

AMENDED Exhibit 133

PLAINTIFFS' OMNIBUS OPPOSITION TO DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT

Case No.: 4:22-md-03047-YGR

MDL No. 3047

In Re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation

CONFIDENTIAL

Page 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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

MDL No. 3047

-----/
SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE
COUNTY OF LOS ANGELES - SPRING STREET COURTHOUSE

COORDINATION PROCEEDING
SPECIAL TITLE [RULE 3.400]
SOCIAL MEDIA CASES

Lead Case No.
22STCV21355

-----/
This Document Relates To
STATE OF TENNESSEE, ex rel.
JONATHAN SKRMETTI,
ATTORNEY GENERAL and
REPORTER,
v.
META PLATFORMS, INC., and
INSTAGRAM, LLC.

-----/

CONFIDENTIAL - ATTORNEYS' EYES ONLY
PURSUANT TO PROTECTIVE ORDER
VIDEO-RECORDED DEPOSITION OF TOM CUNNINGHAM
(Pages 1 through 184)

Lieff, Cabraser, Heimann & Berstein
275 Battery Street, 29th Floor, San Francisco,
California

Stenographically reported by:
LORRIE L. MARCHANT, RMR, CRR, CCRR, CRC
California CSR No. 10523
Washington CSR No. 3318
Oregon CSR No. 19-0458
Texas CSR No. 11318
Job No.: MDLG 7212988
California Firm Registration No.: 48

CONFIDENTIAL

Page 2

A P P E A R A N C E S

For the Witness:

BRADLEY BERNSTEIN SANDS
BY: ERIN BERNSTEIN, ESQ.
1212 Broadway, Suite 1100
Oakland, CA 94612
(510) 380-5801
eberstein@bradleybernstein.com

For the Plaintiffs:

MOTLEY RICE, LLC
BY: ANDREW P. ARNOLD, ESQ.
BY: JESSICA L. CARROLL, ESQ.
28 Bridgeside Boulevard
Mount Pleasant, SC 29464
(843) 216-9229
aarnold@motleyrice.com
jcarroll@motleyrice.com

For the State of New Jersey:

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
BY: VERNA J. PRADAXAY, ESQ.
124 Halsey Street, 5th Floor
Newark, NJ 07101
(609) 712-2828
verna.pradaxay@law.njoag.gov

For the Defendants TikTok, Ltd.; TikTok, LLC;
TikTok, Inc.; ByteDance Ltd.; and ByteDance Inc.:

KING & SPALDING
BY: LENNETTE LEE, ESQ. (VIA ZOOM)
633 West Fifth Street, Suite 1600
Los Angeles, CA 90071
(213) 218-4011
llee@kslaw.com

CONFIDENTIAL

Page 3

A P P E A R A N C E S

For the Defendants Meta Platforms, Inc., f/k/a Facebook, Inc.; Facebook Holdings, LLC; Facebook Operations, LLC; Facebook Payments, Inc.; Facebook Technologies, LLC; Instagram, LLC; Siculus, Inc.; and Mark Elliot Zuckerberg:

COVINGTON & BURLING LLP
BY: CHRISTOPHER K. EPPICH, ESQ.
1999 Avenue of the Stars
Los Angeles, CA 90067
(424) 332-4764
ceppich@cov.com

BY: CECILIA M. BOBBITT, ESQ.
Salesforce Tower
415 Mission Street, Suite 5400
San Francisco, CA 94105
(415) 591-7017
cbobbitt@cov.com

BY: EVA LILIENFELD, ESQ. (VIA ZOOM)
The New York Times Building
620 Eighth Avenue
New York, NY 10018
(212) 841-1000
elilienfeld@cov.com

BY: JON THOMPSON, ESQ. (VIA ZOOM)
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
(202) 662-6000
jonthompson@cov.com

BASS, BERRY & SIMS PLC
BY: DANIEL RILEY, ESQ. (VIA ZOOM)
The Tower at Peabody Place
100 Peabody Place, Suite 1300
Memphis, TN 38103
(901) 543-5916
dan.riley@bassberry.com

CONFIDENTIAL

Page 4

A P P E A R A N C E S

For the State of Massachusetts:

OFFICE OF THE ATTORNEY GENERAL
STATE OF MASSACHUSETTS

BY: KAITLYN KARPENKO, ESQ. (VIA ZOOM)
One Ashburton Place, 20th Floor
Boston, Massachusetts 02108
(617) 727-2200
kaitlyn.karpenko@mass.gov

For the State of Tennessee:

STATE OF TENNESSEE
ATTORNEY GENERAL

BY: KEATON MURPHY, ESQ. (VIA ZOOM)
UBS Tower
315 Deaderick Street
Nashville, Tennessee 37238
615.741.3519
keaton.murphy@ag.tn.gov

For the State of Arkansas:

ROBBINS GELLER RUDMAN & DOWD LLP
BY: SNEHEE KHANDESHI, ESQ.
One Montgomery Street, Suite 1800
San Francisco, California 94104
415.288.4545
skhandeshi@rgrdlaw.com

For the Defendant Snap:

MUNGER TOLLES & OLSON
BY: KYLE GROVES, ESQ. (VIA ZOOM)
350 South Grand Avenue, 50th Floor
Los Angeles, California 90071-3426
(213) 683-9205
kyle.groves@mto.com

CONFIDENTIAL

Page 5

A P P E A R A N C E S

For the Defendants Google and YouTube:

WILSON SONSINI GOODRICH & ROSATI

BY: RASHEED EVELYN, LAW CLERK (VIA ZOOM)

One Market Plaza

Spear Tower, Suite 3300

San Francisco, CA 94105

(415) 947-2000

revelyn@wsgr.com

For the State of Colorado:

STATE OF COLORADO

OFFICE OF THE ATTORNEY GENERAL

BY: CORIN STIGALL, PARALEGAL (VIA ZOOM)

1300 Broadway, 10th Floor

Denver, Colorado 80203

720.508.6000

corin.stigall@coag.gov

Also present:

Arvind Narayanan, Professor of Computer
Science at Princeton (via Zoom)

Brady Freeman, Meta Assoc. General Counsel

Brian Fronzaglia, LSTech
Sheikh Shaheen (via Zoom)

---oOo---

CONFIDENTIAL

Page 18

1 and ...

2 A. No.

3 Q. Okay. I -- I want to start by just asking
4 you a little bit about your background.

5 Could you describe your formal education?

6 A. I have a PhD in economics.

7 Q. From where?

8 A. From the London School of Economics.

9 Q. And what year did you get your PhD?

10 A. 2012.

11 Q. You previously worked for Facebook;
12 correct?

13 A. Correct.

14 Q. How many years were you --

15 A. Five years.

16 Q. -- there?

17 MS. BERNSTEIN: Let's make sure you wait
18 until he finishes.

19 THE WITNESS: Oh, sorry.

20 MS. BERNSTEIN: I have the same -- I have
21 the same habit.

22 MR. ARNOLD: Yeah. It's very common, which
23 is why we say something.

24 BY MR. ARNOLD:

25 Q. Approximately when was that that you worked

CONFIDENTIAL

Page 19

1 for Facebook for five years?

2 A. 2015 to 2020.

3 Q. What was your job title there when you
4 started?

5 A. Data scientist.

6 Q. Could you describe at a general level what
7 you did as a data scientist at Facebook?

8 A. Analyzed data, wrote memos on -- on a
9 variety of business problems.

10 Q. Did you rely on your training in economics?

11 A. I did.

12 Q. Where does your -- obviously, you have a
13 PhD in economics.

14 Where does your expertise in data science
15 that you got hired for by Facebook -- where does
16 that come from?

17 A. Statistical analysis and analysis of sort
18 of social systems.

19 Q. Just very briefly to sort of round this
20 out, what was the next job you had after you left
21 Facebook in 2020?

22 A. At Twitter.

23 Q. Okay. Did you have a similar role there?

24 A. I did. I did.

25 Q. And how about -- how long did you stay at

CONFIDENTIAL

Page 20

1 Twitter?

2 A. For a year.

3 Q. Okay. And what did you do after Twitter?

4 A. I -- my next paid job was working with a
5 nonprofit called the Integrity Institute. And then
6 after that, I started working in AI, which is where
7 I am right now.

8 Q. What does the Integrity Institute do?

9 A. It's a nonprofit which is a -- more or
10 less, a think tank and related to online platform
11 moderation.

12 Q. At OpenAI are you also a data scientist
13 to -- a similar role to the roles you've had in the
14 past?

15 A. I had been, although my title is now
16 economist.

17 Q. Okay. But does that involve doing similar
18 work to what you did at Facebook and then Twitter?

19 A. Broadly speaking, yes.

20 Q. I am going to hand you what we will mark
21 Exhibit 1.

22 We have four copies, so ...

23 (Marked for identification purposes,
24 Exhibit 1.)

25 MR. ARNOLD: Witness, witness counsel.

CONFIDENTIAL

Page 21

1 MS. BERNSTEIN: Thank you.

2 BY MR. ARNOLD:

3 Q. So do you recognize this as your profile on
4 LinkedIn?

5 A. It -- it seems to be similar.

6 Q. Let me ask a different question, and it may
7 help to explain that when you print something off of
8 the LinkedIn site, it actually formats the document
9 for you so that it doesn't quite exactly look like
10 LinkedIn; right?

11 But does the content of this document,
12 which I'll represent to you I've printed off of
13 LinkedIn -- does that reflect your experience that
14 we just spoke about?

