

Lawsuits pile up as U.S. parents take on social media giants | Context

Avi Asher-Schapiro



Published: February 08, 2023 | Thomson Reuters Foundation

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What's the context?

Parents in the United States are turning to trial lawyers as they blame Instagram, Snapchat and TikTok for their children's mental health crises

At about the time her daughter reached the age of 12, American health executive Laurie saw her once confident, happy child turning into someone she barely recognized. At first, she thought a bad case of adolescent angst was to blame.

Initially, her daughter had trouble sleeping and grappled with episodes of self-loathing and anxiety, but by the time she was 14, she had started cutting herself and was having suicidal thoughts.

Without Laurie knowing, she had been sneaking away her confiscated smartphone and spending hours online at night, trawling through posts about self-harm and eating disorders on social media platforms.

"One day she said to me: 'Mom, I'm going to hurt myself badly if I don't get help,'" Laurie said as she described the mental health crises that have plagued her daughter for the last two years, disrupting her education and devastating the family's finances.



A woman and her daughter look over a row of houses, where a sign reads FOR SALE: SOLD, in this illustration photo. Thomson Reuters Foundation/Tereza Astilean

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She asked to use only her first name in order to protect the identity of her daughter.

Paying for her daughter's care - therapists, a psychiatrist, and multiple residential treatment facilities across the country - has nearly bankrupted Laurie, who recently sold her house in California and moved to a cheaper home in another state.

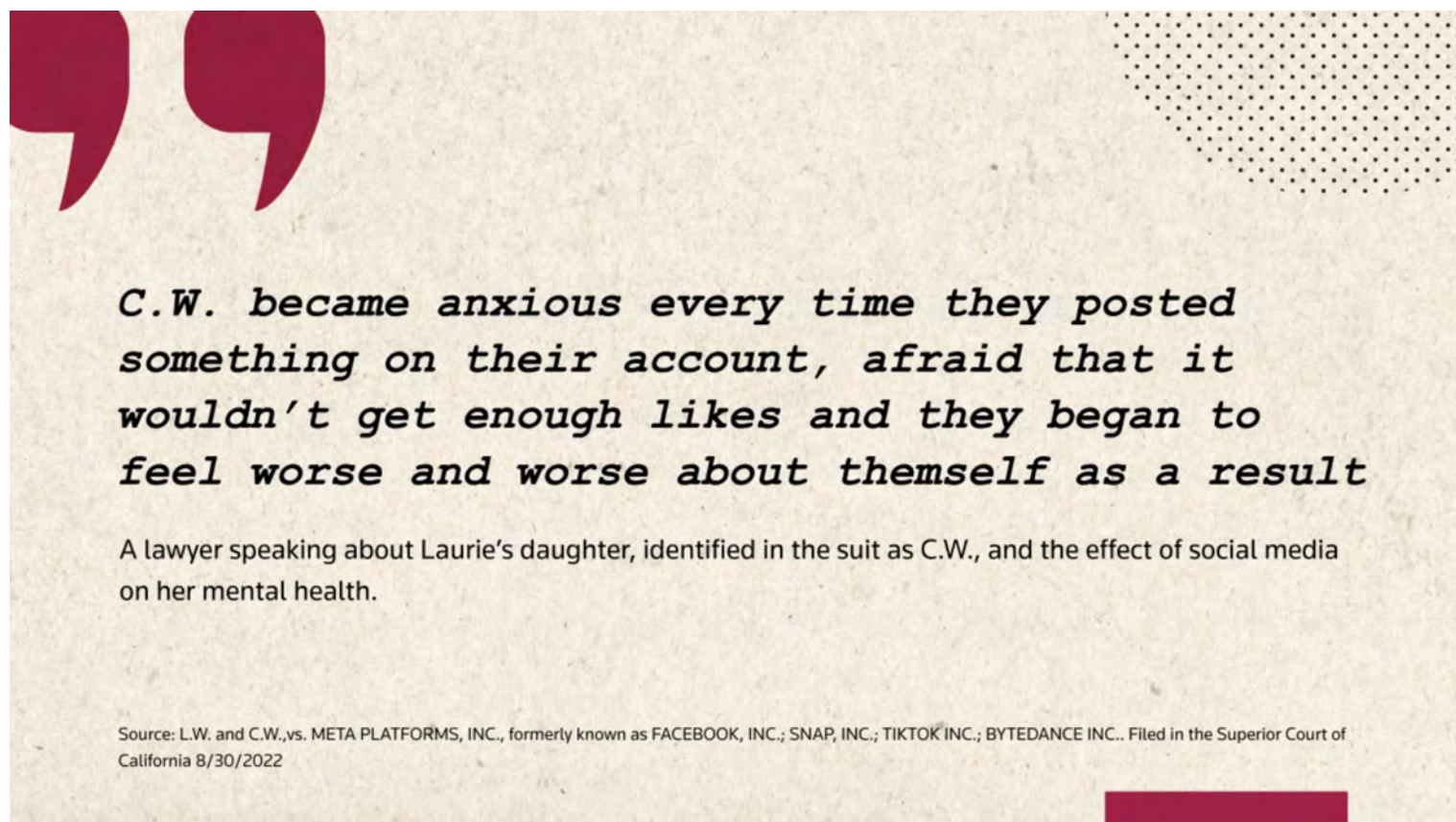
In August, she filed a lawsuit on behalf of her daughter against the social media platforms she blames for the ordeal: Instagram, Snapchat and TikTok.

The case is one of dozens of similar U.S. lawsuits which argue that, when it comes to children, social media is a dangerous product - like a car with a faulty seat-belt - and that tech companies should be held to

account and pay for the resulting harms.

