the validity and implementation of ordinance 1142 may be a moot point.

V. CONCLUSION

For the reasons discussed, we conclude that the district court did not err in upholding the validity of both ordinance 1107 and ordinance 1142 adopted by La Vista for the annexation of SID 59. We therefore affirm the judgments of the district court.

AFFIRMED.

MILLER-LERMAN, J., participating on briefs.

VKGS, LLC, DOING BUSINESS AS VIDEO KING, A DELAWARE LIMITED LIABILITY COMPANY, APPELLANT, V. PLANET BINGO, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, AND MELANGE COMPUTER SERVICES, INC., A MICHIGAN CORPORATION, APPELLEES.

___ N.W.2d ___

Filed March 29, 2013. No. S-12-340.

1. **Judgments: Jurisdiction.** When a jurisdictional question does not involve a factual dispute, the issue is a matter of law.
2. **Judgments: Appeal and Error.** An appellate court reviews questions of law independently of the lower court's conclusion.
3. **Jurisdiction: Rules of the Supreme Court: Pleadings: Appeal and Error.** When reviewing an order dismissing a party from a case for lack of personal jurisdiction under Neb. Ct. R. Pldg. § 6-1112(b)(2), an appellate court examines the question of whether the nonmoving party has established a prima facie case of personal jurisdiction de novo.
4. **Judgments: Jurisdiction: Appeal and Error.** An appellate court reviews a lower court's determination regarding personal jurisdiction based on written submissions in the light most favorable to the nonmoving party.
5. **Pleadings: Affidavits: Appeal and Error.** If the lower court does not hold a hearing and instead relies on the pleadings and affidavits, then an appellate court must look at the facts in the light most favorable to the nonmoving party and resolve all factual conflicts in favor of that party.
6. **Jurisdiction: Words and Phrases.** Personal jurisdiction is the power of a tribunal to subject and bind a particular entity to its decisions.
7. **Due Process: Jurisdiction: States.** Before a court can exercise personal jurisdiction over a nonresident defendant, the court must determine, first, whether

the long-arm statute is satisfied and, if the long-arm statute is satisfied, second, whether minimum contacts exist between the defendant and the forum state for personal jurisdiction over the defendant without offending due process.

8. **Constitutional Law: Jurisdiction: States.** Nebraska's long-arm statute, Neb. Rev. Stat. § 25-536 (Reissue 2008), provides that a court may exercise personal jurisdiction over a person who has any other contact with or maintains any other relation to this state to afford a basis for the exercise of personal jurisdiction consistent with the Constitution of the United States.
9. **Jurisdiction: States: Legislature: Intent.** It was the intention of the Legislature to provide for the broadest allowable jurisdiction over nonresidents under Nebraska's long-arm statute.
10. **Constitutional Law: Jurisdiction: States.** Nebraska's long-arm statute extends Nebraska's jurisdiction over nonresidents having any contact with or maintaining any relation to this state as far as the U.S. Constitution permits.
11. **Due Process: Jurisdiction: States.** When a state construes its long-arm statute to confer jurisdiction to the fullest extent permitted by the Due Process Clause, the inquiry collapses into the single question of whether exercise of personal jurisdiction comports with due process.
12. ____: ____: ____. To subject an out-of-state defendant to personal jurisdiction in a forum court, due process requires that the defendant have minimum contacts with the forum state so as not to offend traditional notions of fair play and substantial justice.
13. ____: ____: ____. The benchmark for determining whether the exercise of personal jurisdiction satisfies due process is whether the defendant's minimum contacts with the forum state are such that the defendant should reasonably anticipate being haled into court there.
14. **Jurisdiction: States.** Whether a forum state court has personal jurisdiction over a nonresident defendant depends on whether the defendant's actions created substantial connections with the forum state, resulting in the defendant's purposeful availment of the forum state's benefits and protections.
15. **Due Process: Jurisdiction: States: Appeal and Error.** In analyzing personal jurisdiction, an appellate court considers the quality and type of the defendant's activities in deciding whether the defendant has the necessary minimum contacts with the forum state to satisfy due process.
16. **Jurisdiction: States.** In the exercise of general personal jurisdiction, the plaintiff's claim does not have to arise directly out of the defendant's contacts with the forum state if the defendant has engaged in continuous and systematic general business contacts with the forum state.
17. ____: ____. If a defendant's contacts are neither substantial nor continuous and systematic and instead the cause of action arises out of or is related to the defendant's contacts with the forum state, a court may assert specific jurisdiction over the defendant, depending upon the nature and quality of such contact.
18. ____: ____. If the district court finds the necessary minimum contacts to support the exercise of personal jurisdiction, the court must then weigh the facts of the case to determine whether the exercise of personal jurisdiction would comport with fair play and substantial justice.

