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**Pro Hac Vice Applications Forthcoming*

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

ANGELA UNDERWOOD JACOBS,
as Wrongful Death Heir of Dave Patrick Underwood,
deceased,

Plaintiff,

v.

META PLATFORMS, INC., f/k/a FACEBOOK, INC.,

Defendant.

Case No. _____

COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

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JURY TRIAL DEMAND 31

Plaintiff Angela Underwood Jacobs, as Wrongful Death Heir of Dave Patrick Underwood, deceased, and his prospective successor-in-interest, by and through undersigned counsel, hereby sues Meta Platforms, Inc., formerly known as Facebook, Inc., for the wrongful death of Dave Patrick Underwood, and alleges as follows:

PARTIES

1. Plaintiff Angela Underwood Jacobs is a citizen of California, residing in Los Angeles County, and is otherwise *sui juris*.

2. Defendant Meta Platforms, Inc., is a Fortune 500 company that operates social media services, including the www.facebook.com website and Facebook applications for mobile devices. Prior to October 2021, Meta Platforms, Inc., was known as Facebook, Inc. In this Complaint, Plaintiff refers to the Defendant as “Meta,” including, for the sake of consistency, with regard to the actions and conduct of the company prior to its name change, and refers to Meta’s social media services consisting of its website and mobile applications as “Facebook.”

3. Meta is incorporated in Delaware, and its principal place of business is 1 Hacker Way, Menlo Park, CA 94025, in San Mateo County.

JURISDICTION AND VENUE

4. This is a survival action for the extreme pain and suffering endured by Dave Patrick Underwood from the time of the shooting until the time of his death, and an action for his wrongful death, seeking damages in excess of \$25,000, exclusive of attorneys’ fees and costs.

5. Plaintiff Angela Underwood Jacobs brings these claims pursuant to California Code of Civil Procedure § 377.60, as a wrongful death heir of Dave Patrick Underwood, deceased, and his prospective successor in interest under California Code of Civil Procedure § 377.30.

6. At the time of his death, Dave Patrick Underwood was a citizen and resident of California and without a “surviving spouse, domestic partner, children . . . issue of deceased children,” Cal. Code Civ. P. § 377.60(a), or surviving parents.

7. Plaintiff Angela Underwood Jacobs, as a surviving sibling of Dave Patrick Underwood, would be entitled to the property of Dave Patrick Underwood under the California laws of intestate succession, see Cal. Prob. Code § 6402(c), and, therefore, has standing to bring a claim for his wrongful death under California Code of Civil Procedure § 377.60(a). Plaintiff also brings this action as the prospective successor in interest to Dave Patrick Underwood’s survival claim because the administration of his Estate is ongoing and may well not be resolved prior to the running of the statute of limitations on that claim.

8. Defendant Meta is subject to the jurisdiction of this Court because it is headquartered in California. Furthermore, Meta is qualified and authorized to, has regularly done, and is doing business in California, and has systematically conducted business on a regular basis in California, under and by virtue of California law.

9. Venue is proper in Alameda County, where Dave Patrick Underwood’s wrongful death occurred, under California Civil Code of Procedure 395.

FACTUAL ALLEGATIONS

I. The Murder of Officer Underwood

10. Dave Patrick Underwood was a Federal Protective Services Officer working under a contract with the Department of Homeland Security to provide security services at the Ronald V. Dellums Federal Building and United States Courthouse in Oakland, California.

11. On May 29, 2020, Officer Underwood was stationed in a guard post outside the Federal Building and Courthouse during protests over the police killing of George Floyd.

12. While on duty, Officer Underwood was the victim of a drive-by shooting, which took his life at the age of 53. He suffered bullet wounds to the neck and right flank. Officer Underwood did not die immediately after he was shot. He remained alive at the scene of the shooting while waiting for paramedics, and was alive in the ambulance while being transported to the hospital. Officer Underwood died some time later while in the emergency room at Highland Hospital. Wounds of this nature cause extreme pain and suffering.

13. The shooting was not a random act of violence. It was the culmination of an extremist plot hatched and planned on Facebook by two men who Meta connected through Facebook's groups infrastructure and its use of algorithms designed and intended to increase user engagement and, correspondingly, Meta's profits.

II. Meta Connected Officer Underwood's Murderer and His Accomplice -- and Helped Build the On-Line Boogaloo Community that Supported Their Criminal Planning

14. Among the extremist political movements that have grown in force over the last decade is a new strand of anti-government, anti-authoritarian agitation referred to as "boogaloo."¹ While no definitive ideology or platform unites this movement, the core interests shared by boogaloo adherents are a fervent opposition to governmental authority and the idea of government itself and enthusiastic planning for a future civil war. The boogaloo community includes white supremacists, militia promoters, and far-right conspiracy theorists – but their views are not universally held.

15. The term "boogaloo" first appeared in 2018 as a slang reference to future civil war. A movement cohered around the term in 2019. A proliferation of boogaloo groups exploded

¹ Katie Shepherd, *An Officer was Gunned Down. The Killer was a 'boogaloo boy' using Nearby Peaceful Protests as Cover, Feds say*, THE WASHINGTON POST (June 17, 2020).

on Facebook in the early months of 2020 in response to governmental efforts to manage the coronavirus pandemic. These Facebook groups openly advocated for violence, discussed tactical strategies, combat medicine, and the merits of specific weapons, and shared information about building explosive devices.²

16. At approximately 7:20 on the morning of May 28, 2020, Steven Carrillo, an active sergeant in the United States Air Force assigned to the Travis Air Force base in Fairfield, California, posted a YouTube video on a Facebook boogaloo group page showing a large crowd violently attack two California Highway Patrol vehicles. Upon information and belief, this group was part of the “BoojieBastards” network of Facebook groups, which included groups called BoojieBastards: The Armory, BoojieBastards: Intelligence and Surveillance, and the off-shoot /K/alifornia Komando. Carrillo exhorted one of his Facebook groups: “It’s on our coast now, this needs to be nationwide. It’s a great opportunity to target the specialty soup bois. Keep that energy going.”³

17. “Soup bois” is a term that followers of the boogaloo movement use to refer to law enforcement agents. “Bois” is an alternative spelling for “boys.” “Soup” is short for “alphabet soup,” which is a reference to law enforcement agencies that are commonly referred to by acronyms (*e.g.*, FBI, DOH). “Specialty soup bois” more specifically references federal law enforcement agents.

