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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ASHLEIGH HEFFNER, individually and as the
Personal Representative of the Estate of Liam
Birchfield,

Plaintiff,

v.

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

Defendants.

NO.

COMPLAINT FOR WRONGFUL
DEATH AND SURVIVORSHIP, AND
FOR VIOLATIONS OF THE
CALIFORNIA UNFAIR
COMPETITION LAW, BUS. & PROF.
CODE §§17200, *ET. SEQ*

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 Advisory, December 7, 2021

Plaintiff Ashleigh Heffner, individually and as the Personal Representative of the Estate of Liam Birchfield, brings this action against Meta Platforms, Inc., formerly known as Facebook, Inc. (“Meta”), doing business as Instagram (“Instagram”), and Snap, Inc., doing business as Snapchat (“Snapchat”), and alleges as follows:

I. INTRODUCTION

1
2 1. This product liability action seeks to hold Defendants’ products responsible for
3 causing and contributing to the burgeoning mental health crisis perpetrated upon the children and
4 teenagers of the United States by Defendants and, specifically, for the wrongful death of 11-year-
5 old Liam Birchfield caused by his addictive use of and exposure to Defendants’ unreasonably
6 dangerous and defective social media products. On July 6, 2021, after struggling with the harmful
7 effects of social media, Liam took his own life.

8 2. Liam Birchfield’s death was a symptom of the current mental health crisis among
9 American youth caused by social media. On December 7, 2021, the United States Surgeon General
10 issued an advisory cataloging a dramatic increase in teen mental health crises including suicides,
11 attempted suicides, eating disorders, anxiety, depression, self-harm, and inpatient admissions.
12 Between 2007 and 2018, for example, suicide rates among youth ages twelve to sixteen in the U.S.
13 increased a staggering 146 percent!

14 3. The most significant and far-reaching change to the lives of young people during
15 this period was the widespread adoption of mobile social media platforms, most prominently the
16 Instagram and Snapchat products designed and distributed by Defendants. By 2014, 80 percent of
17 high school students said they used a social media platform daily, and 24 percent said that they
18 were online “almost constantly.” Millions of children and teenagers spend hours throughout the
19 day and night using Defendants’ unreasonably dangerous and defective social media products.

20 4. Peer reviewed studies and the available medical science have identified social
21 media use associated with major mental health injuries among youth, including depression, self-
22 harm, eating disorders, suicide attempts and ideation, dissatisfaction with life, depression, and
23 sleep deprivation. Both large observational studies and experimental results point to the heavy use
24 of Defendants’ social media products as a cause of increased depression, suicidal ideation, and
25 sleep deprivation among minors.

26 5. Defendants’ own research also points to their social media products as a cause of
27 increased depression, suicidal ideation, sleep deprivation, and other serious harms. Meta
28 researchers, for example, found that Instagram is “worse” than many competitor products and “is

1 seen as having the highest impact [on negative body and appearance comparison], and Snapchat
2 isn't far behind.”

3 6. Defendants have invested billions of dollars to intentionally design and develop
4 their products to encourage, enable, and push content to children and teenagers that Defendants
5 know to be problematic and highly detrimental to their minor users' mental health.

6 7. Internal, non-public data collected by Instagram and Facebook reveal large
7 numbers of its users are engaging in “problematic use” of its products. This problematic use
8 identified in the medical literature is precisely the type of use Defendants have designed their
9 products to encourage through psychological manipulation techniques—sometimes referred to as
10 persuasive design—that is well-recognized to cause all the hallmarks of clinical addiction.

11 8. Likewise, each of Defendants' products contains unique product features which are
12 intended to and do encourage addiction, and unlawful content and use of said products, to the
13 detriment of Defendants' minor users.

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

20 10. Plaintiff also brings claims for strict liability based on Defendants' failure to
21 provide adequate warnings to minor users and their parents of the danger of mental, physical, and
22 emotional harms and sexual abuse arising from foreseeable use of their social media products. The
23 addictive quality of Defendants' products and the impacts of their harmful algorithms are unknown
24 to minor users and their parents.

25 11. Plaintiff also brings claims for common law negligence arising from Defendants'
26 unreasonably dangerous social media products and their failure to warn of such dangers.
27 Defendants knew, or in the exercise of ordinary care should have known, that their social media
28 products were harmful to a significant percentage of their minor users and failed to redesign their

1 products to ameliorate these harms or warn minor users and their parents of dangers arising out of
2 the foreseeable use of their products.

3 12. Many of Defendants' own former and/or current developers do not allow their own
4 children and teenagers to use Defendants' products. For many years, Defendants have had actual
5 knowledge that their social media products are dangerous and harmful to children and teenagers,
6 but actively concealed these facts from the general public and government regulators and failed to
7 warn parents about this known harm for continued economic gain.

8 13. Plaintiff brings claims under California's Unfair Competition Law ("UCL"), Cal.
9 Bus. & Prof. Code, §§17200, *et seq.* The conduct and omissions alleged herein constitute unlawful,
10 unfair, and/or fraudulent business practices prohibited by the UCL.

11 14. Finally, Plaintiff brings claims under 47 U.S.C. § 1595 based on Defendants'
12 financial benefit derived from knowingly assisting, supporting, and facilitating the sexual
13 solicitation and exploitation of Liam Birchfield and similarly situated children. Defendants have
14 actual knowledge of, and knowingly benefit from, the large number of adult predators who
15 regularly use Defendants' platforms to solicit and groom minor users to engage in commercial sex
16 acts with minors

17 15. Defendants have actual knowledge that adult predators use their social media
18 platforms to facilitate commercial sex acts, yet have purposefully failed to undertake reasonable
19 efforts to redesign their social media products to protect minor users such as Liam Birchfield from
20 sex abuse; failed to warn minor users and their parents that sexual predators are using their
21 platforms to recruit minors to perform commercial sex acts; and failed to notify law enforcement
22 despite knowledge of illegal sex acts performed on and through their platforms.

23 II. PARTIES

24 16. Plaintiff Ashleigh Heffner is an individual residing in Bluff City, Tennessee, and
25 has been appointed the administrator of the Estate of her son Liam Birchfield, who died of suicide
26 on July 6, 2021.

27 17. Plaintiff Ashleigh Heffner has not entered into a User Agreement or other
28 contractual relationship with any of the Defendants herein in connection with Liam Birchfield's

1 use of their social media products. As such, in prosecuting this action Plaintiff is not bound by any
2 arbitration, forum selection, choice of law, or class action waiver set forth in said User
3 Agreements. Additionally, as Personal Representative of the Estate of Liam Birchfield, Plaintiff
4 expressly disaffirms any and all User Agreements with Defendants that her son may have entered
5 into.

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

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

13 **III. JURISDICTION AND VENUE**

14 20. This Court has subject-matter jurisdiction over this case under 28 U.S.C. § 1332(a)
15 because the amount in controversy exceeds \$75,000 and Plaintiff and Defendants are residents of
16 different states. Venue is proper in this District under 28 U.S.C. § 1391(b)(2)

17 21. This Court has personal jurisdiction over Defendants because they are each
18 headquartered and have their principal place of business in the State of California. Venue is proper
19 in this District under 28 U.S.C. § 1391(b)(1) because Defendant Meta's principal place of business
20 is in the Northern District of California and Defendant Snap, Inc. is a resident of the State of
21 California.

22 **IV. DIVISIONAL ASSIGNMENT**

23 22. The case is properly assigned to the San Francisco Division pursuant to Civ. L. R.
24 3-2(c)-(d) because a substantial part of the events or omissions giving rise to Plaintiff's claims
25 occurred in San Mateo County, where Defendant Meta Platforms, Inc. maintains its primary place
26 of business.