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"Before (she used) social media, there was no eating disorder, there was no mental illness, there was no isolation, there was no cutting, none of that," Laurie told Context about her daughter, who is identified as C.W. in the suit.



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Don Grant, a psychologist who specializes in treating children with mental health issues linked to digital devices, said Laurie's predicament is increasingly common.

"It's like every night, kids all over the country sneak out of their houses and go to play in the sewers under the city with no supervision. That's what being online can be like," he said.

"You think just because your kids are sitting in your living room they're safe - but they're not."

Facebook's parent company Meta Platforms Inc, Snap Inc, which owns Snapchat, and TikTok declined to comment on individual lawsuits, but said they prioritized children's safety online.

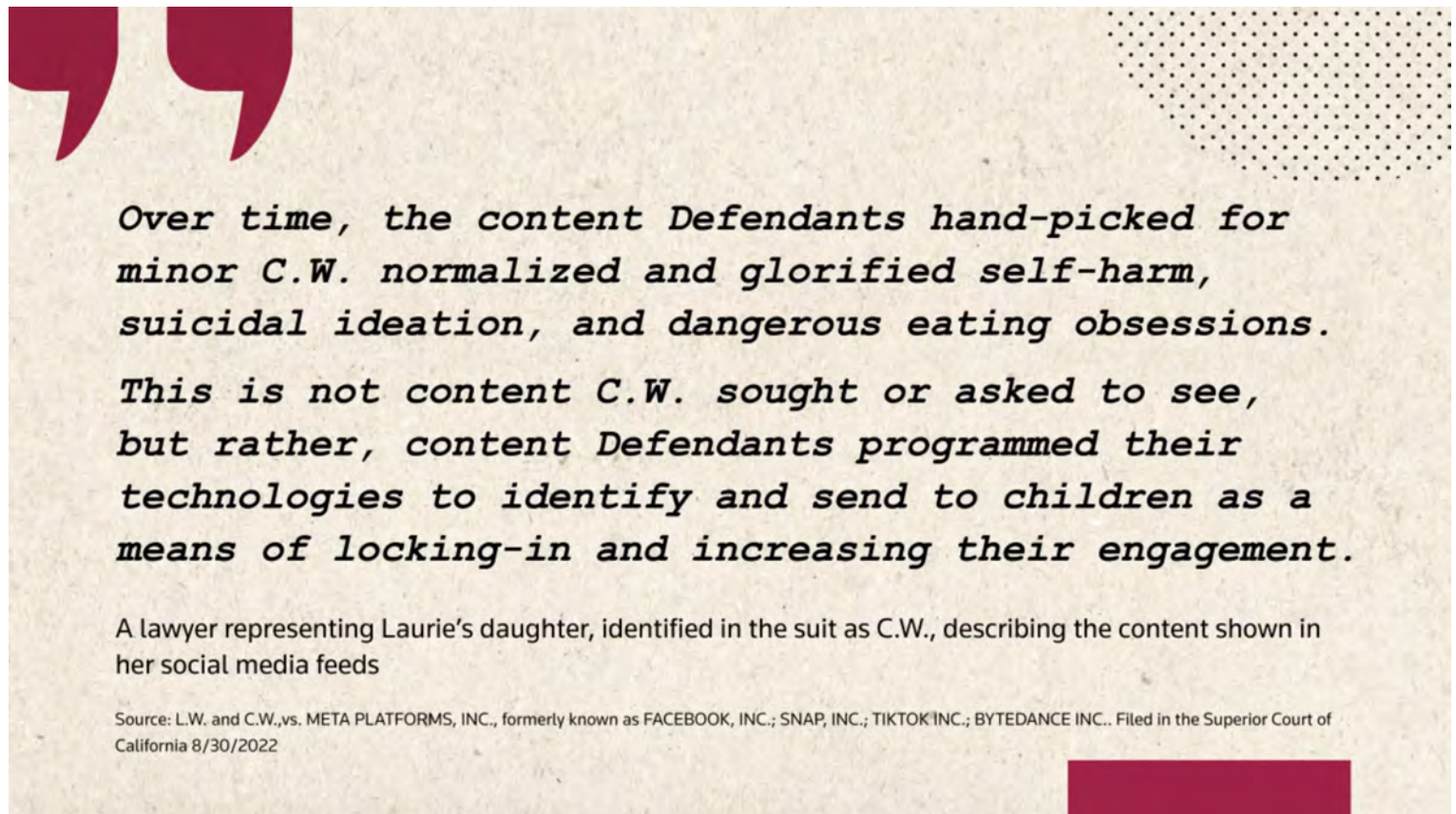
Meta executives, under criticism over internal data showing its Instagram app damaged the mental health of teenagers, have highlighted the [positive impacts of social media](#), and their efforts to better protect young

users.

[Read more: How leaked Facebook documents propelled social media lawsuits](#)

Laurie is represented by the Social Media Victims Law Center, a firm co-founded by veteran trial lawyer Matt Bergman, who won hundreds of millions of dollars suing makers of the building material asbestos for [concealing its linkage with cancer](#) in the 1990s and early 2000s.

Bergman decided to turn his attention to social media after former Facebook executive Frances Haugen leaked thousands of internal company documents in 2021 that showed the company had some [knowledge of the potential harm](#) its products could cause.



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"These companies make the asbestos industry look like a bunch of Boy Scouts," Bergman said.

Facebook has said the Haugen papers have been mischaracterized and taken out of context, and that Wall Street Journal articles based on them "[conferred egregiously false motives to Facebook's leadership and employees](#)".

Bergman's firm has signed up more than 1,200 clients including Laurie over the past year, taking out television ads asking families who worry about their children's social media use to get in touch on a toll-free hotline.