19. ____: ____. In determining whether the exercise of personal jurisdiction would comport with fair play and substantial justice, an appellate court may consider the burden on the defendant, the interest of the forum state, the plaintiff's interest in obtaining relief, the judicial system's interest in obtaining the most efficient resolution of controversies, and the shared interest of the several states in furthering fundamental substantive social policies.
20. ____: ____. Where a defendant, who purposefully has directed its activities at forum residents, seeks to defeat jurisdiction, that defendant must present a compelling case that the presence of some other considerations would render jurisdiction unreasonable.
21. ____: ____. A state generally has a manifest interest in providing its residents with a convenient forum for redressing injuries inflicted by out-of-state actors.

Appeal from the District Court for Douglas County: DUANE C. DOUGHERTY, Judge. Reversed and remanded for further proceedings.

Paul J. Gardner and Kevin J. McCoy, of Smith, Gardner, Slusky, Lazer, Pohren & Rogers, L.L.P., for appellant.

Patrick R. Guinan, of Erickson & Sederstrom, P.C., L.L.O., for appellees.

HEAVICAN, C.J., WRIGHT, CONNOLLY, STEPHAN, MCCORMACK, and CASSEL, JJ.

HEAVICAN, C.J.

INTRODUCTION

VKGS, LLC, doing business as Video King, filed suit against Planet Bingo, LLC, and Melange Computer Services, Inc. (Melange), in the Douglas County District Court. Planet Bingo and Melange filed a motion to dismiss for lack of personal jurisdiction, which motion was granted. Video King now appeals.

FACTS

Video King was founded in 1992 by Stuart Entertainment, a gaming conglomerate, to develop, manufacture, and distribute electronic bingo equipment. In 2005, Video King was conveyed to VKGS, LLC, in a spinoff transaction, but continued to do business under the name "Video King." Video King's principal place of business is located in Omaha, Nebraska.

Since 2000, Video King and Melange have had a business relationship. Melange is a Michigan corporation formed in 1989 and has a principal place of business in Lansing, Michigan. Melange was the developer of a software program known as EPIC. On September 1, 2005, Video King and Melange entered into an agreement regarding the use of EPIC on Video King's electronic bingo equipment. Subsequent amendments to this agreement were entered into in 2007, 2008, 2009, 2011, and 2012. Per this continuing agreement, Video King and Melange conducted day-to-day business together, including communication via telephone, e-mail, reports, face-to-face meetings, and conferences.

In 2006, Melange was acquired by Planet Bingo and became a wholly owned subsidiary of Planet Bingo (hereinafter, Melange and Planet Bingo will be collectively referred to as "Planet Bingo").

At a time not specified by the record, Video King began developing its own software for electronic bingo equipment, called OMNI. Concerned that Video King improperly used Melange's confidential information to design bingo software, Planet Bingo filed suit against Video King in the U.S. District Court for the Western District of Michigan in May 2011. Planet Bingo alleged breach of contract, unfair competition, and unjust enrichment.

On October 5, 2011, a hearing was held on a motion filed by Planet Bingo for expedited discovery. At that hearing, the magistrate judge questioned whether there was federal diversity jurisdiction and ordered the parties to show cause why the case should or should not be dismissed for lack of diversity jurisdiction. On December 21, the case was dismissed on those grounds.

However, on December 13, 2011, prior to dismissal in federal court, Video King filed an action for declaratory judgment against Planet Bingo in the Douglas County District Court. That action sought a declaration of the rights, status, and other legal obligations of the parties with respect to confidentiality agreements between the parties. Additionally, on December 20, Planet Bingo refiled its action in the Michigan state court system. The complaint noted the dismissal of the

federal case as well as the pending Nebraska action filed by Video King.

On January 13, 2012, in the district court for Douglas County, Planet Bingo filed a motion to dismiss for lack of personal jurisdiction. That motion was granted, and the action was dismissed. In dismissing the action, the district court noted that both Planet Bingo and Melange were foreign corporations with no agent for service of process in Nebraska, that neither was registered to do business in Nebraska or required to pay taxes in Nebraska, that neither maintained any bank or financial accounts or owned any real estate in Nebraska, and that neither shipped any physical product or services to Nebraska. The district court also found that the cause of action was based upon the OMNI system, which the court found was unrelated to the earlier contacts between Planet Bingo and Video King. Video King appeals.