² *Extremists Are Using Facebook to Organize for Civil War Amid Coronavirus*, TECH TRANSPARENCY PROJECT (Apr. 22, 2020), <https://www.techtransparencyproject.org/articles/extremists-are-using-facebook-to-organize-for-civil-war-amid-coronavirus>.

³ Criminal Complaint, *USA v. Carrillo*, No. 4:20-cr-00265-YGR (N.D. Cal. June 16, 2020), at ¶ 51.

18. At approximately 7:37 AM, Robert Alvin Justus, Jr., a resident of Millbrae, California, agreed with Carrillo by responding to his post: “Lets [sic] boogie.”⁴

19. On May 29, 2020, at 7:57 AM, Carrillo posted again to his Facebook group: “If it kicks off? Its [sic] kicking off now and if its [sic] not kicking off in your hood then start it. Show them the targets.”⁵

20. Carrillo posted again at 8:02 AM, referring to the protests over the police killing of George Floyd: “...Go to the riots and support our own cause. Show them the real targets. Use their anger to fuel our fire. Think outside the box. We have mobs of angry people to use to our advantage.”⁶

21. Carrillo and Justus agreed to meet on May 29 and drive together to the Oakland protests.⁷ Carrillo, driving a white van, picked Justus up at the San Leandro BART station. Justus then drove the van to Oakland and eventually drove past the guard post manned by Officer Underwood, at which point Carrillo fired multiple rounds with a homemade assault rifle through the open passenger-side sliding door.

22. Carrillo was arrested after committing crimes subsequent to the murder of Officer Underwood and was found to have used his blood to write the following words and phrases: “BOOG,” “I became unreasonable,” and “stop the duopoly.” These words and phrases have significance to the boogaloo movement.⁸

23. Upon information and belief, prior to meeting on May 29, 2020, Carrillo and Justus had never met in person. Their paths had no reason to cross outside of Facebook.

⁴ *Id.*

⁵ *Id.* at ¶ 52.

⁶ *Id.*

⁷ *Id.* at ¶ 45.

⁸ *Id.* at ¶ 36.

24. Steven Carrillo, born in Los Angeles in 1988, was an active duty military police officer – a staff sergeant assigned to the 60th Security Forces Squadron out of Travis Air Force Base – at the time of Officer Underwood’s murder. Carrillo entered the Air Force in February 2009 after completing basic training and security force training at Lackland Air Force Base in Texas and he worked as a recruiter in Brentwood, California. In 2018, he was assigned to the Travis Air Force Base, which is located approximately 90 minutes northeast of Oakland, California.

25. Robert Alvin Justus, Jr., born in 1989, has no history of military service. Upon information and belief, Justus did not receive a high school diploma, but received vocational training and holds a locksmith’s license. At the time of Officer Underwood’s murder, he was living in Millbrae, California, approximately 30 minutes southwest of Oakland, California. Upon information and belief, Justus explored fathers’ rights and Second Amendment rights on Facebook. Meta led Justus down a road toward extremism, recommending, among other things, that he join boogaloo-related groups, including the group that introduced him to Carrillo, where members conspired to commit acts of violence against federal law enforcement officers under the cover of the protests taking place in response to the police killing of George Floyd.

26. Carrillo and Justus only knew each other via Facebook. Upon information and belief, Plaintiff alleges that Carrillo and Justus only met on Facebook because Meta recommended that Justus join groups dedicated to promoting the boogaloo movement.

III. Meta Played An Active Role in the Events that Led to Dave Patrick Underwood’s Death

27. Meta’s business model is based on its ability to attract two groups to the platform – users and advertisers. Meta has created a variety of proprietary products – including Facebook

user dossiers, Facebook customized recommendations, and Facebook group space – to ensure that it engages users and captures information about them for the benefit of advertisers.

A. Meta’s Revenues Are Dependent on Ad Sales, Which Are Dependent on a Robust User Base

28. Facebook is the largest social media network in the world. What began as a way for Harvard students to meet and socialize is now an open platform used by billions of people around the world. At the end of 2019, Facebook had 2.50 billion monthly active users, of which approximately 1.66 billion used the site every day. But Facebook’s users are not using the social media network merely to socialize—many are coming to Facebook for news instead of obtaining that information from traditional sources.

29. Users do not pay Meta to create a Facebook account. Once a user opens a Facebook account, the account holder can, at no cost, create a profile page, post content (such as photographs, videos, and links to articles), make friends with other users, view content posted by other users, and join groups sponsored and supported by Facebook.

30. Instead of charging account holders to access the platform, Meta earns most of its revenue by selling advertising services. For example, Meta generated \$69.7 billion from advertising in 2019, more than 98% of its total revenue for the year. Meta is able to generate such revenues by marketing its user base to advertisers.

31. Meta collects and analyzes data to assemble virtual dossiers on its 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 types of users, who can be segregated into pools or lists using Facebook’s 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. The majority of these data segments are

collected by Meta through surveillance of each user’s activity on the platform and off the platform, including behavioral surveillance that users are not even aware of like navigation paths, watch time, and hover time.

32. Notwithstanding this abundance of data, Meta does not always draw accurate conclusions about its users. A recent study from the Pew Research Center found that 27% of Facebook users surveyed found that the interests and political classifications assigned to them by Facebook were not very accurate or not at all accurate.