In addition to more than 70 cases involving child suicide, the firm has collected over 600 cases linked to eating disorders. Dozens more accuse social media firms of failing to prevent sex trafficking on their platforms, or stem from accidental deaths after children attempted viral stunts allowed to spread online.

In late 2022, [80 similar federal suits](#) from 35 different jurisdictions were consolidated together and are now being considered by the U.S. District Court for the Northern District of California.

Laurie's suit is part of a similar bundle of suits filed in California state courts.

None of these cases - or any of those filed by Bergman - have yet to be heard by a jury, and it is not clear if they ever will.

First, he has to get past Section 230 of the Communications Decency Act, a provision that provides technology companies some legal immunity for content published on their platform by third parties.

Courts routinely cite the provision when they dismiss lawsuits against social media firms, which prevents the cases from moving on to trial.

In October, for example, a court in Pennsylvania blocked a lawsuit against TikTok brought on behalf of a child who died after suffocating themselves doing a so-called [blackout challenge](#) that was widely shared on the video-sharing site.

When it was enacted in the 1990s, Section 230 was intended to shield the nascent tech industry from being crushed under waves of lawsuits, providing space for companies to experiment with platforms that encouraged user-generated content.

Laura Marquez-Garrett, a lawyer with the Social Media Victims Law Center who is taking the lead on Laurie's case, said she believed her cases could be won if a court agreed to hear them.

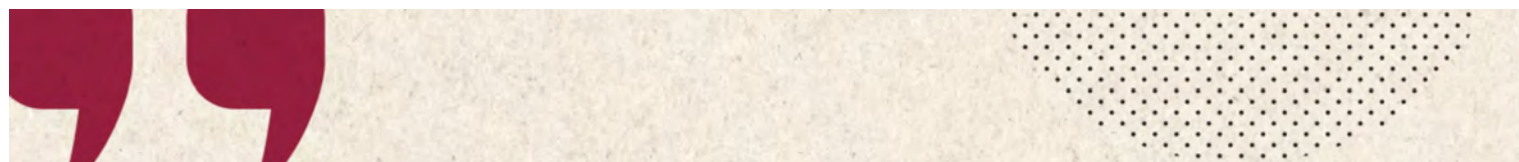
"The moment we get to litigate ... and move forward, it's game over," she said.

Bergman and Marquez-Garrett are part of growing cohort of lawyers who think Section 230 is no longer tenable, as political pressure builds on the issue.

President Joe Biden has voiced support for "revoking" Section 230, and politicians in both parties have proposed legislation that would scrap or tweak the provision. But so far, no reform packages have gained traction, shifting the focus of reform efforts to litigation.

"We aren't talking about small companies experimenting with new technology; we're talking about huge companies who have built harmful products," Bergman said.

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The recommendation technologies in Meta, Snap, and TikTok's social media products are designed to exploit minor users' diminished decision-making capacity, impulse control, emotional maturity, and psychological resiliency.

A lawyer representing Laurie's daughter giving their opinion on how social media apps seek to influence young people who use them.

Source: L.W. and C.W., vs. META PLATFORMS, INC., formerly known as FACEBOOK, INC.; SNAP, INC.; TIKTOK INC.; BYTEDANCE INC.. Filed in the Superior Court of California 8/30/2022

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Bergman and his team say the harm to their clients is not primarily about harmful speech that just so happened to be posted online, but that it can directly be attributed to design decisions made by the tech companies.

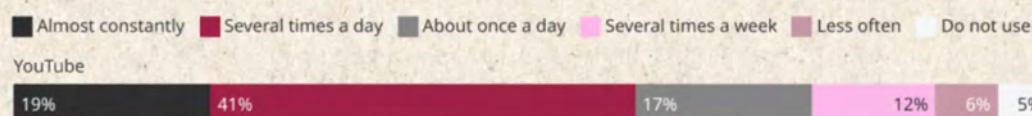
His lawsuits focus on the building of algorithms that maximize the amount of time children spend online and push them towards harmful content; the way friend recommendation features can introduce children to predatory adults - as well as the lax controls for parents who want to restrict access.

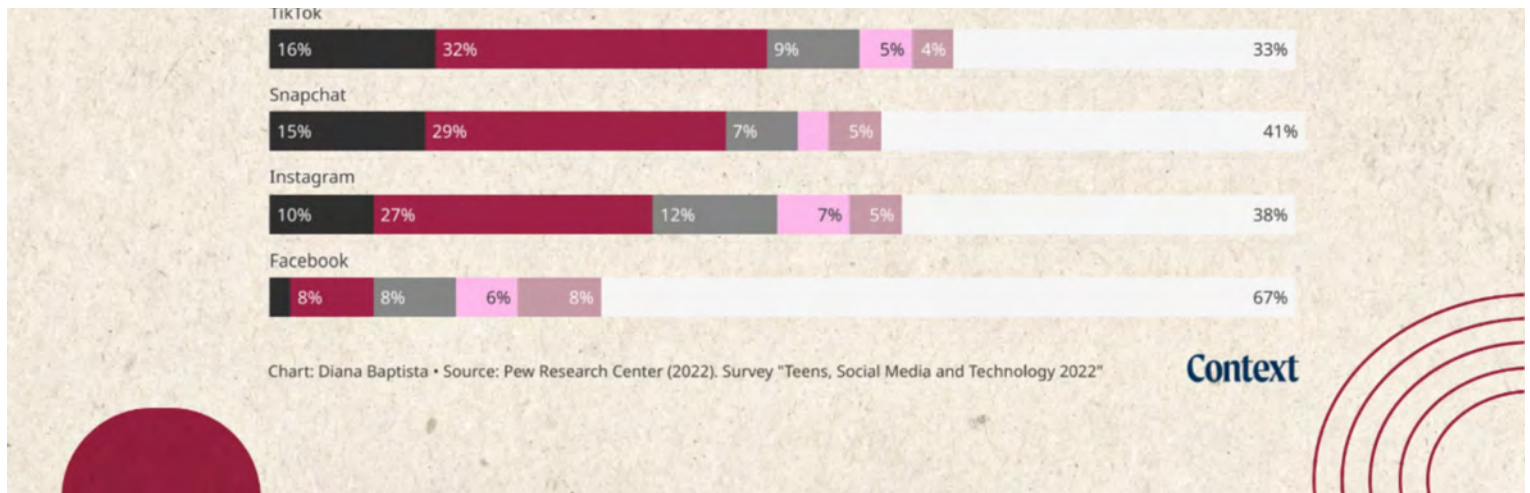
"These lawsuits are about specific design decisions social media platforms have made to maximize profit over safety," Bergman said.

