IN THE SUPREME COURT OF THE STATE OF NEVADA

SNAP, INC.,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE KATHLEEN E. DELANEY, DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 90276

ORDER DENYING PETITION

This is an original petition for a writ of mandamus and/or prohibition challenging a district court order denying in part a motion to dismiss.

Real party in interest, the State of Nevada, brought a lawsuit against petitioner and social media platform provider, Snap, Inc., alleging it harms its young users by designing a platform aimed at cultivating addiction. The State alleged that Snap violated the Nevada Deceptive Trade Practices Act, NRS 598.0903 through NRS 598.0999 (NDTPA), when it made false representations and omissions to its users, and unconscionably designed and deployed its app to cultivate addiction. The State also brought claims under negligence, unjust enrichment, and products liability theories.

Snap moved to dismiss the case, arguing among other things, that Nevada did not have personal jurisdiction over Snap and that the State

could not bring viable claims against it under the First Amendment and Communications Decency Act (CDA) § 230, *codified as* 47 U.S.C. § 230. The district court partially granted Snap's motion, finding that the State's products liability and unjust enrichment claims were not viable. The district court partially denied Snap's motion on grounds that it had specific personal jurisdiction over the nonresident defendant, and that federal authority did not preclude the State's remaining claims against Snap. This petition now follows.

Snap argues that the district court erred in not granting its motion to dismiss in full because (1) Nevada does not have specific personal jurisdiction over Snap, (2) the First Amendment bars Nevada's negligence claim, and (3) CDA § 230 bars Nevada's NDTPA claims.

We elect to entertain the instant petition

The issues presented, arguments made, and procedural posture of this case are nearly identical to that in *TikTok, Inc. v. Eighth Judicial District Court*, 141 Nev., Adv. Op. 51, 578 P.3d 640, 647 (2025). Because personal jurisdiction and immunity challenges may leave a party without a plain, speedy, and adequate remedy at law, we elect to entertain the petition. *Id.* at 646-47.

Nevada has personal jurisdiction over Snap

Even within the context of a writ petition, "[t]his court reviews de novo a district court's determination of personal jurisdiction." *Fulbright & Jaworski LLP v. Eighth Jud. Dist. Ct.*, 131 Nev. 30, 35, 342 P.3d 997, 1001 (2015). Specific personal jurisdiction is established when the plaintiff can prove (1) the defendant "purposefully availed itself of" privileges of the state or purposefully directed conduct toward the state, (2) the claims "arise from or relate to that purposeful conduct," and (3) "traditional notions of fair play and substantial justice" support the exercise of jurisdiction over

the defendant. *TikTok*, 141 Nev., Adv. Op. 51, 578 P.3d at 647 (internal quotation marks omitted).

Under the first element for this analysis, we acknowledge that Snap argues the test set out in *Calder v. Jones*, 465 U.S. 783 (1984), cannot apply to negligence claims under the first prong of a specific jurisdiction analysis, *Holland Am. Line Inc. v. Wartsila N. Am., Inc.*, 485 F.3d 450, 460 (9th Cir. 2007). We analyze the State's negligence claim under the purposeful availment framework. *See M.I.A.W. ex rel. Whitley v. Greyhound Lines, Inc.*, 141 Nev., Adv. Op. 33, 570 P.3d 150, 154-55 (2025) (applying a purposeful availment analysis to the challenged negligence claim).

Purposefully directed conduct toward the state

We first address the State's NDTPA claims. When the underlying claims sound in intentional tort, this court uses the *Calder* effects test to determine whether the nonresident defendant purposefully aimed its conduct at the forum state. *TikTok*, 141 Nev., Adv. Op. 51, 578 P.3d at 647. In determining purposeful direction, we evaluate whether "the defendant (1) committed an intentional act, (2) expressly aimed at the forum state, (3) causing harm that the defendant knows is likely to be suffered in the forum state." *Id.* (internal quotation marks omitted).

Similar to that in *TikTok*, the State does not seek to impute third-party action to Snap, as Snap argues. Rather, the State seeks to punish Snap's advertising and data-collection practices. According to the State, Snap enters into contracts with each Nevada user through its terms of service, receives consent to collect each user's personal data, then packages such data when it sells advertisement space that can target specific cities in Nevada and/or Nevada residents. Based on Snap's business model, it has a strong interest in keeping users on its app for long periods of time—thereby supporting the State's theory that Snap is purposefully

designed to addict its users. We therefore hold that the State has successfully carried its burden under *Calder*.

