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EXHIBIT 18

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**FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE, NEW MEXICO**

STATE OF NEW MEXICO, EX REL.
RAÚL TORREZ, ATTORNEY
GENERAL,

Plaintiff,

v.

META PLATFORMS, INC.;
INSTAGRAM, LLC;
META PAYMENTS, INC.; and
META PLATFORMS
TECHNOLOGIES, LLC,

Defendants.

No. D-101-CV-2023-02838

EXPERT REPORT OF DR. JOHN CHANDLER, Ph.D.

July 11, 2025



DR. JOHN CHANDLER, Ph.D.

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platforms monitor monthly active people (“MAP”) and daily active people (“DAP”). They also develop calculations for LTV to determine the value for users based on the time they are available to receive advertisements.⁴² By monitoring these data, social media platforms are better able to refine their methods for keeping users on their platforms and for measuring the results of their strategies.

E. Data Collection and Personalization

80. As stated above, social media platforms harness behavioral data, demographic insights, and interest to help advertisers micro-target their ads. Every interaction that is tracked (likes, comments, clicks, even hovering) feeds into complex algorithms that map out individual preferences and behavioral patterns. The process by which behavioral actions are turned into modeling output is conceptually straightforward, but the details can become mathematically complicated. The key idea is to associate a piece of data, say, age, with a set of consumers.⁴³ The behavior of these consumers can be used to model patterns that typify various ages. For instance, consumers over 50 may interact with content related to finance, mortgage rates, and Medicare supplemental plans at rates much higher than younger consumers. Conversely, users under 25 may interact with new musicians and fashion trends at much higher rates. These patterns are then used to model the ages of consumers for which the platform does not have reliable age estimates.

81. Through these interactions, social media platforms can make inferences about demographic data, such as age, gender, location, and socioeconomic status. AI-driven interest profiling takes it a step further, predicting not just what users actively engage with, but also what they might be drawn to in the future.

82. Every action a user takes—from filling out a profile to liking a post or clicking on a link—provides valuable information that platforms use to build detailed consumer profiles. Demographic details such as age, gender, and location are typically gathered during sign-up, while behavioral data such as interests, scrolling habits, and engagement patterns, are continuously tracked in the background. This constant stream of data allows social media companies to refine their understanding of individual users and categorize them into precise audience segments for advertisers.

83. Beyond direct user interactions, platforms employ cookies, pixel tracking, and device fingerprinting to monitor activity across the internet. These tools allow companies to see what users do beyond their platforms, tracking visits to external websites, shopping behaviors, and even interactions with competitor services. For example, if a user browses an online store for

⁴² Deposition of Robert Chen. Mar. 25, 2025. 83:8-12. (“Chen Dep.”) (“anything you need to make a decision regarding spending to acquire users, LTV is useful.”).

⁴³ For instance, some users will post messages about their birthdays on social media, and some of those posts will disclose the age of the poster.

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sneakers, social media platforms can detect this behavior and serve them ads for similar products the next time they log in. This cross-platform surveillance is further enhanced by third-party data brokers, who aggregate consumer information from various sources, including credit card transactions, loyalty programs, and public records, to provide an even more comprehensive view of a user's lifestyle and spending habits.

84. Social media apps take data collection a step further by accessing sensors and system-level information from users' devices. Many apps request permissions to track location, access contact lists, read messages, or even listen through microphones—sometimes under the guise of improving the user experience. This allows platforms to offer hyper-localized advertising, such as promoting a nearby restaurant or alerting users to a sale at a store they recently visited. Even passive data, such as motion sensors detecting when a user is walking or stationary, can be used to infer lifestyle patterns that advertisers find valuable.

85. Social media companies also analyze social connections and network behaviors to improve ad targeting. They track how users interact with friends, what groups they join, and which influencers they follow, creating a web of associations that helps advertisers pinpoint people with similar interests. This form of targeting, called lookalike targeting (which I have defined above) allows businesses to reach new audiences who are likely to be interested in their products based on shared behaviors and social circles. Additionally, AI-powered sentiment analysis scans comments, posts, and interactions to gauge users' moods and emotional states, enabling advertisers to time their campaigns for maximum impact.

86. All of these data collection methods feed into sophisticated machine learning algorithms that predict not only what users are interested in now, but also what they might want in the future. Predictive analytics allow advertisers to reach users at key moments—whether they are considering a major purchase, planning a vacation, or showing early signs of a life event such as moving or starting a family. The result is an advertising ecosystem where brands can deliver highly personalized, often eerily accurate ads that feel less like marketing and more like a natural part of the user's digital experience.

87. In general, the process of collecting data and building audiences works in a feedback loop with targeted ads. Advertisers target ads using the data they buy from inventory suppliers; they are able to monitor the responses that users give to those ads; and that data, alongside the other data collection that social media platforms facilitate, creates audience data that makes microtargeting increasingly refined.

