

AMENDED Exhibit 7

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

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: SOCIAL MEDIA ADOLESCENT) MDL Number:
ADDICTION/PERSONAL INJURY PRODUCTS) 4:22-MD-3047-YGR
LIABILITY LITIGATION)
_____)

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. for
_____) Filing Purposes
22STCV21355)

This Document Relates to:)

STATE OF TENNESSEE,)
ex rel. JONATHAN SKRMETTI,)
ATTORNEY GENERAL and REPORTER,)
v.)
META PLATFORMS, INC., and)
INSTAGRAM, LLC,)
Case No. 23-1364-IV)
_____)

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VIDEOTAPED DEPOSITION of
DARIUS KILSTEIN, VOLUME I
Palo Alto, California
December 17, 2024

Pages 1 - 427

JENNY L. GRIFFIN, CSR No. 3969 - RMR, CRR, CCRR, CRC

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1 exhibit for you and your counsel.

2 I think in most instances it's going to be
3 easiest for you to look at the screen, but you will
4 also have a paper copy if you need it. Some of the
5 documents are just lengthy, and the tech will be
6 able to get to the reference or the page or slide
7 faster than you flipping through the pages.

8 MR. SCHMIDT: You're marking this as 0?

9 MS. GOTWALS: It was Tab 0. It's going to
10 be marked as Meta-Kilstein-1.

11 MR. SCHMIDT: Okay.

12 (Exhibit 1 was marked for
13 identification and is attached to the
14 transcript.)

15 BY MS. GOTWALS:

16 Q. So if at any time you're unclear about
17 where we are in an exhibit, please let me know. As
18 I said, it might be easier to do it on the screen
19 when it comes to some exhibits with multiple pages.

20 A. Sure.

21 Q. Do you recognize this document in front of
22 you?

23 A. Yes.

24 Q. Can you tell me what it is?

25 A. It's my LinkedIn profile.

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1 Q. Does it appear to be a true and accurate
2 representation of your LinkedIn profile?

3 A. Yes.

4 Q. And you authored this LinkedIn profile,
5 correct?

6 A. That's correct.

7 Q. So this LinkedIn profile shows that you are
8 a director in data science at Instagram; is that
9 right?

10 A. That's correct.

11 Q. And that's actually -- the parent company
12 is Meta?

13 A. That's correct.

14 Q. Have you always been a director at Meta?

15 A. No.

16 Q. What other positions have you held?

17 A. I joined as a data science manager, and I
18 did that for about -- oh, I can't tell you exactly,
19 but somewhere between three and four years, at which
20 point I was promoted to director.

21 Q. What's the difference between manager and
22 director?

23 A. Not too much. It's more just the internal
24 levels they give to people based on your performance
25 and how you're doing. But, in general, the tasks

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1 and responsibilities were similar.

2 Q. Did it have a greater span of control?

3 A. No.

4 Q. Same number of employees worked for you?

5 A. Yes.

6 Q. Did you just receive the one promotion?

7 A. I've had two promotions, but the first one
8 was within manager. So I was a data science
9 manager, Level VI, then promoted to data science
10 manager, Level VII, and then promoted to director.

11 Q. Thank you.

12 So prior to Meta you worked for SoundCloud
13 for four years; right?

14 A. That's correct.

15 Q. So can we look -- scroll down, thank you.

16 It's easier on the screen. It might be a
17 little bit bigger there. Let's get the description
18 you provided under your SoundCloud employment.

19 Looking down at that third bullet, you describe
20 yourself as a "growth hacking extraordinaire."

21 Did I read that correctly?

22 A. I see that.

23 Q. And the fourth bullet you wrote:

24 "Beacon and evangelist for
25 data-informed decision-making."

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1 Did I read that correctly?

2 A. That's correct.

3 Q. So is it fair to say that data and metrics
4 are important to your job at Meta?

5 A. Yes.

6 MS. GOTWALS: Speaking of your job at Meta,
7 can we pull up previously marked Tab 1. And we will
8 mark this as Meta-Kilstein-2.

9 (Exhibit 2 was marked for
10 identification and is attached to the
11 transcript.)

12 BY MS. GOTWALS:

13 Q. While they get the paper exhibit, if you
14 would look at the screen, do you recognize this
15 organizational chart?

16 MR. SCHMIDT: I need to get the document,
17 please.

18 Thank you.

19 THE WITNESS: Yes, I see it.

20 BY MS. GOTWALS:

21 Q. Do you recognize it?

22 A. Yes.

23 Q. So I'll represent to you that this was
24 produced to us by Meta's lawyer from your custodial
25 files.

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1 Do you have any reason to dispute that?

2 A. No.

3 Q. Did you receive this presentation, this
4 organizational chart, as an employee for Meta doing
5 Meta's business?

6 A. I believe I received this at some point,
7 yes.

8 Q. And you have no reason to believe the
9 content of this presentation in front of you was in
10 any way altered from how it appeared in your
11 custodial files?

12 A. I don't see anything that looks off.

13 MS. GOTWALS: Thank you.

14 MR. SCHMIDT: May I just ask. Do you know
15 why there's no Bates stamp on this? Was this a
16 native document?

17 MS. GOTWALS: It was. We can get you a
18 Bates number if you need it.

19 MR. SCHMIDT: Yeah, I need it.

20 MS. GOTWALS: The Bates number for this
21 document is META3047MDL-047-00579249.

22 MR. SCHMIDT: Thank you.

23 MR. PHELPS: And, Paul, we'll -- I think we
24 have an agreement afterwards to coordinate Bates
25 stamps in the relevant actions as needed.

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1 MR. SCHMIDT: Yeah.

2 BY MS. GOTWALS:

3 Q. So looking at the first slide here on the
4 front, is that a current representation of the
5 leadership staffing in data science?

6 A. No. Not current.

7 Q. How has it changed?

8 A. This here was a representation of one
9 specific product group within Instagram, the
10 communities product group. That has since
11 disbanded. That was about -- it disbanded about
12 nine months ago. My role has changed since.

13 Q. So who -- to whom do you report now?

14 A. [REDACTED]

15 Q. And for how long did you report to [REDACTED]
16 [REDACTED]? Am I saying that correctly?

17 A. You got that right. Yes. I would say
18 approximately three years. I can't tell you for
19 certain.

20 Q. Let's move to the third slide or the third
21 page in the exhibit there.

22 So notwithstanding that the communities
23 group was disbanded, is this a current
24 representation of the ecosystems group?

25 A. No.

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1 Q. How is it different?

2 A. The ecosystems team was also disbanded.

3 Q. Okay. Do the names listed below you here
4 still report to you?

5 A. No. I currently have no reports.

6 Q. How long has that been the case?

7 A. About nine months now.

8 Q. So what are you currently doing at Meta?

9 A. I transferred back to individual
10 contributor, which means I just do data analysis. I
11 am situated in the Instagram Home product group, but
12 I don't focus on any specific thing. I just jump
13 around to different areas based on what's required.

14 Q. You still hold the title of director?

15 A. Yes.

16 MS. GOTWALS: Let's talk a little bit about
17 the nature of the work you have done for Meta.

18 Lance, could you pull up previously marked
19 Tab 2? We will mark this exhibit Meta-Kilstein-3.

20 (Exhibit 3 was marked for
21 identification and is attached to the
22 transcript.)

23 BY MS. GOTWALS:

24 Q. So, once again, I'll represent to you that
25 this was produced to us by lawyers from Meta from

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1 your custodial files.

2 Do you have any reason to dispute that?

3 A. Just give me a moment to quickly review.

4 Q. Of course.

5 A. Okay. So what was the question?

6 Q. The question was if I represent to you that
7 this was produced from Meta's files by its lawyers
8 from your custodial files, do you have any reason to
9 dispute that?

10 A. No.

11 Q. So is this a series of emails from
12 September 2021?

13 A. Yes.

14 Q. And you sent and received these emails via
15 your company email address?

16 A. That's correct.

17 Q. That's [REDACTED]?

18 A. Yes.

19 Q. And you sent and received these emails as a
20 regular part of your job for Meta?

21 A. Correct.

22 Q. Doing Meta's business?

23 A. Yes.

24 Q. And it's a regular practice of business of
25 Meta to send and receive emails?

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1 A. That's correct.

2 Q. So looking at just the very top email
3 there, it looks like it's an email from Pavni
4 Diwanji on September 10th, 2021?

5 A. That's one that I sent to her.

6 Q. I'm sorry. Yes. An email from you to
7 Pavni Diwanji on September 10th?

8 A. That's correct.

9 Q. Who is Pavni Diwanji?

10 A. She was a -- I believe VP of product at the
11 time, leading some of the work on youth for
12 Instagram.

13 Q. Okay. Is she still at Meta?

14 A. I don't believe so.

15 MS. GOTWALS: Lance, if you could pull out
16 the third and fourth paragraphs on the screen for
17 him here starting with "I manage."

18 BY MS. GOTWALS:

19 Q. Here you state:

20 "I manage the ecosystem pillar for
21 IG which is basically an understand
22 pillar (DS(5), UXR(2), DE(3), TPM(1).
23 I've hired very senior people across
24 most functions. So it's basically like
25 a bit of a special ops team. I'm a DS

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1 manager by trade, but acting as a PM
2 for the pillar as well."

3 Did I read that correctly?

4 A. Yes.

5 Q. So let's straighten out a few acronyms
6 here. DS, is that data science?

7 A. That's correct.

8 Q. And UXR?

9 A. User research.

10 Q. DE?

11 A. Data engineers.

12 Q. And TPM?

13 A. Technical product manager.

14 Q. So does that mean that the PM in the last
15 sentence is product manager as well?

16 A. Correct.

17 Q. You then state:

18 "The way I run the pillar is to
19 pick what I think the biggest questions
20 are for IG and focus on them. Since
21 inception of the pillar, for me, it's
22 been teen engagement. And a lot of
23 what we do is basically trying to
24 understand what we should do to help
25 those users (e.g., we put Direct on the

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1 map last half and have many other balls
2 in the air.) I'm also leading the
3 close friends workstream from a DS POV
4 and have people on the ground in
5 entertainment, DS."

6 Did I read that correctly?

7 A. Yes.

8 Q. So, again, DS is the data science. IG is
9 Instagram?

10 A. Correct.

11 Q. POV meaning point of view?

12 A. Yes.

13 Q. So is this an accurate description of what
14 you did for the ecosystems pillar?

15 A. Yeah.

16 Q. And, again, you're not doing this anymore;
17 is that right?

18 A. That's correct.

19 Q. As part of your work for Meta, were you
20 subjected to regular job performance reviews?

21 A. Yes.

22 Q. Were they called PSCs?

23 A. Yes.

24 Q. And those reviews were interactive; right?

25 A. What do you mean by "interactive"?

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1 Q. Well, there was a self-evaluative process
2 incorporated?

3 A. That's correct.

4 Q. In 2019, would you have gone through that
5 review process with [REDACTED]?

6 A. I can't remember exact dates, but probably.

7 MS. GOTWALS: Okay. Well, we'll pull up an
8 exhibit.

9 Can you pull up previously marked Tab 3.
10 And this one we will mark as Meta-Kilstein-4.

11 (Exhibit 4 was marked for
12 identification and is attached to the
13 transcript.)

