

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

DIONA PATTERSON, individually and as
Administrator of the ESTATE OF HEYWARD
PATTERSON; J.P., a minor; BARBARA MAPPS,
Individually and as Executrix of the ESTATE OF
KATHERINE MASSEY; SHAWANDA ROGERS.
Individually and as Administrator of the ESTATE OF
ANDRE MACKNIEL; A.M.. a minor; and
LATISHA ROGERS,

Plaintiffs,

vs.

Hon. Paula L. Feroletto

META PLATFORMS. INC., formerly known as
FACEBOOK, INC.; SNAP. INC.; ALPHABET,
INC.; GOOGLE, LLC; YOUTUBE, LLC;
DISCORD, INC.; REDDIT, INC.; AMAZON.COM,
INC.; 4CHAN, LLC; 4CHAN COMMUNITY
SUPPORT, LLC; GOOD SMILE COMPANY, INC.;
GOOD SMILE COMPANY US, INC.; GOOD
SMILE CONNECT, LLC; RMA ARMAMENT;
VINTAGE FIREARMS; MEAN L.L.C.;
PAUL GENDRON; PAMELA GENDRON,

Index No. 805896/2023

Defendants.

**REDDIT'S INDIVIDUAL REPLY MEMORANDUM OF LAW
IN SUPPORT OF MOTION TO DISMISS**

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I. Introduction

As set forth in the Internet-Defendants' Joint Reply, well-settled law forecloses Plaintiffs' claims, notwithstanding their Opposition arguments. And nothing in their Opposition changes two dispositive issues as to Reddit: (1) Plaintiffs have not alleged that Gendron's horrific acts were foreseeable to Reddit, and (2) the allegations about Reddit's service features are conclusory, not specific to Gendron, and target only the publication of third-party speech in accordance with the human judgments at the heart of Reddit's content sorting system. Moreover, nothing about dismissal now is premature: accepting as true all of Plaintiffs' allegations (even the ones added improperly in their Opposition), they have not pled viable claims against Reddit. Therefore, Plaintiffs' claims against Reddit fail as a matter of law and must be dismissed with prejudice.

II. Argument

A. Plaintiffs do not address that Reddit could not foresee Gendron's conduct.

Reddit's primary argument is that, as the New York Attorney General concluded, Gendron's activities on Reddit "generally lack context from which it could have been apparent to a reader that [he] was planning a murderous rampage" and his "limited activities on Reddit could not have led Reddit (or anyone else—including the New York Attorney General) to foresee what he was about to do or the harm he would cause." Reddit's Individual Memorandum of Law in Support of Motion to Dismiss ("Individual Motion") at 7.¹ Plaintiffs do not address this argument in their Opposition. Because they do not (and cannot) refute that, by their own

¹ The NYAG Report is incorporated throughout the Complaint. *See* Individual Motion at n.1.

allegations, Gendron's conduct was not foreseeable to Reddit, all of their claims should be dismissed.²

B. Plaintiffs' arguments regarding Reddit's "targeting" and "algorithmic content feeds" fail to cure the Complaint's deficiencies as to Reddit.

Rather than address the lack of foreseeability, Plaintiffs instead take issue with the characterization of Gendron's activities on Reddit as "limited" and assert that their Complaint "explicitly details" how Gendron was "pulled into a rabbit hole of racism and violence in exchange for engagement and profit." *See* Plaintiffs' Memorandum of Law in Consolidated Opposition to Social Media Defendants' Joint and Individual Motions to Dismiss ("Opposition" or "Opp.") at 75. But their conclusory allegations are insufficient to state a claim against Reddit.

Plaintiffs point to Complaint paragraphs 397-419 to support their contention. The only paragraphs therein that are relevant to this assertion are conclusory, repetitive, and general assertions made "on information and belief" that Reddit, "as designed" "promotes extremist content." *See id.* ¶¶ 412-415. There are no specific allegations as to how Reddit's features do so (and, as discussed below, the allegations about how Reddit works undermine this premise), and no allegations of Reddit targeting or promoting extremist content to Gendron in particular. Indeed, the paragraphs specific to Gendron make clear that Gendron sought out objectionable content, even after some of the communities where he found it had been banned for violating Reddit's rules. *Id.* ¶ 419 (citing NYAG Report and Discord Diary); Opp. at 78 (stating that "the beliefs [Gendron] *was looking for*" showed up on a subreddit "all the time" (emphasis added)).

