

# The Architecture of Addictive Design

*Section 504, ADA Title III, and the civil rights remedy for platform design harm.*

# Two juries, two states, forty-eight hours.

On overlapping discovery records against the same defendants, both juries found that addictive design was intentional, that internal research confirmed disproportionate harm to vulnerable minors, and that remediation was feasible but withheld. The press called it the tobacco moment.

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## \$375M

*New Mexico v. Meta*

Civil penalties under the state Unfair Practices Act for misleading the public about platform safety.

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## \$6M

*KGM v. Meta & YouTube*

Compensatory and punitive damages for negligent design that caused addictive use and harm to a minor.

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**SOURCES** *New Mexico v. Meta Platforms, Inc.*, No. D-101-CV-2023-02838 (N.M. 1st Jud. Dist. Ct., verdict Mar. 24, 2026). · *KGM v. Meta & YouTube* (L.A. jury verdict Mar. 25, 2026). Both under appeal.

# Negligence reaches damages. It does not reach design.

The cases were tried on negligence and consumer protection. Those theories compensate a plaintiff. They do not force the systemic redesign of defaults, and they do not unlock the enforcement machinery the civil-rights statutes carry. That machinery was absent, and its absence is an oversight rather than a limit.

## WHAT NEGLIGENCE CANNOT REACH

Systemic redesign of platform defaults

Office for Civil Rights enforcement

State attorney-general civil-rights authority

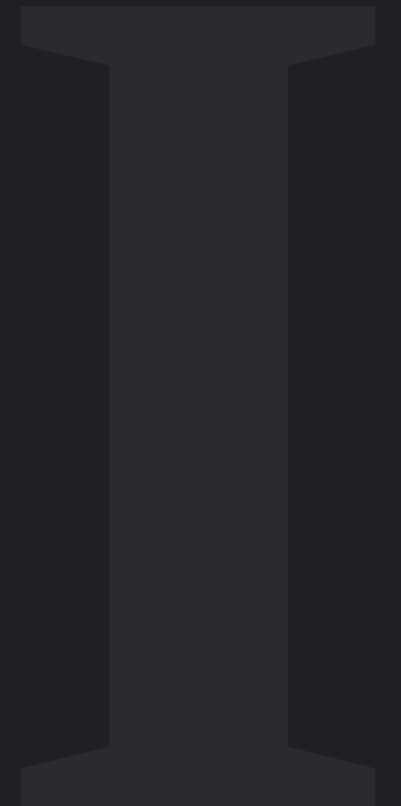
Protection and Advocacy agency suits

# The same record proves a civil rights case.

The design features the jury condemned are mechanisms calibrated to exploit specific neurological vulnerabilities, and those vulnerabilities define protected disability classes under the ADA and Section 504. The platforms' own internal research, now public through the trial, establishes their knowledge of the disparate impact. Their own counsel admitted in open court that the challenged features can be disabled. The civil-rights case is not speculative. It is documented.

# Two Frameworks, in Parallel

*Section 504 for the purpose-built verticals; ADA Title III for the consumer products.*



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The two statutes operate as complements, not substitutes. Together they leave no defendant in the record outside both. And neither requires proof of discriminatory intent.

# Two tracks. Together, no defendant escapes both.

## SECTION 504 • REHABILITATION ACT

### Recipient liability for purpose-built verticals.

Reaches recipients of federal financial assistance in the enumerated categories: education, health care, housing, social services, parks and recreation.

Microsoft • Alphabet • Apple • Amazon

## ADA TITLE III • PUBLIC ACCOMMODATION

### No recipient status required.

Reaches the general consumer products as places of public accommodation, established for digital services under *Robles v. Domino's Pizza* and its progeny.

Meta • and every other defendant's consumer products

*Where Section 504 is contested for a defendant, Title III is clean. No product in the record falls outside both.*

*"Discrimination against the handicapped was perceived by Congress to be most often the product, not of invidious animus, but rather of thoughtlessness and indifference, of benign neglect."*

Alexander v. Choate, 1985. The same standard carries to Title III and to the disparate-impact analyses under both statutes. A plaintiff does not have to prove the platforms intended to discriminate. The pattern of non-consideration is enough.