14 BY MS. GOTWALS:

15 Q. I'll represent to you again that this was
16 produced to us by Meta's lawyers from your custodial
17 files.

18 Do you have any reason to dispute that?

19 A. I'm just taking a quick second to read the
20 document.

21 MR. SCHMIDT: While he's doing that, would
22 you mind just reading the Bates into the record.

23 MS. GOTWALS: Yes. The Bates number for
24 this document is META3047MDL-020-00535032.

25 MR. SCHMIDT: Thank you.

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1 THE WITNESS: Okay.

2 BY MS. GOTWALS:

3 Q. The question pending is do you have any
4 reason to dispute that this is from your custodial
5 files?

6 A. No.

7 Q. Do you recognize this spreadsheet?

8 A. Yeah. It's a long time ago. Yeah.

9 Q. Can you tell us what it is?

10 A. It looks like some -- it looks like we were
11 looking at the different areas of what it would mean
12 to operate at a different level at Instagram and,
13 basically, trying to ascertain how well I'm doing
14 under each of the important -- I don't know how to
15 say it, but each of the important things that we
16 look for in data science.

17 MR. SCHMIDT: I'll just note for the
18 record, I suspect because this is produced as a
19 spreadsheet, it looks like there's a lot of text cut
20 out of the printout. So we don't have the full text
21 of the document.

22 MS. GOTWALS: Okay.

23 Can you show me a copy of the printed
24 exhibit.

25 Okay. If you wouldn't mind, we'll review

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1 on the screen and then I'll make sure that you get
2 printed copies with the full text for purposes of
3 the exhibit. We'll need to reproduce it with the
4 full text for the court reporter as well.

5 MR. SCHMIDT: Okay. And, obviously, we'll
6 just reserve rights about it, but understood.

7 MS. GOTWALS: Thank you. I appreciate
8 that.

9 BY MS. GOTWALS:

10 Q. Did you receive and author portions of this
11 spreadsheet as an employee of Meta doing Meta's
12 business?

13 A. It looks like it.

14 Q. And you have no reason to believe the
15 contents of this spreadsheet in front of you were in
16 any way altered?

17 MR. SCHMIDT: Objection. Foundation.

18 THE WITNESS: I couldn't tell you.

19 BY MS. GOTWALS:

20 Q. So looking at the spreadsheet, it says on
21 the far left -- and if you want to look here on the
22 screen so we can get the full text -- it looks like
23 on the left we've got job expectations.

24 Is that fair?

25 A. Yes.

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1 Q. And then the fourth column, which is
2 Column D that has your name under it, [REDACTED], that
3 would be where you put your comments in; right?

4 A. Yes.

5 Q. Okay. So you're evaluating your own
6 work product in that column; is that right?

7 A. That's correct.

8 Q. So let's look at the second box in that
9 column.

10 MS. GOTWALS: And if -- Lance, if you could
11 expand that -- it's a Box D-3. Expand that for him
12 so he can see all the text.

13 BY MS. GOTWALS:

14 Q. And, actually, I think, if you look at the
15 part at the top, you can also read it. It says:

16 "Alongside [REDACTED], I define a huge
17 part of growth's overall product
18 strategy as well as write and present a
19 large portion of our H plan to M Team."

20 Did I read that correctly?

21 A. Yes.

22 Q. What is the H plan?

23 A. The half plan. So the things that we were
24 planning to do in the upcoming half.

25 Q. Of the year?

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1 A. Yes.

2 Q. What is the M Team?

3 A. Management team.

4 Q. So since at least 2019, you were leading
5 efforts at Meta in growth and metrics; is that
6 correct?

7 A. In 2019 I was data science manager for the
8 Growth Pillar.

9 Q. And did working in the Growth Pillar
10 involve looking at metrics?

11 A. Yes.

12 MS. GOTWALS: Lance, if you could pull up
13 previously marked Tab 4. And we'll mark this one as
14 Meta-Kilstein-5.

15 (Exhibit 5 was marked for
16 identification and is attached to the
17 transcript.)

18 BY MS. GOTWALS:

19 Q. Once again, I'll represent to you this was
20 produced to us by Meta's lawyers and it came from
21 your custodial files.

22 Do you have any reason to dispute that?

23 A. No.

24 Q. Do you recognize this document?

25 A. Yes.

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1 Q. This is another performance review;
2 correct?

3 A. That's correct.

4 Q. And "2021 H1" means it's from the first
5 half of 2021?

6 A. Yes.

7 Q. And who was your supervisor that would have
8 provided this review in 2021?

9 A. This would be [REDACTED].

10 Q. So if we can look down on the first page
11 there under detailed feedback, call out that first
12 paragraph, Lance, the first bullet there.

13 It says:

14 "Strategic impact. Darius helped
15 IG leads (and other app leads) realize
16 just how important Direct is for
17 US teens cementing the need to drive
18 value for teens in H2 and to create a
19 Private Sharing pillar within Sharing
20 Experiences. Additionally, Darius'
21 work helped push this into the topline
22 goal for IG."

23 Did I read that correctly?

24 A. Yes.

25 Q. What is "Direct"?

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1 A. Direct is the messaging portion of the
2 Instagram app.

3 Q. And what is a topline goal?

4 A. A topline goal is a goal that the company
5 takes on in a half.

6 Q. So based on your work, Meta elevated a
7 Private Sharing pillar within Sharing Experiences to
8 a topline goal?

9 A. You would have to ask them exactly why they
10 did it, but I suspect that my work informed that
11 decision.

12 MS. GOTWALS: Okay. You can take down the
13 callout. Can we go down three-quarters down to the
14 second page, actually.

15 Let's actually start where it says
16 "strategic impact."

17 BY MS. GOTWALS:

18 Q. This says:

19 "Strategic impact. Darius
20 proactively led the effort across the
21 family, looking at whether we have an
22 age-up or engagement problem for teens
23 and young adults across Instagram and
24 Facebook.

25 "This presentation motivated app

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1 leads, including Cox, to initiate a
2 major workstream within Facebook to
3 help people age-up from Instagram to
4 Facebook; e.g., Tom Allison sent an
5 email triggering these workstreams.
6 three days after the presentation to
7 app leads. Alex Schultz called the
8 study out at the CP All Hands as the
9 work that everyone should read."

10 Did I read that correctly?

11 A. Yes.

12 Q. Who is Cox?

13 A. That's Chris Cox. He's our VP of product
14 at Meta.

15 Q. VP of product?

16 A. I believe so.

17 Q. Who is Alex Schultz?

18 A. He is the head of marketing and analytics
19 for Meta.

20 Q. Is he also a vice president?

21 A. I believe so.

22 Q. Who is Tom Allison?

23 A. He is the CEO of Facebook app.

24 Q. Do you believe that this is an accurate
25 description of your strategic impact at Meta as part

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1 of your job?

2 A. I suspect that my work did have an
3 influence on these people. So, yeah.

4 MS. GOTWALS: Okay. Can we take down this
5 callout, and if we scroll down this page
6 three-quarters of the way to the bullet that says
7 "Elevating product impact" and just call out that
8 bullet, please.

9 BY MS. GOTWALS:

10 Q. This says:

11 "Elevating product impact. Darius
12 acted as the central POC between the
13 CPP org and IG and informed
14 prioritization and leadership buy-in
15 for age models, closeness measurement
16 and people accounting."

17 Did I read that correctly?

18 A. Yes.

19 Q. So POC is point of contact; right?

20 A. Correct.

21 Q. What is the CPP org?

22 A. Central platform. I'm not sure what the
23 last P stands for.

24 Q. What is it?

25 A. It's a large product group within Meta.

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1 They own a lot of different things. I couldn't tell
2 you all the things they own, but my work with them
3 was mainly around the different models that they
4 created -- age, closeness, and people models --
5 that Instagram used for analytics.

6 Q. We will talk a little bit more about those
7 models later, but do you believe that this is an
8 accurate description of how you elevated product
9 impact at Meta?

10 A. I'm not really sure why they say "elevated
11 product impact," but I think the statement is
12 correct, that I acted as a central POC between the
13 CPP org and Instagram on those three specific
14 models.

15 MS. GOTWALS: Thank you.

16 Lance, can you pull up previously marked
17 Tab 5, please. We'll mark this one as
18 Meta-Kilstein-6.

19 (Exhibit 6 was marked for
20 identification and is attached to the
21 transcript.)

22 BY MS. GOTWALS:

23 Q. I'll represent to you that this was
24 produced to us by Meta's lawyers from your custodial
25 files.

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1 Do you have any reason to dispute that?

2 A. No.

3 Q. Do you recognize this document?

4 A. Yes.

5 Q. This is a summary of a PSC; is that right?

6 A. That's correct.

7 Q. For the second half of 2021?

8 A. That's correct.

9 Q. This review and this summary here were
10 provided by [REDACTED] as well?

11 A. That's correct.

12 Q. So we'll start reading at about the middle
13 of the paragraph here. It states:

14 "Your initiative to make sense of
15 teen data revealed one of the most
16 alarming trends facing Instagram to
17 date, teen DAU decline. Further, your
18 and [REDACTED]' clear early diagnosis that
19 the decline is caused by teen PMF
20 pivoted the entire connections pillar
21 strategy and reinforced IG's strategy
22 of being a teen-first app."

23 Did I read that correctly?

24 A. Yes.

25 Q. Do you believe that was an accurate

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1 description of your role and impact in Meta?

2 A. Yes.

3 Q. And DAU, that's daily active users; right?

4 A. That's correct.

5 Q. PMF is product market fit?

6 A. That's correct.

7 MS. GOTWALS: Lance, can you pull up
8 previously marked Tab 6. And we'll mark this one as
9 Meta-Kilstein-7.

10 (Exhibit 7 was marked for
11 identification and is attached to the
12 transcript.)

13 THE WITNESS: That screen is different to
14 the document.

15 MS. GOTWALS: Okay. The document is the --

16 MR. PHELPS: Why don't you put that one to
17 the side, and we're going to redistribute that in a
18 second. Let's just mark that as --

19 (Brief discussion held off the
20 stenographic record.)

21 MS. GOTWALS: The Bates number of
22 Meta-Kilstein-7 is META3047MDL-046-00286948.

23 MR. SCHMIDT: Thanks.

24 BY MS. GOTWALS:

25 Q. Do you recognize this document?

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1 A. Yes.

2 Q. If I represent to you that it was produced
3 to us by Meta's lawyers from your custodial files,
4 do you have any reason to dispute that?

5 A. No.

6 Q. This is another performance review;
7 correct?

8 A. That's correct. This is a mid-cycle review
9 so it's sort of a check-in before the actual
10 performance review.

11 Q. And that's mid-cycle 2023?

12 A. Yes. I couldn't tell you if this was H1 or
13 H2.

14 Q. Would this have been provided by [REDACTED]?

15 A. Yes.

16 Q. So let's read starting at the top. It
17 says:

18 "Hi, Darius. You've hit a major
19 milestone in your career. You are now
20 leading one of IG's company priorities
21 as well as you are the face for IG's
22 Number 1 objective" -- and we'll skip
23 the hyperlink.

24 "Our Number 1 objective remains
25 turning around developed markets teen

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1 DAU and MAU trends and getting on a
2 path to be the first-choice app for
3 teens."

4 Did I read that correctly?

5 A. Yes.

6 Q. Do you believe this is an accurate
7 description of your role and impact at Meta in 2023?

8 A. Not exactly. I think it's a little bit
9 overflattering. I wouldn't say that I was leading
10 the company priority or the face of the Number 1
11 objective.

