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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
MEDFORD DIVISION

BRITTNEY DOFFING, individually and as
next of friend to minor plaintiff M.K.,

Plaintiff,

v.

META PLATFORMS, INC., formerly known
as FACEBOOK, INC.; and
SNAP, INC.,

Defendants.

NO. 22-CV-100

COMPLAINT FOR PERSONAL
INJURIES

JURY DEMAND

In these digital public spaces, which are privately owned and tend to be run for profit, there can be tension between what’s best for the technology company and what’s best for the individual user or for society. Business models are often built around maximizing user engagement as opposed to safeguarding users’ health and ensuring that users engage with one another in safe and healthy ways. . . . Technology companies must step up and take responsibility for creating a safe digital environment for children and youth. Today, most companies are not transparent about the impact of their products, which prevents parents and young people from making informed decisions and researchers from identifying problems and solutions.

Protecting Youth Mental Health United States Surgeon General’s Advisory
December 7, 2021

1 Plaintiff BRITTNEY DOFFING, on behalf of herself and as next of friend to her minor
2 child, M.K., brings this action against Meta Platforms, Inc., formerly known as Facebook, Inc.
3 (“Facebook”), doing business as Instagram (“Instagram”) and Snap, Inc., doing business as
4 Snapchat (“Snapchat” or “Snap”) and alleges as follows:

5 I. INTRODUCTION

6 1. This product liability action seeks to hold Defendants’ products responsible for
7 causing and contributing to burgeoning mental health crisis perpetrated upon the children and
8 teenagers in the United States by Defendants and, specifically, for personal injuries caused to
9 Plaintiff BRITTNEY DOFFING and her minor child M.K. caused by M.K.’s addictive use of
10 and exposure to Defendants’ unreasonable dangerous and defective social media products.

11 2. On December 7, 2021, the United States Surgeon General issued an advisory
12 cataloging extensive evidence showing a dramatic increase in teen mental health crises including
13 suicides, attempted suicides, and inpatient mental-health admissions. Between 2007 and 2018,
14 for example, suicide rates among youth ages twelve to sixteen in the U.S. increased a staggering
15 146 percent. Incidence of serious depression and dissatisfaction with life in this age group have
16 likewise increased dramatically.

17 3. The most significant and far-reaching change to the lives of young people during
18 this period was the widespread adoption of mobile social media platforms, prominently the
19 Instagram and Snapchat products designed and distributed by Defendants. By 2014, 80 percent
20 of high-school students said they used a social-media platform daily, and 24 percent said that
21 they were online “almost constantly,” according to a Pew Research Center report. By 2018, 45
22 percent reported being online “almost constantly” in a follow up report. Many children and
23

1 teenagers spend hours throughout the day and night using Defendants Instagram and Snapchat
2 products.

3 4. Peer reviewed studies and the available medical science have identified a
4 particular type of social media and electronic device use associated with major mental health
5 injuries, including depression, self-harm, eating disorders, suicide attempts and ideation,
6 dissatisfaction with life, depression, and sleep deprivation. Both large observational studies and
7 experimental results point to the heavy use of Defendants social media products as a cause of
8 increased depression, suicidal ideation, and sleep deprivation among teenagers, particularly
9 teenage girls.

10 5. Defendants have invested billions of dollars to intentionally design their products
11 to be addictive and encourage use that they know to be problematic and highly detrimental to
12 their users' mental health. For example, internal, non-public data collected by Instagram and
13 Snapchat reveal large numbers of its users—particularly teenage girls—are engaging in
14 problematic use of its products. Indeed, the problematic use identified in the medical literature is
15 precisely the type of use Defendants have designed their products to encourage through
16 psychological manipulation techniques—sometimes referred to as persuasive design—that is
17 well-recognized to cause all of the hallmarks of clinical addiction.

18 6. Plaintiff brings claims of strict liability based upon Defendants' defective design
19 of their social media products that renders such products not reasonably safe for ordinary
20 consumers in general and minor users in particular. It is technologically feasible to design social
21 media products that substantially decrease both the incidence and magnitude of harm to ordinary
22 consumers and minors arising from their foreseeable use of Defendants' products with a
23 negligible increase in production cost.

1 7. Plaintiff also brings claims for strict liability based on Defendants’ failure to
2 provide adequate warnings to minor users and their parents of danger of mental, physical, and
3 emotional harms arising from foreseeable use of their social media products. The addictive
4 quality of Defendants’ products and their harmful algorithms are not fully known or appreciated
5 by minor users and their parents.

6 8. Plaintiff also brings claims for common law negligence arising from Defendants’
7 unreasonably dangerous social media products and their failure to warn of such dangers.
8 Defendants knew, or in the exercise of ordinary care should have known, that their social media
9 products were harmful to a significant percentage of their minor users and failed to re-design
10 their products to ameliorate these harms or warn minor users and their parents of dangers arising
11 out of the foreseeable use of their products. In other words, Defendants intentionally created an
12 attractive nuisance to young children, but failed to provide adequate safeguards from the harmful
13 effects they knew were occurring on their wholly owned and controlled digital premises, which
14 Defendants refer to interchangeably as the “metaverse.”

15 9. Plaintiff also brings claims under Oregon law prohibiting discrimination on the
16 basis of sex by a place of public accommodation. ORS 659A.403. Defendants violated this
17 statute by targeting M.K. with harmful content, advertising, and recommendations based upon
18 her female gender.

19 10. Plaintiff also brings claims under 47 U.S.C. § 1595 based Defendants’ financial
20 benefit garnered from knowingly assisting, supporting, facilitating sexual solicitation and
21 exploitation of minor children. Defendants are aware of, and knowingly benefit, from a large
22 number of predatory users who regularly use Defendants’ platforms to solicit and groom minor
23 users into sexually compromising situations and lure them into being sexually exploited and

1 trafficked. Defendants have failed to undertake reasonable efforts to redesign their social media
2 platforms to protect their minor users against such harms.

