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9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF LOS ANGELES**

12 VERONICA MATA, Individually, and as
13 Successor-In-Interest to TESS MARIE
14 MATA, deceased minor; JERRY MATA,
15 Individually, and as Successor-In-Interest to
16 TESS MARIE MATA, deceased minor;
17 SANTA GLORIA CAZARES, Individually,
18 and as Successor-In-Interest to JACKLYN
19 JAYLEN CAZARES, deceased minor;
20 JAVIER CAZARES, Individually, and as
21 Successor-In-Interest to JACKLYN JAYLEN
22 CAZARES, deceased minor; RACHEL
23 GARZA, Esq., as Successor-in-Interest to
24 AMERIE JO GARZA, deceased minor;
25 KIMBERLY GARCIA, Individually, and as
26 Successor-In-Interest to AMERIE JO GARZA,
27 deceased minor; ANA RODRIGUEZ,
28 Individually, and as Successor-In-Interest to
MAITE YULEANA RODRIGUEZ, deceased
minor; MONICA GALLEGOS, Individually,
and as Successor-In-Interest to ANNABELL
GUADALUPE RODRIGUEZ, deceased
minor; JESSIE RODRIGUEZ, Individually,
and as Successor-In-Interest to ANNABELL
GUADALUPE RODRIGUEZ, deceased
minor; DEANNA GORNTTO, Individually, and
as Successor-In-Interest to MARANDA GAIL
MATHIS, deceased minor; MARIA
MAGDALENE GARCIA, Individually, and as
Successor-In-Interest to NEVAEH ALYSSA
BRAVO, deceased minor; JUAN JULIAN
BRAVO, Individually, and as Successor-In-

Case No.

COMPLAINT FOR DAMAGES

1. **NEGLIGENCE**
 2. **GROSS NEGLIGENCE**
 3. **STRICT PRODUCT LIABILITY – DESIGN DEFECT**
 4. **STRICT PRODUCT LIABILITY – FAILURE TO WARN**
 5. **PRODUCT LIABILITY – NEGLIGENCE**
 6. **NEGLIGENT FAILURE TO WARN**
 7. **UNJUST ENRICHMENT**
 8. **VIOLATION OF UNFAIR COMPETITION LAW (UCL), CAL. BUS. & PROF. CODE § 17200**
 9. **NEGLIGENCE**
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 13. **PRODUCT LIABILITY – NEGLIGENCE**
 14. **NEGLIGENT FAILURE TO WARN**
 15. **UNJUST ENRICHMENT**
 16. **VIOLATION OF UNFAIR COMPETITION LAW (UCL), CAL. BUS. & PROF. CODE § 17200**
 17. **AIDING AND ABETTING**
 18. **WRONGFUL DEATH**
 19. **SURVIVAL ACTION**
- DEMAND FOR JURY TRIAL**

1 Interest to NEVAEH ALYSSA BRAVO,
2 deceased minor; VERONICA LUEVANOS,
3 Individually, and as Successor-In-Interest to
4 JAILAH NICOLE SILGUERO, deceased
5 minor; JACOB SILGUERO, Individually, and
6 as Successor-In-Interest to JAILAH NICOLE
7 SILGUERO, deceased minor; APRIL ELROD,
8 Individually, and as Successor-In-Interest to
9 MAKENNA LEE ELROD, deceased minor;
10 KIMBERLY RUBIO, Individually, and as
11 Successor-In-Interest to ALEXANDRIA
12 ANIYAH RUBIO, deceased minor; FELIX
13 RUBIO, Individually, and as Successor-In-
14 Interest to ALEXANDRIA ANIYAH RUBIO,
15 deceased minor; JOSE LUEVANOS,
16 Individually, and as Successor-In-Interest to
17 JAYCE CARMELO LUEVANOS, deceased
18 minor; CHRISTINA LUEVANOS,
19 Individually, and as Successor-In-Interest to
20 JAYCE CARMELO LUEVANOS, deceased
21 minor; JENNIFER LUGO, Individually, and as
22 Successor-In-Interest to ELIAHNA AMYAH
23 GARCIA, deceased minor; STEVEN
24 GARCIA, Individually, and as Successor-In-
25 Interest to ELIAHNA AMYAH GARCIA,
26 deceased minor; JOSE MANUEL FLORES,
27 SR., Individually, and as Successor-In-Interest
28 to JOSE MANUEL FLORES, JR., deceased
minor; ALYSSA RODRIGUEZ, Individually,
and as Successor-In-Interest to JOSE
MANUEL FLORES, JR., deceased minor;
EVADULIA ORTA, Individually, and as
Successor-In-Interest to ROJELIO
FERNANDEZ TORRES, deceased minor;
DAVID BALMER, ESQ., as Successor-in-
Interest to UZIYAH SERGIO GARCIA,
deceased minor; MANDY MARIE RENFRO,
Individually, and as Successor-In-Interest to
UZIYAH SERGIO GARCIA, deceased minor;
ELI TORRES, Individually, and as Successor-
In-Interest to ELIAHNA TORRES, deceased
minor; VINCENT SALAZAR, III,
Individually, and as Successor-In-Interest to
LAYLA MARIE SALAZAR, deceased minor;
MELINDA ALEJANDRO, Individually, and
as Successor-In-Interest to LAYLA MARIE
SALAZAR, deceased minor; FELICHA

1 NICOLE MARTINEZ, Individually, and as
2 Successor-In-Interest to XAVIER LOPEZ,
3 deceased minor; ABEL CUELLAR LOPEZ,
4 Individually, and as Successor-In-Interest to
5 XAVIER LOPEZ, deceased minor; RYAN
6 RAMIREZ, Individually, and as Successor-In-
7 Interest to ALITHIA HAVEN RAMIREZ,
8 deceased minor; JESSICA HERNANDEZ,
9 Individually, and as Successor-In-Interest to
10 ALITHIA HAVEN RAMIREZ, deceased
11 minor; ALEJANDRO GARCIA, Individually,
12 and as Successor-In-Interest to of IRMA
13 GARCIA, deceased; LYLIANA GARCIA,
14 Individually, and as Successor-In-Interest to
15 IRMA GARCIA, deceased; MANUEL
16 LOZANO, Individually and as Successor-in-
17 Interest to IRMA GARCIA, deceased; PAULA
18 MIRELES, Individually, and as Successor-In-
19 Interest to EVA MIRELES, deceased;
20 ADALYNN RUIZ Individually, and as
21 Successor-In-Interest to EVA MIRELES,
22 deceased; MIGUEL CERRILLO, Individually,
23 and as Guardian Ad Litem of MIAH ISABEL
24 CERRILLO, minor; ABIGALE VELOZ,
25 Individually, and as Guardian Ad Litem of
26 MIAH ISABEL CERRILLO, minor; JOSE
27 MARTINEZ, Individually, and as Guardian
28 Ad Litem of A.J. MARTINEZ, minor;
KASSANDRA CHAVEZ, Individually, and as
Guardian Ad Litem of A.J. MARTINEZ,
minor; CHRISTINA OLIVAREZ,
Individually, and as Guardian Ad Litem of
KENDALL OLIVAREZ, minor; OSCAR
ORONA, Individually, and as Guardian Ad
Litem of NOAH ORONA, minor; ANGELICA
RODRIGUEZ, Individually, and as Guardian
Ad Litem of LEANN GARCIA, minor; and
ELSA AVILA, Individually,

Plaintiffs,

v.

META PLATFORMS, INC., a corporation;
INSTAGRAM, LLC, a business entity;
ACTIVISION BLIZZARD, INC., a
corporation; ACTIVISION PUBLISHING,

1 INC., a corporation; MICROSOFT
2 CORPORATION, a corporation;
3 INFINITY WARD, INC., a business entity;
4 TREYARCH CORPORATION, a business
5 entity; SLEDGEHAMMER GAMES, INC.,
6 a business entity; RAVEN SOFTWARE
7 CORPORATION, a business entity;
8 BRANDON LEE ELROD, a Nominal
9 Defendant; BRIAN MATHIS, a Nominal
10 Defendant; CHRISTIAN GARCIA, a Nominal
11 Defendant; SANDRA TORRES, a Nominal
12 Defendant; and DOES 1 through 50, inclusive,
13
14 Defendants.

15 Plaintiffs, VERONICA MATA, Individually, and as Successor-In-Interest to TESS MARIE
16 MATA, deceased minor; JERRY MATA, Individually, and as Successor-In-Interest to TESS
17 MARIE MATA, deceased minor; SANTA GLORIA CAZARES, Individually, and as Successor-
18 In-Interest to JACKLYN JAYLEN CAZARES, deceased minor; JAVIER CAZARES, Individually,
19 and as Successor-In-Interest to JACKLYN JAYLEN CAZARES, deceased minor; RACHEL
20 GARZA, Esq., as Successor-in-Interest to AMERIE JO GARZA, deceased minor; KIMBERLY
21 GARCIA, Individually, and as Successor-In-Interest to AMERIE JO GARZA, deceased minor;
22 ANA RODRIGUEZ, Individually, and as Successor-In-Interest to MAITE YULEANA
23 RODRIGUEZ, deceased minor; MONICA GALLEGOS, Individually, and as Successor-In-Interest
24 to ANNABELL GUADALUPE RODRIGUEZ, deceased minor; JESSIE RODRIGUEZ,
25 Individually, and as Successor-In-Interest to ANNABELL GUADALUPE RODRIGUEZ, deceased
26 minor; DEANNA GORNTTO, Individually, and as Successor-In-Interest to MARANDA GAIL
27 MATHIS, deceased minor; MARIA MAGDALENE GARCIA, Individually, and as Successor-In-
28 Interest to NEVAEH ALYSSA BRAVO, deceased minor; JUAN JULIAN BRAVO, Individually,
and as Successor-In-Interest to NEVAEH ALYSSA BRAVO, deceased minor; VERONICA
LUEVANOS, Individually, and as Successor-In-Interest to JAILAH NICOLE SILGUERO,
deceased minor; JACOB SILGUERO, Individually, and as Successor-In-Interest to JAILAH
NICOLE SILGUERO, deceased minor; APRIL ELROD, Individually, and as Successor-In-Interest

1 to MAKENNA LEE ELROD, deceased minor; KIMBERLY RUBIO, Individually, and as
2 Successor-In-Interest to ALEXANDRIA ANIYAH RUBIO, deceased minor; FELIX RUBIO,
3 Individually, and as Successor-In-Interest to ALEXANDRIA ANIYAH RUBIO, deceased minor;
4 JOSE LUEVANOS, Individually, and as Successor-In-Interest to JAYCE CARMELO
5 LUEVANOS, deceased minor; CHRISTINA LUEVANOS, Individually, and as Successor-In-
6 Interest to JAYCE CARMELO LUEVANOS, deceased minor; JENNIFER LUGO, Individually,
7 and as Successor-In-Interest to ELIAHNA AMYAH GARCIA, deceased minor; STEVEN
8 GARCIA, Individually, and as Successor-In-Interest to ELIAHNA AMYAH GARCIA, deceased
9 minor; JOSE MANUEL FLORES, SR., Individually, and as Successor-In-Interest to JOSE
10 MANUEL FLORES, JR., deceased minor; ALYSSA RODRIGUEZ, Individually, and as
11 Successor-In-Interest to JOSE MANUEL FLORES, JR., deceased minor; EVADULIA ORTA,
12 Individually, and as Successor-In-Interest to ROJELIO FERNANDEZ TORRES, deceased minor;
13 DAVID BALMER, Esq., as Successor-in-Interest to UZIYAH SERGIO GARCIA, deceased minor;
14 MANDY MARIE RENFRO, Individually, and as Successor-In-Interest to UZIYAH SERGIO
15 GARCIA, deceased minor; ELI TORRES, Individually, and as Successor-In-Interest to ELIAHNA
16 TORRES, deceased minor; VINCENT SALAZAR, III, Individually, and as Successor-In-Interest
17 to LAYLA MARIE SALAZAR, deceased minor; MELINDA ALEJANDRO, Individually, and as
18 Successor-In-Interest to LAYLA MARIE SALAZAR, deceased minor; FELICHA NICOLE
19 MARTINEZ, Individually, and as Successor-In-Interest to XAVIER LOPEZ, deceased minor;
20 ABEL CUELLAR LOPEZ, Individually, and as Successor-In-Interest to XAVIER LOPEZ,
21 deceased minor; RYAN RAMIREZ, Individually, and as Successor-In-Interest to ALITHIA
22 HAVEN RAMIREZ, deceased minor; JESSICA HERNANDEZ, Individually, and as Successor-In-
23 Interest to ALITHIA HAVEN RAMIREZ, deceased minor; ALEJANDRO GARCIA, Individually,
24 and as Successor-In-Interest to of IRMA GARCIA, deceased; LYLIANA GARCIA, Individually,
25 and as Successor-In-Interest to IRMA GARCIA, deceased; MANUEL LOZANO, Individually and
26 as Successor-in-Interest to IRMA GARCIA, deceased; PAULA MIRELES, Individually, and as
27 Successor-In-Interest to EVA MIRELES, deceased; ADALYNN RUIZ Individually, and as
28 Successor-In-Interest to EVA MIRELES, deceased; MIGUEL CERRILLO, Individually, and as

1 Guardian Ad Litem of MIAH ISABEL CERRILLO, minor; ABIGALE VELOZ, Individually, and
2 as Guardian Ad Litem of MIAH ISABEL CERRILLO, minor; JOSE MARTINEZ, Individually,
3 and as Guardian Ad Litem of A.J. MARTINEZ, minor; KASSANDRA CHAVEZ, Individually, and
4 as Guardian Ad Litem of A.J. MARTINEZ, minor; CHRISTINA OLIVAREZ, Individually, and as
5 Guardian Ad Litem of KENDALL OLIVAREZ, minor; OSCAR ORONA, Individually, and as
6 Guardian Ad Litem of NOAH ORONA, minor; JESSICA DIAZ, Individually, and as Guardian Ad
7 Litem of NOAH ORONA, minor; ANGELICA RODRIGUEZ, Individually, and as Guardian Ad
8 Litem of LEANN GARCIA, minor; and ELSA AVILA, Individually (“Plaintiffs”) allege the
9 following upon personal knowledge and information and belief, based upon, inter alia, the
10 investigation made by and through their attorneys as to all other matters.

11 INTRODUCTION

12 1. In 1997, children’s health advocates released a statement applauding the federal
13 government’s decision to take action against “an insidious advertising campaign” designed to “prey
14 upon America’s children.”

15 2. The insidious campaign in question was a series of posters and billboards featuring
16 a cartoon camel smoking a cigarette.

17 3. Gone are the halcyon days of Joe Camel.

18 4. Over the last 15 years, two of America’s largest technology companies—Defendants
19 Activision and Meta—have collaborated with the firearms industry in a scheme that makes the Joe
20 Camel campaign look laughably harmless, even quaint.

21 5. Defendants, through products that count millions of teenagers and pre-teens among
22 their users, have aided and abetted firearm manufacturers’ efforts to expand the market for their
23 weapons by granting unprecedented, direct, 24/7 access to children.

24 6. Activision is in the wildly lucrative business of training adolescents to become
25 gunmen. Its first-person shooter franchise, *Call of Duty*, creates a vividly realistic and addicting
26 theater of violence in which teenage boys learn to kill with frightening skill and ease. *Call of Duty*
27 is a simulation, not a game. It teaches players how to aim, reload, and fire accurately, while
28 habituating the teenage nervous system to inflict repeated, graphic violence. And though the killing

1 is virtual, the weapons are authentic; they are designed to perfectly imitate their real-life counterparts
2 in look, feel, recoil, and accuracy. This cunning form of marketing has helped cultivate a new,
3 youthful consumer base for the AR-15 assault rifle, the weapon of choice for most *Call of Duty*
4 players—and mass shooters.

5 7. Meanwhile, Meta’s social media app Instagram, now an essential accessory for every
6 teen, offers firearm manufacturers something even *Call of Duty* cannot: an unsupervised channel to
7 speak directly to minors, in their homes, at school, even in the middle of the night.

8 8. The platform knowingly promulgates flimsy, easily circumvented rules that
9 ostensibly prohibit firearm advertising; in fact, these rules function as a playbook for the gun
10 industry. With Instagram’s blessing and assistance, purveyors of assault weapons can inundate teens
11 with content that promotes crime, exalts the lone gunman, exploits tropes of hypermasculinity and
12 revenge, and directs them where to buy their *Call of Duty*-tested weapon of choice.

13 9. Parents don’t stand a chance. This hijacking of children’s lives has sidelined them,
14 obliterating their ability to serve as either gatekeeper or protector.

15 10. It was not so long ago that children’s vocabularies did not include the word “AR-
16 15”—the generic term for the world’s superlative assault rifle—despite the weapon’s availability to
17 civilians for half a century.

18 11. Now, well before an American teenager turns 18, there is a good chance he can
19 identify and differentiate a Daniel Defense DDM4V7 AR-15 from an FN SCAR 17 from a Barrett
20 M107A1. He’ll be fluent in each weapon’s relative advantages, whether it be mechanical reliability
21 and versatility (the SCAR), extreme power at long range (the Barrett), or remarkable accuracy and
22 lethality in a lightweight package (the DDM4V7).

23 12. He has a feel for how much trigger pressure to apply; his body instinctively braces
24 for varying levels of recoil; and he’s learned whether it will take one or two or three shots to kill.
25 He’s excellent at head shots, because who has the patience to fire off three rounds per person?

26 13. In other words, before this teenager is old enough to purchase a firearm (and years
27 before he’s deemed mature enough to rent a car), he knows which type of weapon, of the hundreds
28 on the market, is best suited to commit rapid, unspeakable violence in close quarters.

1 14. The Defendants bear responsibility for this profound corruption of our children. In
2 concert with certain firearm manufacturers, they have groomed a generation of young men who are
3 socially vulnerable, insecure about their masculinity, and eager to show strength and assert
4 dominance. Defendants have spent years positioning their counterparts in the gun industry as the
5 answer to those problems.

6 15. To put a finer point on it: Defendants are chewing up alienated teenage boys and
7 spitting out mass shooters. Before the Uvalde school shooter, there was the Parkland school shooter,
8 and before him, the Sandy Hook school shooter. These were the three most deadly K-12 school
9 shootings in American history. In each one, the shooter was between the ages of 18 and 21 years
10 old; in each one, the shooter was a devoted player of *Call of Duty*; and in each one, the shooter
11 committed their attack in tactical gear, wielding an assault rifle.

12 16. There are others, of course; so many that our collective memory cannot possibly hold
13 space for all of them. There was the El Paso Walmart shooter and the Highland Park parade shooter.
14 And who among us remembers the 15-year-old who murdered his entire family in New Mexico and
15 then chatted with the police about *Call of Duty*?

16 17. There is a direct line, as set forth in this Complaint, between the conduct of these
17 California corporations—who rake in billions from the comfort of Menlo Park and Santa Monica—
18 and the deaths, injuries, and trauma suffered at Robb Elementary School on May 24, 2022, in the
19 tightknit but threadbare town of Uvalde, Texas.

20 18. We already know how the story goes: another adolescent found solace and strength
21 in a combat weapon and reenacted a violent fantasy in another American town. Only the particulars
22 vary.

23 19. The weapon this time was a DDM4V7. It is an AR-15 style assault rifle manufactured
24 by Daniel Defense, a privately held company with a market share of less than one percent. The
25 DDM4V7 is an upscale version of the AR-15; its price tag is more than double other AR-15s on the
26 market.

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1 20. How, then, did the Uvalde Shooter—a poor and isolated teenager in a small town in
2 Texas—set his sights on the DDM4V7 as his weapon of choice? How, for that matter, did he learn
3 what an AR-15 is and what it excels at?

4 21. The answer lies in the conduct of Defendants, who knowingly exposed the Shooter
5 to the weapon, conditioned him to see it as the solution to his problems, and trained him to use it.

6 22. In November of 2021, the Shooter downloaded *Call of Duty: Modern Warfare*, a
7 wildly popular offshoot of the franchise. This version, which was released in 2019, featured the
8 DDM4V7 on its opening title page—a marketing coup for Daniel Defense and a teaser for players
9 eager to try out the weapon.

10 23. Simultaneously, on Instagram, the Shooter was being courted through explicit,
11 aggressive marketing. In addition to hundreds of images depicting and glorifying the thrill of
12 combat, Daniel Defense used Instagram to extol the illegal, murderous use of its weapons.

13 24. In one image of soldiers on patrol, with no animal in sight, the caption reads:
14 “Hunters Hunt.” Another advertisement shows a Daniel Defense rifle equipped with a holographic
15 battle sight—the same brand used by the Shooter—and dubs the configuration “totally murdered
16 out.” Yet another depicts the view through a rifle’s scope, looking down from a rooftop; the setting
17 looks like an urban American street and the windshield of a parked car is in the crosshairs.

18 25. The Shooter was watching, listening, absorbing, playing. Within weeks of
19 downloading *Modern Warfare*, the Shooter was browsing assault weapons, acquiring firearm
20 attachments popularized by the game, and returning repeatedly to Daniel Defense’s website.

21 26. The Shooter tracked down items for which he had no need—two different rifle sights,
22 a smoke grenade, an AR-15 “weapon skin”—because of their connection to *Call of Duty*.

23 27. Mere minutes after midnight on May 16—the Shooter’s 18th birthday—he purchased
24 a DDM4V7.

25 28. Eight days later, the Shooter inflicted unspeakable violence at Robb Elementary
26 School, killing 21 and injuring and traumatizing many more.

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1 29. Daniel Defense's marketing and sales strategy is contemptible, reckless, and at times
2 unlawful; but it cannot reach its target demographic, teenagers and young men, without the
3 substantial and critical assistance of the Defendants.

4 30. It is the Defendants who gave Daniel Defense a direct line into children's homes and
5 heads; who wrote a playbook for how to peddle firearms while circumventing parents and the law;
6 who created a simulation with real-life weapons and applauded children for refining their ability to
7 kill.

8 31. Defendants made those choices with full knowledge of the close relationship
9 between the dominance of their products and the national epidemic of mass shootings, the dramatic
10 drop in the average age of mass shooters, and the consistent use by those young assailants of assault
11 weapons.

12 32. Plaintiffs seek nothing more and nothing less than accountability for the
13 consequences of those choices.

14 **JURISDICTION AND VENUE**

15 33. This Court has jurisdiction because this case is a civil action wherein the matter in
16 controversy, exclusive of interest and costs, exceeds the jurisdictional minimum of the Court.

17 34. This Court has personal jurisdiction over Defendants because they have their
18 principal places of business in California and/or because they have contacts with California that are
19 so continuous and systematic that they are essentially at home in this state.

20 35. Venue is proper because Defendant Activision Publishing, Inc. has its principal place
21 of business at 2701 Olympic Blvd., Building B, Santa Monica, California 90404.

22 **PARTIES**

23 36. Plaintiff, VERONICA MATA, is, and at all times mentioned herein was, an
24 individual residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent,
25 TESS MARIE MATA. Plaintiff VERONICA MATA was appointed by the Texas Probate Court,
26 County of Uvalde, as the Representative of the Estate of Decedent TESS MARIE MATA and is the
27 Successor-in-Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff VERONICA
28

1 MATA will execute and file a declaration under penalty of perjury pursuant to Code of Civil
2 Procedure section 377.32.

3 37. Plaintiff, JERRY MATA, is, and at all times mentioned herein was, an individual
4 residing in Uvalde, Texas. He is the biological father and surviving heir of Decedent, TESS MARIE
5 MATA. Plaintiff JERRY MATA is Decedent TESSA MARIE MATA's Successor-in-Interest
6 pursuant to Code of Civil Procedure section 377.11. Plaintiff JERRY MATA will execute and file
7 a declaration under penalty of perjury pursuant to Code of Civil Procedure section 377.32.
8

9 38. Plaintiff, SANTA GLORIA CAZARES, is, and at all times mentioned herein was,
10 an individual residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent,
11 JACKLYN JAYLEN CAZARES. Plaintiff SANTA GLORIA CAZARES was appointed by the
12 Texas Probate Court, County of Uvalde, as the Representative of the Estate of Decedent JACKLYN
13 JAYLEN CAZARES and is the Successor-in-Interest pursuant to Code of Civil Procedure section
14 377.11. Plaintiff SANTA GLORIA CAZARES will execute and file a declaration under penalty of
15 perjury pursuant to Code of Civil Procedure section 377.32.
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17 39. Plaintiff, JAVIER CAZARES, is, and at all times mentioned herein was, an
18 individual residing in Uvalde, Texas. He is the biological father and surviving heir of Decedent,
19 JACKLYN JAYLEN CAZARES. Plaintiff JAVIER CAZARES is Decedent JACKLYN JAYLEN
20 CAZARES's Successor-in-Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff
21 JAVIER CAZARES will execute and file a declaration under penalty of perjury pursuant to Code
22 of Civil Procedure section 377.32.
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24 40. Plaintiff, KIMBERLY GARCIA, is, and at all times mentioned herein was, an
25 individual residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent,
26 AMERIE JO GARZA. Plaintiff KIMBERLY GARCIA is Decedent AMERIE JO GARZA's
27 Successor-in-Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff KIMBERLY
28

1 GARCIA will execute and file a declaration under penalty of perjury pursuant to Code of Civil
2 Procedure section 377.32.

3 41. Plaintiff, RACHEL GARZA, is, and at all times mentioned herein was, an individual
4 residing in San Antonio, Texas. She is the Texas Probate Court Appointed Representative of
5 Decedent, AMERIE JO GARZA. Plaintiff RACHEL GARZA is Decedent AMERIE JO GARZA's
6 Successor-in-Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff RACHEL
7 GARZA will execute and file a declaration under penalty of perjury pursuant to Code of Civil
8 Procedure section 377.32.