33. Facebook, as originally conceived, may have functioned like an enormous virtual bulletin board, where content was published by authors. But Facebook has evolved over time with the addition of numerous features and products designed by Meta to engage users. The earliest of these – the search function and the “like” button – were user-controlled features. In more recent years, however, Meta has taken an active role in shaping the user-experience on the platform with more complex features and products that are not triggered by user requests.⁹ 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 off-platform. These proprietary Facebook products¹⁰ include News Feed (a newsfeed of stories and posts published on the platform, some of which are posted by your Facebook friends or members of groups you have joined, and others that are suggested for you by Facebook), People You May Know (introductions to persons with common

⁹ Luke Munn, *Angry by design: toxic communication and technical architectures*, HUMAN. SOC. SCI. COMM. 7, 53 (2020).

¹⁰ Facebook refers to “features” and “services” provided on the Facebook platform as “Facebook Products” in its Terms of Service. The Facebook Terms of Service also grants Facebook a license to “host, use, distribute, modify, run, copy, publicly perform or display, translate, and create derivative works of” content created by Facebook users. *Terms of Service*, FACEBOOK, <https://www.facebook.com/terms.php?ref=pf> (last visited Oct. 15, 2021), at ¶ 3.

connections or background), and Suggested for You, Groups You Should Join, and Discover (recommendations for Facebook groups to join).

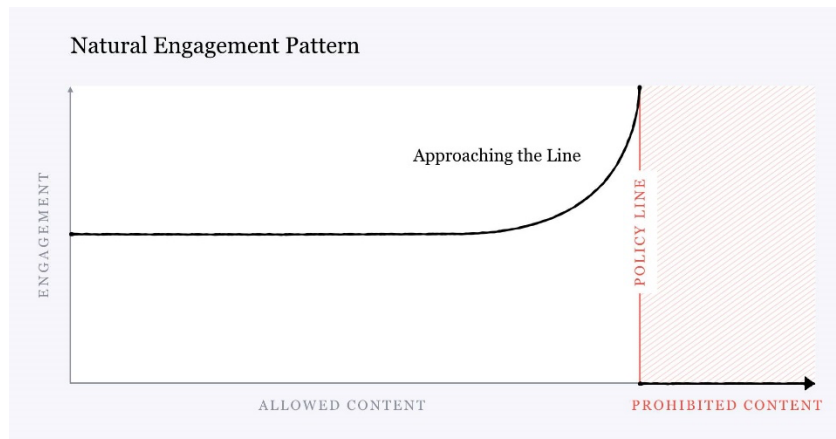
34. These curated and bundled recommendations are developed through sophisticated algorithms. As distinguished from the earliest search functions that were used to navigate websites during the Internet's infancy, Meta's algorithms are not based exclusively on user requests or even user inputs. Meta's 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 Meta to which Meta assigns 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 Meta's key performance indicators.

35. Meta's algorithms are carefully protected intellectual property. While they are often characterized as automated and impersonal, they are, in actuality, dynamic and subject to frequent refinement. They also reflect the inferences, judgments, priorities, and decision-making of human programmers, managers, and executives at Meta. Importantly, they are also optimized to achieve Meta's chief goal: increasing the time users spend on the platform.

36. Meta has found that users engage more with the site when Facebook shows them content likely to get them to share and react, namely content that will outrage or titillate the user.¹¹

¹¹ Karen Hao, *How Facebook got Addicted to Spreading Misinformation*, MIT TECHNOLOGY REVIEW (Mar. 11, 2021).

37. Meta 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 it violates Facebook standards, with the following chart:¹²



38. While CEO Zuckerberg asserted, at that time, that Facebook user engagement had stayed within the boundaries of content deemed acceptable by Meta, the public record has shown Facebook content on the wrong side of public safety and public health: disruption of Black Lives Matter protests by white supremacists, the boogaloo movement, coronavirus disinformation and related anti-mask agitation. Meta has been most recently on the wrong side of efforts to destabilize the democratic process, by boosting content that attempted to de-legitimize the 2020 election and fomenting the Capitol Riot.

39. Meta's algorithms create a self-reinforcing and accelerating dynamic. By elevating and promoting inflammatory, divisive, and untrue content, Meta encourages the publication of such content. At the same time, Meta's algorithms learn to feed users increasingly extreme viewpoints because users engage more with such content.¹³ These effects are not

¹²Mark Zuckerberg, *A Blueprint for Content Governance and Enforcement*, FACEBOOK, <https://www.facebook.com/notes/751449002072082/> (last visited October 15, 2021).

¹³ Hao, *supra* note 11.

unintentional. Meta’s first Director of Monetization, Tim Kendall, has explained that Meta has “sought to mine as much attention as humanly possible... [taking] a page from Big Tobacco's playbook, working to make [its] offering addictive at the outset.”¹⁴

B. Meta Promotes and Creates Inflammatory Content to Keep Its Users Engaged

40. Meta’s algorithms promote extremism by exposing users to inflammatory, divisive, and untrue content. Meta has elected to do this because material that engenders a strong emotional reaction engages readers.¹⁵

41. Meta’s algorithms reward the most prolific users, recommending their content, even though hyperactive use is associated with partisan accounts and suspicious use patterns suggestive of shift-work or bot activity. Facebook accounts that are known for and promote misinformation generate almost twice as much engagement per follower than other accounts.¹⁶ As such Meta’s policy to promote the most engaging content promotes accounts that push misinformation.

42. The News Feed product is a customized scroll that Facebook creates for each user, recommending news stories and posts. The contents of each user’s scroll vary depending on Meta’s dossier and the weight Meta’s algorithms place on the user’s profile and the people, groups, and stories that are trending. The News Feed accounts for the majority of time that users spend on the platform.

¹⁴ Kate Cox, *Former Facebook manager: “We took a page from Big Tobacco’s playbook,”* ARS TECHNICA (Sept. 24, 2020).

¹⁵ Jeff Horwitz, *Facebook Executives Shut Down Efforts to Make the Site Less Divisive,* THE WALL STREET JOURNAL (May 26, 2020); Munn, *supra* note 9.