F. Foundational Monetization Formula

88. Social media platforms' core business model relies on advertising revenue generated through user engagement. While each platform may employ distinct variations, the fundamental equation governing their monetization can be expressed as:

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$$\text{Revenue} = \text{Users} \times \text{Time on Site} \times \text{Ads per Time Unit} \times \text{Ad Rate}$$

89. This equation encapsulates the key variables that platforms seek to optimize through their design choices and business strategies. This formula matches formulas I worked with while working on the publisher side for Microsoft. Each component represents a distinct lever that platforms can adjust to increase revenue, though these adjustments often involve complex tradeoffs.

90. The first two variables—number of users and time on site—form the foundation of a platform’s value proposition to advertisers. As detailed in Section VI.B, platforms employ various strategies to build and maintain valuable audience segments. The relationship between these variables and revenue is generally linear: more users spending more time on the platform typically translates directly to increased advertising opportunities and revenue.

91. The latter two variables—ads per time unit and ad rates—reflect the platforms’ sophistication in monetizing their user bases. The frequency of ad delivery must be carefully balanced against user experience considerations, as excessive advertising can drive users away, thereby reducing the first two variables. Platforms typically adjust this variable dynamically based on user engagement metrics and revenue optimization algorithms.

92. Ad rates represent perhaps the most complex variable in the equation, as they are influenced by multiple factors:

- **Ad Format and Placement:** Different ad types (e.g., in-feed posts, stories, video interruptions) command different rates based on their effectiveness and user engagement levels.
- **Contextual Relevance:** Ads appearing alongside relevant content typically generate higher engagement rates and therefore command premium prices.
- **Targeting Capabilities:** The platform’s ability to deliver ads to specific demographic and psychographic segments significantly impacts ad rates. As targeting becomes more precise, rates typically increase due to improved conversion rates and return on investment for advertisers.
- **Audience Quality:** Certain user segments (e.g., high-income professionals) command premium rates due to their purchasing power and influence.

93. Platform design decisions consistently reflect the imperative to maximize these variables. User interface elements, notification systems, content recommendation algorithms, and social features are all engineered to increase user engagement and time spent on the platform. Similarly, ad delivery systems are continuously refined to optimize the balance between revenue generation and user retention.

APPENDIX B

REPLY TO META’S RESPONSE TO STATE’S STATEMENT OF FACTS

Meta Misrepresented That It Reported All Illicit Child Sexual Abuse Material (“CSAM”) On Its Platforms To The National Center for Missing and Exploited Children (“NCMEC”)

1. NCMEC is the agency authorized by Congress to receive tips from internet service providers, including Meta, regarding online child sexual exploitation. 18 U.S. Code § 2258A.

RESPONSE: Undisputed.

2. These tips are referred to as CyberTips, and “NCMEC’s CyberTipline is the nation’s centralized reporting system for the online exploitation of children.” *See* true and correct copy of <https://www.missingkids.org/gethelpnow/cybertipline> attached as Exhibit 1.

RESPONSE: Undisputed.

3. From at least December 12, 2011, to March 6, 2023, Facebook’s website stated: “We report all apparent instances of child exploitation appearing on our site from anywhere in the world to [NCMEC].” *See* true and correct copy of: <https://web.archive.org/web/20111212205136/https://www.facebook.com/safety/groups/law/guidelines/> and <https://web.archive.org/web/20230306025940/https://www.facebook.com/safety/groups/law/guidelines/> attached as Exhibits 2 & 3, respectively.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, Meta directs the Court to Paragraph 1 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 1 of its Counterstatement of Material Facts to contradict the State’s claim that Meta

“misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

4. On March 31, 2017, Instagram released the following statement responding to sexually explicit pictures of a high school student on Instagram:

We have zero tolerance for child exploitation on Instagram. In the *rare instances* when such illegal behavior is detected on our site we work hard to find whoever is responsible and work with relevant law enforcement agencies to bring them to justice. We believe that our comprehensive reporting system and Community Guidelines help make Instagram one of the *safest places* for people to spend time on the web.

See true and correct copy of <https://www.wtvm.com/story/35043701/instagram-responds-to-mcsd-inappropriate-picture-we-have-zero-tolerance-for-child-exploitation/> attached as Exhibit 4 (emphasis added).

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, Meta directs the Court to Paragraphs 1, 2, 3, and 4 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 1, 2, and 4 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

5. On June 30, 2017, Instagram proposed to repeat the statement *supra* ¶ 4 to respond to an inquiry from a reporter at Motherboard who reported numerous Instagram accounts

sexualizing children. *See* true and correct copy of METANMAG-002-01400547 at 0548 attached as Exhibit 5.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, Meta directs the Court to Paragraphs 1, 2, 3, and 4 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 1, 2, and 4 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

6. On February 2, 2018, Instagram stated to WNBC-TV: “Instagram has zero tolerance for child exploitation on the platform. We believe that our comprehensive reporting system and Community Guidelines help make Instagram one of the safest places for people to spend time on the web.” *See* true and correct copy of MT-IG-AG-NM-000022350 at 2350 attached as Exhibit 6.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, Meta directs the Court to Paragraphs 1, 2, 3, and 4 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 1, 2, and 4 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4,

the State directs the Court to the State's responses as set forth in each subsection of those Paragraphs.