3 **II. PARTIES**

4 11. Plaintiff BRITTNEY DOFFING is an individual residing in Ashland, Oregon and
5 the mother and custodial parent of her 15-year-old daughter M.K. Plaintiff brings this suit on
6 behalf of herself and on behalf of M.K. pursuant to Fed. R. Civ. P. 17.

7 12. Plaintiff BRITTNEY DOFFING has not entered into a User Agreement or other
8 contractual relationship with any of the Defendants herein in connection with M.K.'s use of their
9 social media products. As such, in prosecuting this action Plaintiff is not bound by any
10 arbitration, forum selection, choice of law or class action waiver set forth in said User
11 Agreements

12 13. Defendant Meta Platforms, Inc., formerly known as Facebook, Inc., is a Delaware
13 corporation with its principal place of business in Menlo Park, CA. Defendant Meta Platforms
14 owns and operates the Instagram social media platform, an application that is widely available to
15 users throughout the United States.

16 14. Defendant Snap, Inc. is a Delaware corporation with its principal place of
17 business in Santa Monica, CA. Defendant Snap owns and operates the Snapchat social media
18 platform, an application that is widely marketed by Snap and available to users throughout the
19 United States.

20 **III. JURISDICTION AND VENUE**

21 15. This Court has subject-matter jurisdiction over this case under 28 U.S.C. §
22 1332(a) because the amount in controversy exceeds \$75,000 and Plaintiff and Defendants are
23 residents of different states.

1 16. This Court has specific jurisdiction over Meta and Snap. Inc because these
2 Defendants transact business in the State of Oregon and purposefully avail themselves of the
3 benefits of transacting business in Oregon with Oregon residents; Plaintiff's claims set forth
4 herein arise out of and relate to Defendant's activities in the State of Oregon and purposeful
5 availment of the benefits of transacting business in Oregon with Oregon residents and exercise
6 of personal jurisdiction by this Court comports with traditional notions of fair play and
7 substantial justice.

8 17. Venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial
9 part of the events or omissions giving rise to Plaintiff's claims occurred in this District.

10 IV. FACTUAL ALLEGATIONS

11 A. Instagram Background

12 18. Instagram is a photo sharing social media application that originally enabled users
13 to post and share photos that could be seen by other users who "follow" the user. A user's
14 followers could "like" and post comments on the photos. Instagram was purchased by Facebook,
15 Inc. for approximately \$1B in 2012.

16 19. A user's "feed" is comprised of a series of photos and videos posted by accounts
17 that the user follows, along with advertising and content specifically selected and promoted by
18 Instagram.

19 20. Instagram also features a "discover" feature where a user is shown an endless feed
20 of content that is selected by an algorithm designed by Instagram based upon the users'
21 demographics and prior activity in the application.

22 21. Users' profiles on Instagram may be public or private. On public profiles, any
23 user is able to view the photos, videos, and other content posted by the user. On private profiles,

1 the users' content may only be viewed by the user's followers, which the user is able to approve.
2 During the relevant period, Instagram profiles were public by default and Instagram allowed all
3 users to message and send follow request to underage users, including Plaintiff M.K.

4 22. During the last five years, Instagram has added features designed to increase the
5 time spent by users on their platforms and promoted the use of short videos and temporary posts.
6 The latter are referred to as "Reels" while the former are referred to as Instagram "Stories."

7 23. Instagram notifies users through text and email of activity in which they might be
8 interested, which is designed to and does prompt users to open Instagram and be exposed to
9 content selected by Instagram to maximize the length of time and amount of content viewed by
10 the user.

11 24. Over time, Instagram has become the most popular photo sharing social media
12 platform amongst teenagers and young adults in the United States with over 57 million users
13 below the age of eighteen, meaning that 72 percent of America's youth use Instagram.

14 **B. Snapchat Background**

15 25. Snapchat is a photo and short video sharing social media application that allows
16 users to form groups and share posts or "Snaps" that disappear after being viewed by the
17 recipients. Snapchat also features a series of rewards including trophies, streaks, and other
18 signals of social recognition similar to the "likes" metrics available across other platforms.
19 These features are designed to encourage users to share their videos and posts with the public.
20 Users also have an explore feed that displays content created by other users around the world.

21 26. Snapchat was founded in 2011 by current president and CEO Evan Spiegel and
22 several co-founders from Stanford University.
23

1 27. In 2014, Snapchat added “Stories” and “Chat” features that allowed users to post
2 longer stories that could be viewed by users outside the user’s friends. In 2014, Snapchat also
3 released a feature called Snapcash that allowed users to send money to other users.

4 28. Snapchat also allows users to enable the sharing of their location, which allows
5 the users followers (and the public for Snaps submitted by the users) to see the user’s location on
6 a map.

7 29. By 2015, Snapchat had over 75 million monthly active users and is considered to
8 be the most popular social media application amongst American teenagers in terms of number of
9 users and time spent using the platform.

10 **C. Defendants’ Applications Are Products**

11 30. Both Instagram and Snapchat are products that are designed and manufactured by
12 Meta and Snap, respectively. These products are designed to be used by children and are
13 marketed to children across the United States. Further, Defendants are aware that large numbers
14 of children under the age of 13 use their products despite user terms or “community standards”
15 that purport to restrict use to individuals who are 13 and older.

16 **D. Defendants’ Business Model is Based on Maximizing User Screen Time**

17 31. Defendants do not charge their users for downloading or using their application
18 products, but instead receive money from advertisers who pay a premium to target
19 advertisements to specific demographic groups of users in the applications.