Nevertheless, to support their baseless "rabbit hole" theory, Plaintiffs focus on paragraph 400 of their Complaint, *see* Opp. at 77, which says:

² This argument applies to all claims against Reddit except joint and several liability, which is not a cause of action. *Id.* at n.2.

Reddit's algorithms are written in Python and the sorting algorithms are executed in Pyrex. Reddit has a story algorithm that it always uses, which is called the Reddit hot ranking. With the Reddit story algorithm, the number of votes and the submission time of a link have the largest effect on where a story will rank.

This paragraph (and all of Plaintiffs' allegations about how content is sorted within Reddit feeds and subreddits) simply says that Reddit posts are sorted in accordance with Reddit users' upvotes and downvotes, taking into account the posts' recency. Thus, by Plaintiffs' own allegations, content sorting on Reddit is determined by the judgments of millions of Reddit users who vote every day (not top-down determinations by Reddit). This is inconsistent with the idea that Reddit used a centralized algorithm to target Gendron with white supremacist or other hateful content.

Next, Plaintiffs offer Complaint paragraphs 534-620, which allege causes of action against the Internet-Defendants generally, and not Reddit specifically. The idea that Reddit can be lumped into a group to survive dismissal is far-fetched, particularly because there are *no* allegations about Reddit in these paragraphs, let alone anywhere in the Complaint, that are as specific as the allegations against others. For example, Plaintiffs include detailed allegations about others' targeting of teenagers, alleging that they "focused on teenage engagement," had metrics like "teen time spent," and had "teenage marketing strategies." *See, e.g.*, Complaint ¶¶ 152, 232, 251.

Plaintiffs try to cure this flaw by marshaling myriad public documents—all of which are offered improperly in the Opposition—to support their contradictory and conclusory allegations against Reddit. Even if this Court accepts as true all of Plaintiffs' new allegations, their claims against Reddit still fail. To the extent Reddit uses information, for example, to "communicate with users of our products, service, offers, promotions, and events, and provide other news and information we think will be of interest to you" or might personalize or even recommend some content to users, that does not equate to "funneling" hateful content to users. *See* Opp. at 77.

And of course, these allegations are not a basis for liability for the reasons in the Joint Motion. Courts have repeatedly held that this type of claim falls within Section 230's immunity. *See, e.g., M.P. by & through Pinckney v. Meta Platforms, Inc.*, 2023 WL 4853650, at *3 (D.S.C. July 24, 2023), *appeal docketed*, No. 23-1880 (4th Cir. Aug. 24, 2023); *Dyroff v. Ultimate Software Group, Inc.*, 934 F.3d 1093, 1098 (9th Cir. 2019); *Gonzalez v. Google, LLC*, 2 F.4th 871, 896 (9th Cir. 2022), *vacated on other grounds*, 143 S.Ct. 1191 (2023); *L.W. v. Snap Inc.*, 2023 WL 3830365, at *5 (S.D. Cal. June 5, 2023). Given that the only facts alleged against Reddit as to Gendron are that it hosted third-party content, Section 230 forecloses all of them.

Finally, Plaintiffs accuse Reddit of being misleading for excluding part of a quote from the NYAG Report. *See* Opposition at 78. For the sake of clarity, here is the full quote:

“Of course, many of my beliefs come from reddit too. Many subreddits I joined have been banned but they show up on r/AgainstHateSubreddits all the time. One’s [sic] that are still around include r/greentext, r/4chan, r/PoliticalCompassMemes, r/SocialJusticeInAction, r/LoveForLandlords, and r/AntiHateCommunités, of which I am actually in their discord :)”

All this shows is that Reddit banned content, that content might have nevertheless appeared elsewhere on Reddit, and Gendron *actively sought it out* (given that Reddit had banned it). It does not show that Gendron was addicted to Reddit or “spent much of his time on Reddit,” or that Reddit fed him hateful content. Opposition at 79. Again, a comparison shows the flimsiness of this allegation against Reddit: on other platforms, Gendron was allegedly just “sitting around and watching ... for the last few days” and on “multiple times per hour and at all hours of the night.” *Id.* at 68, 74. There is no similar allegation as to Reddit. As alleged, Reddit only hosted third-party content (that it banned) and that Gendron somehow managed to find it anyway.

