics, uses, or benefits it does not have,
10 e.g., safe for Young Users;
- 11 b. NRS 598.0915(7)—represented Messenger with E2EE is
12 of particular standard, e.g., safe for Young Users, despite
13 knowing that was untrue; and
- 14 c. NRS 598.0915(15)—represented Messenger with E2EE
15 was safe for Young Users despite knowing that was
16 untrue, used exaggeration and/or ambiguity as to
17 material facts regarding E2EE, and omitted material facts
18 regarding E2EE. (Doc. No. 9) (Mot. at 16:18-17:9).

19 160. NRS 598.0915 “explain[s] that a deceptive trade practice occurs when a
20 person engaged in the course of his or her business ‘knowingly’ engages in
21 several enumerated false advertising behaviors.” *R.J. Reynolds Tobacco Co. v.*
22 *Dist. Ct.*, 138 Nev. 585, 593, 514 P.3d 425, 432 (2022).

23 161. The definition of “‘knowingly’ under the NDTPA means ‘that the defendant
24 is aware that the facts exist that constitute the act or omission,’ not that ‘the
25 defendant intend[ed] to deceive’ the victim’, because the former interpretation
26 better serves the NDTPA’s ‘remedial purpose’ while the latter interpretation
27 imposes a higher standard for proving an NDTPA violation and makes the
28 NDTPA redundant with common law fraud.” *R.J. Reynolds Tobacco Co.*, 138

1 Nev. at 592, 514 P.3d at 431 (quoting *Poole v. Nev. Auto Dealership Invs., LLC*,
2 135 Nev. 280, 284, 286-87, 449 P.3d 479, 483-85 (Ct. App. 2019)).

3 162. “NRS 598.0915(5) provides that an individual is liable for consumer fraud
4 if he or she “[k]nowingly makes a false representation’ as to the product ‘for
5 sale.” *R.J. Reynolds Tobacco Co.*, 138 Nev. at 591, 514 P.3d at 430.

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7 163. Under NRS 598.0915(7), a “deceptive trade practice” is where a person
8 “[r]epresents that goods or services for sale or lease are of a particular standard,
9 quality or grade, or that such goods are of a particular style or model, if he or she
10 knows or should know that they are of another standard, quality, grade, style or
11 model.” NRS 598.0915(7).

12 164. Under NRS 598.0915(15), a “deceptive trade practice” is where a person
13 “[k]nowingly makes any other false representation in a transaction.” NRS
14 598.0915(15).

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16 165. It was not disputed that Meta has a legal duty to report knowledge of
17 CSAM, or potential CSAM, content to NCMEC’s Cyber Tipline. See 18 U.S.C.
18 § 2258A. There was not any contrary evidence that reports to NCMEC serve an
19 important part of Nevada law enforcement’s efforts to protect children.

20
21 166. The evidence before the Court, including the State’s law enforcement
22 officers and Meta’s executives, showed that E2EE makes it more difficult for
23 Nevada law enforcement to identify, stop, and prosecute sexual crimes against
24 children that are perpetrated via online communications platforms, including
25 Messenger. The evidence before the Court also demonstrated that most major
26 social media platforms use E2EE in whole or in part. There was also mixed
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1 evidence as to the role of E2EE's in making it more difficult (including, but not
2 limited to, obtaining search warrants) to obtain the full scope of information that
3 would be helpful to Nevada law enforcement officers to obtain potentially criminal
4 messages, pictures, and/or videos from the companies operating online
5 communication platforms that facilitate interactions between criminals and
6 Nevada children, including Meta.¹²

8 167. The testimony and documents further showed that Meta is aware that
9 allowing children to use E2EE on Messenger generally precludes Meta from
10 accessing and, therefore, from providing to NCMEC or law enforcement,
11 message content exchanged between child predators and children, unless either
12 the child predators or the children voluntarily provide the content to Meta.
13 Therefore, Meta's decision to implement E2EE on Messenger for Young Users,
14 according to the testimony presented, can delay and/or hamper law enforcement
15 in its critical duty to ensure the safety and security of Nevada children affected by
16 the predatory acts of those engaged in child sexual abuse. See, Findings.

18 168. At the same time, the State asserted that its theory of misrepresentation
19 and material omissions was supported by internal documents dated in 2022 and
20 earlier. According to the testimony of Meta witnesses, those documents were
21 written before the many steps that Meta undertook to enhance its technology
22 systems and user reporting in anticipation of implementing default E2EE.
23 Because these documents were dated at least a year or more prior to the
24

26 ¹² While Meta provides metadata and other information to law enforcement, E2EE prevents it
27 from providing the messages, pictures, and/or video - which are necessary to identify, stop, and
28 prosecute those who commit crimes against children - to Nevada law enforcement.