Purposeful availment of Nevada's laws

Turning to the State's negligence claim, "[p]urposeful availment analyzes whether the defendant's activities or engagements serving the market within a forum state, or enjoying the benefits of its laws, justify bringing them into court in that state." *Greyhound*, 141 Nev., Adv. Op. 33, 570 P.3d at 154 (internal quotation marks omitted). Under such test, we look to see whether the defendant has minimum contacts with the forum state to the extent it "reasonably anticipate[s] being haled into court there," and the contacts are not merely "random, fortuitous, or attenuated." *Id.* at 155 (internal quotation marks omitted).

In *Greyhound*, we determined that the defendant purposefully availed itself of Nevada's laws when it actively advertised in the state, contracted with Nevada residents, and provided services that were partially performed in Nevada. *Id.* Comparing *Greyhound* to the instant case, Snap enters into contractual agreements with its Nevada users through its terms of service, creates "communities" for Nevada students to engage with each other, advertises in the forum state, and collects user data to generate ad revenue. Therefore, we conclude that Snap purposefully availed itself of the privilege of doing business in Nevada.

Relatedness between the State's claims and Snap's contacts with the forum state

Snap argues there is no relation between the State's NDTPA and negligence claims and Snap's purposeful contact with the state. The State seeks to punish Snap's defective design, concealment of information, and disregard of minors' health—all decisions that would have occurred at Snap's headquarters in California. Snap asserts its alleged misconduct does

not relate to the sale of advertisements targeted at, or contracts entered into with, Nevada users.

Again, *TikTok* is instructive here. In *TikTok*, we recognized that the social media company did not design its platform or make misrepresentations in the forum state, however, its digital presence in the State "parallel[ed] Ford's extensive physical presence . . . in *Ford Motor Co. [v. Montana Eighth Jud. Dist. Ct.*, 592 U.S. 351 (2021)]." 141 Nev., Adv. Op. 51, 578 P.3d at 649. Similarly, here, Snap's collection of user data and advertisement sales in Nevada establishes a pervasive presence that sufficiently relates to the underlying litigation, aimed at punishing Snap for negligently creating an addictive platform aimed at boosting its ad revenue. Therefore, we conclude that the relatedness prong is satisfied here.

Reasonableness in exercising personal jurisdiction

Snap does not meaningfully challenge the final prong of this analysis; thus, it weighs in favor of exercising personal jurisdiction. *Id.* Therefore, the district court did not err in its determination that Nevada has specific personal jurisdiction over Snap.

The First Amendment does not bar the State's negligence claim

Even within the context of a writ petition, constitutional issues are reviewed de novo. *Malfitano v. County of Storey*, 133 Nev. 276, 279, 396 P.3d 815, 817 (2017). Snap argues the First Amendment bars the State's negligence claim for three reasons. First, the State's claims target Snap's publication of third-party content, thereby ignoring the holding of *Moody v. NetChoice, LLC*, 603 U.S. 707 (2024), that online communication services are protected from liability regarding the choices platforms make about third-party content. Snap argues the complained of "features" are publishing functions that have been regarded as speech—therefore, the State is seeking to improperly regulate speech through its attack of Snap's

algorithm. Snap argues the district court failed to consider two federal district court decisions that would have better informed the district court in this case, citing *NetChoice, LLC v. Reyes*, 748 F. Supp. 3d 1105 (D. Utah 2024), *appeal docketed, NetChoice, LLC v. Brown*, No. 24-4100 (10th Cir. Oct. 11, 2024), and *Estate of B.H. v. Netflix, Inc.*, No. 4:21-cv-06561-YGR, 2022 WL 551701, at *2 n.3, *3 (N.D. Cal. Jan. 12, 2022).

Similar to our holding in *TikTok*, *Moody*'s application in this case is minimal. While *Moody* disallows liability for the exercise of editorial functions, Snap fails to demonstrate how the State's complaint only highlights such editorial functions to support its theory that Snap's app was negligently designed to cultivate addiction in its younger users. Moreover, Snap's reliance on the two federal cases is not availing. *See Reyes*, 748 F. Supp. 3d at 1113-1115, 1118-1119 (finding that, under a preliminary injunction standard, the challenged law, which required age verification systems for minors, likely violated social media companies' First Amendment rights by imposing content-based restrictions); *Est. of B.H.*, 2022 WL 551701, at *2 n.3, *3, *vacated by Est. of Herndon v. Netflix, Inc.*, ___ U.S. ___, 145 S. Ct. 1165 (Feb. 24, 2025) (decision vacated and now pending before the district court following a recent United States Supreme Court decision on a separate issue).