C. Plaintiffs’ allegations that Gendron was addicted to Reddit and that Reddit’s features are “dangerous” are conclusory.

Plaintiffs also claim that Gendron “found Reddit to be addictive, and that he spent much of his time on Reddit,” Opp. at 78-79, because of Reddit’s features: comments, karma, and “algorithmic content feeds.” Ultimately, these features cannot give rise to liability for the reasons in the Joint Motion and Reply, and Reddit’s Individual Motion. Even more, Plaintiffs’ conclusory allegations about these features’ “addictiveness” and “dangerousness” are inconsistent with how they are alleged to work and are not specific to Gendron in any event.

Comments. The entirety of Plaintiffs’ allegations about this feature is that users can “leave comments,” and comments are sorted by “best rated,” which reflects the votes of Reddit users. Compl. ¶¶ 397, 403-404. Plaintiffs then jump to the unsupported conclusion, only upon information and belief, that “Reddit’s comment feature promotes extremist content by elevating incendiary and hateful comments and images over positive and uplifting ones. This design feature works to radicalize youth by promoting racist, antisemitic, and violence-advocating communications.” *Id.* ¶ 415. There are no allegations supporting this leap. Plaintiffs do not give any examples of comments that Gendron found or explain how a system of user voting could result in promoting extremist content or radicalizing youth in general, let alone Gendron himself.

Karma. The word “karma” appears only twice in the Complaint in a single paragraph, which alleges that user votes result in “karma” and that “[t]he higher karma you have, the better regarded you may be by the community.” *Id.* ¶ 399. Anything beyond that is new in the Opposition and improper. But even considering the new material, Plaintiffs make the giant leap to the conclusion that karma “make[s] posting on Reddit addictive, like achieving a new level in a game.” Opp. at 76. (Of course, people achieve new levels in games all the time without becoming addicted or engaging in criminal acts.) The rest of the claims in the Opposition—that “[s]ome of the most incendiary posts gain Karma,” “Reddit grants Karma to posts and comments

that violate its own content policy,” “the more controversial a comment or post ... prompts Reddit to ... grant the user with Karma,” and only upon information and belief “Reddit calculated and granted the shooter Karma as a reward for his own contributions to discussions on its message board leading up to the shooting”—are baseless conclusions with no supporting factual allegations. *Id.* And even if Gendron did receive karma, there is no allegation that he found Reddit addictive because of it or that Reddit fed him hateful content as a result.

“*Algorithmic Content Feeds.*” Here, Plaintiffs again rely on paragraph 400 of their Complaint, which, as set out above, only confirms that Reddit sorts content based on user voting and the time of submission, exactly as Reddit argued. *See* Opp. at 77. Plaintiffs’ factual allegations therefore contradict their argument that the “display of content on Reddit is driven by a centralized algorithm designed to funnel content both created and chosen by Reddit itself.” *Id.*

D. Dismissal of Plaintiffs’ claims against Reddit would not be premature.

Finally, Plaintiffs argue that dismissal of their claims against Reddit would be premature. Opp. at 75. This is despite the fact that they have incorporated (including improperly) public documents and information into their Complaint about how Reddit works. These efforts have failed to yield a coherent, legally viable theory against Reddit. Dismissal is not premature simply because Plaintiffs’ allegations do not support the claims against Reddit. *See* Compl. ¶¶ 398-404. Plaintiffs struggle to show that Reddit fits within their narrative because it does not. Reddit users—not a centralized algorithm—determine what content will appear in which subreddits, in accordance with each subreddit’s purpose and rules, as established by its users. Reddit users—not Reddit itself—seek out content and join subreddits based upon their interests. And it is the human judgments of all Reddit users through a voting system—not some black-box algorithm that feeds content to users or draws them down rabbit holes—that informs the content sorting on Reddit.

Ultimately, Reddit could not have foreseen Gendron's conduct and did not feed him content or lead him down a rabbit hole. Reddit simply hosted third-party content, sorted in accordance with the human judgments of its many users, that Gendron affirmatively sought out.


III. Conclusion

For these reasons, those in the Joint Motion and Reply, those in Reddit's Individual Motion, the Court should dismiss Plaintiffs' claims with prejudice.

Dated: Buffalo, New York
November 3, 2023

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Dated: November 3, 2023



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