To be Argued by:
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Appellate Division–Fourth Department Docket Nos.
CA 24-00513, CA 24-01448, CA 24-01447, CA 24-00524

Court of Appeals

of the

State of New York

KIMBERLY J. SALTER, individually and as Executrix of the Estate of AARON W. SALTER, JR., MARGUS D. MORRISON, JR., Individually and as Administrator of the Estate of MARGUS MORRISON, SR., PAMELA O. PRICHETT, Individually and as Executrix of the Estate of PEARL LUCILLE YOUNG, MARK L. TALLEY, JR., Individually and as Administrator of the Estate of GERALDINE C. TALLEY, GARNELL W. WHITFIELD, JR., Individually and as Administrator of the Estate of RUTH E. WHITFIELD, JENNIFER FLANNERY, as Public Administrator of the Estate of ROBERTA DRURY, TIRZA PATTERSON, Individually and as parent and natural guardian of J.P., a minor, ZAIRE GOODMAN, ZENETA EVERHART, as parent and Caregiver of Zaire Goodman, BROOKLYN HOUGH, JO-ANN DANIELS, CHRISTOPHER BRADEN, ROBIA GARY, AHJALEAN SEGARS, and KISHA DOUGLAS,

Plaintiffs-Appellants,

(For Continuation of Caption See Inside Cover)

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Date Completed: June 9, 2026

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– against –

META PLATFORMS, INC., f/k/a Facebook, Inc., INSTAGRAM LLC, REDDIT, INC, AMAZON.COM, INC., TWITCH INTERACTIVE, INC., ALPHABET, INC., GOOGLE, LLC, YOUTUBE, LLC, DISCORD INC., SNAP, INC. and 4CHAN COMMUNITY SUPPORT, LLC,

Defendants-Respondents

– and –

4CHAN, LLC, GOOD SMILE COMPANY, INC., GOOD SMILE COMPANY U.S., INC., GOOD SMILE CONNECT, LLC, RMA ARMAMENT, INC. d/b/a RMA, BLAKE WALDROP, CORY CLARK, VINTAGE FIREARMS, LLC, JIMAY'S FLEA MARKET, INC., JIMAYS LLC, MEAN ARMS LLC d/b/a Mean Arms, PAUL GENDRON and PAMELA GENDRON,

Defendants.

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-Appellants,

– against –

META PLATFORMS, INC., formerly known as FACEBOOK, INC., SNAP, INC., ALPHABET, INC., GOOGLE, LLC, YOUTUBE, LLC, DISCORD INC., REDDIT, INC., AMAZON.COM, INC., 4CHAN COMMUNITY SUPPORT, LLC,

Defendants-Respondents.

WAYNE JONES, Individually and as Administrator
of the Estate of CELESTINE CHANEY,

Plaintiff-Appellant,

– against –

MEAN LLC, VINTAGE FIREARMS, LLC, RMA ARMAMENT, INC.,
4CHAN, LLC, 4CHAN COMMUNITY SUPPORT, LLC, PAUL GENDRON
and PAMELA GENDRON,

Defendants,

– and –

ALPHABET INC., GOOGLE, LLC, YOUTUBE, LLC, REDDIT, INC.,

Defendants-Respondents.

FRAGRANCE HARRIS STANFIELD, YAHNIA BROWN-MCREYNOLDS,
TIARA JOHNSON, SHONNELL HARRIS-TEAGUE, ROSE MARIE
WYSOCKI, CURT BAKER, DENNISJANEE BROWN, DANA MOORE,
SCHACANA GETER, SHAMIKA MCCOY, RAZZ'ANI MILES, PATRICK
PATTERSON, MERCEDES WRIGHT, QUANDRELL PATTERSON, VON
HARMON, NASIR ZINNERMAN, JULIE HARWELL, individually and as
parent and natural guardian of L.T., a minor, LAMONT THOMAS, individually
and as parent and natural guardian of L.T., a minor, LAROSE PALMER,
JEROME BRIDGES, MORRIS VINSON ROBINSON-MCCULLEY, KIM
BULLS, CARLTON STEVERSON, and QUINNAE THOMPSON,

Plaintiffs-Appellants,

– against –

MEAN LLC, VINTAGE FIREARMS, LLC, RMA ARMAMENT, INC.,
4CHAN, LLC, 4CHAN COMMUNITY SUPPORT, LLC, PAUL GENDRON
and PAMELA GENDRON,

Defendants,

– and –

ALPHABET INC., GOOGLE, LLC, YOUTUBE, LLC, REDDIT, INC.,

Defendants-Respondents.

