IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

ANGELA BESSEY as Guardian and Next Friend and on Behalf of Nicholas Bessey, an Incapacitated Person,	)	**CI26-441**
Petitioner,	)	**ORDER OVERRULING PARTIAL MOTION TO DISMISS**
v.	)	
STEVE CORSI, Chief Executive Officer of the Nebraska Department of Health and Human Services, Tony Green, Director of the Division of Developmental Disabilities of the Nebraska Department of Health and Human Services, and THE NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES,	)	
Respondents.	)	

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CLERK OF THE DISTRICT COURT

This matter is before the Court on the Respondents' Motion for Partial Dismissal, filing #4. On August 21, 2026, counsel appeared for each party. Exhibit 1 was received under seal. Arguments were heard. Having considered the arguments of counsel and written briefs submitted to the court, Respondents' Motion for Partial Dismissal is overruled.

Respondents move to dismiss Petitioner's first, third, fourth, fifth, sixth, and seventh claims for relief for failure to state a claim upon which relief may be granted pursuant to Neb. Ct. R. § 6-1112(b)(6). Courts review such motions under the following standard:

> To prevail against a motion to dismiss for failure to state a claim, a plaintiff must allege sufficient facts, accepted as true, to state a claim to relief that is plausible on its face. A motion to dismiss should be granted only in the unusual case in which a plaintiff includes allegations that show on the face of the complaint that there is some insuperable bar to relief.
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> *Ramaekers v. Creighton Univ.*, 320 Neb. 478, 487 (2025).

Also, even if a plaintiff does not allege facts showing a necessary element, the allegations are still plausible if "they suggest the existence of the element and raise a reasonable expectation that discovery will reveal evidence of the element or claim." *Larsen v. Sarpy Cnty. Sch. Dist. No. 77-0027*, 319 Neb. 823, 843 (2025).

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After reviewing the First Amended Petition, the parties' briefs and considering their arguments, the Court concludes that this is not "the unusual case in which a plaintiff includes allegations that show on the face of the complaint that there is some insuperable bar to relief." Respondents' partial motion to dismiss is therefore overruled. The stay granted on August 21, 2026, as to the unchallenged claims for relief is lifted.

SO ORDERED.

DATED this 29 day of October, 2026.

BY THE COURT:

Darla S. Ideus
District Court Judge