1 **V. FACTUAL ALLEGATIONS**

2 **A. Meta Background**

3 23. Facebook is an American online social network service that is part of the
4 Defendant Meta Platforms. Facebook was founded in 2004 and became the largest social network
5 in the world, with nearly three billion users as of 2021, and about half that number were using
6 Facebook every day. The company’s headquarters are in Menlo Park, California.

7 24. Instagram is a photo sharing social media application that originally enabled users
8 to post and share photos that could be seen by other users who “follow” the user. A user’s followers
9 could “like” and post comments on the photos. Instagram was purchased by Facebook, Inc. for
10 approximately \$1 billion in 2012.

11 25. Facebook recently changed its name to, and is referred to herein and collectively
12 with Instagram, as Meta.

13 26. A user’s “feed” is comprised of a series of photos and videos posted by accounts
14 that the user follows, along with advertising and content specifically selected and promoted by
15 Instagram. Meta exerts control over a user’s Instagram “feed,” including through certain ranking
16 mechanisms, escalation loops, and/or promotion of advertising and content specifically selected
17 and promoted by Meta based on, among other things, its ongoing planning, assessment, and
18 prioritization of the types of information most likely to increase user engagement. In the case of
19 minor users, this translates to Meta’s deliberate and repeated promotion of harmful and unhealthy
20 content, which Meta knows or has reason to know is causing harm to its minor users.

21 27. Instagram also features a “discover” feature where a user is shown an endless feed
22 of content that is selected by an algorithm designed by Meta based upon the users’ demographics
23 and prior activity in the application. Meta has designed its product in a manner such that it
24 promotes addictive use and harmful and/or unhealthy content. Meta is aware of these inherently
25 dangerous product features and has repeatedly decided against changing them and/or
26 implementing readily available and relatively inexpensive safety measures, for the stated purpose
27 of ensuring continued growth, engagement, and revenue.

28 28. Users’ profiles on Instagram may be public or private. On public profiles, any user

1 is able to view the photos, videos, and other content posted by the user. On private profiles, the
2 users' content may only be viewed by the user's followers, which the user is able to approve.
3 During the relevant period, Instagram profiles were public by default and Instagram allowed all
4 users to message and send follow request to underage users, including Liam Birchfield.

5 29. Defaulting profiles to public served no critical purpose in terms of product
6 functionality and/or a user's ability to access content. Instead, this product feature increased user
7 engagement during onboarding (when a user first starts using Instagram) by increasing user
8 connections. However, Meta also has actual knowledge that harmful and/or undesirable, even
9 dangerous, contacts could be made through this public setting feature, particularly for users under
10 the age of 18, including Liam Birchfield.

11 30. During the last five years, Instagram has added features and promoted the use of
12 short videos and temporary posts. The latter are referred to as "Reels" while the former is referred
13 to as Instagram "Stories."

14 31. Instagram creates images and GIFs for users to incorporate into their videos and
15 picture postings. Instagram has also acquired publishing rights to thousands of hours of music
16 which it provides to its users to attach to the videos and pictures that they post on Instagram. These
17 GIFs, images, and music supplied and created by Instagram frequently make a material
18 contribution to the creation or development of its users' Instagram posts. Indeed, in many cases,
19 the *only* content in a user's Instagram post is the image, GIF, or music supplied by Instagram.
20 When users' GIFs and music supplied by Instagram make a material contribution to the creation
21 and/or development of its users' postings, Instagram becomes a co-publisher of such content.
22 These GIFs, images, and music created by Instagram frequently enhance the psychic harm and
23 defamatory sting that minor users experience from malign third-party postings on Defendant's
24 platform.

25 32. Based on individualized data collected from their users' social media habits, the
26 social media activity of users' friends and cohorts, and surreptitious monitoring of users online
27 and offline, Instagram independently selects content for its users and notifies them of such content
28 through text and email. Instagram's notifications to individual users are specifically designed to

1 and do prompt users to open Instagram and view the content selected by Instagram which increases
2 the users' screen time and resulting profits to Instagram.

3 33. Meta has developed artificial intelligence technology that detects adult users of
4 Instagram who both send sexually explicit content to children and receive sexually explicit images
5 from children. This technology furnishes Meta with actual knowledge that a significant number of
6 minor users of Instagram are solicited to send, and actually do send, sexually explicit photos and
7 videos of themselves to adult users in violation of 18 U.S.C. § 1591(a)(1)-(2).

8 34. Over time, Instagram has become the most popular photo sharing social media
9 platform amongst teenagers and young adults in the United States, with over 57 million users
10 below the age of eighteen—meaning that 72 percent of America's youth use Instagram.
11 Instagram's president Adam Mosseri testified under oath on December 8, 2021, that Instagram is
12 not addictive. This is untrue.

13 **B. Snapchat Background**

14 35. Snapchat is a photo and short video sharing social media application that allows
15 users to form groups and share posts or "Snaps" that disappear after being viewed by the recipients.
16 The Snapchat product is well-known for its self-destructing content feature. Specifically, the
17 Snapchat product allows users to form groups and share posts or "Snaps" that disappear after being
18 viewed by the recipients.

19 36. Snapchat's self-destructing content design feature is specifically intended to appeal
20 to minor users by evading parents' ability to monitor their children's social media activity and
21 thwart the exercise of their parental responsibility. Snapchat's self-destructing content design
22 feature permits minor users to exchange harmful, illegal, and sexually explicit images with adults
23 and provides sexual predators with a safe and efficient vehicle to recruit victims.

24 37. Snapchat also features a series of rewards including trophies, streaks, and other
25 signals of social recognition similar to the "likes" metrics available across other platforms. These
26 features are designed to encourage users to share their videos and posts with the public. Snapchat
27 designed these features to be addictive, and they are. Users also have an "Explore" feed that
28 displays content created by other users around the world. All of these product features are designed

1 to grab and keep users' attention for as long as possible each day, and have led many people, from
2 psychologists to government officials, to describe Snapchat as "dangerously addictive." Snapchat
3 was founded in 2011 by current president and CEO Evan Spiegel and several other co-founders
4 while they were attending Stanford University.

5 38. In 2014, Snapchat added "Stories" and "Chat" features that allowed users to post
6 longer stories that could be viewed by users outside the user's friends. In 2014, Snapchat also
7 released a feature called Snapcash that allowed users to send money to other users without regard
8 to user age, identify verification, and/or parental consent.

9 39. Snapchat allows users to enable the sharing of their location, through a tool called
10 Snap Map, which allows the users' followers (and the public for Snaps submitted by the users) to
11 see the user's location on a map. This feature is available to all users, including minors.

12 40. Snapchat has developed images for users to decorate the pictures or videos they
13 post. Snapchat has also developed Lenses which are augmented reality-based special effects and
14 sounds for users to apply to pictures and videos they post on Snapchat, and World Lenses to
15 augment the environment around posts. Snapchat also has acquired publication rights to music,
16 audio, and video content that its users can incorporate in the pictures and videos they post on
17 Snapchat.

18 41. These images, Lenses, and licensed audio and video content supplied and created
19 by Snapchat frequently make a material contribution to the creation or development of the user's
20 Snapchat posts. Indeed, in many cases, the *only* content in a user's Snapchat post are images,
21 Lenses, and licensed audio and video content supplied and created by Snapchat. When users
22 incorporate images, Lenses, music, audio, and video content supplied by Snapchat posts, Snapchat
23 makes a material contribution to the creation and/or development of their Snapchat postings and
24 becomes a co-publisher of such content. When malign users incorporate images, Lenses, music,
25 audio, and video content supplied by Snapchat to their posts, this enhances the psychic harm and
26 defamatory sting that minor users experience from third-party postings on Defendant's platform.

