

EXHIBIT A

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

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

Plaintiff,

v.

NO. D-101-CV-2023-02838

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

Defendants.

**DECLARATION OF WESLEY DUNKIRK IN SUPPORT OF PLAINTIFF'S
MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR PARTIAL SUMMARY
JUDGMENT FOR DECEPTIVE PRACTICES REGARDING USER REPORTING**

I, Wesley Dunkirk, under oath, hereby declare as follows:

I am Counsel for Plaintiff State of New Mexico. My business address is 401 9th Street,
NW, Suite 630, Washington, DC 20004.

This declaration is based on my personal knowledge and review of the documents and
information discussed herein.

1. Meta publishes on its website that “[w]hen something gets reported to Facebook,
we review it and remove anything that goes against our Community Standards.” See true and
correct copy of https://www.facebook.com/help/1753719584844061/?helpref=hc_fnav attached
as Exhibit 1.

2. Meta publishes on its website that “[w]hen you report a piece of content...to
[Instagram], we will take action to hide or remove that content from Instagram if we find that it

goes against our Community Guidelines.” See true and correct copy of https://help.instagram.com/478796623912131/?helpref=related_articles attached as Exhibit 2.

3. Meta publishes on its website that “[w]e’ll investigate every report we receive.” See true and correct copy of https://help.instagram.com/527320407282978/?helpref=hc_fnav attached as Exhibit 3.

4. In 2017, Meta publicly stated that “[w]e 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 www.wtvm.com/story/35043701/instagram-responds-to-mcsd-inappropriate-picture-we-have-zero-tolerance-for-child-exploitation attached as Exhibit 4.

5. In 2019, Meta publicly stated that “[w]hen you send a report, it goes to our trained team of reviewers who check reports 24 hours a day.... We work quickly to remove any violating content....” See true and correct copy of <https://people.com/parents/keeping-teenagers-safe-on-instagram-explainer/> attached as Exhibit 5.

6. In 2019, Meta publicly claimed it would “continue to remove [content promoting or encouraging suicide or self harm] when reported.” See true and correct copy of <https://about.instagram.com/blog/announcements/supporting-and-protecting-vulnerable-people-on-instagram> attached as Exhibit 6.

7. In 2022, Meta published documents online in which it claimed to use “robust reporting tools,” to “[m]ak[e] it easy for people to report harmful content,” and to “enforc[e] our Community Standards when we receive reports about users or content.” See true and correct copy of <https://about.fb.com/wp-content/uploads/2021/12/Metas-Approach-to-Safer-Private-Messaging.pdf> at 5-6, attached as Exhibit 7.

8. Internal Meta documents from February 2021 state that Meta maintains “significant backlogs” of reports. *See* true and correct copy of METANMAG-051-00097719 at 7719 attached as Exhibit 8.

9. A 2021 internal Meta presentation stated that Meta only reviewed 56% of user reports for Instagram Direct and Messenger, and of the reports that it did review, Meta only enforced 35% of them. *See* true and correct copy of METANMAG-059-00001065 at 1071 attached as Exhibit 9.

10. A 2021 internal Meta presentation stated that Instagram Direct and Messenger had a backlog of 3.7 million unreviewed user reports, 80% of which were “older than 90 days and about to be bulk closed (i.e., never reviewed or acted upon).” *Id.*

11. A Meta employee stated in a February 2021 internal chat that multiple aspects of Meta’s user reporting flow were “broken.” *See* Ex. 8 at 7720.

12. A former Meta employee testified that Meta intentionally added “friction” to its user reporting flow, which made completing reports more difficult for users. *See* true and correct copy of excerpts of Arturo Bejar Dep. Tr. Vol. I (Apr. 7, 2025) at 163:16-166:4, attached as Exhibit 10.

13. An internal Meta document from 2019 discussed adding “friction” to the “user reporting process” to reduce the number of user reports Meta receives. *See* true and correct copy of METANMAG-002-01564894 at 4898 attached as Exhibit 11.

14. A 2021 internal Meta presentation stated that “[w]e have deliberately added steps and difficulty to [the] reporting flow to reduce the overall number” of reports that users submit. *See* Ex. 9 at 1072.

15. An internal presentation from 2021 acknowledged implementing “[f]rictionless reporting,” which would make it easier for users to report safety concerns, “would require 50-100x current review capacity.” *Id.*

16. Expert testimony indicates that child predators seeking potential victims often look for children who they think will be less likely to report abuse. *See* true and correct copy of Expert Report of Dr. Brian N. Levine at 92 attached as Exhibit 12.