# The Evidence Already Exists

*Each design mechanism maps to a vulnerability that defines a protected class, and the record proves it.*



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The design choices are calibrated to specific neurological mechanisms. The design record is empty of any disability consideration. And the platforms' own research documents the harm.

# Each mechanism targets a recognized disability.

| DESIGN MECHANISM   | NEUROLOGICAL VULNERABILITY                          | PROTECTED CLASS         |
|--------------------|-----------------------------------------------------|-------------------------|
| Infinite scroll    | Removes the executive-function stopping point       | ADHD                    |
| Autoplay           | Removes the choice at the task transition           | Autism · ADHD           |
| Push notifications | Manufacture urgency, triggering attentional capture | ADHD · anxiety · OCD    |
| Variable reward    | Exploits dopamine-mediated reward prediction        | Bipolar · substance use |
| Beauty filters     | Exploit body-image and social-evaluation systems    | Eating disorders · BDD  |

**SOURCES** APA, DSM-5 (2013); Kessler et al. (2006), *Am. J. Psychiatry* 163; Goldstein & Volkow (2011), *Nat. Rev. Neurosci.* 12. · KGM design documents admitted at trial.

# The blank record is the evidence.

The design documents reveal no point at which the platforms evaluated the effect of infinite scroll, autoplay, notifications, or variable reward on users with ADHD, autism, mood disorders, or eating disorders. The process proceeded as if the protected class did not exist. The silence is not exculpatory. It is affirmative evidence that disability was never considered and alternatives were never weighed.

## WHAT THE SILENCE DOES

A recipient whose design record is empty cannot show it adopted the least-discriminatory alternative. The silence forecloses the one defense disparate-impact doctrine requires it to carry.

## Project Myst turns neglect into indifference.

Meta's own research, admitted into evidence, found that children with pre-existing trauma and stress were particularly vulnerable to addictive use, and that parental controls had little effect. Meta had the knowledge. Meta did not act. Under the deliberate-indifference standard of *Davis v. Monroe County Board of Education*, actual knowledge plus a clearly unreasonable response is the strong form of the violation, and a response of no response at all meets it.

*The challenged features "could be disabled and modified to match users' preferences."*

GOOGLE'S TRIAL COUNSEL, IN OPEN COURT

If the features can be disabled by user election, they can be disabled by default. The feasibility of accommodation is established on the record. What remains is a choice: the platforms run addictive design as the default and safe design as a buried opt-in, gated by the dark patterns their own research shows users do not successfully navigate.

# The violation begins at the consent gate.

Before any addictive feature operates, the user must pass the interface that delivers the terms of service, the data practices, the algorithmic defaults, and the arbitration and class-action waivers. Built with timed pressure and dark-pattern architecture, that gate is itself inaccessible, and it is an independent civil-rights violation under both statutes, logically prior to everything that follows.

## WCAG 2.1 AA, IMPLICATED

Predictable behavior

Error prevention

Adjustable timing

Each is directly implicated by timed consent pressure and dark-pattern buttons.

# Clearing the Obstacles

*The doctrinal challenges are real, and no single one forecloses the framework.*



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Sandoval, Section 230, and Cummings each reach part of the framework. Each has an answer, and the enforcement pathways multiply faster than the objections.

# Each obstacle has an answer.

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## *Sandoval*

Limits private disparate-impact suits under Section 504 only. The lead theory runs through *Choate* meaningful access and *Lemahieu*, plus failure-to-accommodate. Title III has its own private right of action and is unaffected.

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## *Section 230*

Already navigated in KGM, where the court distinguished first-party design conduct from third-party content moderation. The features at issue are the platform's own design, not user content.

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## *Cummings*

Limits emotional-distress damages under Spending Clause statutes. The framework leads with injunctive relief, which reaches the design rather than the balance sheet. The limit is the point.

# Six enforcement pathways, not one.

## OCR complaints

Administrative enforcement under Section 504, independent of Sandoval.

## Rule 23(b)(2) class

Injunctive class actions for a defaults-redesign remedy under both statutes.

## P&A agencies

Protection and Advocacy suits under authority that does not turn on private right of action.

