UNFRIENDED: PUBLIC NUISANCE APPLIED TO SOCIAL MEDIA

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ABSTRACT

This Note will examine public plaintiffs' use of the public nuisance tort to bring lawsuits against social-media companies. In the last several years, school districts have used public nuisance to bring suits against companies like JUUL, who they believed targeted children to addict them to their products. While other suits were brought alongside the school districts' public nuisance claim, the JUUL litigation resulted in a staggering $1.7 billion settlement in March of 2023. Following the success of the JUUL litigation, school districts started using public nuisance to target social-media companies, and several lawsuits around the country are now underway. At least two of the public nuisance lawsuits have survived motions to dismiss and have cleared Section 230 and First Amendment issues. This Note will address the complications of school districts' public nuisance allegations and look to the history of public nuisance, especially as it has been applied to cases that involve products. Additionally, this Note will analyze what success looks like for school districts, specifically whether abatement is a possible remedy. This Note will look to previous public nuisance settlements to see what other potential routes social-media companies might take if abatement is not a possible remedy.

INTRODUCTION

In the fall of 2021, a new trend swept TikTok: the "devious lick." The trend encouraged students to vandalize their schools' bathrooms and post TikTok videos detailing the destruction.[1] Soap dispensers, mirrors, and

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1. Giulia Heyward, *TikTok's Latest Craze: Stealing Stuff from School*, N.Y. TIMES (Oct. 7, 2021),

toilets were destroyed or stolen in pursuit of the "devious lick." The trend resulted in school bathroom closures and repairs across the United States and heightened a fear in educators' minds that social media was corrupting educational environments.[2] TikTok deleted videos referencing the trend, but the damage was done.

Social media is undoubtedly affecting adolescents' mental health in such a wide-ranging way that it can be difficult to comprehend the scope of harm. A report released by the Surgeon General in 2023 linked social-media use to an increase in adolescent self-harm, body dysmorphia, anxiety, and depression.[3] Additionally, the report found that prominent features of social-media applications, like infinite scrolling, activate the same neural pathways associated with addiction, which leads to worsened sleep and disordered attention spans in youth.[4]

In the sweep of the rapid development of technology that has fundamentally altered social interaction, particular innovations have led parents and educators to beg lawmakers to enact regulations on products seen as damaging to children. Lawmakers, as might be expected, have decried the damage and promised to create a regulatory framework to mitigate the harmful effects of products such as social media and vapes.[5] Social media has struck a particular nerve in lawmakers. While no meaningful action has been taken on the federal level, states across the country have begun to pass legislation aimed at protecting children from social media.[6]

As the patchwork of laws begin to address concerns about the harmful effects of social media on youth, school districts are seeking more urgent action to bring calm to their schools.[7] A potentially fruitful path that school

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https://www.nytimes.com/2021/09/17/us/devious-licks-tiktok.html [https://web.archive.org/web/20250628183832/https://www.nytimes.com/2021/09/17/us/devious-licks-tiktok.html].

2. *Id.*

3. OFF. SURGEON GEN., SOCIAL MEDIA AND YOUTH MENTAL HEALTH: THE U.S. SURGEON GENERAL'S ADVISORY 8 (2023), https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf [https://web.archive.org/web/20260120100703/https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf].

4. *Id.* at 9.

5. Brian Fung, *Congress Hasn't Been Able to Make Social Media Safer. Here's Why*, CNN (Feb. 1, 2024), https://www.cnn.com/2024/02/01/tech/social-media-regulation-bipartisan-support/index.html [https://perma.cc/E2SB-3FM6].

6. As of April 2026, "[a]t least 40 states and Puerto Rico have over 300 bills and resolutions addressing social media and children in the 2026 legislative session." *Social Media and Children 2026 Legislation*, NAT'L CONF. STATE LEGISLATURES (Apr. 7, 2026), https://www.ncsl.org/technology-and-communication/social-media-and-children-2026-legislation [https://web.archive.org/web/20260425024136/https://www.ncsl.org/technology-and-communication/social-media-and-children-2026-legislation].

7. Recently, the Los Angeles Unified School District banned cell phone usage in schools, and California is slated to ban cell phones statewide in June 2026. Mariana Dale, *Is LAUSD's Cell Phone Ban Working? Here's What We Know After One Semester*, LAIST (June 18, 2025), https://laist.com/news/education/los-angeles-unified-phone-ban-end-of-first-semester-summer-starts [https://perma.cc/W4KP-

districts are taking is bringing lawsuits against social-media companies, alleging that the companies caused a public nuisance by deliberately damaging the health of the community and infringing on children's right to a public education. While one prominent case with school-district plaintiffs who brought a public nuisance suit against social-media companies was dismissed in June of 2024, a current multidistrict litigation case in the Northern District of California, *In re Social Media Adolescent Addiction/Personal Injury Products Liability Litigation*, has over 310 local government and school-district plaintiffs.[8] The school districts brought claims of public nuisance and negligence against Google, ByteDance, Meta, and Snap in its 324-page complaint filed in March of 2024.[9] No court so far has evaluated a public nuisance claim brought by school districts on the merits, and thus there is no determination whether the companies violate any right common to the public.

School districts see a successful litigation strategy by mirroring their public nuisance claims to the claims that school districts alleged against the e-cigarette manufacturer JUUL and the claims that public entities brought against opioid manufacturers.[10] The JUUL litigation, brought by a combination of public entities and frustrated parents, resulted in a settlement of over $1.7 billion.[11] Most of the JUUL cases were never decided on the merits, but the enormous settlement introduced the possibility that school districts could use public nuisance claims to counter products that are disrupting education. For instance, school districts used the JUUL settlement proceeds to abate the danger of e-cigarettes by installing vapor detectors in their schools.[12] Parts of the social-media litigation are fundamentally different from the JUUL litigation,[13] but the basic premise that school

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8. Plaintiffs' First Amended Master Complaint (Local Government and School District), *In re* Social Media Adolescent Addiction/Pers. Inj. Prods. Liab. Litig., No. 4:22-MD-3047 (N.D. Cal. Mar. 27, 2024) [hereinafter MDL Complaint].

9. *Id.*

10. Many of the law firms that represented school districts in their public nuisance suit against JUUL are again representing them in the social-media litigation. Cyrus Farivar, *School Districts Took on Juul with A Novel Legal Strategy. Now They're Going After Social Media Giants*, FORBES (Apr. 18, 2023), https://www.forbes.com/sites/cyrusfarivar/2023/04/18/school-districts-took-on-juul-with-a-novel-legal-strategy-now-theyre-going-after-social-media-giants [https://perma.cc/Q2TH-ZRFX].

11. Caitlynn Peetz Stephens, *Schools Are Installing Vape Detectors and Using Juul Settlement Money to Pay for It*, EDUC. WEEK (Apr. 19, 2023), https://www.edweek.org/leadership/JUUL-settlements-lead-more-schools-to-install-vape-detectors/2023/04 [https://perma.cc/XQ2Q-PG4A].

12. *Id.*

13. Farivar, s*upra* note 10. For example, the social-media litigation will need to clear First Amendment and Section 230 issues, which the school-district plaintiffs did in the pretrial stage of the MDL litigation in October 2024. *See In re* Social Media Adolescent Addiction/Pers. Inj. Prods. Liab. Litig., No. 4:22-MD-3047, 754 F. Supp. 3d 946, 963 (N.D. Cal. 2024) (listing claims brought by school districts that are not barred by Section 230 of the Communications Decency Act, 47 U.S.C. § 230, or the First Amendment).

districts and other public plaintiffs can sue educationally disruptive tech companies to limit or prohibit their conduct is tantalizing for school districts looking to hold social-media companies accountable.

An essential element of a public nuisance claim is what "right common to the public"[14] the defendant violated. Historically, the common right needed to be connected to land, but that has changed in the last fifty years as litigants have successfully argued that certain products violate public rights, or at least the marketing and distribution of those products do.[15] This Note will provide an overview of the history of public nuisance claims, specifically focusing on how the legal landscape has evolved to allow product-adjacent claims. Next, the Note will look at previous product-based public nuisance claims to see what has triggered companies to settle or fight the claims. The Note will then review the scope of the social-media public nuisance claims and will offer data to support the plaintiffs' contention that social-media companies have caused a public nuisance. Finally, the Note will analyze the current state of the social-media cases and will use insight from previous public nuisance cases to predict how the social-media cases might proceed.

I. PUBLIC NUISANCE OVERVIEW

Public nuisance first appeared as far back as the thirteenth century in the common-law courts of England.[16] The earliest public nuisance claims were brought against individuals who blocked public roads, which created public nuisances because the public could not access the right to public travel.[17] However, the public nuisance doctrine grew after the thirteenth century to encompass other "nuisances" of "invasions of the rights of the general public as interference with a market."[18] As the American legal system developed, states adopted public nuisance and codified specific provisions that qualified as public nuisances.[19]

The tort of public nuisance was broadly adopted in 1976 in the Second Restatement of Torts.[20] William L. Prosser, the reporter for the Second Restatement, was apparently convinced that public nuisance had been wrongly assigned to the Restatement of Property and ought to be included in the Restatement of Torts.[21] The American Legal Institute ("ALI") succeeded

14. RESTATEMENT (SECOND) OF TORTS § 821(c) (1976).

15. William L. Prosser, *Private Action for Public Nuisance*, 56 VA. L. REV. 997, 998 (1966).

16. *Id.* at 997–98.

17. *Id.* at 998.