1 implementation of default E2EE, the Court has to take the dates of those
2 documents into account.

3 169. For example, the State questioned Ms. Davis about an internal document
4 written in 2019 expressing concern that E2EE would undermine Meta's ability to
5 detect predatory behavior and child exploitation. See March 20, 2024, Tr. at
6 253:21–254:8. Ms. Davis testified that this document was written “prior to all the
7 work that” Meta did to detect and prevent predatory behavior without scanning
8 the content of messages. *Id.* at 254:9–13. Ms. Davis further testified that the
9 expressions of concern set forth in the 2019 document did not accurately
10 characterize the safety of default E2EE because they were written before the
11 extensive work and technology enhancements that Meta undertook in advance of
12 implementing default E2EE. See March 20, 2024, Tr. at 254:9–13.
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15 170. Other testimony showed that although Meta describes its deployment of
16 default E2EE on Messenger as a “safety feature,” it does not use that feature on
17 Messenger Kids - an online communications platform Meta built for children.

18 171. In sum, the evidence demonstrates that there is a reasonable likelihood
19 that Meta had been provided information that making E2EE the default setting on
20 Messenger could impair law enforcement's access to message content when
21 investigating child exploitation occurring on the platform. Meta also understood
22 that some individuals at NCMEC likely believed that default E2EE would impair
23 law enforcement's and NCMEC's—ability to access and identify evidence of child
24 exploitation and would endanger children on the Messenger platform.
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1 172. The evidence further shows that, even with this understanding - and
2 privately briefing CEO Mark Zuckerberg on these important child safety issues
3 prior to a meeting with NCMEC - Meta did not disclose any of this information to
4 the public before making E2EE the default setting on Messenger in December
5 2023, or even thereafter. None of Meta's public-facing documents regarding
6 default E2EE on Messenger that were presented to the Court mention any of the
7 potential serious child safety risks from allowing children to use E2EE. Instead,
8 Meta's public-facing white paper (Exhibit L) omitted this child-safety information
9 known to Meta.
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11 173. Given the exhibits presented, as well as the testimony of the witnesses,
12 declarations, and other evidence, the State has shown a reasonable likelihood of
13 success on the merits that Meta engaged in conduct which is likely to violate the
14 NDTA. These actions include that Meta publicly denied that adding E2EE to
15 the Messenger platform created dangers to children, claimed adding E2EE was
16 safe, and/or omitted material information about the dangers of allowing children,
17 including Young Users, to use E2EE for online communications on Messenger
18 despite its knowledge to the contrary from, *inter alia*, its own internal
19 communications including, but not limited to, Exhibit L and the E2EE Integrity
20 Update¹³. In other words, the State has shown a likelihood that Meta publicly
21 exaggerated, or created ambiguities of material facts, regarding the safety of
22 end-to-end encryption in that they left out critical information that end-to-end
23 encryption actually has significant risks and harms to children.
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27 ¹³ See, full analysis set forth above including the testimony and exhibits summarized herein.
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1 174. There is also a likelihood of success on the merits that Meta's conduct
2 created the impression for Messenger's users, potential users, and the parents
3 and/or guardians of users and potential users who are or were minors, including
4 those located in the State of Nevada, that these serious harms did not exist
5 which could be found to violate the NDTPA.

6
7 175. Based on the evidence, and without ruling on or finally adjudicating each
8 of the State's alleged NDTPA violations, the Court finds that the State has met its
9 burden of showing a reasonable likelihood that representations of Meta, including
10 those listed below, violated the following NDTPA provisions:

- 11 a. Meta represented that Messenger with E2EE, as used by
12 Young Users, "ha[s] . . . characteristics . . . uses, [or]
13 benefits" that it does not have, specifically that it was
14 safe for Young Users, see NRS 598.0915(5);
- 15 b. Meta represented that Messenger with E2EE, as used by
16 Young Users, was "of a particular standard, quality or
17 grade," i.e., designed to be safe for Young Users, despite
18 knowing that this was not true and/or despite knowing
19 other material facts that it concealed from the public, see
20 NRS 598.0915(7);
- 21 c. Meta represented that Messenger with E2EE was safe
22 for Young Users to use when such representations were
23 untrue, false, and materially misleading based on Meta's
24 knowledge of significant child-safety risks that it did not
25 disclose to the public, see NRS 598.0915(15); and
- 26 d. Meta failed to disclose known risks and harms of E2EE
27 despite concerns raised by its employees and as set forth
28 in internal documentation.

