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**School Board Lawsuit Against Social Media Giants Permitted to Continue**  
**~ Ontario Superior Court Dismissed Motion to Strike “Novel” Claims**

March 2025

In March 2024, the Toronto District School Board (“TDSB”) launched a lawsuit in both negligence and public nuisance seeking damages from social media giants Meta Platforms Inc., Instagram Inc., Facebook Holdings LLC., Snap Inc., and TikTok Ltd. (among others, collectively, the “Corporations”).

The causes of action allege the Corporations interfered with TDSB’s statutory mandate to promote student achievement and well-being by causing harm to students. Specifically, TDSB alleges the Corporations’ products were designed to be addictive to children, causing widespread harm such as anxiety, depression, body dysmorphia, low-self-esteem, and bullying. TDSB claims it has suffered economic damage responding to the harm caused to its students.

The Corporations brought a motion to strike out TDSB’s claims on the basis it was plain and obvious they could not succeed.

On March 7, 2025, the Ontario Superior Court of Justice dismissed the Corporations’ motion on the basis that, while TDSB’s claims were novel, it was not plain and obvious they could not succeed.<sup>1</sup>

TDSB will now be given the opportunity to demonstrate with factual and expert evidence the alleged “psychologically manipulative” marketing techniques of the Corporations, and that the Corporations “knew about the adverse and costly impact to [TDSB] when it marketed its products to the students.”

The lawsuit follows a wave of similar claims in the United States and has the potential to be groundbreaking. It also reminds us that a person may owe a duty of care to *any* other person who may be harmed by their actions, even if the two are not in a direct relationship.

We will keep a close eye on this important lawsuit as it makes its way through the courts, and keep our readers and clients apprised.

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<sup>1</sup> 2025 ONSC 1499 [*Toronto District School Board v Meta Platforms Inc.*].

## What happened?

In March 2024, four Ontario school boards<sup>2</sup> simultaneously initiated lawsuits against the Corporations. Other school boards followed suit and there are now fourteen individual actions by Ontario school boards and private schools against the Corporations, each alleging the Corporations have caused widespread harm to students, and economic harm to the schools and school boards which have a statutory mandate to enhance student achievement and well-being.

In summary, TDSB alleged:

- The Corporations designed their social media products to be addictive to children
- The Corporations were aware excessive use of social media by students caused physical, emotional, and educational harm
- Pervasive use of social media harmed students
- The harm on students and the impact in the school caused harm to the TDSB.

The TDSB claimed damages for its costs:

- To address the altered student population (barriers to learning and dysregulated behaviour)
- To educate about the dangers of social media use, digital literacy, and staff training
- For health care, including additional mental health resources
- For additional technology, IT, and cybersecurity
- For the “caring and safe schools” program as a result of sexual harassment and exploitation of the student population.

## The Corporations’ motion to strike

The legal basis of TDSB’s lawsuit are negligence and public nuisance. The Corporations sought to have the lawsuit struck in its entirety for having no reasonable cause of action. They argued it was “plain and obvious” TDSB’s claim of:

- **Negligence** could not succeed because the Corporations did not owe TDSB a “duty of care.”
- **Public nuisance** could not succeed because TDSB lacked standing and was seeking to expand the scope of the tort of public nuisance.

On a motion to strike, the court assumes all material allegations in the statement of claim are true.

## The Superior Court’s decision – Negligence

The Ontario Superior Court of Justice held TDSB’s claim of negligence could proceed. In reaching this conclusion, the court highlighted the value of public education, stating education is among the most important functions of a government.

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<sup>2</sup> TDSB, Toronto Catholic District School Board, Peel District School Board and Ottawa-Carleton District School Board.

## The “duty of care”

A party cannot successfully claim negligence against another unless the latter owes a “duty of care” to the former. To establish the Corporations owed TDSB a duty of care, TDSB must show the harm to it was (a) foreseeable, (b) proximate, and (c) that there are no policy considerations that should lead the court to decline to recognize the duty of care. TDSB’s claim that the Corporations owed it a duty of care is “novel” in Canadian law.

### (a) *Proximity*

In analyzing proximity, a court considers whether the parties are sufficiently close in a legal sense that a defendant should be obliged to be mindful of a plaintiff’s interests. As the court put it, “legal proximity looks at whether the person whose careless actions affected another person ought to have thought about how their actions would directly affect the other person.”<sup>3</sup>

The Corporations argued there was no “proximity” between them and TDSB; while they may have a relationship with the students who have accounts to use the social media platforms, TDSB itself has no relationship with the Corporations, and the Corporations’ relationship with students has nothing to do with TDSB.

