

[Parties and Counsel Listed on Signature Pages]

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: SOCIAL MEDIA ADOLESCENT
ADDICTION/PERSONAL INJURY PRODUCTS
LIABILITY LITIGATION

This Document Relates To:

ALL ACTIONS

MDL No. 3047

Case No. 4:22-md-03047-YGR (PHK)

**AGENDA AND JOINT STATEMENT
FOR JUNE 21, 2024, CASE
MANAGEMENT CONFERENCE**

Judge: Hon. Yvonne Gonzalez Rogers

Magistrate Judge: Hon. Peter H. Kang

Pursuant to Case Management Order (“CMO”) No. 1 (ECF 75), the Parties submit this agenda and joint statement in advance of the June 21, 2024 Case Management Conference (“CMC”).

I. Update on Pending Motions

A. Motion to Dismiss Personal Injury Plaintiffs’ Claims Against Mark Zuckerberg

On April 15, 2024, the Court issued an order granting Defendant Mark Zuckerberg’s motion to dismiss 25 Personal Injury (“PI”) Plaintiffs’ claims against him in his individual capacity, with leave to amend (ECF 518). *See* ECF 753. On April 26, 2024, pursuant to Case Management Order No. 13, ECF 780 (“CMO 13”), these 25 PI Plaintiffs filed a consolidated addendum to their complaints. *See* ECF 794. Defendant filed his motion to dismiss on May 10, 2024 (ECF 833), the PI Plaintiffs filed their opposition on May 23, 2024 (ECF 889), and Defendant filed his reply on May 30, 2024 (ECF 916).

Should the Court deem argument on this motion necessary, the Defendants and PI Plaintiffs will be prepared to argue at the June 21, 2024 hearing.

B. Motion to Dismiss Certain Non-Priority Claims of PI Plaintiffs

On December 22, 2023, Defendants moved to dismiss the PI Plaintiffs' remaining "non-priority claims" (Counts 5, 12, 14, 16–18) asserted in the PI Plaintiffs' Second Amended Master Complaint. *See* ECF 516. The PI Plaintiffs filed their opposition on February 5, 2024. *See* ECF 597. Defendants filed their reply on February 26, 2024. *See* ECF 644. Defendants and the PI Plaintiffs are prepared to argue this motion at the June 21, 2024, hearing. *See* ECF 728, CMO No. 12 at 6 (setting hearing).

C. Motion to Dismiss AG Complaints, Consumer Protection Claims, and Misrepresentation Claims

On April 19, 2024, the Court heard argument on Meta's motion to dismiss the Multistate Attorneys General ("AGs") Complaint, the Florida AG's Complaint, and the PI Plaintiffs' Consumer Protection and Misrepresentation Claims (Counts 7-9). *See* ECF 517.¹ On May 14, 2024, Meta filed supplemental authority in support of its motion to dismiss (ECF 844), and the AGs responded on May 20, 2024 (ECF 876).

Florida filed an Amended Complaint on April 29, 2024 (*see* Case 4:23-cv-05885-YGR, ECF 23) and a *Lexecon* objection on April 25, 2024 (*see* Case 4:23-cv-05885-YGR, ECF 22). Florida and Meta have stipulated to, and ask the Court to order, the following briefing schedule for Meta's motion to dismiss Florida's Amended Complaint: Motion to Dismiss due June 18, 2024; Opposition due July 10, 2024; and Reply due July 17, 2024 (*see* Case 4:23-cv-05885-YGR, ECF 29).

D. Motion to Dismiss Claims Asserted in Certain PI Plaintiffs' SFCs Against Snap

On January 12, 2024, Defendant Snap moved to dismiss claims under 18 U.S.C. §§ 2252 and 2252A (also known as the "Identified Counts") asserted in certain PI Plaintiffs' amended Short-Form Complaints pursuant to CMO No. 7 (ECF 479). *See* ECF 533. Those PI Plaintiffs filed their opposition

¹ Defendants YouTube, Snap, and TikTok joined Meta's motion to dismiss Count 7 of the PI Plaintiffs' Amended Master Complaint. *See* ECF 519. The AGs and PI Plaintiffs opposed the motions. *See* ECF 599; 600.

on February 5, 2024. ECF 598. Defendant Snap filed its reply on February 15, 2024. ECF 613. The PI Plaintiffs and Snap are prepared to argue this motion at the June 21, 2024, hearing. *See* ECF 728, CMO No. 12 at 6 (setting hearing).

E. Motion to Dismiss School District and Local Government Entity Plaintiffs' Master Complaint

On February 5, 2024, Defendants moved to dismiss the claims asserted in the School District and Local Government Entity ("SD/GE") Plaintiffs' Master Complaint (ECF 504). *See* ECF 601. The SD/GE Plaintiffs filed their opposition on March 4, 2024. *See* ECF 668. Defendants filed their reply on March 25, 2024. *See* ECF 723. Defendants and SD/GE Plaintiffs argued this motion during the May 17, 2024 CMC and the Court has taken the motion under submission. *See* ECF 883, CMO No. 14 (noting separate order will issue and stipulation with respect to Utah and Arizona law).