RULE 500.1(f) CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule of Practice 500.1(f), Snap Inc. ("Snap") discloses that it is a publicly traded corporation that has no parent corporation. In November 2017, Tencent Holdings Limited informed Snap that it had purchased 10% or more of Snap's capital stock. These shares were purchased through a private affiliated company of Tencent. Snap's principal subsidiaries are: Snap LLC, Snap Group Limited, Snap International I Limited, Snap International II Limited, Snap Intermediate Inc., Snap Group SAS, Snap Aus Pty Ltd, Snap ULC, Snap Camera GmbH, Oleander LLC, and Wave Optics Limited.

STATEMENT OF RELATED LITIGATION

There are no actions or proceedings pending in any court of this State related to this appeal at the time of filing this brief.

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PRELIMINARY STATEMENT

Defendant Snap Inc. ("Snap") joins in and incorporates by reference the factual background, procedural history, and all the arguments asserted in the Brief for Defendants-Appellees filed by Alphabet, Inc., Google LLC, YouTube LLC, Meta Platforms, Inc., Instagram LLC, and Reddit, LLC. Snap files this brief to highlight why *Salter* plaintiffs' new "addiction-only" theory against the Internet-Defendants—which has, all along, been their theory against Snap specifically—contravenes foundational New York proximate-cause principles.

The *Salter* complaint repeatedly alleges that third-party content on the Internet-Defendants' platforms "radicalized" Gendron and inspired his heinous shooting. But, having lost below on Section 230 and First Amendment grounds, *Salter* plaintiffs now attempt to recast the case as one about "social media itself," rather than the content Gendron consumed. *See* Br. for Pl.-Appellant Kimberly J. Salter, et al., ("Salter.Br.") 29. That about-face would excise *Salter* plaintiffs' pervasive content-based allegations and replace them with a new theory that Gendron's crimes were caused by generic social-media addiction, untethered from the content that allegedly motivated the attack. *Id.* at 31. Because this new theory is incompatible with plaintiffs' complaints, the Court need not address its merits. But if it does, the Court should affirm the Fourth Department's correct holding that the theory "would fail on causation grounds" because "[i]t cannot reasonably be

concluded that the allegedly addictive features of the social media platforms (regardless of content) caused the shooter to commit mass murder." R.6771.

Every first-year tort student learns that some injuries are too remote or attenuated from a defendant's conduct to support liability. Failing to fix a building's water heater does not proximately cause a tenant to spill stove-boiled water on a child. *Martinez v. Lazaroff*, 48 N.Y.2d 819 (1979). Renting out a car with a defective trunk does not proximately cause the renter to be struck by another vehicle as he attempts a repair. *Ventricelli v. Kinney Sys. Rent A Car, Inc.*, 45 N.Y.2d 950, 952 (1978). And failing to adequately moor a ship does not proximately cause the disruption in river traffic that follows when the ship crashes into a bridge. *Petitions of Kinsman Transit Co.*, 388 F.2d 821, 824–25 (2d Cir. 1968). New York courts bar recovery for such remote injuries because they "cannot trace the effect of an act to the end, if end there is." *Palsgraf v. Long Island R. Co.*, 248 N.Y. 339, 352 (1928) (Andrews, J., dissenting). Put another way, "'for want of a nail, a kingdom was lost' is a commentary on fate, not the statement of a major cause of action against a blacksmith." *Lerner v. Fleet Bank, N.A.*, 459 F.3d 273, 287 (2d Cir. 2006).