27 42. By 2015, Snapchat had over 75 million monthly active users and was considered
28 to be the most popular social media application amongst American teenagers in terms of number

1 of users and time spent using the platform.

2 43. Snap has developed artificial intelligence technology that detects adult users of
3 Snapchat who send sexually explicit content to children and receive sexually explicit images from
4 children. This technology furnishes Snap with actual knowledge that a significant number of minor
5 users of Snapchat are solicited to send, and actually do send, sexually explicit photos and videos
6 of themselves to adult users in violation of 18 U.S.C. § 1591(a)(1)-(2).

7 **C. Defendants' Applications Are Products**

8 44. Instagram and Snapchat are products that are designed and manufactured by Meta
9 and Snap, respectively. These products are designed to be used by children and are actively
10 marketed to children throughout the world.

11 45. Defendants' products are designed to be used by minors and are actively marketed
12 to minors across the United States. Defendants market to minors through their own marketing
13 efforts and design. But also, Defendants work with and actively encourage advertisers to create
14 ads targeted at and appealing to teens, and even to children under the age of 13. Defendants spend
15 millions of dollars researching, analyzing, and experimenting with young children to find ways to
16 make their products more appealing and addictive to these age groups, as these age groups are
17 seen as the key to Defendants' long-term profitability and market dominance.

18 46. Defendants are aware that large numbers of children under the age of 18 use their
19 products without parental consent. They design their products in a manner that allows and/or does
20 not prevent such use to increase user engagement and, thereby, their own profits.

21 47. Defendants are aware that large numbers of children under the age of 13 use their
22 products despite user terms or "community standards" that purport to restrict use to individuals
23 who are 13 and older. They have designed their products in a manner that allows and/or does not
24 prevent such use to increase user engagement and, thereby, their own profits.

25 **D. Defendants' Business Model is Based on Maximizing User Screen Time**

26 48. Defendants advertise their products as "free," because they do not charge their users
27 for downloading or using their products. What many users do not know is that, in fact, Defendants
28 make a profit by finding unique and increasingly dangerous ways to capture user attention and

1 target advertisements to their users. Defendants receive revenue from advertisers who pay a
2 premium to target advertisements to specific demographic groups of users in the applications.
3 Defendants also receive revenue from selling their users' data to third parties.

4 49. The amount of revenue Defendants receive is based upon the amount of time and
5 level of user engagement on their platforms, which directly correlates with the number of
6 advertisements that can be shown to each user.

7 50. Defendants use unknown and changing rewards that are designed to prompt users
8 who consume their social media products in excessive and dangerous ways. Defendants know, or
9 in the exercise of ordinary care should know, that their designs have created extreme and addictive
10 usage by their minor users, and Defendants knowingly or purposefully designed its products to
11 encourage such addictive behaviors. For example, all the achievements and trophies in Snapchat
12 are unknown to users. The Company has stated that “[y]ou don’t even know about the achievement
13 until you unlock it.” This design conforms to well-established principles of operant conditioning
14 wherein intermittent reinforcement provides the most reliable tool to maintain a desired behavior
15 over time.

16 51. This design is akin to a slot machine but marketed toward minor users who are even
17 more susceptible than gambling addicts to the variable reward and reminder system designed by
18 Snapchat. The system is designed to reward increasingly extreme behavior because users are not
19 actually aware of what action will unlock the next award.

20 52. Instagram, like Snapchat, is designed around a series of features that do not add to
21 the communication utility of the application, but instead seek to exploit minor users' susceptibility
22 to persuasive design and unlimited accumulation of unpredictable and uncertain rewards,
23 including “likes” and “followers.” In the hands of children, this design is unreasonably dangerous
24 to the mental well-being of underage users' developing minds.

25 53. According to industry insiders, Defendants have employed thousands of
26 psychologists and engineers to help make their products maximally addicting. For example,
27 Instagram's “pull to refresh” is based on how slot machines operate. It creates an endless feed,
28 designed to manipulate brain chemistry, and prevent natural end points that would otherwise

1 encourage users to move on to other activities.

2 54. Defendant do not warn users of the addictive design of their product. On the
3 contrary, Defendants actively try to conceal the dangerous and addictive nature of their products,
4 lulling users and parents into a false sense of security. This includes consistently playing down
5 their products' negative effects on teens in public statements and advertising, making false or
6 materially misleading statements concerning product safety, and refusing to make their research
7 public or available to academics or lawmakers who have asked for it.

8 55. For example, in or around July 2018, Meta told BBC News that "at no stage does
9 wanting something to be addictive factor into" its product design process. Similarly, Meta told
10 U.S. Senators in November 2020 that "We certainly do not want our products to be addictive."
11 Yet, Meta product managers and designers attend an annual conference held in Silicon Valley
12 called the Habit Summit, the primary purpose of which is to learn how to make products more
13 habit-forming.

14 56. Defendants engineer their products to keep users, and particularly young users,
15 engaged longer and coming back for more. This is referred to as "engineered addiction," and
16 examples include features like bottomless scrolling, tagging, notifications, and live stories.

17 57. Internal Meta documents identify the potential of reduction in usage by their minor
18 users as an "existential threat" to their business and spend billions of dollars per year marketing
19 their products to minors. Defendants have deliberately traded in user harm to protect the revenue
20 stream their products generate.

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

22 58. 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
24 advanced computer algorithms and artificial intelligence available to three of the largest
25 technology companies in the world.

26 59. Defendants' algorithms select content for minor users not based on what they
27 anticipate the user will prefer or to enhance their social media experience, but rather for the express
28 purpose of habituating users to the Defendants' social media products. Defendants' algorithms do

1 not provide a neutral platform but rather specify and prompt the type of content to be submitted
2 and determine particular types of content its algorithms promote.

3 60. 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 61. One of these features—present in Snapchat and Instagram—is the use of complex
6 algorithms to select and promote content that is provided to users in an unlimited and never-ending
7 “feed.” Defendants are well aware that algorithm-controlled feeds promote unlimited
8 “scrolling”—a type of use those studies have identified as detrimental to users’ mental health—
9 however, this type of use allows Defendants to display more advertisements and obtain more
10 revenue from each individual user.

11 62. Defendants know that content that generates extreme psychological reactions in
12 minor users is more likely to trigger their engagement than content that is benign. Defendants have
13 designed algorithm-controlled feeds to promote content most likely to increase user engagement,
14 which often means content that Defendants know to be psychologically stressful to their users.
15 Content is selected not just based on individual users’ viewing history but also on the viewing
16 history of their linked friends. Users are exposed to content that they would otherwise never see
17 but for Defendants’ affirmative pushing of such content to their accounts.

18 63. The addictive nature of Defendants products and the complex and psychologically
19 manipulative design of their algorithms is unknown to ordinary consumers, particularly minors.

20 64. Defendants go to significant lengths to prevent transparency, including posing as a
21 “free” social media platform, burying advertisements in personalized content, and making public
22 statements about the safety of their products that simply are not true.

23 65. Defendants also have developed unique product features designed to limit, and
24 have in other ways limited, parents’ ability to monitor and prevent problematic use by their
25 children.

26 66. Defendants’ algorithms adapt to promote whatever content will trigger minor users’
27 engagement and maximize their screen time. Defendants’ algorithm designs do not distinguish,
28 rank, discriminate, or prioritize between particular content based on whether it is helpful or

1 harmful to the psychic well-being of their minor users. Once a minor user engages with abusive,
2 harmful, or destructive content, Defendants' algorithms will direct the minor user to content that
3 is progressively more abusive, harmful, and destructive to maximize the user's screen time.