18. *Id.*

19. *Id.* at 1000. Prosser identifies several early public nuisances in American law, such as "black currant plants, buildings where narcotics are sold, [and] mosquito breeding waters." *Id.*

20. RESTATEMENT (SECOND) OF TORTS § 821B(1) (A.L.I. 1979).

21. Thomas W. Merrill, *Is Public Nuisance a Tort?*, 4 J. TORT L. 1, 20–21 (2011).

in including public nuisance after Prosser stepped down as reporter and codified a public nuisance as "an unreasonable interference with a right common to the public."[22] The Second Restatement defines a right common to the public as "the public health, the public safety, the public peace, the public comfort or the public convenience, or whether the conduct is proscribed by a statute, ordinance or administrative regulation."[23] Public nuisance gained broad traction during the 1990s tobacco litigation that resulted in historic settlement agreements between tobacco companies and all fifty states.[24] Public nuisance litigation has been met with varied success because very few public nuisance lawsuits are heard on the merits, and critics of public nuisance argue it is being used as a method of judicial punishment that circumvents the legislative process.[25]

Since the conclusion of the 1990s tobacco litigation that resulted in unprecedented settlements, governmental municipalities and other plaintiffs have brought similarly massive public nuisance suits to target other industries that they believe have caused harm to their communities.[26] The use of public nuisance as a tool to reach such industries is the result of the tobacco litigation, and it has been met with varied success. Climate change, the opioid epidemic, gun violence, and environmental damage have all been subject to major public nuisance suits involving hundreds or even thousands of claimants.[27] Lawsuits related to environmental and opioid-related claims have reached greater degrees of success than gun and climate change litigation.[28] The JUUL litigation also proved more successful because it led to substantial settlements. Whether social-media claims are the next opioid-related public nuisance claims remains to be seen, but a brief examination of the successes and failures of each mass public nuisance claim provides some insight.

No matter the arguments of whether public nuisance is a valid tort or whether it is misused by plaintiffs, the truth remains that public nuisance can be an effective tool to reach settlements with cash-flush companies and to bring attention to ill-regulated industries who have created community harm. Take, for example, the JUUL litigation. In 2019, 27.5% of high schoolers reported using e-cigarettes.[29] By far the most prominent e-cigarette brand

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22. RESTATEMENT (SECOND) OF TORTS § 821B(1) (A.L.I. 1979).
23. *Id.* § 821B(2) (a–b).
24. Leslie Kendrick, *The Perils and Promise of Public Nuisance*, 132 YALE L.J. 702, 705 (2022).
25. Merrill, *supra* note 21, at 5.
26. *Id.* at 2.
27. *Id.* at 2–4.
28. LINDA S. MULLENIX, PUBLIC NUISANCE: THE NEW MASS TORT FRONTIER 118, 124–25 (2023).
29. Karen A. Cullen, Andrea S. Gentzke, Michael D. Sawdey, Joanne T. Chang, Gabriella M. Anic, Teresa W. Wang, MeLisa R. Creamer, Ahmed Jamal, Bridget K. Ambrose & Brian A. King, *E-*

used by teens was JUUL, at 59.1%.[30] By late 2019, school districts around the country filed public nuisance suits against JUUL, which were lumped into a massive multidistrict litigation with other individual plaintiffs.[31] While almost all the suits were never heard on their merits, "the company's efforts to broker deals over the lawsuits have cost it nearly $3 billion so far."[32] Since 2019, states and other local governments have taken regulatory action by banning flavored vapes, which they believed JUUL targeted at youth.[33] The result of all this action is undeniable: in 2024, only 7.8% of high school students reported using e-cigarettes, and JUUL was not in the top three brands preferred by students.[34] It is impossible to know how much of an influence the public nuisance settlements had on reducing teens' e-cigarette use; however, the litigation conclusively resulted in large settlement payments to school districts that led to changes in the products JUUL markets and sells.

Recovery for public nuisance is typically in the form of abatement, and public plaintiffs in product-based public nuisance suits usually ask for an injunction or monetary damages to abate the nuisance.[35] In order for a private plaintiff to recover damages, that plaintiff must suffer some kind of damage "different [in] kind from that suffered by the general public."[36] This is referred to as a "special injury," and the private plaintiff must prove that they suffered some kind of harm that is acutely different from the harm caused by the nuisance to the general public.[37] If, for instance, an oil spill degrades the public right of access to beaches and waterways, the fishermen in the community might suffer a special injury because they have a unique reliance on the waterways, even though the ability to access the water is equally impaired for the whole community. This special-injury requirement does not exist for public plaintiffs.

Not every public entity bringing public nuisance suits benefits from the

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Cigarette Use Among Youth in the United States, 322 JAMA 2095, 2096 (2019).

30. *Id.*

31. MULLENIX, *supra* note 28, at 211.

32. Christina Jewett & Julie Creswell, *Juul Reaches $462 Million Settlement with New York, California and Other States*, N.Y. TIMES (Apr. 12, 2023), https://www.nytimes.com/2023/04/12/health/juul-vaping-settlement-new-york-california.html [https://web.archive.org/web/20250130094353/https://www.nytimes.com/2023/04/12/health/juul-vaping-settlement-new-york-california.html].

33. Sarah Rense, *7 States Have Moved to Ban Vapes. Is the Rest of America Next?*, ESQUIRE (Oct. 14, 2019), https://www.esquire.com/lifestyle/health/a29067489/which-states-banned-flavored-e-cigarettes-vaping-juuls [https://perma.cc/H9YQ-F8UL].

34. *Results from the Annual National Youth Tobacco Survey*, U.S. FOOD & DRUG ADMIN. (2024), https://www.fda.gov/tobacco-products/youth-and-tobacco/results-annual-national-youth-tobacco-survey [https://web.archive.org/web/20260408184957/https://www.fda.gov/tobacco-products/youth-and-tobacco/results-annual-national-youth-tobacco-survey-nyts].

35. RESTATEMENT (SECOND) OF TORTS § 821(c) (A.L.I. 1979).

36. *Id.*

37. *Id.*

lower standard that public plaintiffs do not need to show special injury. In fact, some states specify *which* claimants qualify as public plaintiffs. In California, for example, only the "district attorney, county counsel, or city attorney of any county or city in which the nuisance exists" may bring a public nuisance suit as public plaintiff.[38] Laws and case law interpreting who might qualify as a public plaintiff vary among jurisdictions, but the general rule seems to be that prosecutors bringing public nuisance claims will almost always qualify as public plaintiffs, while other public entities might only be able to bring public nuisance suits as private plaintiffs and thus would have to prove special injury.

In a public nuisance claim, the plaintiff must identify what *right* common to the public the defendant violated. While the Restatement gives some guidance on what may constitute a public right,[39] the term "right common to the public" is broadly defined and can vary between states.[40] Further, mass-action public nuisance cases that have been decided on the merits do not provide significant judicial insight on the rights question either. However, while there are not many cases that have been decided on the merits, the few that exist and the cases that have made it past the pleading stage offer insight into what social-media claimants should argue. The increasing number of claims that survive motions to dismiss will exert more pressure on social-media companies to settle, and settlements might offer school-district plaintiffs the opportunity to include terms that might improve school conditions.

II. PUBLIC NUISANCE AS MASS TORTS

Using public nuisance to bring mass action claims is a relatively new legal strategy that gained serious traction after the tobacco litigation in the 1990s. Because there are relatively few mass-action public nuisance cases that have been decided on the merits, a comparative analysis of the mass-action claims will reveal predictors of when similar public nuisance cases are likely to result in dismissal, settlement, or a decision on the merits. This Part will compare various mass-action public nuisance claims in order to compare their trajectories to emerging social-media claims.

38. CAL. CIV. CODE § 731 (West 2011). *See also* OHIO REV. CODE ANN. § 3767.03 (LexisNexis 2025) (authorizing "the attorney general; the village solicitor, city director of law, or other similar chief legal officer[,] . . . the prosecuting attorney of the county in which the nuisance exists; [and] the law director of a township" to bring public nuisance claims without needing to execute a bond before filing).

39. *See* RESTATEMENT (SECOND) OF TORTS § 821(B) cmt. g (A.L.I. 1970).

40. *See* Thomas W. Merrill, *The New Public Nuisance: Illegitimate and Dysfunctional*, 132 YALE L.J. F. 985, 988–89 (2023) (comparing statutory definitions of public nuisance among Georgia, Kansas, and California to highlight how different state definitions allow for different public nuisance claims).

A. ENVIRONMENTAL CLAIMS

Public nuisance as a basis for environmental claims is essential to the very definition of public nuisance in the Restatement (Second) of Torts. Early drafts of the ALI's definition of public nuisance described it as a "criminal interference," something that the ALI Reporter, William Prosser, was convinced needed to remain in the definition after receiving criticism from members who wanted to loosen the standard in order to allow plaintiffs to seek abatement for environmental damage.[41] A year later, Prosser left, and the environmentally inclined members succeeded in changing the definition to more closely resemble its final format.[42] In a note, the new Reporter explicitly credited the language change to criticism that the criminality requirement was "too restricted and inhibited the incipient development of the law in the field of environmental protection."[43] Thus, public nuisance and environmental claims were connected during public nuisance's first inclusion in the Restatement, and, by eliminating the criminality requirement, public nuisance was opened as a cause of action for broader offenses.