9 42. Plaintiff, ANA RODRIGUEZ, is, and at all times mentioned herein was, an
10 individual residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent,
11 MAITE YULEANA RODRIGUEZ. Plaintiff ANA RODRIGUEZ was appointed by the Texas
12 Probate Court, County of Uvalde, as the Representative of the Estate of Decedent MAITE
13 YULEANA RODRIGUEZ and is the Successor-in-Interest pursuant to Code of Civil Procedure
14 section 377.11. Plaintiff ANA RODRIGUEZ will execute and file a declaration under penalty of
15 perjury pursuant to Code of Civil Procedure section 377.32.

16 43. Plaintiff, MONICA GALLEGOS, is, and at all times mentioned herein was, an
17 individual residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent,
18 ANNABELL GUADALUPE RODRIGUEZ. Plaintiff MONICA GALLEGOS has filed an
19 application with the Texas Probate Court to be appointed as the Representative of the Estate of
20 Decedent ANNABELL GUADALUPE RODRIGUEZ and is the Successor-in-Interest pursuant to
21 Code of Civil Procedure section 377.11. Plaintiff MONICA GALLEGOS will execute and file a
22 declaration under penalty of perjury pursuant to Code of Civil Procedure section 377.32.

23 44. Plaintiff, JESSIE RODRIGUEZ, is, and at all times mentioned herein was, an
24 individual residing in Uvalde, Texas. He is the biological father and surviving heir of Decedent,
25

1 ANNABELL GUADALUPE RODRIGUEZ. Plaintiff JESSIE RODRIGUEZ is Decedent
2 ANNABELL GUADALUPE RODRIGUEZ's Successor-in-Interest pursuant to Code of Civil
3 Procedure section 377.11. Plaintiff JESSIE RODRIGUEZ will execute and file a declaration under
4 penalty of perjury pursuant to Code of Civil Procedure section 377.32.

5
6 45. Plaintiff, DEANNA GORNT0, is, and at all times mentioned herein was, an
7 individual residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent,
8 MARANDA GAIL MATHIS. Plaintiff DEANNA GORNT0 was appointed by the Texas Probate
9 Court, County of Uvalde, as the Representative of the Estate of Decedent MARANDA GAIL
10 MATHIS and is the Successor-in-Interest pursuant to Code of Civil Procedure section 377.11.
11 Plaintiff DEANNA GORNT0 will execute and file a declaration under penalty of perjury pursuant
12 to Code of Civil Procedure section 377.32.

13
14 46. Plaintiffs are informed that additional potential wrongful death heirs of Decedent
15 MARANDA GAIL MATHIS may exist, named BRIAN MATHIS. Upon information and belief,
16 consent could not be obtained from these potential heirs to join in this action prior to filing of this
17 lawsuit. Pursuant to Code of Civil Procedure § 382, BRIAN MATHIS is hereby named as Nominal
18 Defendant.

19
20 47. Plaintiff, MARIA MAGDALENE GARCIA, is, and at all times mentioned herein
21 was, an individual residing in Uvalde, Texas. She is the biological mother and surviving heir of
22 Decedent, NEVAEH ALYSSA BRAVO. Plaintiff MARIA MAGDALENE GARCIA was
23 appointed by the Texas Probate Court, County of Uvalde, as the Representative of the Estate of
24 Decedent NEVAEH ALYSSA BRAVO and is the Successor-in-Interest pursuant to Code of Civil
25 Procedure section 377.11. Plaintiff MARIA MAGDALENE GARCIA will execute and file a
26 declaration under penalty of perjury pursuant to Code of Civil Procedure section 377.32.

1 48. Plaintiff, JUAN JULIAN BRAVO, is, and at all times mentioned herein was, an
2 individual residing in Uvalde, Texas. He is the biological father and surviving heir of Decedent,
3 NEVAEH ALYSSA BRAVO. Plaintiff JUAN JULIAN BRAVO is Decedent NEVAEH ALYSSA
4 BRAVO's Successor-in-Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff
5 JUAN JULIAN BRAVO will execute and file a declaration under penalty of perjury pursuant to
6 Code of Civil Procedure section 377.32.
7

8 49. Plaintiff, VERONICA LUEVANOS, is, and at all times mentioned herein was, an
9 individual residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent,
10 JAILAH NICOLE SILGUERO. VERONICA LUEVANOS was appointed by the Texas Probate
11 Court, County of Uvalde, as the Representative of the Estate of Decedent JAILAH NICOLE
12 SILGUERO and is the Successor-in-Interest pursuant to Code of Civil Procedure section 377.11.
13 Plaintiff VERONICA LUEVANOS will execute and file a declaration under penalty of perjury
14 pursuant to Code of Civil Procedure section 377.32.
15

16 50. Plaintiff, JACOB SILGUERO, is, and at all times mentioned herein was, an
17 individual residing in Uvalde, Texas. He is the biological father and surviving heir of Decedent,
18 JAILAH NICOLE SILGUERO. Plaintiff JACOB SILGUERO is Decedent JAILAH NICOLE
19 SILGUERO's Successor-in-Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff
20 JACOB SILGUERO will execute and file a declaration under penalty of perjury pursuant to Code
21 of Civil Procedure section 377.32.
22

23 51. Plaintiff, APRIL ELROD, is, and at all times mentioned herein was, an individual
24 residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent, MAKENNA
25 LEE ELROD. Plaintiff APRIL ELROD was appointed by the Texas Probate Court, County of
26 Uvalde, as the Representative of the Estate of Decedent MAKENNA LEE ELROD and is the
27 Successor-in-Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff APRIL ELROD
28

1 will execute and file a declaration under penalty of perjury pursuant to Code of Civil Procedure
2 section 377.32.

3 52. Plaintiffs are informed that additional potential wrongful death heirs of Decedent
4 MAKENNA LEE ELROD may exist, named BRANDON LEE ELROD. Upon information and
5 belief, consent could not be obtained from these potential heirs to join in this action prior to filing
6 of this lawsuit. Pursuant to Code of Civil Procedure § 382, BRANDON LEE ELROD is hereby
7 named as a Nominal Defendant.
8

9 53. Plaintiff, KIMBERLY RUBIO, is, and at all times mentioned herein was, an
10 individual residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent,
11 ALEXANDRIA ANIYAH RUBIO. Plaintiff KIMBERLY RUBIO was appointed by the Texas
12 Probate Court, County of Uvalde, as the Representative of the Estate of Decedent ALEXANDRIA
13 ANIYAH RUBIO and is the Successor-in-Interest pursuant to Code of Civil Procedure section
14 377.11. Plaintiff KIMBERLY RUBIO will execute and file a declaration under penalty of perjury
15 pursuant to Code of Civil Procedure section 377.32.
16

17 54. Plaintiff, FELIX RUBIO, is, and at all times mentioned herein was, an individual
18 residing in Uvalde, Texas. He is the biological father and surviving heir of Decedent,
19 ALEXANDRIA ANIYAH RUBIO. Plaintiff FELIX RUBIO is Decedent ALEXANDRIA
20 ANIYAH RUBIO's Successor-in-Interest pursuant to Code of Civil Procedure section 377.11.
21 Plaintiff FELIX RUBIO will execute and file a declaration under penalty of perjury pursuant to
22 Code of Civil Procedure section 377.32.
23

24 55. Plaintiff, CHRISTINA LUEVANOS, is, and at all times mentioned herein was, an
25 individual residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent,
26 JAYCE CARMELO LUEVANOS. Plaintiff CHRISTINA LUEVANOS is Decedent JAYCE
27 CARMELO LUEVANOS's Successor-in-Interest pursuant to Code of Civil Procedure section
28

1 377.11. Plaintiff CHRISTINA LUEVANOS will execute and file a declaration under penalty of
2 perjury pursuant to Code of Civil Procedure section 377.32.

3 56. Plaintiff, JOSE LUEVANOS, is, and at all times mentioned herein was, an individual
4 residing in Uvalde, Texas. He is the biological father and surviving heir of Decedent, JAYCE
5 CARMELO LUEVANOS. Plaintiff JOSE LUEVANOS was appointed by the Texas Probate Court,
6 County of Uvalde, as the Representative of the Estate of Decedent JAYCE CARMELO
7 LUEVANOS and is the Successor-in-Interest pursuant to Code of Civil Procedure section 377.11.
8 Plaintiff JOSE LUEVANOS will execute and file a declaration under penalty of perjury pursuant to
9 Code of Civil Procedure section 377.32.

11 57. Plaintiff, JENNIFER LUGO, is, and at all times mentioned herein was, an individual
12 residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent, ELIAHNA
13 AMYAH GARCIA. Plaintiff JENNIFER LUGO was appointed by the Texas Probate Court, County
14 of Uvalde, as the Representative of the Estate of Decedent ELIAHNA AMYAH GARCIA and is
15 the Successor-in-Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff JENNIFER
16 LUGO will execute and file a declaration under penalty of perjury pursuant to Code of Civil
17 Procedure section 377.32.

19 58. Plaintiff, STEVEN GARCIA, is, and at all times mentioned herein was, an individual
20 residing in Uvalde, Texas. He is the biological father and surviving heir of Decedent, ELIAHNA
21 AMYAH GARCIA. Plaintiff STEVEN GARCIA is Decedent ELIAHNA AMYAH GARCIA's
22 Successor-in-Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff STEVEN
23 GARCIA will execute and file a declaration under penalty of perjury pursuant to Code of Civil
24 Procedure section 377.32.

26 59. Plaintiff, ALYSSA RODRIGUEZ, is, and at all times mentioned herein was, an
27 individual residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent,
28

1 JOSE MANUEL FLORES, JR. Plaintiff ALYSSA RODRIGUEZ is Decedent JOSE MANUEL
2 FLORES, JR.'s Successor-in-Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff
3 ALYSSA RODRIGUEZ will execute and file a declaration under penalty of perjury pursuant to
4 Code of Civil Procedure section 377.32.

5 60. Plaintiff, JOSE MANUEL FLORES, SR., is, and at all times mentioned herein was,
6 an individual residing in Uvalde, Texas. He is the biological father and surviving heir of Decedent,
7 JOSE MANUEL FLORES, JR. Plaintiff JOSE MANUEL FLORES, SR. was appointed by the
8 Texas Probate Court, County of Uvalde, as the Representative of the Estate of Decedent JOSE
9 MANUEL FLORES, JR. and is the Successor-in-Interest pursuant to Code of Civil Procedure
10 section 377.11. Plaintiff JOSE MANUEL FLORES, SR. will execute and file a declaration under
11 penalty of perjury pursuant to Code of Civil Procedure section 377.32.
12

13 61. Plaintiff, EVADULIA ORTA, is, and at all times mentioned herein was, an
14 individual residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent,
15 ROJELIO FERNANDEZ TORRES. EVADULIA ORTA was appointed by the Texas Probate
16 Court, County of Uvalde, as the Representative of the Estate of Decedent ROJELIO FERNANDEZ
17 TORRES and is the Successor-in-Interest pursuant to Code of Civil Procedure section 377.11.
18 Plaintiff EVADULIA ORTA will execute and file a declaration under penalty of perjury pursuant
19 to Code of Civil Procedure section 377.32.
20

21 62. Plaintiff, MANDY MARIE RENFRO, is, and at all times mentioned herein was, an
22 individual residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent,
23 UZIYAH SERGIO GARCIA. Plaintiff MANDY MARIE RENFRO is Decedent UZIYAH SERGIO
24 GARCIA's Successor-in-Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff
25 MANDY MARIE RENFRO will execute and file a declaration under penalty of perjury pursuant to
26 Code of Civil Procedure section 377.32.
27
28

1 63. Plaintiff, DAVID BALMER, is, and at all times mentioned herein was, an individual
2 residing in San Antonio, Texas. He is the Texas Probate Court Appointed Representative of
3 Decedent, UZIYAH SERGIO GARCIA. Plaintiff DAVID BALMER is Decedent UZIYAH
4 SERGIO GARCIA's Successor-in-Interest pursuant to Code of Civil Procedure section 377.11.
5 Plaintiff DAVID BALMER will execute and file a declaration under penalty of perjury pursuant to
6 Code of Civil Procedure section 377.32.
7

8 64. Plaintiff, ELI TORRES, is, and at all times mentioned herein was, an individual
9 residing in Uvalde, Texas. He is the biological father and surviving heir of Decedent, ELIAHNA
10 TORRES. Plaintiff ELI TORRES is Decedent ELIAHNA TORRES's Successor-in-Interest
11 pursuant to Code of Civil Procedure section 377.11. Plaintiff ELI TORRES will execute and file a
12 declaration under penalty of perjury pursuant to Code of Civil Procedure section 377.32.
13

14 65. Plaintiffs are informed that an additional potential wrongful death heir of Decedent
15 ELIAHNA TORRES may exist named SANDRA TORRES. Upon information and belief, consent
16 could not be obtained from this potential heir to join in this action prior to filing of this lawsuit.
17 Pursuant to Code of Civil Procedure § 382, SANDRA TORRES is hereby named as a Nominal
18 Defendant.

19 66. Plaintiff, MELINDA ALEJANDRO, is, and at all times mentioned herein was, an
20 individual residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent,
21 LAYLA MARIE SALAZAR. Plaintiff MELINDA ALEJANDRO is Decedent LAYLA MARIE
22 SALAZAR's Successor-in-Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff
23 MELINDA ALEJANDRO will execute and file a declaration under penalty of perjury pursuant to
24 Code of Civil Procedure section 377.32.
25

26 67. Plaintiff, VINCENT SALAZAR III, is, and at all times mentioned herein was, an
27 individual residing in Uvalde, Texas. He is the biological father and surviving heir of Decedent,
28

1 LAYLA MARIE SALAZAR. Plaintiff VINCENT SALAZAR III was appointed by the Texas
2 Probate Court, County of Uvalde, as the Representative of the Estate of Decedent LAYLA MARIE
3 SALAZAR and is the Successor-in-Interest pursuant to Code of Civil Procedure section 377.11.
4 Plaintiff VINCENT SALAZAR III will execute and file a declaration under penalty of perjury
5 pursuant to Code of Civil Procedure section 377.32.
6

7 68. Plaintiff, FELICHA NICOLE MARTINEZ, is, and at all times mentioned herein
8 was, an individual residing in Uvalde, Texas. She is the biological mother and surviving heir of
9 Decedent, XAVIER LOPEZ. Plaintiff FELICHA NICOLE MARTINEZ was appointed by the
10 Texas Probate Court, County of Uvalde, as the Representative of the Estate of Decedent XAVIER
11 LOPEZ and is the Successor-in-Interest pursuant to Code of Civil Procedure section 377.11.
12 Plaintiff FELICHA NICOLE MARTINEZ will execute and file a declaration under penalty of
13 perjury pursuant to Code of Civil Procedure section 377.32.
14

15 69. Plaintiff, ABEL CUELLAR LOPEZ, is, and at all times mentioned herein was, an
16 individual residing in Uvalde, Texas. He is the biological father and surviving heir of Decedent,
17 XAVIER LOPEZ. Plaintiff ABEL CUELLAR LOPEZ is Decedent XAVIER LOPEZ's Successor-
18 in-Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff ABEL CUELLAR LOPEZ
19 will execute and file a declaration under penalty of perjury pursuant to Code of Civil Procedure
20 section 377.32.
21

22 70. Plaintiff, JESSICA HERNANDEZ, is, and at all times mentioned herein was, an
23 individual residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent,
24 ALITHIA HAVEN RAMIREZ. Plaintiff JESSICA HERNANDEZ is Decedent ALITHIA HAVEN
25 RAMIREZ's Successor-in-Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff
26 JESSICA HERNANDEZ will execute and file a declaration under penalty of perjury pursuant to
27 Code of Civil Procedure section 377.32.
28

1 71. Plaintiff, RYAN RAMIREZ, is, and at all times mentioned herein was, an individual
2 residing in Uvalde, Texas. He is the biological father and surviving heir of Decedent, ALITHIA
3 HAVEN RAMIREZ. Plaintiff RYAN RAMIREZ was appointed by the Texas Probate Court,
4 County of Uvalde, as the Representative of the Estate of Decedent ALITHIA HAVEN RAMIREZ
5 and is the Successor-in-Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff RYAN
6 RAMIREZ will execute and file a declaration under penalty of perjury pursuant to Code of Civil
7 Procedure section 377.32.
8

9 72. Plaintiff, ALEJANDRO GARCIA, is, and at all times mentioned herein was, an
10 individual residing in Uvalde, Texas. He is the biological son and surviving heir of Decedent, IRMA
11 GARCIA. Plaintiff ALEJANDRO GARCIA was appointed by the Texas Probate Court, County of
12 Uvalde, as the Representative of the Estate of Decedent IRMA GARCIA and is the Successor-in-
13 Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff ALEJANDRO GARCIA will
14 execute and file a declaration under penalty of perjury pursuant to Code of Civil Procedure section
15 377.32.
16

17 73. Plaintiff, LYLIANA GARCIA, is, and at all times mentioned herein was, an
18 individual residing in Uvalde, Texas. She is the biological daughter and surviving heir of Decedent,
19 IRMA GARCIA. Plaintiff LYLIANA GARCIA is Decedent IRMA GARCIA's Successor-in-
20 Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff LYLIANA GARCIA will
21 execute and file a declaration under penalty of perjury pursuant to Code of Civil Procedure section
22 377.32.
23

24 74. Plaintiff, MANUEL LOZANO, is, and at all times mentioned herein was, an
25 individual residing in Uvalde, Texas. He is the biological father and surviving heir of Decedent,
26 IRMA GARCIA. Plaintiff MANUEL LOZANO is Decedent IRMA GARCIA's Successor-in-
27 Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff MANUEL LOZANO will
28

1 execute and file a declaration under penalty of perjury pursuant to Code of Civil Procedure section
2 377.32.

3 75. Plaintiffs are informed and believe, and thereon allege, that Nominal Defendant
4 CHRISTIAN GARCIA, is a competent adult living in the City of Uvalde, County of Uvalde, State
5 of Texas. Nominal Defendant CHRISTIAN GARCIA was the son of the Decedent IRMA GARCIA
6 and is therefore a necessary party to this action under Cal. Code Civ. Proc. § 377.60(a). Nominal
7 Defendant CHRISTIAN GARCIA is a party whose interest is so aligned and united with those of
8 Plaintiffs that he is a proper plaintiff; however, Nominal Defendant CHRISTIAN GARCIA has
9 exercised his option to not join as a plaintiff in this action and has not filed a separate lawsuit.
10 Therefore, Plaintiffs name and serve CHRISTIAN GARCIA as a Nominal Defendant pursuant to
11 Cal. Code Civ. Proc. § 382.

12 76. Plaintiff, PAULA MIRELES, is, and at all times mentioned herein was, an individual
13 residing in Uvalde, Texas. She is the biological mother and surviving heir of Decedent, EVA
14 MIRELES. Plaintiff PAULA MIRELES was appointed by the Texas Probate Court, County of
15 Uvalde, as the Representative of the Estate of Deceased EVA MIRELES and is the Successor-in-
16 Interest pursuant to Code of Civil Procedure section 377.11. Plaintiff PAULA MIRELES will
17 execute and file a declaration under penalty of perjury pursuant to Code of Civil Procedure section
18 377.32.

19 77. Plaintiff, ADALYNN RUIZ, is, and at all times mentioned herein was, an individual
20 residing in Uvalde, Texas. She is the biological daughter and surviving heir of Decedent, EVA
21 MIRELES. Plaintiff ADALYNN RUIZ is Decedent EVA MIRELES's Successor-in-Interest
22 pursuant to Code of Civil Procedure section 377.11. Plaintiff ADALYNN RUIZ will execute and
23 file a declaration under penalty of perjury pursuant to Code of Civil Procedure section 377.32.
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1 78. Plaintiff JOSE MARTINEZ brings claims Individually, and as Guardian Ad Litem
2 of AJ MARTINEZ.

3 79. Plaintiff KASSANDRA CHAVEZ brings claims Individually, and as Guardian Ad
4 Litem of AJ MARTINEZ.

5 80. Plaintiff ABIGALE VELOZ brings claims Individually, and as Guardian Ad Litem
6 of MIAH ISABEL CERRILLO.

7 81. Plaintiff MIGUEL CERRILLO brings claims Individually, and as Guardian Ad
8 Litem of MIAH ISABEL CERRILLO.

9 82. Plaintiff ANGELICA RODRIGUEZ brings claims Individually, and as Guardian
10 Ad Litem of LEANN GARCIA.

11 83. Plaintiff CHRISTINA OLIVAREZ brings claims Individually, and as Guardian Ad
12 Litem of KENDALL OLIVAREZ.

13 84. Plaintiff OSCAR ORONA brings claims Individually, and as Guardian Ad Litem
14 of NOAH ORONA.

15 85. Plaintiff ELSA AVILA brings claims Individually.

16 86. Defendant Meta Platforms, Inc. (“Meta”) is a Delaware corporation and
17 multinational technology conglomerate. Meta is registered to transact business in the state of
18 California, and its principal place of business is located at 1 Meta Way, Menlo Park, California
19 94025.

20 87. Defendant Instagram, LLC (“Instagram”) launched an app called Instagram in
21 October 2010. On or around April 7, 2012, Meta Platforms purchased Instagram, LLC for over one
22 billion dollars and reincorporated the company in Delaware. Meta Platforms is the sole member of
23 this LLC, whose principal place of business is also located at 1 Meta Way, Menlo Park, California
24 94025. Instagram is registered to transact business in the state of California.

25 88. The term “Meta” or “Meta Defendants,” as used in this Complaint, refers to
26 Defendants Meta and Instagram.
27
28

1 89. Defendant Activision Blizzard, Inc. (“Activision Blizzard”) is a Delaware
2 corporation, with a principal place of business located at 1 Microsoft Way, Redmond, Washington
3 98052. Activision Blizzard is registered to conduct business in the state of California and is a wholly
4 owned subsidiary of Microsoft.

5 90. Defendant Activision Publishing, Inc. (“Activision”) is a Delaware corporation, with
6 a principal place of business located at 2701 Olympic Blvd., Building B, Santa Monica, California
7 90404. Activision is registered to conduct business in the state of California. Activision was formerly
8 known as Activision, Inc. prior to the merger with Blizzard Entertainment, and is the entity
9 responsible for developing, producing, and distributing games for Activision Blizzard. It is a wholly
10 owned subsidiary of Activision Blizzard.

11 91. Defendant Microsoft Corporation (“Microsoft”) is a Washington corporation, with a
12 principal place of business located at 1 Microsoft Way, Redmond, Washington 98052.

13 92. Defendant Infinity Ward, Inc. (“Infinity Ward”) is a Delaware corporation, with a
14 principal place of business located at 21255 Burbank Blvd., Ste. 600, Woodland Hills, California
15 91367. Infinity Ward is registered to conduct business in the state of California and is a wholly
16 owned subsidiary of Activision. Infinity Ward created the original *Call of Duty* first-person shooter
17 game and at least eight subsequent titles in the series, including *Call of Duty: Modern Warfare*.

18 93. Defendant Treyarch Corporation (“Treyarch”) is a Delaware corporation, with a
19 principal place of business located at 3420 Ocean Park Blvd., Santa Monica, California 90405.
20 Treyarch is registered to conduct business in the state of California and is a wholly owned subsidiary
21 of Activision. Treyarch was involved in the production of approximately seven *Call of Duty* titles,
22 most notably the five titles of the *Call of Duty: Black Ops* series.

23 94. Defendant Sledgehammer Games, Inc. (“Sledgehammer”) is a Delaware corporation,
24 with a principal place of business located at 1001 E. Hillsdale Blvd., Ste. 610, Foster City, California
25 94404. Sledgehammer is registered to conduct business in the state of California and is a wholly
26 owned subsidiary of Activision. Sledgehammer was involved in the production of at least five *Call*
27 *of Duty* titles.

28

1 95. Defendant Raven Software Corporation (“Raven”) was incorporated in Wisconsin
2 and its principal place of business is located at 8496 Greenway Blvd., Middleton, Wisconsin 53562.
3 Raven is a wholly owned subsidiary of Activision. Raven was involved in the production of two
4 *Call of Duty* titles.

5 96. The term “Activision” or “Activision Defendants,” as used in this Complaint, refers
6 to Defendants Activision Blizzard, Activision, Microsoft, Infinity Ward, Treyarch, Sledgehammer,
7 and Raven.

8 97. The true names and capacities, whether individual, plural, corporate, partnership,
9 associate, or otherwise, of DOES 1 through 50, Inclusive, are unknown to Plaintiffs, who therefore
10 sue said defendants by such fictitious names. The full extent of the facts linking such fictitiously
11 sued defendants is unknown to Plaintiffs. Plaintiffs are informed and believe, and thereon allege,
12 that each of the defendants designated herein as a DOE was, and is, negligent, or in some other
13 actionable manner, responsible for the events and happenings hereafter referred to, and thereby
14 negligently, or in some other actionable manner, legally, actually, and proximately caused the
15 hereafter described injuries and damages to Plaintiffs. Plaintiffs will hereafter seek leave of the
16 Court to amend this Complaint to show the defendants’ true names and capacities after the same has
17 been ascertained.

18 98. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
19 herein, Defendants META PLATFORMS, INC., INSTAGRAM, LLC, ACTIVISION BLIZZARD,
20 INC.; ACTIVISION PUBLISHING, INC.; MICROSOFT CORPORATION; INFINITY WARD,
21 INC.; TREYARCH CORPORATION; SLEDGEHAMMER GAMES, INC.; RAVEN SOFTWARE
22 CORPORATION; and Nominal Defendants, BRANDON LEE ELROD; BRIAN MATHIS; and
23 SANDRA TORRES; and DOES 1 through 50, Inclusive, and each of them, were agents, servants,
24 employees, successors in interest, and/or joint venturers of their co-defendants, and were, as such,
25 acting within the course, scope, and authority of said agency, employment, and/or venture, and that
26 each and every defendant, as aforesaid, when acting as a principal, was negligent in the selection
27 and hiring of each and every other defendant as an agent, servant, employee, successor in interest,
28 and/or joint venturer.