Asked by Context to comment on the company's product designs, Meta sent an emailed statement from its global head of safety, Antigone Davis, who said the company takes children's safety seriously.

"We want teens to be safe online. We've developed more than 30 tools to support teens and families, including supervision tools that let parents limit the amount of time their teens spend on Instagram, and age verification technology that helps teens have age-appropriate experiences," the statement read.

Time spent by teens on social media in the United States





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A Snap spokesperson did not comment directly on the pending litigation, adding in a statement that "nothing is more important to us than the wellbeing of our community."

"We curate content from known creators and publishers and use human moderation to review user generated content before it can reach a large audience, which greatly reduces the spread and discovery of harmful content," the statement added.

Laurie's lawsuit - which was filed in late August in the Superior Court of Los Angeles - alleges that TikTok, Meta and Snap, are "contributing to the burgeoning mental health crisis perpetrated upon the children and teenagers of the United States."

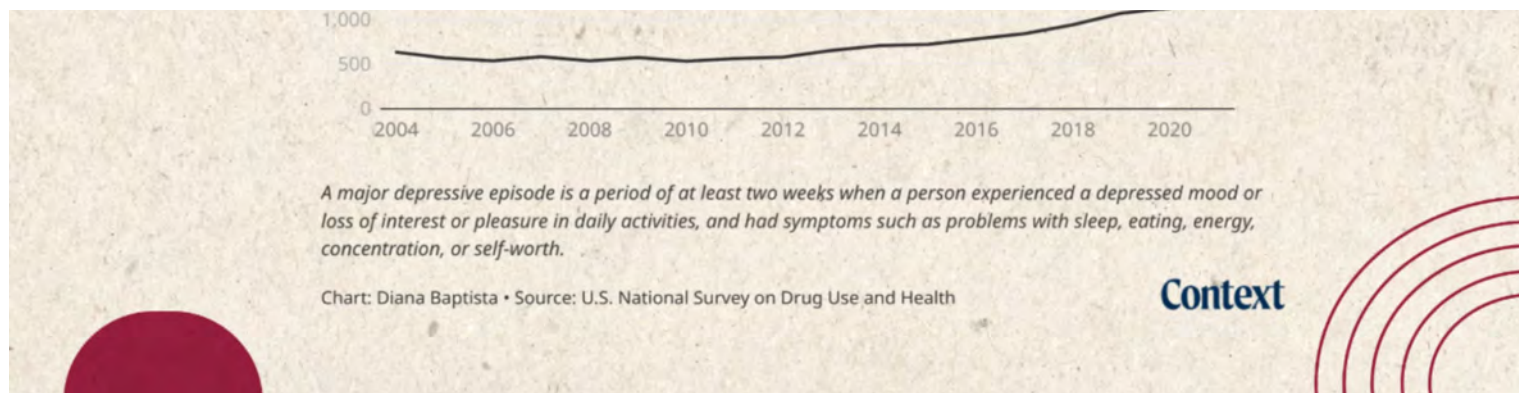
"I'm doing this for parents everywhere," she said.

A sharp increase in depression and suicide among U.S. teenagers coincided with a surge in social media use about a decade ago, though a slew of research has reached mixed conclusions about a possible link.

[Read more: Does social media harm kids' mental health?](#)

Thomson Reuters Foundation/Diana Baptista





Thomson Reuters Foundation/Diana Baptista

Bergman is not the first lawyer to try to bring a tech firm to court for building an allegedly harmful product.

Carrie Goldberg, a New York-based lawyer, helped to popularize the notion that social media software is essentially like any other consumer product - and that harms it causes in the real world should open up manufacturers to lawsuits.

In 2017, she [sued the dating app Grindr](#) on behalf of Matthew Herrick, a man who was stalked and threatened online by an ex-boyfriend, but could not get Grindr to block his harasser.

Goldberg argued that Grindr's decision to make it difficult to kick harassers off the app should open the company up to some liability as designers of the product, but the court disagreed - ruling that Grindr merely facilitated communications, and was therefore protected under Section 230.

"I couldn't get in front of a jury," Goldberg recalled, saying that if such cases were allowed to proceed to trial, they would likely succeed.

A lot has changed in the last five years, she said: the public has become less trusting of social media companies and courts have started to entertain the notion that lawyers should be able to sue tech platforms in the same way as providers of other consumer products or services.

In 2021, the 9th Circuit Court in California ruled that [Snap could potentially be held liable](#) for the deaths of [two boys who died in a high-speed car accident](#) that took place while they were using a Snapchat filter that their families say encouraged reckless driving.

In October, the U.S. Supreme Court decided to [hear a case against Google](#) that accuses its YouTube video platform of materially supporting terrorism due to the algorithmic recommendation of videos by the Islamic State militant group.