¹⁶ *Far-Right Misinformation Is Thriving on Facebook. A New Study Shows Just How Much,* NPR (Mar. 6, 2021), <https://www.npr.org/2021/03/06/974394783/far-right-misinformation-is-thriving-on-facebook-a-new-study-shows-just-how-much>.

43. A major overhaul of the News Feed algorithm in 2018 was intended, according to Meta, to boost “meaningful social interactions.”¹⁷ Instead, staffers realized, it was making the platform an angrier place. As explained by one internal memo, the decision to give greater weight to the number of comments and reshares “had unhealthy side effects on important slices of public content, such as politics and news” because content publishers were re-orienting their posts toward outrage and sensationalism to increase the likelihood of wider visibility and review.¹⁸ Staffers noted that “[m]isinformation, toxicity, and violent content are inordinately prevalent among reshares.”¹⁹

44. Meta researchers also took note in 2018 that the MSI (meaningful social interactions) project, by rewarding untrue, divisive, and violent content, was discouraging the posting of truly meaningful content, thereby reducing the opportunities for user engagement with “positive and policy posts.”²⁰

45. Internal company documents show that Meta tests in 2019 again showed that Meta’s algorithms were delivering News Feeds comprised of divisive and extremist content as well as misinformation and that by simply following those recommended pages and groups, ordinary users would encounter a “nightmare” of “polarizing nationalist content, misinformation, and violence and gore.”²¹ In the words of one Meta researcher, “I’ve seen more images of dead people in the past 3 weeks than I’ve seen in my entire life.”²²

¹⁷ Keach Hagey, *Facebook Tried to make its Platform a Healthier Place. It Got Angrier Instead.*, THE WALL STREET JOURNAL (Sept. 15, 2021).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Justin Scheck, *Facebook Employees Flag Drug Cartels and Human Traffickers. The Company’s Response is Weak, Documents Show.*, THE WALL STREET JOURNAL (Sept. 16, 2021).

²² *Id.*

46. In the spring of 2020, Meta tested a revision of an algorithm called “downstream MSI” and found that reducing the weight assigned to the likelihood that people would share or comment on a post would reduce the proliferation of false content.²³ Meta applied this revision to civic and health information in the spring of 2020, but CEO Mark Zuckerberg advised his staff that he did not want to apply the changes to other types of content if it would reduce user engagement.²⁴

C. Meta Promotes Participation in Extremist Groups to Keep Its Users Engaged

47. Since 2017, Meta has focused its efforts on boosting membership in groups. Meta has stated a goal of enrolling 1 billion of its users in meaningful groups. In February 2017, 100 million were subscribed to groups; by February 2019 that number had grown to 400 million.

48. Meta’s business strategy is sound. It is well-established in the social, behavioral, and health sciences that a sense of belonging improves health and emotional well-being. Indeed, belonging has been identified as a basic human need and a motivating driver of human behavior.

49. Meta’s efforts to promote groups are both categorical and specific. Meta advertises groups – writ large – on the platform and spent \$10 million to air a 60-second ad promoting Facebook groups during Super Bowl LIV.²⁵ Meta has re-tooled its mobile applications and website to move groups and group recommendations into positions of increasing prominence. During 2019 and 2020, Meta rolled-out a major re-design of the mobile application and website interfaces to achieve this goal.

²³ Hagey, *supra* note 17.

²⁴ *Id.*

²⁵ Salvador Rodriguez, *Mark Zuckerberg shifted Facebook’s focus to groups after the 2016 election and it’s changed how people use the site*, CNBC (Feb. 16, 2020), <https://www.cnbc.com/2020/02/16/zuckerbergs-focus-on-facebook-groups-increases-facebook-engagement.html>

50. In addition to the spending and opportunity costs Meta has devoted to this explicit marketing, Meta invested in supporting the infrastructure of groups, developing tools and support services for the administrators and moderators of Facebook groups. At present, there are approximately 70 million such administrators.

51. Facebook promotes specific groups to individual users, showing them content in in users' timelines, through their News Feeds, and through specific recommendations to join groups via Suggested For You, Groups You Should Join, and Discover. As explained above, these recommendations are generated by Facebook algorithms which are built more upon Meta's assumptions and inferences about what users think, like, and want rather than what users have explicitly written, liked, or indicated to Facebook. The algorithms are weighted to favor untrue, inflammatory, and divisive content that will grab and keep users' attention. Furthermore, the recommendations are not based on Facebook user requests for recommendations – they are pushed onto users. Plaintiff alleges that Meta is recruiting new members for extremist groups.

52. While Meta recruits members for Facebook groups, Meta does not employ content moderators to monitor the content generated by private groups. Meta relies on artificial intelligence to monitor content generated by these groups and there is evidence that these systems, as designed, may catch only 3-5% of hate content.²⁶ By failing to adequately employ the use of artificial intelligence to eliminate hate content, Meta largely relies on group members to report violations of Facebook's Terms of Service and other policies and to monitor their own content within the group. Groups can designate some of the group members as administrators or moderators, but these are regular Facebook users – not employees of the company – who have

²⁶ Testimony of Frances Haugen before the United States Senate on October 5, 2021.

discretion to block content. Some moderators of extremist groups have warned that anyone reporting content to Facebook will be removed from the group.

53. Nor does Meta issue warnings to users about groups. While the Terms of Service disclaims any responsibility for what Facebook users do or say, on or off the platform, and disclaims any responsibility for Facebook user actions on or off the platform, Meta does not advise users of the specific actions Meta has taken to: adhere users to the platform with inflammatory, divisive, and untrue content; to place users in extremist groups, and; to send users content that reinforces the world views expressed in those extremist groups.

54. Meta’s failure to warn users about the insidious effects and real-world harms caused by its decision to promote extremist groups and develop inflammatory content is inexcusable considering what Meta’s own research shows about how Meta’s algorithms work. Meta’s recommendations can turn a visit to a recommended group into an echo chamber. Once a user has visited a page, Facebook will recommend related pages. The cumulative effect of many recommendations is greater than the sum of these individual recommendations. Numerous commentators have observed that in the universe of boogaloo disciples, white supremacists, and homegrown militias, a flood of violent and incendiary content quickly radicalizes new members.²⁷ The inductee is essentially immersed in a universe of people, ideas, and events – recommended by Facebook.