1 **FACTUAL ALLEGATIONS**

2 99. Generation Z, those Americans born between roughly 1997 and 2012, holds the
3 unique and tragic distinction of having grown up exclusively in the era of mass shootings.
4 Bookended by Columbine and Sandy Hook, Gen Z has never known a time when schools, movie
5 theaters, offices, stores, and places of worship were safe, when they did not routinely become sites
6 of mass death.

7 100. Gen Z’s version of the fire drill is the active shooter drill. Children are now taught to
8 prepare for the day when an assailant wielding a combat rifle walks into their school with the goal
9 of killing as many of them as possible. An entire generation has been conditioned to accept this
10 madness as the status quo, an unfathomable betrayal.

11 101. But though our children do not know another world, we do. We know that it was not
12 always this way. Sandy Hook and Parkland and Uvalde were not predestined tragedies; they were
13 the foreseeable outcome of reckless choices, of corporate greed, and of a callous disregard for public
14 safety, particularly the safety of children.

15 102. The AR-15, a weapon developed for America’s armed forces after WWII and its
16 standard-issue combat rifle ever since, has been available to civilians since the 1970s. Yet nearly
17 fifty years passed before it became synonymous with the routine, senseless slaughter of Americans.

18 103. This Complaint seeks to explain how and why that occurred. The answer lies in
19 Defendants’ harnessing of the power of technology and the internet to revolutionize a wholly new
20 kind of marketing—one with no scruples about celebrating violence, exalting combat weapons, and
21 preying upon the vulnerabilities of youth.

22 104. In Greek mythology, Cerberus is the three-headed dog that guards the gates of the
23 underworld, admitting the dead but permitting no one to leave. This Complaint seeks to unmask the
24 three heads of our modern-day Cerberus—Defendant Activision, Defendant Meta, and their gun
25 industry accomplices—and hold two of them to account.

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1 **CALL OF DUTY: TRAINING CAMP FOR MASS SHOOTERS**

2 **I. The Evolution of Call of Duty**

3 105. Activision was founded in 1979, but commercial success eluded it until the launch
4 of *Call of Duty* in 2003. (The AR-15 followed a similar trajectory: the patent for the AR-15, once
5 held by Colt, expired in 1978, but it wasn't until about 2006 that AR-15s started to become
6 commercially successful.)

7 106. *Call of Duty* revolutionized the “first-person shooter” or “FPS” genre of video
8 games. Whereas previous video games allowed a player to manipulate a character on screen, in *Call*
9 *of Duty* the player assumes the field of vision of the protagonist, centering the players’ screen on the
10 barrel of the weapon he is holding.

11 107. The original *Call of Duty* was in 1944. It featured the Allied invasion of Normandy,
12 as well as a Soviet soldier fighting in the Battle of Stalingrad. The game introduced features that are
13 now synonymous with the series: cinematic set-pieces, multiple playable characters, and sensory
14 distortion effects designed to mimic the combat experience.

15 108. The next two installments of the game continued to tell the story of WWII. *Call of*
16 *Duty 2* featured the battlegrounds of Stalingrad and El Alamein and ended with the Allied push into
17 Germany. *Call of Duty 3* jumped ahead, following European and U.S. forces across France after
18 Normandy.

19 109. The games invited and fostered immersion—startling at the sound of explosions or
20 instinctively ducking at enemy fire. But the line between game and reality was not blurred. And
21 while enemy soldiers were gunned down, the level of gore was minimal.

22 110. These first three installments of *Call of Duty* were given a “T” (for “teen”) rating by
23 the Entertainment Software Rating Board (ESRB), the self-regulatory body for the video game
24 industry. Games may also be rated “M” for Mature (aged 17+) or AO for Adults Only (aged 18+).

25 111. The ESRB assigns ratings to video games to inform sellers, consumers, and parents
26 of the content and age-appropriateness of a game. Although adhering to ESRB ratings has always
27 been voluntary, the brick-and-mortar retailers that previously dominated the video game market,
28 such as GameStop and Walmart, employed age verification policies to enforce the ratings.

1 112. In a 2009 court filing, Activision cited data that all major video game retailers
2 employed age verification policies and were very effective at “preventing the sale of M-rated games
3 to minors.”

4 113. *Call of Duty 4: Modern Warfare*, which launched in 2007, marked the beginning of
5 a shift in the franchise toward more realistic and darker content. For the first time, game developers
6 took players out of WWII and dropped them into the Middle East, where American military
7 operations were ongoing, as well as a fictitious civil war in Russia.

8 114. Among other developments, 2007’s *Modern Warfare* introduced the concept of
9 rewarding players for “killstreaks.” Players could call in increasing levels of assistance based on
10 securing three, five, or seven kills. At the time, the game was described as the “new standard” by
11 which military-based shooters would be judged.

12 115. The game also added real-life combat touches, such as replicating night vision and
13 thermal imaging devices.

14 116. According to Activision’s 2008 Annual Report, *Call of Duty 4: Modern Warfare* “was
15 the #1 best-selling title worldwide in calendar [year] 2007.”

16 117. *Call of Duty: Modern Warfare* was rated “M” for “Mature-17+” by the ESRB. No
17 *Call of Duty* game would ever again be rated appropriate for all teens.

18 118. In 2009, buoyed by the success of *Modern Warfare*, Activision pushed players into
19 disturbing new territory.

20 119. *Call of Duty: Modern Warfare 2*, released in 2009, contained a level known as the
21 “No Russian” mission. In the mission, the player controls an undercover CIA operative tasked with
22 infiltrating a Russian ultranationalist terrorist organization. To do so, he must participate in the mass
23 shooting of unarmed civilians at an airport.

24 120. “No Russian” was not only grotesque from a narrative standpoint; it was also
25 considerably more graphic than any level in the game’s history. Civilians’ screams can be heard
26 throughout, and the wounded are shown crawling away, leaving blood-trails behind them. Players
27 can follow the injured and execute them. A baby cries at one point if a player approaches the airport’s
28 restroom.

1 121. The lead writer for “No Russian” stated that the reality of mass shootings influenced
2 the decision to create the scene, including the Columbine school shooting. He has been quoted as
3 saying: “We all wanted to make it something that would be upsetting, disturbing, but also something
4 people relate to.”

5 122. It turns out disturbing violence sells; *Call of Duty: Modern Warfare 2* was the first
6 video game ever to surpass \$550 million in retail sales in its first five days of release. It generated
7 more than \$1 billion in global retail sales in nine weeks.

8 123. Activision, realizing it had a golden ticket, doubled down. It has released 17 different
9 versions of *Call of Duty* since *Modern Warfare 2*, the majority of which have been best sellers.

10 124. But retaining the loyalty of teen boys—one of *Call of Duty*’s core demographics—is
11 no easy task. Activision has noted in its Annual Reports that it must “continuously develop new
12 products or new content for, or other enhancements to, our existing products” to “remain competitive
13 and maximize the chances that consumers select our products.”

14 125. In striving to meet that goal, the creators of *Call of Duty* have continuously pushed
15 the boundaries of realism and escalated the violent intensity of the player experience.

16 **II. The Modern Era of Call of Duty**

17 Video Game (*noun*): An electronic game in which players control
18 images on a video screen. (Merriam-Webster)

19 Simulator (*noun*): A device that enables the operator to reproduce or
20 represent under test conditions phenomena likely to occur in actual
performance. (Merriam-Webster)

21 126. The evolution of *Call of Duty* is best described as the transformation from a video
22 game into a simulation. This transformation involved two key shifts.

23 127. First, *Call of Duty* has become a 360-degree, full body immersive experience—
24 allowing the teenager behind the screen to feel as though he is truly in the building, holding the gun,
25 scanning for human targets and eliminating them. The desensitization associated with that level of
26 realism has been further heightened by the breakdown of the concept of “good guys v. bad guys”
27 (today, players can kill each other), as well as a significant shift in where the violence takes place
28 (now, it is often familiar, civilian settings, not the theater of war).

1 128. Second, *Call of Duty* has integrated real-life, readily available weapons into the
2 franchise that players can practice with and aspire to own.

3 **A. Unparalleled Realism**

4 129. In 2019, Activision released yet another revamped version of *Call of Duty: Modern*
5 *Warfare*, marking another inflection point in the franchise.

6 130. The 2019 version of *Modern Warfare* took advantage of every technological
7 development to enhance the realism of the experience. According to one Activision engineer, “it
8 became clear that it would have been impossible with the previous technology to build a game with
9 this ambition.”

10 131. The ambition was to transform *Call of Duty* into a true simulation—to train players
11 how to handle real weapons, under varying conditions, and still be effective at killing.

12 132. The studio employed, for the first time, a technique called photogrammetry, a process
13 that captures high-resolution photos of an object from every angle, then stitches them together to
14 generate a three-dimensional digital replica. The end result is a photo-realistic digital item that is far
15 more lifelike than any computer-generated object.

16 133. Photogrammetry is a powerful technology; the Army uses it to turn aerial images into
17 accurate 3D surface maps in near real time without any human oversight. It was tested by the 101st
18 Airborne Division and was deployed for the first time in Iraq.

19 134. Extensive work was done to mimic real-life night vision and thermal imaging
20 devices; engineers said they “decided to go all the way and replicate the physics behind it” in order
21 to “translat[e] the experience to our player.”

22 135. Other advancements allowed designers to scale the theater of action from tiny
23 backyard alleys all the way to city-scale maps without sacrificing any level of detail or realism.
24 According to an article in the Washington Post, the quality is the same whether the player is in “a
25 massive battle on a wide-open field [or in] a claustrophobic, close-quarters encounter.”

26 136. In reality, the wide-open battlefield is now something of a rarity in *Call of Duty*. Over
27 time, its creators have increasingly rejected the theater of war in favor of settings that evoke
28 everyday American life. Pitched battles take place in malls, airports, and restaurants. Characters are

1 blown apart on the streets of suburban neighborhoods and excessive blood stains the walls of
2 government buildings.

3 137. This not only serves to blur the line between fantasy and reality; it introduces players
4 to the idea of fighting a “civilian war,” and it desensitizes them to killing and death in a familiar
5 environment.

6 138. For the first time, the 2019 *Modern Warfare* also permits players to angle their
7 weapons independently of the direction the character’s body so they can make better use of available
8 cover while firing. This is a real-life tactic used by special forces when breaching a room.

9 139. The addition of this new and tactically sound firing capability is not coincidental.
10 Defendants brought in retired Navy SEALs to act as consultants on *Modern Warfare*, who they kept
11 “practically on speed dial.”

12 140. The SEALs helped the developers create the most realistic combat characters and
13 scenarios. They also assisted in crafting narrative arcs and choices that are, by design, “morally
14 gray.”

15 141. The goal, according to an article with extensive interviews with *Modern Warfare*’s
16 creators, was to create “a complex and confusing battleground in which life-and-death decisions
17 must be rendered in seconds and where morality is continually questioned.”

18 142. The game is replete with such scenarios, such as when a player is confronted with a
19 civilian woman who is believed to be reaching for a gun, but then grabs her baby from a crib.

20 143. The creators and their special forces consultants are self-congratulatory about such
21 scenes, touting the parallels to the real world of war. They are, in turn, dismissive of FPS
22 entertainment that is more fantasy than reality, or where “it’s perfect and clean.”

23 144. There is no discussion of whether there might be a meaningful difference between
24 trained members of the armed forces and high-school-aged boys with developing brains—
25 particularly when it comes to navigating morally complex situations with an assault weapon.

26 145. *Modern Warfare*’s creators have tried to suggest that their commitment to realism is
27 about restraint as well as violence; as one of their SEAL consultants put it: “it’s just as important to
28 know when not to pull the trigger as to know when to pull the trigger.”

1 146. This is good PR, but it doesn't jive with the experience of being in the simulation.

2 147. It is difficult to describe the astonishing level of violence that players are exposed to,
3 and required to inflict, in *Call of Duty*.

4 148. The ESRB's summary of *Modern Warfare* describes the action as follows:
5 "Characters use machine guns, shotguns, sniper rifles, and explosives to kill enemies in frenetic
6 combat. . . . Combat is highlighted by realistic gunfire, screams of pain, and large blood-splatter
7 effects. A sniper rifle causes increased damage (e.g., decapitation, dismemberment)."

8 149. The ESRB summary goes on to describe other, specific disturbing elements—the
9 player's character being tortured via waterboarding, watching a bound prisoner be executed,
10 children being killed by a gas attack, watching a terrorist shoot a young boy, and so on.

11 150. But no matter how graphic, there is no description that can do justice to the player
12 experience. Words simply can't capture the adrenaline rush of stalking someone down a hallway in
13 an abandoned building; the thrill of turning a corner and opening fire; the rush when a shot hits; and
14 the dopamine hit for every successful kill, every head shot, every blood splatter across the screen.

15 151. This is not hyperbole. A teen boy's navigation of the *Call of Duty* world—every
16 movement, every shot fired, every kill streak, every reward—is accompanied by real-life physical
17 and neurological responses. The player's muscles tighten, his pulse quickens, and his brain's
18 prefrontal cortex, its pleasure center, is activated.

19 152. One study published in *Nature*, a leading scientific journal, demonstrated that video
20 games raise the level of dopamine in the brain by about 100 percent, roughly the same increase
21 triggered by sex.

22 153. That study is more than 25 years old. In other words, these findings were established
23 when the level of immersion and realism in video games was a fraction of what *Call of Duty* has
24 since accomplished.

25 154. Defendants maximally exploit the connection between killing and pleasure. Players
26 do not kill merely to survive and fight on; they kill because the game rewards them for killing—
27 killing more, killing faster, killing more efficiently.

28

1 155. *Call of Duty*'s exploitation of the dopamine reward system is particularly alarming
2 in the context of the game's "multiplayer mode," which has become the mainstay of player
3 engagement in the modern versions. In multiplayer mode, players are matched with real people from
4 all over the world, typically on a team of 6, to face off against another team.

5 156. The composition of these teams is purportedly determined by an algorithm that
6 matches players based on their proficiency at killing. *Call of Duty* tracks this statistic; it is known
7 as the k/d ratio, shorthand for kill/death, and it measures how many kills the player has accomplished
8 compared to the number of times he has been killed.

9 157. The multiplayer experience has multiple types of engagement; the most popular is
10 called "Team Deathmatch," in which players attempt to rack up as many kills as possible for their
11 team. The cooperation is nominal; individual killing prowess is the point. The team that achieves a
12 certain number of collective kills first wins the match. The "maps" used in multiplayer are, as alleged
13 above, strikingly realistic and evocative of everyday settings.

14 158. The upshot of all this is that players are no longer primarily killing "bad guys;" they
15 are not squaring off against a fictitious enemy army or terrorist organization. Players are killing each
16 other, and they are doing so in malls, office buildings, and on residential streets.

17 159. Tellingly, *Call of Duty* contains one nod to fantasy, one concession that this
18 simulation is not real life: the dead can come back to life, or "respawn" in game lingo.

19 160. The contrast between the sensory, hyper realistic experience of killing with the
20 fantastical element of respawning is a unique—and uniquely dangerous—aspect of the modern
21 iterations of *Call of Duty*. Killing is fun and addictive and rewarding, but death is not real.

22 161. This juxtaposition deepens players' desensitization to violence.

23 **B. Real Life Weapons**

24 162. The other essential component of *Call of Duty*'s transformation into a simulation—
25 and its success at winning the loyalty of its young male consumer base—is its relentless focus on
26 realistic weaponry.

27
28

1 163. Beginning in the late 2000s and early 2010s, just as *Modern Warfare* was revealing
2 itself to be a moneymaker, Activision began working directly with the firearms industry to place
3 real-life weapons into *Call of Duty*.

4 164. At least some of those product placements were the result of explicit licensing
5 agreements between Activision and firearm manufacturers.

6 165. Documents unearthed in a lawsuit brought by the undersigned Connecticut counsel
7 on behalf of families who lost family members in the Sandy Hook school shooting sheds light on
8 what the deals looked like—and what each side stood to gain from them.

9 166. Beginning in the 1990s, gun companies began to face an uncomfortable reality: their
10 customer base was aging, gun ownership was dropping nationally, and young people were less
11 interested in shooting and purchasing firearms.

12 167. The rise in popularity of FPS games—and *Call of Duty* in particular—presented an
13 irresistible solution: using real, identifiable assault weapons would enhance the authenticity of the
14 game, a perk for companies like Activision, and in return, gun makers would receive unparalleled
15 brand exposure among a younger demographic.

16 168. The deal struck between Activision and Freedom Group—the maker of the
17 Bushmaster AR-15 used at Sandy Hook Elementary School—is illustrative.

18 169. Freedom Group was a private-equity-backed gun conglomerate formed in 2007 with
19 a big idea: it would unite several firearm brands under one umbrella, introduce sophisticated
20 marketing and business practices to a relatively unsavvy industry, and reignite America’s passion
21 for guns.

22 170. By 2010, Freedom Group had acquired enough brands to corner 48% of the market
23 for AR-15-style rifles. At the time, it was an interesting choice of specialization.

24 171. The AR-15 dates back to the 1950s. Built in response to the military’s specifications
25 for a new combat rifle after WWII, it was field tested to great acclaim in Vietnam and subsequently
26 adopted by the military as its standard-issue weapon.

27 172. But though versions of the AR-15 had been available for civilian purchase since the
28 mid-1960s, there had been scant interest in the intervening 40 years. Freedom Group sought to

1 change that by appealing to soldiers returning home from the war in Iraq—who possessed first-hand
2 knowledge of the weapon’s attributes—and by exploiting fear among gun owners that the election
3 of President Obama would lead to restrictive firearm regulation.

4 173. This strategy was reasonably effective for a time, but it did not drive the kind of sales
5 volume Freedom Group was hoping for, in large part because it had failed to generate interest in
6 AR-15s among younger people.

7 174. That’s where Activision came in.

8 175. A memo produced by Freedom Group explained the rationale succinctly: “With
9 increasing urbanization and access to shooting/hunting areas in decline, a primary means for young
10 potential shooters to come into contact with firearms and ammunition is through virtual gaming
11 scenarios.”

12 176. The memo was explicit that fostering brand loyalty at a young age was the goal;
13 inserting their weapons into first-person shooter games would “help create brand preference among
14 the next generation,” and allow the company to “win our fair-share of these young consumers.”

15 177. Not all video game creators thought marketing weapons to children was a good or
16 moral business.

17 178. In an internal company email from 2011, a vice president in the defense division at
18 Remington—one of Freedom Groups’ brands—wrote to a marketing executive that his pitch to Red
19 Storm, a video game creator in the FPS genre, was unsuccessful. Red Storm was “reluctant to
20 ‘market guns to kids.’”

21 179. Activision, however, had no such compunction. According to the same 2011 email,
22 *Call of Duty*’s creators were “excited about working something out.”

23 180. The eventual agreement allowed for the placement of two of Freedom Group’s rifles
24 in *Call of Duty*, including Remington’s Adaptive Combat Rifle (or ACR for short)

25 181. The ACR gained a devoted following among players of *Call of Duty*. And
26 Activision’s commitment to authenticity—i.e., ensuring that the weapon looked and functioned
27 exactly like its real-life counterpart—meant players’ use of the weapon in the game became a form
28 of training.

1 182. When a Remington executive learned of the ACR’s popularity among FPS gamers,
2 he reported gleefully to a colleague: “The reason the guys love it is because of its ‘low recoil’ in the
3 game, which allows the player to maintain target acquisition.” The colleague responded: “It’s
4 amazing how a game can sell a real world product attribute.”

5 183. Upon information and belief, Activision entered into a similar agreement with Barrett
6 Firearms for placement of the M82, a large and exceptionally powerful rifle designed to penetrate
7 military equipment at long range. It has been called the “weapon of choice” by Mexican drug cartels.

8 184. The M82 was featured in *Call of Duty 4: Modern Warfare*, *Call of Duty: Modern*
9 *Warfare 2*, *Call of Duty: Modern Warfare 3*, *Call of Duty: Modern Warfare 3: Defiance*, *Call of*
10 *Duty: Black Ops II*, *Call of Duty: Modern Warfare (Remastered)* and *Call of Duty: Black Ops Cold*
11 *War*.

12 185. Though the M82 is an anti-material rifle, meaning it was designed to destroy or
13 debilitate equipment, in *Call of Duty* it is repurposed as a sniper rifle. A weapon that isn’t used to
14 kill has no place in the *Call of Duty* franchise.

15 186. In an article published in 2012, a Barrett employee who negotiates deals with game
16 developers is quoted as saying: “video games expose our brand to a young audience who are
17 considered possible future owners.”

18 187. These examples represent a small fraction of the assault weapon brands that
19 Activision has featured and marketed over the years.

20 188. Upon information and belief, Activision has entered into licensing agreements with
21 other firearm companies for the purpose of using replicas of their weapons and/or Activision has
22 used replicas of certain weapons without a licensing agreement.

23 189. Upon information and belief, Activision either entered into a licensing agreement
24 with Daniel Defense or replicated one of their assault rifles without such an agreement.

25 190. When Defendants launched the rebooted *Modern Warfare* on October 25, 2019, the
26 image that splashed across millions of screens in America as teenagers rushed to download the game
27 was of a soldier in silhouette holding the Daniel Defense M4V7S, a nearly identical version of the
28 weapon used by the Uvalde Shooter.

1 191. Daniel Defense is a privately held company and small player in the gun market, a
2 fraction of the size of rivals like Smith & Wesson or Colt. It manufactured around 53,000 guns in
3 2020, giving it a less than one percent (1%) share of the market.

4 192. Daniel Defense has attempted to carve out a niche position within the industry—a
5 smaller company that specializes in a high-quality product worth paying a premium for. The average
6 cost of an AR-15 is between \$800-\$1,200, but a Daniel Defense AR-15 starts at around \$2,000 and
7 goes up from there.

8 193. Adult firearm enthusiasts who are knowledgeable about the market and already own
9 an AR-15 are most likely to be receptive to Daniel Defense’s pitch that the hefty price tag connotes
10 quality and craftsmanship. But this messaging is significantly less likely to draw in a first-time
11 purchaser.

12 194. The benefit to Daniel Defense of a placement in *Call of Duty* was therefore
13 incalculable. Not only would millions of young men be exposed to their product, that exposure
14 would come with the imprimatur of the *Call of Duty* franchise and the implication that the DDM4V7
15 is an exceptional, battle-tested weapon.

16 195. Daniel Defense posted a still of the loading screen with the caption, “@callofduty
17 Modern Warfare launched today! Anyone else had a chance to play it yet? The title screen pictured
18 here features a Daniel Defense DDM4V7S ✨ us”.

19 196. In the last ten years, Activision has, through relationships like the ones described
20 above, become the most prolific and effective marketer of assault weapons in the United States.

21 197. *Modern Warfare* contains ten types of weapons available to players, which are
22 classified as either a primary or secondary weapon. Primary firearms fall into one of six categories:
23 assault rifles, submachineguns, shotguns, light machineguns, marksman rifles, and sniper rifles;
24 secondary weapons include handguns and launchers.

25 198. Within each category, players face a bevy of choices; the assault rifle category alone
26 contains some thirty variants, the vast majority of which are replicas of real-life firearms.

27 199. *Call of Duty* used to use brand names on weapons in their arsenal and then abandoned
28 the practice. But this makes no difference from a marketing standpoint. The authenticity of

1 Activision’s depiction—in look, feel, and function—is such that players can identify and seek out
2 the real-life firearm.

3 200. As an internal Freedom Group memo explained, in reference to the use of an
4 unbranded Remington rifle in *Call of Duty*: “Previous experience tells us people will seek out the
5 brands of the guns.”

6 201. There are hundreds, if not thousands, of threads and articles on the internet dedicated
7 to the topic of labeling each *Call of Duty* weapon by its true brand name and model and discussing
8 the various pros and cons of each (in the game and in real life—which, by design, are one and the
9 same).

10 202. In addition to content on various online gaming forums, fans have created a *Call of*
11 *Duty*-specific version of Wikipedia, a massive database containing detailed information on every
12 weapon that has ever appeared in the game.

13 203. There are also countless YouTube videos where gun enthusiasts assemble a subset of
14 the most popular weapons from *Call of Duty* and show viewers what it’s like to shoot them—usually
15 by rapidly emptying a large magazine. These videos narrate the experience of using the weapons,
16 often commenting on how similar they feel and operate in real life as compared to the game.

17 204. In one such video, the host fires all of the sample weapons at a bulletproof vest and
18 combat shield, noting that only the AR-15, or the M4 as it’s called in *Call of Duty*, is able to penetrate
19 both. The narrator describes the rifle as “the most balanced gun,” “really controllable,” and reports
20 that it penetrates the vest “with ease.”

21 205. Other videos teach players how to take advantage of *Call of Duty*’s extensive
22 customization system to build a perfect replica of their preferred weapon—including the DDM4V7.

23 206. Unsurprisingly, gun sellers have eagerly entered the fray as well, using *Call of Duty*
24 as a hook to sell real firearms. Classic Firearms, for example, an online retailer of firearms and
25 ammunition, promotes videos on its website of an employee shooting (or “mag dumping”) weapons
26 featured in *Call of Duty*, particularly *Modern Warfare*. For each weapon, the video host first
27 identifies the name of the weapon in *Call of Duty*, then names the “real” weapon it mimics.

28

1 207. Several of the weapons are identified as ones the seller has given away in the past as
2 a promotional, and others are teased as potential future giveaways.

3 208. The documents from the Sandy Hook litigation confirm that branding is unnecessary;
4 players will “seek out the brands of the guns.”

5 209. The memo goes on to explain the benefits of no branding: “A lack of direct branding
6 helps to shield us from implications of a direct endorsement while still receiving benefit from
7 inclusion in the game.”

8 210. Given the appalling level of assaultive violence in *Call of Duty*, it is understandable
9 why gun companies prefer to retain plausible deniability.