Snap's second argument is that the State's claims target Snap's ineffective age verification system and parental controls, and both of those features have been determined to be restrictions on speech, thus, the First Amendment bars placing such obligation on publishing platforms. Snap argues that age verification requires invasive data collection, which inevitably deters and denies access to protected speech. Parental control measures impose governmental authority subject to parental veto, which is

also not allowed under *Brown v. Entertainment Merchants Ass'n*, 564 U.S. 786, 795 n.3 (2011).

The State disavows any intent to impose such age verification or parental functions by means of its complaint. In looking to the complaint and its structure, the State points to the age verification and parental controls that Snap currently has in order to provide context for how Snap has negligently designed its app to be harmful to young users, not an attempted restriction on free speech. Therefore, we conclude that Snap's argument here is also unavailing.

Snap's third and final argument is that the State's failure-to-warn claim improperly seeks to compel speech. Snap asserts the State is seeking to have Snap warn about potential risks of harm concerning subjective judgments without guidance on avoiding liability. The only comparable authority would be *NetChoice, LLC v. Bonta*, 113 F.4th 1101 (9th Cir. 2024), where a statute was struck down for compelling speech on subjective opinions about content-related harm to children.

In considering *Bonta*'s relevance, the case has limited applicability here. In *Bonta*, the plaintiff challenged a California statute that "impose[d] several affirmative obligations on 'business[es] that provide[ ] an online service, product, or feature likely to be accessed by children.'" *Id.* at 1109 (second and third alterations in original) (quoting Cal. Civ. Code § 1798.99.31(a)). The United States Court of Appeals for the Ninth Circuit engaged in a preliminary injunction analysis and determined the plaintiff was likely to succeed in showing that the reporting requirement facially violated the First Amendment. *Id.* at 1122. Distinct from *Bonta*, this case concerns the negligent design of an app. There is no facial First Amendment challenge, and there is no law that is being challenged that would invoke the typical balancing test under different levels of scrutiny.

Instead, and consistent with the State's position, the complaint describes the harm children have suffered as a result of Snap's app and showcases the knowledge Snap had about the harm it continues to inflict on its users. At this point in the litigation, it cannot be said that the State seeks to compel speech from Snap. Therefore, we conclude that Snap's final argument on this issue also fails.

In sum, Snap seeks to invoke First Amendment protection based on allegations in the State's complaint—that Snap was aware of the harm it inflicted on young users. The complained-of features do not seek to punish Snap for its publication features, nor does it seek to compel speech. Rather, the complaint highlights Snap's features to provide context for the allegation that Snap negligently designed its app, which inflicts harm on its younger users. Based on the pleading standard in this case, there appears to be no doubt that all of the facts, if proven true, would entitle the State to relief. *Buzz Stew, LLC v. City of North Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670, 672 (2008) (recognizing that all factual allegations in the State's complaint will be taken as true and will only be dismissed "if it appears beyond a doubt that [the State] could prove no set of facts, which, if true, would entitle it to relief"). Therefore, we conclude that the district court properly determined the First Amendment did not preclude the State's negligence claim.

CDA § 230 does not bar the State's NDTPA claims

"Whether the CDA § 230 provides immunity is an issue of law that we review de novo, even in the context of a writ petition challenging a denial of a motion to dismiss." *TikTok*, 141 Nev., Adv. Op. 51, 578 P.3d at 649. "Nevada is a notice-pleading state," meaning Nevada courts liberally construe pleadings to ensure adverse parties are placed on sufficient notice of the claims they must defend. *Id.* (internal quotation marks omitted).

Snap argues CDA § 230 precludes the State's NDTPA claims, and even if the State were to plead *some* allegations that survive Section 230 immunity, there are some features that do not survive such scrutiny and must be dismissed. But in *TikTok*, we contemplated a feature-by-feature argument from petitioners and rejected engaging in such an analysis—instead addressing the complaint as a whole. *See generally id.* at 651-52. We therefore elect to do the same here.