## State AG • parens patriae

New Mexico is now a proven template, not a speculative one.

## Private Title III

An express private right of action, reaching every defendant's consumer products.

## DOJ pattern-or-practice

Civil penalties and injunctive relief where the public-importance threshold is met.

# What is required is the filing.

The statutes are available. Recipient status is documented for the Section 504 vertical products, and public-accommodation status is established for the Title III consumer products. Neither framework requires proof of intent. The factual record is public, developed in open court against the same defendants. The enforcement pathways exist under both statutes. Every element of the civil-rights case has already been proven by someone else, in front of a jury.

Gilly, T. (2026). *Section 504, ADA Title III, and the Architecture of Addictive Design: Recipient Liability, Public Accommodation Coverage, Disparate Impact, and the Civil Rights Remedy for Platform Design Harm*. Real Safety AI Foundation. Working paper.

CASES

*Alexander v. Choate*, 469 U.S. 287 (1985).  
*Alexander v. Sandoval*, 532 U.S. 275 (2001).  
*Barnes v. Gorman*, 536 U.S. 181 (2002).  
*Carparts Distrib. Ctr. v. Auto. Wholesaler's Ass'n of New England*, 37 F.3d 12 (1st Cir. 1994).  
*Cummings v. Premier Rehab Keller*, 142 S. Ct. 1562 (2022).  
*Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629 (1999).  
*Doe v. Mutual of Omaha Ins. Co.*, 179 F.3d 557 (7th Cir. 1999).  
*Doe v. Salvation Army*, 531 F.3d 355 (6th Cir. 2008).  
*Ford v. Schering-Plough Corp.*, 145 F.3d 601 (3d Cir. 1998).  
*KGM v. Meta & YouTube* (L.A. jury verdict Mar. 25, 2026).  
*Mark H. v. Lemahieu*, 513 F.3d 922 (9th Cir. 2008).

*National Federation of the Blind v. Scribd Inc.*, 97 F. Supp. 3d 565 (D. Vt. 2015).  
*Nat'l Fed'n of the Blind v. Target Corp.*, 452 F. Supp. 2d 946 (N.D. Cal. 2006).  
*New Mexico v. Meta Platforms, Inc.*, No. D-101-CV-2023-02838 (2026).  
*Pallozzi v. Allstate Life Ins. Co.*, 198 F.3d 28 (2d Cir. 1999).  
*Powell v. Nat'l Bd. of Med. Examiners*, 364 F.3d 79 (2d Cir. 2004).  
*Robles v. Domino's Pizza, LLC*, 913 F.3d 898 (9th Cir. 2019).  
*Rodriguez v. City of New York*, 197 F.3d 611 (2d Cir. 1999).  
*Smith v. Barton*, 914 F.2d 1330 (9th Cir. 1990).  
*Steinbach v. Hubbard*, 51 F.3d 843 (9th Cir. 1995).  
*United States v. Baylor Univ. Med. Ctr.*, 736 F.2d 1039 (5th Cir. 1984).  
*In re Social Media Adolescent Addiction Litig.*, MDL No. 3047 (N.D. Cal.).

STATUTES & REGULATIONS

Rehabilitation Act §504, 29 U.S.C. §794, §794a.  
ADA Title III, 42 U.S.C. §§12181(7), 12182(b)(2)(A), 12188, 12205.  
Communications Decency Act, 47 U.S.C. §230.  
45 C.F.R. §§84.3, 84.4(b)(4), 84.84 (WCAG 2.1 AA).  
89 Fed. Reg. 40066 (May 9, 2024) (HHS Section 504 final rule).  
Fed. R. Civ. P. 23(b)(2); Fed. R. Evid. 801(d)(2).

RECORD & SOURCES

Project Myst study (admitted in KGM); KGM design-document record.  
APA, *DSM-5* (2013); Kessler et al. (2006); Goldstein & Volkow (2011).  
Wells, Horwitz & Seetharaman, *Wall St. J.* (Sept. 14, 2021); Haugen Senate testimony (2021).

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*Every element of the civil-rights case has already been proven, in open court, by someone else. The statutes are available. The record is public. What is required is the filing.*