4 67. Defendants' algorithms are not simply tools meant to facilitate the communication
5 and content of others but are content in and of themselves. Defendants' algorithms do not function
6 like traditional search engines that select particular content for users based on user inputs; they
7 direct minor users to content based on far more than the individual users' viewing history.
8 Defendants' algorithms make recommendations not simply based on minor users' voluntary
9 actions but also the demographic information and social media activity of the users' friends,
10 followers, and cohorts. The user data that Defendants' algorithms use to select content therefore
11 encompasses far more information than voluntarily furnished by the particular user and include
12 private information about the user that Defendants discover through undisclosed surveillance of
13 their behavior both online and offline.

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

18 68. The human brain is still developing during adolescence in ways consistent with
19 adolescents' demonstrated psychosocial immaturity. Specifically, adolescents' brains are not yet
20 fully developed in regions related to risk evaluation, emotional regulation, and impulse control.

21 69. The frontal lobes—and in particular the prefrontal cortex—of the brain play an
22 essential part in higher-order cognitive functions, impulse control, and executive decision-making.
23 These regions of the brain are central to the process of planning and decision-making, including
24 the evaluation of future consequences and the weighing of risk and reward. They are also essential
25 to the ability to control emotions and inhibit impulses. MRI studies have shown that the prefrontal
26 cortex is one of the last regions of the brain to mature.

27 70. During childhood and adolescence, the brain is maturing in at least two major ways.
28 First, the brain undergoes myelination, the process through which the neural pathways connecting

1 different parts of the brain become insulated with white fatty tissue called myelin. Second, during
2 childhood and adolescence, the brain is undergoing “pruning”—the paring away of unused
3 synapses, leading to more efficient neural connections. Through myelination and pruning, the
4 brain’s frontal lobes change to help the brain work faster and more efficiently, improving the
5 “executive” functions of the frontal lobes, including impulse control and risk evaluation. This shift
6 in the brain’s composition continues throughout adolescence and into young adulthood.

7 71. In late adolescence, important aspects of brain maturation remain incomplete,
8 particularly those involving the brain’s executive functions and the coordinated activity of regions
9 involved in emotion and cognition. As such, the part of the brain that is critical for control of
10 impulses, emotions, and mature, considered decision-making is still developing during
11 adolescence, consistent with the demonstrated behavioral and psychosocial immaturity of
12 juveniles.

13 72. The algorithms in Defendants’ social media products are designed to exploit minor
14 users’ diminished decision-making capacity, impulse control, emotional maturity, and
15 psychological resiliency caused by users’ incomplete brain development. Defendants know, or in
16 the exercise of reasonable care should know, that because their minor users’ frontal lobes are not
17 fully developed, they experience enhanced dopamine responses to stimuli on Defendants’ social
18 media platforms and are therefore much more likely to become addicted to Defendants’ products;
19 exercise poor judgment in their social media activity; and act impulsively in response to negative
20 social media encounters. Defendants also know, or in the exercise of reasonable care should know,
21 that minor users of their social media products are much more likely to sustain serious physical
22 and psychological harm through their social media use than adult users. Nevertheless, Defendants
23 knowingly designed their social media products to be addictive to minor users and failed to include
24 in their product design any safeguards to account for and ameliorate the psychosocial immaturity
25 of their minor users.
26
27
28

1 **G. Defendants Misrepresent the Addictive Design and Effects of their Social Media**
2 **Products**

3 73. During the relevant time period, Defendants stated in public comments that their
4 products are not addictive and were not designed to be addictive. Defendants knew or should have
5 known that those statements were untrue.

6 74. Neither Instagram or Snapchat warned users or their parents of the addictive and
7 mentally harmful effects that the use of their products was known to cause amongst minor users,
8 like Liam Birchfield. On the contrary, Defendants have gone to significant lengths to conceal
9 and/or avoid disclosure as to the true nature of their products.

10 **H. Plaintiff Expressly Disclaims Any Claim That Defendants Are Liable as the**
11 **Publisher or Speaker of Any Content Provided, Posted or Created by Third Parties**

12 75. Plaintiff is not alleging that Defendants are liable for what the third parties said, but
13 for what Defendants did or did not do. None of Plaintiff's claims rely on treating Defendants as
14 the publisher or speaker of any third-party's words or content. Plaintiff's claims seek to hold
15 Defendants accountable for their own allegedly wrongful acts and omissions, not for the speech
16 of others or for Defendants' good faith attempts to restrict access to objectionable content.

17 76. Plaintiff seeks to hold Defendants accountable for their own alleged acts and
18 omissions. Plaintiff's claims arise from Defendants' status as the designer and marketer of
19 dangerously defective social media products, as well as Defendants' own statements and
20 affirmative acts, not as the speaker or publisher of third-party content.

21 77. Defendants also failed to warn minor users and their parents of known dangers
22 arising from anticipated use of their social media platforms. These dangers which are unknown to
23 ordinary consumers, do not arise from third-party content contained on Defendants' social media
24 platform but rather from their algorithms' designs that 1) addict minor users to Defendants'
25 products; 2) affirmatively select and promote harmful content to vulnerable users based on their
26 individualized demographic data and social media activity; and 3) put minor users in contact with
27 dangerous adult predators.

1 78. Plaintiff's product defect claims arising from Defendants' addictive social media
2 products are content neutral. For example, Defendants design and operate their algorithms in a
3 manner intended to and that does change behavior and addict users, including through a natural
4 selection process that does not depend on or require any specific type of third-party content.

5 79. Defendants' product features are designed to be and are addictive and harmful in
6 themselves, without regard to any content that may exist on Defendants' platforms. For example,
7 Meta's "like" feature and Snapchat's "Snapstreaks" are content neutral and based solely on the
8 user's level of activity on Defendants' platforms, not the content of the material they see.

9 80. Defendants have designed other product features for the purpose of encouraging
10 and assisting children in evasion of parental oversight, protection, and consent, which features are
11 wholly unnecessary to the operation of Defendants' products.

12 81. Defendants affirmatively promote, encourage, and/or otherwise contribute to the
13 development of harmful content. In an October 2021 Senate Hearing it was revealed that Meta
14 documents provided by a whistleblower demonstrate that Defendants promote, encourage, and/or
15 otherwise contribute to the development of harmful content. The Senate hearing revealed that

- 16 a. Defendants approve of ads that contain harmful content, for example, "designed to
17 encourage and promote anorexia" and encourage children to abuse prescription or
18 illegal drugs, which ads Defendants then target specifically at children in exchange
19 for payment.
- 20 b. Defendants utilize private information of their minor users to "precisely target
21 [them] with content and recommendations, assessing what will provoke a reaction,"
22 including encouragement of "destructive and dangerous behaviors." Defendants
23 specifically select and push this harmful content, for which they are paid, to
24 increase user engagement. "That's how [defendants] can push teens into darker and
25 darker places." (Senator Blumenthal, October 5, 2022).
- 26 c. Defendants "know[] that [their] amplification algorithms, things like engagement
27 based ranking ... can lead children from very innocuous topics like healthy recipes
28 ... all the way from just something innocent like healthy recipes to anorexia

1 promoting content over a very short period of time.” Defendants have knowledge
2 that their products and the content they are encouraging and helping to create is
3 harmful to young users and choose “profits over safety.”

4 82. Defendants have information and knowledge that can determine with reasonable
5 certainty each user’s age, habits, and other personal information, regardless of what information
6 the user provides at the time of account setup.