12 Q. Did you disagree with that statement at the
13 time?

14 A. Yes.

15 Q. How would you describe your role in
16 Instagram mid-cycle 2023?

17 A. I was involved leading the data science
18 portion of the work for the number one objective at
19 the time, which was trying to turn around the
20 developed market's teen-down metrics. I was more
21 focused on the data science.

22 Q. I see. So would it be safe to say, based
23 on these performance reviews, that you were one of
24 the top contributors on growth and metrics as it
25 relates to Instagram and teens?

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1 A. I think --

2 MR. SCHMIDT: Objection. Foundation.

3 THE WITNESS: I'd say at this point in
4 time, I was leading the data science work on teens
5 and growth.

6 BY MS. GOTWALS:

7 Q. So let's talk a little bit about metrics,
8 then.

9 On your LinkedIn profile you described
10 yourself as a beacon and evangelist for
11 data-informed decision-making; right?

12 A. That's correct.

13 Q. And your work at Meta involves
14 data-informed decision-making; right?

15 A. That's correct.

16 Q. So Meta tracked some metrics internally on
17 the performance of its Instagram app; correct?

18 A. Yes.

19 Q. So let's start by just looking at some of
20 the metrics that Meta tracked.

21 Are you familiar with the term "IG
22 criticals"?

23 A. Yes.

24 Q. What are IG criticals?

25 A. It's a list of the sort of top metrics that

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1 Q. When did you first hear internally that
2 Meta was considering defaulting teen accounts to
3 private at sign-up?

4 A. I don't recall the exact date.

5 MS. GOTWALS: Can we pull up Tab 44,
6 please. And we will mark this as Exhibit 29.
7 (Exhibit 29 was marked for
8 identification and is attached to the
9 transcript.)

10 BY MS. GOTWALS:

11 Q. I'll represent to you this was produced to
12 us by Meta's lawyers and came from your custodial
13 files.

14 Do you have any reason to dispute that?

15 A. No.

16 Q. This is a chat between you and [REDACTED]
17 and [REDACTED]?

18 A. Yes.

19 Q. Is that correct?

20 A. That's correct.

21 Q. And it's August 2019; right?

22 A. Yes.

23 Q. Who is [REDACTED]?

24 A. She was a design lead for growth at the
25 time on Instagram.

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1 Q. And in August of 2019 were you still with
2 the Growth Pillar?

3 A. Yes.

4 Q. And who is [REDACTED]?

5 A. He was a product manager for Instagram
6 growth at the time.

7 Q. Okay. So let's read -- at the top here it
8 says -- [REDACTED] says:

9 "I just caught up with [REDACTED],
10 and he forgot to give us some relevant
11 feedback in the morning review around
12 private accounts. It seems that in the
13 Tuesday review for well-being, Adam and
14 [REDACTED] both pushed on us, starting to
15 move towards creating accounts private
16 by default."

17 Did I read that correctly?

18 A. Yes.

19 Q. Who is [REDACTED]?

20 A. [REDACTED]. He's the head of design
21 now for Instagram. I think at the time he was a
22 design lead for the communities product group, which
23 growth and well-being were part of.

24 Q. And is the Adam reference here Adam
25 Mosseri?

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1 A. I suspect so.

2 Q. And who is [REDACTED]?

3 A. [REDACTED] was a VP of product who reported in
4 to Adam at the time.

5 Q. So in this chat [REDACTED] mentions that
6 they're -- that Adam and [REDACTED] both pushed towards
7 moving -- creating accounts private by default;
8 correct?

9 A. That's correct.

10 Q. So, to your knowledge, is this when you
11 first heard about the concept of private by default?

12 A. I don't recall.

13 Q. Do you have any independent recollection of
14 hearing about it before then?

15 A. No.

16 Q. Let's see what [REDACTED] said next.

17 "The ask in that meeting was,
18 apparently, how to go about testing the
19 effects of that immediately. My
20 thought is that we could identify a few
21 cohorts for whom we think this is
22 useful, teens 13 to 18, women in
23 emerging markets, potentially secondary
24 accounts, to get the ball rolling on
25 this."

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1 Did I read that correctly?

2 A. Yes.

3 Q. What does she mean by "testing the effects
4 of that"?

5 A. To run it -- I imagine what she meant is to
6 run a test defaulting certain groups to private and
7 to understand how metrics would move so we can get
8 an understanding of the growth and engagement
9 impacts.

10 Q. So it was to test the impact on internal
11 metrics related to users of Instagram; right?

12 MR. SCHMIDT: Object to the
13 characterization.

14 THE WITNESS: Yeah. That's correct.

15 BY MS. GOTWALS:

16 Q. And in her statement here, she says:

17 "We can identify a few cohorts for
18 whom we think this is useful."

19 Teens 13 to 18 is the first one she
20 suggests; correct?

21 A. Yes.

22 Q. Do you recall what your first thought was
23 when you heard about the concept of private by
24 default?

25 A. I don't recall.

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1 Q. Let's see if it's in this chat. Can we
2 scroll down to Darius' first comment here.

3 You said:

4 "Holy shit. What's the rationale
5 for the push? This will likely smash
6 engagement, DAP, MAP, et cetera."

7 Did I read that correctly?

8 A. Yes.

9 Q. And then [REDACTED] response to that is:

10 "Current climate? Policy
11 pressure? Potentially contributing to
12 teen suicides?"

13 Did I read that correctly?

14 A. Yes.

15 Q. And then you asked her:

16 "What policy pressure?"

17 Right?

18 A. Yes.

19 Q. And her response was:

20 "What are we doing to protect
21 minors?"

22 Correct?

23 A. Yes.

24 Q. So as a result of this chat with [REDACTED], did
25 you begin testing the effects of private by default

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1 on teen user accounts?

2 A. I don't recall exactly when we started
3 those tests.

4 Q. But you did start tests?

5 A. At some point, yes.

6 MS. GOTWALS: Okay. Let's pull up Tab 45,
7 please. This will be Meta-Kilstein-30.

8 (Exhibit 30 was marked for
9 identification and is attached to the
10 transcript.)

11 BY MS. GOTWALS:

12 Q. I'll represent to you again that this was
13 produced to us by lawyers for Meta from your
14 custodial files.

15 Do you have any reason to dispute that?

16 A. No.

17 Q. So this is a chat between you and [REDACTED]
18 in August of 2020; correct?

19 A. Yes.

20 Q. And for clarity, the "to" line says [REDACTED]
21 [REDACTED] but it looks like there is another name here.

22 Is [REDACTED] the name that she goes by, and
23 that is her actual first name?

24 A. Yes, that's correct.

25 Q. So if we could go to the fifth page of this

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1 chat, and this says -- can you pull out a little
2 bit. Can you zoom out, please, so I can see the top
3 of it. Go up to the preceding page, please.

4 Okay. I apologize. We're going to go to
5 page 5. [REDACTED] says:

6 "Not sure if you saw my response
7 back to Alex. I added you. Might be
8 good for Bocking and him to push."

9 Did I read that correctly?

10 A. Yes.

11 Q. Do you know what she's talking about here?

12 A. I believe there was some discussion about
13 whether to launch private by default at that
14 specific point in time.

15 Q. Okay. So let's keep reading. [REDACTED]
16 says:

17 "Although not sure if you
18 100 percent agree with my thought that
19 we can try more things. I think you
20 guys at least formally said no to that;
21 right?"

22 And your response says:

23 "Yep. Bocking is exchanging
24 emails with [REDACTED]. I reached out to
25 Andrew privately and told him that I

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1 disagree with this decision. And he
2 agrees. Looks like Alex does too."

3 So who is Bocking in this exchange?

4 A. He is a VP of product that works in the
5 central growth organization in Meta.

6 Q. And the Andrew that's referenced here?

7 A. It's the same person. Andrew Bocking.

8 Q. I see.

9 So Andrew and Bocking is the same person.
10 And then Alex, is that Alex Schultz?

11 A. Yes.

12 Q. So your chat here says that Andrew Bocking
13 is speaking with [REDACTED] and that he also disagrees
14 with the decision and looks like Alex does too;
15 correct?

16 A. Yes.

17 Q. Was that decision the decision to ship
18 private by default at that time?

19 MR. SCHMIDT: Objection. Foundation.

20 THE WITNESS: I believe so. I don't
21 recall.

22 BY MS. GOTWALS:

23 Q. Let's keep reading for some more context,
24 then. So your next comment is:

25 "We can try more things. It's

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1 just not as lucrative as US DAU. So we
2 put it on hold this half."

3 Did I read that correctly?

4 A. Yes.

5 Q. What is US DAU in this context?

6 A. I believe at the time we were seeing
7 softness in just overall daily active users for the
8 US for all ages. And so the growth team that I was
9 leading at the time decided to reprioritize some of
10 our work and focus more on just US users more
11 broadly.

12 Q. So your next comment down here says:
13 "With more staffing, we could.
14 Although I think we'll never really
15 mitigate enough."

16 Did I read that correctly?

17 A. Yes.

18 Q. What are you mitigating?

19 A. So when you default an account to private,
20 what we found is that it was really hard for teens
21 to find their friends or for their friends to find
22 them. And, therefore, they would, you know, be
23 connected with less value that Instagram can provide
24 to their life and have less meaningful experiences.
25 And this is what our -- my main concern with the

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1 private-by-default launch.

2 Q. So by "mitigate," you meant mitigate the
3 impact on teen user metrics; right?

4 MR. SCHMIDT: Objection. Foundation.

5 THE WITNESS: Yeah. Mitigate the friending
6 losses, which also led to engagement declines.

7 BY MS. GOTWALS:

8 Q. So the friending losses and the engagement
9 declines would lead to declines in teen daily active
10 users; correct?

11 MR. SCHMIDT: Objection. Foundation.

12 THE WITNESS: That's correct.

13 BY MS. GOTWALS:

14 Q. So you followed up by saying:

15 "This is, basically, Karina/[REDACTED]
16 pigeonholing our org into a corner."

17 Who is Karina?

18 A. Karina was someone who worked in the policy
19 team at the time.

20 Q. And remind us who [REDACTED] is.

21 A. He was a VP of product who reported in to
22 Adam.

23 Q. Your next statement is:

24 "Their argument is that if we
25 don't do it, regulators will force us

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1 anyway, and it's only a matter of
2 time."

3 Did I read that correctly?

4 A. Yes.

5 Q. And [REDACTED] seems to agree with you. At the
6 bottom she says:

7 "You can build something smarter
8 than default by private. For example,
9 not letting people who are 2-plus
10 degrees from you or some measure of
11 familiarity get in touch with you."

12 Did I read that correctly?

13 A. Yes.

14 Q. What is she talking about there?

15 A. I believe there she's talking about
16 reachability settings on Instagram Direct. So like
17 who can contact you in Direct. And she's basically
18 saying that maybe one way to solve this safety
19 concern is to restrict who can actually send you
20 messages on Instagram to being people that are
21 likely people that you know.

22 Q. Okay. Your response to that, though, was:
23 "This was never really about
24 increasing safety. It was all for the
25 PR wins."

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1 Did I read that correctly?

2 A. Yes.

3 Q. So you thought that the private-by-default
4 launch was about PR and regulators; right?

5 MR. SCHMIDT: Object to characterization.

6 THE WITNESS: I'm not sure if I really
7 thought that or felt that for sure in the moment.
8 You know, this is something that -- maybe I was
9 venting. I have a very casual chat with my --
10 chatting relationship with my manager at the time.