7. On July 9, 2019, Instagram made a nearly identical statement to the newspaper *The Telegraph*: "Keeping young people safe on Instagram is hugely important to us. Content which exploits or endangers children is not allowed on Instagram. . . . We manually review this content, and if it violates our policies we will report it to [NCMEC] and remove the account in question." See true and correct copy of MT-IG-AG-NM-000070712 at 0712 attached as Exhibit 7.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta "misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC," Mot. 4, Meta directs the Court to Paragraphs 1, 2, 3, and 4 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 1, 2, and 4 of its Counterstatement of Material Facts to contradict the State's claim that Meta "misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC," Mot. 4, the State directs the Court to the State's responses as set forth in each subsection of those Paragraphs.

8. From November 18, 2020 through the present, Meta's policy "Child Sexual Exploitation, Abuse, and Nudity" has stated: "We do not allow content or activity that sexually exploits or endangers children. When we become aware of apparent child exploitation, we report it to [NCMEC], in compliance with applicable law." See true and correct copy of <https://transparency.meta.com/policies/community-standards/child-sexual-exploitation-abuse-nudity/> attached as Exhibit 8.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, Meta directs the Court to Paragraphs 1, 2, 3, and 4 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 1, 2, and 4 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

9. On June 10, 2021, responding to the Human Trafficking Institute’s 2020 Federal Human Trafficking Report, Meta provided the following statement to CBS News: “Sex trafficking and child exploitation are abhorrent and we don't allow them on Facebook” and “we report all apparent instances of child sexual exploitation to [NCMEC].” *See* true and correct copy of <https://www.cbsnews.com/news/facebook-sex-trafficking-online-recruitment-report/> attached as Exhibit 9.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, Meta directs the Court to Paragraphs 1, 2, 3, and 4 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 1, 2, and 4 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4,

the State directs the Court to the State's responses as set forth in each subsection of those Paragraphs.

10. On January 31, 2024, Meta CEO Mark Zuckerberg testified before the U.S. Senate Judiciary: “[W]e report all apparent instances of child exploitation identified on our site from anywhere in the world to NCMEC[.]” *See* true and correct copy of <https://about.fb.com/news/2024/01/our-work-to-help-provide-young-people-with-safe-positive-experiences/#:~:text=As%20required%20by%20law%2C%20we,authorities%20from%20around%20the%20world> attached as Exhibit 10.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, Meta directs the Court to Paragraphs 1, 2, 3, and 4 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 1, 2, and 4 of its Counterstatement of Material Facts to contradict the State's claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, the State directs the Court to the State's responses as set forth in each subsection of those Paragraphs.

11. Meta repeatedly touted the volume of its reporting to NCMEC and the fact that it made more reports to NCMEC than any other platform, but failed to disclose the delays, deficiencies, and gaps in its reporting. For example, Zuckerberg also testified that “we find and report more inappropriate content than anyone else in the industry” *Id.* Meta also touts the volume of its reports to NCMEC on its website. *See* true and correct copy of <https://transparency.meta.com/reports/integrity-reports-q1-2024/> attached as Exhibit 11.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, Meta directs the Court to Paragraphs 1, 2, 3, and 4 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 1, 2, and 4 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

12. The affirmative misrepresentations, *supra* ¶¶ 1-11, were made publicly, on Meta’s websites, through media that was broadcast nationally, or available online to Meta’s consumers.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, Meta directs the Court to Paragraphs 1, 2, 3, and 4 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 1, 2, and 4 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

13. Meta failed to disclose the information set out below that reflected its knowledge that Meta was failing to report significant volumes of CSAM and CSAM Solicitation.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, Meta directs the Court to Paragraphs 1, 2, 3, and 4 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 1, 2, and 4 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

Meta’s Features Promote CSAM And Meta Failed To Report CSAM And CSAM Solicitation

14. In October 2019, a Meta employee documented the results of an investigation, “Remediation: Detecting Malicious Networks (CEI), Integrity E2EE Taskforce – Investigation Insights.” The findings from the investigation noted: large groups of users were sharing child exploitation imagery (“CEI”); [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] See true and correct copy of Nick Clegg Dep. Ex. 50A and Nick Clegg Dep. Ex. 50B attached as Exhibits 12 & 13, respectively.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, Meta directs the Court to Paragraphs 5 and 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 5 and 8 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

15. On April 23, 2020, a Meta employee wrote, “[s]everal other metrics . . . indicate that we are not enforcing CEI as well as we’d like to.” *See* true and correct copy of METANMAG-002-00430358 attached as Exhibit 14.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, Meta directs the Court to Paragraphs 5 and 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 5 and 8 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

16. On May 29, 2020, a Meta employee wrote that for the past two years “[w]e [have] not [been] fulfilling our legal obligation to report CEI and CEI solicitation to [NCMEC].” The employee noted that the volume was approximately 5,000 a month and that the contents “appear to be pretty bad CEI solicitation-type things.” *See* true and correct copy of METANMAG-078-00018398 attached as Exhibit 15.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, Meta directs the Court to Paragraphs 5, 7, and 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 5, 7, and 8 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

17. In July 2020, Meta employees discussed concerns regarding the “safety risk in lack of enforcement on recipients of CEI.” *See* true and correct copy of METANMAG-075-00684934 attached as Exhibit 16. Though Meta is required to report all CSAM, one employee acknowledged,