The connection between public nuisance and environmental claims was explicitly recognized and endorsed in federal environmental legislation around the same time as the Second Restatement's publication.[44] In fact, the codification of federal environmental legislation eventually displaced environmental federal common-law public nuisance claims.[45] While the federal cause of action seems dead, plaintiffs still regularly use public nuisance as a cause of action in state-based environmental claims.[46] Environmental-based public nuisance claims have seen a particular surge in climate-change cases.[47] These cases highlight the increasing use of public nuisance to seek major damages from defendants; many plaintiffs in these

41. RESTATEMENT (SECOND) OF TORTS, at 12 (A.L.I. Tentative Draft No. 16, 1970). In a note to the Institute, Prosser describes that "[a]fter rather intensive search, the Reporter [Prosser] sticks to his guns [regarding his decision to define public nuisance as a criminal interference]." *Id.*

42. RESTATEMENT (SECOND) OF TORTS, at 3 (A.L.I. Tentative Draft No. 17, 1971).

43. *Id.* at 4.

44. For example, in 1979, Congress passed the Resource Conservation and Recovery Act, intending it as "a codification of common law public nuisance remedies." S. Rep. No. 96–172 at 5 (1979); *see* MULLENIX, *supra* note 28, at 131–54 (2023).

45. *See, e.g.*, Am. Elec. Power Co. v. Connecticut, 564 U.S. 410, 447 (2011) (holding that the plaintiffs did not have a federal public nuisance cause of action against polluters because the Clean Air Act displaced federal public nuisance claims related to emissions).

46. *See generally* State *ex rel.* Jennings v. Monsanto Co., Solutia, 299 A.3d 372 (Del. 2023); Lazy S Ranch Props., LLC v. Valero Terminaling & Distrib. Co., 92 F.4th 1189 (10th Cir. 2024).

47. As of March 2026, there are at least twenty-seven climate-change-related public nuisance suits in courts across the United States. CTR. FOR CLIMATE INTEGRITY, BIG OIL ACCOUNTABILITY LAWSUITS 3–11 (2026), https://climateintegrity.org/uploads/media/CCI-BigOilAccountabilityLawsuits.pdf [https://perma.cc/T6JB-3P4Y].

cases are seeking multibillion-dollar damages.[48] The connection between environmentalism and public nuisance is the most obvious of the public nuisance mass torts. Environmental-based public nuisance claims typically involve harm caused by a defendant's actions related to physical property, just as the earliest public nuisance claims related to property-based damage.[49]

Environmentalism opened the door for plaintiffs to use public nuisance for a wide swath of claims. It also showed how legislation can curb or displace public nuisance claims, supporting the notion that public nuisance is best used in legislation's gray areas or with specific legislative authorization. Regardless, environment-based public nuisance claims are as relevant as ever, and modern claims demonstrate the appetite of litigants to use public nuisance for enormous damage claims.

B. TOBACCO

While environmentalism set the stage for large-scale public nuisance claims, it was not until the tobacco litigation of the 1990s that public nuisance began to be seen as an avenue for large-scale tort claims unrelated to physical property. The tobacco litigation culminated in an enormous $240 billion settlement in 1998, commonly referred to as the Master Settlement Agreement ("MSA"), which effectively put an end to any state claims against big tobacco companies.[50] The size and scope of the settlement, unprecedented in American history,[51] is unlikely to be repeated.

During the tobacco litigation, every state and several territories brought claims against the four largest tobacco companies in the United States, alleging, among various other causes of action, that the companies created a public nuisance through the marketing and sale of cigarettes.[52] Essentially, states brought claims which were (at the time) novel and argued that tobacco companies caused a public nuisance because states were forced to spend enormous sums of money each year on in-state patients with Medicaid who suffered from tobacco-linked illnesses like lung cancer.[53] As part of the MSA, all fifty states agreed to extinguish all current and future claims against

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48. *Id.*

49. *See* Michael C. Blumm, *A Dozen Landmark Nuisance Cases and Their Environmental Significance*, 62 ARIZ. L. REV. 403, 447 (2020).

50. "Twenty-five years ago, [public nuisance] provided the architecture for the lawsuits that impelled the tobacco industry to historic settlements of $246 billion with all fifty states." Kendrick, *supra* note 24, at 705.

51. Nora Freeman Engstrom & Robert L. Rabin, *Pursuing Public Health Through Litigation: Lessons from Tobacco and Opioids*, 73 STAN. L. REV. 285, 289 (2021) (recognizing the MSA as "the largest settlement in the history of American civil litigation.").

52. *Id.* at 303.

53. *Id.*

the tobacco companies.[54] Although municipalities and private actors might be able to bring future claims against these companies, they would likely not be supported by their states, and the odds of any success would be low. The tobacco litigation was also uniquely challenging for the defendants to fight because the cases were never consolidated into a federal multidistrict litigation, meaning that the tobacco companies needed lawyers in every state forum in the country at once.[55]

The surrounding circumstances of the tobacco settlement offer insight into what litigation strategies push companies to settle public nuisance claims even though the claims might not be likely to prevail in court.[56] First, and perhaps most importantly, public pressure was growing against the tobacco industry. In 1993, whistleblowers began leaking internal documents from big tobacco companies that showed, among other things, that the companies knew nicotine was addictive, knew of the link between cigarette use and illness, and purposefully boosted levels of nicotine in their products.[57] At this point, research linking cigarette use to illnesses like lung cancer and emphysema had been around for decades, yet, as late as 1994, tobacco industry officials publicly (and under oath) stated that nicotine was not addictive.[58] The surrounding public uproar of the disconnect between the whistleblowers' leaks and the stance of the tobacco industry spurred the FDA to seriously consider regulating nicotine, and, more importantly, led Mississippi's attorney general to file the first suit against big tobacco companies that included a claim of public nuisance.[59] Other states soon followed, and before long all fifty states brought similar claims.

54. *Id.* at 339 ("In tobacco, all the states lodged claims. Thus, the tobacco defendants could—and did—settle with those who had filed, and, upon inking those settlements, they achieved the goal of every defendant caught in mass tort's crosshairs: global peace.").

55. *Id.* at 341.

56. Notably, Texas's public nuisance claim was dismissed in one of the only tobacco cases that was actually decided. Texas v. Am. Tobacco Co., 14 F. Supp. 2d 956, 973 (E.D. Tx. 1997) ("The overly broad definition of the elements of public nuisance urged by the State is simply not found in Texas state law. . . .").

57. Two whistleblowers, Merrell Williams and Jeffrey Wigand, separately leaked documents related to internal research and memos at Brown & Williamson, a major tobacco company. Philip J. Hilts, *Tobacco Company Was Silent on Hazards*, N.Y. TIMES (May 7, 1994), https://www.nytimes.com/1994/05/07/us/tobacco-company-was-silent-on-hazards.html [https://web.archive.org/web/20241226203918/https://www.nytimes.com/1994/05/07/us/tobacco-company-was-silent-on-hazards.html]; Howard Kurtz, *Tobacco Firm Sue Former Executive Over Statements, Leaked Files*, WASH. POST (Nov. 22, 1995), https://www.washingtonpost.com/archive/politics/1995/11/22/tobacco-firm-sues-former-executive-over-statements-leaked-files/34895d26-b70e-455a-bc2f-011efc561d37 [https://perma.cc/G2AY-HYFG].

58. Seven leaders of various tobacco companies stated nicotine was not addictive in a House Energy & Commerce Committee Hearing. Philip J. Hilts, *Grim Findings on Tobacco and a Decade of Frustration*, N.Y. TIMES (June 18, 1994), https://www.nytimes.com/1994/06/18/us/grim-findings-on-tobacco-and-a-decade-of-frustration.html [https://web.archive.org/web/20211128205413/https://www.nytimes.com/1994/06/18/us/grim-findings-on-tobacco-and-a-decade-of-frustration.html].

59. Engstrom & Rabin, *supra* note 51, at 302–03.

The second breakthrough in reaching the MSA came when the first states defeated pretrial objections and proceeded to discovery in 1995 and 1996.[60] The discovery revealed a starkly different picture of the goings on of "Big Tobacco"[61] behind closed doors compared to the public face the companies presented. Documents showed that Big Tobacco actively spread misinformation about smoking's harmful effects, encouraged children to take over the smoking habits of their parents through youth-targeted marketing, and deliberately increased the nicotine content in cigarettes.[62] Afterwards, and following a brief stint where it seemed like Congress might mandate the settlement through national legislation (in a global settlement agreement), the big tobacco companies began settling claims with some of the states that first began the litigation. Within a year, the MSA was signed. The MSA significantly curtailed the tobacco industry's marketing arm and shut down research centers sponsored by the tobacco industry that produced the misinformation at the heart of the litigation.[63] However, there is plenty of evidence that the MSA was not a turning point in mitigating tobacco-related public health harm; tobacco remained largely unregulated until 2009,[64] and states used the settlement funds for purposes unrelated to public health because the MSA did not specify *how* the funds needed to be used.[65]

The tobacco litigation was a crucial milestone in the development of modern, large-scale public nuisance claims. It legitimized public nuisance as a claim that could be used against industries unconnected to the environment or property-based claims on a large scale. Further, the public pressures that faced the tobacco industry and the MSA itself can be used as a roadmap for future plaintiffs looking to encourage other industries to settle mass public nuisance lawsuits. Four elements seem decisive to Big Tobacco agreeing to the settlement: (1) growing public awareness of the tobacco industry's misinformation campaign; (2) states making it past the pleading stage and getting access to damaging discovery; (3) the existence of damaging discovery; and (4) the terms of the MSA, which globally ended state claims. Some of these elements, like growing public pressure and the threat of damaging discovery, might translate into a litigation strategy that plaintiffs in the social-media cases should use. However, the tobacco litigation was also a product of its time, and there will likely never be another opportunity

60. *Id.*

61. "Big Tobacco" is the colloquial name that refers to the largest tobacco brands. At the time of the tobacco litigation in the late 1990s, "Big Tobacco" included Brown & Williamson, Lorillard, Philip Morris, and R.J. Reynolds. *See id.* at 304.