10 211. In the absence of explicit branding, how does Activision achieve such a high degree
11 of realism in weaponry?

12 212. According to a Freedom Group email from 2011 discussing the forthcoming deal
13 with Activision on the Remington ACR, Freedom Group was responsible for providing “the guns,
14 pictures, models, sound shoots, and expertise.”

15 213. According to the Barrett Firearms employee who was quoted in 2012, Barrett insists
16 that a game developer purchases one of the company’s guns so that the depiction is as true to life as
17 possible. “[The gun must] perform to the standards that our rifles do in the real world,” he stated.
18 “Barrett firearms is known for its quality and the brand must always be placed on that foundation.”

19 214. Since 2019, Activision has also used photogrammetry to heighten realism, a process
20 that generates a three-dimensional digital replica of any object. With sample weapons provided by
21 manufacturers, creating perfect replicas would be feasible and significantly easier than in the past.

22 215. Activision also looks for unusual credentials for some of its employees; for the
23 position of weapons artist, for example, job postings have stated a preference for applicants with
24 “outstanding knowledge of weapons and equipment” and “outstanding knowledge of general
25 military application and authenticity.”

26 216. In addition to the extensive selection of weapons in *Modern Warfare*, players have
27 still more options to build the gun of their dreams. The 2019 version introduced an extensive
28

1 weapons customization system, presenting most guns with a range of up to 60 attachments to choose
2 from. These include holographic sights, lasers, mounted lights, silencers, grips, and so forth.

3 217. One of the most popular attachments in *Call of Duty* is the EOTech Sight, a
4 holographic sight that has appeared in multiple versions of the game.

5 218. Holographic sights are state-of-the art combat sights, used by military operators and
6 special forces. By using a laser and a series of mirrors, holographic sights project a three-
7 dimensional hologram back to the user, superimposed on their field of view. This type of sight allows
8 the user to aim and fire with both eyes open, allowing an unrestricted field of view and peripheral
9 vision.

10 219. The EOTech Sight is a real product that can be purchased online. It appears in some
11 versions of *Call of Duty* with the brand name visible, and in others without. Even without, the sight
12 is easily recognizable, and fans refer to it as the “EOTech” even in versions where it is unbranded.

13 220. On its website, EOTech describes the sight as “[a]n operator-grade Holographic
14 Weapon Sight built for close-quarter engagements with fast-moving targets” that “allow[s] the
15 shooter to quickly pick up and lock on a target.”

16 221. On its FAQ page, EOTech touts the sight as ensuring “incredible accuracy, which
17 provides the operator with controlled confidence in his shooting ability.

18 222. EOTech describes the outer ring in its sight’s reticle as the “donut of death.”

19 223. The DDM4V7S featured on the loading screen of the 2019 version of *Modern*
20 *Warfare* was shown equipped with an EOTech holographic sight.

21 224. In his effort to replicate this weapon for use in his attack, the Shooter purchased an
22 EOTech holographic sight a month before the mass shooting and used it at Robb Elementary
23 School.

24 225. *Call of Duty*’s focus on weapons attachments and accessories mimics real trends in
25 the firearm market. According to Shooting Industry magazine, “One of the most significant [trends]
26 is the increasing demand for accessories, allowing users to tailor their firearms to their specific needs
27 and preferences.”

28

1 226. The NSSF, the shooting industry’s trade association, echoes this. It notes that, with
2 the rise in sales of long guns (like AR-15s), there has been a “a concomitant rise in the sale of
3 accessories[,] . . . *especially with high-tech products*. Retailers across the country are seeing their
4 bottom lines benefit when they have lots of accessories in stock.” Retailers interviewed for the
5 article discuss a rise in demand for sights, weapon-mounted lights, and thermal optics—all
6 attachments that are promoted in *Call of Duty*.

7 227. In 2012, a Remington executive marveled that “just a decade ago, [video games]
8 were considered the number one threat to gaining new shooters.” Such games are “perhaps now the
9 number one draw.”

10 228. His observation is astute. When *Call of Duty* transported players to Normandy and
11 Stalingrad, immersing them in a re-created and idealized past, there was no logical or intuitive
12 connection between gaming enthusiasts and firearm ownership. If anything, as the above email
13 suggests, FPS games were an impediment to cultivating a new generation of gun owners because
14 they offered teenagers a fun and cheap alternative to the real thing.

15 229. Activision changed that calculus profoundly when they got into bed with the firearm
16 industry and into the business of marketing assault weapons.

17 230. By the time the revamped *Modern Warfare* was released in 2019, Activision’s use of
18 real-life weapons had ceased to be about storytelling or world building and had become a
19 straightforward form of advertising.

20 231. The benefit to the gun industry of this arrangement is obvious. As a Remington
21 executive wrote in 2011, placement in *Call of Duty* would bring “exposure from two of the best-
22 selling game series of all time.” Given years of declining interest in firearms among youth, this
23 exposure was a lifeline for the entire industry.

24 232. Freedom Group was ahead of its time. Today, a firearm company that wants to
25 compete in the AR-15 market cannot afford to ignore *Call of Duty*. Every connection between a
26 manufacturer’s product and the game is an opportunity to cultivate brand loyalty among the next
27 generation of purchasers.

28

1 233. Firearm companies, including Daniel Defense, frequently reference *Call of Duty* in
2 social media posts about their products, often with a #cod hashtag. This is an acknowledgment of
3 the obvious: Activision is turning players into customers and driving new business through in-game
4 marketing.

5 234. The benefit to Activision of becoming a marketing arm of the assault rifle industry
6 is somewhat less obvious—but it also arose from an existential need.

7 235. Activision has spent the last fifteen years trying, in its words, to “remain competitive
8 and maximize the chances that consumers select our products as opposed to the various
9 entertainment options available to them.” To do so, it must “continuously develop new products and
10 new content” or “enhancements to our existing products.”

11 236. This is exhausting work. In their never-ending quest to hook teens and keep them
12 coming back for version after version of the same simulation, Activision has fallen down a black
13 hole of excess: more violence, more rewards for killing, more disturbing situations, more guns, more
14 accessories to customize, and more opportunities to feel like the character they inhabit in *Call of*
15 *Duty*: brave, ruthless, dominant, and feared.

16 237. In service of this goal, and their bottom line, Activision created a firearm showroom
17 for its millions of users—one where adults and teenagers alike could browse, test, covet, and
18 compare each weapon’s capacity to kill.

19 **III. Activision Knows that Younger Teens are Playing.**

20 238. Since the 2007 launch of *Call of Duty 4: Modern Warfare*, every iteration of *Call of*
21 *Duty* has been rated “M,” meaning the ESRB deems it inappropriate for teens or children under the
22 age of 17.

23 239. But Activision knows, or should know, that a substantial percentage of players begin
24 engaging with *Call of Duty* prior to turning 17.

25 240. Activision represents in its annual reports: “We collect and store information about
26 our consumers, including consumers who play these games.”

27
28

1 241. The reports also discuss Activision’s compliance with certain data privacy laws, such
2 as COPPA, which regulates the collection, use, and disclosure of personal information from children
3 under 13 years of age. This is a tacit acknowledgment that Activision collects data on players’ ages.

4 242. Publicly available data suggests that roughly 25-30% of *Call of Duty* players are
5 under the age of 21. Only Activision knows how many players are younger than 17, but the number
6 is likely substantial.

7 243. In 2010, Activision submitted an amicus brief to the United States Supreme Court
8 opposing a California law that restricted the sale of violent video games to minors.

9 244. Activision did not quibble with California’s position that children under 17 should
10 be protected from the extreme violence in games like *Call of Duty*; rather, it argued that the ESRB’s
11 rating system was extremely effective at blocking minors’ access to such games.

12 245. Defendants’ brief summarizes various evidence demonstrating that retailers are good
13 at enforcing the ESRB’s rating system. For example: “In December 2009, the FTC reported that all
14 eight of the major video game retailers it surveyed, which today represent 84% of the total market
15 for games sold in the United States, employ policies preventing the sale of M-rated games to
16 minors.”

17 246. Moreover, most retailers that sell video games agree to participate in what’s called a
18 “mystery shop” audit by an independent auditor, in which customers under age 17, apparently
19 unaccompanied by an adult, attempt to purchase or rent M-rated games in order to test the
20 effectiveness of a retailer’s enforcement policy. Activision’s brief reports that these audits prove
21 broad, effective compliance with ESRB ratings: “In an FTC-commissioned mystery shop, retailers
22 denied sales of M-rated games to 80% of unaccompanied underage shoppers. GameStop, the largest
23 game retailer in the United States - which accounts for 25% of video games sold nationally - attained
24 a 91% denial rate.”

25 247. Activision’s arguments were persuasive at the time they were written; but they have
26 very little application to the modern gaming world. In 2018, only 17% of video games were
27 purchased in retail stores; today, the number is closer to 10%.

28

1 248. In other words, the vast majority of *Call of Duty* players, like all video game
2 consumers, are purchasing the game digitally—with no need to enter a store and interact with an
3 employee.

4 249. In this new digital age, there are no meaningful checks in place to prevent children
5 and teens from playing *Call of Duty* long before they turn 17.

6 250. *Call of Duty: Mobile*, a smartphone app released in 2019, can be downloaded to any
7 phone, with no age verification. The user must agree to the Terms of Use, which state that the user
8 is an adult or has obtained parental consent, but any teen or pre-teen with a phone can check the box
9 and continue to download.

10 251. *Call of Duty: Mobile* was downloaded 250 million times in the first year.

11 252. For those playing on consoles, such as PlayStation or Xbox, physical copies of video
12 games are no longer necessary; they can be instantly downloaded without age verification.

13 **IV. Activision Knows that *Call of Duty* Trains Mass Shooters.**

14 253. The link between *Call of Duty* and mass shooters has been undeniable for years. At
15 least a decade before the Uvalde Shooter’s massacre at Robb Elementary School, Activision was on
16 notice that its training simulation was inspiring and training mass shooters.

17 254. In 2011, Anders Breivik rampaged through a summer youth camp in Norway, killing
18 77. The manifesto he left behind included a chilling description of his preparation for the attack: “I
19 just bought *Modern Warfare 2*, the game. It is probably the best military simulator out there and it’s
20 one of the hottest. I see *MW2* more as part of my training-simulation than anything else.”

21 255. A year later, 20-year-old Adam Lanza gunned down 20 children and six educators at
22 Sandy Hook Elementary School with an AR-15. Lanza was an avid player of *Call of Duty*. A crime
23 scene photograph from the school showed two 30-round magazines duct-taped together, a “taped
24 reload,” which he had learned from *Call of Duty* as a tactic to reduce reloading time.

25 256. Activision knew of the connection between Lanza’s attack and *Call of Duty*, which
26 was publicized in national media outlets. Moreover, it has been reported that employees at Infinity
27 Ward, a subsidiary of Activision, were instructed to not discuss the shooting on social media to avoid
28 drawing scrutiny.

1 257. Nikolas Cruz, the 19-year-old who, in 2018, killed 17 students at Marjory Stoneman
2 Douglas High School in Parkland, Florida with an AR-15 was a devotee of *Call of Duty* as well;
3 neighbors reported that he played up to 15 hours a day.

4 258. The Parkland shooter had at least two Instagram accounts that were fixated on guns.
5 One profile was named “NikolasCruzMakarov.” Makarov is name of the terrorist who leads the
6 mass shooting of civilians in the “No Russian” level of *Call of Duty: Modern Warfare 2*.

7 259. *Call of Duty* was also linked to Patrick Crusius, the 21-year-old who opened fire with
8 an AK-47-style rifle at a Walmart in El Paso, Texas in 2019, killing 23 people. The shooter left
9 behind a manifesto that included the line: “Don’t attack heavily guarded areas to fulfill your super
10 soldier COD [*Call of Duty*] fantasy. Attack low security targets.”

11 260. And just six weeks after the shooting in Uvalde, 23-year-old Robert Crimo III turned
12 an AR-15 on crowds at a July 4 parade in Highland Park, IL from the rooftop of an office building.
13 Crimo was an obsessive *Call of Duty* player and had posted videos online of himself shooting sniper-
14 style from a rooftop.

15 261. In all of these shootings, the connection between the shooter and *Call of Duty* was
16 nationally publicized.

17 262. These are some of the national tragedies that have entered the American lexicon:
18 Sandy Hook mass shooting, Parkland mass shooting, El Paso mass shooting, Highland Park mass
19 shooting. But they don’t tell the whole story.

20 263. Across the country, smaller tragedies and averted acts of violence have piled up over
21 the years, confirming that *Call of Duty*’s prominent role in the epidemic of mass shootings is not
22 coincidental.

23 264. Take 2013, for example, the year after the mass shooting at Sandy Hook Elementary
24 School.

25 265. In January of 2013, two minor high-school students in Orlando, Florida were arrested
26 after posting a threat on Facebook to shoot up their high school with weapons stolen from a parent.
27 According to the sheriff’s investigative report, the pair bonded in part over a shared love of *Call of*
28 *Duty*.

1 266. That same month, 15-year-old Nehemiah Griego used an AR-15 and a handgun to
2 murder his mother, father, and three siblings, aged 9, 5, and 2. It was reported that Griego was
3 “heavily involved” in violent video games and that, when questioned by law enforcement, he
4 mentioned *Call of Duty: Modern Warfare* by name.

5 267. In May of 2013, a 17-year-old named Grant Acord was arrested for planning a
6 shooting at his school in Albany, Oregon. The teenager had written a dramatic, almost cinematic,
7 plan for his attack—which featured the same music that plays during *Call of Duty*’s “No Russian”
8 mass shooting.

9 268. Then, in September 2013, Aaron Alexis went on a killing spree at the Washington,
10 D.C. Navy Yard, killing 12. Friends described the shooter as being “really into” *Call of Duty*, noting
11 that he would play all day and night, sometimes up to 18 hours a day.

12 269. At all relevant times, Activision knew or should have known that the rise of mass
13 shootings, and of school shootings in particular, coincided with the increasing popularity and
14 ubiquity of *Call of Duty*.

15 270. At all relevant times, Activision knew or should have known that multiple mass
16 shooters were devoted fans of *Call of Duty* and played obsessively.

17 271. At all relevant times, Activision knew or should have known that their product was
18 habituating and desensitizing young men to acts of mass violence and training them as gunmen.

19 272. At all relevant times, Activision knew or should have known that their product was
20 manipulating players’ brain chemistry so that killing was associated with dopamine release, reward,
21 and/or pleasure.

22 273. At all relevant times, Activision knew or should have known that their product was
23 conditioning young men to become fixated on the type of assaultive violence glamorized in *Call of*
24 *Duty*.

25 274. At all relevant times, Activision knew or should have known that their product was
26 fetishizing assault weapons and conditioning young men to see the weapons marketed in *Call of*
27 *Duty* as a solution to their problems.

28

1 275. At all relevant times, Activision knew or should have known that their product was
2 encouraging and/or inciting young men to seek out the real-life counterparts of the weapons
3 marketed in *Call of Duty*.

4 276. At all relevant times, Activision knew or should have known that they have
5 contributed substantially to the creation and training of multiple mass shooters, including Anders
6 Breivik, Adam Lanza, Nikolas Cruz, and Patrick Crusius.

7 277. At all relevant times, Activision knew or should have known that their product serves
8 to encourage, facilitate, and/or incite young men to seek attention and notoriety through mass
9 shootings.

10 278. The question was not if, but when and where, the next *Call of Duty*-trained shooter
11 would strike.

12 279. In 2011, two jurists wrote with startling prescience about how the conduct of
13 companies like Activision might lead us to the exact place we now find ourselves:

14 If the technological characteristics of the sophisticated games that are likely
15 to be available in the near future are combined with the characteristics of
16 the most violent games already marketed, **the result will be games that**
17 **allow troubled teens to experience in an extraordinarily personal and**
 vivid way what it would be like to carry out unspeakable acts of
 violence.

18 280. Those jurists are Supreme Court Chief Justice John Roberts and Associate Justice
19 Samuel Alito. If only we had listened.

20 **INSTAGRAM: THE FIREARM INDUSTRY’S BEST ADVERTISER**

21 281. Instagram launched in 2010 as a photo-sharing social media app. In 2012, it was
22 purchased by Meta (then known as Facebook) for \$1 billion in cash and stock.

23 282. Instagram is no longer just a photo-sharing app. Today, Instagram enables users to
24 broadcast videos live, send direct messages to other users, create “stories” that curate users’ content
25 for their followers, consume news, view advertisements from nearly every commercial brand on the
26 planet, and shop.

27 283. It is also the most prolific marketing arm of the firearm industry.
28

1 284. As one firearms marketing agency explains, “Instagram is the place to be for
2 firearms-related companies. . . . This is where your company will want to focus its marketing efforts
3 as it will offer the highest return on your efforts.”

4 285. According to another: “Instagram continues to remain the number one place for
5 firearms-industry companies to grow their online presence.”

6 286. This praise, which is well deserved, comes despite Instagram’s official, published
7 policy that “[a]ds must not promote the sale or use of weapons, ammunition or explosives.”

8 287. The explanation for this seeming disconnect is simple. Instagram’s guidelines
9 prohibiting firearm marketing serve instead as a playbook for companies looking to target
10 Instagram’s millions of users, including minors; and Instagram fails to enforce firearm guidelines
11 as a matter of company policy, while rigorously enforcing other types of content guidelines.

12 288. Through this conduct, Instagram assists and facilitates the negligent, unscrupulous,
13 reckless, and illegal targeting of minors by firearm companies, including Daniel Defense.

14 **I. Instagram’s Business Model: Data is Money**

15 289. Instagram’s business model is simple: monetizing its users by selling advertising
16 placements to businesses. Instagram’s appeal to advertisers is two-fold.

17 290. First, Instagram has an enormous user base for advertisers to access; in 2022, two
18 billion users worldwide were active on Instagram each month.

19 291. Second, Instagram collects an astonishing amount of data from its users. According
20 to Instagram’s data policy, the data it collects from users includes:

- 21 a. “the content, communications and other information you provide when you use our
22 Products;”
- 23 b. “information in or about the content that you provide (e.g. metadata), such as the
24 location of a photo or the date a file was created;”
- 25 c. “what you see through features that we provide, such as our camera;”
- 26 d. “information about the people, accounts, hashtags, Facebook groups and Pages that
27 you are connected to and how you interact with them across our Products;”
- 28 e. “contact information” from users’ devices;
- f. “information about how you use our Products, such as the types of content that you
 view or engage with, the features you use, the actions you take, the people or
 accounts you interact with and the time, frequency and duration of your activities;”
- g. “information about transactions made on our Products”; and

1 h. “content, communications and information that other people provide when they use
2 our Products. This can include information about you, such as when others share or
3 comment on a photo of you, send a message to you or upload, sync or import your
4 contact information.”

5 292. In other words, Instagram knows where you are, what you’re doing, who you’re with,
6 what you like, what you’re thinking about buying, some or all of your medical problems, if your
7 brother’s birthday is coming up, your favorite color, the identities of your friends and colleagues,
8 and on and on.

9 293. This trove of data, which allows Instagram to profile users on hundreds of metrics,
10 is an advertisers’ dream. Based on a company’s preferences, Instagram puts its algorithm to use,
11 mining the vast universe of user data to customize an audience for a given ad. This includes
12 demographic characteristics (like age, gender, and location); interests (like hobbies, entertainment,
13 preferred brands, family, and friends); and behaviors (like engagement with other content on
14 Instagram, interactions with ads, and past purchases).

15 294. Instagram is very, very good at this. The precision of its targeted advertisements is
16 uncanny, even eerie. Most women with children can tell you that the app knew they were pregnant
17 before almost anyone else in their life did—including possibly their partner. And because the app
18 knew, a deluge of ads for prenatal vitamins and maternity wear followed immediately.

19 295. The level of intrusion necessary for this to work as well as it does is unsettling—
20 particularly because Instagram’s most coveted, and valuable, users are teenagers.

21 296. Approximately 62% of American teens aged 13-17 use Instagram, with 10% of users
22 reporting that they use it “almost constantly.”

23 297. According to internal Instagram documents, it views the potential loss of teenage
24 users to other platforms as an “existential threat.”

25 298. Beginning in 2018, Instagram earmarked nearly its entire global annual marketing
26 budget to targeting teenagers—a number in the range of hundreds of millions of dollars.

27 299. If your child uses Instagram, there’s no question that Meta knows more about your
28 child’s habits, interests, preferences, whereabouts, and social network than you do.

1 300. And knowing those things is a very good business. Instagram’s advertising business
2 reaps astronomical profits. The platform brought in \$32.4 billion in advertising revenue in 2021
3 alone. One industry analyst has forecasted that Instagram’s ad revenue will total \$71 billion in
4 2024.

5 **II. Instagram’s Monopoly on Teenagers**

6 301. Instagram’s value to advertisers—and therefore its earning potential—is directly
7 correlated with the number of users and the extent of their engagement. Every new user generates
8 more data for Instagram, as does every extra hour spent on the app by an existing user. Every page
9 viewed, every link clicked, and every location logged helps Instagram better understand its users
10 and therefore better sell an advertiser’s product.

11 302. Adam Mosseri, the Head of Instagram, expressed this logic succinctly in his
12 testimony before the Senate Committee on Commerce, Science, and Transportation in 2021: “we
13 make more money when people spend more time on our platform because we are an advertising
14 business.”

15 303. Put another way, Instagram has every incentive to addict users—particularly the
16 young users who Instagram views as essential to its success—and it knowingly does so.

17 304. In its efforts to dominate the teenage market and maximize users’ time spent on the
18 platform, Instagram makes two conscious, calculated choices.

19 305. First, Instagram chooses not to implement age-verification measures to keep pre-
20 teens children off Instagram or to otherwise enforce their stated policy of blocking children under
21 13 from creating accounts.

22 306. Second, Instagram exploits basic known facts about brain chemistry, particularly
23 teenagers’ susceptibility to dopamine, in order to maximize the amount of time that teenagers spend
24 on the platform.

25 **A. Instagram Refuses to Enforce Age Guidelines.**

26 307. Instagram purports to prohibit children under the age of 13 from using its product.
27 This is not merely a “best practices” policy; federal law prohibits online services from gathering
28

1 even basic data on children under 13 (like names and email addresses) without verifiable permission
2 from a parent.

3 308. Instagram has made a mockery of this law and its own internal policy, which are
4 designed to protect children.

5 309. Instagram has known for more than a decade that millions of children under thirteen
6 use its product. Meta's *own algorithm* has estimated that it has as many as four million underage
7 users.

8 310. This is a choice. Instagram has chosen not to implement reasonably available age-
9 verification measures that are plainly feasible and used by other companies.

10 311. Other online products employ a variety of more effective and reliable age-
11 verification systems to prevent children from using their products, including connecting new users
12 to parents' accounts or insisting on verification through an identification card (or other government-
13 issued document) listing date of birth.

14 312. Indeed, Meta uses an age verification technique for its Facebook Dating product that
15 it claims can verify ages without identifying users—but does not use the same technology at account
16 startup for Instagram.

17 313. Instagram did not even ask for the age of new users until December 2019; and even
18 then, it ignored existing users so that hundreds of thousands of underage users were simply
19 grandfathered in.

20 314. Moreover, when Instagram began asking new users to report their ages in December
21 2019, it did so in a manner that was easily and obviously circumventable. The system, if you can
22 call it that, simply asked new users to self-report their date of birth. If the user entered a birthdate
23 indicating that they were under 13, they were informed they could not create an account. But if that
24 same child *immediately* re-entered a different birthdate, Instagram opened the doors to the app.

25 315. Normally, this would be called willful ignorance. But Instagram is not ignorant of
26 anything; it knows more about its users than they know about themselves.

27 316. This knowledge has now been confirmed several times over.

28

1 317. According to documents cited in a lawsuit brought by a coalition of state attorneys
2 general (“Coalition lawsuit”), Meta created charts tracking Instagram’s penetration into 11- and 12-
3 year-old demographic cohorts.

4 318. And Facebook whistleblower Frances Haugen described in congressional testimony
5 how Meta knows that “10 to 15 percent” of children as young as 10 are on Facebook and/or
6 Instagram.

7 319. Instagram’s failure to act as an effective gatekeeper is not sloppiness or error; it is by
8 design. Keeping underage children off Instagram would substantially diminish its user base and its
9 value to advertisers. Every 10-year-old hooked on Instagram is a current user, a future user, and a
10 valuable collection of data points that can be exploited once that child has purchasing power.

11 320. Indeed, according to the Coalition lawsuit referenced above, Meta has made efforts
12 to identify underage users—but in the service of company growth, not child safety and well-being.
13 In a 2019 email, Meta’s head of global safety asked the company’s president of global affairs to
14 clarify whether the goal for identifying users under the age of 13 was to remove them “or whether
15 we are waiting to test growth impact before committing to anything.” The answer appears to have
16 been the latter.

17 321. Upon information and belief, Meta has intentionally stalled the implementation of
18 automated detection systems and fails to properly staff the team that reviews user reports of
19 underage activity.

20 322. According to the Coalition lawsuit, Meta has received more than 1.1 million reports
21 of users under the age of 13 on its Instagram platform since 2019, yet it “disabled only a fraction”
22 of those accounts.

23 323. Hooking kids before they turn 13 is critical to Meta’s business because it ensures a
24 steady stream of the platform’s most valuable demographic: teens.

25 324. According to internal Instagram documents, it views the potential loss of teenage
26 users to other platforms as an “existential threat.” In Instagram’s words: “if we lose the teen foothold
27 in the U.S, we lose the pipeline” for growth.

28

1 325. Beginning in 2018, Instagram earmarked nearly its entire global annual marketing
2 budget to targeting teenagers—a number in the range of hundreds of millions of dollars.

3 326. Teenagers’ time, attention, and data is so valuable to Instagram that it has developed
4 an internal metric, “teen time spent,” that measures how many hours per day teenagers spend on the
5 platform.