11 I would be surprised if they didn't
12 actually care about safety. And so I'm sure safety
13 is one of the reasons why they did consider private
14 by default.

15 BY MS. GOTWALS:

16 Q. But you did state explicitly in a chat with
17 your manager that this was not about increasing
18 safety; it was for PR wins; correct?

19 A. I said that here. But, again, I couldn't
20 tell you exactly why Instagram leadership wanted to
21 do private by default. And you definitely better
22 ask them on the motivations.

23 Q. And you were concerned, it seems, about
24 protecting the metrics; correct?

25 MR. SCHMIDT: Object to characterization.

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1 THE WITNESS: My specific role in this
2 project was to understand the growth and engagement
3 knock-on effects of this change and make sure that
4 those are well understood by leadership so that they
5 can make an informed decision.

6 MS. GOTWALS: Let's look at how that played
7 out, then. Can we pull up Tab 46.

8 So this will be Exhibit Meta-Kilstein-31.
9 (Exhibit 31 was marked for
10 identification and is attached to the
11 transcript.)

12 BY MS. GOTWALS:

13 Q. Again, I will represent to you that this
14 was produced to us by lawyers from Meta. It came
15 from your custodial files.

16 Do you have any reason to dispute that?

17 A. No.

18 Q. So this is a chat between you and [REDACTED]
19 [REDACTED]; correct?

20 A. Yes.

21 Q. In August 2020; right?

22 A. That's correct.

23 Q. Who is [REDACTED]

24 A. He was an engineer on the friending team.

25 Q. So at the beginning of this chat, he's

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1 inquiring about an ask and an objective; correct?

2 A. Yes.

3 Q. So let's read his question. He says:

4 "Hey, morning, Darius. Just
5 wanted to understand more about the ask
6 for changing the NUX step experience.
7 What is the objective here and how can
8 we conclude PBD work?"

9 Again. That's the private by default;
10 correct?

11 A. Yes.

12 Q. (Reading):

13 "I understand we're doing this due
14 to drop in metrics, but by running this
15 test, what do we hope to achieve?
16 Obvious thing is metrics will drop
17 less, but by how much would even be
18 enough to ship? And how much more work
19 do we need to do in space when growth
20 isn't even the main stakeholders for
21 shipping this experience (PXFN and WB
22 team are.)"

23 Did I read that correctly?

24 A. Yes.

25 Q. So what is PXFN?

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1 A. I believe it's a privacy XFN. It's a group
2 of people that consult on privacy.

3 Q. And WB is well-being; right?

4 A. That's correct.

5 Q. So [REDACTED] is saying here that growth
6 isn't the main stakeholders; privacy and well-being
7 are; is that right?

8 A. Yes, that's correct.

9 Q. So is [REDACTED] asking how important this
10 work is that you've asked him to do?

11 A. He was asking, I believe, about one
12 specific follow-on from private by default -- I
13 don't recall which one it is -- and asking how much
14 longer we needed to work on it.

15 Q. And he says next:

16 "I'm asking since you already know
17 we have other priorities such as US
18 DAU, SU in Stories, et cetera. Just
19 making sure we don't keep going back
20 and forth on this for the next few
21 weeks or longer. And I know you may
22 not have all the answers to this, but
23 just wanted to get more clarity on
24 expectations and objectives so we know
25 why we are doing this work and hope to

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1 help close this out soon. Thanks."

2 Did I read that correctly?

3 A. Yes.

4 Q. So [REDACTED] is asking you in this case how
5 important this is.

6 A. Yes.

7 Q. And your response is:

8 "Hey, fair question. I see
9 blocking this launch as more impactful
10 than US DAU."

11 Did I read that correctly?

12 A. Yes.

13 Q. And you had asked [REDACTED] to run numbers
14 on an alternative solution to private by default;
15 correct?

16 MR. SCHMIDT: Object to characterization.

17 THE WITNESS: I don't recall exactly what
18 we were asking him to do. He wouldn't run numbers.
19 He's an engineer. I believe they were going to
20 build a different solution or different product
21 experience, but I don't recall today what that was.

22 BY MS. GOTWALS:

23 Q. So, procedurally, [REDACTED] would build a
24 different experience, and then maybe you would test
25 the metrics on it to see the impact; is that right?

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1 MR. SCHMIDT: Object to characterization.

2 THE WITNESS: Yeah. He would create an
3 experiment, and we would review the results.

4 BY MS. GOTWALS:

5 Q. And you said that this experiment was more
6 impactful than US DAU; right?

7 MR. SCHMIDT: Object to characterization.

8 THE WITNESS: What I meant here is the work
9 on working this launch, or at least understanding a
10 different way to launch it, would be more impactful
11 than the work that that team was doing to contribute
12 to US daily active users.

13 BY MS. GOTWALS:

14 Q. So US daily active users, as you mentioned
15 earlier, that issue was that daily active users was
16 declining overall, not just with teens; correct?

17 A. Correct.

18 Q. So you said blocking the launch of private
19 by default was more impactful than research on
20 overall declines in the company; is that right?

21 MR. SCHMIDT: Object to characterization.

22 THE WITNESS: I was saying that -- I said
23 blocking this launch, but I think what I meant was
24 trying to find a different solution was more
25 impactful for that team to focus on than to focus on

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1 the daily active user growth in the United States.

2 BY MS. GOTWALS:

3 Q. So you were very concerned about the impact
4 on the number of teen daily active users that
5 private by default would have; right?

6 A. Yes.

7 MR. SCHMIDT: Object to characterization.

8 BY MS. GOTWALS:

9 Q. And you were asking [REDACTED] to create an
10 alternative that you could run numbers on; correct?

11 A. I can't remember exactly what we were
12 asking him to do, but it was probably something in
13 line with that.

14 Q. Let's go to the bottom of the first page
15 here.

16 So [REDACTED] says:

17 "I know your views on this and
18 understand that this is the right thing
19 to do for growth. Just wondering for
20 after we run this test, we should see
21 less drop. Do you have any baseline in
22 mind where less say if it's only
23 X percent hit to US DAU, it would be
24 fine from a data perspective?"

25 Did I read that correctly?

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1 A. Yes.

2 Q. So you believed that the issue was contact
3 by strangers or creeps reaching out to children in
4 Direct Messaging; correct?

5 A. It looks that way.

6 Q. And private by default did more than that;
7 right?

8 A. Yes.

9 Q. Did you continue to discuss private by
10 default and the metrics impact with others in Meta?

11 A. Most likely.

12 Q. Do you recall discussing it at a community
13 check-in with IG leads the very next day or a few
14 days later?

15 A. I honestly don't remember.

16 MR. SCHMIDT: Okay. Let's pull up Tab 47.
17 This will be marked as Meta-Kilstein- -- are we at
18 32?

19 MS. WANG: Yes.

20 MS. GOTWALS: 32.

21 (Exhibit 32 was marked for
22 identification and is attached to the
23 transcript.)

24 THE WITNESS: Thanks.

25 ///

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1 BY MS. GOTWALS:

2 Q. This is Meta-Kilstein-33. Again, I'll
3 represent to you that this was produced to us by
4 lawyers for Meta. It came from your custodial
5 files.

6 Do you have any reason to dispute that?

7 A. No.

8 Q. Who is [REDACTED] [REDACTED]?

9 A. He was a research leader for the
10 communities product group.

11 Q. And this is a chat between you and him on
12 September 2nd, 2020; correct?

13 A. Yes.

14 Q. So the day after that community leads
15 check-in meeting?

16 A. Yes.

17 Q. So in this chat, you discuss private by
18 default.

19 If we can scroll down to where you say,
20 "Also, I'd like to check in."

21 Thank you.

22 You said:

23 "Also, I'd like to check in at
24 some point in the next week or so. I
25 feel like we've done a pretty shitty

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1 job incorporating your PBD feedback
2 into the latest round just because it's
3 extremely difficult to do. So would
4 love to spend some time debriefing on
5 that."

6 Did I read that correctly?

7 A. Yes.

8 Q. It looks like [REDACTED] response is:

9 "The CC deck is insightful. I
10 hadn't seen this shared before.
11 Hopefully, we can get an update with
12 the PSC data" --

13 Oh, I'm sorry. That is not in
14 response to this.

15 MR. SCHMIDT: I think it is.

16 MS. GOTWALS: That is not -- hold on.

17 BY MS. GOTWALS:

18 Q. Let me read that again.

19 "The CC deck is insightful. I
20 hadn't seen this shared before.
21 Hopefully, we can get an update with
22 the PSC data. I'll reach out to the
23 Donna/HR team on that."

24 Did I read that correctly?

25 A. Yes.

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1 Q. And then he says:

2 "Yeah, I've jumped into the PBD
3 doc, and it says very much WIP at
4 different stages each time I peek at
5 it. Thanks for flagging. I think
6 we're anchoring a bit on current
7 systems of measurement that may be
8 detracting from the narrative I'm
9 trying to help craft."

10 Did I read that correctly?

11 A. Yes.

12 Q. Again, here the PBD is private by default;
13 correct?

14 A. Yes.

15 Q. And WIP just means work in progress;
16 correct?

17 A. Correct.

18 Q. So [REDACTED] is saying that he reviewed your
19 private-by-default doc, and it still seems to be a
20 work in progress; is that right?

21 A. Yes.

22 Q. And your response is:

23 "Yeah, I see this as two
24 workstreams that are separate but
25 related. Keep regulators away. Keep

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1 teens engaged. Make teens safe. I
2 think where growth is coming from is
3 that for us, we really only have
4 bandwidth for one. We all believe two
5 is important and the right thing to do.
6 And so the question is how important is
7 it for community leads and IG leads and
8 who should invest in it?"

9 Did I read that correctly?

10 A. Yes.

11 Q. You then said:

12 "What we've learned is that the
13 hatchet approach of defaulting people
14 to private on day one means that people
15 just use the platform a lot less. So
16 it's not really the most elegant
17 solution to solving the specific teen
18 safety concerns."

19 Did I read that correctly?

20 A. Yes.

21 Q. And then further down you say:

22 "I guess the misalignment between
23 where you and I are today is, should we
24 take the hatchet approach or not? As a
25 guardian of ecosystem metrics, of

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1 course I'm going to favor the nuanced
2 approach."

3 Did I read that correctly?

4 A. Yes.

5 Q. So you described private by default as the
6 hatchet approach; correct?

7 A. In this communication, yes.

8 Q. And you described yourself as a guardian of
9 ecosystem metrics; right?

10 A. Yeah. My role in this project was to look
11 at the effect on growth and engagement. And there
12 are other people who were looking at the effect on
13 safety.

14 Q. Your concern here was ecosystem metrics;
15 correct?

16 MR. SCHMIDT: Objection. Asked and
17 answered.

18 THE WITNESS: Yes. My role was to look at
19 the growth and ecosystem impacts of this experiment.

20 BY MS. GOTWALS:

21 Q. And from your perspective, ecosystem
22 metrics, people used the platform less when it
23 was -- when private by default was set up; correct?

24 A. That's correct.

25 MR. SCHMIDT: Object to characterization.

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1 BY MS. GOTWALS:

2 Q. And in this case, people using the platform
3 less was teens; correct?

4 A. Yes.

5 Q. And you didn't believe that was the best
6 solution because of the impact on ecosystem metrics;
7 correct?

8 A. Yeah. Like I said, that was -- my role in
9 this was to explain the effects on growth and
10 ecosystem impact, and there were other people who
11 were looking at the safety aspect. And then it was
12 up to leadership to weigh those two and make the
13 decision.

