S-223013

SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

ACTION NO.
VANCOUVER REGISTRY

APR 11 2022

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

A.B., INFANT,
BY HER LITIGATION GUARDIAN, C.D

PLAINTIFF

AND:

FACEBOOK, INC. (NOW KNOWN AS META PLATFORMS INC.), FACEBOOK CANADA LTD, INSTAGRAM INC. AND INSTAGRAM, LLC

DEFENDANTS

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

(a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and

(b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

(a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and

(b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff,

(a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,

(b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,

(c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or

(d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFF

Part 1: STATEMENT OF FACTS

Introduction

1. Over the last two decades, more and more of our lives have moved onto social media platforms and other digital public spaces. In this vast, still largely unregulated universe of digital public spaces, which are privately owned and primarily run for profit, there exists tension between what is best for the technology company and what is best for the individual user and for society. Business models are often built around maximizing user engagement as opposed to ensuring that users engage with the platform and one another in safe and healthy ways. Technology companies focus on maximizing time spent, not time well spent. In recent years, there has been growing concern about the impact of digital technologies, particularly social media, on the mental health and wellbeing of adolescents. Many researchers argue that social media facilitates cyberbullying, contributes to obesity and eating disorders, instigates sleep deprivation to achieve around-the-clock engagement, encourages children to negatively compare themselves to others and develop a broad discontentment for life, and has been connected to depression, anxiety, self-harm, and ultimately suicidal ideation and attempts.

2. This matter arises from an egregious breach of the public trust by the Defendants.

3. The Defendants knowingly exploited their most vulnerable users—children throughout the world—to drive corporate profit. The Defendants operate the world's largest family of social networks, enabling billions of users worldwide to connect, view, and share content through mobile devices, personal computers, and virtual reality headsets. A user does not have to pay to create an account. Instead of charging account holders to access the platform, the Defendants became some of the world's most valuable companies from the sale of advertisement placements to marketers across their various platforms and applications. The Defendants generated $69.7 billion from advertising in 2019, more than 98% of their total revenue for the year. The Defendants can generate such revenues by marketing their user base to advertisers. The Defendants collect and analyze data to assemble virtual dossiers on their users, covering hundreds if not thousands of user-specific data segments. This data collection and analysis allows advertisers to micro-target advertising and advertising dollars to very specific categories of users, who can be segregated into pools or lists using the Defendants' data segments. Only a fraction of these data segments come from content that is explicitly designated by users for publication or explicitly provided by users in their account profiles. Many of these data segments are collected by the Defendants through surveillance of each user's activity on and off their platforms, including behavioral surveillance that users are not even aware of, like navigation paths, watch time, and hover time. The larger the Defendants' user database grows, the more time the users spend on the database, and the more detailed information that the Defendants can extract from their users, the more money the Defendants make.

4. The Defendants have intentionally designed their products to maximize users' screen time, using complex algorithms designed to exploit human psychology and driven by advanced computer algorithms and artificial intelligence available to the largest technology companies in the world. The Defendants have progressively modified their products to promote problematic and excessive use that they know threatens the actuation of addictive and self-destructive behavioral patterns.

5. Two of the Defendants' products, the www.Facebook.com ("Facebook") and www.Instagram.com ("Instagram") websites and respective interrelated apps, rank among the most popular social networking products, with more than two billion combined users worldwide. It is estimated that nine out of ten teens use social media platforms, with the average teen using the platforms roughly three hours per day. Given the delicate, developing nature of the teenage brain and the Defendants' creation of social media platforms designed to be addictive, it comes as no surprise that we are now grappling with the ramifications of the Defendants' growth-at-any-cost approach, to wit, a generation of children physiologically entrapped by products the effects of which collectively result in a long-lasting adverse impact on their rapidly evolving and notoriously precarious mental health.

6. As of October 2021, Facebook had roughly 2.91 billion monthly active users, thus reaching 59% of the world's social networking population, the only social media platform to reach over half of all social media users.

7. A user's "feed" on both Facebook and Instagram is comprised of an endless series of photos, videos, text captions, and comments posted by accounts that the user follows, along with advertising and content specifically selected and promoted by the Defendants.

8. Instagram also features a "discover" page where a user is shown an endless feed of content that is selected by an algorithm designed by the Defendants based upon the users' data profile: demographics, prior activity in the platform, and other data points. The Defendants have added similar features to Facebook on the app's "menu" and "watch" sections.

9. Over the past decade or so, the Defendants have added features and promoted the use of auto-playing short videos and temporary posts on Facebook and Instagram, with the latter being referred to as "Reels" while the former is referred to as Instagram "Stories." The Defendants have added similar features to Facebook.

10. Facebook and Instagram notify users through text and email of activity in which they might be interested, which is designed to and does prompt users to open Facebook and Instagram and be exposed to content selected by the platforms to maximize the length of time and amount of content viewed by the user. Facebook and Instagram include many other harm causing features, as discussed below.

11. The Plaintiff brings claims based upon the Defendants' defective design of their social media products that renders such products not reasonably safe for ordinary consumers in general and minors in particular. It is technologically feasible to design social media products that substantially decrease the incidence and magnitude of harm to ordinary consumers and minors arising from their foreseeable use of the Defendants' products with a negligible increase in production cost.

12. The Plaintiff also brings claims based on Defendants' failure to provide adequate warnings to minor users and their parents of the danger of mental, physical, and emotional harms arising from the foreseeable use of their social media products.

13. The Plaintiff also brings claims for negligence arising from the Defendants' unreasonably dangerous social media products and their failure to warn of such dangers. The Defendants knew or, in the exercise of ordinary care, should have known that their social media products were harmful to a significant percentage of their minor users and failed to re-design their products to ameliorate these harms or warn minor users and their parents of dangers arising out of the foreseeable use of their products. The Defendants intentionally created an attractive nuisance to children, but simultaneously failed to provide adequate safeguards from the harmful effects they knew were occurring.

14. The addictive qualities of the Defendants' products and their harmful algorithms are not fully known or appreciated by minor users or their parents. Like others, the Plaintiff only recently learned about the Defendants' increasingly detrimental effect on teenagers when a former Facebook employee turned whistleblower came forward with internal documents showing that the Defendants were aware

that their platforms and products cause significant harm to its users, especially children. Rather than making meaningful changes to safeguard the health and safety of their adolescent users, the Defendants have consistently chosen to prioritize profit over safety by continuing to implement and require their users to submit to product components that increase the frequency and duration of users' engagement, resulting in the pernicious harms described in greater detail below.

Overview

15. This action concerns the Defendants' social media content which targets children and young adults with harmful advertisements and other content designed to amplify their vulnerabilities and foster continued engagement online.

16. More specifically, the Defendants' social media algorithms promote harmful content to young vulnerable users based on user engagement - including images, advertisements, and accounts promoting constant unrealistic images of the 'perfect' life and seemingly 'perfect' bodies that can result in body image issues and other mental injuries especially among teenagers and other young users (the "Harmful Content").

17. The Defendants derive financial benefit from user clicks and engagement with advertisements posted on their social media platforms, which they intentionally sought to increase via the Harmful Content.

18. The algorithms operate on "engagement-based ranking" preferences, which choose content based on a user's prior clicks or engagements, in addition to their age. The algorithms are designed to prolong the user's time spent on the Defendants' platforms. When a post receives comments, "likes" and other interactions, the algorithms cause it to be spread more widely and featured more prominently, instead of just featuring posts in chronological order.