6 **B. Teens are insatiable when it comes to ‘feel good’ dopamine effects.”**

7 327. Dopamine is a neurotransmitter that is central to the brain’s reward system; it is
8 released when we experience pleasurable stimuli. Our brains are wired to seek out stimuli that result
9 in dopamine release.

10 328. Instagram revolves around the giving and withholding of approval by a user’s
11 community. Every post or story is judged by the number of likes collected, the quantity of comments,
12 the number of reposts, and so on. This feeds into teenagers’ need for social approval and validation,
13 and users experience dopamine rushes when the app rewards them.

14 329. Instagram’s exploitation of the brain’s dopamine pathways is not unlike the effects
15 of substance abuse. As New York University professor and social psychologist Adam Alter has
16 explained: “The minute you take a drug, drink alcohol, smoke a cigarette . . . when you get a like on
17 social media, all of those experiences produce dopamine, which is a chemical that’s associated with
18 pleasure. When someone likes an Instagram post, or any content that you share, it’s a little bit like
19 taking a drug. As far as your brain is concerned, it’s a very similar experience.”

20 330. Or as Meta put it in an internal 2020 presentation: “Teens are insatiable when it
21 comes to ‘feel good’ dopamine effects. . . . And every time one of our teen users finds something
22 unexpected their brains deliver them a dopamine hit.”

23 331. But Instagram does not simply inundate users with rewards likely to result in a
24 dopamine hit. Relying on lessons from behavioral science and research dating back decades,
25 Instagram instead uses a concept known as intermittent variable rewards (“IVR”).

26 332. IVR works by spacing out dopamine-triggering stimuli with dopamine gaps in an
27 unpredictable manner. Put more simply, when you don’t know when the next hit of dopamine is
28 coming, the anticipation makes the next hit even sweeter.

1 333. IVR has been shown to alter neural pathways in the brain to create much stronger
2 associations than fixed, predictable rewards. The dopamine gaps allow craving and anticipation to
3 build, which strengthens the desire to engage in the activity with each release of dopamine.

4 334. Instagram goes to great lengths to keep those “insatiable teens” engaged, delivering
5 IVR on a tailored schedule that the algorithm predicts will be most effective in keeping a particular
6 user engaged.

7 335. For example, Instagram’s notification algorithm will at times determine that a
8 particular user’s engagement will be maximized if the app withholds “Likes” on their posts and then
9 later delivers them in a large burst of notifications.

10 336. A user never knows what they’ll find when they open the Instagram app, so each
11 time offers the possibility of a new dopamine reward. In fact, this uncertainty itself makes the
12 experience more addictive—similar to the way in which people can become addicted to pulling the
13 lever on a slot machine.

14 337. To ensure perpetual use is possible, Instagram is designed to facilitate and encourage
15 a user to stay on the app and continue consuming content *ad infinitum*.

16 338. First, Instagram’s product features work in combination to create and maintain a
17 user’s “flow-state”: a hyper-focused, almost hypnotic state where the user is totally immersed in
18 smoothly rotating through aspects of the product.

19 339. In the earlier days of the app, Instagram’s main feed could actually come to an end,
20 saying “you’re all caught up” after you’d seen everything shared by your friends. But over time, the
21 company realized that friends alone aren’t enough to keep users on the platform for hours on end.

22 340. In 2020, Instagram started adding algorithmically-selected content to the user’s feed
23 that he or she didn’t request. This is known as the “infinite scroll.” Now, the app will never tell you
24 that you’ve seen enough; it will always give you more.

25 341. This has the effect of lulling users into a flow state in which they scroll endlessly in
26 search of a dopamine release, oftentimes despite a desire to put their phone down and move on to
27 other activities.

28

1 342. The upshot is that Instagram is incredibly successful at getting users to check the app
2 repeatedly, even compulsively, throughout the day. Adolescents and children are especially
3 vulnerable to these dopamine-driven urges because they lack the fully developed executive decision-
4 making, and impulse control, of adults.

5 343. Second, Instagram keeps users engaged by amplifying extreme content. This content
6 is more likely to be upsetting, disturbing, jarring, and/or controversial.

7 344. Even when users dislike the content Instagram shows them, that content often elicits
8 some kind of reaction—even one as small as pausing on the post. Instagram takes note of these
9 minute reactions, and every pause tells the app the user is engaged, which in turn leads to more
10 extreme content.

11 345. The type of aggressive marketing preferred by certain firearm companies, as
12 described below, is one type of extreme content that Instagram is designed and engineered to
13 amplify.

14 **III. Firearm Companies Need Instagram to Reach Customers—Especially**
15 **Minors.**

16 346. Around 2010, the firearm industry began to panic over two, interconnected problems:
17 the decline of print media and a growing reticence among traditional outlets to publish firearm
18 marketing; and (2) the existential need to court youth and cultivate their interest in firearms.

19 347. Instagram offered a solution to both these dilemmas. As other forms of marketing,
20 like newspaper and television, were shutting the industry out, Instagram offered gun companies tens
21 of millions of active users—many of whom belonged to the younger demographic the industry was
22 chasing. Today, that number is more like 2 billion.

23 **A. The Disappearance of Print and Broadcast Marketing**

24 348. For decades, firearm manufacturers advertised through traditional media, such as
25 magazines, newspapers, and television commercials.

26 349. A 1999 *New York Times* article reported that “gun magazines remain the firearm
27 industry’s favorite, and most uniformly supportive, marketing tool.”
28

1 350. At that time, the most popular magazine, *Guns & Ammo*, had an estimated readership
2 of 5.8 million.

3 351. In 2013, *Guns & Ammo*'s circulation was reported to be 416,224. *Ad Week*
4 characterized this number, a 7% jump from the previous year, as a “beacon of hope for the American
5 publishing industry”—a telling comment on the future of print, niche magazines.

6 352. Compounding the disappearance of print media in the digital age, many traditional
7 media outlets began prohibiting gun advertisements.

8 353. In the early 2000s, newspapers began to limit or ban gun advertisements. Today,
9 firearm advertising in newspapers has been all but eliminated.

10 354. Television followed suit. Following the 2012 Sandy Hook Elementary School
11 Shooting, Comcast, the nation's largest cable operator, joined Time Warner and Cox
12 Communications in banning firearms advertisements.

13 **B. The Critical Demand for Youth**

14 355. The Firearm industry has not been reticent in acknowledging that American youth is
15 the answer—the only answer—to its feared obsolescence. This has led the industry to openly discuss
16 and implement strategies to court children and teens through marketing.

17 356. In 2012, a “comprehensive consumer study” published by the National Shooting
18 Sports Foundation advised that “managers and manufacturers should target programs toward youth
19 *12 years old and younger*” because “[t]his is the time that youth are being targeted with competing
20 activities” other than shooting.

21 357. In an editorial published the same year in *Junior Shooters* magazine, the editor in
22 chief warned: “All the companies involved in the shooting industry need to realize our youth are the
23 future of the shooting industry.”

24 358. America's gun companies heeded the call.

25 359. Freedom Group, the firearm conglomerate that included Remington, wrote in an SEC
26 filing that increased interest in the long gun market with “a younger demographic of users” would
27 have “significant long-term benefits.”

28

1 360. Privately, Remington executives lamented that there were fewer opportunities for
2 youth to come into contact with firearms. In an internal memo, company execs posited that placing
3 their weapons in first person shooter video games would “help create brand preference among the
4 next generation,” and allow the company to “win our fair-share of these young consumers.”

5 361. In 2012, an employee of Barrett Firearms explained the company’s interest in
6 partnering with video game makers: “video games expose our brand to a young audience who are
7 considered possible future owners.”

8 362. The CEO of Smith & Wesson told investors that Smith & Wesson saw opportunities
9 for expanding the market for assault rifles by targeting “a younger demographic” that “grew up
10 playing videogames” and was “very interested in firearms.”

11 363. Some companies have even begun manufacturing .22 caliber assault rifles
12 specifically for children, using plastic to keep the weight manageable for a child.

13 364. An Illinois-based company called Wee 1 Tactical began marketing its “JR-15,” a
14 child-sized AR-15, in 2022. The JR-15 is not a toy gun; it can shoot and kill.

15 365. Wee 1 Tactical has described the JR-15 as “operat[ing] just like Mom and Dad’s
16 gun.” The company has stated: “We are so excited to start capturing the imagination of the next
17 generation[.]”

18 366. Of the firearm manufacturers that have expressed a desire to cultivate interest in
19 firearms among younger Americans, Daniel Defense has worked to groom kids and teens with
20 particular zeal.

21 367. The founder of Daniel Defense and the Executive Chairman of its board testified to
22 Congress that “getting young people interested in firearm ownership” is good for business.

23 368. As alleged above, one of Daniel Defense’s rifles, the DDM4V7S, was displayed on
24 the loading page of *Call of Duty: Modern Warfare*, a placement guaranteed to reach millions of
25 teens.

26 369. Daniel Defense is behind the “Double D Foundation,” which purports to “protect the
27 Second Amendment by growing the number of Americans involved in shooting sports” The
28 actual purpose of the foundation is to provide a tax-exempt marketing wing to target children.

1 370. The Double D Foundation’s website is explicit that its purpose is to reach children
2 without previous exposure to firearms: “These young Americans have never felt the surge of
3 adrenaline that comes with that first real trigger pull [or] smelled gunpowder . . .”

4 371. Daniel Defense has also repeatedly posted content that explicitly links their weapons
5 to youth, including children. For example, Daniel Defense has posted the following images: a man
6 dressed as Santa Claus holding an assault rifle; a young woman, possibly a teenager, sitting next to
7 an assault rifle and looking at a night sky; a father at the shooting range with a young boy, no older
8 than 12, who is aiming an assault rifle; and a mother with a boy under the age of 10 standing behind
9 a rifle scope.

10 372. In one particularly memorable, and disturbing, example, Daniel Defense posted an
11 image of a toddler holding an assault rifle with the biblical caption: “Train up a child in the way he
12 should go, and when he is old, he will not depart from it.”

13 373. That image was posted on May 16, the same day the Uvalde Shooter purchased his
14 assault rifle from Daniel Defense, and eight days before he used it to kill 19 children and two adults
15 at Robb Elementary School.

16 **IV. Instagram Purports to Prohibit Firearm Marketing but Actually Facilitates It.**

17 374. According to Meta’s published “Advertising Standards,” which apply to Instagram,
18 “[a]ds must not promote the sale or use of weapons, ammunition or explosives,” including
19 “[f]irearms, ... firearms parts, [and] ammunition.”

20 375. Instagram’s de facto policy, however, is that only *paid* firearm advertisements are
21 prohibited. If firearm companies bypass Instagram’s formal advertising channels and rely instead
22 on “organic posts” from their own account, firearm marketing is freely permitted.

23 376. The firearm industry learned quickly how to navigate this flimsy rule and does so in
24 two ways: (1) creating advertisements in the form of organic posts; and (2) using influencers to sell
25 their products.

26 377. With respect to the former, firearm companies figured out years ago that minor
27 tweaks to an advertisement will bring it into compliance with Instagram’s stated policy—avoiding
28 the words “buy” and “sell” and omitting both price and a direct link to purchase.

1 378. This laughably easy workaround is an openly discussed topic in the industry.

2 379. According to one firearms marketing agency: Instagram “may not allow gun and
3 ammunition brands to use paid advertising to promote their products,” but “there are no restrictions
4 against organic social posts.” “[T]here are some major loopholes in . . . advertising regulations
5 for Facebook and Instagram.” Thus, “organic posts” that promote firearms will not be prohibited
6 if they avoid “linking to any page that sells firearms or ammunition.”

7 380. The National Shooting Sports Foundation, the firearm industry’s trade association,
8 advises firearms sellers: “My biggest advice for somebody on social media is do not (under any
9 circumstances) put pricing in your posts — ever. When we put pricing in a post, we get nailed.”

10 381. Another marketing agency recommends, “[y]ou must pay attention to the wording of
11 your posts. . . . If [someone] ask[s] for the price on Instagram, have them message the page.”

12 382. Even when following this advice, firearm companies often exhibit a certain smugness
13 at how easy it is to skirt the rules. On one Instagram post featuring a Daniel Defense rifle, a user
14 commented, “\$\$?” Daniel Defense replied with their official account: “Please visit our website.
15 Instagram doesn’t like when we post prices. FYI, this Delta 5 Pro 16” is available!”

16 383. The idea that advertising can be reduced to such formulaic terms is specious. The
17 most iconic advertisements in history—Nike, Coke, and Apple come to mind, among many others—
18 didn’t urge consumers to “buy” or list a price. They employed powerful imagery and/or catchy
19 verbiage and memorably linked it to a brand. As with many things in life, “show don’t tell” carries
20 the day.

21 384. Nothing prevents firearm companies from employing this strategy on Instagram—
22 and they do.

23 385. Another popular workaround is the use of the so-called influencer. Influencers are
24 Instagram users with a large and established audience who companies use to promote products,
25 usually in their everyday life and with the veneer of authenticity. Influencers excel at creating
26 content that is visually appealing and designed to look genuine instead of scripted.

27 386. This type of soft marketing is extremely effective, particularly with teens; according
28 to a Morning Consult report, 72% of teens follow at least one influencer.

1 387. Gen Z, who represent today’s current teenage population, is the biggest and most
2 profitable target market for influencer content.

3 388. More than 75% of brands now have a dedicated budget for influencer marketing. In
4 2022, the influencer industry reached \$16.4 billion.

5 389. Influencers are considered “branded content” under Instagram’s policies if they
6 received anything of value from the company whose product they are promoting. This includes gifts
7 and other free things.

8 390. Instagram’s Community Guidelines prohibit any “branded content,” which includes
9 influencers, from promoting firearms.

10 391. But once again, this rule is easy to skirt: influencers simply do not disclose their posts
11 as branded content.

12 392. Influencers have become a wildly effective marketing tool for the firearm industry.

13 393. One firearms marketing agency explains that firearms sellers should “partner with
14 influencers to ‘white label’ ads through the influencer accounts.” The agency notes that while
15 Instagram prohibits direct advertising, “influencers can pay to promote their content that reviews a
16 firearms product but doesn’t link to a website where guns and ammunition are sold. **This strategy
17 is incredibly effective and every marketing leader in the shooting sports industry should
18 consider it.**”

19 394. According to a Vox article, influencers have “done something that the companies in
20 the firearm industry cannot do on their own: make the gun lifestyle as attractive and aspirational as
21 all the others on Instagram.”

22 395. An employee of a gun range interviewed for the article put it this way: “[Influencers]
23 can promote our product better than we can. That’s the sad part, because they’re not a gun company.
24 We can pay them to promote our product, but we can’t promote our own. In regard to Facebook and
25 Instagram, it really is the only way for gun companies to grow.”

26 396. One marketing executive in the firearms industry has referred to influencers as “the
27 goose laying the golden egg.”

28

1 397. Influencers have become so ubiquitous in firearm marketing that there are now
2 consultants offering to manage portfolios of influencers for firearms companies.

3 **V. Firearm Companies like Daniel Defense Rely on Instagram’s Guidance to**
4 **Structure their Assault Weapons Marketing to Teens.**

5 398. Certain firearm companies, including Daniel Defense, have been emboldened by
6 Instagram’s policy—and the corresponding cheat sheet for how to evade it.

7 399. Daniel Defense has carved out a niche in the firearm market. It sells a single model
8 of handgun and a bolt-action rifle, but its bread and butter is the AR-15. At least 80 percent of Daniel
9 Defense’s revenue comes from selling AR-15-style rifles.

10 400. Daniel Defense’s website lists twenty-seven models of AR-15-style rifles for sale.
11 The most popular is the DDM4 model, which is meant to evoke and mimic the “the iconic M4
12 carbine used by U.S. military forces.” The Shooter used a variant of the DDM4 to commit his attack
13 at Robb Elementary School.

14 401. All of Daniel Defense’s AR-15 rifles are, like their military progenitor, designed to
15 kill in combat. Every feature of the weapon serves this end, particularly its weight, ergonomics, rate
16 of fire, low recoil, and capacity to hold large capacity magazines.

17 402. Daniel Defense’s marketing leans heavily on military themes, continually seeking
18 new ways to link their product to the thrill of combat and the dominance associated with the
19 military’s standard-issue assault rifle.

20 403. The company’s Instagram posts routinely depict scenarios featuring, or appearing to
21 feature, real military operators—not, for example, civilians in fatigues. Soldiers are shown on patrol,
22 entering an unidentified building with weapons drawn, or ascending the stairs of a freight ship in a
23 stacked formation. Special forces are shown emerging from water in the middle of the night.

24 404. These posts often feature a single soldier dressed for battle, evoking the trope of the
25 brave, lone gunman.

26 405. In 2017, Daniel Defense published a video advertisement called “Daniel Defense
27 MILE (Military & Law Enforcement) Brand Video,” which shows a pitched gun battle taking place
28

1 inside the dark and cinder-blocked-lined halls of an unidentified building, which could easily be a
2 school or other public building.

3 406. Military imagery is sometimes juxtaposed with ordinary, even banal,
4 characterizations of civilian life—an intentional blurring of the line between combat in war and
5 combat “at home.”

6 407. For example, one of Daniel Defense’s Instagram posts shows four soldiers entering
7 an unknown building in formation; they are decked out in full combat gear, hundreds of rounds of
8 ammunition strapped to their chests, holding assault rifles in the high ready position. The caption
9 reads: “Heading out of the office like...” The hashtags include #gunsofinstagram, #operators, and
10 #gunporn.

11 408. Other posts create a jarring contrast between the violence of the weapon and the
12 domesticity of the surroundings. In one such advertisement, an AR-15 is seen leaning against the
13 refrigerator in a home kitchen, with the text “Let’s normalize kitchen Daniels. What Daniel do you
14 use to protect your family and home? 🔥 DDM4 V7 in Tornado.” In another, a rifle sits next to a
15 mug with the caption “The perfect way to enjoy #sundaygunday. What’s your Daniel and Drink of
16 choice for today?”

17 409. Th former post, advertising the exact weapon used by the Uvalde Shooter, was
18 published on May 13, 2022—three days before the Shooter purchased his own.

19 410. Daniel Defense also explicitly links its weapons to *Call of Duty*, where rifles identical
20 and similar to its own are used to commit mass murder.

21 411. As alleged above, Daniel Defense took to Instagram to boast when the DDM4V7S
22 was featured on the *Modern Warfare* loading page.

23 412. Daniel Defense’s Instagram advertising routinely references *Call of Duty* in an
24 attempt to draw an association between the famous first-person-shooter franchise and its assault
25 rifles.

26 413. These advertisements, which usually feature soldiers armed with Daniel Defense
27 AR-15-style rifles and dressed to appear like players from *Call of Duty*, include *Call of Duty*
28 hashtags, such as “#callofduty,” “#cod,” (an abbreviation for Call of Duty regularly used by gamers),

1 “#warzone” (a game in the Call of Duty franchise), “#callofdutywarzone,” “#codwarzone,”
2 “#callofdutymodernwarfare,” and “#videogames.”

3 414. Daniel Defense has referenced *Call of Duty* game features and game modes, with
4 phrases like “Final circle in solos, what’s your move?”, “How many wins do you and your squad
5 have in Warzone?”, “When you’re the number one team in plunder, what’s your move?!”, “Where
6 we dropping boys? 🏹”, “Eliminate all enemies or capture the overtime flag to win!”.

7 415. To harness the power of Instagram, Daniel Defense also used posts as a form of
8 crowd-sourced advertising. It frequently called on users to “tag” the people with whom they play
9 *Call of Duty*, which would bring the ads to the social media feeds of the gaming partners. For
10 example, Daniel Defense urged users: “Tag your Gunfight partner below! 🎮 🎮”, “Who is your
11 warzone partner? Tag em below!”, and “Tag your Duos buddy below.”

12 416. These invocations of *Call of Duty* are part of Daniel Defense’s efforts to appeal to
13 the young, male demographic that dominates the franchise. But it is not the only tactic. Daniel
14 Defense also exploits tropes of sex and masculinity in an effort to reach teenage boys.

15 417. The company works with social media influencers, generally young and attractive
16 women, who pose with Daniel Defense weapons—sometimes in lingerie or revealing clothing. The
17 ads all convey a common message: owning an assault rifle is masculine and sexy and will earn the
18 attention and respect of women. In one particularly unsubtle post, a gun influencer poses in black
19 lingerie holding a Daniel Defense rifle. The caption reads, “fuller hips, tits, and lips.” Daniel Defense
20 is tagged by name in the caption, removing any doubt as to what is being sold.

21 418. These types of messages are designed to appeal to teenage boys who are navigating
22 puberty, masculinity, and intense vacillations of self-esteem.

23 419. Upon information and belief, Daniel Defense has collaborated with multiple
24 influencers on Instagram and paid them to promote Daniel Defense weapons. In some cases, Daniel
25 Defense may have paid for influencers’ service by gifting free weapons and/or accessories.

26 420. Some or all of these influencers fail to disclose their posts as branded content and
27 instead attempt to make their posts appear “organic.”

28

1 421. Instagram knows that companies like Daniel Defense violate Instagram’s stated
2 polices by marketing firearms in this way.

3 422. Yet another tactic Daniel Defense employs to appeal to younger users on Instagram
4 is the use of pop culture references and, on occasion, actual celebrities.

5 423. In a 2020 post, Daniel Defense posted a picture of musician and rapper Post Malone
6 holding its MK18 assault rifle. The caption reads, “MK18 got me feeling like a rock star,” a reference
7 to Post Malone’s #1 hit, Rockstar, which includes lyrics glorifying a drive by shooting.

8 424. Other Daniel Defense posts on Instagram have referenced movies such as Star Wars,
9 Scarface, and Gladiator, as well as the popular and highly violent Netflix show, Squid Game. In the
10 latter, Daniel Defense’s ad shows an executioner character from the show holding a Daniel Defense
11 AR-15. The obvious implication is that the routine murder that occurs on the show would be more
12 effective—or perhaps more fun—with a Daniel Defense weapon.

13 425. Daniel Defense’s Instagram marketing also plays into themes of power and
14 powerlessness. Specifically, that the ownership and use of an assault rifle is, by itself, a triumph
15 over powerlessness. Ad copy refers to Daniel Defense weapons as “a force to be reckoned with” and
16 as something “bad” that “comes in a small package.” Another ad directs the viewer: “Refuse to be
17 a victim 🤝”

18 426. And in April of 2021, Daniel Defense re-published on its own page the message of
19 an Instagram user explicitly linking AR-15 proficiency with masculinity and power. The post
20 features the user wearing a ballistic helmet, night-vision gear, a gas mask, and a plate carrier—a
21 combination that has no legitimate use in the civilian market. The caption reads:

22 When will we realize as a collective that there is nothing glamorous,
23 enticing, or desirable about being powerless? Masculinity is NOT a toxic
24 social concept that weakens the mind, body or spirit. . . Be deliberate,
25 meticulous and calculated in your thoughts and actions. I will be ramping it
up, enhancing my proficiency. You should too. Or don’t and suffer the
consequences. Everything has a price. What are you willing to pay?

26 Daniel Defense dubbed this unsettling screed, “weekend vibes.”

27 427. Finally, and most disturbingly, Daniel Defense uses Instagram to extol and glamorize
28 the unlawful use of its weapons.

1 428. One post in this genre shows two soldiers in combat gear on patrol, rifles at the ready.
2 The imagery does not evoke hunting or sporting in any sense, and there is not an animal in sight.
3 Yet the caption reads: “Hunters Hunt.”

4 429. Another advertisement shows a Daniel Defense rifle equipped with a holographic
5 battle sight—the exact same brand used by the Shooter—and dubs the configuration “totally
6 murdered out.”

7 430. Yet another depicts the view through a rifle scope, the color slightly tinged to evoke
8 the scope’s effect. City lights can be seen in the distance. The rifle is looking down on a street below,
9 as if from a rooftop. The setting could be any American street at night; you can see streetlights, a
10 parked car, and other cars driving by. The rifle’s crosshairs are fixed on the parked car. The caption
11 reads, “rooftop ready, even at midnight.”

12 431. Many Instagram users noted the fact that this post unambiguously promotes unlawful
13 use.

14 432. One commentor asked, “So y’all really just out here aiming rifles at the street? 🤔”.
15 Another stated, “This is a strange ad lol telling people to snipe people...”. A third person commented
16 simply “danielassination.” Another stated, “I know the Uber was late but y’all don’t think this was
17 too far? 😂” Another stated, “Ayo imagine driving by and getting glassed like jfk.” Another asked,
18 “What’d the guy in that little car do to you?” Another asked, “How tf [“the fuck”] did you guys pull
19 off this photoshoot without someone calling the National Guard on your?! 😂😂😂” Another
20 stated, “Some poor fella had a gun pointed at his dome and didnt even know it.” Another asked, “So
21 we’re pointing guns at civilians off a rooftop for a photo shoot now??? 😂.”

22 433. Indeed, simply the placement of this weapon—even for marketing purposes—may
23 have violated state criminal statutes. In Texas, for example, a person commits the offense of
24 disorderly conduct if he “intentionally or knowingly ... displays a firearm or other deadly weapon
25 in a public place in a manner calculated to alarm.”

26 434. Daniel Defense’s advertising is designed to appeal to minors, and targeting minors is
27 one of the company’s explicit goals. Cultivating brand exposure and loyalty among a younger
28 demographic is the only way the company can remain relevant and profitable—particularly in an

1 era where millions of potential customers are exposed to AR-15 brands through the *Call of Duty*
2 franchise. In other words, competition is tight.

3 435. Just as Activision uses violence, gore, and realistic weaponry to keep teenage boys
4 hooked, Daniel Defense relies on advertising that is aggressive, combat-fetishizing, irresponsible,
5 reckless, and sometimes unlawful. Like all good marketing, Daniel Defense is selling an attitude,
6 the allure of power, a sense of being feared and respected.