14 Q. You were the guardian of ecosystem metrics?

15 A. Yes. That was my role.

16 MS. GOTWALS: Thank you.

17 We'll take a break.

18 THE VIDEOGRAPHER: The time is 2:05. We're
19 off the record.

20 (Recess taken.)

21 THE VIDEOGRAPHER: The time is 2:25. We're
22 back on the record.

23 BY MS. GOTWALS:

24 Q. The last exhibit we were looking at was in
25 September of 2020; right?

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1 A. Yes.

2 Q. Did Meta ship private by default in 2020?

3 A. I don't believe so.

4 Q. But they revived it in 2021; right?

5 A. I believe that's correct.

6 Q. So they did not ship the version that you
7 were talking about with [REDACTED]; right?

8 A. That's right.

9 MS. GOTWALS: Can we pull up Tab 48,
10 please. And we'll mark this one Meta-Kilstein-34.
11 (Exhibit 34 was marked for
12 identification and is attached to the
13 transcript.)

14 BY MS. GOTWALS:

15 Q. Once again, I'll represent to you this was
16 produced to us by lawyers from Meta from your
17 custodial files.

18 Do you have any reason to dispute that?

19 A. No.

20 Q. This is a chat between you and [REDACTED]
21 in March 2021; correct?

22 A. Yes.

23 Q. Who is [REDACTED]?

24 A. He was a product manager on the friending
25 team at the time.

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1 Q. So at 11:56 there, you said:

2 "Guess what. They're reviving
3 private by default. LOL. My God,
4 remember this."

5 Did I read that correctly?

6 A. Yes.

7 Q. And then you shared what looks like
8 probably a chart; right?

9 A. It looks like it.

10 MS. GOTWALS: Okay. Can we pull up Tab 49.
11 We'll mark this one Meta-Kilstein-35.

12 (Exhibit 35 was marked for
13 identification and is attached to the
14 transcript.)

15 BY MS. GOTWALS:

16 Q. Do you recognize this chart?

17 A. I don't recall it.

18 Q. If I represent to you that this is the
19 chart attached here to this chat, do you have any
20 reason to dispute that?

21 A. No.

22 Q. And this chart shows the negative impacts
23 on metrics of private by default; right?

24 A. Yes.

25 Q. That's what's represented by the column

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1 "Private First" and then also "Private by Default";
2 correct?

3 A. I don't recall exactly what "Private First"
4 was referring to today.

5 Q. Do you recall recommending the option of
6 "Private First" versus "Private by Default"?

7 A. I honestly don't remember at this point in
8 time.

9 Q. Okay. So this is measuring some of the
10 metrics that we've seen before; right? Daily active
11 people, sessions, time spent, impressions,
12 et cetera; correct?

13 A. Yes.

14 Q. So going back to Exhibit 34, the chat, and,
15 again, your response to them reviving this was:

16 "My God, remember this."

17 Right?

18 A. Yes.

19 Q. Were you concerned about the revival of
20 private by default in 2021?

21 MR. SCHMIDT: Objection. Characterization.

22 THE WITNESS: I honestly don't recall.

23 BY MS. GOTWALS:

24 Q. Were you concerned about the negative
25 impacts of metrics -- on metrics by private by

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1 default?

2 A. Yes.

3 Q. When they revived private by default, did
4 they limit the scope to under 16 and only those with
5 a stated age?

6 A. I honestly don't remember exactly what they
7 did in the end. I wasn't involved in the second
8 iteration.

9 MS. GOTWALS: Okay. Let's pull up Tab 12.
10 And this will be Meta-Kilstein-36.

11 (Exhibit 36 was marked for
12 identification and is attached to the
13 transcript.)

14 BY MS. GOTWALS:

15 Q. I'll represent to you that this was
16 produced to us by lawyers from Meta from your
17 custodial files.

18 Do you have any reason to dispute that?

19 A. No.

20 Q. This is a chat between you and [REDACTED]
21 [REDACTED] in April 2021; correct?

22 A. Yes.

23 Q. So at the top of the chat -- well, first of
24 all, who is [REDACTED]?

25 A. He was a data scientist on my team.

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1 Q. So he worked for you?

2 A. Yes.

3 Q. So he says:

4 "By the way, I think the team
5 privacy stuff will have a much lower
6 impact now that we are only talking
7 about U16 and stated age. [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Did I read that correctly?

16 A. Yes.

17 Q. So, again, when private by default was
18 revived in 2021, that version had a much lower
19 impact on metrics; correct?

20 MR. SCHMIDT: Objection. Foundation.

21 THE WITNESS: I don't recall exactly what
22 they ended up shipping; so I can't tell you for
23 certain. I'm not sure what his point is here about
24 stated age. I think, like, it was always on stated
25 age. Like, it was at the point of registration

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1 where we provided -- defaulted due to private. And
2 we asked for people's age at registration. So I'm
3 not sure what point he was trying to make here.

4 BY MS. GOTWALS:

5 Q. In 2021, did all profiles have a stated
6 age?

7 A. No. I believe we collected that sometime
8 in 2021.

9 Q. So the version in 2020 wouldn't have had a
10 stated age because there was no stated age; correct?

11 A. We collected it from some people, but not
12 from all people. So there would be some people with
13 and some people without. But I believe that private
14 by default was defaulting new accounts to private.

15 And the only time we would know if someone
16 was a teen or not when they register is if they tell
17 us that they're a teen.

18 Q. [REDACTED] here says that:

19 "6.5 percent of US teens will even
20 see the upsell."

21 A. Oh. Okay.

22 Q. That's a statement that they're upselling
23 it to existing teen users; correct?

24 A. So this refreshes my memory a little bit,
25 actually.

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1 MR. SCHMIDT: Just a second. Objection.
2 Foundation.

3 THE WITNESS: I think what he's referring
4 to here is not necessarily private by default, the
5 overall project. I think he's referring to a
6 specific upsell that we ran at the top of Instagram
7 to tell people that they can change their account
8 settings to private.

9 BY MS. GOTWALS:

10 Q. And then the next statement he makes is:

11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 Did I read that correctly?

17 A. Yes.

18 Q. So in this, he's talking about the prompt
19 to new teen users; correct?

20 A. Yes.

21 Q. And he says that the impact should be less
22 than last time due to some of the mitigations
23 shipped.

24 Do you know what those mitigations were?

25 A. I remember that the friending team spent

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1 quite a bit of time trying to make it easier to find
2 your friends or for your friends to find you on
3 Instagram if your account is private.

4 And so I suspect he's referring to some of
5 those things that the team did to make it easier to
6 find your friends.

7 Q. So the impact that he's referencing there
8 is the impact again to metrics; correct?

9 A. Yes.

10 Q. So this version that they're shipping in
11 2021 had less of an impact on metrics.

12 A. That's what the document suggests.

13 Q. The next thing he says here is:

14 "However, we will definitely have
15 to keep an eye on the well-being guys.
16 In the product team meeting yesterday,
17 ██████ said, 'Leadership is willing to
18 take a 4 percent hit on teen ecosystem
19 metrics for these default changes.
20 Since we will now probably go under
21 that, that leaves us with a few
22 percentage of impact budget to use up
23 with other changes. Like comment
24 privacy.'"

25 Did I read that correctly?

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1 A. Yes.

2 Q. So who is [REDACTED]?

3 A. I believe he is referring to [REDACTED] who
4 was a product manager on the well-being team.

5 Q. And he is relaying that [REDACTED] said that
6 leadership was willing take a 4 percent hit on
7 ecosystem metrics; correct?

8 A. That's what he's saying here.

9 Q. But that the version of default changes
10 they're looking at won't come up to 4 percent;
11 correct?

12 A. That's correct.

13 Q. In fact, it's a few percent below that.
14 Right?

15 A. Yes.

16 Q. Can we scroll down, please.

17 And then one of your responses here is:

18 "Thanks for keeping an eye on
19 them. Let's make sure there's a clear
20 upside in terms of privacy wins for the
21 things they suggest to offset any
22 potential losses."

23 Did I read that correctly?

24 A. Yes.

25 Q. And the losses you're talking about are

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1 losses to daily active users, for example?

2 A. I suspect so.

3 Q. What do you mean by "a clear upside in
4 terms of privacy"?

5 A. To make sure that there are clear,
6 measurable benefits to privacy, or things like
7 privacy or safety or things that the well-being team
8 really cares about.

9 Q. So down at the bottom you say:
10 "I just think it's like policy
11 wants us to do something to have a win
12 so they're scrambling to figure out
13 what."

14 Did I read that correctly?

15 A. Yes.

16 Q. Do you remember when Meta ended up shipping
17 this version of private by default?

18 A. I can't tell you for certain.

19 MS. GOTWALS: Can we pull up Tab 51. We'll
20 mark this Exhibit Meta-Kilstein-37.

21 (Exhibit 37 was marked for
22 identification and is attached to the
23 transcript.)

24 BY MS. GOTWALS:

25 Q. And I'll represent to you that this was

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1 thing I'm going to do is go over a few documents
2 that Ms. Gotwals went over, and I'm just going to
3 kind of follow up on a few things. Then I'm going
4 to raise a few new things. And then, hopefully, we
5 should be done. Okay?

6 A. Okay.

7 Q. Okay. All right.

8 I want to start, Mr. Kilstein, with
9 Exhibit 7. It's already entered into evidence, and
10 I can give you a Bates label.

11 Just let me know when you find it.

12 A. There's a lot of documents.

13 MR. OLIVER: I understand.

14 MR. SCHMIDT: Which exhibit?

15 MR. OLIVER: It's Exhibit 7.

16 MR. SCHMIDT: Thank you.

17 MR. OLIVER: Okay. Just for the record,
18 this was previously marked as Plaintiff's Exhibit 7.
19 The Bates label is META3047MDL-046-00286948.

20 Did you get that, Madam Court Reporter?

21 THE STENOGRAPHER: (Nods head.)

22 BY MR. OLIVER:

23 Q. Mr. Kilstein, you recall answering some
24 questions about this document; correct?

25 A. Yes.

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1 Q. And this is a document that you are
2 familiar with; right?

3 A. Yes.

4 Q. This is a -- is this a review, if I
5 remember correctly, of you?

6 A. This is a mid-cycle review. So checking in
7 during the half on how I'm doing.

8 Q. Ms. Gotwals asked you some questions about
9 the very top paragraph. And I'm just going to read.
10 The first sentence says:

11 "Our Number 1 objective remains
12 turning around developed markets teen
13 DAU and MAU trends, and getting on a
14 path to be the first-choice app for
15 teens."

16 Did I read that correctly?

17 MR. SCHMIDT: And I'll object. Repetitive.

18 THE WITNESS: Yes, you did.

19 BY MR. OLIVER:

20 Q. And this was the primary thing you were
21 working on at the time; right?

22 MR. SCHMIDT: Object to characterization.

23 THE WITNESS: I believe working on teen
24 growth was my main focus at that point in time.

25 ///

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1 BY MR. OLIVER:

2 Q. For as long as you've been at the company
3 Instagram, its number one objective when it came to
4 growth was to grow its teen audience; correct?

