

Filed Under Seal

Exhibit 2

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Page 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE: SOCIAL MEDIA)
ADOLESCENT ADDICTION/)
PERSONAL INJURY PRODUCTS) MDL No. 3047
LIABILITY LITIGATION)
) Case Nos.
) 4:22-md-03047-YGR-PHK
) 4:23-cv-05448-YGR
)
THIS DOCUMENT RELATES TO:) Judge
) Yvonne Gonzalez Rogers
People of the State of)
California et al., v. Meta)
Platforms, Inc., et al.)

TUESDAY, FEBRUARY 24, 2026

CONFIDENTIAL - ATTORNEYS' EYES ONLY -
PURSUANT TO PROTECTIVE ORDER

— — —
Videotaped Deposition of MARY CATHERINE WIRTH, taken pursuant to notice and conducted at the offices of Covington & Burling, LLP, 415 Mission Street, Suite 5400, San Francisco, California, 94105, commencing at 9:17 a.m., PST, on the above date, before Jennifer A. Dunn, Registered Merit Reporter, Certified Realtime Reporter, California (#14461), Illinois & Texas Certified Shorthand Reporter, and Missouri Certified Court Reporter.

Job No. MDLG 7906801

CONFIDENTIAL

Page 97

1 there in the world, in the early days, were not being
2 developed by big companies with fleets of lawyers. It was
3 two guys in a garage, you know: "Wouldn't this be a great
4 idea?" And getting it out the door, and they wanted
5 something that your average app developer, average coder,
6 could read and know what the rules were.

7 Q Okay. So my understanding is that these rules are
8 written in such a way as regular people are supposed to be
9 able to understand them?

10 A Yes. You don't need any special legal expertise
11 to understand what they're asking for.

12 Q Okay.

13 A And that's very deliberate. And the FTC
14 commissioner has been very -- whoever's sitting in that
15 chair has always been very clear about that over the years.

16 Q Okay. And so when you say regular people without
17 any special expertise are supposed to be able to understand
18 them, is that people like jurors, for example?

19 A I don't think jurors are the contemplated
20 audience. I think the contemplated audience are people that
21 are developing products that need to comply. And then the
22 people that are advising them.

23 So just to be clear. A lot -- you don't have to
24 be a lawyer to be a chief privacy officer. And a lot of
25 chief privacy officers aren't.

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Page 98

1 You don't have to be a lawyer to be a privacy
2 program manager, and a lot of privacy program managers
3 aren't -- most privacy program managers aren't.

4 So privacy program managers can understand them.
5 CPOs can understand them, even if they're not a lawyer. App
6 developers can understand them, because those are the
7 people -- you know, it's just -- it was very smart of the
8 FTC to do because if your focus is really on helping people
9 comply, rather than saying: "Gotcha," after they don't,
10 right?

11 If you really want to keep kids' data safe, give
12 people clear information upfront and don't make them go hire
13 a, you know, thousand-dollar-an-hour lawyer to advise them.

14 Q So my question's just a little bit more narrow.

15 When you say that they're written in a way that
16 regular people can understand them, I'm not asking if
17 they're targeted at jurors, but are jurors the kind of
18 regular people that you would expect to be able to
19 understand these regulations to?

20 MR. STEFANIK: Objection to the form.

21 THE WITNESS: I don't know. That kind of --
22 I mean, I'd be guessing.

23 I can say they're not the target audience.
24 Hopefully they're written in plain enough language that
25 a juror could, but that's not the target audience.

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Page 104

1 Q Page 5.

2 A The guidance on platforms may ask users to
3 self-declare their date of birth at registration, but the
4 mechanism for doing so must be neutral. That has been
5 stable for years.

6 The fact that platforms are allowed to rely on
7 self-declared age, even where it's false, as long as the age
8 was collected neutrally, that guidance has not changed for
9 years.

10 And the guidance in the FTC FAQ, that platforms
11 have no obligation to investigate or verify age absent
12 actual knowledge if a specific user is under 13.

13 So general awareness that you have under 13s on
14 your platform, it is not enough to trigger any investigative
15 obligation. Only knowledge that a specific user is under 13
16 triggers an obligation to take action.