7 436. It does this on a platform where millions of users are minors, with the intent and
8 expectation that those minors will be exposed to their advertising and influenced by it.

9 437. By relying on Instagram for advertising, Daniel Defense knows that it can bypass
10 parents and speak directly to children and adolescents.

11 438. After the Uvalde mass shooting, a local paper operating near Daniel Defense
12 headquarters in Georgia had this to say about the company: “A not-so-secret fact about product
13 marketing is the pitch often says more about the company than the good or service it provides.
14 Judging by Daniel Defense’s marketing strategy, the locally based firearms manufacturer is the
15 sociopath next door.”

16 **VI. Instagram Leverages Unlawful Firearm Advertising to Engage and Retain**
17 **Minor Users.**

18 439. Daniel Defense relies on Instagram to advance a reckless, unethical, and unlawful
19 marketing strategy. The company courts children and teenagers long before they can legally
20 purchase firearms and does so by linking its weapons to glamorized violence, lone gunman missions,
21 female influencers, pop culture references, and the *Call of Duty* franchise, among other tactics.

22 440. Daniel Defense cannot advance that strategy, nor reach large numbers of children
23 and teens, without Instagram’s assistance.

24 441. Instagram makes choices about whether and how to regulate content it deems
25 dangerous or harmful. It uses various tools at its disposal to prevent minors from seeing, or being
26 harmed by, certain kinds of content.

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1 442. In the context of paid advertising, Instagram forces companies to submit to a formal
2 review process. Advertisers that try to comply with the letter but not the spirit of Instagram’s policies
3 will usually be rebuffed.

4 443. “When an ad is submitted, it goes through a pretty extensive review process before
5 it’s approved,” a spokesperson for Instagram explained in 2019. That includes a review of the ad
6 itself, the landing page the ad redirects to, and links to outside websites. Even if the ad doesn’t
7 promote the sale of guns, leading to a page that does will result in rejection. And the caption is just
8 as important as the image. “If the image was a firearm safe — this is purely hypothetical — and
9 then the caption was ‘I love using guns, you should all use guns, here’s a safe,’ that would be
10 disapproved.”

11 444. Outside the context of paid advertising, Instagram takes steps to protect minors from
12 content considered harmful, even if it comes in the form of “organic” posts. This includes content
13 that is overly sexualized or that concerns suicide or eating disorders. Those tools are far from perfect
14 and, even with sophisticated algorithms, content slips through the cracks.

15 445. But in the case of firearm marketing, Instagram has chosen an approach that involves
16 no scrutiny or tools whatsoever. According to Instagram, a paid advertisement for a gun safe cannot
17 say “I love guns,” because that would amount to promotion of firearms. But Daniel Defense can
18 hawk AR-15s using celebrity influencers and post glibly about the unlawful use of a sniper rifle—
19 so long as it doesn’t pay Instagram to do so.

20 446. Instagram’s written policies are a stalking horse. They conceal Instagram’s actual
21 position on firearm marketing, which is very simple. Instagram has no desire or intention to restrict
22 firearm marketing on the platform; Instagram cares only about preserving its ability to tell parents
23 and regulators that they do not get paid for firearm advertising.

24 447. Ultimately, Instagram assists companies like Daniel Defense in distributing firearm
25 marketing and targeting minors because it is good for business. Daniel Defense is good at producing
26 extreme content, which attracts minors, drives engagement, and therefore powers the platform’s
27 data-driven bottom line.

28

1 448. In other words, it does not benefit Instagram to protect children from reckless,
2 unconscionable, or even illegal marketing. The factors that render that marketing unfit to be shown
3 to children are the very same factors that make it good for Instagram: it catches the eye, makes a
4 user pause, elicits a reaction (whether positive or negative doesn't matter), and provides a gateway
5 to other extreme content involving firearms, violent first-person-shooter games, gun bunnies in
6 lingerie, and so on.

7 449. Instagram is content to throw open its doors to companies that negligently, recklessly,
8 unconscionably, and/or illegally market assault weapons *because it is good for Instagram*.

9 450. Instagram knows that so-called organic posts from firearm companies are thinly
10 veiled advertisements.

11 451. Instagram knows that firearm companies are following the playbook it laid out for
12 them for how to advertise: no prices, no links, and no sales terms.

13 452. This playbook is tailored to Instagram's internal definition of what constitutes
14 advertising; that is, what causes Instagram to flag a post as a prohibited ad.

15 453. Instagram could take a broader view of advertising in order to keep aggressive,
16 militaristic, and unlawful firearm marketing off of the platform.

17 454. Instagram has chosen not to do this, even though it counts millions of teens and
18 preteens among its users.

19 455. Instagram could treat firearm posts as a content issue, rather than as an advertising
20 issue, as it does with other forms of harmful content.

21 456. Instagram has chosen not to do this, even though it counts millions of teens and
22 preteens among its users.

23 457. Instagram knows that firearm companies are laundering advertisements through
24 influencers.

25 458. Instagram knows that gun influencer posts are actually firearm advertisements.

26 459. Instagram knows that gun influencers are failing to disclose their posts as branded
27 content in order to continue pushing firearm marketing to Instagram users.

28

1 472. But if mass shooters are an inexplicable mystery, an unfathomable manifestation of
2 madness, why does our country—and only our country—keep making them?

3 473. Do we really think that it is something in the American water that produces this
4 particular kind of monster? One who worships battlefield weapons and assembles an arsenal; who
5 eagerly awaits the day when he will walk into a classroom and open fire; who demonstrates no
6 understanding of the horror he is prepared to inflict; who inflicts that horror with indifference or
7 numbness; who is apparently unable to see his victims—even young children—as human; who
8 walks in prepared to die and usually does.

9 474. These shooters were recently children themselves. This is not a ploy for sympathy;
10 it is simply a fact. The shooters won't tell us what we want to know.

11 475. But the Defendants can.

12 476. Set forth below are the facts we know about how Defendants helped to make one
13 American mass shooter. We will continue calling him the Shooter, because yesterday he had another
14 name, and tomorrow, he will have another.

15 **I. The Shooter's Childhood Primed Him for Later Grooming**

16 477. The Shooter was born in Fargo, North Dakota in 2004, but moved with his mother to
17 Uvalde as a baby. He rarely saw his father from that point forward.

18 478. The Shooter's early life was difficult and disadvantaged. It was marked by his
19 mother's drug use, poverty, and social and academic struggle. He was identified as "at risk" by the
20 time he reached third grade. It is unclear if the Shooter had a learning disability, but he believed
21 himself to be dyslexic.

22 479. As is often the case, traumas compounded. The Shooter was sexually assaulted by
23 one of his mother's boyfriends, but she did not believe him when he disclosed it. Bullying started
24 and never ended; the Shooter was taunted over his stutter, clothing, and haircut.

25 480. Years later, the Shooter wrote notes recounting the bullying he experienced in middle
26 school and beyond. He described being slapped, tripped, punched, pushed downstairs, yelled at, and
27 told he was ugly.

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1 481. He wrote that he missed weeks and even months of school at a time because of
2 bullying. “I used to cry almost every day when I went home.... I USED TO WALK HOME AND
3 CRY IN 8th grade cuz I was getting bullied. There’s so much [sic] times I walked home crying.”

4 482. The Shooter’s notes reveal depression, profound loneliness, and social isolation. He
5 talks about crying himself to sleep, being scared to report bullying to his counselor, fear of losing
6 his only friend, and being terrified when his mother left him home alone.

7 483. He also described severe disordered eating. “I was sickly skinny because I would
8 never eat because my Ed [eating disorder] was so bad. I had to go to the hospital because I would
9 barely eat. I was anorexic back in late 2020. I was sticking a finger in my mouth and throwing up
10 all my food back in January.”

11 484. But he also showed streaks of rage and seemed fixated on taking revenge on those
12 who had hurt him. His various screen names and email addresses were all iterations of the word
13 “revenge” with a number substituted for a letter.

14 485. The Shooter seemed eager to reclaim the label of “antisocial” from those who had
15 wielded it against him. His expressions of anger sometimes veered into terrifying threats of sexual
16 violence.

17 486. Beginning in 2018, the year the Shooter turned 14, his school attendance and
18 performance declined precipitously. He received failing grades, performed dismally on standardized
19 tests, and was reported absent more than 100 times each school year.

20 487. At the beginning of the 2021 school year, when the Shooter was 17, he had only
21 completed the ninth grade. Shortly thereafter, Uvalde High School involuntarily withdrew him due
22 to his failing academic performance and lack of attendance.

23 488. The Shooter was a prime target for Defendants. His lack of family and social support
24 made him susceptible to use Defendants’ products compulsively; and his eagerness to take revenge
25 for bullying and shed the role of victim made him the perfect mark to sell a fantasy of power and
26 dominance through violence.

27
28

1 **II. The Shooter’s Descent into Defendants’ Products**

2 489. The Shooter’s isolation deepened between 2020 and the end of 2021. His involuntary
3 withdrawal from school severed any remaining tie to a social life or community.

4 490. According to the Shooter’s former girlfriend, the Shooter “didn’t have any friends”
5 and in terms of close family relationships, “he had no one.”

6 491. The Shooter retreated into the world of Defendants’ Products.

7 492. He spent copious amounts of time playing *Call of Duty*. This habit began in at least
8 2019 and escalated in the year prior to the shooting at Robb Elementary School.

9 493. The Shooter downloaded *Call of Duty: Mobile* within two days of its release in
10 October of 2019. He was only 15 at the time. Despite the ESRB’s “M” (17+) rating, nothing
11 prevented him from downloading and playing the game. When the Shooter obtained a new iPhone
12 in 2022, he immediately downloaded *Call of Duty: Mobile*.

13 494. The Shooter also frequently played *Call of Duty* games on his PlayStation console,
14 including *Call of Duty: Black Ops Cold War*, *Call of Duty: Warzone*, and *Call of Duty: Black Ops*
15 *III*.

16 495. Upon information and belief, the Shooter downloaded and began playing these
17 variations on *Call of Duty*, which are all rated “M”, before he turned 17.

18 496. The Shooter was not a casual fan of *Call of Duty*. He played obsessively, developed
19 skill as a marksman, and obtained rewards that become available only after a substantial time
20 investment.

21 497. In October 2020, for example, the Shooter sent a YouTube video to a discord user
22 that shows the Shooter playing *Black Ops III* with another player online. In the video, the Shooter
23 shows tremendous skill. He fires accurately, reloads and fires from cover, scores headshots, and
24 repeatedly kills the other player.

25 498. The Shooter also boasted over instant message that he had “almost all the dlc
26 [downloadable content] weapons” for *Black Ops III*. This was no small feat; there are multiple
27 threads and forums online devoted to the topic of how to achieve this. The consensus, as summarized
28 by one user online, is “grind for hours on end.” In other words, don’t stop playing.

1 499. On November 5, 2021, the Shooter purchased *Call of Duty: Modern Warfare* by
2 direct download onto his PlayStation. The Shooter was so excited that he took a picture of the
3 download screen with his iPhone.

4 500. As previously alleged, the loading screen for this version of *Modern Warfare* featured
5 a soldier in combat gear carrying a DDM4V7S equipped with a holographic sight.

6 501. Upon information and belief, the Shooter was exposed to this loading screen, which
7 influenced him in researching, purchasing, and ultimately using the DDM4V7 equipped with a
8 holographic combat sight to carry out the Shooting at Robb Elementary School.

9 502. On the same day that the Shooter downloaded *Modern Warfare*, Daniel Defense
10 posted on Instagram promoting the exact weapon from the loading screen. The rifle is seen leaning
11 against a truck wheel and the caption reads, “11.5” [a reference to barrel length] for 11/5 ⚡ Where’s
12 my V7S crew!?” The post is tagged with the #ddm4v7s hashtag. Daniel Defense pushed the product
13 again on Instagram on November 16, accompanied by the #ddm4v7s hashtag.

14 503. The Shooter had an unhealthy, likely obsessive, relationship with Instagram. He
15 created and used at least 20 different Instagram accounts. And his pattern of engagement with the
16 app indicates a degree of compulsion, if not addiction.

17 504. On December 1, for example, a day that Daniel Defense promoted the DDM4V7 on
18 Instagram—the weapon the Shooter would eventually select for his massacre—the Shooter opened
19 the app at least twenty times, including five times between midnight and 3:30 a.m.

20 505. On another day that Daniel Defense took to Instagram to promote the DDM4V7, the
21 Shooter opened or looked at Instagram *more than 100 times*.

22 506. The Shooter routinely engaged with Instagram in the early hours of the morning,
23 often between 2:00 and 4:00 in the morning. On May 21, for example, three days before the
24 shooting, the Shooter opened Instagram more than 20 times between midnight and 5:30 a.m.

25 507. Consistent with this usage, the Shooter’s former girlfriend stated that the Shooter
26 would either “stay up all night or sometimes he would sleep barely.”

27 508. Upon information and belief, the Shooter was exposed to Daniel Defense’s
28 aggressive, combat-fetishizing, and unlawful marketing on Instagram—all before he turned 18.

1 509. The Shooter is a textbook example of how alienated minors can become ensnared in
2 the web that binds Activision, Instagram, and their gun industry partners like Daniel Defense.

3 510. In 2021, the Shooter was an isolated, vulnerable teenager living in a small town in
4 Texas. He had no experience with firearms outside of *Call of Duty*; he had never shot a gun in real
5 life.

6 511. In less than a year, Defendants conditioned the Shooter to covet a niche and
7 extremely expensive assault rifle so desperately that he began saving every dollar he earned at his
8 minimum-wage job so he could afford it. And perhaps more disturbingly, the Shooter's actions
9 reveal not just a preference for the DDM4V7; they indicate a preoccupation with recreating a *Call*
10 *of Duty* fantasy down to the last detail.

11 **III. The Shooter's Preparation for May 24**

12 512. Within a week of downloading *Modern Warfare* on November 5, 2021, the Shooter's
13 phone indicates a growing obsession with weapons and accessories associated with the game.

14 513. Between November 12 and April 16, the Shooter browsed online for the following
15 items: a Red Dot Sight, a smoke grenade, an AR-15 weapon skin, and an EOTech holographic battle
16 sight.

17 514. At first glance, these choices seem odd. Why would the Shooter need two different
18 sights? For what purpose would he use a smoke grenade? The answer is that the fantasy the Shooter
19 was fulfilling was created inside the world of *Call of Duty*.

20 515. The Red Dot Sight is a firearm accessory featured in *Call of Duty: Modern Warfare*.

21 516. Smoke grenades are featured in nearly every version of *Call of Duty*, including
22 *Modern Warfare*.

23 517. Gun skins are a feature of *Modern Warfare* that players can use to change the
24 appearance of their firearms. Players earn gun skins by completing various challenges, such as
25 killing with headshots; getting "double kills"; killing with firearms equipped with attachments; or
26 getting kills "shortly after reloading."

27 518. The EOTech Sight, as previously alleged, is one of the most popular firearm
28 attachments in *Call of Duty*. It appears branded and unbranded in the game, but players refer to it

1 by name even when the EOTech label is not visible. The DDM4V7S assault rifle featured on the
2 *Modern Warfare* loading screen was also equipped with a holographic sight, presumably the
3 EOTech.

4 519. Daniel Defense capitalized on this connection on Instagram; in multiple posts, the
5 weapon being promoted is equipped with an EOTech sight. By linking its weapons with this
6 particular sight, Daniel Defense echoes EOTech’s promise of “incredible accuracy” for “close-
7 quarter engagements with fast-moving targets,” and solidifies its bona fides as a *Call of Duty*-
8 approved brand.

9 520. The Shooter downloaded *Modern Warfare* in November of 2021; by December, the
10 Shooter was showing a strong preference for a Daniel Defense rifle despite the dozens of brands on
11 the market. The Shooter first browsed Daniel Defense’s page devoted to AR-15 rifles, then began to
12 search specifically for the DDM4V7. He viewed the rifle multiple times—on Daniel Defense’s
13 website, as well as on the websites of other online retailers—and saved screenshots of the weapon.

14 521. By March, the Shooter had clearly settled on his decision to buy a DDM4V7. He
15 visited Daniel Defense’s website so frequently that the Safari browser on his iPhone automatically
16 created a bookmark for Daniel Defense’s website as a “frequently visited site.”

17 522. By mid-April, the Shooter was ready to assemble his combat weapon. The only
18 remaining hurdle was his age—17. He was four weeks away from his 18th birthday and, by
19 extension, his ability to purchase his assault weapon of choice.

20 523. On April 16, the Shooter ordered the EOTech holographic sight.

21 524. On April 20, the Shooter googled “how long until may 16”—his 18th birthday.

22 525. On April 23, the Shooter created an account on Daniel Defense’s website.

23 526. On April 27, the Shooter added the DDM4V7 to his cart.

24 527. On May 12, the Shooter visited a webpage counting down the days until May 16.

25 528. At 23 minutes after midnight on May 16, the Shooter received confirmation of his
26 purchase of a Daniel Defense DDM4V7 assault rifle. He was 18 years and 23 minutes old.

27 529. It is unlikely the Defendants had ever produced a mass shooter with such ruthless
28 efficiency.

1 **THE ROAD TO UVALDE**

2 530. On the morning of May 24, 2022, Tess Marie Mata, aged 10, was just starting to get
3 into softball—following in the steps of her big sister, Faith. Faith was in college, and they spoke on
4 the phone almost every night. Tess loved dancing, making videos with her best friends, and watching
5 her mom cook. Tess was honest and opinionated, and her mother loved that about her. Tess’s dad
6 Jerry loved her one-of-a-kind laugh.

7 531. Nine-year-old Jacklyn Jaylen Cazares had plans to help as many people as she could
8 in her life. She didn’t want the school year to end because she wouldn’t be able to see her friends
9 every day. In the last few days, Jacklyn had had one-on-one talks with her mom about her future
10 and growing up.

11 532. Amerie Jo Garza, aged 10, was looking forward to a summer of swimming, playing
12 outside, and spending time with her mom, Kimberly, and her little brother. Amerie Jo was a friend
13 and a protector by nature. She was creative, artistic, and loving. For Mother’s Day, just sixteen days
14 earlier, Amerie Jo had surprised her mom with a poem called “Five Things I Love About My Mom.”
15 The poem was a work of art written on popsicle sticks, one line per stick.

16 533. Miah Isabel Cerrillo, aged 11, loved school and being around people. She loved
17 spending time with both of her parents, especially camping, going to the river, hiking, and being
18 outside with her dad, Miguel. Miah wanted to be a doctor.

19 534. Ten-year-old Maite Yuleana Rodriguez was curious, competitive, interested in
20 learning (science in particular), and did not hesitate to figure things out on her own. Even though
21 she loved to go on trips, Maite’s very favorite place to be was at home with her mom. They laughed
22 together, talked about everything, and supported each other. Maite was the youngest of three and
23 looked up to her two big brothers.

24 535. Annabell Rodriguez, aged 10, was a bright student who enjoyed school, music, and
25 dancing. Annabell had a twin sister named Angeli and an older sister named Annastasha. Her cousin
26 Jackie Cazares was in the same classroom.

27 536. On the morning of May 24, 2022, ten-year-old Nevaeh Bravo’s mom brought her to
28 school, like she did every day. Nevaeh came from a big family; she had two brothers and one sister.

1 Just the week before, Nevaeh had visited her grandpa in Mexico so that he could take her horseback
2 riding. And the day before, her dad had taken Nevaeh and all of her siblings on a long walk with
3 their dog, Toby. Nevaeh was always with her family. On Friday nights, they always went out to eat
4 and then got ice cream afterwards.

5 537. Maranda Mathis, aged 11, loved animals and playing outside, just like her mom,
6 Deanna. Maranda was shy until she got to know someone—then her silly side came out. Maranda
7 had a little brother and together they liked to find treasures like feathers, rocks, and shells, to give
8 to their mom.

9 538. Jailah Silguero, aged 10, talked to her mom, Veronica, all the way to school that
10 Tuesday, then hugged and kissed her goodbye. Jailah loved to spend time playing outside with her
11 dad, Jacob. Jailah was the youngest of four. She had spent her last weekend at the river with her
12 family. Jailah was best friends with Tess Mata and Maite Rodriguez.

13 539. On the morning of May 24, 2022, ten-year-old Makenna Elrod looked forward to
14 school. It was a place of comfort and familiarity because her mom, April, was a teacher there.
15 Makenna loved cheerleading and gymnastics and looked forward to being a Uvalde High School
16 cheerleader like her big sister. She loved to play outside with her two sisters and little brother, ride
17 go carts, ride horses, and perform dance routines. Makenna loved her family hard, with lots of hugs
18 and kisses.

19 540. Alexandria Aniyah Rubio, aged 10, began that morning at home with her mom, dad,
20 three brothers and two sisters. She adored her teacher. Like her mom, she looked up to strong female
21 leaders and was interested in politics. Alexandria had spent time the last few days practicing softball
22 with her dad and watching movies with her family.

23 541. On the morning of May 24, 2022, Jayce Carmelo Luevanos, aged 10, walked to
24 school with his dad, Jose. Jayce was the youngest of four. He spoke two languages. He loved to
25 walk barefoot and preferred to be outside. His mom Christina had taken Jayce to play kickball with
26 family and neighborhood friends over the weekend. Every day after school, Jayce’s dad met him at
27 school, and they walked home together. Jayce was Jailah’s cousin.

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1 542. Nine-year-old Eliahna Garcia, known as Ellie, loved to go to the radio station with
2 her dad Steven, where he worked as a DJ. They shared a passion for music. Her dad would play
3 music, and they would dance and sing into the microphone together. Ellie liked to make slime with
4 her big sister and hide it around the house for her mom to find. In the last few days, Ellie had spent
5 time with her parents, siblings, and grandparents laughing, playing, and riding the lawnmower down
6 the street together.

7 543. Jose Flores, aged 10, was an honor roll student who helped his dad with his work
8 around the ranch. Jose loved baseball. He had a big family: his mom Alyssa, dad Jose Sr., three
9 brothers, and two sisters. He loved his family and was a particularly protective brother. Jose had a
10 giggly laugh and sweet smile that his mother loved.

11 544. On the morning of May 24, 2022, Rojelio Torres’s mom Evadulia watched him get
12 on the bus with his big brother and little sister and head off to school. Rojelio, aged 10, loved to
13 play games and spend time at the park with his mom. He enjoyed school, particularly math. Rojelio
14 was very close to his teacher, Mr. Reyes.

15 545. Ten-year-old Uziyah Garcia had only recently joined the community; this was his
16 first year in school in Uvalde. One of his very best friends was Jayce Luevanos. Uziyah was thriving
17 in Mr. Reyes’s class. He was known as a jokester who made people laugh.

18 546. Eliahna Torres, aged 10, was the baby of five kids. She was joyful and full of smiles.
19 Like several of her friends who died that day, Eliahna loved softball and she practiced all the time.
20 She was planning a visit to see her father Eli in the summer of 2022. The last time that she had
21 spoken to her dad, she told him how much she loved both him and her mother.

22 547. AJ Martinez, aged 10, was an outgoing sports nut with a wild sense of humor. He
23 loved football and making his friends and family laugh with jokes and funny faces.

24 548. On the morning of May 24, 2022, eleven-year-old Layla Salazar and her dad Vincent
25 listened to “Sweet Child O’ Mine” as he drove her to school. Layla was the youngest of the family,
26 with two big brothers. She loved running, and track was in her future. Layla had her own style—her
27 mom Melinda loved to see what outfits she put together every day. Layla and Melinda liked to go
28

1 to the river and the park and feed the ducks together. Layla was close with her dad Vincent too, who
2 had stayed home to take care of Layla when she was born.

3 549. Irma Garcia was a devoted mother and a dedicated teacher. She was married to her
4 high school sweetheart and raising a family that she adored. She loved her students and wanted to
5 see them thrive.

6 550. Eva Mireles was a passionate educator who dedicated 17 years to teaching in Uvalde,
7 with a focus on Special Education and Bilingual Education. Her commitment to her students and
8 community was unwavering. Outside of the classroom, Eva was an avid fitness enthusiast, a lover
9 of karaoke and baking, and a loving wife and mother.

10 551. Elsa Avila taught in the Uvalde School district for over twenty years. She loved
11 teaching and loved her children. On May 24, 2022, she huddled her children against a back wall of
12 the classroom, as she had been trained to do.

13 552. Leann Garcia, aged 11, was a vibrant and outgoing child who loved school.

14 553. Nine-year-old Kendall Olivarez was known for being bubbly and funny. She was
15 looking forward to summer and spending time with her family.

16 554. Noah Orona, aged 10, was not shy in the least; he was a talker and a jokester, and he
17 loved to make people laugh.

18 555. Xavier Lopez, aged 10, had a love for three things: his family, his friends, and
19 baseball. Like every other day, Xavier was excited to go to Robb Elementary on May 24, 2022 so
20 he could see his friends. His bright smile lit up a room and made everyone around him feel loved.

21 556. Alithia Ramirez, aged 10, was precocious. Her not-so-hidden talent was her artistic
22 ability, and her drawings and paintings brightened the walls of her Uvalde home. Alithia loved
23 spending time with her family—especially her siblings—and her classmates.

24 ***

25 557. With the end of the school year approaching, the morning of May 24 was supposed
26 to be a day of celebration and recognition at Robb Elementary School. Students gathered grade by
27 grade for assemblies to celebrate the year’s hard work and cheer for classmates receiving awards.

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1 558. Many proud parents were in attendance. The kids dressed up for the occasion and
2 posed for pictures afterwards.

3 559. Jacklyn Cazares blew her dad Javier a kiss goodbye in the hallway after the assembly.
4 He wondered how much longer it would be before she was embarrassed to blow kisses to her dad
5 in front of her friends. He never got to find out.

6 560. At 11:28 a.m., the Shooter crashed his truck in a ditch approximately 100 yards from
7 Robb Elementary School. He got out of the truck and started firing.

8 561. When he entered the school, children were already hiding in their classrooms,
9 dutifully following the rules they had been taught during active shooter drills.