5 MR. SCHMIDT: Objection. Foundation.

6 THE WITNESS: No, that's not correct.
7 There was a period in time where it became the
8 number one objective. I can't remember exactly what
9 that date was.

10 BY MR. OLIVER:

11 Q. Roughly what period of time do you remember
12 that becoming the number one objective for
13 Instagram?

14 A. I suspect around this time. It looks like
15 they're taking a quote from a post where somebody
16 said that that was the number one objective. I
17 suspect that that was the first time. So I would
18 say in 2023 somewhere. Some point in 2023.

19 Q. Now, as a result of -- actually, strike
20 that.

21 I'm going to ask you to go to Exhibit 9.
22 (Brief discussion held off the
23 stenographic record.)

24 MR. SCHMIDT: Lance, if you want to just
25 tell us like a half beat ahead which ones you want,

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1 we'll have it ready for you.

2 MR. OLIVER: It's --

3 MR. SCHMIDT: We've got 9 now.

4 MR. OLIVER: Yeah. I'm just going to have
5 to go one by one.

6 MR. SCHMIDT: Sure.

7 BY MR. OLIVER:

8 Q. Okay. Mr. Kilstein, you have Exhibit 9 in
9 your hand; correct?

10 A. Yes.

11 Q. If you will, look at the third bullet point
12 on the first page that states:

13 [REDACTED]

14 [REDACTED]

15 Did I read that correctly?

16 A. Yes, you did.

17 Q. And at this time, and throughout its
18 existence, Instagram with competing primarily with
19 TikTok, YouTube and Snapchat; is that true?

20 MR. SCHMIDT: Object to characterization.

21 THE WITNESS: Those were apps that user --
22 user bases using were -- I suspect those were the
23 selected competitors I was referring to here, but I
24 can't recall exactly which ones were here.

25 ///

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1 BY MR. OLIVER:

2 Q. Well, if you look at the document, the
3 selected competitors are actually named; right?

4 A. Oh. Yes. Sorry. I see that now.

5 Q. So the first one is TikTok; right?

6 A. Yes.

7 Q. And it was forecasted to surpass Instagram
8 in US daily active users on September 6, 2023;
9 correct?

10 A. Yes.

11 Q. And then the next competitor is YouTube,
12 and it was expected to close in on 2 billion global
13 daily active users by the end of 2022; right?

14 A. According to the forecast, yes.

15 Q. And, then, Snap is expected to continue to
16 show modest growth; right?

17 A. Yes.

18 Q. Now, in this bullet point -- and this email
19 is from you; right?

20 A. Yes.

21 Q. So you created or gathered this information
22 and circulated it to people; right?

23 A. Someone on my team gathered the
24 information; but yes, and then I circulated it to
25 people.

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1 Q. So you took responsibility for telling the
2 rest of your colleagues about this information;
3 right?

4 A. That is correct.

5 Q. And according to this bullet point, when
6 you all were predicting your competitors' success
7 versus Instagram, you looked at two factors, at
8 least here. One was being a daily active user --
9 and a number of daily active users; right?

10 A. Yes.

11 Q. And that's a metric?

12 A. Correct.

13 Q. That's a growth metric; correct?

14 A. Correct.

15 Q. And the other growth metric you compared
16 yourself against with your competitors was time
17 spent on the application; right?

18 A. That's correct. Those were the only
19 two metrics we had access to in the systems we had
20 for competitive data.

21 Q. So at that time and as long as you
22 remember, those other three applications in
23 Instagram were competing for the time that teen
24 users spent on their platforms; right?

25 MR. SCHMIDT: Object to characterization.

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1 BY MR. OLIVER:

2 Q. That's the thing they were competing for?

3 MR. SCHMIDT: Object to characterization.

4 THE WITNESS: That's not exactly what this
5 says. It says "We made DAU and time spent
6 forecasts."

7 I wouldn't say we were necessarily
8 competing for time, but we were more interested in
9 user growth.

10 BY MR. OLIVER:

11 Q. And user growth is often referred to as
12 engagement; correct?

13 A. It's more of a growth metric. Daily active
14 users. For engagement, we normally use a metric
15 called sessions.

16 Q. And one of the things that you looked at,
17 that you tracked users on -- teen users, in
18 particular, was the time they spent on the app;
19 right?

20 A. That's one of the variety of metrics we
21 looked at, yes.

22 Q. Okay. And if you look at the next page,
23 you actually called these -- first of all, the big
24 heading at the top of the second page is "Ecosystem
25 Health"; correct?

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1 A. Yes.

2 Q. And that refers to the health of -- well,
3 when you say "ecosystem," what does that mean to
4 you? Just explain that for me.

5 A. Sure. It's, basically, a summary of how
6 we -- how users are using our app on average on
7 aggregate.

8 Q. And so in order to be healthy and
9 competitive, you want your metrics to be good
10 metrics? You want them to be meeting certain goals;
11 right?

12 A. In general, yes.

13 Q. So, for example, you want to have more
14 daily active teen users; right?

15 A. Yes.

16 Q. Okay. And that's one of the things you
17 measured under key metrics; correct?

18 A. That is correct.

19 Q. And another thing that you measured under
20 key metrics was time spent per DAU; correct?

21 MR. SCHMIDT: Objection. Repetitive.

22 THE WITNESS: That is correct.

23 BY MR. OLIVER:

24 Q. And I believe you testified that [REDACTED]
25 that's [REDACTED] per daily active user; is that

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1 right?

2 A. That is correct.

3 MR. SCHMIDT: Objection.

4 BY MR. OLIVER:

5 Q. So --

6 MR. SCHMIDT: I've got to make my
7 objection. Objection. Repetitive under the
8 deposition protocol order.

9 BY MR. OLIVER:

10 Q. So at the time, Mr. Kilstein, Instagram and
11 your team, in particular, was tracking to fractions
12 of a minute how many minutes teen users were
13 spending on Instagram; right?

14 MR. SCHMIDT: Objection. Repetitive.

15 THE WITNESS: We took the average of how
16 much time people spent on a daily basis and
17 represented it here with a decimal point.

18 BY MR. OLIVER:

19 Q. And it was so precise that you were getting
20 down to the seconds, basically; right?

21 MR. SCHMIDT: Objection. Characterization.

22 THE WITNESS: You couldn't tell exactly how
23 many seconds there were here. It would be [REDACTED] of a
24 minute. I'm not sure exactly how many seconds that
25 were. But we are able to track how many seconds

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1 people spend on the app.

2 BY MR. OLIVER:

3 Q. Now, the next thing below that is overall
4 impressions.

5 Do you see that?

6 A. Yes.

7 Q. Can you tell the ladies and gentlemen of
8 the jury what an impression is?

9 A. It's viewing a piece of content.

10 Q. So -- and you're going to have to help me
11 here. First of all, this column is talking about
12 US teens; correct?

13 A. That is correct.

14 Q. It's not talking about adults; right?

15 A. That is correct.

16 Q. So when it says 208.2 impressions, is that
17 per day, or is that per daily active user per day?
18 It's not clear to me.

19 Do you understand what I'm saying?

20 A. Yes. I believe this is per daily active
21 user.

22 Q. So for every day that an active teen user
23 would come on here, they would spend an average of
24 [REDACTED] on the app; correct?

25 A. Yes.

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1 Q. And they would have -- during that
2 [REDACTED] -- an average of [REDACTED]
3 [REDACTED] during that [REDACTED] on average;
4 right?

5 A. That's what this data says.

6 Q. And your goal in the growth team was for
7 US teens to make that number or those numbers go up;
8 right?

9 MR. SCHMIDT: Object to characterization.

10 THE WITNESS: My job was more focused on
11 growth. So we were more focused on the daily active
12 user and the monthly active user metrics.

13 BY MR. OLIVER:

14 Q. But you wanted the daily active teen user
15 number to go up above your competitor; correct?

16 MR. SCHMIDT: Objection. Asked and
17 answered. Foundation.

18 THE WITNESS: In general, we wanted to
19 increase the daily active users for teens, that's
20 correct. And it would be good if they were above
21 competitors, but that wasn't something that we
22 goaled on specifically.

23 BY MR. OLIVER:

24 Q. And you actually wanted the time spent per
25 DAU to go up as well; correct?

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1 MR. SCHMIDT: Object to characterization.

2 THE WITNESS: We never actually goaled on
3 time spent as a metric. It's a metric that we
4 track. It's not a metric that we goal on. For the
5 engagement side, we measure cap 15 sessions.

6 BY MR. OLIVER:

7 Q. So the reason -- this 208.2 impressions, is
8 that 208.2 impressions with any content, or is it
9 208.2 impressions of commercial or advertising
10 content?

11 A. This is with any content.

12 MR. SCHMIDT: That's okay. You've got to
13 give me a second to object. But go ahead.

14 THE WITNESS: This is of any content on
15 Instagram.

16 BY MR. OLIVER:

17 Q. And right below that under key metrics, you
18 have ad impressions; correct?

19 A. That's correct.

20 Q. And that's blank. Why is that blank?

21 A. I don't recall. I don't recall if we
22 served ads to teens or not, or if they were very
23 negligible and so we didn't include them. I
24 honestly couldn't tell you right now.

25 Q. The reason that -- when you say "ad

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1 impression," what that means is when a teen user
2 engages with or spends time looking at an
3 advertisement; correct?

4 A. "Ad impressions" means how many ads did you
5 see in a day.

6 Q. And the way that Meta makes money off
7 Instagram is when users engage with advertising;
8 right?

9 A. I believe that's --

10 MR. SCHMIDT: Object to characterization.

11 THE WITNESS: I believe the main way that
12 Meta makes money is through advertising; correct.

13 BY MR. OLIVER:

14 Q. And you might see in your documents
15 repeated reference to the term "monetization."
16 Right?

17 MR. SCHMIDT: Object to characterization.
18 Foundation.

19 THE WITNESS: It depends on the document,
20 but I imagine that shows up in some documents.

21 BY MR. OLIVER:

22 Q. You've seen that term before; right?

23 A. Yes.

24 Q. And you've used that term before in your
25 discussions with colleagues; correct?

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1 MR. SCHMIDT: Object to characterization.

2 THE WITNESS: The idea that I'm trying to
3 get across here is that maybe there are other ways
4 we can have the same safety benefits and reduce the
5 friending impact, the growth impact.

6 BY MR. OLIVER:

7 Q. Nobody on this chain -- neither you,
8 Mr. Darius Kilstein, or [REDACTED] -- actually
9 endorsed a safety-at-all-cost approach, did you?

10 MR. SCHMIDT: Object to characterization.

11 THE WITNESS: I don't know what [REDACTED] ended
12 up endorsing. Like I said, my job was to give the
13 ecosystem metrics and the costs to growth and
14 engagement to leadership. And they also looked at
15 the safety gains as part of private by default and
16 made a decision.

17 MR. OLIVER: So let's look at -- Katy,
18 let's get -- what exhibit are we on?

19 Mr. Kilstein, we're going to mark this as
20 Plaintiff's Exhibit 57.

21 For the court reporter, this is a -- we
22 haven't introduced this yet, have we? I don't think
23 so. We introduced a lot of decks. I'm going to
24 call it the Bates label. It's

25 META3047MDL-031-00136977.

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1 Joelle, did you all use this? I just don't
2 want to put two --

3 MR. SCHMIDT: I don't think they did.

4 MS. GOTWALS: No.

5 THE WITNESS: I don't have a copy.

6 (Brief discussion held off the
7 stenographic record.)