The court disagreed:

In terms of legal proximity, I find that [TDSB] has a reasonable claim to a duty of care from social media companies that targets school-aged children, including students during school hours and in doing so, carelessly damages their attention-span, psychological safety, and well-being. [TDSB] is responsible for the learning environment and it has been damaged by the harm caused to the learner that compose the environment.<sup>4</sup>

### (b) *Foreseeability*

In analyzing foreseeability, the court asks whether the harm caused is an objectively foreseeable consequence of the defendant’s conduct.

TDSB pleaded the Corporations knew about the adverse impact of their designs on young children, the consequences of that impact, and the subsequent adverse effect on education and schools; thus, the harm was foreseeable.

The court agreed:

[TDSB]’s pleadings, if true, assert an intentional interference with student attention, without regard to the harm inflicted on students arising from that interference. [TDSB] has pleaded that the [Corporations] knew about the adverse impact of their

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<sup>3</sup> *Toronto District School Board v Meta*, *supra* note 1 at para 36.

<sup>4</sup> *Ibid* at para 64.

designs on young children, the consequences of that impact (for example, reduced attention and withdrawal-like symptoms), and the subsequent adverse effect on education and schools.

I agree with [TDSB] that if the facts pleaded are proven, it is not plain and obvious [TDSB] will be unable to establish objective foreseeability of the harm the Corporation's products caused to [TDSB]'s efforts of providing education and keeping students safe.<sup>5</sup>

### **(c) Policy considerations**

The Corporations argued if the court found they owed a duty of care to TDSB, it would lead to “indeterminate liability” for the Corporations. This, they argued, was an overriding policy concern that should preclude the court from finding a duty of care.

The court rejected the argument, holding there was a “finite number of affected school boards” and thus no indeterminate liability. Further, the court noted:

...the Corporations [cannot] avoid liability, particularly if the evidence shows, as pleaded, that disturbing and harmful content has been systematically “pushed” into the feeds of students by the design of their algorithms. In other words, although the content of the Corporations' social media is relevant to the case at bar, it is the design features of the Corporations' apps, and their addictive and adverse impacts on students and [TDSB], that is at the heart of the case.<sup>6</sup>

### **The Superior Court's decision – Public nuisance**

A public nuisance is any activity that substantially and unreasonably interferes with the public's interest in questions of health, safety, morality, comfort, or convenience. Historically, only the Attorney General had standing to sue in public nuisance. However, a plaintiff has standing to bring a claim in public nuisance if the plaintiff can show they have suffered “special damages” over and above the rest of the community. TDSB argued it had standing because the Corporations interfered with a valuable public resource – education – and TDSB suffered “special damages” over and above the rest of the community. The court agreed.

Relying on older caselaw, the Corporations also sought to restrict the sphere of public nuisance to physical places such as roads, waterways and medical clinics, and argued that extending this to technology is a radical expansion of the law.

The court disagreed with the Corporations, stating “it is not a stretch of the legal imagination to include a child's right to a safe education as the subject matter of a public nuisance claim.”<sup>7</sup> The court analogized

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<sup>5</sup> *Toronto District School Board v Meta*, *supra* note 1 at paras 68-69.

<sup>6</sup> *Ibid* at para 85.

<sup>7</sup> *Ibid* at para 109.

that if a student's attendance at school was blocked by an unlawful physical obstruction, a claim in public nuisance would be obvious.

### **Next steps**

The decision is a victory for the school boards involved in the litigation, and those watching from afar. Although there are significant hurdles still to overcome, TDSB's novel legal arguments concerning student safety and the potential dangers of social media live to fight another day.

*Alex Munoz leads our Education Law/Educational Institutions practice. He is one of Canada's leading lawyers in education law, with more than 20 years' representing all levels of school boards and departments. Prior to joining Sherrard Kuzz, Alex was the Associate General Counsel to the largest public school board in Canada, and one of the largest in North America. Alex can be reached at 416.603.6783 (direct), 416.420.0738 (24 Hour) or by visiting [www.sherrardkuzz.com](http://www.sherrardkuzz.com).*

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