7 83. Defendants’ algorithms identify minor users by age and gender and, on information
8 and belief, race, ethnicity, sexual orientation, and economic status and direct specific content to
9 specific users based upon these factors. User data obtained through Defendants’ algorithms,
10 particularly age and gender, affirmatively directs predatory adults to vulnerable minor users. In
11 this way, the Defendant’s algorithms promote responses from predatory adult users that violate
12 state and federal law. Because Defendants’ social media products themselves generate the options
13 for selecting a user based on predatory criteria, they materially contributed to the unlawfulness of
14 the posted content described herein.

15 84. None of Plaintiff’s Claims for Relief set forth herein treat Defendants as a speaker
16 or publisher of content posted by third parties. Rather, Plaintiff seeks to hold Defendants liable for
17 their own speech and their own silence in failing to warn of foreseeable dangers arising from
18 anticipated use of their products. Defendants could manifestly fulfill their legal duty to design
19 reasonably safe social media products and furnish adequate warnings of foreseeable dangers
20 arising out of the use of their products without altering, deleting, or modifying the content of a
21 *single* third-party post or communication.

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I. Liam Birchfield Died of Suicide Proximately Caused by Defendants’ Defective Social Media Products

85. Liam Birchfield was born on April 21, 2004, in Elizabethton, Tennessee, the child of Ashleigh Heffner and Paul Adam Birchfield. Liam’s father, Paul Birchfield, predeceased him.

86. Liam attended Sullivan East High School in Elizabethton, Tennessee. He enjoyed playing guitar, listening to music, and playing video games. He planned to join the Air Force after high school.

87. Liam Birchfield began using Instagram and Snapchat in middle school. As he grew older, he became increasingly addicted to social media in general, and Instagram and Snapchat specifically. He would stay up until the early morning hours scrolling through endless feeds and communicating with anonymous people introduced to him through Snapchat and Instagram. As his addiction grew, he became sleep deprived and anxious. Content pushed to him through Snapchat and Instagram, including content about firearms, fed his depression, and he began to have suicidal thoughts and engage in self-harm. On July 6, 2021, Liam Birchfield took his own life with a firearm in St. George, South Carolina. He was 17 years old.

88. Throughout the period of Liam’s use of social media, Ashleigh Heffner was unaware of the clinically addictive and mentally harmful effects of Instagram and Snapchat.

89. Defendants designed Instagram and Snapchat to frustrate and prevent parents like Ashleigh Heffner from exercising her right and duty as a parent to monitor and limit her child’s use of their social media products.

1 90. Defendants knowingly designed Instagram and Snapchat to enable minor users
2 such as Liam Birchfield to use, become addicted to, and abuse their products without the
3 knowledge and consent of their parents.

4 91. Defendants designed Instagram and Snapchat to be attractive nuisances to users
5 below the age of 13 but failed to exercise ordinary care owed to underage business invitees to
6 prevent the rampant solicitation of underage users by anonymous older users who do not disclose
7 their real identities, and mass message underage users with the goal of grooming and sexually
8 exploiting minors.

9 92. Defendants not only failed to warn Ashleigh Heffner and Liam Birchfield of the
10 dangers of addiction, sleep deprivation, sexual abuse, and problematic use of their applications,
11 but affirmatively misrepresented the safety, utility, and addictive properties of their products to
12 minor users and their parents

13 VI. PLAINTIFF'S CLAIMS

14 COUNT I - STRICT PRODUCT LIABILITY (Design Defect)

15 93. Plaintiffs reallege each and every allegation contained in paragraphs 1 through 92
16 as if fully stated herein.

17 94. Under Restatement (Second) of Torts § 402(a), California and Tennessee law, one
18 who sells any product in a defective condition unreasonably dangerous to the user is subject to
19 liability for physical harm thereby caused to the user if (a) the seller is engaged in the business of
20 selling such a product, and (b) it is expected to and does reach the user or consumer without
21 substantial change in the condition which it was sold.

22 95. Defendants designed, manufactured, marketed, and sold products that were
23 unreasonably dangerous because they were designed to be addictive to the minor users to whom
24 Defendants actively marketed and because the foreseeable use of Defendants' products causes
25 mental and physical harm to minor users.

26 96. Defendants' products were unreasonably dangerous because they contained
27 numerous design characteristics that are not necessary for the utility provided to the user but are
28 unreasonably dangerous and implemented by Defendants solely to increase the profits they derived

1 from each additional user and the length of time they could keep each user dependent on their
2 product.

3 **A. Inadequate Safeguards from Harmful and Exploitative Content**

4 97. As designed, Snapchat and Instagram algorithms are not reasonably safe because
5 they intentionally direct minor users to harmful and exploitative content while failing to deploy
6 feasible safeguards to protect vulnerable teens from such harmful exposures. It is feasible to design
7 an algorithm that substantially distinguishes between harmful and innocuous content and protects
8 minor users from harmful content without altering, modifying, or deleting a *single* third-party
9 posting on Defendants' social media platforms. The cost of designing Defendants' algorithms to
10 incorporate this safeguard would be negligible, while the benefit would be high in terms of
11 reducing the quantum of mental and physical injury sustained by minor users such as Liam
12 Birchfield and their families.

13 98. Snapchat and Meta also engage in conduct, outside of the algorithms themselves,
14 which is designed to promote harmful and exploitative content as a means of increasing their
15 revenue from advertisements. This includes, but is not limited to, efforts to encourage advertisers
16 to design ads that appeal to minors, including children under the age of 13; and product design
17 features intended to attract and engage minor users to these virtual spaces where harmful
18 advertising content is then pushed to those users in a manner intended to increase user engagement,
19 thereby increasing revenue to Defendants at the direct cost of user well-being.

20 99. Reasonable users (and their parents) would not expect that Defendants would
21 knowingly direct them to such harmful content, much less in the manipulative and coercive manner
22 that they do. Defendants have and continue to knowingly use their algorithms on minor users in a
23 manner designed to affirmatively change their behavior, which methods are particularly effective
24 on (and harmful to) Defendants' youngest users, like Liam Birchfield.

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

26 100. As designed, Defendants' products are not reasonably safe because they do not
27 provide for adequate age verification by requiring users to document and verify their age and
28 identity.

1 101. Adults frequently set up user accounts on Defendants' social media products
2 disguising their identity and/or posing as minors to groom unsuspecting minors to exchange
3 sexually explicit content and images, which frequently progresses to sexual exploitation and
4 trafficking, and commercial sex acts.

5 102. Minor users of social media and their parents do not reasonably expect that prurient
6 adults set up fraudulent accounts on Defendants' social media products and pose as minors for
7 malign purposes.

8 103. Likewise, minor users whose parents have taken affirmative steps to keep them
9 away from Defendants' products often open multiple accounts, such that Defendants know or have
10 reason to know that the user is underage and/or does not have parental permission to use their
11 product. Defendants already have the information and means they need to ascertain with
12 reasonable certainty their users' actual age. Defendants utilize these tools to investigate, assess,
13 and report on percentages and totals of underage users for internal assessment purposes. They then
14 choose to simply do nothing about that information as it relates to the specific, underaged users
15 themselves.

16 104. Reasonably accurate age and identity verification is not only feasible but widely
17 deployed by online retailers and internet service providers. Defendants not only have the ability to
18 estimate the age of their users, but actually do so.

19 105. The cost of incorporating age and identify verification into Defendants' products
20 would be negligible, whereas the benefit of age and identity verification would be a substantial
21 reduction in severe mental health harms, sexual exploitation, and abuse among minor users of
22 Defendants' products.

