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OPEN FORUM

There’s a parallel between Facebook and Oxycontin addiction cases

By Richard Zitrin

By now, almost everyone knows about the evils of Oxycontin, how its addictive properties, dangerously high dosages, and highly manipulative marketing from Purdue Pharma caused addiction not just to “Oxy” but to heroin and fentanyl. What is not well known is that all the information that we know about the dangers of using Oxycontin as Purdue suggested was discovered in a lawsuit filed in 2001 by the state of West Virginia. That case was settled in 2004, but everything the West Virginia attorney general learned was kept secret by court order. That secrecy was maintained for 12 more years,as literally hundreds of thousands of people died. It wasn’t until 2016 that a team of investigative reporters for the Los Angeles Times was able to uncover the truth about Oxy. By then, the damage had been done.

Now, a decade later, courts are focused on the addictive properties of social media platforms like Facebook and YouTube. A string of lawsuits has been filed across the country. In March, in a “bell-wether trial,” or test case, in Los Angeles, a jury awarded one 20-year-old woman \$4.2 million from Meta, Facebook’s parent company, and \$1.8 million from YouTube, a subsidiary of Google, as damages for the addiction their social media products caused her to suffer.

And like Oxycontin in 2004, today the evidence that could prove the addictive properties of social media is in danger of remaining sealed behind court orders that protect its disclosure.

The largest and most important social media case has a mouthful of a name: In re Social Media Adolescent Addiction/Personal Injury Products Liability Litigation. It’s what the courts call a “multi-district litigation” case, or “MDL.” That’s a single umbrella case under which many others are consolidated in front of a single judge. That judge is Northern California Federal District Court Judge Yvonne Gonzalez Rogers, who sits in Oakland.

The amended complaint in that case, filed in December 2023, runs to 272 pages. The defendants are Snap, owner of Snapchat; Byte-Dance, which at the time owned TikTok and which still controls it; Meta and Google. In the 14 counts of the complaint, the plaintiffs’ lawyers accuse these companies of targeting children, persons “uniquely susceptible to harm,” by addicting them to using the products



Fiordaliso/Getty Images

In a forthcoming trial in Oakland accusing social media companies like Meta of knowingly addicting children to their products, the defendants have asked the judge to keep some court records sealed.

compulsively. The complaint cites such features as infinite scrolling, autoplay, and reward notifications, and claims the defendants damage children’s mental health, and also facilitate “the sexual exploitation and sextortion of children.”

The trial in Oakland is set to begin on August 12, and the plaintiffs in that case will be the four states participating in the MDL — California, Colorado, Kentucky and New Jersey, each represented by their attorneys general.

Not surprisingly, just as happened with Purdue Pharma, the defendant corporations in this case have asked the judge for an order sealing various court records, thus keeping them from public view.

At a hearing in late June, Judge Rogers was highly critical of those defense motions, stating, “The amount of sealing requests is ridiculous.” She went on to say that she was “shocked” by the extent of the requests, and noted, “I have gone through hundreds of pages of documents and I actually see nothing that I would seal. ...” She then denied all the sealing

motions.

Now, however, the lawyers for Meta have convinced the four state attorneys general to stipulate, or agree in writing, to an order that would seal much of the record and prevent scrutiny by the public. Among other things, the stipulation says that sealing may apply to any “information that, if disclosed, is likely to cause competitive harm.”

But anything that tends to prove the states’ case against Meta is something likely to cause Meta harm. And since it appears Meta can self-select what it wants sealed, this can include virtually all information, including about its knowledge of the alleged addictive properties of its products.

Stipulations and orders that prevent disclosure of information revealed during cases in our courts — courts that have always been open to the public — deny the public important knowledge that they have a right to have. Just like the details of Purdue’s promotion of Oxycontin’s addictive properties, the alleged details of how Facebook, Messenger and Instagram put

children in danger of becoming addicted is something the public has the right to know.