██

██

██.” *Id.* The employee further said, “[t]here was a proposal a year ago to . . . have all users in egregious threads disabled, but that was never approved.” *Id.*

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, Meta directs the Court to Paragraphs 5 and 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 5 and 8 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.:

18. On November 4, 2020, Meta employees had an internal conversation stating: “Thousands of minors have been reporting IIC [inappropriate interactions with children] T1¹ abuse and even though we knew that there is IIC T1 going on (more than 50% of which is Sextortion which can lead to suicide) we haven’t done anything . . . God knows what happened to those kids[.]” The conversation also states: “I think we can all agree that this whole situation is Not Good and there are Several issues blocking us from correctly reporting all the T1 we know about to NCMEC/LE.” *See* true and correct copy of NCMEC Rule 1-030(b)(6) Dep. Ex. 23 attached as Exhibit 19.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, Meta directs the Court to Paragraphs 5, 7, and 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 5, 7, and 8 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “knew its

¹ Meta defines T1, or tier one, as the most severe category of Inappropriate Interactions with Children because it involves a real-world threat of imminent harm, including attempts to meet in person, an adult in a position of trust, or enticing CEI for sextortion. *See* true and correct copy of METANMAG-007-00291704 attached as Exhibit 17; *see also* true and correct copy of METANMAG-084-00120433 attached as Exhibit 18.

features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

19. On March 22, 2021, Meta employees had an internal conversation regarding Meta’s failure to report solicitation of children for CEI to NCMEC: “ [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] An employee then asked: “ [REDACTED] [REDACTED]

Another employee answered: [REDACTED] *See true and correct copy of METANMAG-079-00075298 attached as Exhibit 22.*

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, Meta directs the Court to Paragraphs 5, 7, and 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 5, 7, and 8 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM,

² “OS” refers to Meta’s outsourced content moderation teams. *See true and correct copy of METANMAG-002-01417745 attached as Exhibit 20.*

³ “IIC Proactive” refers to Meta’s Inappropriate Interactions with Children review queue for content Meta identified through proactive tools (as opposed to content reported to Meta, which is reviewed reactively). *See true and correct copy of METANMAG-002-02073003 attached as Exhibit 21.*

[and] failed to report solicitation for CSAM,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

20. On May 11, 2021, a Meta employee said, “bad news: 1. We are missing so many NCMEC reports” and “it is like 10k NCMEC report missing/day for month.” *See* true and correct copy of METANMAG-079-00071786 attached as Exhibit 23. Another employee responded: “Yikes.” *Id.*

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, Meta directs the Court to Paragraphs 5, 7, and 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 5, 7, and 8 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

21. Facebook’s Child Safety Operations Audit from August 2021 discovered that the “NCMEC reporting backlog is not consistently reviewed or timely resolved” noting a backlog of “~247K reports enqueued between May 2017 and July 2021.” The audit also concluded “valid reports may not be prioritized or timely submitted to NCMEC.” *See* true and correct copy of NCMEC Rule 1-030(b)(6) Dep. Ex. 24 attached as Exhibit 24.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “knew its features promote CSAM exchanges, . . . failed to

report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, Meta directs the Court to Paragraphs 5, 7, and 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 5, 7, and 8 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

22. Meta collaborated with NCMEC to identify known CSAM on its platforms using [REDACTED]. *See* true and correct copy of METANMAG-041-00000553 attached as Exhibit 25.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, Meta directs the Court to Paragraphs 5 and 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 5 and 8 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

23. In January 2022, Meta employees discovered that [REDACTED]

[REDACTED] *See Id.*; *see also* true and correct copy of METANMAG-005-01835845 attached as

Exhibit 26; *see also* true and correct copy of METANMAG-011-01059066 attached as Exhibit 27; *see also* true and correct copy of METANMAG-002-02313590 attached as Exhibit 28; *see also* true and correct copy of METANMAG0-003-00709444 attached as Exhibit 29. In response, one employee said, “if this is true, it’s a disaster – [REDACTED] [REDACTED] See Ex. 26. The employee also said, “we’re not enforcing on [REDACTED] [REDACTED].” See Ex. 27. Another employee said, “[m]y understanding is this is the state that has been in place for [REDACTED]” *Id.* As of at least May 26, 2022, MD5 was still not accurately matching content on these Meta platforms. See Ex. 29.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, Meta directs the Court to Paragraphs 5 and 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 5 and 8 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

24. On June 7, 2023, in response to a Wall Street Journal article (<https://www.wsj.com/articles/instagram-vast-pedophile-network-4ab7189>), in an internal message thread a Meta employee said: “calling out of underinvestment . . . Wondering if that will actually change anything.” See true and correct copy of METANMAG-051-00019042 at 9042-43 attached as Exhibit 30. Another employee responded: “Predictably that was my first thought.” *Id.* at 9043. Another employee responded: “I think the issue of these work is as you mentioned, people

tend to do hot fixes . . . then go ahead with other things and waiting [*sic*] for the next WSJ [Wall Street Journal] news 1-2 years later.” *Id.* An employee responded: “Yes, we have yet to systematically incentivise [*sic*] fixing these issues.” *Id.*