19. The algorithms amplify young users' insecurities in particular around body image issues, by repeatedly promoting the Harmful Content to young users who are

vulnerable to these issues, thereby exploiting young users for the sole financial benefit of the Defendants.

20. The Harmful Content has been promoted by the Defendants' algorithms since at least as early as April 9, 2012, and continuing to the present (referred to herein as the "Class Period").

Defendants

21. The Defendant, Facebook, Inc. (now known as Meta Platforms Inc.) is a Delaware company with an address for service c/o Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808, USA. Its principal place of business is located at 1 Hacker Way, Menlo Park, CA 94025, USA.

22. The Defendant, Facebook Canada Ltd. is a wholly-owned Canadian subsidiary of Facebook, Inc. with its head Canadian office located at 661 University Avenue, Suite 1201, 12th floor, Toronto, Ontario MSG 1M1, and other offices around the country.

23. At all material times, Facebook, Inc. and Facebook Canada Ltd. (hereinafter collectively referred to as "Facebook") functioned as an ongoing, organized and continuing business unit sharing common purposes and objectives. Facebook, Inc. and Facebook Canada Ltd. were agents of each other and each is vicariously responsible for the acts and omissions of the other as particularized herein.

24. The Defendant, Instagram, Inc. is a Delaware company with with an address for service c/o Incorporating Services, Ltd., 3500 South DuPont Highway, Dover, DE 19901. Its principal place of business is located at 1 Hacker Way, Menlo Park, CA 94025, USA.

25. The Defendant, Instagram, LLC, is a Delaware limited liability company with an address for service c/o the Corporation Services Company, 251 Little Falls Drive, Wilmington, DE 19808. Instagram, LLC provides photo and video sharing serviecs through its website, www.instagram.com.

26. Instagram, Inc. owns and controls Instagram, LLC.

27. Instagram, Inc. is a wholly owned subsidiary of Facebook.

28. At all material times, each of the Defendants hereinabove was the agent, servant, employee, partner, alter ego, co-conspirator, aider and abettor and/or joint venturer of the other Defendant named herein and each was at all times operating and acting within the purpose and scope of said agency, service, employment, partnership, and/or joint venture, and each Defendant has ratified and approved the acts of the other named Defendant.

29. The Defendants own and operate several social media applications, including the Intsagram platform and the Facebook platform which are available to users in Canada.

30. The Instagram platform ("Instagram") is a social media platform owned by Facebook since April 2012. It permits users to share posts, including text, photos and videos, with other members and the public, and connect with other users on the platform. In order to open an account, users provide Instagram with certain information including their name, email address and other biographical information including their age.

31. Facebook operates a social media platform at www.facebook.com. Facebook is the world's leading social networking platform. At the time this claim is filed, Facebook had approximately 2.9 billion monthly active users, including tens of millions in Canada and an estimated 2.1 million in British Columbia alone. Canadians are reported to be the most active Facebook users in the world.

32. Facebook Inc. is traded on the NASDAQ stock exchange with a market capitalization of approximately $550 billion USD at time of filing. Facebook carries on business worldwide, including in British Columbia and Canada.

33. At all material times, the Defendants developed, designed, prepared and tested various algorithms on their Instagram and Facebook platforms which promoted the Harmful Content in Canada. The Harmful Content was viewed by millions of young Canadians.

34. The Defendants' wrongful acts violated the *Infants Act*, RSBC, c. 223, and related enactments, and unjustly enriched the Defendants at the expense of the Plaintiff and Class Members.

Vulnerabilities of Teenagers with respect to Excessive Social Media Use

35. Emerging research shows that the human brain is still developing during adolescence in ways consistent with adolescents demonstrated psychosocial immaturity. Specifically, adolescents' brains are not yet fully developed in regions related to risk evaluation, emotional regulation, and impulse control. The frontal lobes—and, in particular, the prefrontal cortex—of the brain play an essential part in higher-order cognitive functions, impulse control, and executive decision-making. These regions of the brain are central to the process of planning and decision-making, including the evaluation of future consequences and the weighing of risk and reward. They are also essential to the ability to control emotions and inhibit impulses. MRI studies have shown that the prefrontal cortex is one of the last regions of the brain to mature. During childhood and adolescence, the brain is maturing in at least two major ways. First, the brain undergoes myelination, the process through which the neural pathways connecting different parts of the brain become insulated with white fatty tissue called myelin. Second, during childhood and adolescence, the brain is undergoing "pruning" - the paring away of unused synapses, leading to more efficient neural connections. Through myelination and pruning, the brain's frontal lobes change to help the brain work faster and more efficiently, improving the "executive" functions of the frontal lobes, including impulse control and risk evaluation. This shift in the brain's composition continues throughout adolescence and continues into young adulthood. In late adolescence, important aspects of brain maturation remain incomplete, particularly

those involving the brain's executive functions and the coordinated activity of regions involved in emotion and cognition. As such, the part of the brain that is critical for control of impulses and emotions and mature, considered decision-making is still developing during adolescence, consistent with the demonstrated behavioral and psychosocial immaturity of juveniles.

36. Because adolescence is the period when sophisticated, essential inhibitory control functions are being established, the onset of prolonged exposure to toxic content during adolescence is particularly concerning. The extended development of the prefrontal cortex results in an adolescent brain that is largely undeveloped, highly malleable, and overwhelmingly vulnerable to long term, irremediable effects of adverse influences, including addiction and a fractured psychological well-being.

37. The algorithms in the Defendants' social media products exploit minor users' diminished decision-making capacity, impulse control, emotional maturity, and psychological resiliency caused by users' incomplete brain development. The Defendants know or should have known that because their minor users' frontal lobes are not fully developed, such users are much more likely to sustain serious physical and psychological harm through their social media use than adult users. Nevertheless, the Defendants have failed to design their products with any protections to account for and ameliorate the psychosocial immaturity of their minor users.

38. Adolescents see themselves as increasingly unique. Paradoxically, as part of their individuation, they conform by faithfully mimicking the behavior of peers. Indeed, in defining their own emerging identity, adolescents aspire to be viewed as mature adults, and this leads them to affiliate with and emulate the personalities, images, behaviors, and preferences of those that they would like to become. During the teenage years, relationships with family members often take a back seat to peer groups and appearance. Teens crave to identify with their peer group, achieve social approval, and become "popular." Many teens feel deep insecurity and are self-conscious. They feel people are constantly focused on them, examining them,

and judging them about everything they say and do. They struggle with the inexorable desire to be accepted and admired by their teen peers, and their biggest fear is to not fit in. This myopic desire to fit in predispositions teenagers to frequently engage in upward social comparison processes, that is, identifying and observing others that appear to be experiencing more positive outcomes and consequently feeling worse about themselves and their own perceived shortcomings.

39. Today's adolescents are part of Generation Z (which is loosely defined as people born between 1997 and 2012)—they are the first generation of consumers to have grown up in an entirely post-digital era, and thus are "digitally native." The oldest members of this demographic cohort are just turning 24 this year; however, the substantial majority are believed to be still going through adolescence. Members of Generation Z spend upwards of 3 hours/day on the internet, and another 3 hours/day using social media. According to a 2018 survey by Pew Research Center, 45 percent of high school students said they used a social-media platform daily, and 24 percent said that they were online "almost constantly."