II. July CMC Statement

Pursuant to CMO No. 1 (ECF 75), the agenda and joint statement for the July 12, 2024 CMC is due on July 5, 2024. Given the July 4 holiday, the Parties intend to file the joint agenda and statement on or before July 3, 2024.

III. Status Report on Bellwether Selection and Request for Judicial Intercircuit Assignments

Pursuant to Case Management Order No. 14 (ECF 883), on May 24, 2024, Defendants selected replacements for the two former PI bellwether Plaintiffs who voluntarily dismissed their actions. ECF 899. Discovery is underway for all selected PI and SD bellwether cases.

Pursuant to Case Management Order No. 14 (ECF 883) and the May 21, 2024, informal conference, on May 29, 2024, Defendants filed their request that the Court seek temporary intercircuit assignments in the Eastern District of Pennsylvania, Western District of Kentucky, Northern District of Georgia, and District of Maryland to enable the Court to preside over the trials of bellwether cases that Defendants had selected in those jurisdictions where Plaintiffs asserted a *Lexecon* objection. ECF 908. The PI/SD Plaintiffs do not oppose the request.

IV. Status of Plaintiff Fact Sheets

Counsel for at least ten PI Plaintiffs have informed Defendants' counsel that they have been unable to make contact with their clients. These instances of Plaintiffs' failure or refusal to communicate with their attorneys have caused at least some of these Plaintiffs to miss the Court's Plaintiff Fact Sheet (PFS) submission deadline. In some but not all of these cases, counsel for the unresponsive Plaintiffs have indicated that they intend to move to withdraw. The Parties are discussing a protocol for handling attorney withdrawal and potential dismissal for failure to prosecute under Rule 41(b) in these circumstances. The Parties continue to meet and confer on this protocol.

V. *M.G. v. Meta Platforms, Inc., et al.* – Request for Leave to File Motion to Remand

M.G. Plaintiffs' Position:

M. G. v. Meta Platforms, Inc., et al., No. 3:23-01861 was recently transferred into this MDL by the Judicial Panel on Multidistrict Litigation. *See* Dkt. No. 752. The case involves the sexual exploitation of M.G., who was trafficked on Facebook and Instagram. The perpetrator, who is also a named defendant, is an Oregon resident and is currently in custody in Oregon. Due to Oregon's unique joint and several liability scheme, it is critical that all named defendants be in the same case. Transfer to this MDL occurred before the District of Oregon was able to hear Plaintiff's Motion to Remand. Plaintiff M.G. filed a motion to vacate the transfer, and now requests leave to file a Motion to Remand and that the Court set a briefing schedule for the same.

Plaintiff M.G. contends this case was improperly removed to federal court. Defendant Meta removed on the basis of the widely rejected fraudulent misjoinder doctrine, despite the fact that subject matter jurisdiction, which is to be determined at the time of removal, did not exist. Given the importance of the question presented, Plaintiff asks this Court for leave to file a Motion to Remand expeditiously.

Aside from *Youngers*, Plaintiff is aware of no other cases awaiting remand. That case has already been briefed and argued and now awaits decision from the Court. The same course of action is appropriate here. Setting a briefing schedule would promote efficiency and clarity for all parties involved. Plaintiff M.G. asks this Court to address remand and resolve the important threshold jurisdictional question.

Meta Defendants' Position:

Meta respectfully submits that it would be most efficient for the Court and the parties to submit briefing on any motion to remand in the *M.G.* matter only after the Court has ruled on plaintiff's motion to remand in *Youngers*, because the Court's ruling on that motion is likely to impact the parties' positions. Meta disagrees with plaintiff M.G.'s recounting of the joint and several liability "scheme" under Oregon law.

VI. Discovery Management Conference Statement

The Parties' Discovery Management Conference Statement is being filed on June 14, 2024. The Parties will supply a copy to Judge Gonzalez Rogers's chambers by email after the filing.

VII. JCCP Status Update

On May 31, 2024, Judge Kuhl held a status conference with the JCCP parties to discuss the categories for random selection of the PI bellwether discovery pool in the JCCP and, based on further analysis on fact sheet data, the parties updated Judge Kuhl with respect to the bellwether categories on June 10, 2024. The schedule for bellwether selection and discovery as outlined in the May 2024 Case Management Statement (ECF 835) remains in place.

On June 7, 2024, Judge Kuhl sustained in its entirety Defendants' demurrer to the public nuisance, negligence, and gross negligence claims of four "representative" School District plaintiffs under Florida, California, Washington, and Rhode Island law. *See* ECF 934-1 (Opinion and Order).

The JCCP's next status conference is June 27, 2024.

Respectfully submitted,

DATED: June 14, 2024

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ATTESTATION

I, Ashley M. Simonsen, hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1, that the concurrence to the filing of this document has been obtained from each signatory hereto.

Dated: June 14, 2024

By: /s/ Ashley M. Simonsen
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