

STATE OF NEW YORK SUPREME COURT
COUNTY OF ERIE

WAYNE JONES, Individually and as
Administrator of the Estate of CELESTINE
CHANEY,

Plaintiff,

Hon. Paula L. Feroletto
Index No. 810316/2023

v.

MEAN LLC; VINTAGE FIREARMS, LLC;
RMA ARMAMENT, INC.; ALPHABET
INC., GOOGLE, LLC; YOUTUBE, LLC;
REDDIT, INC.; PAUL GENDRON; and
PAMELA GENDRON,

Defendants,

**AFFIRMATION OF ERIC TIRSCHWELL IN SUPPORT OF
PLAINTIFF'S OPPOSITION TO DEFENDANT YOUTUBE, LLC'S AND
REDDIT, INC'S MOTIONS TO DISMISS (Motions #004 & #005)**

Eric Tirschwell affirms the following to be true to the best of his knowledge and states the following under penalty of perjury:

1. I am an attorney duly licensed to practice law in the State of New York and serve as the Executive Director and Chief Litigation Counsel of Everytown Law. I am counsel for the Plaintiffs in two related actions: *Jones v. MEAN LLC, et. al.* (No. 810316/2023) and *Stanfield, et. al. v. MEAN LLC* (No. 810317/2023). As such, I am familiar with the facts and circumstances of the litigation and the facts stated herein.
2. I submit this Affirmation in support of Plaintiffs' consolidated opposition to the motions to dismiss filed by Defendants Alphabet, Inc., Google, LLC, YouTube, LLC and Reddit, Inc. in the cases referenced in the preceding paragraph.
3. For purposes of the claims asserted against Defendants Alphabet, Inc., Google, LLC, YouTube, LLC and Reddit, Inc. in Plaintiffs' Complaints, Plaintiffs rely on the academic articles and publications listed in paragraphs 4 to 11, the interview excerpt listed in paragraph 12, and the portions of the Shooter's written documents listed in paragraph 13—in addition to the material cited in the Complaints.
4. Counsel for Plaintiffs have reviewed a true and correct copy of an academic article by Daria Kuss *et al.*, "Online Social Networking Addiction—A Review of the Psychological Literature," published in *International Journal of Environmental Research and Public Health* (2011), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3194102/> (last accessed Dec. 15, 2023). It finds:

Just like substance-related addictions, SNS [Social Networking Site] addiction incorporates the experience of the 'classic' addiction symptoms, namely mood modification (i.e., engagement in SNSs leads to a favourable change in emotional states), salience (i.e., behavioral, cognitive, and emotional preoccupation with the SNS usage), tolerance (i.e., ever increasing use of SNSs over time), withdrawal symptoms (i.e., experiencing unpleasant physical and emotional symptoms when SNS use is restricted or

stopped), conflict (i.e., interpersonal and intrapsychic problems ensue because of SNS usage), and relapse (i.e., addicts quickly revert back in their excessive SNS usage after an abstinence period). ... Researchers have suggested that the excessive use of new technologies (and especially online social networking) may be particularly addictive to young people. In accordance with the biopsychosocial framework for the etiology of addictions and the syndrome model of addiction, it is claimed that those people addicted to using SNSs experience symptoms similar to those experienced by those who suffer from addictions to substances or other behaviors[.]

5. Counsel for Plaintiffs have reviewed a true and correct copy of an academic article by Mark Griffith, "Adolescent Social Networking: How Do Social Media Operators Facilitate Habitual Use?" published in *Education and Health* (Vol. 36 No. 3, 2018), available at <https://sheu.org.uk/sheux/EH/eh363mdg.pdf> (last accessed Dec. 15, 2023). It finds:

[A] small minority of adolescents genuinely become addicted to social media in the same way that other individuals become addicted to activities such as drinking alcohol or gambling. More specifically, such individuals experience what I consider to be the six core components of addiction (i.e., salience, conflict, mood modification, tolerance, withdrawal, and relapse) ... [H]ere are many psychological 'hooks' that play a part in habitual social media use and why it is so prevalent. In this article I briefly outline some of the main factors facilitating habitual social media use among adolescents (i.e., unpredictable rewards, social affirmation and validation, FOMO [fear of missing out], smartphone sounds and vibrations, social connection, reciprocal liking, social competition, and psychological investment)... [In-built Social Media] rewards (or the anticipation of such rewards) release dopamine ... It has also been claimed that the few seconds it takes for social media applications to open on mobile devices is a deliberate ploy to increase anticipatory feelings of the user (because the anticipation of a reward is almost as good as the reward itself in releasing dopamine) ...