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, Meta directs the Court to Paragraphs 5 and 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 5 and 8 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

25. “A ‘classifier’ refers to a machine learning tool or algorithm that automatically reviews and categorizes content on Facebook and Instagram for further action, including but not limited to content removal, downranking, demoting, filtering or non-action, among others.” *See* true and correct copy of Defendants’ First Supplemental and Amended Objections and Responses to Plaintiff’s First Set of Interrogatories to Defendants, Amended Response to Interrogatory 15, at 76, attached as Exhibit 31.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, Meta directs the Court to Paragraphs 5, 7, and 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 5, 7, and 8 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

26. On March 13, 2024, Meta employees discussed the decision to [REDACTED]

[REDACTED] See true and correct copy of METANMAG-051-00229783 attached as Exhibit 32. An employee said: “Our original scope was to [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, Meta directs the Court to Paragraphs 5 and 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraphs 5 and 8 of its Counterstatement of Material Facts to contradict the State’s claim that Meta “knew its features promote CSAM exchanges, . . . failed to report significant numbers of CSAM, [and] failed to report solicitation for CSAM,” Mot. 4, the State directs the Court to the State’s responses as set forth in each subsection of those Paragraphs.

Meta Provided Late, Incomplete, Or Unactionable Reports To NCMEC

27. Meta frequently reported to NCMEC CSAM CyberTips that were weeks or months old. *See* true and correct copy of excerpts of NCMEC Rule 1-030(b)(6) Dep. Tr. (July 3, 2025), attached as Exhibit 33, at 222:2-8.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta made reports to NCMEC that “were unactionable by law enforcement.” Mot. 2, Meta directs the Court to Paragraph 6 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 6 of its Counterstatement of Material Facts to contradict the State’s claim that Meta made reports to NCMEC that “were unactionable by law enforcement.” Mot. 2, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

28. NCMEC does not review reports that were not human reviewed. Law enforcement agencies [REDACTED]

[REDACTED]

Ultimately, the lack of human review results in law enforcement agencies receiving a high volume of reports that they cannot act on. *See* Ex. 33 at 195:18-200:8; 203:3-204.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta made reports to NCMEC that “were unactionable by law enforcement.” Mot. 2, Meta directs the Court to Paragraph 6 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 6 of its Counterstatement of Material Facts to contradict the State’s claim that Meta made reports

to NCMEC that “were unactionable by law enforcement.” Mot. 2, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

29. One of the most common complaints NCMEC received from law enforcement regarding Meta’s Cypertips was that they [REDACTED].” *See* Ex. 33 at 415:6-15.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta made reports to NCMEC that “were unactionable by law enforcement.” Mot. 2, Meta directs the Court to Paragraph 6 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 6 of its Counterstatement of Material Facts to contradict the State’s claim that Meta made reports to NCMEC that “were unactionable by law enforcement.” Mot. 2, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

30. Between January 1, 2022, and October 15, 2022, Meta made approximately 31.7 million reports to NCMEC; however, Meta had humans review only 285,604 images; the rest were identified by artificial intelligence. As a result, [REDACTED] of the reports from Facebook, Instagram, and WhatsApp could be viewed by NCMEC. *See* true and correct copy of NCMEC Rule 1-030(b)(6) Dep. Exs. 27A, 27B, & 27C attached as Exhibits 34, 35, & 36, respectively.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta made reports to NCMEC that “were unactionable by law enforcement.” Mot. 2, Meta directs the Court to Paragraph 6 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 6 of its Counterstatement of Material Facts to contradict the State’s claim that Meta made reports to NCMEC that “were unactionable by law enforcement.” Mot. 2, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

31. On February 12, 2021, Meta employees had an internal conversation regarding Meta’s reporting backlog. An employee stated: “if something was reported to us in November and we start reviewing in July . . . I’m not sure it’s any better than not reviewing at all.” Another employee responded: “This isn’t a bomb threat, it’s an adult having sex with a minor, they’ve still committed a crime even if time passes. These backlogs aren’t new and are prioritized – there have been (bigger) backlogs here since before I joined the company[.]” A Meta Integrity Data Scientist Engineer weighed in stating: “The review/enforcement is lacking.” *See* true and correct copy of NCMEC Rule 1-030(b)(6) Dep. Ex. 31 attached as Exhibit 37.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta made reports to NCMEC that “were unactionable by law enforcement.” Mot. 2, Meta directs the Court to Paragraph 6 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 6 of its Counterstatement of Material Facts to contradict the State’s claim that Meta made reports to NCMEC that “were unactionable by law enforcement.” Mot. 2, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

32. On March 11, 2022, NCMEC’s General Counsel wrote to Meta “Regarding Widespread Flaws in Meta’s Reporting to the CyberTipline.” She wrote, “[r]ecent Meta reporting issues are endangering children” and that valid reports “are lost in the morass of reports from

compromised or erroneously reported accounts or buried among incomplete, flawed reports.” The General Counsel informed Meta, [REDACTED]