62. *Id.* at 304.

63. *Id.* at 342.

64. *Id.* at 335.

65. *Id.* at 343 ("[M]any public health experts regard the MSA as a colossal failure. . . ." (internal quotations omitted)).

to permanently settle on such a large scale again, which might limit the possibility of settlement. It is worth reviewing subsequent mass public nuisance claims, especially product-adjacent claims, to see what other litigation strategies have and have not worked since the tobacco litigation.

C. OPIOIDS

Perhaps the mass-action public nuisance litigation most similar to the social-media cases is the opioid litigation. Both actions involve one major consolidated multidistrict litigation ("MDL") with limited other cases, feature a product-adjacent claim that targets an industry, and center on addiction and its effects on community health. There are also aspects of the opioid litigation that are unique, such as opioid manufacturers' marketing tactics, the difficulty in proving a causal connection between manufacturers and drug recipients, and the unprecedented harm opioids left in communities across the United States. Ultimately, the opioid MDL shaped the plaintiffs' strategies in the JUUL and social-media litigation.

In 1995, Purdue Pharmaceuticals introduced the world to OxyContin, a powerful drug marketed as a long-release pain reliever that could not be abused because of its time delay.[66] Quickly, OxyContin took off and profits at Purdue soared. By 2009, OxyContin "accounted for 90% of Purdue's total prescription sales,"[67] in part due to Purdue's aggressive and misleading marketing campaign about the low chances of addiction from OxyContin. In fact, the opposite was true, and stories of drug abuse and overdoses rose with Purdue's profits. After product liability claims against Purdue failed,[68] attorneys general across the country accused Purdue of creating a public nuisance, among other causes of action, by deceptively marketing OxyContin.[69] The states sought damages to reimburse them for medical costs, and by 2007, Purdue settled these claims for just under $30 million.[70]

By 2013, the opioid crisis had been declared an epidemic, and states and local governments sought to hold the entire opioid apparatus accountable. In 2014, states and local governments began bringing suits against opioid manufacturers, distributors, and retailers. Again, these plaintiffs accused the companies of creating a public nuisance, among other claims,[71] and sought damages to abate health-related costs. In 2017, an MDL

66. *Id.* at 307–08.
67. *Id.* at 309.
68. MULLENIX, *supra* note 28, at 159.
69. Engstrom & Rabin, *supra* note 51, at 314.
70. *Id.*
71. *Id.* The claims plaintiffs bring in mass tort actions against product-adjacent companies are similar, and in the opioid litigation, included "public nuisance, RICO, negligence, fraudulent misrepresentation, fraudulent concealment, state statutory violations, and unjust enrichment." Similar claims were brought against the tobacco companies and JUUL. *See id.* at 303; MULLENIX, *supra* note 28,

was created and assigned to Judge Dan Polster in Ohio.[72] Judge Polster created several litigation tracks to organize the claims brought against the various parties. Of these, Tracks One, Two, and Three focused on public nuisance. Track One focused on public nuisance claims brought by two bellwether Ohio counties against manufacturers and distributors of opioids.[73] On the eve of trial, and after motions for summary judgment by the plaintiffs and the defendants were denied, the parties settled for $260 million.[74]

While the settlement precluded any finding as a matter of law of the companies' liability, the court's order denying the defendants' motion for summary judgment offers insight into how product-adjacent public nuisance claims can survive pretrial motions. The court, quoting *Cincinnati v. Beretta, U.S.A. Corp.*, stated that a public nuisance suit may be maintained "where the facts establish that the 'design, manufacturing, marketing or sale of [a] product unreasonably interferes with a right common to the general public.' "[75] This language, specific to Ohio law, has expanded and been adopted by plaintiffs in other public nuisance cases and has become the backdrop upon which product-based public nuisance suits are brought in other states. Some states notably reject this interpretation of public nuisance as a bridge too far.[76] However, for the states that embraced public nuisance as applying to product claims, the results were mixed—but fruitful—in settlement claims with opioid manufacturers and distributors. In 2022, forty-six states agreed to settle their opioid claims with four companies (one manufacturer and three distributors) for $26 billion.[77] Notably, the settlement only allows states to spend the funds on "a wide variety of opioid crisis abatement activities,"[78] a result of the lesson learned from states' spending habits after the tobacco MSA. Other settlements followed from

at 211.

72. MULLENIX, *supra* note 28, at 156.

73. *Id.*

74. *Four Drug Companies Reach a Last-Minute $260 Million Opioid Settlement with Two Ohio Counties,* CNBC (Oct. 21, 2019), https://www.cnbc.com/2019/10/21/four-drug-companies-reach-a-settlement-as-opioid-trial-was-set-to-begin.html [https://perma.cc/HA94-4AWD].

75. *See* Opinion and Order Denying Manufacturer Defendants' Motion for Summary Judgment on Plaintiffs' Public Nuisance Claims at 2, *In re* Nat'l Prescription Opiate Litig., No. 17-md-02804 (N.D. Ohio Sep. 9, 2019) (quoting Cincinnati v. Beretta, U.S.A., Corp., 768 N.E.2d 1136, 1142 (Ohio 2002)).

76. The Oklahoma Supreme Court rejected product-based public nuisance claims in State *ex rel.* Hunter v. Johnson & Johnson, 499 P.3d 719, 730 (Okla. 2021) (reversing a trial court verdict holding one of the major opioid manufacturers liable and finding that under Oklahoma law a public nuisance must relate to criminal conduct or property interference).

77. Brian Mann, *4 U.S. Companies Will Pay $26 Billion to Settle Claims They Fueled the Opioid Crisis*, NPR (Feb. 25, 2022), https://www.npr.org/2022/02/25/1082901958/opioid-settlement-johnson-26-billion [https://perma.cc/4RQ3-Q5M9].

78. N.C. DEP'T JUST., *FAQs Full Deal Final* (2021), https://ncdoj.gov/wp-content/uploads/2021/07/FAQs-full-deal-final.pdf [https://perma.cc/R8D9-DBSP].

distributors, marketers, and producers, and settlements from opioid litigation now total over $26 billion.[79]

There are many obvious differences between the opioid and tobacco litigation, but a few are worth considering when thinking about what would work in another product-adjacent public nuisance suit. The tobacco litigation was narrow in scope and in defendant class, while the opioid litigation encompassed nearly all parties in the opioid supply chain. The tobacco settlement, although enormous and hard-fought, was relatively easier to secure because of its guarantee that liability would largely be released.[80] The first opioid settlements of the second wave of opioid litigation, by contrast, began only on the eve of the first trial as manufacturers looked to escape a definitive ruling that they contributed to a public nuisance, which would have opened them up to potentially unlimited liability.[81] Finally, and perhaps most interestingly, the major opioid settlements occurred after the initial wave of litigation against Purdue that revealed Purdue's deceptive and aggressive marketing strategy. Unlike the tobacco litigation, in which discovery proved to be a major threat to the companies because it revealed deceptive practices, the opioid manufacturer's most abhorrent behavior was already on full display. Further, a majority of the settlements with distributors and retailers happened after discovery occurred. Thus, it seems the threat of discovery did not have much of a role in the opioid litigation; rather, the threat of a court definitively ruling that any of the defendants caused a public nuisance seems to be part of the motivation to settle.

D. FIREARMS

Firearms litigation presents a potentially interesting wrinkle to the public nuisance framework. After the success of the tobacco litigation, state attorneys general looked to bring similar claims against gun manufacturers who they believe caused a public nuisance in the manufacturing and distribution of guns.[82] Public plaintiffs in places like Chicago and Pennsylvania contemplated bringing suits on a public nuisance theory while private plaintiffs' lawyers advanced claims against gun manufacturers on a products liability theory.[83] However, this strategy did not prove fruitful for

79. Aneri Pattani, Lydia Zuraw & Holly K. Hacker, *Track Opioid Settlement Payouts—To the Cent—In Your Community*, KFF HEALTH NEWS (Apr. 2, 2024), https://kffhealthnews.org/news/article/opioid-settlement-payouts-state-county-city-tracker [https://perma.cc/6WQ4-JYFW].

80. Engstrom & Rabin, *supra* note 51, at 339 (noting that the tobacco settlement "achieved the goal of every defendant caught in mass tort's crosshairs: global peace.").

81. *Id.* at 340.

82. MULLENIX, *supra* note 28, at 182–83.

83. *See* Howard M. Erichson, *Private Lawyers, Public Lawsuits: Plaintiffs' Attorneys in Municipal Gun Litigation*, *in* SUING THE GUN INDUSTRY: A BATTLE AT THE CROSSROADS OF GUN CONTROL AND MASS TORTS 129, 129–35 (Timothy D. Lytton ed., 2005).

either private- or public-plaintiff suits, and "[l]awsuits brought by state and municipal governments were uniformly unsuccessful in obtaining favorable court decisions."[84] Claimants argued that gun manufacturers interfered with public rights to health and safety by unreasonably promoting firearms and that local governments were forced to expend resources to respond to gun violence.[85]

In 2005, in response to the growing lawsuits, Congress passed the Protection of Lawful Commerce in Arms Act ("PLCAA"), which gave firearms manufacturers near-blanket immunity from lawsuits.[86] Congress explicitly passed the law because it believed that "imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system, erodes public confidence in our Nation's laws, [and] threatens the diminution of a basic constitutional right and civil liberty."[87] However, the PLCAA contains six exceptions that allow for limited claims that can be brought against firearms manufacturers and distributors.[88]

In 2021, New York passed a specially crafted law that aimed to use one of the PLCAA exceptions by codifying that gun industry members create a public nuisance if they "create, maintain or contribute to a condition in New York state that endangers the safety or health of the public through the sale, manufacturing, importing or marketing of a [firearm]."[89] The law is aimed at curtailing the flow of illegal arms into New York and authorizes public plaintiffs to bring suits against firearm companies that fail to install "reasonable controls."[90] Since the law's enactment, New York has enjoyed some success. New York City sued five firearm distributors that sold ghost guns online, and the litigation resulted in settlements with all distributors and included injunctive and monetary relief.[91]

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84. Gary Kleck, *Gun Control After* Heller *and* McDonald*: What Cannot Be Done and What Ought to Be Done*, 39 FORDHAM URB. L.J. 1383, 1391 (2012).