55. Meta knew or should have known that in addition to the social and personal benefits associated with a sense of belonging, there are negative consequences of group formation, too. “[T]he radicalizing effects of various group dynamics have been thoroughly

²⁷ Judd Legum, *Murder exposes Facebook’s Boogaloo Problem*, POPULAR INFORMATION (June 18, 2020), <https://popular.info/p/murder-exposes-facebooks-boogaloo>. Similar impacts have been observed in conspiracy-based disinformation campaigns like QAnon and Plandemic.

analyzed in the literature.”²⁸ It is well-understood that the security and support of a group emboldens individuals to engage in violence that they would not contemplate as individuals.²⁹

56. As early as 2016, Meta was aware that it was not simply recommending groups, but that its recommendations were promoting extremism. In that year, a Meta researcher examining large German political groups that promoted extremist content found that 64% of all new membership in the extremist groups on Facebook was due to Facebook’s recommendation tools, primarily from the “Groups You Should Join” and “Discover” algorithms.³⁰

57. In April 2020, the Tech Transparency Project found 125 Facebook groups devoted to the boogaloo movement. More than 60% of the groups were created between February and April 2020, as Covid-19 quarantines took hold in the U.S., and they attracted tens of thousands of members in that time.

58. One of the Facebook groups identified in the Tech Transparency Project’s April report was called “BoogieBastards: The Armory” (later “[Redacted]Liberty: The Armory”).³¹ Upon information and belief, Carrillo and Justus made their connection through the BoogieBastards network of Facebook groups, where they initially planned to use protests over the

²⁸ Mattias Wahlström, *Social Media Mechanisms for Right-Wing Political Violence in the 21st Century: Discursive Opportunities, Group Dynamics, and Co-Ordination*, 33 *TERRORISM & POLITICAL VIOLENCE* 766 (2012).

²⁹ See, e.g., *id.*; Clark McCauley, *Mechanisms of Political Radicalization: Pathways Toward Terrorism*, 20 *TERRORISM & POLITICAL VIOLENCE* 415 (2008); *Radicalization and Violent Extremism: Lessons Learned from Canada, the U.K. and the U.S.*, U.S. DEP’T OF JUSTICE NAT’L INSTITUTE OF JUSTICE, at 4 (July 28–30, 2015) (“More than half of the researchers stated that having friends, family members, or acquaintances involved in violent extremism can potentially lead individuals to become (or stay) involved in violent extremism.”).

³⁰ Horwitz, *supra* at 15.

³¹ *Facebook’s Boogaloo Problem: A Record of Failure*, TECH TRANSPARENCY PROJECT (Aug. 12, 2020), <https://www.techtransparencyproject.org/articles/facebooks-boogaloo-problem-record-failure>.

murder of George Floyd as a cover for committing acts of violence against law enforcement officers.

59. In the year since Dave Patrick Underwood’s murder, Facebook continued to recommend boogaloo groups – including groups created in 2019 and early 2020 – to Facebook users. This practice has been reported and questioned by investigative reporters,³² NGOs,³³ and members of Congress.³⁴

D. Meta Knows That Its Business Model Has Contributed to Political Destabilization and Violence In the United States and Abroad

60. Meta’s internal research and the warnings provided by NGOs and independent researchers provide clear and convincing evidence that Meta acted with conscious disregard for the public, including the Underwood family.

³² See, e.g., Legum, *supra* note 27 (“ . . . Popular Information was repeatedly directed to various "related" Boogaloo pages on Facebook,” including those created in late 2019 and early 2020, despite “shortly after Underwood’s murder, Facebook announc[ing] it would exclude Boogaloo pages from its recommendation engine.”)

³³ See, e.g., *Facebook’s Boogaloo Problem*, *supra* note 31 (“Months after Facebook’s boogaloo problem came to light, the company continues to recommend boogaloo content to users through its ‘related pages’ and ‘suggested groups’ functions, effectively amplifying the reach of the movement. The trend has continued even after Facebook told Reuters in early June it would no longer suggest groups associated with the boogaloo.”).

³⁴ See, e.g., *Senator Markey Demands Answers from Facebook After Research Shows Company Broke Commitment to Prohibit Promotion of Harmful Advertisements to Teens*, ED MARKEY UNITED STATES SENATOR FOR MASSACHUSETTS (Oct. 4, 2021), <https://www.markey.senate.gov/news/press-releases/senator-markey-demands-answers-from-facebook-after-research-shows-company-broke-commitment-to-prohibit-promotion-of-harmful-advertisements-to-teens> (“At a hearing before the [Commerce, Science, and Transportation] Committee on October 28, 2020, Zuckerberg stated to Senator Markey that Facebook no longer recommended political groups. However, media reports reveal that Facebook continued to recommend political groups that promoted violence, targeted elected officials, and supported insurrection after Zuckerberg made his commitment.”).

1. Meta's Internal Research

61. In 2014, Meta was forced to admit undertaking a mass psychological and sociological experiment on users in 2012, when it manipulated the newsfeeds of 700,000 users to influence their individual and collective emotional states.³⁵ It discovered two things. First, Meta discovered that more positive news feeds led to positive emotional states, that negative news feeds led to negative emotional states, and that these emotional states could be transferred to other users.³⁶ Second, Meta learned that omitting emotional content from the newsfeed reduced user engagement.³⁷

62. In the last five years, Meta has learned through internal research that its efforts to engage users have had damaging consequences that reverberate off the platform.³⁸ Meta found that when using models that maximize engagement, Facebook increases polarization among users.³⁹

63. In 2016, Meta researcher and sociologist Monica Lee reported during an internal presentation that Meta's algorithms promote extremism.⁴⁰ She presented hard data in support of her conclusions, including a finding that 64% of all new membership in German political extremist groups on Facebook, of which there were many, was due to Facebook's

³⁵ Adam D. I. Kramer, *Experimental evidence of massive-scale emotional contagion through social contacts*, PNAS 111 (June 17, 2014); Gail Sullivan, *Sheryl Sandberg not sorry for Facebook mood manipulation study*, THE WASHINGTON POST (July 3, 2014) (“This was part of ongoing research companies do to test different products, and that was what it was; it was poorly communicated.”).