Legal experts said that case could set an important precedent for how Section 230 applies to the content recommendations that platforms' algorithms make to users - including those made to children such as Laurie's daughter.

C.W.'s secret use of and developing addiction to Instagram, Snapchat, and TikTok coincided with a steady and severe decline in their mental health.

A lawyer speaking about Laurie's daughter, identified in the suit as C.W., and the effect of social media on her mental health.

Source: L.W. and C.W., vs. META PLATFORMS, INC., formerly known as FACEBOOK, INC.; SNAP, INC.; TIKTOK INC.; BYTEDANCE INC..
Filed in the Superior Court of California 8/30/2022

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"The pendulum has really swung," Goldberg said. "People no longer trust these products are operating in the public good, and the courts are waking up."

Outside the United States, the balance has shifted still further, and is beginning to be reflected both in consumer lawsuits and regulation.

In September, a British government inquest faulted social media exposure for the [suicide of a 14-year-old girl](#), and lawmakers are poised to implement stringent [rules for age verification](#) for social media firms.

But aside from a recent bill in California that mandates "age appropriate design" decisions, efforts in the United States to pass new laws governing digital platforms have largely faltered.

Trial lawyers like Bergman say that leaves the issue in their hands.

Laurie's daughter got her first cellphone in the sixth grade, when she started taking the bus to school alone. When her mental health began to deteriorate soon after, her mother did not initially make a connection.

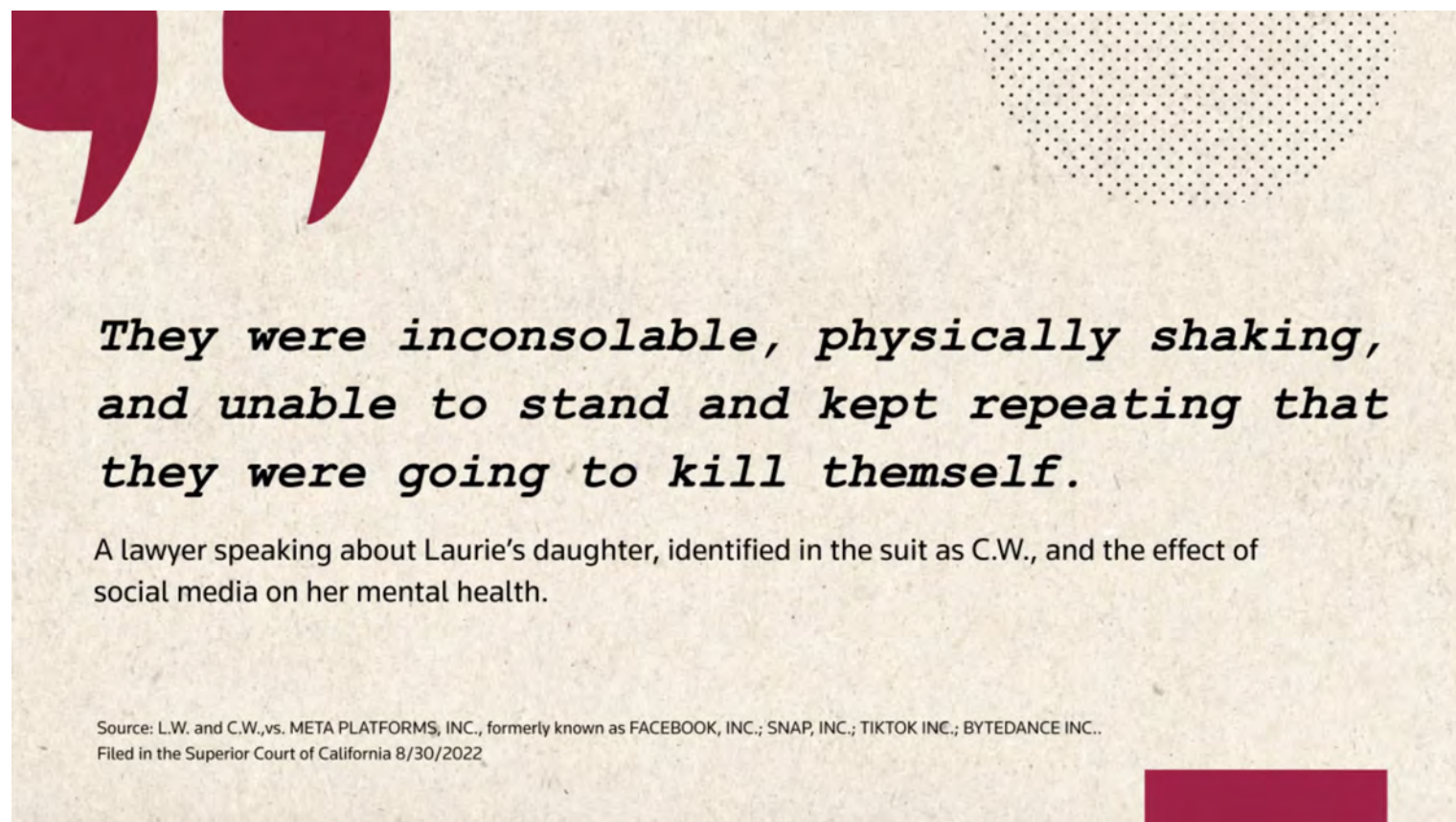
"In many ways I was a helicopter parent," Laurie said. "I did everything right - I put the phone in the cupboard at night, we spoke about the appropriate use of technology around the dinner table."

Now, Laurie knows her daughter had secretly opened multiple social media accounts in an attempt to evade her mother's vigilance, spending hours connected at night in her bedroom.

Laurie soon realized her daughter was wearing long-sleeved shirts to cover up cutting scars on her arms.