17. Expert testimony indicates that harms from child sexual exploitation are grossly underreported. *See* true and correct copy of Expert Summary of Opinions, Jennifer O’Brien, Ph.D. at 16 attached as Exhibit 13.

18. A 2021 internal presentation stated that “only 1% of people who have a negative experience on [Instagram] report it,” that “of those reports, about 2% lead to action,” and that only “.02% of bad experiences [on Instagram] are estimated to lead to action.” *See* true and correct copy of METANMAG-002-00744030 at p. 6, attached as Exhibit 14.

19. A Meta employee stated in a 2020 internal chat that “[t]housands of minors have been reporting IIC T1 [(inappropriate interactions with children Tier 1)], the most severe abuse, which covers reports of ongoing imminent harm to a child)) 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.” *See* true and correct copy of METANMAG-078-00019520 at 9520 attached as Exhibit 15. According to Meta’s internal documents, “IIC T1” involves the most serious abuse and covers reports of ongoing imminent harm to a child. *See* true and correct copy of METANMAG-021-00162609 at 2609 attached as Exhibit 16.

20. On a quarterly basis, Meta publicly releases its Community Standards Enforcement Reports (“CSERs”), which purport to track the company’s enforcement of policy violations across its platforms. *See* true and correct copy of <https://transparency.meta.com/reports/community-standards-enforcement/?source=https%3A%2F%2Ftransparency.facebook.com%2Fcommunity-standards-enforcement> attached as Exhibit 17.

21. Meta’s CSERs report the “prevalence” of violating content, a statistic that Meta describes as “the estimated views of violating content as a percentage of the views of all content” on Meta’s platforms. *See* true and correct copy of Defendants’ First Supplemental and Amended Objections and Responses to Plaintiff’s First Set of Interrogatories to Defendants, Response to Interrogatory No. 13 (January 27, 2025), attached as Exhibit 18.

22. Former Meta employees Allison Lee and Arturo Bejar testified that Meta’s publicly reported “prevalence” data misrepresents the safety of Meta’s platforms. *See* true and correct copy of excerpts of Allison Lee Dep. Tr. (Feb. 6, 2025) at 237:11-238:1, attached as Exhibit 19; *See also* Ex. 10 at 337:7-16.

23. Expert testimony indicates that Meta’s public reporting of “prevalence” data misrepresents the safety of its platforms. *See* true and correct copy of Expert Report of Damon L. McCoy, Ph.D. at 69 attached as Exhibit 20.

24. Meta’s internal research from October 2019 found that 17% of teen Instagram users reported seeing suicide and self-injury (“SSI”) content on Instagram “in the last seven days.” *See* true and correct copy of METANMAG-008-00000216 at 0222 attached as Exhibit 21.

25. Meta’s internal research from 2018 found that Instagram exposes 5.1 million teens to SSI-related content each day. *See* true and correct copy of METANMAG-002-00709828 at 9828 attached as Exhibit 22.

26. Meta reported in its third quarter CSER from 2019 that the prevalence of SSI content on its platforms was so low that Meta could not even “reliably estimate a metric” while claiming that the “upper limit” for SSI prevalence was only 0.04%. *See* true and correct copy of <https://about.fb.com/news/2019/11/community-standards-enforcement-report-nov-2019/> at 2-3 attached as Exhibit 23.

27. A former Meta employee, Arturo Bejar, testified that the data Meta publicly released regarding the prevalence of SSI content on its platforms is “dangerously misleading” and “not at all accurate.” *See* true and correct copy of Arturo Bejar Dep. Tr. Vol. II (Apr. 8, 2025) at 422:2-9 attached as Exhibit 24.

28. Meta’s internal research found that as of July 2021, 14.1% of Instagram users ages 16-17 reported experiencing unwanted sexual advances on Instagram in the last seven days. *See* true and correct copy of METANMAG-002-00207366 at 7386 attached as Exhibit 25.

29. A November 2021 internal Meta memo stated that “~1 in 100 [Instagram] teen users in the US are exposed to IIC (child grooming) with adults everyday,” *See* true and correct copy of METANMAG-011-01633788 at 3793 attached as Exhibit 26.