³⁶ Robinson Meyer, *Everything We Know About Facebook's Secret Mood Manipulation Experiment*, THE ATLANTIC (June 28, 2014).

³⁷ *Id.*

³⁸ Horwitz, *supra* note 15.

³⁹ Hao, *supra* note 11.

⁴⁰ Horwitz, *supra* note 15; Simon Shuster, *Like, Share, Recruit: How a White-Supremacist Militia Uses Facebook to Radicalize and Train New Members*, TIME (Jan. 7, 2021).

recommendation tools, primarily from the “Groups You Should Join” and “Discover” algorithms.⁴¹

64. In 2018, the results of internal Meta research were presented to Meta’s senior executives.⁴² These included a warning that Meta’s algorithms promote extremism in its users by “exploit[ing] the human brain’s attraction to divisiveness.”⁴³ The presentation also warned that Meta’s algorithms “would feed users ‘more and more divisive content in an effort to gain user attention & increase time on the platform’” unless the company took action to prevent this.⁴⁴

65. Meta’s response, in 2018, was to reject or minimally adopt recommendations for actions to accomplish this because to do so would reduce user “engagement” – Meta’s term for the metric measuring the amount of time each user spent engaged with Facebook, including time spent, as well as likes, shares, and comments. CEO Mark Zuckerberg clearly communicated a limited interest in recalibrating Facebook for the good of society and instructed his employees not to make such suggestions in the future.⁴⁵

66. Meta acknowledged in 2018 that fake news and hate speech about the Rohingya Muslim minority posted on Facebook contributed to the commission of genocide in Myanmar.⁴⁶

67. In 2018, Meta modified its algorithm. While CEO Zuckerberg stated at the time that the algorithm change would encourage users to interact more with loved ones, Meta’s own

⁴¹ Horwitz, *supra* note 15.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Hao, *supra* note 11; Alex Warofka, *An Independent Assessment of the Human Rights Impact of Facebook in Myanmar*, Facebook (Nov. 5, 2018), <https://about.fb.com/news/2018/11/myanmar-hria/>.

researchers discovered that the change emphasized “[m]isinformation, toxicity, and violent content.”⁴⁷

68. Meta CEO Mark Zuckerberg said the company made an “operational mistake” when it failed to remove the Facebook page for a militia group with more than 3,000 members that called for armed citizens to enter Kenosha, Wisconsin during protests that arose after the police shooting of Jacob Blake in August 2020. Meta failed to remove this page despite receiving over 450 reports that the page violated policies Meta had recently enacted allowing the removal of groups that posed a threat to public safety. Meta finally removed the page once a 17-year old armed civilian shot three people, killing two, during the protests.

2. NGOs and Others Warn Meta About Extremism on the Platform

69. In addition to these internal Meta reports, numerous researchers, watchdogs, and government offices have raised concerns about the role Meta has played in recruiting new members for extremist groups and encouraging domestic unrest, civil strife, and crimes carried out by extremists.

70. The Anti-Defamation League has warned that Three Percenters, a militia movement group with “a track record of criminal activity ranging from weapons violations to terrorist plots and attacks,”⁴⁸ “have used Facebook groups and pages to spread the ideas of the militia movement. Numerous large Three Percenter umbrella groups have formed on Facebook.”⁴⁹

⁴⁷ Hagey, *supra* note 17.

⁴⁸ *Three Percenters*, ANTI-DEFAMATION LEAGUE, <https://www.adl.org/resources/backgrounders/three-percenters> (last visited Oct. 15, 2021).

⁴⁹ *Hateful and Conspiratorial Groups on Facebook*, ANTI-DEFAMATION LEAGUE (Aug. 3, 2020), <https://www.adl.org/blog/hateful-and-conspiratorial-groups-on-facebook>.

71. The “Unite the Right” rally in Charlottesville, Virginia in 2017 “was largely organized on Facebook.”⁵⁰ Heather Heyer, a counter protester, was murdered at the event.

72. In 2017, the *Guardian* identified more than 160 groups designated by the Southern Poverty Law Center as hate groups that had pages on Facebook; Meta stated that these groups did not violate its community standards.⁵¹

73. Also in 2017, ProPublica reported that Meta offered advertisers the ability to target ads to “the news feeds of almost 2,300 people who expressed interest in the topics of ‘Jew hater,’ ‘How to burn jews,’ or, ‘History of “why jews ruin the world.””⁵²

74. In 2019, the FBI identified the QAnon conspiracy theory as posing a domestic terrorist threat by “driving both groups and individual extremists to carry out criminal or violent acts.”⁵³ Meta played a key role in the spread of the QAnon conspiracy theory. A report by the Institute for Strategic Dialogue concluded, “Facebook’s 6 October [2021] ban of QAnon content came too late. Though pages and groups with tens of thousands of members that promoted QAnon were removed from the platform after the ban, the conspiracy had by then already

⁵⁰ *Facebook’s Strategy for Taking Down Hate Groups Is Spotty and Ineffective*, SOUTHERN POVERTY LAW CENTER (Apr. 7, 2020), <https://www.splcenter.org/hatewatch/2020/04/07/facebooks-strategy-taking-down-hate-groups-spotty-and-ineffective> (citing Alex Heath, *Facebook Removed the Event Page for White Nationalist “Unite the Right” Rally in Charlottesville One Day Before It Took Place*, INSIDER (Aug. 14, 2017 5:36 PM), <https://www.businessinsider.com/facebook-removed-unite-the-right-charlottesville-rally-event-page-one-day-before-2017-8>).