ASSIGNMENT OF ERROR

Video King assigns as error the district court's finding that it lacked personal jurisdiction over Planet Bingo.

STANDARD OF REVIEW

[1-3] When a jurisdictional question does not involve a factual dispute, the issue is a matter of law. An appellate court reviews questions of law independently of the lower court's conclusion.[1] When reviewing an order dismissing a party from a case for lack of personal jurisdiction under Neb. Ct. R. Pldg. § 6-1112(b)(2), an appellate court examines the question of whether the nonmoving party has established a prima facie case of personal jurisdiction de novo.[2]

[4,5] An appellate court reviews a lower court's determination regarding personal jurisdiction based on written submissions in the light most favorable to the nonmoving party.[3] If the lower court does not hold a hearing and instead relies on the pleadings and affidavits, then an appellate court must look

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[1] *S.L. v. Steven L.*, 274 Neb. 646, 742 N.W.2d 734 (2007).

[2] *Id.*

[3] *Id.*

at the facts in the light most favorable to the nonmoving party and resolve all factual conflicts in favor of that party.[4]

ANALYSIS

Video King argues that the district court erred in finding that the State of Nebraska lacked personal jurisdiction over Planet Bingo. It argues that Planet Bingo had sufficient minimum contacts with Nebraska to establish personal jurisdiction.

[6,7] Personal jurisdiction is the power of a tribunal to subject and bind a particular entity to its decisions.[5] Before a Nebraska court can exercise personal jurisdiction over a nonresident defendant, the court must determine, first, whether our long-arm statute is satisfied and, if our long-arm statute is satisfied, second, whether minimum contacts exist between the defendant and Nebraska for personal jurisdiction over the defendant without offending due process.[6]

Long-Arm Statute.

[8-11] Nebraska's long-arm statute provides: "A court may exercise personal jurisdiction over a person . . . [w]ho has any other contact with or maintains any other relation to this state to afford a basis for the exercise of personal jurisdiction consistent with the Constitution of the United States."[7] It was the intention of the Legislature to provide for the broadest allowable jurisdiction over nonresidents under Nebraska's long-arm statute.[8] Nebraska's long-arm statute, therefore, extends Nebraska's jurisdiction over nonresidents having any contact with or maintaining any relation to this state as far as the U.S. Constitution permits.[9] "[W]hen a state construes its long-arm

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[4] *Id.*

[5] *Id.*; *In re Petition of SID No. 1*, 270 Neb. 856, 708 N.W.2d 809 (2006); *Diversified Telecom Servs. v. Clevinger*, 268 Neb. 388, 683 N.W.2d 338 (2004).

[6] *Brunkhardt v. Mountain West Farm Bureau Mut. Ins.*, 269 Neb. 222, 691 N.W.2d 147 (2005).

[7] Neb. Rev. Stat. § 25-536 (Reissue 2008).

[8] *Quality Pork Internat. v. Rupari Food Servs.*, 267 Neb. 474, 675 N.W.2d 642 (2004).

[9] *Erickson v. U-Haul Internat.*, 274 Neb. 236, 738 N.W.2d 453 (2007).

statute to confer jurisdiction to the fullest extent permitted by the due process clause, . . . the inquiry collapses into the single question of whether exercise of personal jurisdiction comports with due process."[10] Therefore, the issue is whether Planet Bingo had sufficient contacts with Nebraska so that the exercise of personal jurisdiction would not offend federal principles of due process.

Minimum Contacts.

[12-14] Therefore, we consider the kind and quality of Planet Bingo's activities to decide whether it has the necessary minimum contacts with Nebraska to satisfy due process. To subject an out-of-state defendant to personal jurisdiction in a forum court, due process requires that the defendant have minimum contacts with the forum state so as not to offend traditional notions of fair play and substantial justice.[11] The benchmark for determining whether the exercise of personal jurisdiction satisfies due process is whether the defendant's minimum contacts with the forum state are such that the defendant should reasonably anticipate being haled into court there.[12] Whether a forum state court has personal jurisdiction over a nonresident defendant depends on whether the defendant's actions created substantial connections with the forum state, resulting in the defendant's purposeful availment of the forum state's benefits and protections.[13]

[15,16] In analyzing personal jurisdiction, we consider the quality and type of the defendant's activities in deciding whether the defendant has the necessary minimum contacts with the forum state to satisfy due process.[14] A court exercises two types of personal jurisdiction depending upon the facts and circumstances of the case: general personal jurisdiction or specific personal jurisdiction. In the exercise of general personal jurisdiction, the plaintiff's claim does not have to arise

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[10] *Bell Paper Box, Inc. v. U.S. Kids, Inc.*, 22 F.3d 816, 818 (8th Cir. 1994).