15 A. Seems to be similar.

16 Q. You don't have any reason to think that
17 anything on here is inaccurate?

18 A. No.

19 Q. Okay. All right. Let's talk about your
20 time at Facebook in a little bit more depth. You
21 can set that aside if you'd like.

22 So you mentioned you were a data scientist
23 when you started in 2015; correct?

24 A. Correct.

25 Q. And did your title or position change

CONFIDENTIAL

Page 22

1 during the time you were at Facebook?

2 A. I don't recall. My position changed. I
3 moved to a different department from analytics to
4 core data science. I don't remember if my job title
5 changed.

6 Q. Did you continue doing the same type of
7 work after you moved?

8 A. Broadly speaking, yes.

9 Q. So it was more of a -- an organizational
10 change than a substantive change for what you were
11 doing day to day?

12 A. Correct.

13 Q. While you were at Facebook, did the work
14 that you did relate to multiple -- well, let me
15 clarify first.

16 So at the time you worked for Facebook, the
17 company was called Facebook; correct?

18 A. Correct.

19 Q. And now you understand, I'm guessing, that
20 it's called Meta Platforms?

21 A. Correct.

22 Q. So I may refer to the company as "Facebook"
23 because that's how it's reflected in the documents
24 that we received out of your custodial files, but do
25 you understand that I'm referring to the company

CONFIDENTIAL

Page 23

1 that's currently Meta Platforms?

2 A. Understood.

3 Q. Okay. So while you were at Facebook, did
4 the -- did the work you do relate to multiple
5 Facebook products or just one product?

6 A. Multiple.

7 Q. Did those products include the Facebook
8 app?

9 A. Yes.

10 Q. And that's sometimes referred to as
11 "Facebook blue"; right?

12 A. Correct.

13 Q. And how about Instagram? Did you do work
14 related to Instagram?

15 A. I did.

16 Q. Any other applications that your work
17 related to or products?

18 A. WhatsApp and Messenger.

19 Q. Is that all that you can recall?

20 A. Correct.

21 Q. Is it fair to say that you were one of the
22 most senior data scientists at Facebook?

23 A. Correct.

24 Q. Okay. I'm going to hand you another
25 document that we'll mark --

CONFIDENTIAL

Page 71

1 things in this document.

2 Directly under the paragraph we were just
3 talking about, you write (as read):

4 "Higher Facebook use is correlated
5 with worse psychological states
6 (well-being, loneliness, et cetera),
7 although changes in Facebook use are
8 uncorrelated with changes in well-being
9 measures."

10 And then you have two footnotes, 8 and 5.
11 Did I read that right?

12 A. Yes.

13 Q. So could you tell me what Footnote 5 is?

14 A. It appears to be this [REDACTED] internal
15 note called "User Perception of Time Spent on
16 Instagram."

17 Q. So that's an internal Facebook study that
18 was published as a note?

19 A. It appears to be, although it's -- I
20 couldn't rule out that it refers to something
21 externally.

22 Q. Do you see a URL right under the --

23 A. I do.

24 Q. -- title of the -- of the article?

25 A. I do.

CONFIDENTIAL

Page 72

1 Q. Does that appear to be an internal
2 Facebook --

3 A. Correct.

4 Q. -- URL?

5 A. Yeah.

6 Q. fb.workplace.com?

7 A. Correct. Yep.

8 Q. To your knowledge, was this study made
9 public at the time that you wrote this note?

10 MR. EPPICH: Objection to form.
11 Foundation.

12 THE WITNESS: I have no knowledge,
13 actually. I -- I don't recall -- I don't recall who
14 the person, [REDACTED], was. So I don't have any
15 recollection of that note.

16 BY MR. ARNOLD:

17 Q. Okay. Lets look at one more thing back on
18 the previous page, -68267, paragraph 4. It says
19 (as read):

20 "A significant minority report
21 serious difficulties. 3.1 percent of
22 Facebook users in the U.S. report
23 'serious problems with sleep, work, or
24 relationships that they attribute to
25 Facebook and concerns or preoccupations

CONFIDENTIAL

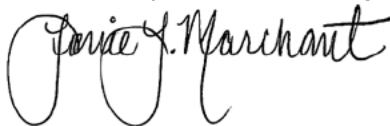
Page 184

STENOGRAPHER'S CERTIFICATE

I, LORRIE L. MARCHANT, Certified Shorthand Reporter, Certificate No. 10523, for the State of California, hereby certify that TOM CUNNINGHAM was by me duly sworn/affirmed to testify to the truth, the whole truth and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place herein named; that the deposition is a true record of the witness's testimony as reported to the best of my ability by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed under my direction into typewriting by computer; that request [] was [X] was not made to read and correct said deposition.

I further certify that I am not interested in the outcome of said action, nor connected with, nor related to any of the parties in said action, nor to their respective counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of March, 2025.



LORRIE L. MARCHANT, RMR, CRR, CCRR, CRC
Stenographic Certified Shorthand Reporter #10523