20 32. As such, Defendants generate revenue based upon the total time spent on the
21 application, which directly correlates with the number of advertisements that can be shown to
22 each user.

1 33. Snapchat utilizes unknown and changing rewards that are designed to prompt
2 users to use Snapchat in excessive and dangerous ways. Snap knows or should know that its
3 design has created extreme and addictive behaviors by its largely teenage and young-adult users.
4 Indeed, Snap knowingly or purposefully designed its products to encourage such behaviors.

5 34. All the achievements and trophies in Snapchat are unknown to users and users do
6 not find out about the criteria for specific achievements until they obtain or unlock them. This
7 design conforms to well-established principles of operant conditioning wherein intermittent
8 reinforcement provides the most reliable tool to maintain a desired behavior over time.

9 35. This design is akin to a slot machine but marketed toward teenage users who are
10 even more susceptible than gambling addicts to the variable reward and reminder system
11 designed by Snap. The system is designed to reward increasingly extreme behavior because users
12 are not actually aware of what actions will unlock the next award.

13 36. Instagram, like Snapchat, is designed around a series of design features that do
14 not add to the communication and communication utility of the application, but instead seek to
15 exploit users' susceptibility to persuasive design and unlimited accumulation of unpredictable
16 and uncertain rewards, including "likes" and "followers." In the hands of children, this design is
17 unreasonably dangerous to the mental well-being of underage user's developing minds.

18 37. Internal Meta documents identify the potential of reduction in usage by their
19 minor users as an "existential threat" to their business and spend billions of dollars per year
20 marketing their products to minors.

21 **E. Defendants Have Designed Complex Algorithms to Addict Teen Users.**

22 38. Defendants have intentionally designed their products to maximize users 'screen
23 time, using complex algorithms designed to exploit human psychology and driven by the most

1 advanced computer algorithms and artificial intelligence available to two of the largest
2 technology companies in the world.

3 39. Defendants designed and have progressively modified their products to promote
4 problematic and excessive use that they know is indicative of addictive and self-destructive use.

5 40. One of these features—present in both Snapchat and Instagram—is the use of
6 complex algorithms to select and promote content that is provided to users in an unlimited and
7 never ending “feed.” Defendants are well-aware that algorithm-controlled feeds promote
8 unlimited “scrolling”—a type of use those studies have identified as detrimental to users’ mental
9 health – however, this type of use allows Defendants to display more advertisements and obtain
10 more revenue from each individual user.

11 41. The addictive nature of Defendants products and the complex and psychologically
12 manipulative design of their algorithms is unknown to ordinary users.

13 42. Defendants have knowingly limited Parents ability to monitor and prevent
14 problematic use by their children.

15 **F. Minor Users’ Incomplete Brain Development Renders Them Particularly**
16 **Susceptible to Manipulative Algorithms with Diminished Capacity to Eschew Self-**
17 **Destructive Behaviors and Less Resiliency to Overcome Negative Social Media**
18 **Influences**

19 43. Emerging research shows that the human brain is still developing during
20 adolescence in ways consistent with adolescents demonstrated psychosocial immaturity.
21 Specifically, adolescents’ brains are not yet fully developed in regions related to risk evaluation,
22 emotional regulation, and impulse control.

23 44. The frontal lobes—and in particular the prefrontal cortex—of the brain play an
essential part in higher-order cognitive functions, impulse control and executive decision-
making. These regions of the brain are central to the process of planning and decision-making,

1 including the evaluation of future consequences and the weighing of risk and reward. They are
2 also essential to the ability to control emotions and inhibit impulses. MRI studies have shown
3 that the prefrontal cortex is one of the last regions of the brain to mature.

4 45. During childhood and adolescence, the brain is maturing in at least two major
5 ways. First, the brain undergoes myelination, the process through which the neural pathways
6 connecting different parts of the brain become insulated with white fatty tissue called myelin.
7 Second, during childhood and adolescence, the brain is undergoing “pruning”—the paring away
8 of unused synapses, leading to more efficient neural connections. Through myelination and
9 pruning, the brain’s frontal lobes change to help the brain work faster and more efficiently,
10 improving the “executive” functions of the frontal lobes, including impulse control and risk
11 evaluation. This shift in the brain’s composition continues throughout adolescence and continues
12 into young adulthood.

13 46. In late adolescence, important aspects of brain maturation remain incomplete,
14 particularly those involving the brain’s executive functions and the coordinated activity of
15 regions involved in emotion and cognition. As such, the part of the brain that is critical for
16 control of impulses and emotions and mature, considered decision-making is still developing
17 during adolescence, consistent with the demonstrated behavioral and psychosocial immaturity of
18 juveniles.

19 47. The algorithms in Defendants’ social media products exploit minor users
20 diminished decision-making capacity, impulse control, emotional maturity, and psychological
21 resiliency caused by users’ incomplete brain development. Defendants know, or in the exercise
22 of reasonable care should know, that because their minor users’ frontal lobes are not fully
23 developed, such users are much more likely to sustain serious physical and psychological harm

1 through their social media use than adult users. Nevertheless, Defendants have failed to design
2 their products with any protections to account for and ameliorate the psychosocial immaturity of
3 their minor users.

4 **G. Defendants Misrepresent the Addictive Design and Effects of Nature of Instagram
and Snapchat.**

5 48. During the relevant time period, Defendants stated in public comments that their
6 products are not addictive. Defendants knew or should have known that those statements were
7 untrue.

8 49. Neither Instagram or Snapchat warned users or their parents of the addictive and
9 mentally harmful effects that the use of their products was known cause amongst minor users,
10 like Plaintiff M.K.