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

24 106. Defendants have intentionally designed products to frustrate the exercise of
25 parental responsibility by their minor users' parents. Parents have a right to monitor their
26 children's social media activity to protect them from harm. Defendants have designed products
27 that make it difficult, if not impossible, for parents to exercise parental responsibility.

28 107. Defendants' products are also defective for lack of parental controls, permission,

1 and monitoring capability available on many other devices and applications.

2 108. Defendants' products are designed with specific product features intended to
3 prevent and/or interfere with parents' reasonable and lawful exercise of parental control,
4 permission, and monitoring capability available on many other devices and applications.

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

6 109. Default "recommendations" communicated to new minor users, including Liam
7 Birchfield, purposefully steered him toward content Defendants knew to be harmful to children of
8 his age and gender.

9 110. Advertising content pushed to new minor users, including Liam Birchfield, because
10 of their age and vulnerability, purposefully steer those users toward content Defendants know to
11 be harmful to children of their age and gender.

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

13 111. Defendants' products are not reasonably safe because they do not protect minor
14 users from sexually explicit content and images, report sex offenders to law enforcement, or allow
15 users' parents to readily report abusive users to law enforcement.

16 112. Parents do not expect their children will use Defendants' products to exchange
17 sexually explicit content and images and minor users do not expect that prurient adults pose as
18 minors for malign purposes or that exchange of such content will be deleterious to their personal
19 safety and emotional health.

20 113. Minor users of Defendants' products lack the cognitive ability and life experience
21 to identify online grooming behaviors by prurient adults and the psychosocial maturity to decline
22 invitations to exchange salacious material.

23 114. Defendants' products are unreasonably dangerous and defective as designed
24 because they allow minor children to use "public" profiles, in many cases default "public" profiles,
25 that can be mass-messed by anonymous and semi-anonymous adult users for the purposes of
26 sexual exploitation and grooming, including the sending of encrypted, disappearing messages and
27 cash rewards through Defendants' integrated design features.

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

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

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

20 117. The diagnostic symptoms of social media addiction among minors are the same as
21 the symptoms of addictive gaming referenced in DSM 5 and include:

- 22 d. Preoccupation with social media and withdrawal symptoms (sadness, anxiety,
23 irritability) when device is taken away or not possible.
- 24 e. Tolerance, the need to spend more time using social media to satisfy the urge.
- 25 f. Inability to reduce social media usages, unsuccessful attempts to quit gaming.
- 26 g. Giving up other activities, loss of interest in previously enjoyed activities due to
27 social media usage.
- 28 h. Continuing to use social media despite problems.

- 1 i. Deceiving family members or others about the amount of time spent on social
- 2 media.
- 3 j. The use of social media to relieve negative moods, such as guilt or hopelessness;
- 4 and
- 5 k. Jeopardized school or work performance or relationships due to social media usage.

6 118. Defendants' advertising profits are directly tied to the quantity of their users' online
7 time and engagement, and their algorithms and other product features are designed to maximize
8 the time users spend using the product by directing them to content that is progressively more and
9 more stimulative. Defendants enhance advertising revenue by maximizing users' time online
10 through a product design that addicts them to the platform. However, reasonable minor users and
11 their parents do not expect that online social media platforms are psychologically and
12 neurologically addictive.

13 119. It is feasible to make Defendants' products not addictive to minor users by turning
14 off the algorithms, limiting the frequency and duration of access, and suspending service during
15 sleeping hours. Designing software that limits the frequency and duration of minor users' screen
16 use and suspends service during sleeping hours could be accomplished at negligible cost; whereas
17 the benefit of minor users maintaining healthy sleep patterns would be a significant reduction in
18 depression, attempted and completed suicide, and other forms self-harm among this vulnerable
19 age cohort.

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

22 120. Defendants' products are not reasonably safe as designed because they do not
23 include any safeguards to notify users and their parents of usage that Defendants know to be
24 harmful and likely to cause negative mental health effects to users, including excessive passive
25 use and use disruptive of normal sleep patterns.

26 121. It is reasonable for parents to expect that social media products that actively
27 promote their platforms to minors will undertake reasonable efforts to notify parents when their
28 child's use becomes excessive or occurs during sleep time. It is feasible for Defendants to design

1 products that identify a significant percentage of its minor users who are using the product more
2 than three hours per day or using it during sleeping hours at negligible cost.

3 122. Defendants' products are not reasonably safe as designed because, despite
4 numerous reported instances of child sexual solicitation and exploitation by adult users,
5 Defendants have not undertaken reasonable design changes to protect underage users from this
6 abuse, including notifying parents of underage users when they have been messaged or solicited
7 by an adult user or when a user has sent inappropriate content to minor users. Defendants' entire
8 business is premised upon collecting and analyzing user data and it is feasible to use Defendants'
9 data and algorithms to identify and restrict improper sexual solicitation, commercial sex acts,
10 exploitation, and abuse by adult users.

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

15 124. As a proximate result of these dangerous and defective design attributes of
16 Defendants' products, Liam Birchfield suffered severe mental harm, leading to physical injury and
17 death, from his use of Instagram and Snapchat.

18 125. As a result of these defective design attributes of Defendants' products, Liam
19 Birchfield has suffered serious damages in the form of emotional distress, diagnosed mental health
20 conditions, medical expenses, loss of income and earning capacity, pain and suffering, and
21 reputational harm.

22 126. As a result of these dangerous and defective design attributes of Defendants'
23 products, Plaintiff Ashleigh Heffner has suffered loss of consortium, emotional distress, past and
24 future medical expenses, and pain and suffering.

25 127. Defendants are further liable to Plaintiff for punitive damages based upon the
26 willful and wanton design of their products that were intentionally marketed and sold to underage
27 users, whom they knew would be seriously harmed through their use of Instagram and Snapchat.
28

1 **H. Defendants' Creation of Harmful Content**

2 128. Defendants create and/or license images, GIFs, music, audio, and video content
3 that materially contribute to the creation and/or development of the content in social media
4 postings that minor users such as Liam Birchfield send and receive.

5 129. The images, GIFs, music, audio, and video content created and/or licensed by
6 Defendants and incorporated into their social media platforms are substantial factors in making
7 Defendants' social media products addictive to minor users such as Liam Birchfield. Without
8 images, GIFs, music, audio, and video content created and/or licensed by Defendants and
9 incorporated into their social media platforms, minor users would not experience the level of
10 dopamine response that renders Defendants' social media products addictive. The images, GIFs,
11 music, audio, and video content created and/or licensed by Defendants and incorporated into their
12 social media platforms therefore make Defendants' social products unreasonably dangerous in
13 violation of Tennessee and California law and substantially contribute to the product defect claims
14 alleged herein.

15 130. The images, GIFs, music, audio and video content images, GIFs, music, audio, and
16 video content created and/or licensed by Defendants and incorporated into their social media
17 platforms substantially contribute to the psychologically harm experienced by minor users such as
18 Liam Birchfield. Without images, GIFs, music, audio, and video content created and/or licensed
19 by Defendants and incorporated into their social media platforms, minor users would not
20 experience the level of psychological distress they sustain from Defendants' social media products.
21 The images, GIFs, music, audio, and video content created and/or licensed by Defendants and
22 incorporated into their social media platforms therefore make Defendants' social products
23 unreasonably dangerous in violation of Tennessee and California law and substantially contribute
24 to the product defect claims alleged herein.

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

26 131. Plaintiffs reallege each and every allegation contained in paragraphs 1 through 130
27 as if fully stated herein.