40. The Defendants' platforms addict minors in the following manner: When minors use design features such as "likes" it causes their brains to release euphoria causing dopamine. However, as soon as dopamine is released, their euphoria is countered by dejection: minor users' brains adapt by reducing or "downregulating" the number of dopamine receptors that are stimulated. In normal stimulatory environments, neutrality is restored after this dejection abates. However, the Defendants' algorithms are designed to exploit users' natural tendency to counteract dejection by going back to the source of pleasure for another dose of euphoria.

41. Eventually, as this pattern continues over a period of days, weeks, and months, the neurological base line to trigger minor users' dopamine responses increases. Minors then continue to use Facebook and Instagram, not for enjoyment, but simply to feel normal. When minor users attempt to stop using the Defendants'

social media products, they experience the universal symptoms of withdrawal from any addictive substance including anxiety, irritability, insomnia, and craving.

42. Addictive use of social media by minors is psychologically and neurologically analogous to addiction to internet gaming disorder. Gaming addiction is a recognized in the American Psychiatric Association's 2013 Diagnostic and Statistical Manual of Mental Disorders (DSM-5) (used by mental health professionals to diagnose mental disorders) and is a recognized mental health disorder by the World Health Organization and International Classification of Diseases. The diagnostic symptoms of social media addiction among minors are the same as the symptoms of addictive gaming promulgated in DSM-5 and include:

- Preoccupation with social media and withdrawal symptoms (sadness, anxiety, irritability) when device is taken away or use is not possible (sadness, anxiety, irritability).
- Tolerance, the need to spend more time using social media to satisfy the urge.
- Inability to reduce social media usages, unsuccessful attempts to quit gaming.
- Giving up other activities, loss of interest in previously enjoyed activities due to social media usage.
- Continuing to use social media despite problems.
- Deceiving family members or others about the amount of time spent on social media.
- The use of social media to relieve negative moods, such as guilt or hopelessness; and
- Jeopardizing school or work performance or relationships due to social media usage.

43. The Defendants' advertising profits are directly tied to the amount of time that their users spend online. Thus, the Defendants enhance advertising revenue by maximizing users' time online through a product design that addicts them to the platform, in part by directing them to content that is progressively more and more stimulative. However, reasonable minor users and their parents do not expect that on-line social media platforms are psychologically and neurologically addictive.

44. The Defendants' products could feasibly report the frequency and duration of their minor users' screen time to their parents at negligible cost. This would enable parents to track the frequency, time, and duration of their minor child's social media, identify and address problems arising from such use, and better exercise their rights and responsibilities as parents.

45. Social comparisons on social media are frequent and are especially likely to be upward, as social media provides a continuous stream of information about other people's accomplishments. Past research suggests that social comparisons occur automatically; when individuals encounter information about another person, their own self-perceptions will be affected. The sheer number of posts in a News Feed, each offering a thumbnail sketch of each person's carefully curated and predominantly ostentatious content, yields numerous opportunities for social comparison. Although people do not typically post false information about themselves online, they do engage in selective self-presentation and are more likely to post eye-catching content. As a result, individuals browsing their News Feeds are more likely to see posts about friends' exciting social activities rather than dull days at the office, affording numerous opportunities for comparisons to seemingly better-off others. Individuals with vacillating levels of self-esteem and certitude, characteristics notoriously endemic to the teenage cohort, are particularly oriented to making frequent and extreme upward social comparisons on social media, which in turn threatens their mental health. Social-media-induced social comparison often results in a discrepancy between the ideal self and the real self, thus evoking a sense of depression, deprivation, and distress, resulting in an overall aggravation of one's mental state. Since the early 2000s, studies have

shown that frequent upward social comparison results in lower self-esteem and reduced overall mental health. It has also long been known that individuals who are more likely to engage in self-comparison are likewise more likely to have negative outcomes when using social media. To cope with wavering self-esteem, digitally native adolescents often become envious of others and resort to cyberbullying to deconstruct the point of comparison's perceived superiority and preserve an increasingly delicate ego. These natural dynamics in youth are exacerbated to psychologically injurious levels by the Defendants' platforms' progressively toxic environment worsened by its 2018 shift to engagement-based ranking, which is discussed in further detail below.

46. The dangers associated with children's proclivity to engage in protracted upward social comparison while on social media is compounded by the Defendants' deft and discreet construction of an atmosphere capable of exploiting the impulse control issues of even the most mature adults, thereby rendering a product that is predictably highly addictive, which encourages bullying and promotes conflict. Some of the Defendants' key features that make the platforms highly addictive include the use of intermittent variable rewards and its Facial Recognition System ("FRS").

47. Intermittent variable rewarding ("IVR") is a method used to addict a user to an activity by spacing out dopamine triggering stimuli with dopamine gaps—a method that allows for anticipation and craving to develop and strengthens the addiction with each payout. The easiest way to understand this term is by imagining a slot machine. You pull the lever (intermittent action) with the hope of winning a prize (variable reward). In the same way, you refresh the Defendants' feeds, endure the brief delay, and then learn if anyone has tagged you in a photo, mentioned you in a post, sent you a message, or liked, commented on, or shared either of your posts. As explained below, the Defendants space out notifications of likes and comments into multiple bursts, rather than notifying users in real time, to maximize the platforms' addictiveness.

48. Engineered to meet the evolving demands of the "attention economy," a term used to describe the supply and demand of a person's attention, which is a highly valuable commodity for internet websites, in February 2009, the Defendants introduced perhaps their most conspicuous form of IVR: its "Like" button; Instagram launched that same year and came ready-made with a like function shaped as a heart. Additional features of the Defendants' IVR include its delay-burst notification system, comments, posts, shares, and other dopamine-triggering content. Instagram's notification algorithm delays notifications to deliver them in spaced-out, larger bursts. Facebook likely uses a similar feature. These designs take advantage of users' dopamine-driven desire for social validation and optimizes the balance of negative and positive feedback signals to addict users.

49. Other psychological manipulations used to intertwine social media users include, but are not limited to: (1) the FRS system, which has already collected for distribution to various third-parties a billion individual facial recognition templates and is otherwise used by the Defendants to identify and tag people in photos; (2) the Defendants' use of wavy dots to reflect that someone is currently writing you a message, which is designed to keep you on the platform until you receive the message or shorten the time for you to return and check for a message; and (3) the concept of social reciprocity, a variance of quid pro quo, pursuant to which the Defendants alert you when someone has read your message, which encourages the receivers to respond—because the sender knows the message has been read—and simultaneously prompts the sender to return to check for the seemingly inevitable response. In sum, this perilous amalgamation of intense psychological vulnerability and targeted exploitation foreseeably results in an increased risk of a variety of harms for today's youth, including, but not limited to, social media addiction, withdrawal—from friends, family, and social and academic advancement—lack of focus, anxiety, body dysmorphia, eating disorders, death resulting from eating disorders, depression, difficulty sleeping, fatigue, headaches, migraines, loss of vision, eye strain, self-harm, and suicide among other harms.

The Defendants Knowingly Exploit Teenage Vulnerabilities for Unjust Gain

50. The Defendants state that children under the age of thirteen are prohibited from having accounts on their platforms, but the Defendants' platforms knowingly lack effective age-verification protocols. Since at least 2011, the Defendants have known that their age-verification protocols are largely inadequate, estimating that they remove 20,000 children under age 13 from Facebook every day. The problem has not been remediated, as the Defendants have removed at least six hundred thousand underage users in 2021.