10 562. Inside Classroom 102, children lay flat on the floor.

11 563. In Classroom 106, the teacher hid her students and prayed.

12 564. In Classroom 111, Teacher Arnulfo Reyes told the children to get under the table and
13 act like they were asleep. He saw shrapnel come through the sheetrock walls of his classroom.

14 565. A teacher in Classroom 112 told her students to hide, and they hid behind their
15 teacher's desk, behind the backpacks, and under a table.

16 566. The Shooter entered both Classroom 111 and Classroom 112 and opened fire on the
17 children where they hid. Nineteen children and two teachers were killed. Many other children were
18 maimed, and all were profoundly traumatized.

19 567. There are, of course, many more details of that horrible day, some too excruciating
20 to contemplate.

21 568. A child in Classroom 111 called 911 and whispered, "help me." That help never
22 came.

23 569. The Shooter sat at Teacher Reyes' desk in Classroom 111. Sometimes he kicked
24 children's bodies.

25 570. In Classroom 112, Plaintiff Miah Cerrillo covered herself in her friend's blood so the
26 Shooter would believe she was dead.
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1 571. Parents arrived at the school and fought to get inside to their children. They were
2 forcibly restrained by police.

3 572. And then there is this detail: when the Shooter entered Classroom 112, he approached
4 one of the teachers, said “good night,” and shot her in the head.

5 573. “Good night” is a catch phrase from *Call of Duty: Modern Warfare*. Captain Price, a
6 famous and recurring character in the franchise, is known to say “good night” when the player kills
7 an enemy.

8 **FIRST CAUSE OF ACTION:**
9 **NEGLIGENCE**
10 **(ALL PLAINTIFFS AGAINST ACTIVISION DEFENDANTS**
11 **AND DOES 1 THROUGH 50, INCLUSIVE)**

11 574. Plaintiffs reallege and incorporate by reference each of the preceding and succeeding
12 paragraphs as though fully set forth herein.

13 575. As previously alleged, the Activision Defendants are in the business of creating,
14 designing, producing, marketing, and selling the *Call of Duty* game franchise. The Activision
15 Defendants also profit from advertising revenue and revenue from sales of user data derived from
16 that franchise. The *Call of Duty* games at issue in this Complaint are *Call of Duty: Mobile*; *Call of*
17 *Duty: Black Ops Cold War*; *Call of Duty: Warzone*; *Call of Duty: Black Ops III*; and *Call of Duty:*
18 *Modern Warfare*, hereafter the “*Call of Duty* Products or the “*Call of Duty* franchise.”

19 576. At all relevant times, the Activision Defendants owed all persons, including Plaintiffs
20 and their decedents, a duty to exercise reasonable care in the development, setup, management,
21 maintenance, operation, marketing, advertising, promotion, supervision, and control of their *Call of*
22 *Duty* Products and gaming franchise so as not to create an unreasonable risk of harm to any person,
23 including Plaintiffs and their decedents.

24 577. The Activision Defendants were responsible not only for the result of their willful
25 acts, but also for injuries occasioned to Plaintiffs by their want of ordinary care and/or skill in the
26 management of their property or person. *See, e.g.*, Cal. Civ. Code § 1714(a).

27 578. The Activision Defendants knew or should have known that troubled minors like the
28 Shooter would use their *Call of Duty* Products.

1 579. The Activision Defendants breached their duties of care owed to all persons,
2 including Plaintiffs and their decedents, through their affirmative malfeasance, policies, actions, and
3 business decisions, including agreements with third parties, in the development, setup, management,
4 maintenance, operation, marketing, advertising, promotion, supervision, and control of the *Call of*
5 *Duty* franchise. These breaches are based on the Activision Defendants' own actions, independent
6 of any actions taken by a third party. Those breaches include any and all of the following, in
7 combination or separately:

- 8 a. Promoting and selling *Call of Duty* Products to minor users, when they were not
9 appropriate for minors;
- 10 b. Knowingly disregarding a pattern of use of the *Call of Duty* Products by minors;
- 11 c. Using addictive features to promote and sell the *Call of Duty* Products;
- 12 d. Knowingly, and/or negligently allowing for the circumvention of age-verification
13 measures, parental controls, and other restrictions designed to prevent minors' use of
14 the *Call of Duty* Products;
- 15 e. Failing to design and/or implement effective age-verification measures for the *Call*
16 of *Duty* Products;
- 17 f. Desensitizing minor users to the use of firearms to kill, and thereby increasing the
18 risk of illegal firearms use, including for assaultive purposes and/or to commit a mass
19 shooting;
- 20 g. Habituating minor users to the use of firearms to kill, and thereby increasing the risk
21 of illegal firearms use, including for assaultive purposes and/or to commit a mass
22 shooting;
- 23 h. Training minor users in how to use firearms to kill, and thereby increasing the risk
24 of illegal firearms use, including for assaultive purposes and/or to commit a mass
25 shooting;
- 26 i. Exploiting the dopamine reward system and other similar tactics to reward users of
27 the *Call of Duty* franchise for killing and thereby condition users, including minors,
28 to associate killing with dopamine, rewards, and/or pleasure;
- j. Employing a hyper-realistic and violent simulation/video game to market assault
 weapons to users of the *Call of Duty* franchise, including minors;
- k. Negligently using replicas or near-replicas of real-life assault weapons in the *Call of*
 Duty franchise;

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- l. Knowingly and/or negligently exposing users of the *Call of Duty* franchise, including minors, to specific assault weapon brands and models;
 - m. Continuing to use replicas or near-replicas of real-life assault weapons in the *Call of Duty* franchise despite actual or constructive knowledge that multiple mass shooters had been trained on *Call of Duty* products and committed their assaults with weapons that are the same or similar as those that appear in the *Call of Duty* franchise;
 - n. Enabling firearms manufacturers, including Daniel Defense, to market their weapons to minors over the Internet, in violation of statutes such as the Privacy Rights for California Minors in the Digital World Act, Cal. Bus. & Prof. § 22580 (prohibiting “[a]n operator of an Internet Web site, online service, online application or mobile application directed to minors” from marketing, inter alia, “[f]irearms or handguns” and “[a]mmunition or reloaded ammunition”).
 - o. Enabling firearms manufacturers, including Daniel Defense, to market their weapons to minors and increasing the risk of illegal and attempted illegal sales to minors in violation of statutes such as Cal. Penal Code § 27505 and/or attempted illegal offers to sell or sales to minors in violation of Texas Penal Code § 46.06;
 - p. Enabling firearms manufacturers, including Daniel Defense, to market their weapons to minors and increasing the risk of illegal and attempted illegal sales to minors in violation of statutes such as Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, the California Unfair Competition Law (UCL), Cal. Bus. & Prof. Code § 17200, and the Children’s Online Privacy Protection Act, 15 U.S.C. §§ 6501-6505.

17 580. As a direct and proximate result of the Activision Defendants’ breach of one or more
18 of their duties, Plaintiffs were harmed. The Activision Defendants’ breach(es) increased the
19 likelihood that the May 24, 2022, shooting at Robb Elementary School would occur, amplified the
20 lethality of the assault, and increased the risk that victims, including Plaintiffs’ decedents, would be
21 shot and seriously injured or killed.

22 581. The Activision Defendants’ breach of one or more of their duties was a substantial
23 factor in causing the harms and injuries to the Plaintiffs.

24 582. Plaintiffs demand judgment against each Defendant for compensatory, treble, and
25 punitive damages, together with interest, costs of suit, attorneys’ fees, and all such other relief as the
26 Court deems proper.

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1 592. The Shooter began using the *Call of Duty* Products as a minor and, as a result, lacked
2 a mature ability to discern the destructive and dangerous attributes of the *Call of Duty* Products as
3 previously described.

4 593. At all relevant times, the Activision Defendants' *Call of Duty* Products were defective
5 because they contained numerous design characteristics that are not necessary for the utility
6 provided to the user but are unreasonably dangerous, particularly for minor users, and are
7 implemented solely to attract more users and increase profits.

8 594. The *Call of Duty* Products are defective and not reasonably safe because there was a
9 substantial likelihood that they would cause harm and it was feasible to design the products in a
10 safer manner.

11 595. The defects in the design of the *Call of Duty* products existed prior to their release to
12 the public, and there was no substantial change to the *Call of Duty* products before they were
13 distributed to the Shooter.

14 596. The foreseeable risks of harm posed by the Activision products' design could have
15 been reduced or avoided by the adoption of a reasonable alternative design and the failure to use an
16 alternative design renders the products not reasonably safe and/or defective. If the design defects in
17 the *Call of Duty* Products were known and/or fully understood at the time of manufacture and
18 distribution, a reasonable person would conclude that the utility of those products did not outweigh
19 the risk inherent in designing them in that manner.

20 597. There is a substantial likelihood that the *Call of Duty* Products—as currently
21 designed, distributed, and operated by the Activision Defendants—will cause injury to a significant
22 number of individual users and the public. The risk of such injuries occurring can be substantially
23 reduced through implementation of readily available design changes that will not adversely impact
24 the functionality of the *Call of Duty* Products or unreasonably impact their price.

25 598. The Activision Defendants know that product features of the *Call of Duty* Products,
26 as previously alleged, cause significant risks to minor users.

27 599. Further, the Activision Defendants have intentionally designed some or all of the *Call*
28 *of Duty* Products to frustrate the exercise of parental responsibility. Some or all of the *Call of Duty*

1 Products are now designed, marketed, and sold in a manner that makes it difficult, if not impossible,
2 for parents to exercise parental responsibility.

3 600. The Activision Defendants' products are also defective for lack of the type of parental
4 controls, permission, and monitoring capabilities available on many other devices and applications,
5 as well as the lack of notifications to parents when minors are engaged in inherently harmful
6 activities.

7 601. It is feasible for the Activision Defendants to make products that are less addictive
8 to minor users or to otherwise restrict minor users' access to certain games. Instead, Activision has
9 developed highly addictive products that are accessible to minors and used by a substantial number
10 of minors.

11 602. It is highly foreseeable that the addictive and hyper-realistic content of *Call of Duty*
12 Products will lead some users, including minors, to attempt or achieve the real-life enactment of
13 what the *Call of Duty* Products simulate so effectively, including the use of firearms for mass killing.

14 603. The notorious history of recent mass shootings, including school shootings at Sandy
15 Hook, Parkland, and Uvalde, among others, confirms this.

16 604. The *Call of Duty* Products are not reasonably safe as designed because, despite
17 numerous reported instances of the connection between the *Call of Duty* Products and mass shooters,
18 and despite the fact that the *Call of Duty* Products simulate the experience of the use of firearms to
19 kill, Defendants have not undertaken reasonable design changes to mitigate harms or protect users
20 and the public from these harms.

21 605. As a result of these dangerous and defective design attributes of the *Call of Duty*
22 Products, the Shooter was desensitized to violence and killing, including the use of firearms to kill;
23 habituated to violence and killing, including the use of firearms to kill; and trained in how to use
24 firearms to kill, including mass killing, and did so on May 24, 2022.

25 606. As a result of these dangerous and defective design attributes of the Activision
26 Defendants' products, Plaintiffs suffered emotional distress, physical harm and/or death, and
27 pecuniary loss.

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1 624. The Activision Defendants were negligent in failing to conduct adequate testing and
2 failing to allow independent researchers to adequately study the influence of *Call of Duty* on young,
3 male shooters, especially mass shooters.

4 625. On information and belief, the Activision Defendants knew of the effect that their
5 *Call of Duty* Products have had on mass shooters and intentionally avoided such testing and
6 research.

7 626. The Activision Defendants could have but to this day have failed to implement safety
8 measures that would mitigate, reduce, and/or eliminate the above-described hazards.

9 627. As a direct and proximate result of the Activision Defendants' negligence, the
10 Shooter carried out the May 24, 2022, shooting at Robb Elementary School.

11 628. As a direct and proximate result of the Activision Defendants' negligence, Plaintiffs
12 suffered emotional distress, physical harm and/or death, and pecuniary loss, all of which were
13 foreseeable.

14 629. The Activision Defendants' conduct was carried on with a willful and conscious
15 disregard for the safety of Plaintiffs and others. The Activision Defendants knew that firearms were
16 being glamorized and marketed to minors via their franchise and knew the risks associated with
17 such conduct, yet chose to ignore those risks, downplay any safety issues in public statements,
18 conceal knowledge relating to its Products and associated harms, fail to warn minors and their
19 parents, and impede or delay implementation of feasible product safety features.

20 630. The Activision Defendants' decision to prioritize profits over life, safety, and health
21 is outrageous and justifies an award of exemplary damages in such a sum that will serve to deter the
22 Activision Defendants from similar conduct in the future.

23 631. The Activision Defendants are further liable to Plaintiffs for punitive damages based
24 upon their willful and wanton failure to warn of known dangers of their products, which were
25 deliberately marketed and sold to minor users despite knowing that users and/or the public would
26 be seriously harmed.

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1 642. The Activision Defendants' conduct was performed with a willful and conscious
2 disregard for the safety of their users and the public. The Activision Defendants knew or should
3 have known about the risks of radicalization, weapon fetishizing, and violence associated with their
4 products, yet they chose to ignore those risks, downplay any safety issues in public statements,
5 conceal knowledge relating to their products and associated hazards, fail to warn minors, their
6 parents, and the public, and impede or delay implementation of feasible product safety features.

7 643. The Activision Defendants' decision to prioritize profits over public safety is
8 outrageous and justifies an award of exemplary damages in such a sum that will serve to deter the
9 Activision Defendants from similar conduct in the future.

10 644. Plaintiffs demand judgment against each Defendant for compensatory, treble, and
11 punitive damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the
12 Court deems proper.

13 **SEVENTH CAUSE OF ACTION:**
14 **UNJUST ENRICHMENT**
15 **(ALL PLAINTIFFS AGAINST THE ACTIVISION DEFENDANTS**
 AND DOES 1 THROUGH 50, INCLUSIVE)

16 645. Plaintiffs reallege and incorporate by reference each of the preceding and succeeding
17 paragraphs as though fully set forth herein.

18 646. The Activision Defendants' profits are directly tied to the intensity of user
19 engagement on their platforms. A user's engagement is maximized by exposure to increasingly
20 addictive content. The Activision Defendants knew or reasonably should have known that their
21 products create and increase risks as previously alleged.

22 647. The Activision Defendants benefited materially from marketing firearms to minors
23 through the *Call of Duty* franchise.

24 648. It would be unjust and inequitable for the Activision Defendants to retain revenues
25 they earned through such wrongful and inequitable conduct when that conduct harmed Plaintiffs
26 and their decedents so profoundly.

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- 1 g. Habituating minor users to the use of firearms to kill, and thereby increasing the risk
2 of illegal firearms use, including for assaultive purposes and/or to commit a mass
3 shooting;
- 4 h. Training minor users in how to use firearms to kill, and thereby increasing the risk
5 of illegal firearms use, including for assaultive purposes and/or to commit a mass
6 shooting;
- 7 i. Exploiting the dopamine reward system and other similar tactics to reward users of
8 the *Call of Duty* franchise for killing and thereby condition users, including minors,
9 to associate killing with dopamine, rewards, and/or pleasure;
- 10 j. Employing a hyper-realistic and violent simulation/video game to market assault
11 weapons to users of the *Call of Duty* franchise, including minors;
- 12 k. Negligently using replicas or near-replicas of real-life assault weapons in the *Call of*
13 *Duty* franchise;
- 14 l. Knowingly and/or negligently exposing users of the *Call of Duty* franchise, including
15 minors, to specific assault weapon brands and models;
- 16 m. Continuing to use replicas or near-replicas of real-life assault weapons in the *Call of*
17 *Duty* franchise despite actual or constructive knowledge that multiple mass shooters
18 had been trained on *Call of Duty* products and committed their assaults with weapons
19 that are the same or similar as those that appear in the *Call of Duty* franchise;
- 20 n. Enabling firearms manufacturers, including Daniel Defense, to market their weapons
21 to minors over the Internet, in violation of statutes such as the Privacy Rights for
22 California Minors in the Digital World Act, Cal. Bus. & Prof. § 22580 (prohibiting
23 “[a]n operator of an Internet Web site, online service, online application or mobile
24 application directed to minors” from marketing, inter alia, “[f]irearms or handguns”
25 and “[a]mmunition or reloaded ammunition”).
- 26 o. Enabling firearms manufacturers, including Daniel Defense, to market their weapons
27 to minors and increasing the risk of illegal and attempted illegal sales to minors in
28 violation of statutes such as Cal. Penal Code § 27505 and/or attempted illegal offers
to sell or sales to minors in violation of Texas Penal Code § 46.06; and
- 29 p. Enabling firearms manufacturers, including Daniel Defense, to market their weapons
to minors and increasing the risk of illegal and attempted illegal sales to minors in
violation of statutes such as Section 5 of the Federal Trade Commission Act, 15
U.S.C. § 45, the California Unfair Competition Law (UCL), Cal. Bus. & Prof. Code
§ 17200, and the Children’s Online Privacy Protection Act, 15 U.S.C. §§ 6501-6505.

655. The Activision Defendants engaged in these unfair business acts and/or practices in
order to gain advantage against business competitors, including the creators and developers of video
games that do not rely on these acts and/or practices.

1 656. The Activision Defendants engaged in unfair business acts and/or practices, in that
2 they committed acts and/or practices for which the gravity of the harm to Plaintiffs and other
3 consumers outweighed any utility of the Activision Defendants' conduct.

4 657. Mass shootings have devastated an untold number of American families and
5 communities, conditioned an entire generation to view attacks by lone gunmen as an inevitable part
6 of life, transformed schools from safe spaces of learning into sites of terror and mass death, and
7 imbued Americans with a perpetual sense of fear and dread. The gravity of the harm posed by these
8 attacks utterly outweighs the utility of the Activision Defendant's conduct.

9 658. The Activision Defendants engaged in unfair business acts and/or practices, in that
10 they committed acts and/or practices that offended legislatively declared policy, as previously
11 alleged.

12 659. The Activision Defendants engaged in unfair business acts and/or practices, in that
13 they committed acts and/or practices that caused substantial injury that was not outweighed by any
14 countervailing benefits and that could not have been reasonably avoided by consumers themselves.

15 660. The Activision Defendant's actions have caused substantial injury to Plaintiffs and
16 to all the other victims of the Shooter's attack on Robb Elementary School, and their actions will
17 cause injury to the public in the future via future mass shootings.

18 661. Plaintiffs suffered nontrivial monetary losses, including medical and funeral
19 expenses, as a result of the Activision Defendants' unfair practices alleged herein.

20 662. Plaintiffs seek nonrestitutionary disgorgement of such measure of the Activision
21 Defendants' profits derived from such wrongful conduct as is just, to be distributed via a fluid
22 recovery fund in accordance with each of the Plaintiffs' damages.

23 663. In connection with this claim, Plaintiffs seek attorneys' fees pursuant to section
24 1021.5 of the California Code of Civil Procedure.

25 664. Plaintiffs demand judgment against each Defendant for compensatory, treble, and
26 punitive damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the
27 Court deems proper.

28

1 **NINTH CAUSE OF ACTION:**
2 **NEGLIGENCE**
3 **(ALL PLAINTIFFS AGAINST META DEFENDANTS**
4 **AND DOES 1 THROUGH 50, INCLUSIVE)**

5 665. Plaintiffs reallege and incorporate by reference each of the preceding and succeeding
6 paragraphs as though set forth fully at length herein.

7 666. At all relevant times, the Meta Defendants owed Plaintiffs a duty to exercise
8 reasonable care in the development, setup, management, maintenance, operation, marketing,
9 advertising, promotion, supervision, and control of their on-line social media business Instagram,
10 so as not to create an unreasonable risk of harm to any person, including Plaintiffs and their
11 decedents.

12 667. The Meta Defendants are responsible not only for the result of their willful acts, but
13 also for injuries occasioned to Plaintiffs by their want of ordinary care and/or skill in the
14 management of their property or person. *See, e.g.*, Cal. Civ. Code § 1714(a).

15 668. The Meta Defendants knew or should have known that illegal, unlawful, and
16 wrongful marketing of firearms to minors was or would be committed by firearms manufacturers
17 such as Daniel Defense, increasing the risk of shootings and mass shootings.

18 669. Sales and marketing of firearms to minors, including promotion of firearms for
19 illegal and assaultive purposes, is illegal, unlawful and/or wrongful, especially in light of the
20 following statutes:

- 21 a. Privacy Rights for California Minors in the Digital World Act, Cal. Bus. & Prof. §
22 22580 (prohibiting “[a]n operator of an Internet Web site, online service, online
23 application or mobile application directed to minors” from marketing, inter alia,
24 “[f]irearms or handguns” and “[a]mmunition or reloaded ammunition”).
- 25 b. Cal. Penal Code § 27505 (prohibiting sales of firearms to minors);
- 26 c. Texas Penal Code § 46.06 (prohibiting offers to sell firearms to minors).
- 27 d. Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45 (prohibiting unfair
28 commercial conduct);
- e. California Unfair Competition Law (UCL), Cal. Bus. & Prof. Code § 17200 Act
(same);

1 f. Children’s Online Privacy Protection Act, 15 U.S.C. §§ 6501-6505.

2 670. Although the sale and marketing of firearms to minors is illegal, unlawful and/or
3 wrongful, the Meta Defendants chose to maintain marketing of firearms as part of the Instagram
4 platform, in part because they knew such content was enticing and attractive to minors and because
5 it drove engagement on the platform, all of which makes Instagram more attractive to advertisers
6 and benefits their bottom line. At the same time, the Meta Defendants wished to convey the false
7 impression that Instagram was a safe and healthy space for minors to parents, law makers,
8 regulators, and the public.

9 671. The Meta Defendants therefore created policies concerning the marketing of firearms
10 that supposedly restricted firearms marketing on Instagram. In fact, the Meta Defendants intended
11 that those policies would guide firearms manufacturers in crafting firearms marketing content,
12 which would be channeled to minors through Instagram. And they did.

13 672. Further, the Meta Defendants knew or should have known that their express or
14 implied representation to users, including parents, that Instagram is a safe and appropriate site for
15 minors, when in fact it delivers inappropriate and illegal content to minors, including firearms
16 marketing and advertisements, violates the California False Advertising Law (FAL), Cal. Bus. &
17 Prof. Code § 17500 *et seq.*, which prohibits, inter alia, “any statement . . . which is untrue or
18 misleading, and which is known, or which by the exercise of reasonable care should be known, to
19 be untrue or misleading.”

20 673. As previously alleged, firearms manufacturers followed the Meta Defendants’
21 guidance, leveraging Instagram as a key access point to minors. The firearms manufacturing content
22 developed in response to the Meta Defendants’ guidance is content that the Meta Defendants
23 participated in creating and developing, and their conduct as alleged in this Complaint materially
24 contributed to the illegal, unlawful, and wrongful nature of that content.

25 674. As previously alleged, Daniel Defense was particularly adept and effective at
26 following the Meta Defendants’ guidance to channel its firearms marketing to minors via Instagram.
27 The Daniel Defense firearms marketing on Instagram as previously alleged and described was co-
28 created and developed by the Meta Defendants and Instagram.

1 675. The Daniel Defense firearms marketing co-created and developed by the Meta
2 Defendants and channeled to minors, including the Shooter, via Instagram unreasonably increased
3 the risk of harm to others by inciting and encouraging the use of Daniel Defense firearms, including
4 the DDM4V7, for illegal and assaultive purposes, including killing.

5 676. The Daniel Defense firearms marketing co-created and developed by the Meta
6 Defendants and channeled to minors, including the Shooter, via Instagram unreasonably increased
7 the risk of harm to others because it targeted troubled adolescents with aggressive, violent, and
8 sexualized advertisements that in some cases promoted and/or celebrated criminal activity.

9 677. The Daniel Defense firearms marketing co-created and developed by the Meta
10 Defendants and channeled to minors, including the Shooter, via Instagram unreasonably increased
11 the risk of harm to others because it leveraged Instagram’s addictive platform to do so.

12 678. The Daniel Defense firearms marketing co-created and developed by the Meta
13 Defendants and channeled to minors, including the Shooter, via Instagram unreasonably increased
14 the risk of harm to others because of the radicalizing nature of Instagram’s algorithmic selection of
15 content. Upon information and belief, the troubled adolescent for whom Instagram’s algorithm
16 selected a Daniel Defense post was also flooded by the same Instagram algorithm with other
17 incitements to violence.

18 679. The Meta Defendants knew or should have known of all of these risks.

19 680. One or more of the Meta Defendants’ actions alleged above increased the likelihood
20 that the May 24, 2022 shooting would occur, amplified the lethality of the assault, and/or increased
21 the risk that Plaintiffs would be shot and seriously injured or killed.

22 681. One or more of the Meta Defendants’ actions alleged above was a direct and
23 proximate cause of the May 24, 2022 shooting.

24 682. As a direct and proximate result of the Meta Defendants’ negligence, Plaintiffs
25 suffered emotional distress, physical harm and/or death, and pecuniary loss.

26 683. The Meta Defendants’ conduct was performed with a willful and conscious disregard
27 for the safety of their users and the public. The Meta Defendants knew or should have known about
28 the risks of radicalization, weapon fetishizing, and violence associated with their products, yet they

1 chose to ignore those risks, downplay any safety issues in public statements, conceal knowledge
2 relating to their products and associated hazards, fail to warn minors, their parents, law makers,
3 regulators, and the public, and impede or delay implementation of feasible product safety features.

4 684. The Meta Defendants' decision to prioritize profits over public safety is outrageous
5 and justifies an award of exemplary damages in such a sum that will serve to deter the Meta
6 Defendants from similar conduct in the future.

7 685. Plaintiffs demand judgment against each Defendant for compensatory, treble, and
8 punitive damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the
9 Court deems proper.