Salter plaintiffs' new "addiction-only" liability theory presents a falling-domino causal chain antithetical to this basic tort principle. No precedent—in New York or anywhere else—permits holding a defendant liable for a third party's

violent crimes solely because it allegedly contributed to the criminal's psychological injuries. And two New York proximate-cause principles—the remoteness doctrine and the harm-within-the-risk test—foreclose such an unprecedented causal theory as a matter of law.

Salter plaintiffs' allegations against Snap, in particular, put the issue in stark relief. Whereas *Salter* plaintiffs pervasively allege that other Internet-Defendants recommended extremist content to Gendron, they correctly omit such allegations against Snap, whose camera-based messaging app, Snapchat, neither permits nor promotes extremist content. Instead, they contend that Snap is liable for Gendron's crimes solely because, in his early teens, he allegedly saw digital "trophies" for certain milestones on Snapchat and a "Streaks" counter tracking the number of days he consecutively exchanged messages with a given friend. *Salter* plaintiffs maintain that those features made some unspecified contribution to Gendron's internet addiction and therefore make Snap responsible for his horrific crimes years later. R.2772–73 (Salt. Compl. ¶¶ 444–45, 447).

That chasmic leap—tracing a murder Gendron committed as an adult to "trophies" he saw on a messaging app in his early teens—defies common sense and settled proximate-cause rules. The Court should reject *Salter* plaintiffs' rewriting of their complaint. But if it does not, it should affirm the Fourth Department's ruling because alleged contributions to Gendron's internet addiction

could not, as a matter of settled New York law, proximately cause him to perpetrate a racist mass shooting.

QUESTION PRESENTED

Whether *Salter* plaintiffs' allegation that Gendron's Snapchat use as a young teen caused him to commit a racist mass shooting as an adult satisfies New York's proximate-cause requirement as a matter of law.

STANDARD OF REVIEW

An order denying a motion to dismiss under CPLR 3211(a)(7) raises pure questions of law and is reviewed de novo. *See Tax Equity Now N.Y. LLC v. City of New York*, 42 N.Y.3d 1, 12 (2024); *Consol. Rest. Operations, Inc. v. Westport Ins. Corp.*, 205 A.D.3d 76, 81 (1st Dep't 2022). Dismissal is proper where "the factual allegations and inferences to be drawn from them do not allow for an enforceable right of recovery." *Connaughton v. Chipotle Mexican Grill, Inc.*, 29 N.Y.3d 137, 142 (2017).

STATEMENT OF THE CASE

On May 14, 2022, Payton Gendron drove 200 miles from his Broome County home to the Tops Friendly Market in Buffalo, where he murdered 10 people because they were Black. R.2664, 2690–94 (Salt. Compl. ¶¶ 1, 126–43). He was eighteen years old at the time of the crime.

Although *Salter* plaintiffs generally allege that the Internet-Defendants' algorithms published "extreme content" to Gendron that "radicalized and inspired"

his crime, plaintiffs make no allegations that Snap specifically promoted harmful content. R.2713–23 (Salt. Compl. ¶¶ 204, 210, 215, 221, 226, 229, 239). Rather, their allegations against Snap are far more limited.

And for good reason. Snap operates Snapchat, a camera-based messaging app for mobile phones. R.2770 (Salt. Compl. ¶ 438). Snapchat's primary features do not "feed" content to users but instead "allow[] users to send text, picture, and video messages called 'snaps'" to other users. *Id*. Those features do not rely on algorithmic recommendation. Thus, unlike the *Patterson* plaintiffs—who falsely allege that Snapchat algorithmically promotes hate speech, R.172–73 (Patt. Compl. ¶¶ 162–63, 171–73)—*Salter* plaintiffs correctly omit Snap from their allegations concerning algorithmic promotion of extremist content, R.2721, 2770–73 (Salt. Compl. ¶¶ 231, 233, 438–47).