11 **H. Plaintiff Expressly Disclaims Any and All Claims Seeking to Hold Defendants
12 Liable as the Publisher or Speaker of Any Content Provided, Posted or Created by
Third Parties**

13 50. Plaintiff seeks to hold Defendants accountable for their own alleged acts and
14 omissions. Plaintiff's claims arise from Defendants' status as the designer and marketer of
15 dangerously defective social media products, not as the speaker or publisher of third-party
16 content.

17 51. Plaintiff alleges that Defendants failed to warn minor users and their parents of
18 known dangers arising from anticipated use of their social media platforms. None of Plaintiff's
19 claims rely on treating Defendants as the publisher or speaker of any third party's words.
20 Plaintiff's claims seek to hold Defendants accountable for their own allegedly wrongful acts and
21 omissions, not for the speech of others or for Defendants good faith attempts to restrict access to
22 objectionable content.
23

1 52. Plaintiff is not alleging that Defendants are liable for what the third parties said,
 2 but for what Defendants did or did not do.

3 53. None of Plaintiff’s Claims for Relief set forth herein require treating Defendants
 4 as a speaker or publisher of content posted by third parties. Rather, Plaintiff seeks to hold
 5 Defendants liable for their own speech and their own silence in failing to warn of foreseeable
 6 dangers arising from anticipate use of their products. Defendants could manifestly fulfill their
 7 legal duty to design reasonably safe social products and furnish adequate warnings of foreseeable
 8 dangers arising out of the use of their products without altering, deleting, or modifying the
 9 content of a *single* third-party post or communication.

10 **V. PLAINTIFF-SPECIFIC ALLEGATIONS**

11 54. Plaintiff M.K. is a 15-year-old girl who is a heavy user of Instagram and
 12 Snapchat.

13 55. Plaintiff BRITTNEY DOFFING, worried about the potentially harmful effects of
 14 social media, specifically prohibited M.K. from using social media until M.K.’s 14th birthday.

15 56. BRITTNEY DOFFING was unaware of the clinically addictive and mentally
 16 harmful effects of Instagram and Snapchat.

17 57. Shortly upon receiving a smart phone for her 14th birthday in March 2020, M.K.
 18 began engaging in addictive and problematic use of Instagram and Snapchat. Prior to March
 19 2020, M.K. used a phone that did not have the ability to download social media applications,
 20 although she was able to use text messages and make calls.

21 58. Prior to March 2020, M.K. was attending school and passing her classes. Within
 22 two weeks of her opening Instagram and Snapchat accounts, M.K. displayed little interest in any
 23

1 activity other than viewing and posting on the Instagram and Snapchat applications. Her
2 academic performance showed a marked decrease due to her obsessive social media use.

3 59. Prompted by the addictive design of Defendants' products and the constant
4 notifications that Defendants' applications pushed to M.K.'s phone 24 hours a day, M.K. began
5 getting less and less sleep.

6 60. As a proximate result of her addiction to Instagram and Snapchat, M.K. has been
7 hospitalized twice for psychiatric episodes triggered by Doffing's attempts to take away or
8 restrict M.K.'s usage of Instagram and Snapchat.

9 61. As a proximate result of her use of Instagram and Snapchat, and specifically due
10 to recommendations and content Defendants selected and showed to M.K., a minor user of
11 Instagram and Snapchat, M.K. subsequently developed an eating disorder and engaged in
12 periodic crash diets followed by binge eating.

13 62. Through her use of Instagram and Snapchat, M.K. has been messaged and
14 solicited for sexual exploitive content and acts on numerous occasions by male users of
15 Instagram and Snapchat, who are encouraged to use these platforms to sexually solicit and abuse
16 minors due to Defendants' refusal to verify identity and age for new users.

17 63. BRITTNEY DOFFING has recorded and reported these improper sexual
18 solicitations to law enforcement on multiple occasions.

19 64. Due to M.K.'s addiction to Instagram and Snapchat, she has run away from home
20 on multiple occasions in order to gain access to and use her multiple Snapchat and Instagram
21 accounts.

22 65. Defendants have designed Instagram and Snapchat, including through the use of
23 disappearing or time-limited messaging features, to frustrate and prevent parents like

1 BRITTNEY DOFFING from exercising their rights and duties as parents to monitor and limit
2 their children's use of Instagram and Snapchat.

3 66. Defendants have designed Instagram and Snapchat to allow minor users to use,
4 become addicted to, and abuse their products without the consent of the users' parents, like
5 BRITTNEY DOFFING.

6 67. Defendants have specifically designed Instagram and Snapchat to be attractive
7 nuisances to underage users but failed to exercise ordinary care owed to underage business
8 invitees to prevent the rampant solicitation of underage girls by anonymous older users who do
9 not disclose their real identities, and mass message underage users with the goal of grooming and
10 sexually exploiting minors.

11 68. Defendants not only failed to warn M.K. and BRITTNEY DOFFING of the
12 dangers of addiction, sleep deprivation, and problematic use of their applications, but
13 misrepresented the safety, utility, and non-addictive properties of their products. For example,
14 the head of Instagram testified under oath at a December 8, 2021 Senate Committee hearing that
15 Instagram does not addict its users.

16 69. As a result of M.K.'s extensive and problematic use of Instagram and Snapchat,
17 she developed numerous mental health conditions including multiple inpatient psychiatric
18 admissions, an eating disorder, self-harm, and physically and mentally abusive behaviors toward
19 her mother and siblings.

20 **VI. PLAINTIFF'S CLAIMS**

21 **COUNT I - STRICT PRODUCT LIABILITY (Design Defect)**

22 70. Plaintiff realleges each and every allegation contained in paragraphs 1 through 69
23 as if fully stated herein.

