

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA *ex rel.* MICHAEL T. HILGERS, ATTORNEY GENERAL,)
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 Plaintiff,)
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 v.)
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 TIKTOK INC., TIKTOK LLC, TIKTOK U.S. DATA SECURITY INC., TIKTOK PTE. LTD., TIKTOK LTD., BYTEDANCE INC., and BYTEDANCE LTD.,)
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 Defendants.)

Case No. CI 24-1759

ORDER

LANCASTER COUNTY
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CLERK OF THE DISTRICT COURT

This case came before the Court on October 23, 2024, for a hearing on the Motion to Dismiss (Filing No. 8) filed by Defendants. Michael T. Hilgers, Colin P. Snider, Alex J. Harris, and John M. Hughes appeared on behalf of Plaintiff State of Nebraska *ex rel.* Michael T. Hilgers, Attorney General (“State”). Michael S. Degan, Blaine H. Evanson, and Shaun A. Mathur appeared on behalf of all Defendants. The Court heard arguments and took the matter under advisement. Now being duly advised, the Court overrules Defendants’ Motion to Dismiss.

Defendants are seven out-of-state business entities, which the State alleges have jointly developed, advertised, marketed, and distributed TikTok to consumers throughout the United States, including in Nebraska. TikTok, with hundreds of thousands of active users in Nebraska, is a social media platform and application known for its user-uploaded, short-form video content. The State brings this action alleging that Defendants have repeatedly made misrepresentations to Nebraska consumers regarding TikTok’s safety and suitability for minor users as well as regarding TikTok’s privacy and data security practices in violation of Nebraska’s consumer protection laws. The State alleges that Defendants’ willful misrepresentations have resulted in substantial and irreversible harm to Nebraska youth by creating an epidemic of compulsive usage



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of TikTok, exposure to unsuitable adult themes, and other negative consequences. Based on the alleged misrepresentations, the State asserts the following five claims against Defendants: deceptive acts and practices under the Nebraska Consumer Protection Act (“NCPA”), unfair acts and practices under the NCPA, misrepresentations under the Uniform Deceptive Trade Practices Act (“UDTPA”), false or misleading statements in a privacy policy under the UDTPA, and unconscionability under the UDTPA. The State demands a jury trial and seeks declaratory and injunctive relief, disgorgement of funds, civil penalties, and costs and fees. Without offering evidence, Defendants move the Court to dismiss this case for lack of personal jurisdiction and failure to state a claim under Neb. Ct. R. Pldg. §§ 6-1112(b)(2) and 6-1112(b)(6). No evidence has been received by the Court.

When a hearing on a motion to dismiss for lack of personal jurisdiction falls short of an evidentiary hearing, the plaintiff need only make a prima facie case of personal jurisdiction to survive the motion. *Wheelbarger v. Det. Diesel ECM, LLC*, 313 Neb. 135, 144, 983 N.W.2d 134, 142-43 (2023). Nebraska’s long-arm statute confers personal jurisdiction over nonresidents to the fullest extent constitutionally permitted, and the inquiry is whether a defendant had sufficient minimum contacts with Nebraska so that the exercise of personal jurisdiction would not offend traditional notions of fair play and substantial justice. *Id.* at 145, 983 N.W.2d at 143. The constitutional touchstone for personal jurisdiction over a nonresident is whether the defendant purposefully established minimum contacts in the forum state; the benchmark for determining if the exercise of personal jurisdiction satisfies due process is whether the defendant’s minimum contacts with the forum state are such that the defendant should reasonably anticipate being haled into court there. *Id.* Specific personal jurisdiction, the only type of personal jurisdiction at issue, requires that the specific cause of action at issue arise out of or is related to the defendant’s

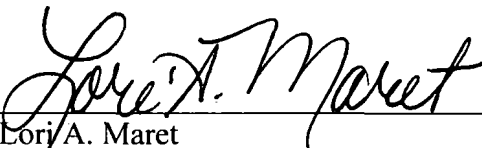
contacts with the forum state. *Id.* at 146, 983 N.W.2d at 144. To prevail against a motion to dismiss for failure to state a claim, a plaintiff must allege sufficient facts, accepted as true, to state a claim to relief that is plausible on its face. *Vasquez v. Chiproperties, LLC*, 302 Neb. 742, 759, 925 N.W.2d 304, 318 (2019). In cases where a plaintiff does not or cannot allege specific facts showing a necessary element, the factual allegations, taken as true, are nonetheless plausible if they suggest the existence of the element and raise a reasonable expectation that discovery will reveal evidence of the element or claim. *Id.* at 759, 925 N.W.2d at 318-19. The Court must accept as true all well-pled facts in the complaint and draw all reasonable inferences in favor of the plaintiff. *Id.* at 749, 925 N.W.2d at 313. Dismissal under § 6-1112(b)(6) should be granted only in the unusual case where a plaintiff includes allegations that show on the face of the complaint that there is some insuperable bar to relief. *Id.* at 750, 925 N.W.2d at 313.

Applying the foregoing principles, the Court finds that the State has set forth sufficient allegations to make a prima facie case for this Court to exercise specific personal jurisdiction over Defendants and that the State has alleged sufficient facts to state a claim. Accordingly, the Court concludes that Defendants' Motion to Dismiss (Filing No. 8) should be overruled.

IT IS THEREFORE ORDERED that Defendants' Motion to Dismiss (Filing No. 8) is **OVERRULED**.

DATED this  day of January, 2025.

BY THE COURT:


Lori A. Maret
District Court Judge