30. In its 2021 Q3 CSER, Meta claimed that “[w]e cannot estimate prevalence for child endangerment right now” and broadly asserted that “[w]e do not allow content that endangers children...on Facebook and Instagram.” *See* true and correct copy of METANMAG-005-00841862 at 1874-75 attached as Exhibit 27.

31. Meta’s internal research from July 2021 found that 29.4% of Instagram users ages 16-17 witnessed bullying on Instagram “in the last seven days.” *See* Ex. 25 at 7386.

32. Meta reported in its 2021 Q3 CSER that the prevalence of “bullying and harassment” content on Instagram was only 0.05% to 0.06%. *See* Ex. 27.

33. Former Meta employee Allison Lee provided testimony describing Meta’s CSERs as “a deliberately incomplete picture in an underreporting of the rate of harmful content and experiences that were happening” on its platforms, and that Meta’s CSERs “prevented the public from understanding the rate and severity of the risks that are associated with being on the platform, particularly for young people.” *See* Ex. 19 at 457:22-458:1.

34. In its 2021 Q3 CSER, Meta claimed that only 0.9% of all violating content on Facebook that related to “Child Sexual Exploitation” was “[r]eported by users,” with the rest supposedly being “[f]ound and actioned by [Meta].” *See* true and correct copy of <https://transparency.meta.com/reports/community-standards-enforcement/child-nudity-and-sexual-exploitation/facebook/> attached as Exhibit 28..

35. Meta claimed in all of its 2021 CSERs that it proactively enforced at least 99% of the violating “Child Sexual Exploitation” content on Facebook. *See* true and correct copy of <https://transparency.meta.com/reports/community-standards-enforcement/child-nudity-and-sexual-exploitation/facebook/> attached as Exhibit 29.¹

36. A Meta internal document from 2020 states that Meta’s “[child exploitative imagery] classifiers are <20% accurate” and that “improving these classifiers was deprioritized last year.” *See* true and correct copy of METANMAG-079-00005582 at 5584 at Exhibit 30.

37. A former Meta employee testified that Meta’s publication of misleading data in its CSERs “prevented the public from understanding the rate and severity of the risks that are associated with being on the platform, particularly for young people.” *See* Ex. 19 at 458:17-22.

¹ The data cited in this paragraph from the referenced website is located in an interactive table. To capture the referenced data, Exhibit 29 contains the full printed website and, on the seventh page, a screenshot of the interactive table that includes the cited data (last accessed on November 4, 2025).

38. 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://www.facebook.com/terms/> attached as Exhibit 31; *see* true and correct copy of <https://help.instagram.com/termsfuse> attached as Exhibit 32.

39. The Terms of Service for Facebook states that "[w]e use your personal data...to show you personalized ads." *See* Ex. 31.

40. The Terms of Use for Instagram states that "[w]e use your personal data...to show you ads." *See* Ex. 32.

41. In response to the State's Interrogatory No. 3, Meta described the types of personal data it collects from users, including: "(1) user activity across Meta's Services and information a user provides, where 'activity' is defined as all of the things a user does on Meta's Services, such as sending messages, taking photos and videos, buying or selling things, and much more; (2) information about a user's friends, followers, groups, accounts, Pages, and other users and communities a user is connected to and interacts with; and (3) information from and about the different devices a user uses and how they use them." *See* true and correct copy of Defendants' First Supplemental and Amended Objections and Responses to Plaintiff's First Set of Interrogatories to Defendants, Supplemental Response to Interrogatory No. 3 (Feb. 13, 2025) attached as Exhibit 33.

42. In response to the State's Interrogatory No. 4, Meta identified advertisers located in New Mexico who paid for ads on Meta's platforms, along with audiences they targeted and revenue Meta received from them. *See* true and correct copy of Defendants' Seventh Supplemental Objections and Responses to Plaintiff's First Set of Interrogatories to Defendants, Supplemental Response to Interrogatory No. 4 (July 1, 2025) attached as Exhibit 34.

43. Meta utilized a testimonial aid during its deposition testimony pursuant to Rule 1-030(B)(6) NMRA on October 31, 2025 that recognized “advertising revenue Meta was due to be paid on account of [New Mexico-specific users’] use of Facebook and Instagram.” *See* true and correct copy of Structured Data - NM AG 30(b)(6) [Testimonial Aid] at 6-7 attached as Exhibit 35.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed this 5th day of November 2025.

/s/ Wesley Dunkirk
Wesley Dunkirk