[REDACTED] She further stated, “NCMEC is gravely concerned about the impact on child safety and the potential scope and magnitude of these reporting errors, as well as Meta’s apparent inability to put an end to the continual mistakes.” *See* true and correct copy of METANMAG-002-00461193 attached as Exhibit 38.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta made reports to NCMEC that “were unactionable by law enforcement.” Mot. 2, Meta directs the Court to Paragraph 6 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 6 of its Counterstatement of Material Facts to contradict the State’s claim that Meta made reports to NCMEC that “were unactionable by law enforcement.” Mot. 2, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

33. On October 6, 2022, NCMEC provided feedback it received from the West Virginia Internet Crimes Against Children Task Force (“ICAC”) to Facebook regarding Facebook’s NCMEC reports, including: “You have sent this person (Suspect) to how many agencies. Why doesn’t Facebook ban them?”; “IF THERE IS NO SUPPORTING EVIDENCE STOP WASTING MY TIME”; “Once again no CSAM attached. Stop sending out cases with out [*sic*] evidence”; “Facebook sent this in with no CSAM????” *See* true and correct copy of NCMEC Rule 1-030(b)(6) Dep. Ex. 26 attached as Exhibit 39 (emphasis in original).

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta made reports to NCMEC that “were unactionable by law

enforcement.” Mot. 2, Meta directs the Court to Paragraph 6 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 6 of its Counterstatement of Material Facts to contradict the State’s claim that Meta made reports to NCMEC that “were unactionable by law enforcement.” Mot. 2, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

34. In December 2023, NCMEC met with Meta to highlight issues with Meta’s reports, including: 1) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] See true and correct copy of NCMEC Rule 1-030(b)(6) Dep. Ex. 28 attached as Exhibit 40.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta made reports to NCMEC that “were unactionable by law enforcement.” Mot. 2, Meta directs the Court to Paragraph 6 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 6 of its Counterstatement of Material Facts to contradict the State’s claim that Meta made reports

to NCMEC that “were unactionable by law enforcement.” Mot. 2, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

Meta Submitted Significantly Fewer Reports to NCMEC After Implementing End-to-End Encryption (“E2EE”) While Pedophiles Remained on Meta’s Platforms

35. E2EE protects privacy by ensuring that only the sender and receiver see the messages. *See* true and correct copy of <https://about.fb.com/news/2024/03/end-to-end-encryption-on-messenger-explained/> attached as Exhibit 41. Encryption is an “extra layer of security that keeps your messages and calls . . . protected, from the moment they leave your device, to the moment they reach the receiver’s device. This means that nobody during this delivery, including Meta, can see or listen to what’s sent or said.” *Id.*

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, Meta directs the Court to Paragraph 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 8 of its Counterstatement of Material Facts to contradict the State’s claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

36. “[E2EE] has been available as an optional setting on Facebook Messenger since 2016, and Messenger started the global rollout of default E2EE for personal chats in December 2023. Meta launched optional E2EE for personal chats on Instagram Direct (IGD) globally starting in the first quarter of 2023.” *See* true and correct copy of Defendants’ Objections and Responses

to Plaintiff's Fifth Set of Interrogatories to Defendants, Amended Response to Interrogatory 39 (Sept. 4, 2025), at 12, attached as Exhibit 42.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that "Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption." Mot. 7, Meta directs the Court to Paragraph 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 8 of its Counterstatement of Material Facts to contradict the State's claim that "Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption." Mot. 7, the State directs the Court to the State's responses as set forth in each subsection of that Paragraph.

37. Since May 2023, an undercover investigator for New Mexico Department of Justice has worked on over 400 undercover chats that involved Facebook or Instagram, observing the operations of malicious actors on Meta's platforms. *See* true and correct copy of RK⁴ Report (July 11, 2025) at 18 attached as Exhibit 43. Frequently, the investigator's "undercover minor personas were solicited for, offered money for, or received sexually explicit photos and sexually explicit communications, including on Meta's platforms. They were encouraged to migrate communications platforms that encrypted messages." *Id.* at 19. "New Mexico receives hundreds to thousands of cybertips related to child exploitation every year." *Id.* at 21.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that "Meta willfully blinded itself to child exploitation and significantly

⁴ Because RK operates as an undercover agent, the State uses only his initials.

hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, Meta directs the Court to Paragraph 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 8 of its Counterstatement of Material Facts to contradict the State’s claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

38. On May 8, 2024, three suspected online predators were arrested in New Mexico following a months-long undercover investigation of child predators on Meta’s platforms called “Operation Metaphile.” *See* true and correct copy of <https://nmdoj.gov/press-release/new-mexico-attorney-general-raul-torrez-announces-arrests-of-suspected-online-predators-following-operation-metaphile/> attached as Exhibit 44. The suspects, Fernando Clyde, Marlon Kellywood, and Christopher Reynolds, contacted and solicited sex with underage age decoy accounts created by the New Mexico Department of Justice. *Id.* Prior to the arrests, Meta had “detected multiple instances of potential inappropriate activity by accounts believed to be operated” by each of these suspects, *See* Ex. 42, Response to Interrogatory 38, yet each of these suspects remained active on Meta’s platforms. Meta did not report any of the suspects to NCMEC until after their arrests. *Id.* Meta also admits that two of the three suspects had message threads that were encrypted. *Id.*