[11] See *S.L. v. Steven L., supra* note 1.

[12] *Id.*

[13] See *id.*

[14] *Id.*

directly out of the defendant's contacts with the forum state if the defendant has engaged in "'"'continuous and systematic general business contacts'"'" with the forum state.[15]

[17] But if the defendant's contacts are neither substantial nor continuous and systematic, as Video King essentially concedes is the case here, and instead the cause of action arises out of or is related to the defendant's contacts with the forum state, a court may assert specific jurisdiction over the defendant, depending upon the nature and quality of such contact.[16]

This court was faced with a similar set of facts in *Crete Carrier Corp. v. Red Food Stores*.[17] Crete Carrier Corporation (Crete Carrier), a Nebraska corporation with its principal place of business in Nebraska, entered into a transportation contract with Red Food Stores, Inc. Red Food Stores did not own property in Nebraska, did not have any business locations in Nebraska, and had never paid taxes in Nebraska, and had never authorized an agent to accept service of process in Nebraska. The record further established that the contract between the parties was not negotiated in Nebraska and that no representative was ever sent to Nebraska to negotiate or otherwise deal with Crete Carrier.

This court noted that "[w]hen dealing with contracts, it is the prior negotiations and contemplated future consequences, along with the terms of the contract and the parties' actual course of dealing, that must be evaluated in determining whether a defendant purposefully established minimum contacts within the forum."[18] Thus, while the existence of a contract with a party in the forum state alone would not support the necessary contacts for a finding of specific personal jurisdiction, and the mere use of interstate facilities, such as telephone, mail, or fax machines would be insufficient to confer jurisdiction,[19]

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[15] *Id.* at 652, 742 N.W.2d at 741.

[16] *Quality Pork Internat. v. Rupari Food Servs., supra* note 8.

[17] *Crete Carrier Corp. v. Red Food Stores*, 254 Neb. 323, 576 N.W.2d 760 (1998).

[18] *Id.* at 330, 576 N.W.2d at 765-66.

[19] *Crete Carrier Corp. v. Red Food Stores, supra* note 17.

either could "count toward the minimum contacts that support jurisdiction,"[20] regardless of the absence of a party from the forum state.

We then concluded Nebraska did have personal jurisdiction over Red Food Stores, stating:

> The instant case does not present an issue where jurisdiction is sought on the basis of a single contract or a few contacts. Rather, Red Food Stores and BI-LO, both corporations, engaged in an ongoing contractual and business relationship with Crete Carrier, another corporation, over a period of years. As part of this relationship, Red Food Stores continually made contact with citizens of Nebraska in order to carry out its business with Crete Carrier. Considering the quality and nature of such contacts, these activities are far from being contacts based on the unilateral activities of someone other than Red Food Stores; neither are they random, fortuitous, or attenuated. Rather, Red Food Stores and BI-LO actively created continuing relationships and obligations with Nebraska citizens. Furthermore, Crete Carrier's cause of action arises directly out of those contacts.[21]

In reaching its decision, this court did not specify whether it was finding general or specific personal jurisdiction.

Another relevant case is *Castle Rose v. Philadelphia Bar & Grill*.[22] In that case, the predecessor of Castle Rose, Inc., was engaged in the development of food service operations and franchised various food service enterprises. Castle Rose's primary place of business was in Nebraska. Castle Rose was informed that Paul Kogel was interested in opening a franchise in Arizona. A Castle Rose representative visited Kogel in Arizona on several occasions. Kogel and an associate visited Nebraska on at least two occasions but did not meet with anyone from Castle Rose on those visits. Kogel also sent financial information to Nebraska.

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[20] *Id*. at 330, 576 N.W.2d at 765.

[21] *Id*. at 331-32, 576 N.W.2d at 766.

[22] *Castle Rose v. Philadelphia Bar & Grill*, 254 Neb. 299, 576 N.W.2d 192 (1998).

