

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

STATE OF SOUTH DAKOTA,)	3:16-CV-03019-RAL
)	
Plaintiff,)	
)	
v.)	REPLY BRIEF IN SUPPORT OF
)	DEFENDANTS’ MOTION
WAYFAIR INC.)	FOR SUMMARY JUDGMENT
OVERSTOCK.COM, INC.)	
NEWEGG INC.)	
)	
Defendants.)	
)	

Defendants Wayfair Inc., Overstock.com, Inc., and Newegg Inc., submit this reply brief in support of their motion for summary judgment (Doc. 25) on the Complaint for declaratory relief filed by the Plaintiff, the State of South Dakota (“the State”).

The State’s candid Response to Defendants’ Motion for Summary Judgment (“Response”) (Doc. 27) clearly establishes the following: while the parties may vigorously contest the policy considerations and implications of the physical presence standard of “substantial nexus” under the Commerce Clause, as reaffirmed by the Supreme Court in *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), and of the State’s unprecedented, alternative “economic nexus” standards under S.B. 106, the State agrees with Defendants that there are no disputed material facts and that the Defendants are entitled to judgment as a matter of law based on *Quill*. See Fed. R. Civ. P. 56(a); Response at 1-2; Plaintiff’s Response to Defendants’ Statement of Material Facts (Doc. 28).

The Court's remaining task is, therefore, straightforward. The Defendants respectfully request that the Court enter an order granting the Defendants' motion for summary judgment and dismissing the State's Complaint, with prejudice.

Dated this 26th day of August, 2016.

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CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Defendants, hereby certifies that on August 26, 2016, the foregoing Reply Brief in Support of Defendants' Motion for Summary Judgment was electronically filed with the Clerk of Court using the ECF system which will send notification of such filing to the following:

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