[Social Media] are certainly designed to get users (many of which are adolescents) coming back again and again (so-called 'stickiness' that relies on the unpredictable and random rewards). Habitual behaviour is a powerful reinforcer. It is about using daily routines to create habits (turning on a video game console as soon as a teenager enters their bedroom, or making a drink as soon as you get back home from school). The more an individual invests in carrying out a behaviour, the more they will persist in repeating it. Social media operators are trying to grab adolescents' attention and can do it through sounds, vibrations and/or notifications.

6. Counsel for Plaintiffs have reviewed a true and correct copy of an academic article by Cecile Andreassen, "Online Social Network Site Addiction: A Comprehensive Review," published in *Current Addiction Report* (2015), available at

<https://link.springer.com/article/10.1007/s40429-015-0056-9> (last accessed Dec. 15, 2023). It

finds as follows:

[There is] empirical support for the notion that certain individuals display SNS [Social Networking Site]-related behavior that is compulsive and uncontrolled, which best can be understood in an addiction perspective. Furthermore, a key distinction between normal over-engagement in social networking ... and SNS addiction is that the latter, in contrast to the former, is associated with *unfavorable consequences*, and that social networking becomes *uncontrolled* and *compulsive*. ... Thus, SNS addiction is something qualitatively different from excessive time spent on SNSs ...

SNS addiction may create significant emotional problems. As with other addictions, the person often becomes addicted to the behavior as a relief from negative feelings of discomfort and stress (escape/control mechanism). In short, SNS addicts engage in social networking to gain control, but become controlled by their social networks. SNS addicts may also use social networking as a means by which to stay disconnected from their own feelings. Thus, SNS addicts are unable to detach themselves from SNSs despite realizing their destructive impact ... Offline relations suffer as SNS addicts become preoccupied with and devote most of their time to social networking. Others stop expecting time from them, and they become socially withdrawn, left with a troubled personal life. ...

Excessive online social networking may induce *sleep difficulties*. As expected, there are studies that show that SNS addicts report more sleep problems and poorer sleep quality compared to non-SNS addicts. As “more is better” for SNS addicts, they stay on social networking even when it is not in their best interests, resulting in too little exercise, rest, and recovery. Hence, studies have reported associations between SNS addiction and insomnia and somatic symptoms[.]

7. Counsel for Plaintiffs have reviewed a true and correct copy of an academic article by Qinghua He *et al.*, “Brain Anatomy Alterations Associated With Social Networking Site (SNS) Addiction,” published in *Scientific Reports* (2017), available at

<https://www.nature.com/articles/srep45064> (last accessed Dec. 15, 2023). It states:

We specifically show that the GMV [gray matter volume] of the amygdala is negatively associated with SNS addiction scores. Hence, people with high SNS addiction scores have a pruned amygdala, which is presumably involved in generating strong impulsive behaviors. In this respect, SNS addiction is similar to other types of substance and behavioral addictions, in which case addicts present reduced GMV of the amygdala ... Together, the findings of this study portray an anatomical morphology model of SNS addiction.

8. Counsel for Plaintiffs have reviewed a true and correct copy of an academic article by Holly Shannon, *et al.*, “Problematic Social Media Use in Adolescents and Young Adults:

Systematic Review and Meta-analysis,” published in *JMIR Mental Health* (Vol. 9, No. 4, 2022), available at <https://mental.jmir.org/2022/4/e33450> (last accessed Dec. 15, 2023). It found:

Problematic social media use is a distinct pattern of use characterized by “addiction-like” symptoms based on behavioral and psychological attributes. It is characterized not only by time spent on social media, but also by measuring the extent of symptoms similar to a substance-related disorder, such as withdrawal, tolerance, and dependence. Therefore, problematic social media use could represent a more clinically meaningful behavior to direct research, as a stronger relationship is seen with adverse mental health symptoms compared to previous studies investigating time spent on social networking sites or screen time in general[.]

9. Counsel for Plaintiffs have reviewed a true and correct copy of an academic article by Alfonso Pellegrino *et al.*, “Research Trends in Social Media Addiction and Problematic Social Media Use: A Bibliometric Analysis,” published in *Frontiers in Psychology* (2022), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9707397/> (last accessed Dec. 15, 2023). It states:

Many studies have found that habitual social media use may lead to addiction and thus negatively affect adolescents’ school performance, social behavior, and interpersonal relationships. As a result of addiction, the user becomes highly engaged with online activities motivated by an uncontrollable desire to browse through social media pages and “devoting so much time and effort to it that it impairs other important life areas” ... Many studies have found that habitual social media use may lead to addiction and thus negatively affect adolescents' school performance, social behavior, and interpersonal relationships. As a result of addiction, the user becomes highly engaged with online activities motivated by an uncontrollable desire to browse through social media pages and “devoting so much time and effort to it that it impairs other important life areas[.]”