28 132. Meta's product is defective because of inadequate instructions or warnings because

1 the foreseeable risks of harm posed by the product could have been reduced or avoided by the
2 provision of reasonable instructions or warnings by the manufacturer and the omission of the
3 instructions or warnings renders the product not reasonably safe. This defective condition rendered
4 the product unreasonably dangerous to persons or property, existed at the time the product left
5 Defendant's control, reached the user or consumer without substantial change in the condition in
6 which it was sold, and was a cause of Liam Birchfield's injury.

7 133. Snapchat's product is defective because of inadequate instructions or warnings
8 because the foreseeable risks of harm posed by the product could have been reduced or avoided
9 by the provision of reasonable instructions or warnings by the manufacturer and the omission of
10 the instructions or warnings renders the product not reasonably safe. This defective condition
11 rendered the product unreasonably dangerous to persons or property, existed at the time the
12 product left Defendant's control, reached the user or consumer without substantial change in the
13 condition in which it was sold, and was a cause of Liam Birchfield's injury.

14 134. Defendants' products are unreasonably dangerous and defective because they
15 contain no warning to users or parents regarding the addictive design and effects of Snapchat and,
16 Instagram.

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

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

23 137. The harms resulting from minors' addictive use of social media platforms have
24 been not only well-documented in the professional and scientific literature, but Meta had actual
25 knowledge of such harms. On information and belief, Snap also conducted internal studies
26 documenting the addictive quality and harmful effects of its social media products on minor users.

27 138. Defendants' products are unreasonably dangerous because they lack any warnings
28 that foreseeable product use can disrupt healthy sleep patterns or specific warnings to parents when

1 their child's product usage exceeds healthy levels or occurs during sleep hours. Excessive screen
2 time is harmful adolescents' mental health and sleep patterns and emotional well-being.
3 Reasonable and responsible parents are not able to accurately monitor their child's screen time
4 because most adolescents own or can obtain access to mobile devices and engage in social media
5 use outside their parents' presence.

6 139. It is feasible for Defendants' products to report the frequency and duration of their
7 minor users' screen time to their parents without disclosing the content of communications at
8 negligible cost, whereas parents' ability to track the frequency, time and duration of their minor
9 child's social media use are better situated to identify and address problems arising from such use
10 and to better exercise their rights and responsibilities as parents.

11 140. Defendants knew about these harms, knew that users and parents would not be able
12 to safely use their products without warnings, and failed to provide warnings that were adequate
13 to make the products reasonably safe during ordinary and foreseeable use by minors.

14 141. As a result of Defendants' failure to warn, Liam Birchfield suffered severe mental
15 harm, leading to physical injury and death, from his use of Instagram and Snapchat.

16 142. As a result of Defendants' failure to warn, Liam Birchfield suffered serious
17 damages in the form of emotional distress, diagnosed mental health conditions, medical expenses,
18 loss of income and earning capacity, pain and suffering, and reputational harm.

19 143. As a result of Defendants' failure to warn, Plaintiff Ashleigh Heffner has suffered
20 loss of consortium, emotional distress, past and future medical expenses, and pain and suffering.

21 144. Defendants are further liable to Plaintiff for punitive damages based upon their
22 willful and wanton failure to warn of known dangers of their products that were intentionally
23 marketed and sold to minor users, whom they knew would be seriously harmed through their use
24 of Instagram and Snapchat.

25 **COUNT III – NEGLIGENCE**

26 145. Plaintiffs reallege each and every allegation contained in paragraphs 1 through 144
27 as if fully stated herein.

28 146. At all relevant times, Defendants had a duty to exercise reasonable care and caution

1 to protect users from foreseeable harms arising out of use of their social media products.

2 147. Defendants owe a heightened duty of care to minor users of their social media
3 products because adolescents' brains are not fully developed, which results in a diminished
4 capacity to make good decisions regarding their social media usages, eschew self-destructive
5 behaviors, and overcome emotional and psychological harm from negative and destructive social
6 media encounters. Defendants intentionally designed and marketed their social media platforms
7 to be both attractive and harmful to underage users, sometimes referred to an "attractive nuisance."
8 Rather than take reasonable precautions to prevent minors from harmful and problematic
9 behaviors, Defendant intentionally designed its platforms to attract and addict vulnerable minor
10 users.

11 148. As California product manufacturers marketing and selling products to residents of
12 Tennessee, Defendants owed a duty to exercise ordinary care in the manufacture, marketing, and
13 sale of their products, including a duty to warn minor users and their parents of hazards that
14 Defendants knew to be present, but not obvious, to underage users and their parents.

15 149. As business owners, Defendants owe their users—who visit Defendants' social
16 media platforms and from whom Defendants derive billions of dollars per year in advertising
17 revenue—a duty of ordinary care substantially similar to that owed by physical business owners
18 to their business invitees.

19 150. Defendants were negligent, grossly negligent, reckless, and/or careless in that they
20 failed to exercise ordinary care and caution for the safety of underage users, like Liam Birchfield,
21 using their Instagram and Snapchat products.

22 151. Defendants were negligent in failing to conduct adequate testing and failing to
23 allow independent academic researchers to adequately study the effects of their products and levels
24 of problematic use amongst minor users. Defendants' have extensive internal research indicating
25 that their products are harmful, cause extensive mental harm, and that minor users are engaging in
26 problematic and addictive use that their parents are helpless to monitor and prevent.

27 152. Defendants were negligent in creating and/or licensing images, GIFs, music, audio,
28 and video content that materially contribute to the creation and/or development of the content in

1 social media postings that minor users such as Liam Birchfield send and receive and substantially
2 contribute to the minor users' addiction to Defendants' social media products and the
3 psychologically harm experienced by minor users such as Liam Birchfield.

4 153. Defendants were negligent in failing to provide adequate warnings about the
5 dangers associated with the use of social media products and in failing to advise users and their
6 parents about how and when to safely use their social media platforms and features.

7 154. Defendants were negligent in failing to fully assess, investigate, and restrict the use
8 of Instagram and Snapchat by adults to sexually solicit, abuse, manipulate, and exploit minor users
9 of their Instagram and Snapchat products.

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

12 156. As a result of Defendants' negligence, Liam Birchfield suffered severe mental
13 harm, leading to physical injury and death, from his use of and exposure to Instagram and
14 Snapchat.

15 157. As a result of Defendants' negligence, Liam Birchfield suffered serious damages
16 in the form of emotional distress, diagnosed mental health conditions, medical expenses, loss of
17 income and earning capacity, pain and suffering, and reputational harm.

18 158. As a result of Defendants' negligence, Plaintiff Ashleigh Heffner has suffered loss
19 of consortium, emotional distress, past and future medical expenses, and pain and suffering.

20 159. Defendants are further liable to Plaintiff for punitive damages based upon their
21 willful and wanton conduct toward underage users, including Liam Birchfield, whom they knew
22 would be seriously harmed through the use of Instagram and Snapchat.

23 **COUNT IV – VIOLATIONS OF CALIFORNIA'S UNFAIR COMPETITION LAW**

24 **(Cal. Bus. & Prof Code §§ 17200, *et seq.*)**

25 160. Plaintiff realleges each and every allegation contained in paragraphs 1 through 159
26 as if fully stated herein.

27 161. Defendants are each a "person" as defined under California Business & Professions
28 Code § 17201.

1 162. The UCL prohibits all conduct that is unlawful, unfair, or fraudulent.

2 163. Defendants' conduct is unlawful as set forth in Counts I-III, above.

3 164. Defendants engaged in fraudulent and deceptive business practices in violation of
4 the UCL by promoting products to underage users, including Liam Birchfield, while concealing
5 critical information regarding the addictive nature and risk of harm these products pose.
6 Defendants knew and should have known that their statements and omissions regarding the
7 addictive and harmful nature of their products were misleading and therefore likely to deceive the
8 members of the public who use Defendants' products and who permit their underage children to
9 use Defendants' products. Had Plaintiff known of the dangerous nature of Defendants' products,
10 she would have taken early and aggressive steps to stop or limit her son's use of Defendants'
11 products.