⁵¹ Julia Carrie Wong, *White Nationalists Are Openly Operating on Facebook. The Company Won’t Act*, GUARDIAN (Nov. 21, 2019), <https://www.theguardian.com/technology/2019/nov/21/facebook-white-nationalists-ban-vdare-red-ice>.

⁵² Julia Angwin, *Facebook Enabled Advertisers to Reach “Jew Haters”*, PROPUBLICA (Sept. 14, 2017), <https://www.propublica.org/article/facebook-enabled-advertisers-to-reach-jew-haters>.

⁵³ Jana Winter, *Exclusive: FBI Document Warns Conspiracy Theories Are a New Domestic Terrorism Threat*, YAHOO!NEWS (Aug. 1, 2019), <https://news.yahoo.com/fbi-documents-conspiracy-theories-terrorism-160000507.html>.

enjoyed a three-year run on Facebook with little to stop it.”⁵⁴ Additionally, “Even after the ban, personal Facebook profiles – many with large followings – [continued] to discuss and promote the conspiracy.”⁵⁵

75. The January 6, 2021 insurrection attempt at the Capitol was organized on Facebook and other social media. As the *New York Times* reported, “members of the Red-State Secession Facebook page were conversing in the language of insurrection” before January 6.⁵⁶ That “page even encouraged its 8,000 followers to share the addresses of ‘enemies,’ including those for federal judges, members of Congress and well-known progressives.”⁵⁷

3. Meta Ignored Specific Warnings about its Promotion of the Boogaloo Movement

76. Analysts who monitor extremism warned Meta that it was serving as the primary platform for the organization of the boogaloo movement and Facebook groups were helping to build local connections between extremists interested in committing acts of violence against the government and law enforcement officers.

77. Reports by the Network Contagion Research Institute and the Tech Transparency Project made such warnings.⁵⁸

⁵⁴ Ciaran O’Connor, *The Boom Before the Ban: QAnon and Facebook*, ISD, <https://www.isdglobal.org/wp-content/uploads/2020/12/20201218-ISDG-NewsGuard-QAnon-and-Facebook.pdf> (last visited Oct. 15, 2021). A report by the Institute for Strategic Dialogue concluded, “Facebook’s 6 October [2021] ban of QAnon content came too late. Though pages and groups with tens of thousands of members that promoted QAnon were removed from the platform after the ban, the conspiracy had by then already enjoyed a three-year run on Facebook with little to stop it.” *Id.* at 7.

⁵⁵ *Id.*

⁵⁶ Dan Barry, ‘Be There. Will Be Wild!’: Trump All but Circled the Date, *THE NEW YORK TIMES* (Jan. 6, 2021).

⁵⁷ *Id.*

⁵⁸ Lois Beckett, *100 days of warning: inside the Boogaloo killings of US security personnel*, *THE GUARDIAN* (Jan. 15, 2021),

78. In an April 22, 2020 report, the Tech Transparency Project determined “[o]nline extremists are using Facebook to plan and organize for a militant uprising in the United States as they cast coronavirus lockdowns as a sign of rising government suppression.”⁵⁹

79. Despite these warnings, and Meta’s own knowledge as its analysts had been monitoring boogaloo activity since 2019,⁶⁰ Meta failed to take action to prevent followers of the boogaloo movement from using Facebook to connect, organize, and plan the commission of acts of violence.⁶¹

80. Furthermore, Facebook continued to recommend boogaloo-related groups through its “related pages” and “suggested groups” functions.⁶²

81. It wasn’t until after the murder of Officer Underwood and several other acts of violence by members of the boogaloo movement that Meta publicly announced that it would stop recommending boogaloo related pages. According to the Tech Transparency Project, Meta continued to recommend boogaloo groups and pages through 2020.⁶³

<https://www.theguardian.com/world/2021/jan/15/boogaloo-killing-facebook-dave-patrick-underwood-police>.

⁵⁹ *Extremists Are Using Facebook to Organize for Civil War Amid Coronavirus*, TECH TRANSPARENCY PROJECT (Apr. 22, 2020), <https://www.techtransparencyproject.org/articles/extremists-are-using-facebook-to-organize-for-civil-war-amid-coronavirus>.

⁶⁰ Beckett, *supra* note 58; *see also* Hagey, *supra* note 17 (Facebook whistleblower’s files reveal that Meta’s own internal reporting on the harms of its algorithmic amplification of hate speech also occurred in April 2019 – it was watching this militia movement while also being aware that its platform was making it worse).

⁶¹ *Facebook’s Boogaloo Problem*, *supra* note 31.

⁶² *Id.*

⁶³ *Id.*

82. Meta's conduct and knowledge, before and after the Underwood murder, provide clear and convincing evidence that Meta acted with conscious disregard for the public, including the Underwood family.

COUNT ONE
WRONGFUL DEATH / SURVIVAL DUE TO GENERAL NEGLIGENCE

83. Plaintiff re-alleges and incorporates herein paragraphs 1 through 82.

84. Meta has been aware since at least 2016 that its conduct in promoting extremist content on Facebook has increased membership in extremist groups on Facebook, leading to engagement in extremist activities around the World.

85. Meta has specifically been aware of the rise in extremist boogaloo content on Facebook since at least 2019.

86. Meta owed a duty of care to all reasonably foreseeable people, including Officer Underwood, to run Facebook in a reasonably safe manner. In the alternative, Meta owed a duty of care to law enforcement officers, including Officer Underwood, because law enforcement officers were the reasonably foreseeable class of individuals subject to the risk of harm espoused by the boogaloo movement during the growth of the movement on Facebook.

87. Meta breached this duty of care by aiding the growth of boogaloo groups first by creating the group structure for organizing users on the platform, second by actively promoting and recommending these groups, and third by failing to exercise adequate supervision over the activities of these groups on Facebook.

88. Meta further breached this duty of care by knowingly promoting extremist content on Facebook and recommending its users join groups devoted to the boogaloo movement, including Facebook groups planning the commission of violent acts.

