

## Meta Coverage Ruling Hinged On Intentional Conduct Claims

By **Eli Flesch**

Law360 (March 5, 2026, 9:07 PM EST) -- While a closely watched trial is underway in Los Angeles over claims that Meta designs platforms that are addictive to adolescents, a Delaware court issued a key insurance ruling when it found the social media giant cannot get coverage for the underlying suits because they do not allege accidental conduct.



In testimony last month, Meta CEO Mark Zuckerberg said the current scientific literature shows no causal link between social media and teens' mental health struggles. (AP Photo/Damian Dovarganes)

Policyholder attorneys quickly decried the Feb. 27 decision, calling it the latest unfavorable ruling from an insurer-friendly Delaware court. Some compared it to drugmaker losses that relieved their insurers of covering suits connected to the opioid crisis.

But insurer-side attorneys, speaking generally to the coverage implications of social media suits, said policyholders are bound to have a tough time getting coverage for legal cases that include negligence claims in addition to claims of intentional acts.

Under commercial general liability policies, covered "occurrences" are often defined as accidents. Insurers seek to avoid covering claims resulting from intentional conduct.

Linda Bondi Morrison, a California-based carrier attorney with Tressler LLP, said the defense costs for

social media addiction suits are going to be huge. She also related the insurance implications of social media addiction suits to opioid litigation.

"It's the same kind of thing here," she told Law360. "You've got intentional acts, with what is argued to be unintentional consequences that the policyholders argue should constitute an occurrence."

Meta, which is headquartered in California, faces thousands of social media harm suits that have either been consolidated in multidistrict litigation there or an analogous consolidated state court proceeding.

In the consolidated state court proceeding, the company is engaged in a bellwether trial over the allegedly addictive design of its platform, rather than the third-party content on the platform. In testimony last month, CEO Mark Zuckerberg said the current scientific literature shows no causal link between social media and teens' mental health struggles.

The jury also heard testimony from Anna Lembke, a professor of psychiatry and addiction medicine at the Stanford University's Addiction Medicine Dual Diagnosis Clinic, who said that social media addiction is real and harmful to children.

Lembke is the author of "Dopamine Nation" and "Drug Dealer MD," and has testified before Congress multiple times on opioid addiction and social media addiction.

Cases like the ones in California are numerous, and have been brought by plaintiffs that include parents suing on behalf of their children, school districts, and towns and cities.

Experts said the Delaware insurance decision is important given the significant sums of money involved in litigating those social media suits — and the potential settlements and verdicts that could eventually come out of them.

"The social media litigation complaints adequately allege that it was not 'mere fortuity' that youth-oriented platforms — deliberately designed to maximize engagement through algorithmic consumption — would result in children becoming addicted or otherwise suffering the alleged harms," Delaware Superior Court Judge Sheldon K. Rennie said.

The court also rejected Meta's argument that it was still owed a defense because the underlying suits could later be amended to include coverage-triggering allegations.

"California courts have unequivocally held that the duty to defend is not triggered by an insured's speculation about unalleged facts or the possibility of future amendments," Judge Rennie said.

"Because the underlying complaints here allege exclusively deliberate conduct and contain no allegations of unforeseen happenings, any coverage-triggering amendment would require the introduction of entirely new facts," the judge added.

If Meta had prevailed, the decision could have entitled the social media company to coverage from The Hartford and Chubb for the federal and state court actions.

William Um, a policyholder attorney with Jassy Vick Carolan LLP, said that he thought the fact of negligence claims being in the underlying litigation supported the notion that Meta didn't intend harm.

He said that there are many coverage decisions in which the conduct of the party could be interpreted as being deliberate without an intended harm.

"If that's the line that's being drawn, I think it would abrogate a bunch of coverage decisions, certainly with respect to the duty to defend," Um said of the Delaware ruling.

Um also described some "Pyrrhic" victories for policyholders in the decision, including that there is no question of bodily injury allegations existing in the underlying litigation.

The court also didn't touch on any exclusions for intentional conduct, but was instead narrowly focused on whether the allegations were accidents under the liability policy, he said.

Even if they are found liable in underlying litigation, social media company insureds will face substantial challenges in obtaining insurance coverage, including establishing an "occurrence" or "accident," said

Scott Seaman, a Hinshaw & Culbertson LLP attorney who represents insurance companies, speaking generally about addiction litigation.

They will also have to overcome challenges that damages or injuries were expected or intended, nonfortuitous or barred by knowledge-based coverage defenses, he said.

Noncompliance with policy conditions, such as notice, cooperation and failure to satisfy policy terms, also will figure prominently in coverage disputes.

"For example, many of the alleged injuries may not satisfy the requirements of 'bodily injury' or 'property damage,'" Seaman said in an email to Law360. "The government claims in the multi-district litigation — like in the opioids litigation — seek disgorgement, civil penalties, and relief that may be ruled to not constitute 'damages.'"

The Delaware decision included reasoning similar to that of the state's top court in a dispute between Chubb units and Rite Aid over the insurers' duty to defend underlying opioid lawsuits.

In 2022, the Delaware Supreme Court ruled that the plaintiff Ohio counties' claimed economic damages were too far removed from individual opioid injuries.

The Ninth Circuit similarly sided with insurers in January 2024 over their duty to defend McKesson Corp. against claims it oversupplied opioids.

In a July 2025 **bid for a pretrial win** in the Delaware insurance matter against Meta, the Hartford and Chubb units noted the Ninth Circuit's ruling, and the circuit court's finding that the suits there described "purely deliberate conduct."

Tae Andrews, a policyholder attorney with Calfee Halter & Griswold LLP, said the decision in Delaware wasn't surprising, given the court's history in general liability cases like that involving Rite Aid, which narrowed carriers' duties to defend.

"In other ways, this decision could be even worse, because here you have a Delaware state court making bad law under a different state's law," Andrews told Law360.

The moment a Delaware-incorporated business is denied coverage, he said, they may need to be prepared to file suit in the state of their principal place of business within a few weeks to avoid having their coverage dispute decided in Delaware state court.

Carrier attorneys pointed to Section 533 of the California Insurance Code — which holds insurers not liable for losses caused by the willful acts of a policyholder — as supporting insurers' contention that suits against social media giants aren't covered.

While the Delaware court didn't touch on that exact provision, it still granted insurance companies' pretrial summary judgment requests for a finding that under California law, the allegations in the underlying social media litigation do not trigger a duty to defend.

Insurance attorneys also see the potential for more disputes over "long-tail" exposures related to future claims that social media platforms have injured users. Coverage for mental health or emotional injuries can vary by individual policy, experts said. But those types of injuries could be regarded as a form of harm covered by a CGL policy.

Jonathan G. Hardin, a Perkins Coie LLP policyholder attorney, said long-tail issues would be possible under an occurrence-based CGL policy but questioned the length of the potential tail.

Social media hasn't been around as long as environmental or asbestos liabilities, which have been relevant in the insurance space for decades.

"There is a potential for multiple policy years to be involved, depending on the facts of the underlying claim," Hardin told Law360.

--Additional reporting by Ganesh Setty, Hope Patti and Craig Clough. Editing by Abbie Sarfo.