12 165. Defendants' practices are unfair and violate the UCL because they offend
13 established public policy, and because the harm these practices cause to consumers greatly
14 outweighs any benefits associated with them.

15 166. Defendants' conduct has resulted in a substantial injury that Plaintiff could not
16 reasonably have avoided because of Defendants' deceptive conduct. This substantial harm is not
17 outweighed by any countervailing benefits to consumers or competition.

18 167. As a direct and proximate result of the foregoing acts and practices, Defendants
19 have received, or will receive, income, profits, and other benefits, which they would not have
20 received if they had not engaged in the violations of the UCL described in herein. As a direct and
21 proximate result of the foregoing acts and practices, Defendants have also obtained an unfair
22 advantage over similar businesses that have not engaged in such practices.

23 168. As a result of Defendants' UCL violations, Plaintiff suffered an injury in fact and
24 lost money as set forth above and detailed in her prayer for relief.

25 169. Accordingly, Plaintiff seeks injunctive and equitable relief to halt and remedy
26 Defendants' unlawful, fraudulent, and unfair conduct.

COUNT V – VIOLATION OF 18 U.S.C. § 1595 and 1591

(Against all Defendants)

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3 170. Plaintiff realleges each and every allegation contained in paragraphs 1 through 169
4 as if fully stated herein. Plaintiff brings claims under 18 U.S.C. § 1595 based on Defendants’
5 financial benefit garnered from knowingly assisting, supporting, and facilitating the sexual
6 solicitation and exploitation of Liam Birchfield for commercial sex acts. Defendants knowingly
7 used the instrumentalities of interstate commerce to violate 18 U.S.C. § 1591. Defendants
8 knowingly received something of value from participation in a venture which recruits or entices a
9 person knowing, or in reckless disregard of the fact, that Liam Birchfield had not attained the age
10 of 18 years and was caused to engage in a commercial sex act as defined by 18 U.S.C. § 1591(a).

11 171. Defendants are aware of, and knowingly benefit, from a large number of predatory
12 users who regularly use Defendants’ platforms to solicit and groom minor users such as Liam
13 Birchfield into sexually compromising situations and lure them into being sexually exploited and
14 trafficked for the purposes of commercial sex acts as defined in 18 U.S.C. § 1591.

15 172. Defendants had actual knowledge that Liam Birchfield was under the age of 18
16 based on his user history, photographs, and videos, and repeated statements made on Defendants’
17 social media platforms. Defendants also had actual knowledge that the people with whom he was
18 communicating on their platforms were adults based on their user history and profiles. Defendants’
19 technology provided them with actual knowledge that Liam was exchanging sexually explicit
20 photographs and video with adults in a manner that constituted commercial sex acts under 18
21 U.S.C. § 1591.

22 173. Defendants have designed and marketed their products in such a way as to appeal
23 to and make clear that predatory users may use their products for these illegal purposes. This
24 includes, for example, Snapchat’s development and marketing of disappearing messages (which
25 feature Instagram also now offers). Many of Defendants’ users are sexual predators—adults who
26 use Defendants’ products to prey on underage children.

27 174. Defendants’ greatest source of revenue also comes from advertisements, and
28 Defendants are paid in direct correlation to how much time a user stays on their product.

1 Defendants lack the financial incentive to create a product that denies access to underage users
2 and, likewise, Defendants make money each time their predatory users solicit, exploit, or otherwise
3 engage young children through their social media platforms.

4 175. Defendants have failed to undertake reasonable efforts to redesign their social
5 media platforms to protect their minor users, such as Liam Birchfield, against such harms.

6 176. To the contrary, Defendants knowingly provide sexual predators with tools such as
7 anonymity, encrypted and/or disappearing messaging, selected content involving minors, financial
8 transfer, and location features that are used by adults to target minor users for commercial sex acts.
9 Defendants' products are designed to and do work in concert with each other. Defendants know
10 that these tools in its social media platforms make it easier for adult predators to efficiently and
11 anonymously identify and recruit large numbers of minors to engage in commercial sex acts than
12 if these abusers did not have access to Defendants' platforms.

13 177. For example, a common practice among predatory users is to find a minor user
14 through Instagram's public profile, recommendation, and other information sharing features. Once
15 contact is established, the predator asks "What's your Snap" or a similar question, designed to
16 obtain the child's Snapchat information. Or, in cases where the child does not have a Snapchat
17 account, the predator will encourage them to open one. The predator then moves the discussion
18 onto Snapchat because they know that Snapchat's product design and practices will enable them
19 to send harmful and illegal content to minors that then simply disappears.

20 178. Defendants knowingly implemented policies and design features that obstructed,
21 interfered with, and prevented the enforcement of the child sexual exploitation protections set forth
22 in 18 U.S.C. § 1591.

23 179. As a result of Defendants' violations of 18 U.S.C. § 1595 and 1591, Liam
24 Birchfield suffered severe mental harm, leading to physical injury, emotional harm, and death from
25 sexual exploitation and solicitation of commercial sex acts directed toward him because of
26 Instagram and Snapchat, specifically, because of the defects and/or inherently dangerous features
27 and design of Defendants' products.

28 180. As a result of Defendants' violations of 18 U.S.C. § 1595 and 1591, Ashleigh

1 Heffner has suffered loss of consortium, emotional distress, past and future medical expenses, and
2 pain and suffering.

3 181. As a result of Defendants' violations of 18 U.S.C. § 1595 and 1591, Plaintiff is
4 entitled to full compensatory and punitive damages against Defendants for the mental and physical
5 injuries suffered by Liam Birchfield.

6 182. Defendants are further jointly and severally liable to Plaintiff for punitive damages
7 and attorneys' fees and costs based upon their knowing, intentional, willful, and wanton conduct
8 toward Liam Birchfield and other minor users whom they knew were being seriously harmed
9 through improper solicitation for commercial sex acts through the use of, or threatened use of,
10 force, fraud, and/or coercion through Instagram and Snapchat.

11 **DEMAND FOR JURY TRIAL**

12 Plaintiff hereby demands a trial by jury.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff prays for judgment against Defendants for relief as follows:

- 15 a) Past physical and mental pain and suffering of Liam Birchfield, in an amount to be more
16 readily ascertained at the time and place set for trial;
- 17 b) Loss of enjoyment of life, in an amount to be more readily ascertained at the time and
18 place set for trial;
- 19 c) Past medical care expenses for the care and treatment of the injuries sustained by Liam
20 Birchfield, in an amount to be more readily ascertained at the time and place set for trial;
- 21 d) Past and future impairment to capacity to perform everyday activities;
- 22 e) Plaintiff's pecuniary loss and loss of Liam Birchfield's services, comfort, care, society,
23 and companionship to Ashleigh Heffner;
- 24 f) Loss of future income and earning capacity of Liam Birchfield;
- 25 g) Punitive damages;
- 26 h) Injunctive relief, including, but not limited to, ordering Defendants to stop the harmful
27 conduct alleged herein, remedy the unreasonably dangerous algorithms in their social
28 media products, and provide warnings to minor users and their parents that Defendants'

1 social media products are addictive and pose a clear and present danger to unsuspecting
2 minors;

- 3 i) Reasonable costs and attorney and expert/consultant fees incurred in prosecuting this
4 action; and
5 j) Such other and further relief as this Court deems just and equitable.

6 Dated: July 29, 2022.

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