Eventually Castle Rose and Kogel entered into a franchise agreement. Castle Rose later sued Kogel and his corporation for breach of contract. We concluded that "[b]y entering into the franchise agreement, the Arizona corporation deliberately 'reached out' beyond Arizona and created a long-term relationship with and voluntarily assumed obligations with Castle Rose under a contract which has a substantial connection to Nebraska."[23] We also noted that the facts were very similar to those of the U.S. Supreme Court's decision in *Burger King Corp. v. Rudzewicz*,[24] making the result one of "little doubt."[25] Again, we did not explain whether the personal jurisdiction conferred was general or specific.

We did, however, address whether the district court had general or specific personal jurisdiction in *Quality Pork Internat. v. Rupari Food Servs*.[26] In that case, Quality Pork International (Quality Pork), a Nebraska resident, entered into an agreement (arranged by a broker) with Rupari Food Services, Inc. (Rupari), for Quality Pork to ship products to Star Food Processing, Inc. (Star). Quality Pork had previously done business with Star, but Star had failed to pay and Quality Pork discontinued the relationship. It was only Rupari's promise to pay that induced Quality Pork to recommence shipments to Star. But Rupari eventually also failed to pay, and Quality Pork sued in Nebraska.

We acknowledged that Rupari had no physical presence in Nebraska, but that our courts nevertheless had specific personal jurisdiction, because Rupari induced Quality Pork to send products to Star and Quality Pork's claim for nonpayment arose out of those contacts. We held that by purposefully conducting business with Quality Pork, Rupari could reasonably anticipate that it might be sued in Nebraska if it failed to pay for products ordered from Quality Pork.

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[23] *Id*. at 306, 576 N.W.2d at 197.

[24] *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 105 S. Ct. 2174, 85 L. Ed. 2d 528 (1985).

[25] *Castle Rose v. Philadelphia Bar & Grill, supra* note 22, 254 Neb. at 306, 576 N.W.2d at 197.

[26] *Quality Pork Internat. v. Rupari Food Servs., supra* note 8.

In *Brunkhardt v. Mountain West Farm Bureau Mut. Ins.*,[27] we concluded that Nebraska did not have specific personal jurisdiction over an insurance company that insured a Wyoming resident injured in an accident in Nebraska. The insurance company was not authorized or licensed to sell insurance in Nebraska and had never sold insurance in Nebraska; did not have property, employees, bank accounts, offices, telephone listings, or an agent for service of process in Nebraska; had never advertised or solicited business in Nebraska; and did not derive income from Nebraska. The plaintiff worked in Nebraska, and her insurance agent was aware of that fact. But we concluded that any contacts the insurance company had with Nebraska were due to the unilateral actions of another and were insufficient to confer personal jurisdiction over the company in Nebraska.

Here, it is undisputed that Planet Bingo is not a Nebraska corporation, does not have a principal place of business in Nebraska, and does not have a Nebraska agent for service of process. It is also undisputed that no representative from Planet Bingo or Melange ever entered Nebraska for the purpose of negotiating the original 2005 agreement or any of its five amendments.

However, there are substantial Nebraska connections. Planet Bingo and Video King have had an ongoing business relationship since 2000 that involves seven separate contracts, amendments, and/or addendums, including one signed by the parties during the pendency of this litigation. Planet Bingo was, of course, aware that Video King was located in Nebraska and that many of its representatives contacted Video King in Nebraska in order to conduct such business. From the record, it appears that this contact consisted of day-to-day business beginning in about 2000, the negotiation of the 2005 agreement and its amendments, and the failed attempt by Video King in 2006 to acquire Melange. In fact, the affidavits indicate that these contacts involved monthly communication via telephone, e-mail, reports, face-to-face meetings, and conferences. By entering into these agreements, Planet Bingo

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[27] *Brunkhardt v. Mountain West Farm Bureau Mut. Ins., supra* note 6.

has deliberately reached out beyond Michigan and created a long-term relationship. By doing so, it has voluntarily assumed obligations with Video King under a contract which has a substantial connection to Nebraska. The U.S. Supreme Court has held that "[j]urisdiction in these circumstances may not be avoided merely because the defendant did not *physically* enter the forum State."[28]

Additionally, there is evidence suggesting that Planet Bingo did have a physical presence in the State of Nebraska. The record shows that Planet Bingo's head of sales is an Omaha resident. Planet Bingo contends that he lives in, but does not do business out of, Nebraska. Rather, Planet Bingo contends that in his position, he is constantly traveling. However, the record also contains an affidavit from the president of a Nebraska distributor of bingo equipment, who avers that Planet Bingo's head of sales solicited business in Nebraska. He also avers that the president of Planet Bingo, as well as the head of sales, continued to solicit his Nebraska distributing business via e-mail and telephone.