8 (Exhibit 57 was marked for
9 identification and is attached to the
10 transcript.)

11 BY MR. OLIVER:

12 Q. Mr. Kilstein, when you've had a second to
13 familiarize yourself with the document, just let me
14 know, and I'll ask you some questions.

15 Are you ready to go?

16 A. Sure.

17 Q. This PowerPoint is also about the
18 private-by-default feature we discussed; correct?

19 A. Looks like it.

20 Q. The date is August 2020; correct?

21 A. Yes.

22 Q. I'll represent to you that we received this
23 as being produced from your custodial files.

24 Do you have any reason to doubt that?

25 A. No.

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1 Q. Since it was in your custodial files, it
2 means that, more likely than not, you received this
3 document at some point in your career; correct?

4 A. Most likely.

5 Q. And it's most likely that, at the point
6 that you received it, you reviewed it because this
7 is a decision in which you were involved; right?

8 MR. SCHMIDT: Objection. Foundation.

9 THE WITNESS: I suspect so.

10 BY MR. OLIVER:

11 Q. And, in fact, it says the growth -- and I'm
12 not the best on knowing who's on what team, but it
13 says the growth graph team is the author of this
14 presentation.

15 You were a part of that team at that time;
16 correct?

17 A. I was part of the growth team. And the
18 graph team was one subteam within growth. And so I
19 oversaw the data science for the growth
20 organization, of which graph was a part of that.

21 Q. So you were part of the overall team that
22 was preparing and presenting this document; correct?

23 A. I oversaw that area.

24 Q. Okay. If you look at the first page --
25 second page. The first slide discusses the goals of

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1 this PowerPoint presentation.

2 Do you see that?

3 A. Yes.

4 Q. The second goal was to make a go or no-go
5 decision for the global teen private-by-default
6 launch; right?

7 A. Yes.

8 Q. And the first goal actually says that you
9 were going to review the results and answer
10 questions on the impact of defaulting teens to
11 private accounts; correct?

12 A. That's correct.

13 Q. When it references "impact" there, it means
14 growth impact; correct?

15 A. I don't recall exactly which metrics. I'm
16 sure growth would have been a part of it.

17 Q. Okay. If you look at the third slide, it's
18 going to answer that question for us, isn't it?

19 A. Here it would suggest that some of the
20 metrics we looked at were retention and engagement.

21 Q. And retention and engagement metrics
22 included DAU; correct?

23 A. Yes.

24 Q. It included MAU; correct?

25 A. Yes.

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1 Q. Did it include time spent?

2 A. I suspect we looked at that.

3 Q. Look with me at Slide 5.

4 MR. SCHMIDT: Is that 981?

5 MR. OLIVER: Yes. That's 981. Thank you,
6 Paul.

7 BY MR. OLIVER:

8 Q. It should say "Private by Default -
9 Executive Summary."

10 Do you see that, Mr. Kilstein?

11 A. Yes.

12 Q. Under the "Context" it says:

13 "The goal for defaulting teens to
14 private is to create a safer space for
15 teens that is both in line with teen,
16 parents, safety experts, and regulator
17 expectations."

18 Correct?

19 MR. SCHMIDT: I think it says "parental."
20 But, otherwise, accurate.

21 MR. OLIVER: Well, it does say "parental."
22 I can't read it. It's very --

23 MR. SCHMIDT: It's pretty hard to read.

24 BY MR. OLIVER:

25 Q. Is that the correct reading of the

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1 document?

2 A. I think so.

3 Q. So you agree that the goal of private by
4 default was to make Instagram a safer place for
5 teens; right?

6 A. I believe so.

7 Q. And there were these three groups that had
8 expectations about the safety of the app for teens;
9 right?

10 A. That's what this document suggests.

11 Q. And in all of those groups, according to
12 this document, in order to bring Instagram in line
13 with their expectations, you needed to launch
14 private by default.

15 That was one of the goals of launching
16 private by default; right?

17 MR. SCHMIDT: Objection. Form.

18 THE WITNESS: That's what the document
19 suggests.

20 BY MR. OLIVER:

21 Q. So in October 2019, the growth team had
22 tested private by default in its strictest form;
23 right?

24 MR. SCHMIDT: Objection. Foundation.

25 THE WITNESS: I don't recall the exact

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1 date.

2 BY MR. OLIVER:

3 Q. Well, it actually says it in the document,
4 if we can get it highlighted. If you highlight the
5 context, I believe. Okay.

6 Do you see that now, Mr. Kilstein?

7 A. Yes, I see that.

8 Q. So in October 2019, the growth team did
9 some testing; right?

10 A. Yes.

11 Q. And the result of that testing was a loss
12 of 1.5 million teens from the monthly active persons
13 figure per year; correct?

14 A. Those were the estimations, yes.

15 Q. And, in your opinion, that was too much;
16 right?

17 MR. SCHMIDT: Objection. Foundation.

18 THE WITNESS: From a growth perspective,
19 that's really huge numbers. We never really see
20 declines like that.

21 BY MR. OLIVER:

22 Q. Okay. And you did not, therefore, endorse
23 launching private by default in its strictest form;
24 right?

25 THE WITNESS: As a guardian of ecosystem

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1 metrics, it was not something that I thought was a
2 good idea.

3 MR. OLIVER: So right below that there's a
4 section that says "Launch Trade-off." Can we
5 highlight that as well since it is so hard to read.
6 BY MR. OLIVER:

7 Q. The second sentence indicates that at the
8 time, Instagram was behind the industry in keeping
9 its platform safe for minors; correct?

10 A. It talks about how -- yes. That's right.
11 That's exactly what it says.

12 Q. And it actually says that other platforms,
13 including your competitors -- TikTok -- had taken
14 bold moves to reduce the interactions between minors
15 and strangers; right?

16 A. Yes.

17 Q. But at that time Instagram had not taken
18 those bold moves; right?

19 A. It looks like it.

20 Q. And at the time Instagram had actually
21 already announced that they would launch the
22 private-by-default function as part of its December
23 age collection launch; right?

24 A. That's what it says here.

25 Q. So at that point Instagram had given the

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1 market and users an expectation that private by
2 default in that form would launch; right?

3 MR. SCHMIDT: Object to characterization.

4 THE WITNESS: I couldn't tell you for
5 certain, but that's what this document suggests.

6 BY MR. OLIVER:

7 Q. So the next page is page 6. And it says:
8 "Launch options and
9 recommendations."

10 Do you see that?

11 A. Yes.

12 Q. And there are two questions posed; right?

13 A. Yes.

14 Q. Okay. The first question is:

15 "Do we believe there's more
16 meaningful work we can do to mitigate
17 the teen MAP drop?"

18 I read that correctly; right?

19 A. Yes.

20 Q. And that question is, essentially, asking
21 can we dampen the impact of private by default on
22 growth? Right? Can we mitigate that downward
23 growth trajectory? True?

24 A. That is correct.

25 Q. And then Decision Number 2 is, hey, given

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1 the way that it's going to affect growth, do we
2 launch it anyway? Right?

3 MR. SCHMIDT: Object to characterization.

4 THE WITNESS: I believe so.

5 BY MR. OLIVER:

6 Q. Okay. And under that Question 2, there are
7 two headings. There's a group that says "Launch
8 Now"; correct?

9 A. Yes.

10 Q. And there's a group that says "Don't Launch
11 Now"; right?

12 A. Yes.

13 Q. So the teams that were recommending to
14 launch private by default in this strict form at
15 that time were the policy, legal, and communications
16 teams; correct?

17 A. Yes.

18 Q. The privacy and well-being teams; correct?

19 A. Yes.

20 Q. And the only team saying "don't launch it"
21 was the growth team; right?

22 A. That's what this document suggests.

23 MR. SCHMIDT: When we're through with this
24 document, can we break?

25 MR. OLIVER: Sure.

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1 MR. SCHMIDT: Thank you.

2 BY MR. OLIVER:

3 Q. So look with me at page 7. It's going to
4 be 983 on the Bates label. And this -- take a
5 minute to look at it.

6 This summarizes the reasons that
7 Instagram's teams had determined they should launch
8 the private-by-default function; correct?

9 A. Yes.

10 Q. And the first one was that it was going to
11 increase teen safety; correct?

12 A. That's correct.

13 Q. And it says:

14 "Defaulting teens to private will
15 prevent high severity actions such as
16 child grooming and inappropriate
17 contact with minors."

18 Right?

19 A. I see that.

20 Q. So launching private by default would
21 prevent things like strangers sending pictures of
22 their genitalia to underage people; right?

23 MR. SCHMIDT: Objection. Foundation.

24 THE WITNESS: That's possible.

25 ///

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1 BY MR. OLIVER:

2 Q. Well, it's not possible. That's what the
3 document says; right?

4 MR. SCHMIDT: Object to characterization.

5 THE WITNESS: It doesn't say that exactly,
6 but it says, yes, it can prevent high severity
7 actions such as child grooming and inappropriate
8 contact with minors.

9 BY MR. OLIVER:

10 Q. So one kind of inappropriate contact with
11 minors would be sending pictures of your genitalia
12 to --

13 A. Sure.

14 Q. Okay. And child grooming is even more
15 severe; right?

16 A. Yes. It's very severe.

17 Q. That's when a sexual predator reaches out
18 to an underage person on Instagram or another social
19 media app and grooms them for abuse; right?

20 A. Yes.

21 Q. So one of the reasons that private by
22 default was good was because it would prevent those
23 things; true?

24 MR. SCHMIDT: Object to characterization.

25 THE WITNESS: Well, I don't know if it will

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1 prevent all the cases, but it would prevent some
2 cases, yes.

3 BY MR. OLIVER:

4 Q. And you would agree with me that preventing
5 even one instance -- even one instance of a grooming
6 of a minor by a predator -- that would be worth it,
7 to launch private by default; right? Even if we
8 just prevented one person from undergoing that
9 process.

10 MR. SCHMIDT: Objection. Foundation.

11 THE WITNESS: Like I said, I really don't
12 make these decisions. This is something that
13 Instagram leadership makes. And my role in this
14 project was to talk about the ecosystem and the
15 growth impact. And they are the people who weigh
16 these decisions and make those decisions.

17 BY MR. OLIVER:

18 Q. But you and your team did make a
19 recommendation here; correct?

20 A. That is correct.

21 Q. And it was to not launch it; right?

22 A. That's correct.

23 Q. And that's ultimately what happened at this
24 time; correct?

25 MR. SCHMIDT: Object to characterization.

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1 THE WITNESS: I believe the project was
2 postponed to look at other potential solutions which
3 could also have these same safety benefits that are
4 lower impact to growth.

5 BY MR. OLIVER:

6 Q. So the second reason that you should
7 default teams to private accounts is that's what
8 teen users expected from you; right?

9 A. That's what this document suggests.

10 Q. And the third reason was that's what teens'
11 parents expected from Instagram; correct?

12 A. That's what the document suggests.

13 Q. And the fourth reason was that's what legal
14 regulators expected; correct?

15 A. Yes. That's what the document suggests.

16 Q. And the fifth reason was that's what safety
17 experts expected; correct?

18 A. Again, that's what the document suggests.

19 Q. And the sixth reason was that you had
20 already told people you were going to do it; right?

21 A. Looks like it.

22 Q. But you didn't do it at that time?

23 A. My understanding is -- was it was postponed
24 a little bit longer.

25 MR. OLIVER: Let's go to what we'll mark as

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1 BY MR. SCHMIDT:

2 Q. Were you part of that final
3 decision-making?

4 A. No.

5 Q. Let's look at a document. You were asked
6 some questions about teens using Instagram. Do you
7 remember those?

8 MR. PHELPS: Objection to form.

9 THE WITNESS: Yes. I remember being asked
10 about teens.

11 BY MR. SCHMIDT:

12 Q. From your perspective, is there something
13 wrong with providing a service like Instagram that
14 is valuable for teens?