10 **TENTH CAUSE OF ACTION:**
11 **GROSS NEGLIGENCE**
12 **(ALL PLAINTIFFS AGAINST META DEFENDANTS**
13 **AND DOES 1 THROUGH 50, INCLUSIVE)**

14 686. Plaintiffs reallege and incorporate by reference each of the preceding and succeeding
15 paragraphs as though fully set forth therein.

16 687. The Meta Defendants acted with gross negligence in that they disregarded extreme
17 risks that they knew or should have known could result in extreme harm.

18 688. As a direct and proximate result of the Meta Defendants' gross negligence, Plaintiffs
19 were harmed. The Meta Defendants' breach(es) increased the likelihood that the May 24, 2022
20 shooting would occur, amplified the lethality of the assault, and increased the risk that victims,
21 including Plaintiffs' decedents, would be shot and seriously injured or killed.

22 689. The Meta Defendants' breach of one or more of their duties was a substantial factor
23 in causing harms and injuries to the Plaintiffs.

24 690. As a direct and proximate result of the Meta Defendants' negligence, Plaintiffs
25 suffered emotional distress, physical harm and/or death, and pecuniary loss.

26 691. The Meta Defendants' conduct was performed with a willful and conscious disregard
27 for the safety of their users and the public. The Meta Defendants knew or should have known about
28 the risks of radicalization, weapon fetishizing, and violence associated with their products, yet they
chose to ignore those risks, downplay any safety issues in public statements, conceal knowledge

1 relating to their products and associated hazards, fail to warn minors, their parents, law makers,
2 regulators, and the public, and impede or delay implementation of feasible product safety features.

3 692. The Meta Defendants' decision to prioritize profits over public safety is outrageous
4 and justifies an award of exemplary damages in such a sum that will serve to deter the Meta
5 Defendants from similar conduct in the future.

6 693. Plaintiffs demand judgment against each Defendant for compensatory, treble, and
7 punitive damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the
8 Court deems proper.

9 **ELEVENTH CAUSE OF ACTION:**
10 **STRICT PRODUCT LIABILITY – DESIGN DEFECT**
11 **(ALL PLAINTIFFS AGAINST META DEFENDANTS**
AND DOES 1 THROUGH 50, INCLUSIVE)

12 694. Plaintiffs reallege and incorporate by reference each of the preceding and succeeding
13 paragraphs as though fully set forth herein.

14 695. The Meta Defendants design and distribute Instagram.

15 696. The Meta Defendants designed Instagram with the following defects:

- 16 a. Features that take advantage of the chemical reward system of minors' brains to
17 create addictive engagement, compulsive and/or prolonged use, and additional
18 mental and physical harms. Such features include, but are not limited to, intermittent
19 variable rewards, endless feeds of content, algorithmically-selected contents that
20 users do not request, and the absence of effective limitations on total usage time
21 and/or usage during school hours and late at night.
- 22 b. Features that facilitate the radicalization of minors. Such features include
23 recommendation algorithms that affirmatively connect minors with dangerous,
24 violent, and illegal content and amplify extreme, violent, and otherwise radicalizing
25 content in order to keep minors engaged.
- 26 c. Features that make Instagram readily accessible to minors, while enabling to conceal
27 their Instagram activity from parents and adults in their home. Such features include,
28 but are not limited to, the use of ineffective age-verification and parental monitoring
protocols, as well as the ability to create multiple accounts.
- d. Features that facilitated interactions between firearms companies and minors. Such
features include, but are not limited to, policies that provided firearms companies
with a blueprint for engaging in marketing and advertising conduct that reached
minors directly through "organic posts" and influencer content, as well as ineffective
filters for minors.

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e. These defects in Instagram’s design existed prior to the release of Instagram to the public, and there was no substantial change to Instagram before it was distributed to the Shooter.

697. At all relevant times, a high probability existed that, as designed, Instagram posed an unreasonable risk of injury.

698. Safer designs exist, through which any and all of the above-described risks and dangers would be reduced, but the Meta Defendants chose to ignore or disregard these safer designs, or purposefully chose to implement and maintain their defective design to attain higher profits. Such safer designs include, but are not limited to:

- a. Turning off or slowing recommendation algorithms;
- b. Redesigning recommendation algorithms to limit rather than promote addictive engagement;
- c. Redesigning recommendation algorithms to not amplify extreme, violent, and radicalizing content;
- d. Implementing parental controls and/or notifications;
- e. Blocking use during certain times of day (*e.g.*, during school hours or late at night);
- f. Limiting total access time across each day, week, and/or month;
- g. Beginning and ending a user’s “Feed”;
- h. Reducing or eliminating the use of intermittent variable rewards;
- i. Limiting the timing and clustering of notifications used to lure back users;
- j. Closing policy loopholes that allow firearms companies to direct advertising and marketing conduct to minors;
- k. Limiting or blocking interactions between minors and accounts that are operated by users who are not their family members or other minors;
- l. Limiting or blocking interactions between minors and accounts operated by commercial entities;
- m. Reducing or eliminating the use of ephemeral content;
- n. Removing barriers to the deactivation and deletion of accounts;

- 1 o. Disabling or limiting private chat functions for minors; and
- 2 p. Disabling or limiting interactive features (e.g., “Likes” and “View Counts”) for
- 3 minors.

4 699. The Shooter began using Instagram as a minor and, as a result, lacked a mature ability
5 to discern the destructive and dangerous attributes of Instagram as previously described.

6 700. At all relevant times, Instagram was defective and unreasonably dangerous because
7 it contained numerous design defects that are not necessary for the utility provided to the user but
8 are unreasonably dangerous, particularly for minors, and implemented solely to increase profits.

9 701. Instagram is defective and not reasonably safe because there was a substantial
10 likelihood that it would cause harm and it was feasible to design it in a safer manner.

11 702. The foreseeable risks of harm posed by Instagram’s design could have been reduced
12 or avoided by the adoption of the safer designs alleged herein. The omission of any or all of these
13 safer design renders Instagram not reasonably safe. If the design defects in Instagram were known
14 and/or fully understood at the time of design and distribution, a reasonable person would conclude
15 that the utility of Instagram did not outweigh the risk inherent in designing it in that manner.

16 703. The design of Instagram was also defective because Instagram did not perform as
17 safely as an ordinary consumer would have expected it to perform when used or misused in an
18 intended or reasonably foreseeable way. Minors are among the ordinary users of Instagram. Minors
19 do not expect Instagram to be psychologically and neurologically addictive, harmful, and
20 radicalizing when Instagram is used in its intended manner.

21 704. There is a substantial likelihood that Instagram—as currently designed, distributed,
22 and operated by the Meta Defendants—will cause injury both to a significant number of individual
23 users and the public. The risk of such injuries occurring can be substantially reduced through
24 implementation of the safer design alleged herein, which will not adversely impact the functionality
25 of Instagram or unreasonably impact their price.

26 705. As a result of these dangerous and defective design attributes of Instagram, the
27 Shooter became addicted to Instagram, experienced a deterioration in his mental health, was
28 radicalized, including by becoming desensitized to violence and killing, became connected with

1 Daniel Defense, purchased a firearm from Daniel Defense, and used that firearm to carry out a mass
2 shooting on May 24, 2022.

3 706. As a result of these dangerous and defective design attributes of Instagram, Plaintiffs
4 and Plaintiffs' decedents suffered emotional distress, physical harm and/or death, and pecuniary
5 loss.

6 707. Plaintiffs' and Plaintiffs' decedents' physical, emotional, and economic injuries were
7 reasonably foreseeable to the Meta Defendants at the time of Instagram's development, design, and
8 distribution.

9 708. The Meta Defendants are further liable to Plaintiffs for punitive damages based upon
10 the willful and wanton design of its product that was intentionally marketed and sold to underage
11 users, whom it knew would be seriously harmed through use of their products. The Meta
12 Defendants' conduct, as described above, was intentional, willful, wanton, reckless, malicious,
13 oppressive, extreme, and outrageous, and displayed an entire want of care and a conscious and
14 depraved indifference to the consequences of its conduct, including to the health, safety, and welfare
15 of its users and foreseeable victims.

16 709. Plaintiffs expressly disclaim any and all claims seeking to hold the Meta Defendants
17 liable as the publisher or speaker of content posted by third parties. Rather, Plaintiffs seek to hold
18 the Meta Defendants liable for their own acts and omissions. Plaintiffs claims arise from the Meta
19 Defendants' status as designers and marketers of a social media product—Instagram—that is not
20 reasonably safe and is unreasonably dangerous for its intended use, as well as their own statements
21 and actions.

22 710. Plaintiffs demand judgment against each Defendant for compensatory, treble, and
23 punitive damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the
24 Court deems proper.

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TWELFTH CAUSE OF ACTION:
STRICT PRODUCT LIABILITY – FAILURE TO WARN
(ALL PLAINTIFFS AGAINST META DEFENDANTS
AND DOES 1 THROUGH 50, INCLUSIVE)

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4 711. Plaintiffs reallege and incorporate by reference each of the preceding and succeeding
5 paragraphs as though fully set forth herein.

6 712. Instagram is defective because of inadequate instructions or warnings because the
7 foreseeable risks of harm posed by this product could have been reduced or avoided by the provision
8 of reasonable instructions or warnings by the Meta Defendants and the omission of the instructions
9 or warnings renders their products not reasonably safe.

10 713. A high probability existed that, as designed, Instagram posed a likelihood of causing
11 injury to minors, and through them, to others, as previously alleged.

12 714. Instagram is defective and not reasonably safe because it contains no adequate
13 warning to minor users or parents regarding these risks to minors, and through them, to others.

14 715. As previously alleged, the Meta Defendants had actual knowledge of these product
15 hazards.

16 716. At all relevant times, it was feasible for the Meta Defendants to provide warnings
17 and to make other product related modifications that would prevent many of these hazards at
18 negligible cost.

19 717. The Meta Defendants knew or should have known about these hazards, knew or
20 should have known that its users and their parents would not be able to safely use their products
21 without warnings, and failed to provide warnings that were adequate to make Instagram reasonably
22 safe during ordinary and foreseeable use by minors.

23 718. As a result of these dangerous and defective design attributes of Instagram, the
24 Shooter became addicted to Instagram, experienced a deterioration in his mental health, was
25 radicalized, including by becoming desensitized to violence and killing, became connected with
26 Daniel Defense, purchased a firearm from Daniel Defense, and used that firearm to carry out a mass
27 shooting on May 24, 2022.

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1 729. The Meta Defendants’ advertising profits are directly tied to the quantity of its users’
2 online time and engagement, and its product features are designed to maximize the time users spend
3 using the product through product designs that addict them to the platform.

4 730. It is feasible for the Meta Defendants to make Instagram less addictive to minor users
5 or to otherwise restrict minor users’ access. Instead, the Meta Defendants have been developing its
6 highly addictive Instagram product so that it is more accessible to minors.

7 731. It is highly foreseeable that the addictive use of Instagram by minors will lead some
8 minors to become addicted to Instagram, experience deterioration of their mental health, become
9 radicalized, including by becoming desensitized to violence and killing, be exposed to marketing
10 and advertising conduct by firearms companies, and commit extreme and violent acts with firearms.

11 732. The Meta Defendants were negligent in failing to conduct adequate testing and
12 failing to allow independent academic researchers to adequately study the influence of social media
13 products, including Instagram, on young, male shooters, especially mass shooters. On information
14 and belief, the Meta Defendants knew of the powerful effect social media products such as Instagram
15 have had on mass shooters, and intentionally avoided such testing and research.

16 733. The Meta Defendants could have but to this day have failed to implement safety
17 measures that would mitigate, reduce, and/or eliminate the above-described hazards.

18 734. As a direct and proximate result of the Meta Defendants’ negligence, the Shooter
19 carried out the May 24, 2022 shooting.

20 735. As a direct and proximate result of the Meta Defendants’ negligence, Plaintiffs
21 suffered emotional distress, physical harm and/or death, and pecuniary loss, all of which were
22 foreseeable.

23 736. The Meta Defendants’ conduct was carried on with a willful and conscious disregard
24 for the safety of Plaintiffs and others. The Meta Defendants knew that firearms manufacturers were
25 marketing to minors via their product, and of the risks associated with such conduct, yet chose to
26 ignore those risks, downplay any safety issues in public statements, conceal knowledge relating to
27 its product and associated harms, fail to warn minors and their parents, and impede or delay
28 implementation of feasible product safety features. The Meta Defendants’ decision to prioritize

1 profits over life, safety and health is outrageous and justifies an award of exemplary damages in
2 such a sum that will serve to deter the Meta Defendants from similar conduct in the future.

3 737. The Meta Defendants are further liable to Plaintiffs for punitive damages based upon
4 their willful and wanton failure to warn of known dangers of Instagram, which was deliberately
5 marketed and distributed to minor users, whom they knew would be seriously harmed through the
6 use of Instagram. minors, and through them, to others.

7 738. Plaintiffs demand judgment against each Defendant for compensatory, treble, and
8 punitive damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the
9 Court deems proper.

10 **FOURTEENTH CAUSE OF ACTION:**
11 **NEGLIGENT FAILURE TO WARN**
12 **(ALL PLAINTIFFS AGAINST META DEFENDANTS**
13 **AND DOES 1 THROUGH 50, INCLUSIVE)**

14 739. Plaintiffs reallege and incorporate by reference each of the preceding and succeeding
15 paragraphs as though fully set forth herein.

16 740. The Meta Defendants are responsible for the design, manufacture, and marketing of
17 Instagram.

18 741. The Meta Defendants knew or reasonably should have known of the previously
19 described risks posed by Instagram.

20 742. The Meta Defendants also knew or reasonably should have known that ordinary users
21 of their products, including pre-teens, teens, and young adults, would not appreciate those dangers.

22 743. The Meta Defendants had a duty to exercise ordinary care in the design, marketing,
23 and sale of Instagram, including a duty to warn users and, in the case of minor users, to warn their
24 parents about the many hazards they knew to be present, but not obvious.

25 744. The Meta Defendants breached their duty by failing to warn users or their parents of
26 these risks.

27 745. As a result of these dangerous and defective design attributes of Instagram, the
28 Shooter became addicted to Instagram, experienced a deterioration in his mental health, was
radicalized, including by becoming desensitized to violence and killing, became connected with

1 Daniel Defense, purchased a firearm from Daniel Defense, and used that firearm to carry out a mass
2 shooting on May 24, 2022.

3 746. The Meta Defendants' negligence was a direct and proximate cause of the May 24,
4 2022 mass shooting.

5 747. As a direct and proximate result of the Meta Defendants' negligence, Plaintiffs
6 suffered emotional distress, physical harm and/or death, and pecuniary loss.

7 748. The Meta Defendants' conduct was performed with a willful and conscious disregard
8 for the safety of their users and the public. The Meta Defendants knew or should have known about
9 the risks of radicalization, weapon fetishization, and violence associated with Instagram, yet they
10 chose to ignore those risks, downplay any safety issues in public statements, conceal knowledge
11 relating to Instagram and associated hazards, fail to warn minors, their parents, and the public, and
12 impede or delay implementation of feasible product safety features.

13 749. The Meta Defendants' decision to prioritize profits over public safety is outrageous
14 and justifies an award of exemplary damages in such a sum that will serve to deter Meta Defendants
15 from similar conduct in the future.

16 750. Plaintiffs demand judgment against each Defendant for compensatory, treble, and
17 punitive damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the
18 Court deems proper.

19 **FIFTEENTH CAUSE OF ACTION:**
20 **UNJUST ENRICHMENT**
21 **(ALL PLAINTIFFS AGAINST THE META DEFENDANTS**
22 **AND DOES 1 THROUGH 50, INCLUSIVE)**

23 751. Plaintiffs reallege each of the allegations in the preceding and succeeding paragraphs
24 as though fully set forth herein.

25 752. The Meta Defendants' profits are directly tied to the intensity of user engagement on
26 their platforms. A user's engagement is maximized by exposure to increasingly addictive content.
27 The Meta Defendants knew or reasonably should have known that their products create and increase
28 risks as previously alleged.

- 1 b. Cal. Penal Code § 27505 (prohibiting sales of firearms to minors);
- 2 c. Texas Penal Code § 46.06 (prohibiting offers to sell firearms to minors).
- 3 d. Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45 (prohibiting unfair
- 4 commercial conduct);
- 5 e. California Unfair Competition Law (UCL), Cal. Bus. & Prof. Code § 17200 Act
- 6 (same);
- 7 f. Children’s Online Privacy Protection Act, 15 U.S.C. §§ 6501-6505.

8 762. Although the sale and marketing of firearms to minors is illegal, unlawful and/or
9 wrongful, the Meta Defendants chose to maintain marketing of firearms as part of the Instagram
10 platform, in part because they knew such content was enticing and attractive to minors and because
11 it drove engagement on the platform, all of which makes Instagram more attractive to advertisers
12 and benefits their bottom line. At the same time, the Meta Defendants wished to convey the false
13 impression that Instagram was a safe and healthy space for minors to parents, law makers,
14 regulators, and the public.

15 763. The Meta Defendants therefore created policies concerning the marketing of firearms
16 that supposedly restricted firearms marketing on Instagram. In fact, the Meta Defendants intended
17 that those policies would guide firearms manufacturers to craft firearms marketing content, which
18 would be channeled to minors through Instagram. And they did.

19 764. Further, the Meta Defendants knew or should have known that their express or
20 implied representation to users, including parents, that Instagram is a safe and appropriate site for
21 minors, when in fact it delivers inappropriate and illegal content to minors, including firearms
22 marketing and advertisements, violates the California False Advertising Law (FAL), Cal. Bus. &
23 Prof. Code § 17500 *et seq.*, which prohibits, inter alia, “any statement . . . which is untrue or
24 misleading, and which is known, or which by the exercise of reasonable care should be known, to
25 be untrue or misleading.”

26 765. As previously alleged, firearms manufacturers followed the Meta Defendants’
27 guidance, leveraging Instagram as a key access point to minors. The firearms manufacturing content
28 developed in response to the Meta Defendants’ guidance is content that the Meta Defendants

1 participated in creating and developing, and their conduct as alleged in this Complaint materially
2 contributed to the illegal, unlawful, and wrongful nature of that content.

3 766. As previously alleged, Daniel Defense was particularly adept and effective at
4 following the Meta Defendants' guidance to channel its firearms marketing to minors via Instagram.
5 The Daniel Defense firearms marketing on Instagram previously alleged and described was co-
6 created and developed by the Meta Defendants.

7 767. The Daniel Defense firearms marketing co-created and developed by the Meta
8 Defendants and channeled to minors, including the Shooter, via Instagram unreasonably increased
9 the risk of harm to others by inciting and encouraging the use of Daniel Defense firearms, including
10 the DDM4V7, for illegal and assaultive purposes, including killing.

11 768. The Daniel Defense firearms marketing co-created and developed by the Meta
12 Defendants and channeled to minors, including the Shooter, via Instagram unreasonably increased
13 the risk of harm to others because it targeted troubled adolescents with aggressive, violent, and
14 sexualized advertisements that in some cases promoted and/or celebrated criminal activity.

15 769. The Daniel Defense firearms marketing co-created and developed by the Meta
16 Defendants and channeled to minors, including the Shooter, via Instagram unreasonably increased
17 the risk of harm to others because it leveraged Instagram's addictive platform to do so.

18 770. The Daniel Defense firearms marketing co-created and developed by the Meta
19 Defendants and channeled to minors, including the Shooter, via Instagram unreasonably increased
20 the risk of harm to others because of the radicalizing nature of Instagram's algorithmic selection of
21 content. On information and belief, the troubled adolescent for whom Instagram's algorithm selected
22 a Daniel Defense post was also flooded by the same Instagram algorithm with other incitements to
23 violence.

24 771. The Meta Defendants knew or should have known that illegal, unlawful, and
25 wrongful marketing of firearms to minors was or would be committed by firearms manufacturers
26 such as Daniel Defense, increasing the risk of shootings and mass shootings.

27 772. The Meta Defendants engaged in these unfair business acts and/or practices in order
28 to gain advantage against business competitors.

1 773. The Meta Defendants engaged in unfair business acts and/or practices in that they
2 committed acts and/or practices for which the gravity of the harm to Plaintiffs and other consumers
3 outweighed any utility of the Meta Defendants' conduct.

4 774. Mass shootings have devastated an untold number of American families and
5 communities, conditioned an entire generation to view attacks by lone gunmen as an inevitable part
6 of life, transformed schools from safe spaces of learning into sites of terror and mass death, and
7 imbued Americans with a perpetual sense of fear and dread. The gravity of the harm posed by these
8 attacks completely outweighs the utility of the Meta Defendants' conduct.

9 775. The Meta Defendants engaged in unfair business acts and/or practices in that they
10 committed acts and/or practices that offended legislatively declared policy, as previously alleged.

11 776. The Meta Defendants engaged in unfair business acts and/or practices in that they
12 committed acts and/or practices that caused substantial injury that was not outweighed by any
13 countervailing benefits and that could not have been reasonably avoided by consumers themselves.

14 777. One or more of the Meta Defendants' actions alleged above increased the likelihood
15 that the May 24, 2022 shooting would occur, amplified the lethality of the assault, and/or increased
16 the risk that Plaintiffs would be shot and seriously injured or killed.

17 778. One or more of the Meta Defendants' actions alleged above was a direct and
18 proximate cause of the May 24, 2022 mass shooting.

19 779. Plaintiffs suffered nontrivial monetary losses, including medical and funeral
20 expenses, as a result of the Meta Defendants' unfair practices alleged herein.

21 780. Plaintiffs seek nonrestitutionary disgorgement of such measure of the Meta
22 Defendants' profits derived from such wrongful conduct as is just, to be distributed via a fluid
23 recovery fund in accord with each Plaintiffs' damages.

24 781. In connection with this claim plaintiffs seek attorneys' fees pursuant to section
25 1021.5 of the California Code of Civil Procedure.

26 782. Plaintiffs demand judgment against each Defendant for compensatory, treble, and
27 punitive damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the
28 Court deems proper.

1 **SEVENTEENTH CAUSE OF ACTION:**
2 **AIDING AND ABETTING**
3 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS AND DOES 1**
4 **THROUGH 50, INCLUSIVE, EXCEPT NOMINAL DEFENDANTS)**

4 783. Plaintiffs reallege and incorporate by reference each preceding and succeeding
5 paragraph as though fully set forth herein.

6 784. Sales and marketing of firearms to minors, including promotion of firearms for
7 illegal and assaultive purposes, is illegal, unlawful and/or wrongful, especially in light of the
8 following statutes:

- 9 a. Privacy Rights for California Minors in the Digital World Act, Cal. Bus. & Prof. §
10 22580 (prohibiting “[a]n operator of an Internet Web site, online service, online
11 application or mobile application directed to minors” from marketing, inter alia,
12 “[f]irearms or handguns” and “[a]mmunition or reloaded ammunition”).
- 13 b. Cal. Penal Code § 27505 (prohibiting sales of firearms to minors);
- 14 c. Texas Penal Code § 46.06 (prohibiting offers to sell firearms to minors).
- 15 d. Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45 (prohibiting unfair
16 commercial conduct);
- 17 e. California Unfair Competition Law (UCL), Cal. Bus. & Prof. Code § 17200 Act
18 (same);
- 19 f. Children’s Online Privacy Protection Act, 15 U.S.C. §§ 6501-6505.

19 785. Daniel Defense engages in illegal, unlawful, and wrongful marketing of firearms to
20 minors and illegal offers to sell firearms to minors.

21 786. The Activision Defendants aid and abet Daniel Defense’s illegal, unlawful, and
22 wrongful marketing of firearms to minors and illegal offers to sell firearms to minors as previously
23 alleged.

24 787. The Meta Defendants aid and abet Daniel Defense’s illegal, unlawful, and wrongful
25 marketing of firearms to minors and illegal offers to sell firearms to minors as previously alleged.

26 788. As previously alleged, the Activision Defendants’ actions materially contribute to
27 Daniel Defense’s illegal, unlawful, and wrongful marketing of firearms to minors and illegal offers
28 to sell firearms to minors.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs pray for judgment against each of the Defendants, jointly and
3 severally, and as appropriate to each cause of action alleged and the standing of Plaintiffs as follows:

- 4
- 5 1. Past, present and future general damages, the exact amount of which has yet to be
6 ascertained, in an amount which will conform to proof at time of trial, to compensate
7 Plaintiffs for injuries sustained as a result of each Defendant’s conduct and/or their
8 products as alleged, including but not limited to physical pain and suffering, mental
9 anguish, loss of enjoyment of life, emotional distress, expenses for hospitalizations, and
10 medical treatments;
 - 11 2. Past, present, and future economic and special damages according to proof at the time of
12 trial;
 - 13 3. Loss of earnings and impaired earning capacity according to proof at the time of trial;
 - 14 4. Medical expenses, past and future, according to proof at the time of trial;
 - 15 5. Funeral expenses and other special damages according to proof at the time of trial;
 - 16 6. Punitive or exemplary damages according to proof at the time of trial;
 - 17 7. All damages available for wrongful death and survival;
 - 18 8. Exemplary and punitive damages in an amount in excess of the jurisdictional limits;
 - 19 9. Attorneys’ fees;
 - 20 10. For costs of suit incurred herein;
 - 21 11. Pre-judgment and post-judgment interest as provided by law;
 - 22 12. For such other and further relief as the Court may deem just and proper.

23 Dated: May 24, 2024

KOSKOFF KOSKOFF & BIEDER, PC

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25
26 By:



Katherine Mesner Hage, Esq.
Attorneys for Plaintiffs

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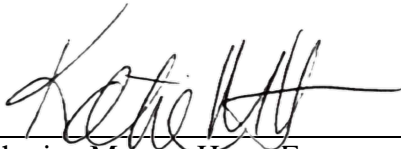
DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial on all issues so triable.

Dated: May 24, 2024

KOSKOFF KOSKOFF & BIEDER, PC

By:



Katherine Mesner-Hage, Esq.
Attorneys for Plaintiffs