51. The Defendants do not charge their users to use their platforms, but instead receive money from advertisers who pay a premium to target advertisements to specific categories of people as studied and sorted by the Defendants' algorithms. Thus, the Defendants generate revenue based upon the total time spent on the application, which directly correlates with the number of advertisements that can be shown to each user.

52. The Defendants' platforms, as originally conceived, ostensibly functioned like enormous virtual bulletin boards, where content was published by authors. But Facebook and Instagram have evolved over time with the addition of numerous features and products designed by the Defendants to engage users. The earliest of these—the search function and the "like" button—were primarily user-controlled features. In more recent years, however, the Defendants have taken a more active role in shaping the user-experience on the platform with more complex features and products. The most visible of these are curated recommendations, which are pushed to each user in a steady stream as the user navigates the website, and in notifications sent to the user's smartphone and email addresses when the user is disengaged with the platform. These proprietary products include News Feed (a newsfeed of stories and posts published on the platform, some of which are posted by your connections, and others that are suggested for you by the platform), People You May Know (introductions to persons with common connections or background), and Suggested for You, Groups You Should Join, and Discover

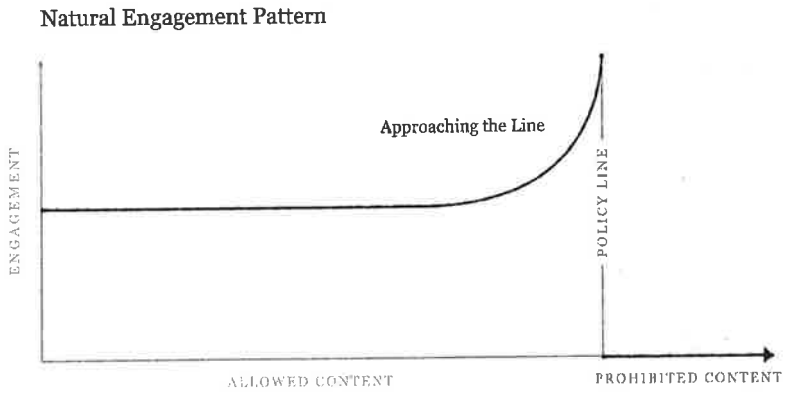
(recommendations for groups to join). These curated and bundled recommendations are developed through sophisticated algorithms. As distinguished from the earliest search functions that were used to navigate websites during the Internet's infancy, the Defendants' algorithms are not based exclusively on user requests or even user inputs. The Defendants' algorithms combine the user's profile (e.g., the information posted by the user on the platform) and the user's dossier (the data collected and synthesized by the Defendants to which they assign categorical designations), make assumptions about that user's interests and preferences, make predictions about what else might appeal to the user, and then make very specific recommendations of posts and pages to view and groups to visit and join based on rankings that will optimize the Defendants' key performance indicators.

53. Equipped with ample information about the risks of social media, the ineffectiveness of its age-verification protocols, and the mental processes of teens, the Defendants have expended significant effort to attract preteens to their products, including substantial investments in designing products that would appeal to children ages 10-to-12. The Defendants view pre-teens as a valuable, unharnessed commodity, so valuable that it has contemplated whether there is a way to engage children during play dates. The Defendants' unabashed willingness to target children, in the face of its conscious, long-standing, plainly deficient age-verification protocols demonstrate the depths to which the Defendants are willing to reach to maintain and increase their profit margin.

54. Faced with the potential for reduction in value due to their declining number of users, in or around early 2018, the Defendants revamped their platforms' interface to transition away from chronological ranking, which organized the interface according to when content was posted or sent, to prioritize Meaningful Social Interactions, or "MSI," which emphasizes users' connections' interactions, e.g., likes and comments, and gives greater significance to the interactions of connections that appeared to be the closest to users. To effectuate this objective, the Defendants' developed and employed an "amplification algorithm" to execute

engagement-based ranking, which considers a post's likes, shares, and comments, as well as a respective user's past interactions with similar content, and exhibits the post in the user's newsfeed if it otherwise meets certain benchmarks. The algorithm covertly operates on the proposition that intense reactions invariably compel attention. As it measures reactions and contemporaneously pushes users to the most reactive content, and negative content routinely elicits passionate reactions, the algorithm effectively works to steer users toward the most negative content.

55. CEO Mark Zuckerberg publicly recognized this in a 2018 post, in which he demonstrated the correlation between engagement and sensational content that is so extreme that it impinges upon the Defendants' own ethical limits, with the following chart:



56. The algorithm controls what appears in each user's News Feed and promotes content that is objectionable and harmful to many users. In one internal report, the Defendants' concluded that "[o]ur approach has had unhealthy side effects on important slices of public content, such as politics and news," with one data scientist noting that "[t]his is an increasing liability." In other internal memos, the Defendants concluded that because of the new algorithm, "[m]isinformation, toxicity, and violent content are inordinately prevalent." Other documents show that the Defendants' employees also discussed the Defendants' motive for changing its algorithm—namely, that users began to interact less with the platform, which

became a worrisome trend for the Defendants' bottom line. The Defendants found that the inflammatory content that the new algorithm was feeding to users fueled their return to the platform and led to more engagement, which, in turn, helped the Defendants sell more of the digital ads that generate most of its revenue. All told, the Defendants' algorithm optimizes for angry, divisive, and polarizing content because it will increase its number of users and the time users stay on the platform per viewing session, which thereby increases its appeal to advertisers, thereby increasing its overall value and profitability.

57. At least as far back as 2019, the Defendants initiated, *inter alia*, a Proactive Incident Response experiment, which began researching the effect of the Defendants' platforms on the mental health of today's youth. The Defendants' own in-depth analyses show significant mental-health issues stemming from the use of Instagram among teenage girls, many of whom linked suicidal thoughts and eating disorders to their experiences on the Defendants' platform.

58. The Defendants are aware that teens often lack the ability to self-regulate. The Defendants are further aware that, despite the platforms' adverse impact to teenage users' well-being, the absence of impulse control often renders teens powerless to oppose the platforms' allure. The Defendants are conscious of the fact that the platform dramatically exacerbates bullying and other difficulties prevalent within the high school experience, as the reach of the same now affects users within the ideally otherwise safe confines of the home. The advent of social media largely occurred after today's parents became adults, the consequence being a large swath of parents that lack the context needed to appreciate the contemporary perils of the Defendants' platforms, who are likewise ill-equipped to offer advice sufficient to effectively mitigate against it.

59. The shift from chronological ranking to the algorithm modified the social networking environment in such a way that it created a new iteration of the Defendants' platforms' experience, one that is profoundly more negative, one that exploits some of the known psychological vulnerabilities of the Defendants' most

susceptible patronage, to wit, juveniles, resulting in a markedly enlarged threat to the cohort's mental health and the related frequency of suicidal ideation.

60. Excessive screen time is harmful to adolescents' mental health, sleep patterns, emotional well-being. The Defendants' platforms lack any warnings that foreseeable product use can disrupt healthy sleep patterns, or specific warnings to parents when their child's product usage exceeds healthy levels or occurs during sleep hours, rendering the platforms unreasonably dangerous. Reasonable and responsible parents are not able to accurately monitor their child's screen time because most adolescents own or can obtain access to mobile devices and engage in social media use outside their parents' presence.