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, Meta directs the Court to Paragraph 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 8 of its Counterstatement of Material Facts to contradict the State’s claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

39. Meta identified seven accounts operated by Fernando Clyde, and Meta flagged the following inappropriate activity prior to his arrest. *See* true and correct copy of Defendants’ First Supplemental Objections and Responses to Plaintiff’s Fifth Set of Interrogatories to Defendants, Supplemental Response to Interrogatory 38 (October 31, 2025), attached as Exhibit 45 Account One: (1) twenty-two instances of bullying and harassment from January 12, 2024 and May 1, 2024; (2) a report from user Dazee Roanhorse on February 6, 2024; (3) three violations of adult nudity from April 20, 2024 and April 27, 2024. *Id.* Account Two: (1) Between January 9, 2023 and July 18, 2023, the account was removed from Facebook’s algorithmically suggested People You May Know (“PYMK”) for accounts associated with minors; (2) thirty-four instances of bullying and harassment from August 24, 2023 and May 4, 2024; (3) Adult nudity violation on October 2, 2023. *Id.* Account Three: (1) high rate of friend requests and high rate of rejected friend requests from August 15, 2014 and January 20, 2015; (2) Adult nudity violation on December 16, 2021. *Id.* Account Four: (1) Between April 20, 2023 and April 23, 2023, the account was removed from Facebook’s algorithmically suggested PYMK for accounts associated with minors; (2) Disabled on October 12, 2023 as a fake account. *Id.*

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that “Meta willfully blinded itself to child exploitation and significantly

hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, Meta directs the Court to Paragraph 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 8 of its Counterstatement of Material Facts to contradict the State’s claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

40. Meta identified four accounts operated by Marlon Kellywood, and Meta flagged the following inappropriate activity prior to his arrest. *Id.* Account One: (1) Between October 2, 2020 and April 10, 2023, the account was removed from Facebook’s algorithmically suggested PYMK for accounts associated with minors; (2) report from user Dazee Roanhorse on February 6, 2024. *Id.*

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, Meta directs the Court to Paragraph 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 8 of its Counterstatement of Material Facts to contradict the State’s claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

41. Meta identified sixteen accounts operated by Christopher Reynolds, and Meta flagged the following inappropriate activity prior to his arrest. *Id.* Account One was disabled on

October 5, 2021 for being associated with a Convicted Sex Offender. *Id.* Account Two was “restricted from sending messages to unconnected accounts for 24 hours, starting November 15, 2021.” *Id.* Account Three: (1) Between December 14, 2022 and March 28, 2023 the account was removed from Facebook’s algorithmically suggested PYMK for accounts associated with minors; (2) Two instances of graphic and violent content violations, on August 30, 2022 and September 1, 2022. *Id.*

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, Meta directs the Court to Paragraph 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 8 of its Counterstatement of Material Facts to contradict the State’s claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

42. The NCMEC report for at least one of the Operation Metaphile suspects referenced the New Mexico Department of Justice press release regarding Operation Metaphile as supporting information for the report: “Based on this press release and linked slide deck the Jared Bond User ID Facebook account appears to have been interacting with a fake account purporting to be a minor.” *See* true and correct copy of excerpt of RK Dep. Tr., Vol II (Sept. 19, 2025) at 561:18-568:23, attached as Exhibit 46.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that “Meta willfully blinded itself to child exploitation and significantly

hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, Meta directs the Court to Paragraph 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 8 of its Counterstatement of Material Facts to contradict the State’s claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

43. NCMEC had concerns about the implementation of E2EE if the platform does not also implement child safety measures, specifically: “[I]f end-to-end encryption is implemented and that visibility into content or interactions that are occurring is taken away, that doesn't mean that that abuse stops occurring. And so potentially the loss of reports that could be coming in to the CyberTipline which are related to the exchange of child sexual abuse material, interactions of sextortion or online enticement, or other forms of child sexual exploitation, that now nobody has visibility into.” *See* Ex. 33 at 115:7-116:8.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, Meta directs the Court to Paragraph 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 8 of its Counterstatement of Material Facts to contradict the State’s claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

44. Since Meta’s implementation of E2EE, NCMEC has observed a change in the depth and detail of Meta’s CyberTipline reports. *Id.* at 125:15-126:25. The CyberTipline reports that rely on user reporting, “oftentimes there is very limited chat or content information which is included within those reports than what we had seen in years prior.” *Id.* As a result, “[h]aving that limited information can make it extremely difficult to understand what exactly is occurring” and “law enforcement may have difficulty in following up on those reports.” *Id.*

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, Meta directs the Court to Paragraph 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 8 of its Counterstatement of Material Facts to contradict the State’s claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

45. NCMEC raised concerns regarding E2EE with Meta: “There would have been numerous meetings and conversations at different operational levels, at a leadership level, when NCMEC was first made aware of Meta’s plans to implement end-to-end encryption, the impact