22 **C. Deceptive and/or Unconscionable Trade Practices Under the NDTPA.**

23 176. The State also alleges that Meta "willfully committed . . . deceptive trade
24 practices by violating one or more laws relating to the sale or lease of goods or
25 services" in violation of NRS 598.0923(1)(c). Compl. ¶ 473; FAC ¶ 505.

1 177. Under the NDTPA, unconscionable trade practices are those, *inter alia*,
2 which “[t]ake[] advantage of the lack of knowledge, ability, experience or capacity
3 of the consumer to a grossly unfair degree.” NRS 598.0923(2)(b)(1).

4 178. Here, the State alleges Meta’s conduct and communications with respect
5 to using E2EE on Messenger, specifically related to Young Users, violates NRS
6 598.0923(1)(c) for the reasons set forth in the record including the FAC.

7
8 179. As set forth above, Meta contended that they did not engage in the
9 alleged conduct. They also contend that given the allegations, there cannot be a
10 violation of that provision of the statute as it is a consumer protection provision
11 and the harm alleged is not directed at a consumer.

12
13 180. While the Court need not analyze this provision of NRS 598, since the
14 finding in Section B *supra* could merit injunctive relief on its own, the Court finds
15 that in order to best analyze the scope of injunctive relief, the Court will address
16 whether there is a likelihood of success that there was also a violation of NRS
17 598.0923(2)(b)(1) and/or NRS 598.0923(1)(c).

18 181. As set forth at the Evidentiary Hearing, including the misrepresentations
19 and material omissions that were shown in the exhibits, the State showed that
20 there was information provided, or materially omitted, that could take advantage
21 of the lack of knowledge of Young Users or their parents. The challenge is that
22 the evidence did not focus on how it was to a “grossly unfair degree”. As such,
23 the Court cannot find that the State met its burden at this preliminary stage based
24 on what was presented.
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1 **D. The State Has Not Met its Burden to Show Meta Violated NRS 205.486**
2 **and Hence it Did Not Establish a Likelihood of Success on its NRS**
3 **598.0923(1)(c) as it relates to NRS 205.486 Claim**

4 182. The State also contends that an Injunction should issue due to Meta
5 violating NRS 598.0923(1)(c) as it relates to NRS 205.486. Specifically related
6 to Meta's decision to use E2EE, the State points to NRS 205.486, which
7 provides:

8 A person **shall not willfully use or attempt to use**
9 **encryption, directly or indirectly**, to: (a) Commit, facilitate,
10 further or promote any criminal offense; (b) Aid, assist or
11 encourage another person to commit any criminal offense;
12 (c) Conceal the commission of any criminal offense; (d)
Conceal or protect the identity of a person who has
committed any criminal offense; or (e) Delay, hinder or
obstruct the administration of the law.

13 NRS 205.486 (emphasis added).

14 183. The State alleges that Meta knew, before launching default E2EE on
15 Messenger in December 2023, that the use of E2EE by children would increase
16 the prevalence of child abuse on Messenger and hinder law enforcement's
17 efforts to discovery and stop such abuse. Compl. ¶¶ 202-212; FAC ¶¶ 222-232.

18 184. The Court incorporates the analysis relating thereto *supra*, as that analysis
19 goes to various provisions of NRS 598.

20 185. While even the hampering or potential delay in law enforcement's ability to
21 protect children is vital, in order for the State to show a likelihood of success on
22 the merits of this provision, the State would have shown that there was a
23 likelihood of an actual violation of the law rather than a potential delay. The
24 testimony and evidence on the impact of E2EE, as it relates to NRS
25 598.0923(1)(c), was mixed. While the importance law enforcement's role in
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1 protecting the youth of Nevada is undisputed, that is not the test. Instead,
2 the Court must look to see if the State established, at this preliminary stage,
3 that the conduct of Meta actually hampered or interfered with law enforcement or
4 that Meta actually impaired Nevada law enforcement's ability to perform its law
5 enforcement duties. At this preliminary stage, while there was compelling
6 evidence, the State did not meet its burden to show actual impairment or
7 interference. The State also did not show that the alleged actions, which
8 included omissions from several years ago, were willful within the meaning of the
9 Statute.