"When I asked her about it, she said, "Mom, there are videos showing you how to do it on TikTok, and Snapchat - they show you what tools to use."

TikTok and Snap said harmful content is not allowed on their platforms, and they take steps to remove it.



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With her self-esteem plummeting, Laurie's daughter was introduced to older users on Snapchat and Instagram who sought to groom and sexually exploit her - including requesting sexually explicit images from her, according to her lawyers.

Although Laurie wanted to keep her daughter offline, social media platforms designed their products "to evade parental consent and control," her lawsuit alleges.

A Meta spokesperson pointed to a number of recent initiatives to give parents control over their children's online activity, including a "[Family Center](#)," introduced in 2022, which allows parents to monitor and limit time spent on Instagram.

Laurie's daughter surreptitiously opened five Instagram, six Snapchat and three TikTok accounts, according to her lawsuit, many before she turned 13 - the age when social media firms can allow minors to open accounts.

"There was no way for me to contact all these companies and say, 'don't let my daughter log in,'" Laurie

said.

Though Laurie wanted to further restrict her daughter's social media access, she was concerned that - since all her classmates were communicating on the apps - her daughter would feel socially excluded without them.

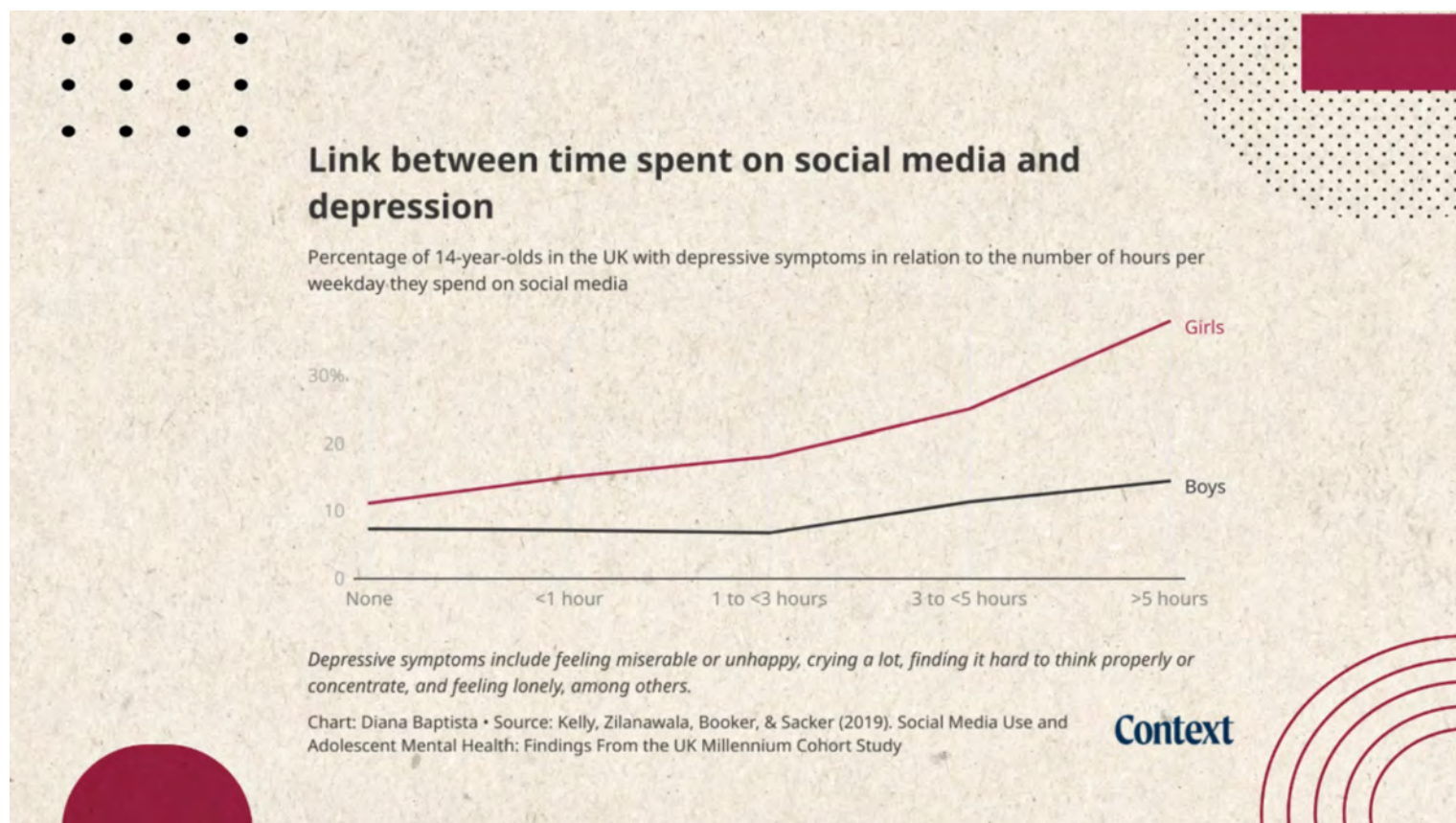
Laurie's daughter is just one data point in a trend that psychologists have been trying to make sense of over the last decade.

Between the years of 2012 and 2015, U.S. teenagers reporting symptoms of depression increased by 21% - the number was double for girls, said Jean Twenge, an American psychologist and researcher studying mental health trends.

Three times as many 12- to 14-year-old girls killed themselves in 2015 as in 2007, Twenge said.

Until about 10 years ago, cases involving depression, self-harm and anxiety had been stable for decades, said Grant, the psychologist.

"Then we see this big spike around 2012 - what happened in 2011? The advent of Snapchat and Instagram," he said.