Id. at 131:10-17.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that “Meta willfully blinded itself to child exploitation and significantly

hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, Meta directs the Court to Paragraph 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 8 of its Counterstatement of Material Facts to contradict the State’s claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

46. According to NCMEC, user reports are not an adequate substitute for scanning messages and images that are encrypted: “They are only one facet of child safety for a platform, but it can’t be the only thing that a platform relies on.” *Id.* at 142:4-19.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, Meta directs the Court to Paragraph 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 8 of its Counterstatement of Material Facts to contradict the State’s claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

47. One problem with relying on user reports, is that “the majority of the time children are choosing not to report.” *Id.* at 142:21-143:1.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that “Meta willfully blinded itself to child exploitation and significantly

hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, Meta directs the Court to Paragraph 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 8 of its Counterstatement of Material Facts to contradict the State’s claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

48. Since the implementation of E2EE, NCMEC has observed that Meta is leaving cases of child exploitation undetected and unreported. *Id.* at 159:6-10.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, Meta directs the Court to Paragraph 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 8 of its Counterstatement of Material Facts to contradict the State’s claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

49. On March 11, 2025, NCMEC submitted written testimony to the US Senate Committee on the Judiciary Subcommittee on Crime and Counterterrorism acknowledging that “CyberTipline reports submitted in 2024 did drop from 36.2 million in 2024 to 20.5 million in 2024.” *See* true and correct copy of https://www.judiciary.senate.gov/imo/media/doc/2025-03-11_testimony_delaune.pdf at 10, attached as Exhibit 47. The testimony states: “The decrease in

overall CyberTipline reports in 2024 does not mean fewer crimes are occurring; it simply means online platforms are not reporting as they should.” *Id.* The testimony further states: “Facebook reported approximately 6.9 million less reports in 2024 than it did in 2023.” *Id.* at 11 “The most significant factor when comparing volume from 2023 to 2024 was a decline in the number of reports that we received from Facebook.” Ex. 33 at 161:2-5.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, Meta directs the Court to Paragraph 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 8 of its Counterstatement of Material Facts to contradict the State’s claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

50. NCMEC has observed a decrease in both the volume and quality of the contents of Facebook’s reports, which NCMEC’s analysis demonstrates stems from E2EE. Ex. 33 at 235:4-20.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that “Meta willfully blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, Meta directs the Court to Paragraph 8 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 8 of its Counterstatement of Material Facts to contradict the State’s claim that “Meta willfully

blinded itself to child exploitation and significantly hindered its ability to report CSAM by implementing end-to-end encryption.” Mot. 7, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

51. Meta requires users to agree to Facebook’s Terms of Service and Instagram’s Terms of Use in order to use those platforms. *See* true and correct copy of https://mbasic.facebook.com/legal/terms/plain_text_terms/ attached as Exhibit 48; *see* true and correct copy of <https://help.instagram.com/termsfuse> attached as Exhibit 49.

RESPONSE: Undisputed.

52. The Terms of Service for Facebook states: “How our services are funded . . . we use your personal data...to show you personalized ads.” *See* Ex. 48.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that “New Mexico consumers engage in an exchange of value with Meta in order to access Meta’s platforms.” Mot. 8, Meta directs the Court to Paragraph 1 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 1 of its Counterstatement of Material Facts to contradict the State’s claim that “New Mexico consumers engage in an exchange of value with Meta in order to access Meta’s platforms.” Mot. 8, the State directs the Court to the State’s responses as set forth in each subsection of that Paragraph.

53. The Terms of Use for Instagram states: “How Our Service Is funded . . . We use your personal data . . . to show you ads that are more relevant to you.” *See* Exhibit 49.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that “New Mexico consumers engage in an exchange of value with

Meta in order to access Meta's platforms." Mot. 8, Meta directs the Court to Paragraph 1 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 1 of its Counterstatement of Material Facts to contradict the State's claim that "New Mexico consumers engage in an exchange of value with Meta in order to access Meta's platforms."

Mot. 8, the State directs the Court to the State's responses as set forth in each subsection of that Paragraph.

54. Meta admitted in a blog post, dated September 17, 2024: "We know parents want to feel confident that their teens can use social media to connect with their friends and explore their interests, without having to worry about unsafe or inappropriate experiences." *See* true and correct copy of <https://about.fb.com/news/2024/09/instagram-teen-accounts/> attached as Exhibit 50.

RESPONSE: Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Disputed as incomplete and misleading. To the extent the State uses this fact to support its claim that Meta "misrepresent[ed] that it reported all illicit CSAM on its platforms to NCMEC," Mot. 4, Meta directs the Court to Paragraph Meta directs the Court to Paragraph 1 of its Counterstatement of Material Facts.

REPLY: To the extent Meta uses the disputed facts set forth in Paragraph 1 of its Counterstatement of Material Facts to contradict the State's claim that "New Mexico consumers engage in an exchange of value with Meta in order to access Meta's platforms."

Mot. 8, the State directs the Court to the State's responses as set forth in each subsection of that Paragraph. In addition the presumption of materiality for misrepresentations and omissions

involving safety, this fact shows that Meta's misrepresentations and omissions were important to consumers, and thus material.