Section 230 is construed broadly, but the court must engage in careful analysis to ensure that such immunity is warranted. *Est. of Bride ex rel. Bride v. Yolo Techs., Inc.*, 112 F.4th 1168, 1176 (9th Cir. 2024) (choosing to "engage in a 'careful exegesis of the statutory language' to determine if these claims attempt to treat [the defendant] as the 'publisher or speaker' of the allegedly tortious messages" (quoting *Barnes v. Yahoo!, Inc.*, 570 F.3d 1096, 1100 (9th Cir. 2009)), *cert. denied*, ___ U.S. ___, 145 S. Ct. 1435 (2025); *see Barnes*, 570 F.3d at 1100 (recognizing "we must closely hew to the text of the statutory bar on liability in construing its extent"). "That immunity extends to claims that seek to hold an internet service provider liable based on its exercise of 'traditional editorial functions.'" *TikTok*, 141 Nev., Adv. Op. 51, 578 P.3d at 649 (internal quotation marks omitted). Thus, Section 230 immunity applies when a defendant is "(1) a provider or user of an interactive computer service (2) whom a plaintiff seeks to treat, under a state law cause of action, as a publisher or speaker (3) of information provided by another information content provider." *Barnes*, 570 F.3d at 1100-01 (footnote omitted).

Snap argues that the State conceded the first and third elements. While the first element in the instant litigation is a non-issue, Snap's reliance on the State's purported concession for the third element is unfounded. The State maintained below and in its answering brief on

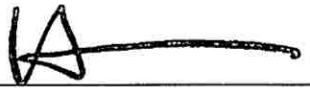
appeal that it is not seeking to hold Snap liable for third-party content. Therefore, we analyze whether the second and third elements are met for Section 230 immunity to apply to Snap.

Under the second element for Section 230, "courts must ask whether the duty that the plaintiff alleges the defendant violated derives from the defendant's status or conduct as a 'publisher or speaker.'" *Id.* at 1102 (quoting 47 U.S.C. § 230(c)(1)). Therefore, if the State attempts to impose a duty upon Snap as a publisher or speaker, then immunity applies. *Id.* Snap's position is that the State seeks to hold Snap liable for its third-party content. Although Snap structures its argument by analyzing each feature, in sum, Snap argues that the State is attempting to hold it liable for features that invoke third-party content and the tools it utilizes for publishing. The State's rebuttal, summed up, is that its claims do not invoke third-party content, its complaint includes specific information to showcase Snap's purposeful design of its product, and that certain harms stem from Snap's purposeful design.

Again, in *TikTok*, we concluded that under the notice-pleading standard, the State sufficiently demonstrated that it did not purport to hold TikTok liable for its third-party content. 141 Nev., Adv. Op. 51, 578 P.3d at 651. Rather, the State sought to hold TikTok liable for its own conduct in designing an app aimed at cultivating addiction to serve its economic goals of driving ad revenue. *Id.* Consistent with the State's position, here it appears that the features highlighted in the State's complaint provide context for its claims—that Snap misrepresented the harm its app can cause to its younger users. It does not appear that the State seeks to hold Snap liable for third-party content—thereby taking the underlying complaints outside of Section 230 immunity. Therefore, the court's conclusion in *TikTok* mirrors the arguments here and applies equally.

In sum, we conclude the district court did not err when it determined that the State's underlying complaint survived CDA § 230 immunity. Accordingly, we

ORDER the petition DENIED.[1]



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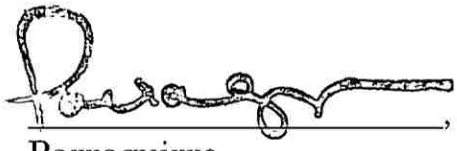

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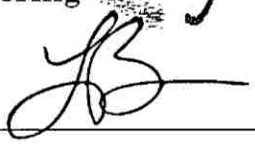

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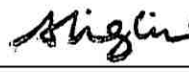

_____, J.
Stiglich

_____, J.
Cadish

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Lee

cc: Hon. Kathleen E. Delaney, District Judge
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Morris Sullivan Lemkul/Las Vegas
Kemp Jones, LLP
Eighth District Court Clerk

[1]The stay imposed by this court on July 30, 2025, is hereby lifted.