61. The Defendants' products could feasibly report the frequency and duration of their minor users' screen time to their parents at negligible cost. This safeguard would enable parents to exercise of their rights and responsibilities as parents and track the frequency, time, and duration of their minor child's social media use to identify and address problems arising from such use.

62. The Defendants profess to have implemented protective measures to counteract the well-established dangers of its platforms' customized, doggedly harmful content; however, its protocols apply only to content conveyed in English and removes only three-to-five percent of harmful content. The Defendants know its quality-control and age-verification protocols are woefully ineffective, but the Defendants are either unwilling or incapable of properly managing their platforms. This is consistent with their established pattern of recognizing, and subsequently ignoring, the needs of their underage users and their obligation to create a suitable environment accessible only by their age-appropriate users, all in the interest of reaping obscene profit.

Whistleblower Document Leaks and Defendant's Knowledge of Harm

63. In mid-late 2021, a former Facebook employee disclosed several internal Facebook documents and communications to the media.

64. These documents shed light on the extent to which the Defendants were aware of the risks posed by the Harmful Content.

65. The documents revealed, *inter alia*, the following:

- The Defendants' researchers have been studying for years how its photo-sharing app affects millions of young users. Repeatedly, Facebook found that Instagram is harmful for a sizable percentage of them, most notably teenage girls, more so than other social media platforms;

- For years Facebook has been laying plans to attract preteens and other young users, viewing these children as "a valuable but untapped audience";

- Facebook researchers have found that 1 in 8 of the app's users report engaging in compulsive use of social media that affects their sleep, work, parenting or relationships, and the problems were perceived by users to be worse on Facebook than any other major social media platform;

- Facebook is aware of a study that found that 13.5% of U.K. teen girls in one survey say their suicidal thoughts became more frequent after starting on Instagram;

- Facebook is aware of a study that found that 17% of teen girls say their eating disorders got worse after using Instagram;

- Facebook's researchers found that about 32% of teen girls said that when they felt bad about their bodies, Instagram made them feel worse;

- Facebook's research indicates that "Teens blame Instagram for increases in the rate of anxiety and depression ... This reaction was unprompted and consistent across all groups";

- Facebook research indicates that "Users experience of downward spiral is exacerbated by our platform", that aspects of Instagram "exacerbate each other to create a perfect storm", and that "Mental health outcomes related to this can be severe", including in relation to eating disorders, body dysmorphia, body dissatisfaction, depression and loneliness;

- Instagram's research indicates that Instagram makes body image issues worse for 1 in 3 teen girls;

- Instagram's research indicates that more than one third (37%) of teen girls reported that they feel worse about their bodies or appearances after seeing Instagram posts;

- Instagram's research suggests that by age 30, the role of Instagram in body appearance comparison and related concerns diminish; because of this, Instagram believed it should focus its efforts on teens and younger adults;

- 66% of teen girls and 46% of teen boys have experienced negative social comparison on Instagram;

- 13.5% of teen girl Instagram users say the platform makes thoughts of suicide and self-injury worse; and

- Instagram users are twice as likely to develop an eating disorder as those who don't use social media.

66. Despite knowledge of the above-noted information, the Defendants chose to maximize their profits and growth rather than implement changes to their platforms or the algorithms so as to reduce or eliminate the Harmful Content.

67. Indeed, the Defendants have "doubled-down" on their approach to grow their companies and profits, and have intentionally targetted teens and children as young as eight years old – their future users, in the Defendants' own words "a valuable but untapped audience."

68. After the release of the whistleblower documents, in September 2021 the Defendants chose to pause a planned project to build a version of Instagram targetted at children under 13 years old (called Instagram Kids).

69. The Defendants have represented to the Plaintiff and others, *inter alia*, the following:

- That their social media platforms are safe and promote healthy ideas and content for young users;
- That long-term, frequent, prolonged use was harmless;
- That their social media platforms increased social connectivity, rather than causing feelings of isolation; and
- Inaccurate and misleading portrayals of their platforms' mental and physical health impacts

(collectively, the "Representations").

70. The Defendants chose to omit to tell the Plaintiff or Class Members information about the risk of the Harmful Content, despite their young age and vulnerabilities, and despite the Defendants' knowledge of the harm the Harmful Content can cause. The Defendants chose to omit to tell the Plaintiff or Class Members information they had obtained through their own research and internal documents about the harmful effects of their platforms, detailed above.

71. The Defendants also chose to omit to tell the Plaintiff or Class Members the following:

a. Engagement-based ranking and intermittent variable rewards are:

i. highly addictive;

ii. promote harmful social comparison;

iii. promote negative, controversial, and/or emotionally activating content;

iv. promote negative, harmful, and/or dangerous interest groups and/or content creators;

v. encourage bullying and conflict;

vi. can trap users in a cycle of viewing content that is innately harmful or in a manner that is harmful, such as content related to eating disorders, depression, or self-harm; and

vii. present a false reality (regarding one's comparative status to their peers, and/or the general state of world or political affairs);

b. Face tracking and augmentation (image and video filters):

i. inflict unrealistic and racially biased beauty standards upon users and;

ii. cause harmful social comparison based on a misleading curation of peers' appearances and success, especially among teenage female users;

c. The platforms cause the mental and physical health harms listed above;

d. The likelihood of these harms and likely severity for these harms are even greater for the developing brains of minors;

e. The likelihood and intensity of these harmful effects are exacerbated by the interaction of these features; and

f. The likelihood and intensity of these harmful effects are increased by other features and innerworkings of the platforms which are currently publicly unknown and hidden from users and governments

(collectively, the "Omissions").

72. The Defendants have continued to utilize algorithms on their social media platforms to promote the Harmful Content, despite their knowledge of the risk of harm the Harmful Content can cause, generating huge profits as a result of their continued proliferation online.

The Plaintiff

73. The Plaintiff, A.B., an infant, through her litigation guardian, C.D., has an address for service of Suite 820 – 980 Howe Street, in the City of Vancouver, in the Province of British Columbia.

74. The Plaintiff brings this action on her own behalf and on behalf of all persons resident in Canada who were under the age of majority when they acquired a Facebook or Instagram account and viewed and/or engaged with Harmful Content promoted by the Defendants' platforms, their parents/guardians, and their beneficiaries pursuant to the *Family Compensation Act*, R.S.B.C. 1996, c. 126 and comparable legislation in the other Provinces and Territories, to be further defined in the Plaintiff's application for class certification.

75. The Plaintiff was born in 2003.

76. When the Plaintiff was only 12 or 13 years old, she acquired an Instagram account.

77. In 2016, the Plaintiff first viewed the Harmful Content on Instagram.

78. The Plaintiff continues to view the Harmful Content on the Defendants' social media platforms. She finds it is difficult to stop viewing the Harmful Content and finds that the continued viewing of the Harmful Content makes her feel worse about herself and her body.

79. As a result of her exposure to the Harmful Content, the Plaintiff has sustained damages including, but not limited to, the following:

    a. Anxiety;

    b. Depression;

    c. Attention Deficit Hyperactivity Disorder;

    d. Obsessive Compulsive Disorder;

    e. Weight loss;

    f. Eating Disorder;

    g. Suicidal ideation; and

    h. Such other injuries as shall be proven at trial,

    all of which injuries have caused and continue to cause the Plaintiff pain, suffering, loss of enjoyment of life, permanent disability, loss of earnings, past and prospective, loss of income earning capacity, loss of opportunity to earn income and loss of housekeeping capacity, past and prospective.