85. MULLENIX, *supra* note 28, at 198.

86. *Id.* at 183 ("Since 2005, plaintiffs have universally failed in attempts to sue firearm defendants.").

87. 15 U.S.C. § 7901(a)(6).

88. MULLENIX, *supra* note 28, at 189–90.

89. N.Y. GEN. BUS. LAW § 898-b (McKinney 2025). Notably, the statute's qualifying language of "sale, manufacturing, importing or marketing" clearly reflects the product-based public nuisance requirements set out in *Beretta*. *See* Cincinnati v. Beretta, U.S.A. Corp., 768 N.E.2d 1136, 1142 (Ohio 2002).

90. Luis Ferré-Sadurní, *It's Hard to Sue Gun Makers. New York is Set to Change That.*, N.Y. TIMES (June 8, 2021), https://www.nytimes.com/2021/06/08/nyregion/gun-manufacturers-lawsuit.html [https://web.archive.org/web/20250210130832/https://www.nytimes.com/2021/06/08/nyregion/gun-manufacturers-lawsuit.html].

91. Sarah Lim, *Litigation Highlight: New York Officials Alleged Ghost Gun Manufacturers Created a Public Nuisance—Now the Settlements Have Started*, DUKE CTR. FOR FIREARMS L. (Nov. 23, 2022), https://firearmslaw.duke.edu/2022/11/litigation-highlight-new-york-officials-alleged-ghost-gun-manufacturers-created-a-public-nuisance-now-the-settlements-have-started [https://perma.cc/FL22-28T2].

The New York litigation supports a small but important point: When state legislatures step in to empower public nuisance claims, claims that were previously impossible to bring become possible and produce results. This is important to consider as social media comes under growing regulatory pressure from states. If states find that creating a uniform regulatory framework is too cumbersome, or if a federal statute is enacted which limits liability for social-media companies (aside from the Communications Decency Act[92]), states might consider codifying social-media companies' activities as a public nuisance under a New York-gun framework.

III. SOCIAL MEDIA

The mass-action public nuisance examples above provide insight into what the future of the social-media cases looks like. At this point, the MDL and a separate state case in Massachusetts have made it past the pleading stage, and judges in both cases have found it plausible, from the public plaintiffs' allegations, that social-media companies have created a public nuisance.[93] The remainder of this Note will analyze literature that the social-media claimants are relying on to prove that social media is negatively impacting children and schools and will survey the current landscape of the social-media cases. It will then use the history of the other public nuisance cases to offer insight into what the future of the social-media claims might look like.

A. SOCIAL MEDIA'S INFLUENCE ON YOUNG PEOPLE

In June of 2024, then-Surgeon General Dr. Vivek Murthy called for a warning label to be placed on social-media applications, similar to the warning labels that appear on cigarette cartons or alcoholic beverages.[94] In his call, Dr. Murthy pointed to several studies that showed children and teens were addicted to social media, and that the addiction was leading to serious concerns about youth mental health. For instance, he cited a report in which 83% of adolescents reported they feel addicted to social media.[95] In the same study, 45.1% of respondents reported social media made them feel "sad or

92. 47 U.S.C. § 230.

93. *See generally* Order Granting in Part and Denying in Part Defendants' Motion to Dismiss the School District and Local Government Entities' Claims of Public Nuisance, *In re* Soc. Media Adolescent Addiction/Pers. Inj. Prods Liab. Litig., No. 4:22-MD-3047 (N.D. Cal. Nov. 15, 2024); Memorandum and Order on Motion to Dismiss, Commonwealth v. Meta Platforms, Inc., No. 23-2397-BLS1 (Mass. Super. Ct. Oct. 17, 2024).

94. Vivek H. Murthy, *Surgeon General: Why I'm Calling for a Warning Label on Social Media Platforms*, N.Y. TIMES (June 17, 2024), https://www.nytimes.com/2024/06/17/opinion/social-media-health-warning.html [https://web.archive.org/web/20251012074212/https://www.nytimes.com/2024/06/17/opinion/social-media-health-warning.html].

95. DAVID BICKHAM, ELIZABETH HUNT, BENOÎT BEDIOU & MICHAEL RICH, ADOLESCENT MEDIA USE: ATTITUDES, EFFECTS, AND ONLINE EXPERIENCES 9 (2022).

depressed," 50% reported feeling "lonely or isolated," and 51.4% reported social media made them feel their lives were "worse than other people's."[96] Further evidence exists to support the conclusion that adolescents are facing a real mental health crisis; suicide rates among people aged 10–24 increased by 61% from 2007–2021.[97] It would be improper to suggest that there is a definitive, causal link between social-media use and the increased suicide rate amongst adolescents, but it would similarly be ignorant to dismiss the increasing evidence that social media contributes to youth depression and anxiety.[98] In fact, Meta's internal messages show that "[a]mong teens who reported suicidal thoughts, 13% of British users and 6% of American users traced the desire to kill themselves to Instagram [which is owned by Meta]."[99] Studies also suggest that adolescents who spend more than three hours per day on social media are more likely to feel increasingly anxious or depressed.[100] On average, teens are spending 4.8 hours each day on social-media applications.[101]

As adolescent mental health has deteriorated, so has schools' ability to provide mental health resources to their students.[102] Yet schools remain the place where most students seek mental health resources, and school mental health resources account for 70–80% of psychiatric help for children who need it.[103] In July of 2023, the American Federation of Teachers released a

96. *Id.* at 14.

97. SALLY C. CURTIN & MATTHEW F. GARNETT, U.S. DEP'T. HEALTH AND HUM. SERVICES, NCHS DATA BRIEF NO. 471, SUICIDE AND HOMICIDE DEATH RATES AMONG YOUTH AND YOUNG ADULTS AGED 10–24: UNITED STATES, 2001–2021 (2023).

98. *See* Kira E. Riehm, Kenneth A. Feder, Kayla N. Tormohlen, Rosa M. Crum, Andrea S. Young, Kerry M. Green, Lauren R. Pacek, Lareina N. La Flair & Ramin Mojtabai, *Associations Between Time Spent Using Social Media and Internalizing and Externalizing Problems Among US Youth*, 76 JAMA PSYCHIATRY 1266, 1267 (2019); Jean M. Twenge & W. Keith Campbell, *Media Use Is Linked to Lower Psychological Well-Being: Evidence from Three Datasets*, 90 PSYCH. Q. 311, 326–27 (2019); Amber Barthorpe, Lizzy Winstone, Becky Mars & Paul Moran, *Is Social Media Screen Time Really Associated with Poor Adolescent Mental Health? A Time Use Diary Study*, 274 J. AFFECTIVE DISORDERS 864, 864–870 (2020).

99. Georgia Wells, Jeff Horwitz & Deepa Seetharaman, *Facebook Knows Instagram Is Toxic for Teen Girls, Company Documents Show*, WALL ST. J. (Sep. 14, 2021), https://www.wsj.com/articles/facebook-knows-instagram-is-toxic-for-teen-girls-company-documents-show-11631620739?mod=hp_lead_pos7&mod=article_inline [https://web.archive.org/web/20220112010122/https://www.wsj.com/articles/facebook-knows-instagram-is-toxic-for-teen-girls-company-documents-show-11631620739?mod=hp_lead_pos7&mod=article_inline].

100. Riehm et al., *supra* note 98.

101. Tori DeAngelis, *Teens Are Spending Nearly 5 Hours Daily on Social Media. Here Are the Mental Health Outcomes*, AM. PSYCH. ASS'N. (Apr. 1, 2024), https://www.apa.org/monitor/2024/04/teen-social-use-mental-health [https://perma.cc/L99Q-5ZXR].

102. NAT'L CTR. FOR EDUC. STATS., *Over Half of Public Schools Report Staffing and Funding Limit Their Efforts to Effectively Provide Mental Health Services to Students in Need*, INST. OF EDUC. SCIS. (May 9, 2024), https://nces.ed.gov/whatsnew/press_releases/5_9_2024.asp [https://perma.cc/5Z9G-R6G4] ("Forty-eight percent of public schools reported that they are able to effectively provide mental health services to all students who need them, a nearly 10 percentage point decline from 2021–2022.").