10. Counsel for Plaintiffs have reviewed a true and correct copy of an academic article by Adam Enders *et al.*, *The Relationship Between Social Media Use and Beliefs in Conspiracy Theories and Misinformation Political Behavior* (2023), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8262430/> (last accessed Dec. 15, 2023). It states:

We observe statistically significant correlations in every instance, supporting the notion that frequency of social media usage—in general, across platforms—is positively related to conspiracy beliefs. However, we also find that the strength of this relationship varies across platforms ... **Twitter, YouTube, and Reddit usage are each significantly more strongly correlated with the number of conspiracy beliefs one holds than Facebook usage** ($p < 0.05$ in each case)[.]

11. Counsel for Plaintiffs have reviewed a true and correct copy of an academic article by Anna Ciaunica, *et. al.*, “Zoomed Out: Digital Media Use and Depersonalization Experiences During the COVID-19 Lockdown,” published in *Scientific Reports* (2022), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8913838/> (last accessed Dec. 15, 2023). It states:

We have conducted an online study of 622 participants worldwide to investigate the relationship between digital media-based activities, distal social interactions and peoples’ sense of self during the lockdown as contrasted with before the pandemic. We found that increased use of digital media-based activities and online social e-meetings correlated with higher feelings of depersonalisation.^[1] We also found that the participants reporting higher experiences of depersonalisation, also reported enhanced vividness of negative emotions (as opposed to positive emotions)

12. Counsel for Plaintiffs have reviewed a true and accurate copy of an excerpt of an interview of Sean Parker, the Founding President of Facebook, as posted on *Axios* by Mark Allen (2017), available at <https://www.axios.com/2017/12/15/sean-parker-unloads-on-facebook-god-only-knows-what-its-doing-to-our-childrens-brains-1513306792> (last accessed Dec. 15, 2023). It contains the following statement from Parker about the design structure of social media applications:

God only knows what it's doing to our children's brains. ... The thought process that went into building these applications ... was all about: ‘How do we consume as much of your time and conscious attention as possible?’ ... And that means that we need to sort of give you a little dopamine hit every once in a while[.]

¹ A disorder, also known as “derealization”—characterized by feelings of detachment, experiencing oneself as out of one’s body, and sense that the one’s surroundings are not real.

13. Counsel for Plaintiffs have also reviewed a true and correct copy of the diary of the Shooter (Payton Gendron), which he wrote and kept on the social media platform Discord (cited in their Complaint as “Discord Diary and hereinafter in the format of “Month/Day/Year” of each entry); and a true and correct copy of the document in which he outlined his white supremacist views and conspiracy theories (cited in their Complaint and hereinafter as “Shooter’s Document”). In addition to passages already cited in the Complaint, paragraphs a through g below describe and copy excerpts from additional entries from those documents.

- a. The Shooter described himself in his diary as having been “radicalized” online. *See e.g.* 01/30/2022 (“I feel there are many problems of the world being addressed that are not popular or talked about on regular media. White genocide is real when you look at data, but is not talked about on popular media outlet”); 02/20/2022 (“You will not get the truth from anything but the internet”); 05/05/2022 (“That’s how I was radicalized, I learned the truth”). His document reiterates this trajectory in a question-and-answer format:

Where did you get your current beliefs?

Mostly from the internet. There was little to no influence on my personal beliefs by people I met in person.”

...

Were your beliefs given to you by your family/friends/society etc?

No, politics was never really discussed in my family or old friend groups.

Shooter’s Document at 5, 9. Later, the Shooter emphasized the role that the internet played in indoctrinating him to Replacement Theory views, which have been rejected by professional journalists:

It should come as no shock that European men, in every nation, and on every continent are turning to radical notions and methods ... Radical, explosive action is the only desired, and required, response to an attempted genocide. ... Once the corporate and state media's grip ... was finally broken by the internet, true freedom of thought and discussion flourished”

Shooter's Document at 162-163.

