APPENDIX

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IN THE SUPREME COURT OF THE STATE OF NEVADA

META PLATFORMS, INC. F/K/A FACEBOOK, INC., Petitioner, vs. THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE JOANNA KISHNER, DISTRICT JUDGE, Respondents, and THE STATE OF NEVADA, Real Party in Interest.	No. 89920
META PLATFORMS, INC. F/K/A FACEBOOK, INC., Petitioner, vs. THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE JOANNA KISHNER, DISTRICT JUDGE, Respondents, and THE STATE OF NEVADA, Real Party in Interest.	No. 89921
META PLATFORMS, INC. F/K/A FACEBOOK, INC.; AND INSTAGRAM, LLC, Petitioners, vs. THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,	No. 89922

FILED

APR 24 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

SUPREME COURT
OF
NEVADA

(O) 1947A

26-18755

IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE JOANNA KISHNER, DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

ORDER DENYING PETITIONS

These are consolidated original petitions for writs of prohibition and for writs of mandamus, challenging district court orders granting in part, and denying in part, motions to dismiss.

Real party in interest, the State, filed three separate complaints against petitioner Meta Platforms, Inc. regarding its three social media platforms—Messenger, Facebook, and Instagram—asserting claims under the Nevada Deceptive Trade Practices Act (NDTPA), NRS 598.0903 through NRS 598.0999, as well as product liability, negligence, and unjust enrichment claims. The State alleged that Meta knowingly designed its social media platforms to addict young users. And it alleged that Meta knowingly made misrepresentations and material omissions about the platforms' safety and failed to warn users about the risks associated with using the platforms. Meta moved to dismiss all three cases, arguing lack of personal jurisdiction and that the claims were otherwise barred by the Communications Decency Act (CDA), codified as 47 U.S.C. § 230, and the First Amendment. The district court denied Meta's motions to dismiss

insofar as they were based on these arguments.[1] Meta now petitions for writ relief in each case. We have consolidated these three petitions.

The issues presented, arguments made, and procedural posture of these cases are nearly identical to those in *TikTok, Inc. v. Eighth Judicial District Court*, 141 Nev., Adv. Op. 51, 578 P.3d 640 (2025) and *Snap, Inc. v. Eighth Judicial District Court*, No. 90276, 2026 WL 501564 (Nev. Feb. 23, 2026) (Order Denying Petition). Because an appeal after a final judgment may not provide a plain, speedy, and adequate remedy when lack of personal jurisdiction or immunity protections may bar an action altogether, we elect to entertain the petitions. *TikTok*, 141 Nev., Adv. Op. 51, 578 P.3d at 646-47. For the reasons stated herein, however, we deny Meta's petitions.

The district court properly exercised personal jurisdiction over Meta

Even within the context of a writ petition, "this 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) (citation modified). Due process is satisfied if a nonresident defendant's contacts support either general or specific jurisdiction. *Viega GmbH v. Eighth Jud. Dist. Ct.*, 130 Nev. 368, 375, 328 P.3d 1152, 1156 (2014). Here, only specific jurisdiction is at issue. 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 the

[1]This was Meta's first motion to dismiss. The district court granted the first motion in part on unrelated grounds, dismissing all claims without prejudice except for the negligence claim. The State then filed an amended complaint, realleging the previously dismissed claims. Meta again moved to dismiss on grounds not pertinent here, which the district court denied.

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.

We first address the State's NDTPA claims. When the underlying claims sound in intentional tort, courts apply the *Calder* effects test to determine whether the nonresident defendant purposefully directed its conduct at the forum state. *TikTok*, 141 Nev., Adv. Op. 51, 578 P.3d at 647 (referring to *Calder v. Jones*, 465 U.S. 783 (1984)). 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.* (citation modified).