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One driver of this trend, researchers say, is social comparison - the way that products including Instagram and TikTok are engineered to push users to constantly compare themselves to their peers in a way that can torpedo self-esteem.

"She'd say 'Mom, I'm ugly, I'm fat'," Laurie recalled of her daughter. "Keep in mind: she's 98 pounds (44 kg), and 5 foot 5 (165 cm)."

"So I'd ask her, 'why do you think this?' And she'd say, 'because I posted a photo and only four people liked it'."

Grant said he sees children hooked by very specific design choices that social media companies have made.

"Just think about endless scrolling — that's based on the motion of slot machines - addictive gambling," said Grant, who spent years treating adult addiction before turning his focus to children's technology use.

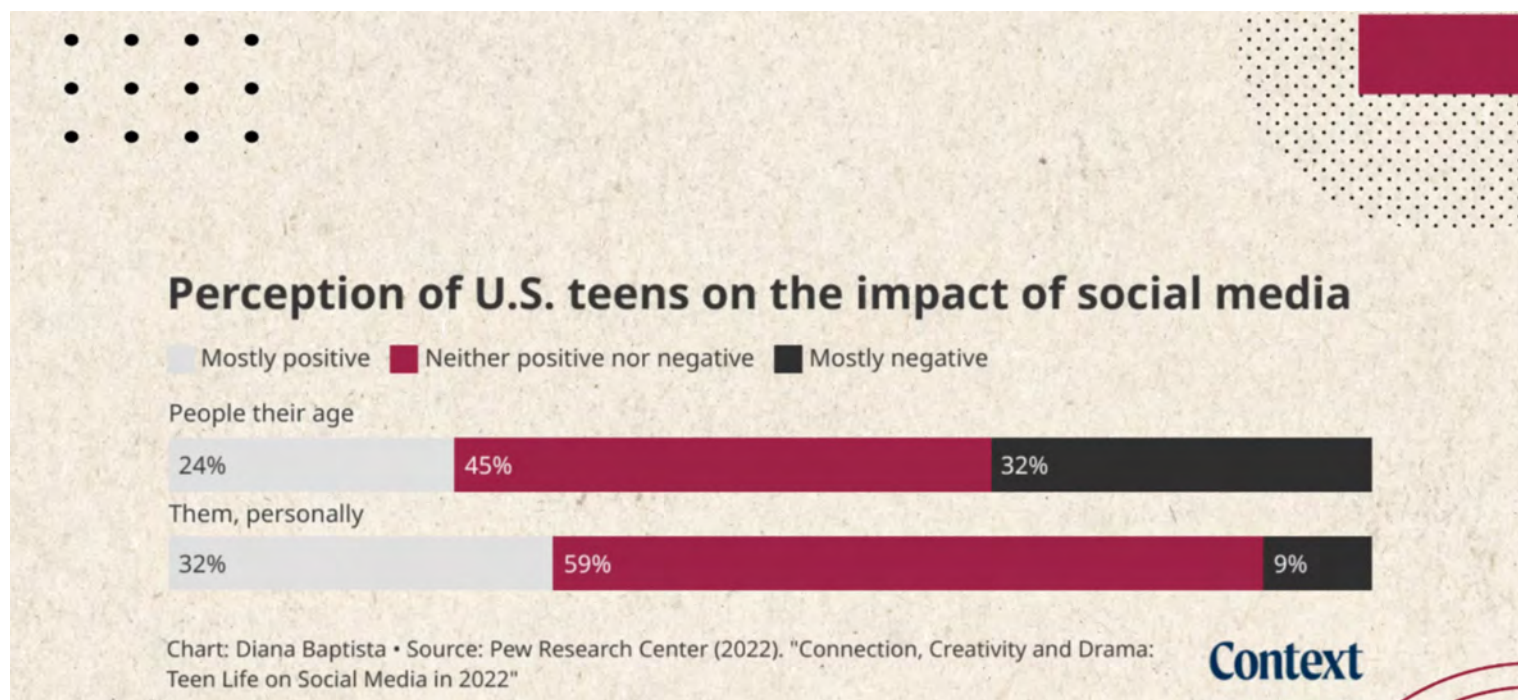
Still, mental health experts are divided on the interplay between children's mental health and social media use.

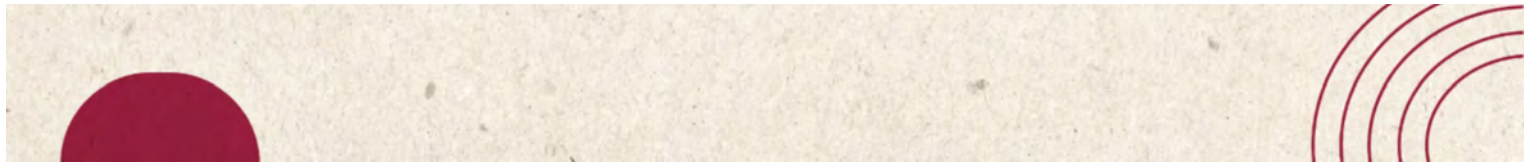
"Social media is often a scapegoat," said Yalda Uhls, a professor of developmental psychology at the University of California at Los Angeles (UCLA).

"It's easier to blame (it) than the systematic issues in our society - there's inequality, racism, climate change, and there's parenting decisions too."

While some children may attribute a mental health challenge to social media, others say the opposite. Polling by Pew in November showed that less than 10% of teens said social media was having a "mostly negative" impact on their lives.

Thomson Reuters Foundation/Diana Baptista





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There are still big gaps in research into concepts such as social media addiction and digital harm to children, said Jennifer King, a research fellow at the Stanford University Institute for Human-Centered Artificial Intelligence.