- b. The Shooter's writings note that YouTube and Reddit were among the main sources of this radicalization. *See e.g.* 01/30/2022 ("Of course, many of my beliefs come from [R]eddit too"); 02/11/2022 (leaving links to multiple YouTube videos advocating conspiracy theories that claim that modern liberalism is an invention of Jewish Communists designed to destroy the United States from within); 03/30/2022 (leaving link to a YouTube video espousing Holocaust Denialism).
- c. The Shooter described himself as being addicted to Social Media. He frequently detailed how he desperately wanted, but was unable, to quit social media, often in relation to expressions of his own fears and reservations about carrying out his attack.

In one entry, he wrote:

Im having a really hard time thinking right now, why do I always have trouble putting my phone down at night? Probably the jews are behind it ...

I do this alot I always seem to stay up late because I am browsing reddit or watching youtube I think I do that like every day

(03/15/2022) (errors in the original). A day later, he wrote:

I can't tell you how much I don't want to do this attack
My only other choice is suicide[.] I can't go back

(03/16/2022). One week later:

guys I don't think I can do this, I know this is the right thing but how am I supposed to actually walk up and shoot and kill people?

(03/23/2022) (errors in the original).

- d. In another series of entries, he described himself as addicted to social media, as well as expressing the wish that he had never been radicalized online:

I'm addicting to consoooooming^[2] Its 2 in the morning wtf

(04/22/2022) (errors in the original). Five days later:

I'll admit my mental health has seriously degraded these past few years, especially in the last few months.

(04/27/2022). Three days later:

I should be sleeping rn [right now.] I'm just browsing online :/

(04/30/2022). Five days later:

I'm a literal addict to my phone I can't stop consooming

Yeah I'm suffering the consequences of staying up too late

And not getting enough sleep ...

It's not that I actually dislike other people, it's just that they make me feel so uncomfortable

I've probably spent actual years of my life just being online. And to be honest I regret it. I didn't go to friend's houses often or go to any parties or whatever.

Every day after school I would just go home and play games and watch youtube, mostly by my self

(05/05/2022).

- e. Other entries show the connection between his social media-induced desensitization and the attack. *See e.g.* 04/04/2022 (“You know I’ve been going through these days barely feeling anything. This attack is just something I’m going to do and I really don’t feel any emotions connected to it. Everything just seems fake ... I have no other choice but to commit this attack”).

² Internet slang for consuming a product addictively and obsessively. *See* Max Iskiev, *What is a Consoomer*, Stayhipp (Nov. 15, 2019), available at <https://stayhipp.com/glossary/what-is-a-consoomer> (last accessed Dec. 14, 2023); *see also* r/Consoom, *Exact Consoom definition?* Reddit, available at https://www.reddit.com/r/Consoom/comments/15pd66p/exact_consoom_definition/ (last accessed Dec. 14, 2023).

f. One of the final entries he wrote before conducting his shooting, less than a week prior, stated:

I've been getting like 6 hours of sleep every night I'm literally addicting to staying on my phone I know I need to stop ...
I've just been sitting around watching youtube and shit for the last few days I think this is the closest I'll ever be to being ready ...
This is how things are meant to be, and I've been getting closer to it my entire life without knowing it ...
oh just in case you wanted to know, for nearly all weekdays I would go to my college's library, write in or fix le manifesto, meme around on youtube, reddit, and 4chan, and eat free or cheap food from mcdonalds

(05/09/2022) (errors in the original).

g. The Shooter also noted multiple times in his diary his lack of experience, expertise, or training with firearms, gunsmithing, and combat. *See e.g.* 05/05/2022 (noting that his “direct family never had any interests” in firearms); 12/24/2021 (“daily reminder I'm not a mechanic or a gunsmith so bear with me”); (04/04/2022) (“Daily reminder that I am not a firearms expert”). *See also* Shooter’s Document at 3 (“I am not a warfighter, nor have I been enrolled in any military or tactical training”); Shooter’s Document at 62 (“I’m not a firearm expert”).

14. Wherefore, the undersigned respectfully requests that the motions to dismiss filed by Defendants Alphabet, Inc., Google, LLC, YouTube, LLC and Reddit, Inc. be denied.

DATED: December 18, 2023
New York, NY



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CERTIFICATE OF COMPLIANCE

This affirmation complies with the type-volume limitation of 22 NYCRR § 202.8-b because it contains 3068 words, excluding the parts exempted by the rules. This affirmation also complies with the typeface requirements of 22 NYCRR § 202.5(a) because it has been prepared using Microsoft Word and Times New Roman typeface, 12-point font, and 1” margins.

DATED: December 18, 2023
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