In *TikTok*, we determined that TikTok expressly aimed its business activities at Nevada through its data collection and targeted marketing of forum residents, pointing out that TikTok's entire business model depended on increasing users' screentime on the platform to capture their demographic and behavioral data and sell advertising opportunities to third parties. *Id.* at 648-49. So too here. The State targets the identical design features in this lawsuit, and Meta's business model similarly depends on maximizing users' time on its platforms to collect personal data and sell advertising in the various forums in which they operate, including Nevada. While the State does not allege that Meta engaged in outdoor advertising or gave a grant to elementary schools like in *TikTok*, the State proffered evidence that Meta sent representatives to Nevada to hold a focus group with young users about their use of Meta platforms and promoted Facebook at conventions to secure distribution agreements with Nevada cellular carriers. These are comparable contacts that provide additional

evidence of purposeful direction. The State's NDTPA misrepresentation claim likewise satisfies the purposeful-direction test. The State alleged that Meta misrepresented and omitted important safety information on its website and in its terms of service to earn trust with Nevada consumers, parents, and guardians to keep young users on the Meta platforms, thereby increasing data collection and ad revenue. Moreover, *TikTok* rejected the argument that Meta makes here with respect to differential targeting of the forum. *TikTok*, 141 Nev., Adv. Op. 51, 578 P.3d at 648 ("Differential targeting is not required so long as TikTok made the requisite purposeful contact and availed itself of the Nevada market." (citation modified)). So the State's NDTPA claims, as alleged, satisfied the purposeful-direction prong.

The purposeful-availment test applies to the State's negligence and products liability claims. *See Snap Inc.*, No. 90276, 2026 WL 501564, at *1-2 (applying purposeful-availment test to negligence claim); *Yamashita v. LG Chem, Ltd.*, 62 F.4th 496, 503-04 (9th Cir. 2023) (applying purposeful-availment test to a products liability claim). This test looks to "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." *M.I.A.W. ex. rel. Whitley v. Greyhound Lines, Inc.*, 141 Nev., Adv. Op. 33, 570 P.3d 150, 154 (2025) (citation modified). Purposeful availment exists where the nonresident defendant takes some act showing its intent to exploit the forum's market. *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 592 U.S. 351, 359 (2021). The State's negligence and product liability claims likewise target the design of Meta's social media platforms and its failure to warn users about the risks of using those platforms in order to continue operating in and benefitting from young users in the

Nevada market. The analysis in *TikTok*, as discussed above, equally supports that Meta purposefully availed itself of Nevada with respect to the negligence and failure-to-warn claims.

As to the relatedness prong of the specific-jurisdiction test, *TikTok* again controls. There, we recognized that TikTok did not design its platform or make misrepresentations in the forum state, however, its digital presence in the State "paralleled Ford's extensive physical presence . . . in *Ford Motor Co.*" 141 Nev., Adv. Op. 51, 578 P.3d at 649 (citation modified). Similarly, Meta's collection of user data and advertisement sales in Nevada establishes a pervasive presence that sufficiently relates to the underlying litigation.

Meta does not challenge the State's showing under the third prong of the specific-jurisdiction test (whether the exercise of jurisdiction was fair and reasonable), and because the State met the first two prongs, Meta's personal-jurisdiction challenge fails and the district court correctly denied Meta's motions to dismiss on jurisdictional grounds. *See Milender v. Marcum*, 110 Nev. 972, 977, 879 P.2d 748, 751 (1994) ("It is well established that this court may affirm rulings of the district court on grounds different from those relied upon by the district court." (citation modified)). Accordingly, writs of prohibition are not warranted.

Section 230 of the CDA and the First Amendment do not bar the State's claims

"Nevada is a notice-pleading state; thus, our courts liberally construe pleadings to place into issue matters which are fairly noticed to the adverse party." *TikTok*, 141 Nev., Adv. Op. 51, 578 P.3d at 649 (quoting *W. States Constr., Inc. v. Michoff*, 108 Nev. 931, 936, 840 P.2d 1220, 1223 (1992)). The district court must dismiss the State's claims under NRCP 12(b)(5) "only if it appears beyond a reasonable doubt that the State could

prove no set of facts, which, if true, would entitle it to relief." *Id.* (citation modified). Section 230 of the CDA immunizes website operators from liability for third-party content, material, or speech that is posted on the operator's website. *Fair Hous. Council of San Fernando Valley v. Roommates.com, LLC*, 521 F.3d 1157, 1162 (9th Cir. 2008) (en banc). That section "protects from liability (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 v. Yahoo!, Inc.*, 570 F.3d 1096, 1100-01 (9th Cir. 2009). Similarly, "curating third-party content and moderating that content can amount to protected expressive activity under the First Amendment." *TikTok*, 141 Nev., Adv. Op. 51, 578 P.3d at 649 (citing *Moody v. NetChoice, LLC*, 603 U.S. 707, 718 (2024)).

