IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

SIRDONIA LASHAY MANIGAULT-JOHNSON, AND HER CHILD R.R., on behalf of themselves and others similarly situated, Plaintiffs, v. GOOGLE, LLC, a Delaware Limited Liability Company; ALPHABET, INC., a Delaware Corporation; YOUTUBE, LLC, a Limited Liability Company, Defendants.	Civil Action No. 2:18-cv-1032-BHH **DEFENDANT ALPHABET, INC.'S MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM**

INTRODUCTION

Defendant Alphabet, Inc. moves to dismiss the Complaint under Fed. R. Civ. P. 12(b)(6) for failure to state a claim. Plaintiffs have filed this putative class action against three different companies: YouTube, LLC, which is a wholly owned subsidiary of XXVI Holdings Inc.; Google, LLC, which also is a wholly owned subsidiary of XXVI Holdings Inc.; and Alphabet, Inc., which is the parent company of XXVI Holdings Inc. But their allegations only address the conduct of two of those three entities: YouTube and Google. It is a bedrock principle of corporate law that, absent extraordinary circumstances not alleged here, a parent company cannot be held liable for the conduct of its separate subsidiaries. Because Plaintiffs have made no allegations that Alphabet engaged in any independent wrongdoing, it should be dismissed from this lawsuit.[1]

ARGUMENT

"Dismissal under Rule 12(b)(6) is appropriate" when "the complaint lacks a cognizable legal theory or sufficient facts to support a cognizable legal theory." *Bostic v. Bostic*, No. 6:14-2130-BHH, 2015 WL 5178163, at *1 (D.S.C. Sept. 3, 2015) (quoting *Hartmann v. California Dep't of Corr. & Rehab.*, 707 F.3d 1114, 1122 (9th Cir. 2013)). Plaintiffs' Class Action Complaint ("Complaint" or "CAC") articulates no cognizable theory against Alphabet.

"It is a general principle of corporate law deeply ingrained in our economic and legal systems that a parent corporation . . . is not liable for the acts of its subsidiaries." *United States v. Bestfoods*, 524 U.S. 51, 61 (1998) (internal quotation marks omitted); *accord In re Sunstates Corp. S'holder Litig.*, 788 A.2d 530, 534 (Del. Ch. 2001) ("For the purposes of the corporation law, the act of one corporation is not regarded as the act of another merely because

[1] Alphabet has also joined the motion to dismiss contemporaneously filed by all Defendants.

the first corporation is a subsidiary of the other, or because the two may be treated as part of a single economic enterprise for some other purpose."). The Fourth Circuit has recognized that "[d]eviating from this rule would destabilize the business and investment climate." *Broussard v. Meineke Disc. Muffler Shops, Inc.*, 155 F.3d 331, 350 (4th Cir. 1998). For that reason, a "corporate entity is liable for the acts of a separate, related entity only under extraordinary circumstances" when "the corporate form [is] being used for wrongful purposes." *Vitol, S.A. v. Primerose Shipping Co.*, 708 F.3d 527, 543-544 (4th Cir. 2013) (internal quotation marks omitted).

The Complaint contains one and only one factual allegation regarding Alphabet: that it is Google's parent company. CAC ¶¶ 6, 22. Plaintiffs therefore do not—and cannot—assert that Alphabet is responsible for the other conduct alleged in the Complaint, much less show any "extraordinary circumstances" that would justify disregarding Alphabet's separate corporate existence. *See Vitol*, 708 F.3d at 543-544. Another federal district court recently dismissed Alphabet from a suit against the same three defendants under very similar circumstances. In *Lancaster v. Alphabet Inc.*, the plaintiff alleged that YouTube's procedures for complying with certain copyright laws were inadequate. No. 15-cv-05299-HSG, 2016 WL 3648608 (N.D. Cal. July 8, 2016). There, as here, there the plaintiff did "not make any specific allegations against Alphabet, Inc., and provide[d] no reason for the Court to depart from the 'deeply ingrained' principle that a parent company is not liable for the wrongs of its subsidiaries." *Id.* at *7. Accordingly, the court dismissed Alphabet from the action. *Id.* Faced with the same situation, this Court should reach the same result.

For the foregoing reasons, Alphabet respectfully requests that the Court enter an Order granting this Motion and dismissing Alphabet from the case.

Dated: June 4, 2018

Respectfully submitted,

By: */s/Lucile H. Cohen*

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