1 71. Under Restatement (Second) of Torts § 402(a), one who sells any product in a
2 defective condition unreasonably dangerous to the user is subject to liability for physical harm
3 thereby caused to the user if (a) the seller is engaged in the business of selling such a product,
4 and (b) it is expected to and does reach the user or consumer without substantial change in the
5 condition which it was sold.

6 72. Defendants designed, manufactured, marketed, and sold products that were
7 unreasonably dangerous because they were designed to be addictive and detrimental to mental
8 health of children to whom the Defendants knowingly marketed their products.

9 73. Defendants' products were unreasonably dangerous because they contained
10 numerous design characteristics that were not necessary for the utility provided to the user but
11 were unreasonably dangerous and implemented by Defendants solely to increase the profits they
12 derived from each additional user.

13 **A. Inadequate Safeguards From Harmful and Exploitative Content**

14 74. As designed, Snapchat, Instagram and Facebook algorithms are not reasonably
15 safe because they affirmatively direct minor users to harmful and exploitative content while
16 failing to deploy feasible safeguards to protect vulnerable teens from such harmful exposures. It
17 is feasible to design an algorithm that substantially distinguishes between harmful and innocuous
18 content and protects minor users from being exposed to harmful content without altering,
19 modifying, or deleting any third-party content posted on Defendants' social media products. The
20 cost of designing Defendants' algorithms to incorporate this safeguard would be negligible while
21 benefit would be high in terms of reducing the quantum of mental and physical harm sustained
22 by minor users and their families.

23

1 75. Reasonable users (and their parents) would not expect that Defendants' products
2 would direct them to harmful content.

3 **B. Failure to Verify Minor Users' Age and Identity**

4 76. As designed, Defendants' products are not reasonably safe because they do not
5 provide for adequate age verification by requiring users to document and verify their age and
6 identity.

7 77. Adults frequently set up user accounts on Defendants' social media products
8 posing as minors to groom unsuspecting minors to exchange sexually explicit content and
9 images, which frequently progresses to sexual exploitation and trafficking.

10 78. Minor users of social media and their parents do not reasonably expect that
11 prurient adults set up fraudulent accounts on Defendants' social media products and pose as
12 minors for malign purposes.

13 79. Reasonably accurate age and identify verification is not only feasible but widely
14 deployed by on-line retailers and internet service providers.

15 80. The cost of incorporating age and identify verification into Defendants' products
16 would be negligible whereas the benefit of age and identity verification would be a substantial
17 reduction in severe mental health harms, sexual exploitation, and abuse among minor users of
18 Defendants' products.

19 **C. Inadequate Parental Control and Monitoring**

20 81. Defendants' products are also defective for lack of parental controls, permission,
21 and monitoring capability available on many other devices and applications.

1 **D. Intentional Direction of Minor Users to Harmful and Exploitative Content**

2 82. Default “recommendations” communicated to new teenage users, including
3 plaintiff, purposefully steered Plaintiff toward content Defendants knew to be harmful to
4 children of his age and gender.

5 **E. Inadequate Protection of Minors from Sexual Exploitation and Abuse**

6 83. Defendants’ products are not reasonably safe because they do not protect minor
7 users from sexually explicit content and images or report sex offenders to law enforcement or
8 allow users’ parents to readily report abusive users to law enforcement.

9 84. Parents do not expect their children will use Defendants’ products to exchange
10 sexually explicit content and images and minor users do not expect that prurient adults pose as
11 minors for malign purposes or that exchange of such content will be deleterious to their personal
12 safety and emotional health.

13 85. Minor users of Defendants’ products lack the cognitive ability and life experience
14 to identify on-line grooming behaviors by prurient adults and psychosocial maturity to decline
15 invitations to exchange salacious material.

16 86. Defendants’ products are unreasonably dangerous and defective as designed
17 because they allow minor children to use “public” profiles, in many cases default “public”
18 profiles, that can be mass messaged by anonymous and semi-anonymous adult users for the
19 purposes of sexual exploitation, and grooming, including the sending of encrypted, disappearing
20 messages and cash rewards through Defendants’ integrated design features.

21 **F. Design of Addictive Social Media Products**

22 87. As designed, Defendants’ social media products are addictive to minor users as
23 follows: When minors use design features such as “likes” it cause their brains release dopamine

1 which creates short term euphoria. However, as soon as dopamine is released, minor users'
2 brains adapt by reducing or "downregulating" the number of dopamine receptors that are
3 stimulated and their euphoria is countered by dejection. In normal stimulatory environments, this
4 dejection abates, and neutrality is restored. However, Defendants' algorithms are designed to
5 exploit users' natural tendency to counteract dejection by going back to the source of pleasure
6 for another dose of euphoria. As this pattern continues over a period of months and the
7 neurological base line to trigger minor users' dopamine responses increases, they continue to use
8 Instagram, not for enjoyment, but simply to feel normal. Once they stop using Instagram, minor
9 users experience the universal symptoms of withdrawal from any addictive substance including
10 anxiety, irritability, insomnia, and craving.

11 88. Addictive use of social media by minors is psychologically and neurologically
12 analogous to addiction to internet gaming disorder as described in the American Psychiatric
13 Association's 2013 *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)*, which is
14 used by mental health professionals to diagnose mental disorders. Gaming addiction is a
15 recognized mental health disorder by the World Health Organization and International
16 Classification of Diseases and is functionally and psychologically equivalent to social media
17 addition.

18 89. The diagnostic symptoms of social media addiction among minors are the same as
19 the symptoms of addictive gaming promulgated in DSM 5 and include:

20 90. Preoccupation with social media and withdrawal symptoms (sadness, anxiety,
21 irritability) when device is taken away or not possible (sadness, anxiety, irritability).

22 91. Tolerance, the need to spend more time using social media to satisfy the urge.