Instead, *Salter* plaintiffs seek to hold Snap liable on the theory that certain virtual rewards Gendron received for messaging with his friends on Snapchat *in his early teens*—such as its digital "trophies" and "Streaks" counter—increased his "engagement" with Snapchat and thus played some unspecified "part" in his alleged social-media addiction. R.2772–73 (Salt. Compl. ¶¶ 444–45, 447). The resulting "feelings of isolationism," they allege, "led[] to the ease with which he was radicalized" by content he viewed on *other platforms*, which then led him to commit his abhorrent crime. R.2771–73 (Salt. Compl. ¶¶ 443–47 & nn.258–60).

In addition to joining the Internet-Defendants' dismissal arguments, Snap individually moved to dismiss the *Salter* complaint on the grounds that this tenuous theory failed to allege proximate cause as a matter of law. R.3783. The motion court denied Internet-Defendants' motions without addressing Snap's individual causation argument. R.74.

The Fourth Department reversed. R.6766. Writing for a three-justice majority, Justice Lindley rejected the dissent's argument that "these actions are about the shooter's 'addiction' to social media platforms, wholly unrelated to third-party speech or content." R.6771. That characterization, the court held, was foreclosed by plaintiffs' complaints, which, "from beginning to end, explicitly seek to hold the [Internet-Defendants] liable for the racist and violent content displayed to the shooter on the various social media platforms." R.6771. Because plaintiffs' "allegations depend on the *content* of the material the shooter consumed," the court held they were barred by both Section 230 and the First Amendment. R.6771. It alternatively concluded that "[i]f plaintiffs' causes of action were based merely on the shooter's addiction to social media, … they would fail on causation grounds," explaining that "[i]t cannot reasonably be concluded that the allegedly addictive features of the social media platforms (regardless of content) caused the shooter to commit mass murder." *Id.*

ARGUMENT

The Fourth Department correctly held that Section 230 bars both the *Patterson* and *Salter* plaintiffs' claims because they "are inextricably intertwined with the [Internet-Defendants'] role as publishers of third-party content." R.6771 (internal quotations omitted). *Salter* plaintiffs' attempt to dodge that ruling by abandoning their third-party content theory for an addiction-only theory would only substitute a proximate-cause defect for this Section 230 defect.

Although it often presents "questions for the factfinder," proximate cause can be "determined as a matter of law" when "only one conclusion may be drawn" from the facts. *Hain v. Jamison*, 28 N.Y.3d 524, 529 (2016). That is the case here. Courts "declin[e] to trace a series of events beyond a certain point" due to "convenience," "public policy," and "a rough sense of justice." *Ventricelli*, 45 N.Y.2d at 952. In addition to remoteness, "[w]hen a question of proximate cause involves an intervening act, liability turns upon whether the intervening act is a normal or foreseeable consequence of the situation created by the defendant's negligence"—that is, whether "the risk created by the original negligence was … the risk that materialized into harm." *Hain*, 28 N.Y.3d at 529, 531–32 (internal quotations omitted).

As the Fourth Department recognized, these bedrock tort principles foreclose the theory that addicting a user to the internet can proximately cause

them to commit mass murder. That is true for all the Internet-Defendants. And it is particularly true for Snap, which could not have proximately caused Gendron to perpetrate a race massacre by showing him a trophy icon when he sent a message or counting his streaks of daily exchanges with his friends.

A. As a matter of law, alleged psychological injuries to a minor are too remote from later adult crimes to constitute a proximate cause.

Salter plaintiffs' theory that Snap is liable for Gendron's monstrous crime as an adult because it encouraged him to message his friends in his early teens violates the remoteness doctrine, lacks any precedent, and would generate limitless liability.