15 MR. PHELPS: Objection. Form.

16 THE WITNESS: No.

17 BY MR. SCHMIDT:

18 Q. Are you aware that other social media
19 companies focus on teens as well as adults, as do a
20 whole host of nonsocial media companies?

21 MR. PHELPS: Objection. Form. Foundation.

22 THE WITNESS: Yes.

23 BY MR. SCHMIDT:

24 Q. Let's look at a document you were shown on
25 that. I'm handing you Exhibit 16. Do you remember

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1 being shown this document by plaintiffs' attorney
2 yesterday?

3 A. I do.

4 Q. Let's look at page 3 of this document,
5 please.

6 Do you see this message to you from [REDACTED]
7 [REDACTED] that you were asked about where there's
8 reference to the, quote, "early teen cohort"?

9 A. Yes.

10 MR. PHELPS: Objection. Characterization.

11 MR. SCHMIDT: I'm just going to note for
12 the record there's been objections to just about
13 every question. 99 percent of them are frivolous.

14 MR. PHELPS: Hold on a second. What's the
15 frivolity of that?

16 MR. SCHMIDT: There's no objection to
17 asking a witness about his knowledge about his work.
18 That's not a proper foundation objection. That is
19 laying foundation, as an example.

20 And I literally quoted the document on the
21 specific questions.

22 But let's move on, in terms of getting you
23 out of here, Mr. Kilstein.

24 BY MR. SCHMIDT:

25 Q. Do you see four lines down there's a

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1 reference -- and I'm looking at the end of the
2 fourth line down where it begins "Given how..."

3 Do you see that?

4 A. Yes.

5 Q. Do you see there's a reference to given how
6 important this early teen cohort is for the future
7 of IG? Do you see that?

8 A. Yes.

9 Q. Why is the early teen cohort important for
10 the future of Instagram?

11 MR. PHELPS: Objection. Foundation.

12 THE WITNESS: The overall thought process
13 here is that teens will eventually grow up to become
14 adults. And so to ensure the long-term success of
15 our platform, it's important to help people join
16 earlier where we know they make a lot of decisions
17 about things that they will do when they become
18 adults as well.

19 BY MR. SCHMIDT:

20 Q. Did I understand you correctly yesterday to
21 say that your view is oftentimes, when you're
22 talking about technology, people tend to stick with
23 the technology they learn when they're an
24 adolescent --

25 MR. PHELPS: Objection. Form.

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1 BY MR. SCHMIDT:

2 Q. -- over the course of their life or some
3 portion of their life?

4 MR. PHELPS: I didn't mean to interrupt
5 you.

6 Objection. Form.

7 THE WITNESS: Yeah. That's something that
8 we've always hypothesized, that social media could
9 be somewhat similar to, say, music where you, you
10 know, find your tastes early on and stick with them
11 over time.

12 BY MR. SCHMIDT:

13 Q. Do you understand this comment about the
14 importance of this cohort to be consistent with that
15 view?

16 A. Yes.

17 Q. Now, when you were involved in this
18 discussion about how important this cohort is for
19 the future, did you understand that to relate to
20 obtaining advertising money from early teens at that
21 point in time?

22 MR. PHELPS: Objection. Form.

23 THE WITNESS: Definitely not.

24 BY MR. SCHMIDT:

25 Q. Why is that?

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1 THE WITNESS: Like I said, I don't think
2 that's the case.

3 BY MS. GOTWALS:

4 Q. So the purpose of the notification strategy
5 is one of growth; is that correct?

6 MR. SCHMIDT: Object to characterization.

7 THE WITNESS: Notifications is part of the
8 growth team, and their main metric is trying to
9 drive daily active users.

10 MS. GOTWALS: Thank you.

11 I have nothing else.

12 (Brief discussion held off the
13 stenographic record.)

14 FURTHER EXAMINATION

15 BY MR. OLIVER:

16 Q. Good afternoon, Mr. Kilstein. Again, Lance
17 Oliver for the MDL plaintiffs. I'm going to try to
18 do this as quickly as possible.

19 MR. OLIVER: What exhibit are we on, Madam,
20 Court Reporter?

21 I'm going to hand you what we're going to
22 mark as Plaintiffs' 77.

23 (Exhibit 77 was marked for
24 identification and is attached to the
25 transcript.)

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1 MR. OLIVER: Did I hand you one that had
2 some writing on it? No, I did not. Okay. Does
3 anybody else need copies?

4 BY MR. OLIVER:

5 Q. Mr. Kilstein, take a moment to read this
6 document and let me know when you've had a chance to
7 familiarize yourself with it.

8 MR. OLIVER: And while he's doing that, for
9 the record, this document, Plaintiff's Exhibit 77,
10 it's Bates-labeled META3047MDL-003-00013254.

11 THE WITNESS: Yes. Okay.

12 BY MR. OLIVER:

13 Q. Mr. Kilstein, this is an internal work chat
14 between you and Mr. [REDACTED]; correct?

15 A. That's correct.

16 Q. Who was Mr. [REDACTED]?

17 A. I believe he was a product manager on one
18 of the safety teams. I think it was attached to
19 messaging.

20 Q. Mr. [REDACTED], based on your review of this
21 document, actually worked on the strictest form of
22 the private by default tool that you and I talked
23 about yesterday; correct?

24 MR. SCHMIDT: Objection. Foundation.

25 THE WITNESS: I don't think he worked on

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1 private by default. I think he worked on messenger
2 reachability, so people being able to reach out to
3 minors on Instagram Direct.

4 BY MR. OLIVER:

5 Q. Okay. Regardless, this time period,
6 October 30th, 2020, is the time period during which
7 we discussed yesterday that a decision was being
8 made whether or whether not to launch the strictest
9 form of private by default; correct?

10 MR. SCHMIDT: Object to characterization.

11 THE WITNESS: I believe it was around a
12 similar time.

13 BY MR. OLIVER:

14 Q. Okay. And you and Mr. [REDACTED] discussed
15 private by default in this work chat; right?

16 A. I believe so.

17 Q. Okay. About three-quarters of the way down
18 the page at -- right here, you say:

19 "Have we considered settings to
20 just let people turn off receiving
21 messages from people that do not follow
22 them?"

23 Did I read that correctly?

24 A. That's correct.

25 Q. And then you corrected yourself to say

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1 "don't" because you had spelled "do not"
2 incorrectly; right?

3 A. That's correct.

4 Q. And Mr. [REDACTED] responds and says:

5 "We have. And IGWB "--

6 That stands for Instagram well-being;
7 right?

8 A. Yes.

9 Q. (Reading):

10 "-- even explored private by
11 default for teens, but the growth
12 impact was too high and the decision
13 was to explore more nuanced and less
14 blunt solutions."

15 Did I read that correctly?

16 A. Yes.

17 MR. SCHMIDT: Objection. Scope.

18 BY MR. OLIVER:

19 Q. So whatever team he worked on, Mr. [REDACTED]
20 was aware that the well-being team had suggested a
21 very strict private by default for teens function;
22 correct?

23 MR. SCHMIDT: Object to characterization.

24 THE WITNESS: Here he's saying that he was
25 aware that IG well-being explored private by

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1 default, yes.

2 BY MR. OLIVER:

3 Q. And he was also aware that that strictest
4 version of private by default that we discussed
5 yesterday was not, in fact, launched or approved;
6 correct?

7 MR. SCHMIDT: Object to characterization.

8 THE WITNESS: At that point in time, it
9 hadn't been launched.

10 BY MR. OLIVER:

11 Q. Then Mr. [REDACTED] says:

12 "Which is how we got here,"
13 exclamation point.

14 Right?

15 A. Yes.

16 Q. And by that, he just meant how you and I
17 are having this discussion. That's why we're
18 talking about this; right?

19 MR. SCHMIDT: Objection. Gross
20 mischaracterization.

21 THE WITNESS: "Which is how we got here."
22 Possibly that's what he means.

23 BY MR. OLIVER:

24 Q. Okay. And then you say:

25 "Ya. PBD was my team" -- smiley

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1 face with your tongue out -- "wasn't an
2 elegant solution. Nobody looked at the
3 messaging solution, though."

4 Did I read that correctly?

5 A. That's correct.

6 Q. And that's what you said; right?

7 A. Yes.

8 Q. And when you say "PBD was my team," first
9 of all, you don't mean that your team developed
10 private by default because that's not true, is it?

11 A. My -- there was a team -- an engineering
12 team -- the friending team did the first iteration
13 of private by default. And at that time I was
14 overseeing work on the friending team.

15 Q. But you didn't develop the private by
16 default function or app -- I don't know. What would
17 you call it? Function?

18 A. Function. Yeah.

19 Q. Because that's not what you do; right?

20 A. Correct.

21 Q. Okay. So when you say, "PBD was my team,"
22 you're referencing the fact that your team was the
23 one, the growth team, that recommended in October of
24 2020 to not launch the strictest version of private
25 by default; correct?

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1 MR. SCHMIDT: Object to characterization.

2 THE WITNESS: What I'm referencing here is
3 that the engineers on the friending team were the
4 people who actually created the first version of
5 private by default. Even though it was a well-being
6 product and a safety product, the first iteration of
7 it was actually built by the growth team.

8 BY MR. OLIVER:

9 Q. Well, regardless, based on the PowerPoint
10 that we looked at yesterday from October 2020, your
11 team was the team that said, "Do not launch this in
12 its current form"; correct?

13 MR. SCHMIDT: Object to characterization.

14 THE WITNESS: We had our objections to the
15 launch of that; correct.

16 BY MR. OLIVER:

17 Q. And the reason was because the growth
18 impact was too high; correct?

19 A. That is correct.

20 Q. One of the documents you looked at with
21 your counsel, Mr. Schmidt -- and I don't know the
22 exhibit number. Maybe you can help me. It's the
23 one that says "Mental Health Understand." It was
24 the Yoav Shapira development.

25 MR. SCHMIDT: Yoav. It's 72.

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I, JENNY L. GRIFFIN, hereby certify:

4

That I am a certified shorthand reporter in and for
the County of Alameda, State of California;

6

Prior to being examined, DARIUS KILSTEIN, the
witness named in the foregoing deposition, was by me
duly sworn to testify to the truth, the whole truth, and
nothing but the truth; that said deposition was taken
pursuant to notice at the time and place therein set
forth, and was taken down by me in stenotype and
thereafter transcribed by means of computer-aided
transcription, and that said deposition is a true record
of the testimony given by the witness.

15

I further certify that I am neither counsel for nor
related in any way to any party to said action, nor
otherwise interested in the outcome thereof.

18

In witness whereof, I have hereunto subscribed my
name December 31, 2024.

20

21



JENNY L. GRIFFIN
CSR 3969, RMR, CRR, CCRR

22

23

JENNY L. GRIFFIN, CSR #3969

24

Certified Shorthand Reporter

25