

Digital Platforms Face Increased Civil Litigation Exposure For Design Based Liability Claims

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I. Recent Cases Signal a Major Shift Toward Design Based Liability

Juries in New Mexico and California recently returned multi-million-dollar verdicts in trials demonstrating a significant shift in how courts and juries view digital platform liability.

In these cases, Plaintiffs successfully argued that social media platforms are designed to exploit minors through engagement driven technology - to include infinite scroll, autoplay, algorithmic feeds, push notifications, beauty filters, and video loops - as mechanisms allegedly engineered to maximize engagement while exploiting minors' cognitive vulnerabilities.

The result could affect thousands of similar cases against social media and tech companies and may serve as a harbinger for increased litigation exposure to design-based liability claims.

Here is the background:

A. *New Mexico v. Meta Platforms, Inc.*

In late 2023, the State of New Mexico sued Meta, alleging that Facebook and Instagram misled parents and exposed children to sexual exploitation and mental health harms. The State asserted violations of New Mexico's Unfair Practices Act and claimed that Meta's platform design created a public nuisance. According to the complaint, Meta allowed its platforms to operate as a "breeding ground for predators" and targeted the vulnerabilities of children and teenagers through engagement driven features and algorithms. The State further alleged that Meta declined to implement existing child safety measures because its targeted advertising model depends on maximizing user engagement and data monetization.

On March 24, 2026, a jury found Meta liable under the consumer protection statute and imposed the statutory maximum penalty of \$5,000 per violation, totaling \$375 million. A second trial phase, scheduled for May 4, 2026, will address the public nuisance claim and potential court ordered design changes.

B. *K.G.M. v. Meta Platforms, Inc., YouTube LLC, Snap Inc., and TikTok Inc. (JCCP 5255)*

As a bellwether case in California's coordinated proceedings, K.G.M. alleged that Meta, YouTube, and other platforms caused harm through the addictive design of their services. The plaintiff compared engagement features including infinite scroll, autoplay, algorithmic recommendations, and personalized advertising to casinos and cigarettes, asserting that these mechanisms are inherently addictive and create undisclosed mental health risks. The plaintiff claimed these design features contributed to depression, anxiety, and body dysmorphia.

On March 25, 2026, a jury found Meta and YouTube negligent in designing their platforms and failing to warn users about associated risks. The jury awarded \$3 million in compensatory damages and \$3 million in punitive damages.

This verdict is the first bellwether trial among more than 1,000 cases in California and reflects courts' growing willingness to allow juries to weigh design defect theories that survive Section 230 defenses.

II. Emerging Judicial Trends and What to Expect Next:

A. Expansion of Design-Based Liability Claims

Defendants and their insurers should expect to see a significant rise in design-based liability claims as individuals and municipalities pursue lawsuits alleging that platform design decisions knowingly exploited minors' vulnerabilities and imposed substantial burdens on individuals, state and local government, school districts, and public health systems. These claims focus on how platforms function, not on third-party content, for which tech companies are not liable under Section 230 of the Communications Decency Act.

B. Expansion of Design Defect Theories Beyond Social Media

Defendants should anticipate the spread of design-based claims to other digital environments. Similar claims are now being asserted against:

- i. Online gaming companies, targeting reward loops and monetization mechanics.
- ii. Platforms implicated in sextortion, alleging that recommendation features facilitate exploitation.
- iii. Sports betting and gambling applications, where individuals claim addictive design contributed to gambling disorders and financial harm.

C. Growing Risk of Court-Ordered Product Redesign

Defendants should expect increased exposure to injunctive relief targeting core platform design. Plaintiffs are placing heightened scrutiny on recommendation systems, rewards structures, and age-verification tools as alleged sources of harm. The second phase of *New Mexico v. Meta* may serve as an early example of court-ordered design changes.

Overall, these trends indicate mounting exposure to civil litigation based on alleged design defects across the digital platform landscape. By taking important steps now, companies can prepare an effective litigation strategy and effectively respond to a rapidly changing area of the law.

Eckert Seamans will continue to monitor developments in design-based liability and related litigation.