23 92. Inability to reduce social media usages, unsuccessful attempts to quit gaming.

1 93. Giving up other activities, loss of interest in previously enjoyed activities due to
2 social media usage.

3 94. Continuing to use social media despite problems.

4 95. Deceiving family members or others about the amount of time spent on social
5 media.

6 96. The use of social media to relieve negative moods, such as guilt or hopelessness;
7 and

8 97. Jeopardized school or work performance or relationships due to social media
9 usage.

10 98. Defendants' advertising profits are directly tied to the amount of time that its
11 users spend online, and their algorithms are designed to maximize the time users spend using the
12 product by directing them to content that is progressively more and more stimulative.
13 Defendants enhance advertising revenue by maximizing users' time online through a product
14 design that addicts them to the platform. However, reasonable minor users and their parents do
15 not expect that on-line social media platforms are psychologically and neurologically addictive.

16 99. It is feasible to make Defendants' products to report the frequency and duration of
17 their minor users' screen time to their parents without disclosing the content of communications
18 at negligible cost. This would enable parents to track the frequency, time and duration of their
19 minor child's social media, identify and address problems arising from such use, and better
20 exercise their parental rights and responsibilities to limit the types of use that Defendants' own
21 internal research identifies as problematic to users' health and well-being.

1 **G. Inadequate Notification of Parents of Dangerous and Problematic Social Media**
2 **Usage by Minor Users**

3 100. Defendants' products are not reasonably safe as designed because they do not
4 include any safeguards to notify users and their parents of usage that Defendants know to be
5 problematic and likely to cause negative mental health effects to users, including excessive
6 passive use and use disruptive of normal sleep patterns. This design is defective and
7 unreasonable because:

8 101. It is reasonable for parents to expect that social media products that actively
9 promote their platforms to minors will undertake reasonable efforts to notify parents when their
10 child's use becomes excessive or occurs during sleep time. It is feasible for Defendants to
11 design products that identify a significant percentage of its minor users who are using the
12 product more than three hours per day or using it during sleeping hours at negligible cost.

13 102. Defendants' products are not reasonably safe as designed because, despite
14 numerous reported instances of child sexual solicitation and exploitation by adult users,
15 Defendants have not undertaken reasonable design changes to protect underage users from this
16 abuse, including notifying parents of underage users when they have been messaged or solicited
17 by an adult user or when a user has sent inappropriate content to minor users. Defendants' entire
18 business is premised upon collecting and analyzing user data and it is feasible to use Defendants'
19 data and algorithms to identify and restrict improper sexual solicitation, exploitation and abuse
20 by adult users; and

21 103. It is reasonable for parents to expect that platforms such as Instagram, which
22 actively promote their services to minors, will undertake reasonable efforts to identify users
23 suffering from mental injury, self-harm, or sexual abuse and implement technological safeguards
to notify parents by text, email, or other reasonable means that their child is in danger.

1 104. As a result of these dangerous and defective design attributes of Defendants’
2 products, Plaintiff M.K. suffered severe mental harm, leading to physical injury, from her use of
3 Instagram and Snapchat.

4 105. As a result of these dangerous and defective design attributes of Defendants’
5 products, Plaintiff M.K. has suffered and continues to suffer serious damages in the form of
6 emotional distress, diagnosed mental health conditions, medical expenses, loss of income and
7 earning capacity, pain and suffering, and reputational harm.

8 106. As a result of these dangerous and defective design attributes of Defendants’
9 products, Plaintiff Doffing has suffered loss of consortium, emotional distress, past and future
10 medical expenses, and pain and suffering.

11 107. Defendants are further liable to Plaintiff for punitive damages based upon the
12 willful and wanton design of their products that were intentionally marketed and sold to
13 underage users, whom they knew would be seriously harmed through their use of Instagram and
14 Snapchat.

15 **COUNT II – STRICT PRODUCT LIABILITY (Failure to Warn)**

16 108. Plaintiff realleges each and every allegation contained in paragraphs 1 through 99
17 as if fully stated herein.

18 109. Defendants’ social media products rely on highly complex and proprietary
19 algorithms that are both undisclosed and unfathomable to ordinary consumers who do not expect
20 that social media platforms are physically and/or psychologically addictive.

21 110. The magnitude of harm from addiction to Defendants’ products is horrific ranging
22 from simple diversion from academic, athletic, and face-to-face socialization to sleep loss, severe
23 depression, anxiety, self-harm, and suicide.

1 111. The harms resulting from minors’ addictive use of social media platforms have
2 been not only well- documented in the professional and scientific literature, but Meta had actual
3 knowledge of such harms. On information and belief, Snap also has conducted internal studies
4 documenting the addictive quality and harmful effects of its social media products on minor
5 users.

6 112. Defendants’ products are unreasonably dangerous because they lack any warnings
7 that foreseeable product use can disrupt healthy sleep patterns or specific warnings to parents
8 when their child’s product usage exceeds healthy levels or occurs during sleep hours. Excessive
9 screen time is harmful adolescents’ mental health and sleep patterns and emotional well-being.
10 Reasonable and responsible parents are not able to accurately monitor their child’s screen time
11 because most adolescents own or can obtain access to mobile devices and engage in social media
12 use outside their parents’ presence.

13 113. It is feasible for Defendants’ products to report the frequency and duration of their
14 minor users’ screen time to their parents without disclosing the content of communications at
15 negligible cost, which would enhance parents’ ability to track the frequency, time and duration of
16 their minor child’s social media use and allow them to identify and address problems arising
17 from such use and to better exercise their rights and responsibilities as parents.

18 114. Defendants knew about these harms, knew that users and parents would not be
19 able to safely use their products without warnings, and failed to provide warnings that were
20 adequate to make the products reasonably safe during ordinary and foreseeable use by children.