103. Marc S. Atkins, Kimberly E. Hoagwood, Krista Kutash & Edward Seidman, *Toward the Integration of Education and Mental Health in Schools*, 37 ADMIN. & POL'Y MENTAL HEALTH 40, 42

report finding that in response to social-media usage in students, "[school districts] have had to recruit and hire additional mental health professionals, provide additional training to teachers and paraprofessionals to better support students' mental health, and develop new mental health resources."[104] However, the efforts by schools to provide increased mental health resources to students is not enough, as " '58 percent of schools reported an increase in students seeking mental health services' " from 2022–2023.[105] The biggest barriers to providing resources are funding, access to licensed professionals, and insufficient mental health staffing.[106]

Apart from mental health accessibility, there is also growing concern that social media is causing disruptive classroom behavior that also requires greater school expenditures. Since the COVID-19 pandemic, schools have reported a 42% increase in cell phone usage during class and a 56% increase in classroom disruption.[107] Additionally, viral trends like the "devious lick" cause schools to expend time and resources.[108] Accordingly, teachers are resigning in record numbers, citing the strain of teaching in increasingly disruptive environments, which has placed even greater strains on school districts.[109]

The growing pressure on schools and adolescents has been noticed by legislators, and the calls for social-media regulation have increased over the past several years. Corporate representatives from Meta, X (formerly Twitter), TikTok, Google, and Discord have occasionally appeared before committees in both houses of Congress where they have promised to enact change while skirting responsibility for creating dangerous products.[110] The efforts seemed likely to produce some action, and the United States Senate unanimously passed the Children and Teens' Online Privacy Protection Act in March 2026, which would ban platforms from collecting adolescents'

(2010).

104. AM. FED'N OF TCHRS., LIKES VS. LEARNING: THE REAL COST OF SOCIAL MEDIA FOR SCHOOLS 3 (2023), https://www.aft.org/sites/default/files/media/documents/2023/LikesVSLearning_Report.pdf [https://perma.cc/WDK3-SR82].

105. NAT'L CTR. FOR EDUC. STATS., *supra* note 102.

106. *Id.*

107. *School Pulse Panel*, INST. OF EDUC. SCIS. (2023), https://ies.ed.gov/schoolsurvey/spp [https://perma.cc/WK7G-GH34].

108. Heyward, *supra* note 1.

109. Matt Barnum, *Teachers Are Burning Out on the Job: Student Behavior and Mediocre Pay Are Taking Their Toll*, WALL ST. J. (Aug. 26, 2024), https://www.wsj.com/us-news/education/teachers-america-burn-out-b2cc2a51?mod=Searchresults_pos2&page=1 [https://web.archive.org/web/20240827030418/https://www.wsj.com/us-news/education/teachers-america-burn-out-b2cc2a51].

110. Cheyenne Haslett & Alexandra Hutzler, *Zuckerberg Apologizes to Families of Kids Harmed Online as Senate Grills Tech CEOs*, ABC NEWS (Jan. 31, 2024), https://abcnews.go.com/Politics/social-media-ceos-face-grilling-senators-child-safety/story?id=106825984 [https://perma.cc/Y42G-3Q2R].

personal data without their consent.[111] However, the bill has since stalled in the House of Representatives.[112]

B. CURRENT SOCIAL-MEDIA PUBLIC NUISANCE CASES

This background helps explain why school districts and states have instead brought lawsuits against social-media companies as the legislative process takes its time. In January 2023, a Seattle school district filed the first lawsuit against social-media companies, accusing them of causing a public nuisance.[113] Since then, over 2,400 additional school districts and other public plaintiffs have joined the litigation,[114] which was consolidated into an MDL in October 2022.[115]

Similarly, state attorneys general not included in the MDL have filed separate public nuisance suits against social-media companies in their state forums. Of these, Massachusetts's suit against Meta is particularly noteworthy because it has survived multiple motions to dismiss.[116]

The MDL was broad in scope when the school-district plaintiffs first filed their Amended Complaint against Meta, ByteDance (then TikTok's owner), Google (YouTube's owner), and Snap (Snapchat's owner). On its face, several challenges seem to arise: (1) how are the social-media companies responsible for addicting children when going on social media is an individual choice; (2) is there evidence showing that the companies were targeting children; (3) what right common to the public is being violated by social media; and (4) what special injury have the plaintiffs suffered as a result of the defendants' conduct?

The plaintiffs in the MDL and Massachusetts litigation allege that social-media companies deliberately try to addict adolescents through their platform design.[117] These platform features each target a different user reaction and are designed to encourage users to spend as much time on the

111. Shae Lake, *Senate was Unanimous, but Bills to Protect Kids Online Face Tough Path in House of Representatives*, BOS. GLOBE (Mar. 23, 2026), https://www.bostonglobe.com/2026/03/23/nation/bills-protect-kids-online-face-tough-path-house [https://perma.cc/Z6GB-A6CU].

112. *Id.*

113. Press Release, Seattle Public Schools, Social Media Complaint Filed by Seattle Public Schools (Jan. 10, 2023), https://www.seattleschools.org/news/social-media-case [https://perma.cc/UN4P-WS42].

114. U.S. PANEL ON MULTIDISTRICT LITIG., MDL STATISTICS REPORT—DISTRIBUTION OF PENDING MDL DOCKETS BY ACTION PENDING (Apr. 1, 2026), https://www.jpml.uscourts.gov/sites/jpml/files/Pending_MDL_Dockets_By_District-April-1-2026.pdf [https://perma.cc/CR83-8ZDG].

115. Conditional Transfer Order at 4, *In re* Social Media Adolescent Addiction/Personal Injury Prods. Liab. Litig., No. 4:22-md-03047-YGR (N.D. Cal. Oct. 6, 2022).

116. Gabby Miller, *Social Media Lawsuits by State Attorneys General Surmount Section 230, Other Challenges*, TECH POL'Y PRESS (Oct. 24, 2024), https://www.techpolicy.press/social-media-lawsuits-by-state-attorneys-general-surmount-section-230-other-challenges [https://perma.cc/EJ96-57KR].

117. Complaint at 1–2, Commonwealth v. Meta Platforms, Inc., No. 23-2397-BLS1 (Mass. Super. Ct. Oct. 24, 2023) [hereinafter MA Complaint]; MDL Complaint, *supra* note 8, at 4.

platforms as possible. For example, the plaintiffs allege that social-media companies push time-sensitive notifications to induce a "fear of missing out" that drives users to the applications.[118] The Massachusetts Complaint points to research that shows adolescents receive "an average of 237 notifications (with some as high as 5,000 notifications) *per day* [from Instagram]. Of these, about 30% are received during the school day or in the middle of the night."[119] The MDL Complaint contains similar factual allegations against Snapchat, YouTube, and TikTok.[120]

Both complaints also allege that the social-media companies use an "infinite scroll" feature coupled with short-form entertainment (that is, short videos or time-limited image viewing) to siphon users' attention.[121] The MDL Complaint quotes the engineer who designed infinite scroll, Aza Raskin, who describes the feature as "taking behavioral cocaine and just sprinkling it all over your interface" because it does not "give your brain time to catch up to your impulses."[122] TikTok reinforces the impulse by hiding the clock that appears at the top of users' smartphones.[123]

Additionally, both complaints allege that social-media companies use intermittent variable rewards ("IVRs") to compel addiction.[124] IVRs are positive stimuli that are occasionally released to encourage users to spend more time on the applications. In Instagram's case, this includes the brief period users wait when they swipe up on their phones to refresh their feed and delaying notifications, like the amount of likes a user's post has received. The plaintiffs allege that these tactics create a deliberate waiting period implemented to intensify the reward of positive stimuli.[125]

Neuroscience has shown that IVRs target a dopamine pathway that activates in response to a delayed reward called the reward prediction error.[126] In essence, the human brain releases more dopamine when a reward is unexpected as long as the reward is released in a reasonable amount of

118. MA Complaint, *supra* note 117, at 24.

119. *Id.* at 27.

120. MDL Complaint, *supra* note 8, at 206–09 (highlighting Snapchat's use of an hourglass notification to alert users that their "streaks"—the number of days they have snapchatted someone in a row—are expiring).

121. MDL Complaint, *supra* note 8, at 248; MA Complaint, *supra* note 117, at 32.

122. *See* Hilary Andersson, *Social Media Apps Are 'Deliberately' Addictive to Users*, BBC (July 3, 2018), https://www.bbc.com/news/technology-44640959 [https://perma.cc/D4V6-9SA7]; MDL Complaint, *supra* note 8, at 248.

123. MDL Complaint, *supra* note 8, at 248.

124. MA Complaint, *supra* note 117, at 34–36; MDL Complaint, *supra* note 8, at 34–35.

125. Massachusetts directly compares the features to the same reward environment experienced by slot machine users, where swiping up on the phone is like the pull of a slot machine. MA Complaint, *supra* note 117, at 34.

126. Trevor Haynes, *Dopamine, Smartphones & You: A Battle for Your Time*, HARV. KENNETH C. GRIFFIN GRADUATE SCH. OF ARTS & SCIS. (May 1, 2018), https://sitn.hms.harvard.edu/flash/2018/dopamine-smartphones-battle-time [https://perma.cc/73WY-NTZ5].

time. Consider the person sitting in front of a slot machine, always pulling the lever, never truly knowing whether there will be a payout. The casino knows the player will stay at the machine until a reward is delivered. If the casino sends the reward at a regular interval, then the machine only triggers a low-level dopamine response in the player, and the player could leave whenever; however, if the casino releases the rewards unpredictably, then the player's dopamine receptors flare, and they are encouraged to spend more time at the machine.