11 186. As the State has not met its burden to show that there is a reasonable
12 likelihood of success on their claim that Meta engaged in deceptive trade
13 practice to violate a State or federal statute relating to the sale, or lease of
14 goods or services, the Court cannot find that an Injunction should issue based
15 on a violation of NRS 598.0923(1)(c) as it relates to NRS 205.486.

17 187. As set forth *supra*, however, NRS 598 only requires a violation - not
18 multiple violations - to trigger injunctive relief. Given that the State has met its
19 burden on at least one of its NRS 598 claims, the Court finds that an Injunction,
20 as discussed further below, is appropriate, in part, to address the harm that has
21 met the Preliminary Injunction standard.

23 **E. The State Is Entitled To Part of Its Injunctive Relief Request Based on
24 the Evidence and the Law**

25 188. As set forth herein, the State has met its burden to show a likelihood of
26 success on the merits that some statements and/or omissions of Meta violated
27 the NDTPA. As discussed *supra*, these include statements to NCMEC and the

1 public, which did not accurately reflect the concern being expressed internally,
2 including in Exhibit L and the E2EE Integrity Report in Exhibit 58A. Given a
3 violation was found based on a preliminary injunction standard, the Court must
4 determine the scope of the Injunction. In accordance with applicable law, the
5 State must also show that the remedy it is seeking is appropriate to the conduct
6 at issue. In other words, the State needs to show a nexus between the remedies
7 sought and the harm asserted.
8

9 189. In the present case, the State seeks two forms of Injunctive Relief. First, it
10 seeks to remedy past actions and omissions, as well as future false statements
11 or omissions. Second, it seeks to have Meta ordered to stop using E2EE as a
12 default setting with respect to Young Users. The Court addresses each of these
13 forms of relief in turn.
14

15 190. The first form of relief is whether there should be an Injunction precluding
16 Meta from continuing to make misrepresentations and material omissions. In
17 determining the scope of the Injunction, the Court has to take into account, as
18 pointed out by Meta, that the misrepresentations and material omissions
19 occurred in part of 2019, 2021, and other dates prior to the 2023 rollout of E2EE.
20 To the extent that there is was a material misstatement that only occurred prior to
21 2023, while there are remedies for such past conduct, an Injunction would not
22 properly address that past harm. Thus, the Court could not issue an Injunction if
23 the harm only occurred in the past. As argued and established by the State,
24 however, there is ongoing harm as Meta has not retracted those
25 misrepresentations and has not rectified its material omissions (including those
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1 set forth in Exhibit L). Indeed, there was nothing presented by Meta that it ever
2 publically presented the harms or that it disclosed the items they internally listed
3 as “which things are bad” (See e.g. Exhibit 58A). It also never publically
4 disclosed, to those in Nevada, the harms that can occur to Young Users who use
5 Meta’s default E2EE.
6

7 191. Accordingly, the Court finds that the State has met its burden and is
8 entitled to an Injunction prohibiting Meta from making misrepresentations or
9 material omissions in violation of NRS 598, et. seq., including those detailed
10 herein, regarding the harms of E2EE.

11 192. The second form of injunctive relief the State seeks is to: “enjoin[] and
12 restrain[] [Meta] from using End-to-End Encryption in its Messenger application
13 and services (“Messenger”) as Messenger relates to other services Meta offers
14 when these services are used by Young Users (defined herein to refer to all
15 users of Messenger located within the State of Nevada who Meta either knows or
16 has reason to know are under the age of 18).” (Doc. No. 9) (Mot. at 2:6-13). The
17 relief requested includes Messenger’s integration with Meta’s other platforms
18 (e.g., Instagram and Facebook); for Meta’s users of the Messenger application
19 who Meta knows, or has reason to know, are located within the State of Nevada;
20 and who Meta either knows, or has reason to know, are under the age of 18.
21 The challenge with the requested relief is that the State has not shown how that
22 type of Preliminary Injunction would be appropriate based on the deceptive trade
23 practices alleged by the State pursuant to NRS 598. While the State has met its
24 burden to show that there is a likelihood of success on the merits on the portion
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1 of their claims that Meta engaged in deceptive trade practices through
2 statements and omissions, it has not shown how enjoining the use of end-to-end
3 encryption by Meta, and its related platforms, complies with and remedies the
4 harm asserted pursuant to NRS 598. Put another way, the State has not shown
5 that there is a nexus between the remedy sought and harm alleged pursuant to
6 NRS 598. NRS 598 addresses deceptive trade practices to consumers; and
7 thus, any Injunction must be narrowly tailored to preclude the deceptive trade
8 practice from continuing. NRS 598 requires companies not to engage in
9 deceptive trade practices, but it does not prohibit the trade if done in a non-
10 deceptive manner.
11