"But the internal research - the Frances Haugen documents - are damning," she said. "And of course, it was shark bait for trial lawyers."

Toney Roberts was watching CNN at 2 a.m. on a winter's evening in early 2022, when he saw an advertisement he never expected to see.

A woman on screen invited parents to call a 1-800 number if they had a "child (who) suffered a mental health crisis, eating disorder, attempted or completed suicide or was sexually exploited through social media."

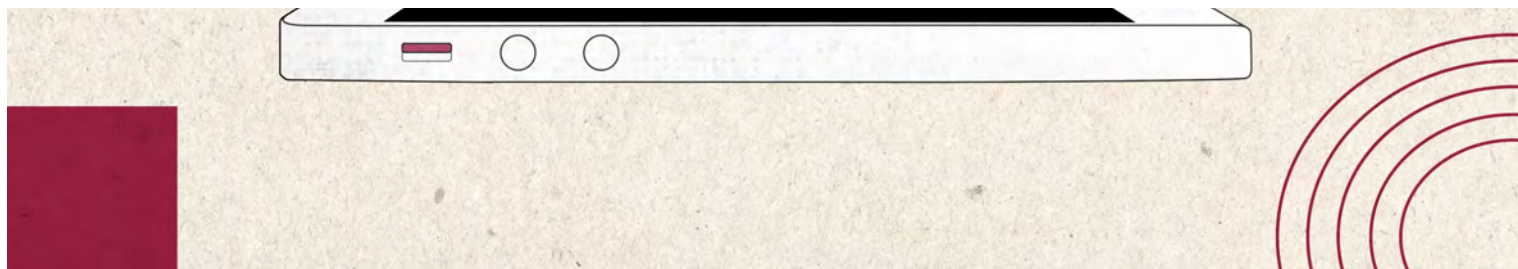
"I thought, wait, this is what happened to our daughter," he recalled.

It had been more than a year since he found his 14-year-old daughter Englyn hanging in her room. She eventually died from her injuries.

Roberts later discovered that his daughter had viewed a video depicting the specific suicide method on Instagram, and that in the months leading up to her death she had been sucked into an online world of self-harm content, and abuse.

He began to comb through his daughter's phone, creating a dossier of her mental health spiral, which he attributed to her use of Instagram, TikTok and Snapchat.





A girl falls backwards through a phone screen in this illustration photo. Thomson Reuters Foundation/Tereza Astilean

A girl falls backwards through a phone screen in this illustration photo. Thomson Reuters Foundation/Tereza Astilean

To his distress, he found the video that may have played a part in her death was still circulating on Instagram for months after she died.

Meta declined to comment on the Roberts case, but said in an emailed statement that the company does not "allow content that promotes suicide, self-harm or eating disorders."

After Roberts called the 1-800 number, Bergman and Marquez-Garrett flew to Louisiana to meet the family, and last July, he and his wife Brandy sued the three social media companies.

"I didn't want my daughter to be a statistic," Roberts told Context, adding that the user who created the video he thinks inspired his daughter's suicide still has an active Instagram account.

TikTok and Snap also declined to comment on the case.

Bergman often compares his cases against social media platforms to the avalanche of lawsuits that targeted tobacco companies in the 1950s onwards: lawyers only began winning cases after leaked documents showed advance knowledge of cancer-causing chemicals.

In Laurie's case, for example, the lawsuit cites documents made public by Haugen showing an internal Facebook conversation about how 70% of the reported "adult/minor exploitation" on the platform could be traced back to recommendations made through the "People You May Know" feature.

Another employee suggests in the same message board that the tool should be disabled for children.

Meta did not directly respond to a request for comment on the document.

Since the so-called Facebook Papers were first published in September 2021, [Meta has made a number of changes](#), including restricting the ability of children to message adults who Instagram flags as "suspicious".

But at the time Laurie's daughter was using social media, none of the platforms had meaningful restrictions on the ability of adults to message children, her lawyers say, a design choice they argue should open the companies up to legal liability.

Bergman said facts like this illustrate social media litigation should become the next "Big Tobacco."

Some other lawyers are not convinced by the parallel, however.

"For every person that gets harmed or hurt in real ways, I suspect there are literally millions who have no problems at all, and are having a great time on the platform," said Jason Schultz, director of New York University's Tech Law and Policy Clinic.

"Courts are going to have to ask: is this really an inherently dangerous thing?"

King, for her part, agrees that design choices made by the platforms are problematic.

"There's growing evidence that the companies made design decisions that were so skewed toward promoting engagement, that they can lead users to very harmful places," she said.



A girl lying on a couch with her feet up looks at her phone showing a picture of two bodies in this illustration photo. The bigger body has a red cross while the slimmer body has a green tick. Thomson Reuters Foundation/Tereza Astilean

A girl lying on a couch with her feet up looks at her phone showing a picture of two bodies in this illustration photo. The bigger body has a red cross while the slimmer body has a green tick. Thomson Reuters Foundation/Tereza Astilean

John Villasenor, the co-director of the UCLA Institute for Technology, Law, and Policy, said it could be hard to distinguish between a well-designed algorithm and one that might under some circumstances

promote addictive behaviors.

"It's not unreasonable for platforms to build digital products that encourage more engagement," he said.

"And if someone is prone to addiction, and can't stop using it - is that always the platform's fault?"

In late 2022, Laurie's daughter returned home after spending a chunk of her high school years in residential treatment centers.

Each week, she sits down with her mother so they can go through everything she has posted on Instagram - the only social media platform Laurie decided to let her keep using, so she could still connect with her friends.

Today, she is doing much better, Laurie said. "I feel like I have my daughter back."

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