It may seem trivial to link the rewards of a slot-machine payout to reward releases from social-media applications, but research shows that adolescents may be affected on a neurological level by social-media reward pushes.[127] In particular, one study examined twelve- and thirteen-year-olds who self-identified their level of social-media use on a scale of low to high.[128] The researchers then placed the youths in an fMRI machine while asking them to respond whether a stimulus, released on a variable interval, indicated a reward, a punishment, or a neutral outcome.[129] The study concluded that participants who identified as high social-media users were more likely to have a "hypersensitivity" to social rewards, which decreases motivation and encourages habit formation in the long run.[130] In effect, habitual social-media users are encouraged to return to social-media platforms because the rewards create a positive-feedback loop.[131]

There are many other allegations in both the MDL and Massachusetts complaints of additional activities that the defendant social-media companies have taken to purposefully target adolescents, but the list of allegations is too broad and outside the scope of this Note to discuss in its entirety. The crux of the MDL Complaint, however, is that the social-media companies' conduct "unreasonably interferes with the health, safety, peace, comfort, or convenience of Plaintiffs' communities and schools."[132] The challenged conduct, the plaintiffs allege, is social-media companies' "design, development, production, operation, promotion, distribution, and marketing of their social-media platforms to attract and addict minors to increase their profits at the expense of minors."[133] At least some of the MDL school-district plaintiffs brought the suit as private plaintiffs because several states do not recognize school districts as public plaintiffs. As private

127. Maria T. Maza, Kara A. Fox, She-Joo Kwon, Jessica E. Flannery, Kristen A. Lindquist, Mitchell J. Prinstein & Eva H. Telzer, *Association of Habitual Checking Behaviors on Social Media with Longitudinal Functional Brain Development*, 177 JAMA PEDIATRICS 160, 160 (2023).

128. *Id.* at 161.

129. *Id.*

130. *Id.* at 164–65.

131. *Id.* at 165.

132. MDL Complaint, *supra* note 8, at 296.

133. *Id.*

plaintiffs, the schools allege in the MDL Complaint that schools are uniquely burdened with needing to address social-media harms and thus meet the special-injury requirement. The Massachusetts Complaint alleges similar conduct, namely that Instagram's "designing, developing, and promoting features and tools to addict youth" has caused a public nuisance in Massachusetts and that Massachusetts has had to expend resources to mitigate the harm.[134] The Massachusetts suit was brought by the Commonwealth's attorney general and thus did not need to allege special injury. Notably, these cases both use similar *Beretta* language that the Ohio Supreme Court acknowledged could be used to bring product-adjacent public nuisance claims.[135] Additionally, both groups of plaintiffs seek damages in the amount required to abate the nuisance (in the MDL plaintiffs' case, funds to create additional mental-health resources in schools).[136]

There are other social-media-related cases around the country, but these two are particularly noteworthy because they have cleared some major pretrial hurdles and are now in discovery. In October of 2024, judges in both the MDL and Massachusetts cases found that the plaintiffs' claims cleared the infamous Section 230 barrier to bringing suits against social-media companies because the plaintiffs targeted social-media companies' design and development rather than the content they allow on the platforms.[137] Both judges also found that the plaintiffs' claims were not barred by the First Amendment. In November of 2024, the plaintiffs in both cases were again victorious: the judges denied the defendants' motions to dismiss the plaintiffs' public nuisance claims.[138] The highest court in Massachusetts unanimously affirmed the lower court's order on April 7, 2026.[139]

The MDL Order offers interesting insight into why the plaintiffs were able to proceed on their public nuisance claim. First, the court recognized that several of the states did not recognize product-based public nuisance claims and dismissed claims from the plaintiffs in those states (Illinois, New

134. MA Complaint, *supra* note 117, at 97, 99.

135. MA Complaint, *supra* note 117, at 7; MDL Complaint, *supra* note 8, at 296.

136. MDL Complaint, *supra* note 8, at 316.

137. A discussion of Section 230 of the Communications Decency Act, 47 U.S.C. § 230, is outside the scope of this Note; however, it is worth noting that Section 230 has historically served as a near-blanket liability shield for social-media companies. *See generally* Benjamin W. Cramer, *From Liability to Accountability: The Ethics of Citing Section 230 to Avoid the Obligations of Running a Social Media Platform*, 10 J. INFO. POL'Y 123 (2020).

138. *See generally* Order Granting in Part and Denying in Part Defendants' Motion to Dismiss the School District and Local Government Entities' Claims of Public Nuisance, *In re* Social Media Adolescent Addiction/Pers. Inj. Prods. Liab. Litig., No. 4:22-MD-3047 (N.D. Cal. Nov. 15, 2024); Memorandum and Order on Motion to Dismiss, Commonwealth v. Meta Platforms, Inc., No. 23-2397-BLS1 (Mass. Super. Ct. 2024).

139. Brian Dowling, *Meta Must Face Massachusetts Youth Addiction Lawsuit (2)*, BLOOMBERG (Apr. 10, 2026), https://news.bloomberglaw.com/litigation/meta-denied-shield-in-massachusetts-youth-addiction-lawsuit [https://perma.cc/LY4M-X4LK].

Jersey, Rhode Island, and South Carolina).[140] However, the court found sufficient evidence that the sixteen other states implicitly or explicitly recognized a right to bring public nuisance suits that involve products.[141] Additionally, the court found that the defendants' use of their products was entirely within their control, and that the plaintiffs sufficiently alleged that the defendants' conduct was tortious.[142]

Perhaps the most interesting insight is in the court's discussion of public rights. The court found that the plaintiffs sufficiently alleged that social-media companies unreasonably interfere with public health, a recognized public right.[143] The defendants' products and allegedly tortious activity are aimed at the public generally, causing harm to schools and students as part of that broader public.[144] Finally, the court concluded that school districts have sufficiently alleged that they suffered a special injury because, while the defendants' conduct is aimed at the entire community, school districts are uniquely forced to deal with the conduct because of its particular effect on schools and students.[145]

The Massachusetts Order is much broader and does not contain a discussion of special injury or public rights. It does find that Massachusetts permits public nuisance cases brought in product-related cases and finds that the allegation that "Meta has contributed to a youth mental health crisis by promoting the addictive use of its platform" is sufficient to bring a public nuisance claim.[146]

IV. COMPARATIVE ANALYSIS

Now that at least two social-media public nuisance suits are in discovery, it is worth considering what might come next in these suits. What is almost certain is that none of these suits will proceed to trial. Few product-based public nuisance cases have gone to trial. Moreover, a jury determination establishing that social-media companies caused a public nuisance could expose the companies to near-unlimited liability and would generate negative publicity for the social-media companies for the foreseeable future. The number of school districts in the MDL litigation is large, but there are thousands of others that have not joined. A comparison

140. Order Granting in Part and Denying in Part Defendants' Motion to Dismiss the School District and Local Government Entities' Claims of Public Nuisance at 27–28, *In re* Soc. Media Adolescent Addiction/Pers. Inj. Prods. Liab. Litig., No. 4:22-MD-3047 (N.D. Cal. Nov. 15, 2024).

141. *Id.* at 28.

142. *Id.* at 19.

143. *Id.* at 22–23.

144. *Id.*

145. *Id.*

146. Memorandum and Order on Motion to Dismiss at 27, Commonwealth v. Meta Platforms, Inc., No. 23-2397-BLS1 (Mass. Super. Ct. 2024).

to what happened at this stage of other major product-adjacent public nuisance suits reveals that the social-media companies might move to settle these cases.

Because the plaintiffs' claims have survived the motion to dismiss stage, the next, most immediate threat to social-media companies is the threat of damaging discovery. Unlike the second wave of opioid litigation, this is the first wave of litigation against social-media companies, and thus any potentially damaging discovery has not already been revealed. If there is the potential for damaging discovery to come out, like in the tobacco litigation, this might push social-media companies to settle before any other pretrial motions. There is limited evidence that supports that there might be damaging discovery, especially for Meta.[147] In 2021, a whistleblower from Meta, Frances Haugen, released internal Meta records to the public.[148] Among other revelations, the documents showed that Meta knew its product was damaging teen girls' mental health, yet chose not to implement measures it had created which would address mental health concerns, and deliberately targeted children under the age of thirteen to join the application.[149] This raises the question of what other information Meta and the other social-media companies have that might be brought to light in discovery. While the Facebook files were leaked over four years ago and did not lead to significant public backlash, the current public nuisance suits involve three additional social-media companies with their own potentially damaging internal data. Perhaps the social-media companies will look at the tobacco litigation and recognize a compelling interest to settle before discovery.

If the companies decide to risk discovery, the litigation would begin to look similar to the first track of MDL opioid litigation. Both cases represent huge classes of plaintiffs seeking to hold the manufacturers of products liable, and both serve as a test case for other potential plaintiffs. The defendants in the first track opioid litigation settled only right before trial, when it was clear that no pretrial motion would stop the trial from happening.[150] This strategy would have benefits and drawbacks for the social-media companies. It could result in a total vindication for social-media

147. At the time, Meta, Inc. was still operating as Facebook, Inc. For simplicity, I will only refer to Facebook (Instagram's parent company) as Meta.

148. Ryan Mac & Cecilia Kang, *Whistle-Blower Says Facebook 'Chooses Profits Over Safety'*, N.Y. TIMES (Oct. 23, 2021), https://www.nytimes.com/2021/10/03/technology/whistle-blower-facebook-frances-haugen.html [https://web.archive.org/web/20251010040742/https://www.nytimes.com/2021/10/03/technology/whistle-blower-facebook-frances-haugen.html].

149. Wells, Horwitz & Seetharaman, *supra* note 99; Georgia Wells & Jeff Horwitz, *Facebook's Effort to Attract Preteens Goes Beyond Instagram Kids, Documents Show*, WALL ST. J. (Sep. 28, 2021), https://www.wsj.com/articles/facebook-instagram-kids-tweens-attract-11632849667?mod=article_inline [https://web.archive.org/web/20250705230242/https://www.wsj.com/tech/facebook-instagram-kids-tweens-attract-11632849667?mod=article_inline].