89. Meta further breached this duty of care by recommending Justus join boogaloo-related groups where he connected with Carrillo and planned to engage in acts of violence against federal law enforcement officers.

90. Meta knew or could have reasonably foreseen that one or more individuals would be likely to become radicalized upon joining boogaloo-related groups on Facebook, or that one or more individuals would be likely to take advantage of Meta's promotion and recommendation of boogaloo groups to indoctrinate and incite Facebook users to commit extremist and violent acts against members of the law enforcement community.

91. Meta's negligent conduct was a substantial factor in Carrillo and Justus meeting on Facebook, planning on Facebook to carry out acts of violence against federal law enforcement officers, and then carrying out their plan by meeting on May 29, 2020 and killing Officer Underwood in a drive-by shooting.

92. As a legal and proximate cause of Meta's negligent conduct, Plaintiff has sustained damages resulting from the loss of love, affection, society, service, comfort, support, right of support, household services, expectations of future support and counseling, companionship, solace, mental support, loss of future income, as well as other benefits and assistance of Dave Patrick Underwood, costs associated with his funeral and burial, and attorneys' fees under California Code of Civil Procedure §1021.5.

93. Additionally, as a legal and proximate cause of Meta's negligent conduct, Dave Patrick Underwood endured extreme pain and suffering from the time he was shot until his ultimate death.

94. Meta's actions or inactions as set forth herein were conducted with malice in that Meta acted with a willful and conscious disregard of the rights or safety of others, entitling Plaintiff to punitive damages.

WHEREFORE, Plaintiff Angela Underwood Jacobs, as a Wrongful Death Heir of Dave Patrick Underwood, prays for judgment against Defendant Meta and seeks all available economic and noneconomic damages, and punitive damages, as well as costs, attorneys' fees, and interest accruing from the date of Dave Patrick Underwood's death, as well as the pain and suffering damages suffered by Dave Patrick Underwood from the time he was first shot through the time of his death.

COUNT TWO
WRONGFUL DEATH / SURVIVAL DUE TO NEGLIGENT DESIGN

95. Plaintiff re-alleges and incorporates herein paragraphs 1 through 82.

96. Prior to 2017, Meta's mission had been "to give people the power to share and make the world more open and connected."⁶⁴

97. In 2017, Meta changed its mission to giving "people the power to build community and bring the world closer together."⁶⁵

98. To accomplish this new mission, Meta redesigned its social media platform and its recommendation algorithms to promote and emphasize user engagement in hobby clubs, civil society organizations, and other community groups.

⁶⁴ David Ingram, *CEO Zuckerberg tweaks Facebook mission to focus on groups*, REUTERS (June 22, 2017), <https://www.reuters.com/article/us-facebook-zuckerberg/ceo-zuckerberg-tweaks-facebook-mission-to-focus-on-groups-idUSKBN19D2EX>.

⁶⁵ *Id.*

99. Meta built a superstructure to support groups, built algorithms to recruit members for those groups, and built algorithms that created an insular world view for members of those groups.

100. In an interview with CNN, CEO Zuckerberg recognized the real world implications of achieving its goal to expand group membership on its platform: “Once people are coming together in these smaller groups, that actually grows and it ends up with much bigger changes in the world.”⁶⁶

101. Meta knew or should have known that these changes in the world could very well be negative—even dangerous and harmful to the public—as demonstrated by its own internal research.

102. Meta has been aware since at least 2016 that its conduct in promoting extremist content on Facebook has increased membership in extremist groups on Facebook, leading to engagement in extremist activities around the World.

103. Meta has specifically been aware of the rise in extremist boogaloo content on Facebook since at least 2019.

104. Meta owed a duty to use ordinary care in designing, maintaining, and distributing its products and services, which include Facebook and its attendant features like the curated News Feed and group recommendations.

105. Meta breached this duty because it designed its product to promote and engage its users in extremist groups despite that it knew or reasonably should have known that the increase in its users’ engagement with extremist groups would carry over into the real world, subjecting members of the public to the risk of harm.

⁶⁶ *Id.*

106. Meta also breached this duty because it designed its product to promote and engage its users in boogaloo-related groups despite that it knew or reasonably should have known that the increase in its users' engagement with boogaloo-related groups would carry over into the real world, subjecting members of the law enforcement community to the risk of harm.

107. Meta's negligent conduct was a substantial factor in Carrillo and Justus meeting on Facebook, planning on Facebook to carry out acts of violence against federal law enforcement officers, and then carrying out their plan by meeting on May 29, 2020 and killing Officer Underwood in a drive-by shooting.

108. As a legal and proximate cause of Meta's negligent conduct, Plaintiff has sustained damages resulting from the loss of love, affection, society, service, comfort, support, right of support, household services, expectations of future support and counseling, companionship, solace, mental support, loss of future income, as well as other benefits and assistance of Dave Patrick Underwood, costs associated with his funeral and burial, and attorneys' fees under California Code of Civil Procedure §1021.5.

109. Additionally, as a legal and proximate cause of Meta's negligent conduct, Dave Patrick Underwood endured extreme pain and suffering from the time he was shot until his ultimate death.

110. Meta's actions or inactions as set forth herein were conducted with malice in that Meta acted with a willful and conscious disregard of the rights or safety of others, entitling Plaintiff to punitive damages.

WHEREFORE, Plaintiff Angela Underwood Jacobs, as a Wrongful Death Heir of Dave Patrick Underwood, prays for judgment against Defendant Meta and seeks all available economic and noneconomic damages, and punitive damages, as well as costs, attorneys' fees, and interest

accruing from the date of Dave Patrick Underwood's death, as well as the pain and suffering damages suffered by Dave Patrick Underwood from the time he was first shot through the time of his death.

JURY TRIAL DEMAND

Plaintiff Angela Underwood Jacobs, as a Wrongful Death Heir of Dave Patrick Underwood, hereby requests a jury trial for all issues so triable.

Dated: January 5, 2022

Respectfully submitted,



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**Pro Hac Vice Applications Forthcoming*