12 193. The State has not shown, at this preliminary stage, that if the Court were
13 to enjoin the use of E2EE, how that is the proper scope of an injunctive remedy
14 for meeting their burden that there were false statements or material omissions
15 about the safety or benefits of E2EE. See, e.g. *TrafficSchool.com, Inc. v. Edriver*
16 *Inc.*, 653 F.3d 820, 830 (9th Cir. 2011) (finding injunctive relief of corrective
17 statements would be justified “to remedy lingering confusion caused by
18 defendants’ past deception[]”); see also *Fed. Nat’l Mortg. Ass’n v. Westland*
19 *Liberty Vill., LLC*, 138 Nev. 614, 623, 515 P.3d 329, 337 (2022) (“We caution
20 district courts to exercise care in ensuring that injunctions . . . do not exceed the
21 scope of that required to serve the injunction’s purpose.”); *Califano v. Yamasaki*,
22 442 U.S. 682, 702 (1979) (“[I]njunctive relief should be no more burdensome to
23 the defendant than necessary to provide complete relief to the plaintiffs.”).
24 Accordingly, the Court has to deny the broad scope of the injunctive relief
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1 request to the extent it seeks the Court to enjoin the use of E2EE in Nevada as a
2 default setting for Young Users.¹⁴

3
4 **III. ORDER**

5 Based on the foregoing Findings of Fact, and Conclusions of Law, **IT IS**
6 **HEREBY ORDERED, ADJUDGED, and DECREED** that the State's Motion for
7 Preliminary Injunction is **GRANTED IN PART, and DENIED IN PART, AS SET**
8 **FORTH HEREIN.**

9 **IT IS FURTHER ORDERED, ADJUDGED, and DECREED** that the State's
10 Motion For a Preliminary Injunction is **GRANTED** in that Defendant Meta
11 Platforms Inc., f/k/a Facebook, Inc., is preliminarily enjoined and restrained from
12 making false statements or omissions as to the safety of using end-to-end
13 encryption in its Messenger application, including Messenger's integration with
14 Meta's other platforms (e.g., Instagram and Facebook); for Meta's users of the
15 Messenger application who Meta knows, or has reason to know, are located
16 within the State of Nevada; and who Meta either knows, or has reason to know,
17 are under the age of 18¹⁵.
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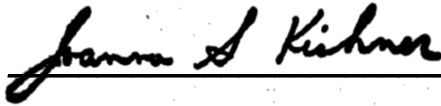
23 ¹⁴ As the State has not met its burden to show that compelling the cessation of E2EE for Young
24 Users in Nevada is an appropriate remedy for a Preliminary Injunction, based on a likelihood of
25 success on the merits of its NRS 598 claims, it would not be appropriate for the Court to analyze
26 herein whether Meta has sufficient information and the technical capability to identify which
27 Messenger accounts belong to Young Users in Nevada or the burdens it may encounter if
28 directed to cease using E2EE as a default.

¹⁵ As set forth *supra*, nothing herein precludes the State from seeking other remedies pursuant to
the NDTPA or otherwise for relief of past actions of Meta if shown that such conduct merits other
relief.

1 **IT IS FURTHER ORDERED, ADJUDGED, and DECREED** that the State's
2 Motion for a Preliminary Injunction, to the extent it sought to require Meta to
3 disable end-to-end encryption on Messenger, is **DENIED WITHOUT**
4 **PREJUDICE** for the reasons set forth herein.
5

6 **IT IS SO ORDERED.**

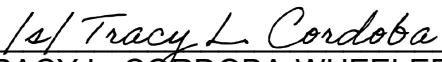
7 Dated this 9th day of July, 2026.
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16 **CERTIFICATE OF SERVICE**

17 I hereby certify that on or about the date filed, a copy of this Order was
18 served via Electronic Service to all counsel/registered parties, pursuant to the
19 Nevada Electronic Filing Rules, and/or served via in one or more of the following
20 manners: fax, U.S. mail, or a copy of this Order was placed in the attorney's file
21 located at the Regional Justice Center:
22
23

24 **ALL REGISTERED COUNSEL/PARTIES SERVED VIA E-SERVICE**
25
26
27
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TRACY L. CORDOBA-WHEELER
Judicial Executive Assistant