Again, *TikTok* is instructive. Similarly to that case, the State's complaints—on their faces—do not seek to hold Meta liable for any third-party content it publishes, so Section 230 immunity does not attach. *Id.*, 141 Nev., Adv. Op. 51, 578 P.3d at 651. Instead, the State's NDTPA claim under NRS 598.091 and its failure-to-warn claims "target [Meta]'s alleged own knowingly false statements and omissions to regulators and the public about young users' safety on the platform," with only a tangential relationship to third-party content. *Id.* (citation modified). The State's design defect, negligence, and unconscionable-trade-practices claims "explicitly target the design of [Meta]'s platforms rather than the content of posted videos," which distinguishes this case from *Moody*. *Id.*, 141 Nev., Adv. Op. 51, 578 P.3d at 651 (citation modified); *Snap*, No. 90276, 2026 WL 501564, at *3. In a parallel to *TikTok* and *Snap*, the State seeks to hold Meta liable for "violating its *distinct duty to design a reasonably safe*

product" rather than its traditional editorial functions. *TikTok*, 141 Nev., Adv. Op. 51, 578 P.3d at 651 (citation modified); *Snap*, No. 90276, 2026 WL 501564, at *5. We therefore conclude that section 230 of the CDA does not bar the State's claims when viewed under our standard governing motions to dismiss under NRCP 12(b)(5).

Neither does the First Amendment bar the State's claims, where "the State explicitly disclaims any intent to impose liability based on any content or its curation and thus alleges a claim that does not target expressive First Amendment activity." *Id.*, 141 Nev., Adv. Op. 51, 578 P.3d at 652. As to the misrepresentation claim, "the First Amendment does not protect inherently misleading commercial speech." *Id.* The same argument that Meta makes here, that the alleged misrepresentations were permissible subjective statements of opinion, was plainly rejected in *TikTok*. *Id.* Like in that case, the State points to several affirmative statements that go beyond aspiration or opinion and appear to directly contradict Meta's internal communications addressing safety issues on the Meta platforms.

Meta's argument that the State's failure-to-warn claim compels speech in violation of the First Amendment is also unavailing. Meta relies on *NetChoice, LLC v. Bonta*, 113 F.4th 1101 (9th Cir. 2024). But *Bonta* addressed a facial First Amendment challenge to a California law that required companies with an online presence to make value judgments about possible harms that might result from children viewing third-party content on its website and report that data to the State. *Id.* at 1109. In contrast, the State does not allege that Meta failed to warn young users about any third-party speech on its platforms; rather, the State alleged that Meta failed to warn users about the allegedly harmful design elements.

Moreover, *Bonta* applied strict scrutiny after determining that the law impermissibly compelled speech, *id.* at 1119-21, whereas the commercial-speech doctrine applies here, *Am. Beverage Ass'n v. City and Cnty. of San Francisco*, 916 F.3d 749, 755 (9th Cir. 2019) (explaining that under U.S. Supreme Court precedent "the government may compel truthful disclosure in commercial speech as long as the compelled disclosure is reasonably related to a substantial governmental interest" (citation modified)). *Snap* likewise concluded that *Bonta* was distinguishable on this basis. No. 90276, 2026 WL 501564, at *4. Because the State has alleged facts that would entitle the State to relief on its claims without invoking the immunity protections of section 230 of the CDA or the First Amendment, the district court correctly denied Meta's motions to dismiss. Therefore, mandamus relief is not warranted. Accordingly, we

ORDER the petitions DENIED.

_____, C.J.
Herndon

_____, J.
Pickering

_____, J.
Parraguirre

_____, J.
Bell

_____, J.
Stiglich

_____, J.
Cadish

_____, J.
Lee

cc: Hon. Joanna Kishner, District Judge
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