Proximate cause is that "which in a natural sequence, unbroken by any new cause, produces that event and without which that event would not have occurred." *Codd v. New York Fire Dep't Pension Fund*, 113 N.Y.S.3d 477, 2019 WL 419369, at *4 (Sup. Ct., Kings Cnty. Jan. 24, 2019); *see Commisso v. Meeker*, 8 N.Y.2d 109, 118 (1960) (same). Proximate cause separates out the "many instances in which a party may have contributed in some remote way and yet it is inappropriate to subject that party to tort liability." *People v. Sturm, Ruger & Co.*, 309 A.D.2d 91, 104 (1st Dep't 2003). In other words, the doctrine recognizes that the "chain of causation must have an endpoint … to place manageable limits upon the liability that flows from negligent conduct." *Hain*, 28 N.Y.3d at 528. Accordingly, it

forecloses liability as a matter of law where significant "passage of time," "spatial gap[s]," and "other forces" separate the defendant's alleged conduct from the plaintiff's injury. *Id.* at 530.

In *Williams v. State*, 18 N.Y.3d 981 (2012), for example, the two-year gap between a hospital's allegedly negligent release of a patient and that patient's later physical attack on the plaintiff failed the "test of temporal duration"—whether "the occurrence of the injury [was] tied to the claimed [negligence] within a reasonable lapse of time." *Id*. at 984; *see Able Med. Transp., Inc. v. Paragon Env't Constr., Inc.*, 193 A.D.3d 1391, 1392 (4th Dep't 2021) (similar, for "lengthy chain of events spanning the course of two and a half years"). Likewise, in *Sturm, Ruger & Co.*, the First Department affirmed dismissal under CPLR 3211(a)(7) because the defendant handgun companies' manufacturing, distribution, and marketing practices were "far too remote" from violent gun crime, finding that the "connection between defendants, criminal wrongdoers and plaintiffs is remote, running through several links in a chain." 309 A.D.2d at 103–04; *see Lee v. New York City Hous. Auth.*, 25 A.D.3d 214, 219 (1st Dep't 2005) (minor's injury in street adjacent to park was "too remote and attenuated from any reasonably foreseeable risks created by the Authority's failure to construct and maintain the fence"); *Petitions of Kinsman Transit Co.*, 388 F.2d at 824 (negligence of

shipowner whose ship blocked river "too 'remote' or 'indirect'" to proximately cause property damage to owners of grain stored on river).

Courts applying similar proximate-cause principles nationwide have rejected claims that the psychological effects of boardgames, movies, videogames, and online media on minors proximately cause them to commit later crimes. In *Sanders v. Acclaim Ent., Inc.*, 188 F. Supp. 2d 1264 (D. Colo. 2002), for example, the court dismissed plaintiffs' tort claims against movie and videogame companies whose products allegedly caused two students to commit the mass shooting at Columbine High School. *Id.* at 1268–69, 1282. Recognizing that proximate cause fails where "the alleged chain of causation is too attenuated," the court found that "no reasonable jury could find that the Video Game and Movie Defendants' conduct … [was] a proximate cause of [decedent's] injuries." *Id.* at 1276. A chorus of authority rejects similar claims seeking to blame entertainment companies for their audiences' harmful acts, even if those companies create violent or provocative entertainment. *See Watters v. TSR, Inc.*, 904 F.2d 378, 379 (6th Cir. 1990) (boardgame did not proximately cause suicide); *Zamora v. Columbia Broad. Sys.*, 480 F. Supp. 199, 203 (S.D. Fla. 1979) (addiction to TV violence did not proximately cause minor to commit deadly shooting); *James v. Meow Media, Inc.*, 90 F. Supp. 2d 798, 809 (W.D. Ky. 2000) (exposure to violent videogames, movies,

and websites did not proximately cause plaintiffs' injuries by minor school shooter).

Salter plaintiffs' causal theory is even more remote. They allege that Gendron's use of Snapchat in his early teens kicked off a years-long, highly attenuated chain of events:

> (1) Snapchat's use of virtual "trophies" and "streaks" "encourage[d] users to continually engage with the app";
>
> (2) causing "Gendron [to] bec[o]me addicted to social media *in part* through his use of Snapchat" in his early teens;
>
> (3) which partly "contributed to his feelings of isolationism";
>
> (4) "leading to the ease with which he was radicalized by radical, conspiracy-theory-wielding white supremacists" on *other* websites and online applications;
>
> (5) which contributed to his intentionally murdering ten people because of their race years after his alleged Snapchat use.