21 115. As a result of Defendants’ failure to warn, Plaintiff M.K. suffered severe mental
22 harm, leading to physical injury, from her use of Instagram and Snapchat.
23

1 116. As a result of Defendants' failure to warn, Plaintiff M.K. has suffered and
2 continues to suffer serious damages in the form of emotional distress, diagnosed mental health
3 conditions, medical expenses, loss of income and earning capacity, pain and suffering, and
4 reputational harm.

5 117. As a result of Defendants' failure to warn, Plaintiff Doffing has suffered loss of
6 consortium, emotional distress, past and future medical expenses, and pain and suffering.

7 118. Defendants are further liable to Plaintiff for punitive damages based upon their
8 willful and wanton failure to warn of known dangers of their products that were intentionally
9 marketed and sold to teenage users, whom they knew would be seriously harmed through their
10 use of Instagram and Snapchat.

11 **COUNT III – NEGLIGENCE (Common Law)**

12 119. Plaintiff realleges each and every allegation contained in paragraphs 1 through
13 110 as if fully stated herein.

14 120. At all relevant times, Defendants had a duty to exercise reasonable care and
15 caution for the safety of individuals using their products, such as Plaintiff M.K.

16 121. Defendants owe a heightened duty of care to minor users of their social media
17 products because adolescents' brains are not fully developed, which results in a diminished
18 capacity to make good decisions regarding their social media usages, eschew self-destructive
19 behaviors, and overcome emotional and psychological harm from negative and destructive social
20 media encounters. Defendants intentionally designed and marketed their social media platforms
21 to be both attractive and harmful to underage users, sometimes referred to an "attractive
22 nuisance." Rather than take reasonable precautions to prevent children from harmful and
23

1 problematic behaviors, Defendant intentionally designed its platforms to attract and addict
2 vulnerable child users.

3 122. As California product manufacturers marketing and selling products to residents
4 of Oregon, Defendants owed a duty to exercise ordinary care in the manufacture, marketing, and
5 sale of their products, including a duty to warn minor users and their parents of hazards that
6 Defendants knew to be present, but not obvious, to underage users and their parents.

7 123. As business owners, Defendants owe their users who visit Defendants' social
8 media platform and from whom Defendants derive billions of dollars per year in advertising
9 revenue a duty of ordinary care substantially similar to that owed by physical business owners to
10 their business invitees. Defendant Meta has acknowledged that it considers itself to be a digital
11 premises owner by changing its name to Meta, in reference to the "metaverse," and likening its
12 platforms to physical places where it intends for its users to visit for Meta's financial gain.

13 124. Defendants were negligent, grossly negligent, reckless and/or careless in that they
14 failed to exercise ordinary care and caution for the safety of underage users, like M.K., using
15 their Instagram and Snapchat products.

16 125. Defendants were negligent in failing to conduct adequate testing and failing to
17 allow independent academic researchers to adequately study the effects of their products and
18 levels of problematic use amongst teenage users. Defendants' have extensive internal research
19 indicating that their products are harmful, cause extensive mental harm and that minor users are
20 engaging in problematic and addictive use that their parents are helpless to monitor and prevent.

21 126. Defendants were negligent in failing to provide adequate warnings about the
22 dangers associated with the use of social media products and in failing to advise users and their
23 parents about how and when to safely use their social media platforms and features.

1 127. Defendants were negligent in failing to fully assess, investigate, and restrict the
2 use of Instagram and Snapchat by adults to sexually solicit, abuse, manipulate, and exploit minor
3 users of their Instagram and Snapchat products.

4 128. Defendants were negligent in failing to provide users and parents the tools to
5 ensure their social media products were used in a limited and safe manner by underage users.

6 129. Defendants were negligent as digital premises owners who knew or should have
7 known that (1) underage users would be attracted to visit their Instagram and Snapchat websites
8 and mobile platforms, (2) underage users were at heightened risk of harm from content, features,
9 and actions by third-arty users that existed on Instagram and Snapchat, (3) Defendants created
10 and/or maintained the dangerous features or conditions that posed a risk to children, and (4)
11 Defendants failed to take reasonable precautions to prevent children from accessing their digital
12 premises, remediate the unsafe conditions, and/or adequately warn minor users and their parents
13 about the dangerous conditions they knew or should have known existed on Instagram and
14 Snapchat.

15 130. As a result of Defendants' negligence, Plaintiff M.K. suffered severe mental
16 harm, leading to physical injury, from her use of and exposure to Instagram and Snapchat.

17 131. As a result of Defendants' negligence, Plaintiff M.K. has suffered and continues
18 to suffer serious damages in the form of emotional distress, diagnosed mental health conditions,
19 medical expenses, loss of income and earning capacity, pain and suffering, and reputational
20 harm.

21 132. As a result of Defendants' negligence, Brittney Doffing has suffered loss of
22 consortium, emotional distress, past and future medical expenses, and pain and suffering.
23

1 133. Defendants are further liable to Plaintiff for punitive damages based upon their
2 willful and wanton conduct toward M.K. and other underage users whom they knew would be
3 seriously harmed through the use of Instagram and Snapchat.

4 **VII. COUNT IV – SEXUAL DISCRIMINATION BY A PLACE OF PUBLIC**
5 **ACOMMODATION (ORS 659A.403) (as to M.K. only)**

6 134. Plaintiff realleges each and every allegation contained in paragraphs 1 through
7 125 as if fully stated herein.

8 135. Defendants Instagram and Snapchat social media platforms are places of public
9 accommodation under Oregon law, ORS 659A.400.