17 Those three principles have -- they haven't
18 changed probably since the FAQ workers published.

19 Q Okay. Now, you mentioned a little earlier this
20 morning that --

21 A Can you move your hand away from the front of your
22 mouth --

23 Q Yeah.

24 A -- because I do a little bit of lip -- thank you.
25 Sorry.

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Page 108

1 A Yes. So another way that you could likely fall
2 out of a neutral age gate is if you signal on the
3 registration page that if you're not above a certain age,
4 you won't have access to certain features, right?

5 The COPPA FAQ specifically addresses those issues
6 in very clear, plain language, so we don't have to go
7 running to case law or whatever. I mean, to be honest, I'm
8 not sure if I've ever read COPPA case law. I'm a
9 practitioner. I had a COPPA expert on speed dial. "Hey,
10 this is an edge case, could you" -- I mean, seriously, like,
11 I know the FAQ by heart, as does everybody else that's ever
12 been in my role, and I can't remember the last time I
13 actually looked at actual COPPA or looked at a decision, but
14 yeah, that's the role that that it plays.

15 Q If you could take a look at page 25 of your
16 report. Footnote 52.

17 A I'm going the wrong direction here. I don't know
18 what I did here. I got something back in the wrong order.

19 Q Oh, Footnote 53. Sorry.

20 A Page -- did you say 25?

21 Q Page 25. Footnote 53.

22 So you report in Footnote 53 that you
23 independently reviewed and tested Instagram and Facebook's
24 age gates on December 9th of 2025, and also tested TikTok,
25 Google, X, Microsoft, Adobe, and Snap, on that same day; is

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Page 112

1 Q Could you take a look at page 6 of your report?

2 A Page what?

3 Q Page 6, Footnote 11.

4 A Wait, page 6 --

5 Q Page 6, paragraph 11.

6 A Sorry, I was -- okay, .

7 Q My mistake. I said "footnote."

8 A No, that's fine.

9 Q The last sentence of paragraph 11, you write that:
10 "It also has well-defined processes for identifying and
11 removing users once it has actual knowledge that they are
12 under the age of 13."

13 Am I understanding your report correctly that
14 you're not offering a definition of what constitutes actual
15 knowledge?

16 A Well, that -- I'm not, because that's a legal
17 term, and although I am a lawyer, I'm not here in my
18 capacity as a lawyer. That's something a lawyer should
19 hammer out, what -- I'm sure there's case law on what does
20 and doesn't amount to actual knowledge.

21 My opinion is that, in practice, companies decide
22 what collection of single -- signals gives them enough
23 confidence that a user likely is under 13. And it's those
24 signals and in the judgment of whoever is sitting in my
25 chair at the company, and then they debate it with the chief

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Page 175

1 Q So if you could take a look at page 23 of your
2 report.

3 A Sure.

4 Q Paragraph 60, you write in the middle: "An age
5 assurance program must," in italics, "do what is expressly
6 required by the FTC COPPA FAQ."

7 Didn't you just say that this guidance is not
8 binding on the commission and is not itself the law?

9 MR. STEFANIK: Objection to the form.

10 THE WITNESS: It's not itself the law. But,
11 again -- and we're talking about what is practice in
12 the industry. I'm not testifying about the law.

13 What is practice in the industry, they say
14 that it's not binding on the commission. Almost
15 everybody in the industry -- well, I'd say everybody in
16 the industry, looks to that document as the best
17 statement of which practices are okay and which ones
18 aren't and why.

19 BY MR. SLOTHOUBER:

20 Q A minute ago when I asked you to define that
21 language of "dictated, must, have to do," you said the
22 source was the law, but here you're saying must, that same
23 mandatory language, with regards to just guidance.

24 What's the difference between those uses of the
25 word "must"?

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Page 188

1 because, again, like I've said before, COPPA is a law.
2 I don't think I looked at the actual law or read the
3 actual law in probably 20 years.

4 Those of us in the industry, lawyers and
5 nonlawyers alike, privacy program managers, we all look
6 to the COPPA FTC FAQ, the plain language guidance to
7 businesses. And so operationally, that's a best
8 practice, too.

9 It's what everybody looks to. It's what
10 everybody wants to hear when they show up IAPP: "Hey,
11 are you going to make any changes to this this year?"

12 We all look to this.

13 BY MR. SLOTHOUBER:

14 Q So is it because the industry takes account of the
15 FTC guidance that you think it's proper expert testimony as
16 to whether that FTC guidance is being followed?