R.2771–73 (Salt. Compl. ¶¶ 443–47). *Salter* plaintiffs' pivot to an addiction-only theory against all Internet-Defendants makes that causal chain more attenuated still, eliminating step (4) from that sequence and requiring a remarkable causal leap from generalized "feelings of isolationism" to a racist terror attack.

Unlike the defendants in *Sturm, Ruger & Co.*, Snap is not alleged to have facilitated Gendron's access to the murder weapon but only to have played some unspecified partial role in an alleged psychological harm years before the shooting. R.2772–73 (Salt. Compl. ¶¶ 446–47). And unlike the defendants in *Sanders*, Snap

is not alleged to have provided Gendron the content that allegedly inspired his crime, but only to have "contributed" "in part" to his affinity for the *medium* (social media) where he encountered that content. R.2773 (Salt. Compl. ¶ 447). If the *Sanders* plaintiffs could not allege proximate cause against the publishers of the actual violent videogames that inspired the shooting, it is unthinkable that they could have alleged proximate cause against the maker of Super Mario Brothers for allegedly hooking the shooters on videogames generally years earlier. Yet that is effectively the causal theory that *Salter* plaintiffs have alleged against Snap here.

To permit that theory to proceed, this Court would have to hold that conduct that psychologically harms a child can proximately cause him to commit heinous crimes as an adult. That outcome would eviscerate the "manageable [liability] limits" that proximate-cause doctrine has safeguarded for decades, *Hain*, 28 N.Y.3d at 528, spawning untold new tort claims in its wake. As a California trial court recognized in dismissing claims seeking to hold social-media companies liable for property damage caused by public-school students, no "business or institution could function … if its liability extends to all those who could reasonably be expected to interact with the individuals that are caused emotional harm by that business or institution." *Social Media Cases*, 2024 WL 2980618, at *13 (Cal. Super. June 7, 2024). Any company that allegedly encouraged a minor's internet

use would face claims for torts he commits years later, whether perpetrated online or tangentially connected to online content.

Such infinite liability would extend past internet platforms to reach anyone that leaves a psychic scar on a future criminal. "An employer who wrongfully terminated its employee would be liable to any third party who was later assaulted by the employee when that employee was acting out," and a "parent who negligently raised her child so as to cause the child mental or emotional harm, would potentially be liable to any persons that are likely to come into contact with that child." *Id.* (internal quotations omitted). So too for angry school bus drivers, bullies, and unsuccessful therapists, who could be sued for harms that a criminal like Gendron commits years after they allegedly affected his psychology.

Such liability cannot be squared with proximate cause's central requirement that "the chain of causation must have an endpoint." *Hain*, 28 N.Y.3d at 528. Accordingly, the Fourth Department correctly held that an addiction-only pleading would fail on the pleadings. And that conclusion applies doubly to Snap, whose alleged use of digital trophies and Streaks in Gendron's early teens could not have proximately caused him to commit murder as an adult.

B. As a matter of law, a race massacre is not a harm within the risks posed by an app's "rewards" for messaging friends.

Salter plaintiffs' addiction-only theory independently fails because the harm alleged here fundamentally differs from the risks allegedly associated with

Snapchat's challenged features. Under New York law, proximate cause is absent where "the risk created by the original negligence was not the risk that materialized into harm." *Hain*, 28 N.Y.3d at 529–31; *accord* Restatement (Second) of Torts § 281 cmt. f (1965). As *Salter* plaintiffs' own lead authority explains, proximate causation exists where "the risk created" by the defendant's alleged conduct is "exactly the risk[] that came to fruition," such as when a "nonfunctioning door lock[]" allows "intruders [to] gain access to the building and harm residents." *Scurry v. New York City Hous. Auth.*, 39 N.Y.3d 443, 455 (2023) (internal quotations omitted) (discussed at Salter.Br. 37). But it fails when the risk that materialized is "different in kind from the foreseeable risks associated with the original [allegedly] negligen[t] ... conduct," such as when a worker's "negligence in damaging [a] roof" leads the homeowner to suffer injuries "falling from [a] ladder." *Rodriguez v. Pro Cable Servs. Co. Ltd. P'ship*, 266 A.D.2d 894, 895 (4th Dep't 1999).