10 136. Defendants engaged in sexual discrimination toward users, including Plaintiff
11 M.K., by using her gender (which Instagram and Snapchat request upon the creation of an
12 account) to direct recommendations of accounts to follow and different and materially harmful
13 content to female users, including content promoting unhealthy dieting, fitness, and other content
14 proven to cause body dysmorphia, eating disorders, depression, and anxiety amongst teenage
15 users.

16 137. Plaintiff subjectively perceived discrimination to M.K. in the nature and type of
17 services provided by Defendants' platform to M.K. due to her female gender.

18 138. Defendants intentionally designed and implemented their Instagram and Snapchat
19 services in way that resulted in distinction, discrimination, or restriction toward M.K. and other
20 teenage female users on account or their sex and/or gender.

21 139. Based upon M.K.'s female gender and appearance, Defendants further selected
22 and provided posts, videos, and pictures to adult male users who, through their prior activity on
23 the platforms, were directed toward content posed by underage female users. As a result of
Defendants' discriminatory treatment and usage of M.K.'s minor female-related content (in order

1 to profit by driving user engagement and views at any cost), multiple adult male users
2 improperly and illegally messaged and solicited M.K. for the purposes of sexual abuse,
3 exploitation, and sexually explicit material involving a minor child. In orders words, Defendants
4 knowingly operated a matching service that profited from matching underage teenage users with
5 adult sexual predators.

6 140. As a result of Defendants' sexual discrimination, Plaintiff M.K. suffered severe
7 mental harm, leading to physical injury, from her use of and exposure to Instagram and
8 Snapchat.

9 141. As a result of Defendants' sexual discrimination, Plaintiff M.K. has suffered and
10 continues to suffer serious damages in the form of emotional distress, diagnosed mental health
11 conditions, medical expenses, loss of income and earning capacity, pain and suffering, and
12 reputational harm.

13 142. Pursuant to ORS 659A.885(8), Plaintiff M.K. is entitled to full compensatory and
14 punitive damages against Defendants as a result of their intentional and unlawful sexual
15 discrimination. Defendants are further jointly and severally liable for punitive damages and
16 attorneys' fees and costs based upon their knowing, intentional, willful, and wanton gender-
17 based discrimination toward M.K. and other teenage users whom they knew would be seriously
18 harmed through unlawful sexual discrimination on Instagram and Snapchat.

19 **VIII. COUNT V – VIOLATION OF 47 U.S.C. § 1595**

20 143. Plaintiff realleges each and every allegation contained in paragraphs 1 through
21 134 as if fully stated herein.

1 144. Plaintiff also bring claims under 47 U.S.C. § 1595 based Defendants' financial
2 benefit garnered from knowingly assisting, supporting, facilitating sexual solicitation and
3 exploitation of minor children.

4 145. Defendants are aware of, and knowingly benefit, from a large number of
5 predatory users who regularly use Defendants' platforms to solicit and groom minor users into
6 sexually compromising situations and lure them into being sexually exploited and trafficked.

7 146. Defendants have failed to undertake reasonable efforts to redesign their social
8 media platforms to protect their minor users against such harms.

9 147. As a result of Defendants' violations of 47 U.S.C. § 1595, Plaintiff M.K. suffered
10 severe mental harm, leading to physical injury, from sexual exploitation and solicitation directed
11 toward her through Instagram and Snapchat.

12 148. As a result of Defendants' violations of 47 U.S.C. § 1595, Plaintiff M.K. has
13 suffered and continues to suffer serious damages in the form of emotional distress, diagnosed
14 mental health conditions, medical expenses, loss of income and earning capacity, pain and
15 suffering, and reputational harm.

16 149. As a result of Defendants' violations of 47 U.S.C. § 1595, Brittney Doffing has
17 suffered loss of consortium, emotional distress, past and future medical expenses, and pain and
18 suffering.

19 150. As a result of Defendants' violations of 47 U.S.C. § 1595, Plaintiff is entitled to
20 full compensatory and punitive damages against Defendants for the mental and physical injuries
21 suffered by M.K. and Doffing. Defendants are further jointly and severally liable to Plaintiff for
22 punitive damages and attorneys' fees and costs based upon their knowing, intentional, willful,
23 and wanton conduct toward M.K. and other teenage users whom they knew were being seriously

1 harmed through improper solicitation and exploitation of a sexual nature through Instagram and
2 Snapchat.

3 **DEMAND FOR JURY TRIAL**

4 Plaintiff hereby demands a trial by jury.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff prays for judgment against Defendant for monetary damages
7 and/or injunctive relief for the following harm:

- 8 1. Past physical and mental pain and suffering of M.K., in an amount to be more readily
9 ascertained at the time and place set for trial;
- 10 2. Loss of enjoyment of life, in an amount to be more readily ascertained at the time and
11 place set for trial;
- 12 3. Past and future medical care expenses for the care and treatment of the injuries
13 sustained by M.K., in an amount to be more readily ascertained at the time and place
14 set for trial.
- 15 4. Past and future impairment to capacity to perform everyday activities;
- 16 5. Plaintiff's pecuniary loss and loss of M.K.'s services, comfort, care, society and
17 companionship to Doffing;
- 18 6. Loss of future income and earning capacity of M.K.;
- 19 7. Punitive damages;
- 20 8. For injunctive relief ordering Defendants to remedy the unreasonably dangerous
21 algorithms in their social media products and provide warnings to minor users and
22 their parents that Defendants 'social media products are addictive and pose a clear
23 and present danger to unsuspecting minors.

1 9. For the reasonable costs and attorney and expert/consultant fees incurred in
2 prosecuting this action; and

3 10. For such other and further relief as this Court deems just and equitable.
4

5 DATED this 20th day of January 2022
6

7 SOCIAL MEDIA VICTIMS LAW CENTER PLLC

8 /s/ Matthew Bermgan

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