80. The Plaintiff would not have acquired an Instagram account, nor would she have viewed the Harmful Content had she or her parents been adequately informed of

the risks of viewing and engaging with the Harmful Content and the cycle of addictive and harmful behaviour that the Defendants' algorithms create, or if the Defendants had implemented effective age-verification protocols.

81. As a result of the Defendants' negligence and the Harmful Content, the Plaintiff has incurred damages including:

    (a) General damages;

    (b) Personal injury including prolonged and serious mental distress;

    (c) Special damages for the cost of medical monitoring and medical tests incurred to the date of trial and future care costs for ongoing medical monitoring and medical tests;

    (d) Damages in accordance with s. 36 of the *Competition Act*, RSC 1985, c. C-34 for a breach of s. 52; and

    (e) Such further and other damages as shall be proven at trial.

Part 2: RELIEF SOUGHT

82. The Plaintiff claims, on her own behalf, and on behalf of a class of similarly situated persons resident in Canada, as follows:

    (a) An order certifying this action as a class proceeding and appointing the Plaintiff as a representative Plaintiff under the *Class Proceeding Act*;

    (b) A declaration that it is not in the interests of justice to require that notice be given pursuant to section 18(15) of the *Consumer Protection Act*, RSO 1990, c. C.31 (and any parallel provisions of other provincial consumer protection legislation) and waiving any such notice requirements;

(c) General damages;

(d) Special damages;

(e) In trust claims for parents and/or guardians of Class Members;

(f) Punitive damages;

(g) A declaration that any agreements between the Defendants and the Plaintiff and Class Members are unenforceable under the *Infants Act*, s. 19;

(h) Statutory compensation under the *Infants Act*, s. 20 and related enactments;

(i) Relief pursuant to the *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, and comparable legislation in the other provinces and territories;

(j) Relief pursuant to the *Competition Act*, RSC c. C-34;

(k) Recovery of health care costs incurred by the Ministry of Health Services on their behalf pursuant to the *Health Care Cost Recovery Act*, S.B.C. 2008, c.27, and comparable legislation in the other provinces and territories;

(l) Costs;

(m) Interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79; and

(n) Such further and other relief this Honourable Court may deem just.

Part 3: LEGAL BASIS

Breaches of the Infants Act

83. Persons under the age of majority are afforded special protection in British Columbia and elsewhere in Canada. Contracts made with minors are unenforceable by operation of the *Age of Majority Act*, RSBC 1996, c. 7 and the *Infants Act*, RSBC 1996, c. 223, s. 19(1) and related enactments in other provinces and territories in Canada.

84. Infants are entitled to compensation under the *Infants Act*, s. 20, if a contract if unenforceable.

Negligence and Failure to Warn

85. As the designers, marketers, developers, promoters and/or distributors of the algorithms that promote the Harmful Content, the Defendants were in such a close and proximate relationship to the Plaintiff, and other Class Members, as to owe them a duty of care. They caused the Harmful Content to be introduced into digital public spaces in Canada, and they knew that any dangers or adverse effects related to the Harmful Content would cause foreseeable injury to the Plaintiff and Class Members.

86. The Defendants owed a duty to the Plaintiff and Class Members to exercise reasonable care when designing, testing, and developing the algorithms and marketing, promoting, and distributing the Harmful Content.

87. The Defendants owed a duty of care to the Plaintiff and Class Members to ensure that their algorithms promoted social media content that was appropriate and safe in particular for younger users. Particulars of the Defendants' negligence include:

    (a) Supplying an unsafe product to young consumers;

    (b) Failing to implement appropriate testing and designing of their algorithms;

(c) Employing inadequately trained personnel in the design, development, testing and/or quality control of the algorithms;

(d) Placing the algorithms in their social media platforms when they knew or ought to have known of the Harmful Content they were promoting had potential risks that outweighed their potential benefits;

(e) Designing, developing and/or marketing a product that they knew, or ought to have known, was addictive and had an unreasonably high risk of causing harm to young users;

(f) Failing to implement timely changes to the algorithms to reduce and or eliminate the Harmful Content once the risks were known to them;

(g) Failing to advise young users about the risks associated with the algorithms and the Harmful Content once those risks were known to them;

(h) Designing and developing algorithms and/or continuing to promote the Harmful Content for viewing and engagement by young users when the Defendants knew or ought to have known that the Harmful Content was unsuitable and dangerous for young users due to the elevated risk of causing harm to young users because of their age and inherent vulnerabilities;

(i) Failing to utilize cost effective, reasonably feasible alternative designs to minimize the effects of the Harmful Content, such as by *inter alia*, limiting the duration of login sessions, and/or by designing products without the harm causing features listed above, that were less addictive and less likely to cause

mental health harms, while still providing an optimal social media experience and facilitating social connection; and

(j) Such further and other particulars of negligence as will be alleged at trial.

Business Practices and Consumer Protection Act

88. The Defendants' solicitations, offers, advertisements, and promotions of the Harmful Content for personal use by the Plaintiff and by Class Members were "consumer transactions" within the meaning of the *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2 ("*BPCPA*"). With respect to those transactions, the Plaintiff and Class Members who viewed the Harmful Content are "consumers" and the Defendants were "suppliers" within the meaning of the *BPCPA*.

89. The Defendants' conduct in their solicitations, offers, advertisements, and promotions of the Harmful Content had the capability, tendency, or effect of deceiving or misleading consumers regarding the safety of the Harmful Content. The Defendants' conduct in their solicitation, offers, advertisements, and promotion of the Harmful Content, including as described above in paragraphs 63 - 72, were deceptive acts and practices contrary to s. 4 of the *BPCPA*. The Defendants' deceptive acts and practices included the Representations and Omissions and the failure to properly disclose all material facts regarding the risks of viewing and engaging with the Harmful Content.

90. The Defendants' conduct in their solicitations, offers, advertisements, and promotion of the Harmful Content, including the Representations and Omissions as described above in paragraphs 63 - 72, were "unconscionable acts or practices" contrary to s. 8 of the *BPCPA*. The Defendants' unconscionable acts or practices included *inter alia* the Defendants' advertisements and promotion of the Harmful Content which took advantage of the Plaintiff's and Class Members' inability or incapacity to reasonably protect his or her own interests because of the Plaintiff's

and Class Members' ignorance, age, and inability to understand the nature of the consumer transaction. The material facts are pleaded in paragraphs 63 - 72.

91. In particular, the Defendants failed to disclose the extraordinarily harmful quality of the Harmful Content when viewed repeatedly by young, vulnerable persons, given the Defendants' own research and knowledge of the risks the Harmful Content was capable of causing.

92. Further, the Defendants' conduct was unconscionable due to the age of the consumers they were targeting. The Defendants knew or ought to have known the following:

- That the Plaintiff and Class Members were unable to protect their own interests because of ignorance;
- That the Plaintiff and Class Members would not and could not reasonably protect their interests by conducting adequate testing or research of the Harmful Content prior to viewing and engaging with it; and
- That the Plaintiff and Class Members would rely on the Defendants' Representations and Omissions to their detriment.

93. As a result of the Defendants' deceptive acts and practices and unconscionable acts and practices, the Plaintiff and Class Members relied on the Representations and Omissions to their detriment and have suffered loss and damages.