Martinez v. Lazaroff, 48 N.Y.2d 819 (1979), illustrates the harm-within-the-risk test, holding that "as a matter of law, the failure of [landlords] to supply their tenants with hot water was not the proximate … cause of the injuries suffered" when a father spilled "boiling water from [a] substitute source" on his child. *Id.* at 820. Those injuries "were entirely different in character from any that would have

resulted from the failure to supply hot water alone." *Id*. They were therefore unforeseeable—foreclosing proximate causation as a matter of law. *Id.*

It strains credulity to contend that racist mass violence is a reasonably foreseeable risk of virtual "trophies" and "Streaks" tracked on a messaging app. Indeed, according to *Salter* plaintiffs' own complaint, the risks posed by "Snapchat's design" are not extremist violence but "decreased face-to-face social interactions, diminished focus on academic or extracurricular activities, and a heightened risk of developing addictive behaviors." R.2772–73 (Salt. Compl. ¶ 446). *Salter* plaintiffs' new position that their claims do not depend on white supremacist content on other sites only underscores the absence of foreseeability: The mismatch between the alleged "risk created by the original negligence"—too much screen time—and the "risk that materialized"—Gendron's racist murders as an adult—renders Gendron's crimes "unforeseeable" and "break[s] the chain of causation, as a matter of law." *Hain*, 28 N.Y.3d at 531.

Plaintiffs do not cite a single case holding an internet platform—or any other publisher or content producer—liable for crimes intentionally committed by their audience. And cases finding proximate cause based on platform-design features all fundamentally differ because the alleged risk in those cases mapped directly to the plaintiffs' alleged injury. In *Lemmon v. Snap*, 995 F.3d 1085 (9th Cir. 2021), for example, plaintiffs alleged that a filter that added the speed at which the phone was

traveling to photos encouraged unsafe driving. *Id.* at 1088–89. Here, by contrast, plaintiffs allege that messaging Streaks and virtual trophies caused a radical act of racist terror years later. The congruence between the alleged risk and the resulting harm present in *Lemmon* is absent here. That failure independently forecloses *Salter* plaintiffs' limited allegations against Snap—as well as their attempt to extend such an "addiction-only" theory to the Internet-Defendants as a whole.

CONCLUSION

The Court should affirm the Fourth Department's ruling that plaintiffs' claims necessarily turn on the publication of third-party content and are therefore barred by Section 230. But if the Court accepts *Salter* plaintiffs' invitation to rewrite their complaint, it should reject their theory that contributing to a user's internet addiction can proximately cause him to commit terrorist violence. That limitless theory's conflict with basic proximate-cause principles is readily apparent on the face of the *Salter* complaint and would warrant dismissal even if the complaint did not say one word about third-party content.

This pleading defect is especially acute for *Salter* plaintiffs' allegations against Snap. The *only* conduct the *Salter* complaint alleges against Snap is that it served Gendron with anodyne digital "rewards" in his early teens. Holding that this limited conduct could make Snap liable for intentional crimes Gendron committed years later would read the word "proximate" out of proximate cause. Snap is not

aware of any appellate court, in any jurisdiction, that has allowed a similarly tenuous causal theory to proceed, and this Court should not be the first.

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Respectfully submitted,
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CERTIFICATE OF COMPLIANCE
Pursuant to 22 NYCRR PART 500.1(j)

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I, Tyrone Heath, 1702 Clay Avenue, Apt 11, Bronx, New York 10457, being duly sworn, depose and say that deponent is not a party to the action, is over 18 years of age and resides at the address shown above.

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