It’s hard to understand why four states’ attorneys general would sign a stipulation that limits the knowledge of the residents of their states. At the core of their jobs is public protection. It does not protect the public to keep them in the dark about the very thing they are alleging in court — the addictive dangers of Meta’s products.

Fortunately, this stipulation will not carry the day unless Judge Rogers signs the order approving it. Given her good track record opposing secrecy, she has the opportunity to refuse this order and allow the light of day to shine on Meta’s dirty laundry. She should do just that.

Richard Zitrin is emeritus professor of legal ethics at UC Law San Francisco. He has drafted anti-secrecy legislation for the U.S. Senate and the California legislature. He is currently writing a book entitled “Secrets in the Courthouse, Or What You Don’t Know Can Kill You.”

LETTERS TO THE EDITOR Submit your letter at SFChronicle.com/submit-your-opinion

San Francisco’s AI boom is real but fragile

San Francisco’s AI boom is focused on models, agents and computing power, but what may be the industry’s most serious weakness is far less glamorous: unreliable data infrastructure.

AI systems are only as trustworthy as the information flowing into them. When data pipelines are delayed, inconsistent or poorly governed, even the most advanced model can produce confident but incorrect answers. In financial services, health care and public services, those errors can have real consequences.

As a data engineer, I see how much work happens before information ever reaches an AI system. Engineers must reconcile conflicting records, identify outdated definitions, monitor data quality and make sure that the same number means the same thing across multiple systems.

Business leaders and policymakers should therefore ask AI vendors more than which model they use. They should ask how the data is validated, how quickly errors are detected and whether important decisions can be audited.

The AI boom is real, but it is being built on fragile pipes.

If we want these systems to earn public trust, we must invest as seriously in reliable data infrastructure as we do in increasingly powerful models.

Shouvik Sharma, Walnut Creek

Point Reyes worth effort

Regarding “One of the Bay Area’s most stunning parks is ripe for a species reintroduction,” (Opinion/Open



Joel Pett/Tribune Content Agency

Forum, SFChronicle.com, July 19): I was enlightened by Ken Bouley’s article about nature finding a way at Point Reyes.

I thought that now that the ranches there had been vacated, Point Reyes National Seashore would naturally revert to its wild state without need for human intervention.

That is not the case, according to the author. Instead, there is degradation and the loss of many plant and animal species that were once a part of the ecosystem.

As the executive director of the Turtle Island Restoration Network, Bouley has directed his keen eye and expert credentials on the future of Point Reyes.

He presents an extraordinary vision of what this ecological oasis could become, with mindful habitat restoration and the careful reintroduction of various plant and animal species.

He says this process would repair the area’s “worn fabric” and would “support the resilience of nature.”

He does admit that restoration and reintroduction of this type can be problematic. But if experienced and skillful conservation groups, scientists and members of Native tribes work together, as he suggests, this vision could become a reality.

I believe that Point Reyes National Seashore is a rare gem that is very much worth the effort.

Kate Brouillet, Novato

Who is the terrorist?

There are now nine countries that have a nuclear weapon, (the United States, Russian China, France, United Kingdom, India, Pakistan, Israel and North Korea). Except for the United states in World War II, none has used a nuclear weapon in war. Now Trump wants Saudi Arabia to have a civilian nuclear program. In a post, Trump said the deal with the U.S. is subject to the Saudis joining the Abraham Accords. He says the pact does not allow for enrichment of uranium, but non-proliferation experts are concerned.

We have a president who is 80 years old and appears to be declining physically and mentally.

As Commander in Chief, the president is the only person who can authorize a nuclear strike. He is not legally required to consult with advisors or military officials before giving the order. We are currently engaged in a war Trump started and that Congress has never authorized, with no obvious way out. Should we leave the decision to use a nuclear weapon to such a person? Tell me, which is the terrorist country? Be afraid, be very, very afraid.

Deborah Sobr, San Francisco

Veto climate change

I wish our esteemed president would use his “negotiating skills” and “unmatched know how” to completely eliminate climate change, which at this point appears to be a greater threat to our country (and the world) than Iran’s nuclear capabilities.

William Duquette, Aptos