94. The Defendants' deceptive acts and practices and unconscionable acts and practices were made for the purpose of promoting, directly or indirectly, the Harmful Content or for the purpose of promoting, directly or indirectly, the business interests of the Defendants. The deceptive acts and practices were made knowingly and recklessly. The deceptive acts and practices were made to the public, to the Plaintiff, and to the Class Members. The deceptive acts and practices were false and/or misleading in a material respect, namely as to the dangers and

addictiveness of the Harmful Content. The Defendants knowingly accepted the benefits of their deceptive conduct in the form of profits from the promotion of the Harmful Content online.

95. The Plaintiff and Class Members claim against each of the Defendants for contravention of consumer protection legislation and remedies as follows:

    a. A declaration that the Defendants' conduct in their solicitations, advertisements, and promotions of the Harmful Content to young users were "unconscionable acts or practices" contrary to s. 8 of the *BPCPA* and an order pursuant to s. 172(3) of the BPCPA that the Plaintiff and Class Members are entitled to damages under s. 171 of the *BPCPA*;

    b. A declaration that the Defendants' conduct in their characterization of the Harmful Content as safe for viewing by young people, rather than content that is highly harmful with long-term health effects and the Defendants' specific targeting of young consumers constitutes "deceptive acts or practices" contrary to s. 4 of the *BPCPA* and an order pursuant to s. 172(3) of the *BPCPA* that the Plaintiff and Class Members are entitled to damages under s. 171 of the *BPCPA*;

96. The Plaintiff and Class Members seek injunctive relief and declaratory relief and damages and statutory compensation pursuant to ss. 171 and 172 of the *BPCPA* on her own behalf and on behalf of class members who viewed and engaged with Harmful Content. Such relief includes the disgorgement of the profits or revenues received by the Defendants from the promotion of the Harmful Content in Canada.

97. The declaratory and injunctive relief sought by the Plaintiff and Class Members in this case includes an order under s. 172 of the *BPCPA* that the Defendants advertise any judgment against them and that they properly inform consumers of the risks of the Harmful Content.

Breaches of the Competition Act

98. As a result of their Representations and Omissions, the Defendants breached section 52 and 52.01 of the *Competition Act*, RSC c C-34 (the "*Competition Act*") and committed an unlawful act because their Representations and Omissions:

    (a) were made for the purpose of promoting, directly or indirectly, the increased and unhealthy use of their social media platforms;

    (b) were made for the purpose of promoting indirect or directly, any business interests of the Defendants;

    (c) were made to the public;

    (d) were made knowingly and recklessly; and

    (e) were false and misleading in a material respect.

99. The Plaintiff and the Class Members suffered damages as a result of the Defendants' unlawful breach of section 52 and 52.01 of the *Competition Act*. Those damages include:

    (a) Personal injury from viewing and engaging with the Defendants' algorithms and the Harmful Content when they would not have otherwise done so; and

    (b) other losses incidental to their harms caused by their viewing and engagement with the Defendants' algorithms and the Harmful Content.

100. The Representations and Omissions made by the Defendants include both express misrepresentations to the Plaintiff and Class Members regarding the safety and appropriateness of their social media content as well as misrepresentations by omission.

101. The Defendants should have known that statements regarding the safety and appropriateness of their social media content were untrue. The Defendants were or should have been aware that their social media content, including the Harmful Content and the algorithms that promote the Harmful Content, materially increase the risk of injury to young users including the Plaintiff.

102. If the Plaintiff or Class Members had been informed of these risks, they would not have viewed or engaged with the Harmful Content.

103. The Plaintiff and Class Members also seek their costs of investigation, pursuant to section 36 of the *Competition Act*.

Unjust Enrichment

104. As a result of the Defendants' design of their algorithms and their solicitations, offers, advertisements, including the Representations and Omissions, and promotion of the Harmful Content to the Plaintiff and Class Members, the Defendants were unjustly enriched and benefited therefrom. The material facts are pleaded in paragraphs 63 - 72.

105. As a result of the Defendants' promotion of the Harmful Content, the Plaintiff and Class Members suffered a corresponding deprivation.

106. There is no juristic reason why the Defendants' enrichment should be permitted, including at equity, under contract or pursuant to any statutory obligations.

107. The Defendants have accordingly been unjustly enriched to the extent of those amounts received by the Defendants as a result of the Plaintiff's and Class Members' viewing and engagement with the Harmful Content.

Civil Fraud and Conspiracy

108. The Defendants' solicitations, offers, advertisements, and promotion of Harmful Content included false representations to the Plaintiff and Class Members

including, *inter alia*, the Representations and Omissions with respect to the harmful effects of the Harmful Content and the addictive qualities the Defendants' platforms. The material facts are pleaded in paragraphs 63 - 72.

109. The Defendants knew or were reckless as to their knowledge of the falsehood of these representations.

110. The Defendants' false representations caused the Plaintiff and Class Members to view and engage with the Harmful Content.

111. The Plaintiffs' and Class Members' viewing and engagement with the Harmful Content resulted in losses and damages.

112. The Defendants conspired with one another, and other entities not presently known to the Plaintiff and Class Members, to addict their users to continued and prolonged viewing and engagement with the Harmful Content on their platforms and ultimately to cause harm to their users. The predominant purpose of the conduct of the Defendants and their co-conspirators was to cause injury to the Plaintiff and similarly situated persons and to addict them to continued and prolonged use of their platforms, so as to increase profits.

113. Further, or in the alternative, the conduct of the Defendants and their co-conspirators was unlawful, by virtue of being either contrary to consumer protection legislation and/or the *Infants Act*, and the Defendants and their co-conspirators should have known in the circumstances that injury to the Plaintiff and similarly situated persons would be likely to result.

114. Particulars of the loss and damage suffered by the Plaintiff and Class Members which were caused or materially contributed to by the aforementioned fraudulent representations and conspiratorial acts of the Defendants include:

- Personal injury;
- Special damages for medical expenses and out-of-pocket expenses;

- Loss of both past and prospective income; and
- Cost of future care; and

Causation and Damages

115. As a result of the Defendants' negligence and the Defendants' breach of the *BPCPA*, and/or other similar legislation in the other provinces and territories, the Plaintiff and Class Members have suffered and will continue to suffer loss and damage. Such loss and damage were foreseeable by the Defendants. Particulars of the loss and damage suffered by the Plaintiff and Class Members which were caused or materially contributed to by the aforementioned acts of the Defendants include:

(a) Personal injury;

(b) Special damages for medical expenses and out of pocket expenses;

(c) Loss of both past and prospective income; and

(d) Cost of future care.

116. The Plaintiff and Class Members have suffered injuries which are permanent and lasting in nature, including diminished enjoyment of life, as well as the need for lifelong medical monitoring and/or treatment.

117. The conduct of the Defendants warrants a claim for punitive damages. They have conducted themselves in a high-handed, wanton, and reckless manner, and without regard to public safety.

118. This case raises issues of general deterrence. A punitive damage award in this case is necessary to express society's condemnation of conduct such as the Defendants', to advance public safety and to achieve the goal of both specific and general deterrence.