Therefore, the district court erred in finding that Planet Bingo did not have sufficient minimum contacts with the State of Nebraska. The record establishes that Planet Bingo knowingly and deliberately created continuing relationships and obligations with Video King, a company that does business out of Nebraska. Based on these contacts, Planet Bingo should have reasonably anticipated being haled into a Nebraska court.

Fair Play and Substantial Justice.

[18-20] Having concluded that Planet Bingo had the necessary minimum contacts to support the exercise of personal jurisdiction in Nebraska over Planet Bingo, we must next weigh the facts of the case to determine whether the exercise of personal jurisdiction would comport with "'"fair play and substantial justice."'"[29] In doing so, we may consider the burden

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[28] *Burger King Corp. v. Rudzewicz*, *supra* note 24, 471 U.S. at 476 (emphasis in original).

[29] *Crete Carrier Corp. v. Red Food Stores, supra* note 17, 254 Neb. at 332, 576 N.W.2d at 767.

on the defendant, the interest of the forum state, the plaintiff's interest in obtaining relief, the judicial system's interest in obtaining the most efficient resolution of controversies, and the shared interest of the several states in furthering fundamental substantive social policies.[30] These "'other considerations'" sometimes serve to establish the reasonableness of jurisdiction upon a lesser showing of minimum contacts than would otherwise be required.[31] In addition, where, as here, a defendant, who purposefully has directed its activities at forum residents, seeks to defeat jurisdiction, that defendant must present a compelling case that the presence of some other considerations would render jurisdiction unreasonable.[32]

With the increasing nationalization of commerce and the ease of modern communication, defense of an action is less burdensome in a state where one engages in economic activity.[33] We recognized as early as 1987 a discernible trend toward expanding the permissible scope of state jurisdiction over foreign corporations and other nonresidents.[34]

Planet Bingo has failed to present a compelling case that jurisdiction here would be unreasonable. The record is largely devoid of any evidence or specific argument by Planet Bingo of the burden imposed upon it if it would have to litigate this action in Nebraska, though it generally argues in its brief that it would be a burden. This is insufficient to meet its heavy burden of demonstrating an absence of fairness and a lack of substantial justice.[35]

[21] Furthermore, as was noted by the U.S. Supreme Court in *Burger King Corp. v. Rudzewicz*[36] and by this court in *S.L. v. Steven L.*,[37] Nebraska has a significant interest in adjudicating

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[30] *Id.*

[31] *Id.*

[32] *Id.*

[33] *Kugler Co. v. Growth Products Ltd.*, 265 Neb. 505, 658 N.W.2d 40 (2003).

[34] *McGowan Grain v. Sanburg*, 225 Neb. 129, 403 N.W.2d 340 (1987).

[35] See *Crete Carrier Corp. v. Red Food Stores, supra* note 17.

[36] *Burger King Corp. v. Rudzewicz, supra* note 24.

[37] *S.L. v. Steven L., supra* note 1.

the dispute, inasmuch as a state "'generally has a "manifest interest" in providing its residents with a convenient forum for redressing injuries inflicted by out-of-state actors.'"[38] Although Michigan may also have an interest in a fair and efficient resolution of this controversy, its interest does not outweigh that of Nebraska.

Considering all relevant factors, we conclude that Nebraska's exercise of specific personal jurisdiction over Planet Bingo in this action would not offend notions of fair play and substantial justice.

CONCLUSION

Based upon our independent review of the complaint and affidavits, viewed in a light most favorable to Video King, we conclude that the district court for Douglas County has specific personal jurisdiction over Planet Bingo and that it erred in granting Planet Bingo's motion to dismiss. Further, we find that Nebraska's exercise of specific personal jurisdiction over Planet Bingo in this action would not offend notions of fair play and substantial justice. Accordingly, we reverse, and remand for further proceedings.

REVERSED AND REMANDED FOR FURTHER PROCEEDINGS.

MILLER-LERMAN, J., participating on briefs.

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[38] *Id*. at 659, 742 N.W.2d at 745.

STATE OF NEBRASKA, APPELLEE, V.
JOE J. POLICKY, APPELLANT.

___ N.W.2d ___

Filed March 29, 2013. No. S-12-533.

1. **Judgments: Appeal and Error.** On questions of law, an appellate court has an obligation to reach independent conclusions irrespective of the decision made by the court below.
2. **Sentences: Appeal and Error.** An appellate court will not disturb a sentence imposed within the statutory limits absent an abuse of discretion by the trial court.