17 MR. STEFANIK: Objection to the form.

18 THE WITNESS: I didn't hear that last part.

19 BY MR. SLOTHOUBER:

20 Q Yeah. When you said that the industry practices
21 are based on the FTC FAQ; am I understanding that correctly?

22 A Everybody in the industry looks to that
23 document --

24 Q Okay.

25 A -- to benchmark whether the way they're going

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Page 189

1 about something in doing their age gating is appropriate or
2 not appropriate.

3 Q Okay. The opinion that Meta is following the best
4 practices that the industry does is one of the opinions
5 you're offering in this case, right?

6 A Yes.

7 Q And then you are also offering an opinion that
8 Meta is doing what they must under COPPA and the FTC FAQs,
9 right?

10 A My opinion is -- again, I haven't looked at COPPA
11 in years, but their program is designed and does what the
12 FTC FAQ says they should and their practices -- I mean,
13 practices are really uniform across the industry and they're
14 very uniform across the industry because of the FTC FAQ.
15 Everybody looks to it. Everybody lets it inform their
16 design of their age gate.

17 Everybody uses those examples in that document
18 with their user experience designers and their engineers to
19 let them know what is okay to do and what is not okay to do.

20 And again, we need to put this in context because
21 this is a rebuttal report to Dr. McDaniels, who says Meta's
22 program is substandard because it doesn't do this and it
23 doesn't do this and it doesn't do this other thing, or it
24 doesn't do this other thing.

25 But he's an academic, who's never worked in this

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Page 195

1 precise term "platforms" instead of focusing as the guidance
2 does only on general audience?

3 A Because, in other areas of the FTC FAQ they, to my
4 recollection, extend this to a mixed audience as well.

5 Q But they don't extend it to child directive
6 platforms, right?

7 A Not to child -- so, again, I think we're veering
8 into legal territory, unfortunately, because child directed
9 is very much a legal term and there's a lot of case law out
10 there.

11 And again, I am not representing myself here as a
12 COPPA expert. I always had a COPPA expert on speed dial and
13 there aren't really that many of them out there at law
14 firms.

15 So if I had a question about child directed, does
16 this mean I'm child directed? Does that mean I'm child
17 directed? I think in broad categories I'd know what that
18 meant, right, but in edge cases, I would talk to somebody
19 else because it's very much a legal term.

20 Q But you're aware that one of the allegations in
21 the case is that Meta's platforms are child directed, right?

22 A I'm not really -- I don't -- I didn't read the
23 complaint.

24 Q Okay. So --

25 A I mean, again, that's a legal -- I'm not going to

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Page 197

1 Q So if they were a child-directed platform, it
2 would not be true that they have no obligation to
3 investigate or verify age absent actual knowledge that a
4 specific user is under 13?

5 A Well, that -- it wouldn't even -- I mean, it would
6 kind of almost nonsensical to say it because you would
7 investigate because you want under 13s and you got parental
8 consent, right, so you wouldn't be investigating that to
9 begin with if you were child directed.

10 If you're child directed and you want the under
11 13s on your site, then you deliberately embraced a comply
12 with COPPA approach and you're in a whole different
13 universe.

14 Q Well, a child-directed website can have users over
15 13 that don't require parental consent, right?

16 MR. STEFANIK: Objection to the form. To the
17 extent it calls for a legal conclusion, but you can
18 answer.

19 THE WITNESS: Yeah. I'm going to leave that
20 one alone as it calls for a legal conclusion.

21 BY MR. SLOTHOUBER:

22 Q So my question with regards to your use of the
23 term "platforms" here, isn't that potentially confusing to a
24 jury to use just the term "platforms," instead of the
25 precise term in the guidance, which is general audience

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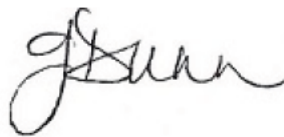
Page 238

CERTIFICATE

I, Jennifer A. Dunn, Certified Realtime Reporter, Registered Merit Reporter, California Certified Shorthand Reporter #14461, do hereby certify that prior to the commencement of the examination, MARY CATHERINE WIRTH, was duly remotely sworn by me to testify to the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a verbatim transcript of the testimony as taken stenographically by me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.



Certified Realtime Reporter

Registered Merit Reporter

CA Certified Shorthand Reporter #14461

Dated: February 25, 2026