150. MULLENIX, *supra* note 28, at 156.

companies if the court ruled in the companies' favor and would give the companies time to negotiate with Congress or state legislatures for some kind of liability shield. The tobacco companies attempted to reach a similar deal with Congress, which ultimately failed,[151] but that attempt offers a potential framework that social-media companies could use if they decide litigating the case on the merits is too risky. However, this would draw out the litigation and might increase media attention on the cases, which could increase negative public perception of social-media companies. Negative perception of tobacco and opioid companies, which grew over the course of each's litigation, increased scrutiny for both industries.[152]

Should either of the cases go to trial, the plaintiffs would face an uphill battle in proving social-media companies caused a public nuisance by addicting children. The plaintiffs would need to prove that the social-media companies created a condition that unreasonably interfered with a right common to the public. The condition, the plaintiffs would argue, is the widespread addiction of children to social-media applications. The condition is ever present, and the plaintiffs could point to social media's targeted features that continually bombard children with notifications to return to the applications throughout the day. However, the nature of addiction here is more difficult to quantify than opioid or tobacco-related addiction, in which companies addicted their users through a compound that created a physical dependency on the products. The plaintiffs could point to the limited number of studies that indicate that social media targets dopamine receptors to encourage compulsive use through IVRs and features like infinite scrolling. The most compelling analogy the plaintiffs should argue is that social-media applications are effectively omnipresent casinos in children's pockets, which social-media companies have made difficult to turn off.

However, complicating the plaintiffs' cases is that the scientific evidence of social-media addiction is not nearly as compelling, conclusive, or widely known as the evidence of the addictiveness of narcotics and nicotine. Social-media companies would deny responsibility for creating an addictive condition and would likely argue that social-media use is a personal choice by children that is permitted (or limited) by their parents. Further, they would point to existing parental controls on the applications that parents should use to limit their children's time on social media. In essence, social-media misuse amongst adolescents is a failure of parenting, not a failure of the product. It seems like this issue could be decided either way and would be dependent on the judge, jury, and trial presentations by each side.

151. Engstrom & Rabin, *supra* note 51, at 304.
152. *Id.* at 358–61.

The rights common to the public that the school-district plaintiffs would allege the companies violated are the rights to public health and public education. It is difficult to assess the public education claim, and its success would likely depend on how different states interpret the right. However, the public health claim is strong, and the plaintiffs in the MDL litigation would likely model their argument on the court's order denying the defendants' motion to dismiss, which seems to embrace the theory. Namely, the school-district plaintiffs would argue that the social-media applications damage public health because the applications target the entire community, and thus, even though social-media addiction might particularly harm individual students, the harm is *directed* at the community. This is supported by rulings in the JUUL and opioid litigation.[153]

School-district plaintiffs in the MDL litigation would also need to prove that they have suffered special injury because they are not considered public plaintiffs in many states. This also seems like a strong claim because of the evidence that social-media addiction has increased expenditures at schools in the form of increased mental-health funding for students, staff training, and maintenance costs.[154] This direct connection between social-media applications, the defendants' alleged efforts to addict children, and the resulting harm would satisfy the special-injury requirement. However, there is a causation issue that the school districts would need to address, which is the extent to which social-media addiction has *caused* the increase in school spending that is not attributable to other disruptive changes in education such as the COVID-19 pandemic.[155] Thus, it seems that the social-media company defendants have a compelling counterargument that there are too many factors that have contributed to rising school costs, and isolating the extent of those costs to social-media companies would be impossible, making abatement in the form of monetary damages an unjust remedy. This will become an important distinction between the MDL case and Massachusetts's case against Meta. The public-school plaintiffs in the MDL case *need* to prove special injury because they are not public plaintiffs, while special injury does not need to be proven in the Massachusetts case because the state attorney general brought the case. If this becomes an issue in the MDL case, it seems likely that other state attorneys general would file suits in order to get around the special-injury inquiry.

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153. *In re* Juul Labs, Inc., Mktg., Sales Pracs, & Prods. Liab. Litig., 497 F. Supp. 3d 552, 648 (N.D. Cal. 2020).

154. NAT'L CTR. FOR EDUC. STATS., *supra* note 102.

155. For a brief overview of how the COVID-19 pandemic disrupted student readiness, see Megan Kuhfeld, Jim Soland, Karyn Lewis & Emily Morton, *The Pandemic Has Had Devastating Impacts on Learning. What Will It Take to Help Students Catch Up?*, BROOKINGS (Mar. 3, 2022), https://www.brookings.edu/articles/the-pandemic-has-had-devastating-impacts-on-learning-what-will-it-take-to-help-students-catch-up [https://perma.cc/68UJ-L3R4].

Finally, the plaintiffs would need to demonstrate that social-media companies have sufficient control over their products and could abate the nuisance. This issue would likely be uncontested because it is clear social-media companies have total and continuous control over their products, and the companies have not contested the claim in either of the cases.

In sum, if the social-media cases go to trial, the result would likely hinge on whether the plaintiffs could establish that social-media companies created the condition of widespread addiction. This would be difficult because social-media addiction is so different from other public nuisance addiction cases. Proving addiction is difficult, the literature on social-media addiction is neither conclusive nor robust, and social media's impact on children's mental health is difficult to quantify with specificity. If the plaintiffs can convincingly prove the addiction condition, their path to success is much clearer. Ultimately, this is an unpredictable question, answerable only by the trier of fact.

There is limited evidence that at least some of the social-media company defendants would seek to settle ahead of any trial that might open them to unlimited liability. In January 2026, TikTok and Snapchat agreed to settle a case in Los Angeles, California, in which a plaintiff alleged she suffered individual harm because of the addictiveness of social-media platforms.[156] In March 2026, Meta and YouTube, also both defendants in the case, were found guilty by a jury in a California Superior Court of causing a nuisance.[157] Meta and YouTube were ordered to pay $4.2 million and $1.8 million in damages, respectively, though they vowed to appeal.[158] While this is only one case, the deluge of similar cases in other jurisdictions might indicate that at least some of the social-media companies see settlement as a viable option, increasing pressure on the companies to settle or seek a legislative shield before larger cases advance to trial. Further, Meta and YouTube's loss may send a warning sign to social-media companies that juries are willing to hold social-media companies liable for novel legal claims.

The safest option for social-media companies might be to go to Congress and negotiate for a bigger liability shield in exchange for increased regulations on their platforms similar to the failed Global Settlement Agreement in the tobacco litigation. Doing so would be a political win for

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156. Cecilia Kang, *TikTok Settles Social Media Addiction Lawsuit Ahead of a Landmark Trial*, N.Y. TIMES (Jan. 27, 2026), https://www.nytimes.com/2026/01/27/technology/tiktok-settlement-social-media-addiction-lawsuit.html [https://perma.cc/P5Y4-SBMY].

157. Cecilia Kang, Ryan Mac & Eli Tan, *Meta and YouTube Found Negligent in Landmark Social Media Addiction Case*, N.Y. TIMES (Mar. 25, 2026), https://www.nytimes.com/2026/03/25/technology/social-media-trial-verdict.html [https://perma.cc/NE39-JUU6].

158. *Id.*

politicians and would ease pressure on social-media companies to self-police. There is clear evidence that Congress is looking to increase regulations on social-media companies,[159] and social-media companies might be able to leverage that desire in order to stop a cascading settlement effect that is still plaguing the opioid defendants.[160]

However, social-media companies should look to the New York gun legislation and recognize that if states feel like they are unable to regulate social media, they might encourage states to open avenues for litigation that would force social-media companies to self-regulate. The New York legislation is a lesson that even if Congress declines to take regulatory action—or, in the case of guns, actually makes bringing claims against firearm manufacturers more difficult—states might be able to find workarounds that increase liability for the companies.

CONCLUSION

If previous mass public nuisance claims are any indication, change is coming to social-media companies. Having survived initial motions to dismiss, social-media public nuisance claims are more likely to follow previous, successful product-adjacent public nuisance claims. The history of tobacco, opioid, and firearms litigation show that it is unlikely that social-media public nuisance claims will be decided on the merits, and each previous path to settlement offers insight into what litigation strategies the social-media companies might pursue. An answer to the enormous question of whether damaging discovery exists would make this answer clearer; however, any conclusion reached on that would be purely speculative. Interesting wrinkles to social-media claims such as bipartisan support for increased litigation might lead to a different outcome in the public nuisance suits. Additionally, developments in state public nuisance law to target actors who states previously regarded as shielded from liability, like gun manufacturers, offer insight into new avenues for litigation that might open if these cases fail. Regardless, public nuisance has provided the vehicle for public plaintiffs to put increased pressure on the social-media industry.

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159. Trevor Hook, *Bipartisan Bills in Congress Would Regulate Social Media Use for Minors*, WIS. PUB. RADIO (Aug. 5, 2024), https://www.wpr.org/news/bipartisan-bills-in-congress-would-regulate-social-media-use-for-minors [https://perma.cc/ATU7-FS5T].

160. *But see* Sally Ho, *Trump Signs Executive Order to Suspend TikTok Ban for 75 Days to Find U.S. Buye*r, PBS (Jan. 20, 2025), https://www.pbs.org/newshour/politics/trump-signs-executive-order-to-suspend-tiktok-ban-for-75-days-to-find-u-s-buyer [https://perma.cc/LGZ6-EMEG]. President Trump's friendly relationship with social-media companies might create political pressure on Congress to *not* regulate the companies. The Trump administration has already influenced decisions at Meta to *decrease* regulation on its platform, namely by removing fact checking in the United States. *See* Liv McMahon, Zoe Kleinman & Courtney Subramanian, *Facebook and Instagram Get Rid of Fact Checkers*, BBC (Jan. 7, 2025), https://www.bbc.com/news/articles/cly74mpy8klo [https://perma.cc/BK4B-RS22].