Health Care Cost Recovery

119. The Plaintiff and Class Members rely upon health and hospital insurance legislation in British Columbia and similar legislation elsewhere and claim health care costs incurred by themselves and Class Members and paid by provincial and territorial governments as a result of the wrongdoing of the Defendants:

a. On behalf of Her Majesty the Queen in right of the Province of New Brunswick, the Plaintiffs claim the cost of "entitled services" under *Health Services Act*, SNB 2014, c 112, ss 1 and 3 and General Regulation, NB Reg 84-115, s 2 and Schedule II.

b. On behalf of the government of British Columbia, the Plaintiffs claim the past and future cost of providing "health care services" under *Health Care Costs Recovery Act*, SBC 2008, c 27, ss 1-3 and 7 and *Health Care Costs Recovery Regulation*, BC Reg 397/2008, s 3.

c. On behalf of Her Majesty in right of Alberta and the Minister of Health of Saskatchewan, the Plaintiffs claim the direct and indirect costs of past and future "health services" under *Crown's Right of Recovery Act*, SA 2009, c C-35, ss 1, 2(1) and 38 and *Crown's Right of Recovery Regulation*, Alta Reg 87/2012, s 3; and *The Health Administration Act*, RSS 1978, c H-0.0001, s 19.

d. On behalf of the Minister of Health of Manitoba, the Plaintiffs claim the past and future cost of "insured hospital, medical, and other services under *The Health Services Insurance Act*, RSM 1987, c H35, ss 2, 97 and *The Medical Services Insurance Regulation*, Man Reg 49/93, s 1.

e. On behalf of Her Majesty in right of the Province of Nova Scotia, the Plaintiffs claim the past and future cost of "insured hospital services", and other care, services, and benefits under *Health Services and Insurance Act*, RSNS 1989, c 197, ss 2 and 18.

f. On behalf of the Government of Yukon, and the Ministers of Health of the Northwest Territories and Nunavut, the Plaintiffs claim the cost of providing "insured services", including in-patient and out-patient services under *Hospital Insurance Services Act*, RSY 2002, c 112, ss 1 and 10-11 and *Yukon Hospital Insurance Services Regulations*, YCO 1960/35, s 2; *Hospital Insurance and Health and Social Services Administration Act*, and RSNWT 1988, c T-3, ss 1 and 19-20 and *Hospital Insurance Regulations*, RRNWT 1990, c T-12, s 1.

g. On behalf of the Ontario Health Insurance Plan, the province of Quebec, the Minister of Health and Wellness of Prince Edward Island, and the Crown in right of Newfoundland and Labrador, the Plaintiffs claim the cost of "insured services" under *Health Insurance Act*, RSO 1990, c H.6, ss 1, 11.2, and 30-31 and General, RRO 1990, Reg 552; *Hospital Insurance Act*, CQLR c A-28, ss 1 and 10 and Regulation respecting the application of the *Hospital Insurance Act*, CQLR c A-28, r 1, s 3 and *Health Insurance Act*, CQLR A-29, ss 1, 3, and 18; *Hospital and Diagnostic Services Insurance Act*, RSPEI 1988, c H-8, ss 1 and 14 and General Regulations, PEI Reg EC539/63, s 1; and *Medical Care and Hospital Insurance Act*, SNL 2016, c M-5.01, ss. 41-42 and 44, and *Hospital Insurance Regulations*, CNLR 742/96, s 2 and Schedule.

Limitation Period

120. The Defendants willfully concealed their knowledge of the risks of serious injury through the viewing of and engagement with the Harmful Content from young users, including the Plaintiff and Class Members (and their parents and/or guardians). The Plaintiff and Class Members rely on the doctrine of fraudulent concealment and *Pioneer Corp. v. Godfrey*.

121. In addition, the Plaintiff and Class Members could not reasonably have known that loss or damage had occurred, that it was caused or contributed to by actions or inactions of the Defendants, or that a court proceeding would be an appropriate means to seek to remedy the injury until this action was filed.

122. The Plaintiff and Class Members rely on the doctrines of postponement and discoverability to postpone the running of the limitation period until 2022.

123. The Plaintiff and Class Members plead and rely on and the *Limitation Act*, SBC 2012, c 13, and in particular ss 8, 21(3). In the alternative, or in addition, the Plaintiffs and Class Members rely on the *Limitation Act*, SBC 2012, c 13, s 30 and the *Limitation Act*, RSBC 1996, c 266. In addition, the Plaintiff and Class Members plead and rely on the *Emergency Program Act*, Ministerial Order No. M089 and related enactments to suspend the running of the limitation period from March 26, 2020.

Jurisdiction

124. The Plaintiff and Class Members rely on ss. 13, 7 and 10 of the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c. 28 and plead that there is a real and substantial connection between the subject matter of this action and the Province of British Columbia for the following reasons:

(a) The Defendants' algorithm promoted the Harmful Content which was viewed by and engaged with by the Plaintiff and Class Members in British Columbia;

(b) The Defendants engaged in a conspiracy that resulted in harm to persons in British Columbia;

(c) The subject matter of the claim includes restitutionary remedies claimed on behalf of persons in British Columbia;

(d) This claim pleads breaches of the *BPCPA* and the *Competition Act;*

(e) The Plaintiff resides in British Columbia; and

(f) The Plaintiff's damages were sustained in British Columbia.

Form 11 (Rule 4-5 (2))

ENDORSEMENT ON ORIGINATING PLEADING OR PETITION FOR SERVICE OUTSIDE BRITISH COLUMBIA

The Plaintiff claim the right to serve this pleading/petition on the Defendants outside British Columbia on the ground that:

The Plaintiff has at all material times have been a resident of British Columbia and has suffered loss in British Columbia. The Supreme Court of British Columbia has jurisdiction with respect to this matter and the Plaintiffs plead the *Court Jurisdiction and Proceedings Transfer Act*, 2003, SBC Chapter 28 and amendments thereto.

	RICE HARBUT ELLIOTT LLP Barristers and Solicitors 820 - 980 Howe Street Vancouver, BC V6Z 0C8
Fax number address for service (if any):	(604) 682-0587
E-mail address for service (if any):	Nil
Place of trial:	Vancouver
The address of the registry is:	800 Smithe Street, Vancouver

Date: 11/APR/2022

Counsel for the Plaintiffs,
Anthony Leoni
John M. Rice, Q.C.

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

Appendix

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

A claim for negligence, failure to warn, conspiracy, breach of consumer protection legislation, and *inter alia*, disgorgement at common law for unjust enrichment arising from the proliferation of harmful social media content that the Defendants knew or ought to have known was associated with harm to young persons, with injury, loss and damages to the Plaintiff and a class of similarly situated persons resident in Canada.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- ☐ a motor vehicle accident
- ☐ medical malpractice
- ☒ another cause

A dispute concerning:

- ☐ contaminated sites
- ☐ construction defects
- ☐ real property (real estate)
- ☐ personal property
- ☐ the provision of goods or services or other general commercial matters
- ☐ investment losses
- ☐ the lending of money
- ☐ an employment relationship
- ☐ a will or other issues concerning the probate of an estate
- ☒ a matter not listed here

Part 3: THIS CLAIM INVOLVES:

- ☒ a class action
- ☐ maritime law
- ☐ aboriginal law
- ☐ constitutional law
- ☐ conflict of laws
- ☐ none of the above
- ☐ do not know

Part 4:

1. *Class Proceedings Act*, R.S.B.C. 1996, c. 50
2. *Health Care Cost Recovery Act*, S.B.C. 2008, c. 27
3. *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2