DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

META PLATFORMS, INC.,
and INSTAGRAM, LLC,

Petitioners,

v.

OFFICE OF THE ATTORNEY GENERAL,
DEPARTMENT OF LEGAL AFFAIRS,

Respondent.

No. 2D2025-3187

November 4, 2026

Petition for Writ of Certiorari to the Circuit Court for Pasco County; Alicia Polk, Judge.

Laura K. Whitmore of Shook, Hardy & Bacon, LLP, Tampa; William P. Geraghty of Shook, Hardy & Bacon, LLP, Miami (withdrew after briefing); and Timothy C. Hester, Mark W. Mosier, and Stephen F. Petkis of Covington & Burling, LLP, Washington, DC, for Petitioners.

James Uthmeier, Attorney General, and Karen E. Berger, Special Counsel, Assistant Attorney General, Fort Lauderdale; Donna Cecilia Valin, Special Counsel, Assistant Attorney General and Carol A. Field, Senior Assistant Attorney General, Orlando; Victoria Ann Butler, Director and Miles Walter Vaughn, Consumer Protection Division, Tampa, for Respondent.

SMITH, Judge.

Meta Platforms, Inc., and Instagram, LLC (collectively Meta), petition for a writ of certiorari quashing the trial court's denial of its motion to dismiss the Attorney General's complaint which alleged violations of Florida's Deceptive and Unfair Trade Practices Act, chapter 501, part II, Florida Statutes (2024) (FDUTPA), arguing a deprivation of both its statutory right of immunity under section 230 of the Communications Decency Act (CDA), 47 U.S.C. § 230, and its First Amendment[1] rights. Because Meta cannot establish the threshold jurisdictional showing of irreparable harm, we dismiss the petition for the reasons outlined below.

I.

The Attorney General's one-count complaint for violations under FDUTPA generally alleged:

> Defendants' Platforms cause serious harm to children, parents, and the community at large by deploying algorithms and other features designed to hijack the attention of its users, barrage them with advertisements, and relentlessly mine their interactions for monetizable data. These features are designed to maximize user engagement and are particularly harmful to people under eighteen ("Young Users").

In addition to seeking civil penalties and other relief, the complaint also sought temporary and permanent injunctions to prevent Meta from future violations of FDUTPA.

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[1] Meta argued violations of its First Amendment rights guaranteed by both the United States and the Florida Constitutions. Because "[t]he scope of the protection accorded to freedom of expression in Florida under article I, section 4 [of the Florida Constitution] is the same as is required under the First Amendment" to the United States Constitution, *Dep't of Educ. v. Lewis*, 416 So. 2d 455, 461 (Fla. 1982), we use the term "First Amendment" to describe the rights under both constitutional guarantees.

Meta moved to dismiss the complaint, arguing, pertinent here, that the action was barred by section 230 of the CDA and the First Amendment. As for section 230 of the CDA, Meta argued that it enjoyed statutory immunity from both suit and liability, which protects a publisher of "information provided by another information content provider" and shields a publisher from liability for good faith efforts to restrict access to objectionable material.[2] 47 U.S.C. § 230(c)(1). Meta also argued that the "design features" identified by the Attorney General are directly related to the third-party content they provide and were thus protected by the First Amendment. Specifically, Meta raised three points: (1) it have the right to exercise editorial discretion over the third-party content provided on its platforms; (2) they have the right to be free from government-compelled speech and cannot be forced to make certain representations or warnings to the public; and (3) its opinion and/or testimony before Congress is speech that is protected.

The Attorney General responded to the motion to dismiss, arguing that its complaint did not reach Meta's editorial control of third-party content, which it concedes is protected under the First Amendment, but instead covers Meta's own conduct—the design and use of "Addictive Features"—which the Attorney General argued is deceptive and not protected speech. Further, the Attorney General argued that Meta is not immune where the complaint seeks to bar Meta's own deceptive practices in designing features to target young users in violation of FDUTPA, allegations which are "entirely consistent" with the purpose of section 230 of the CDA.

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[2] Meta does not challenge the trial court's denial of its motion to dismiss on the other basis raised below—that the Attorney General failed to state a cause of action under FDUTPA.

In a brief order, the trial court denied Meta's motion to dismiss, finding that the complaint "sufficiently pleads the claims."

Meta now petitions for a writ of certiorari quashing the denial of its motion to dismiss, arguing that the order causes Meta irreparable harm by depriving it of its right to immunity from both suit and liability as described in section 230, as well as the right to free speech under the First Amendment. Meta also argues that the order departs from the essential requirements of the law, asserting that challenges to design features are barred by section 230 and that the First Amendment protects Meta's statements of opinion and its editorial choices regarding the display of third-party speech.

We find the jurisdictional issue of irreparable harm dispositive and do not reach the merits of the petition.

II.

We accept as true the "facts set forth in the complaint, as we must," and construe all reasonable inferences in the light most favorable to the plaintiff, the Attorney General. *Clerk of Cir. Ct. & Comptroller of Collier Cnty. v. Doe*, 292 So. 3d 1254, 1256 (Fla. 2d DCA 2020).

A party aggrieved by a denial of immunity at the motion to dismiss stage may file for interlocutory review of the nonfinal order on direct appeal pursuant to Florida Rule of Appellate Procedure 9.130(a)(3)(F), if the motion

> (i) asserts entitlement to absolute or qualified immunity in a civil rights claim arising under federal law;
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> (ii) asserts entitlement to immunity under section 768.28(9), Florida Statutes;
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> (iii) asserts entitlement to sovereign immunity;[3] or

[3] *See In re Amends. to Fla. Rule App. Proc. 9.130*, 289 So. 3d 866, 867 (Fla. 2020) (amending Florida Rule of Appellate Procedure 9.130 "to

(iv) asserts entitlement to immunity under section 776.032, Florida Statutes . . . .

As the immunity described in section 230 is not one of the enumerated immunities listed under rule 9.130(a)(3)(F), this petition proceeds under common law certiorari. "[C]ertiorari is 'an extraordinary remedy and should not be used to circumvent the interlocutory appeal rule which authorizes appeal from only a few types of non-final orders.' " *Fish & Wildlife Conservation Comm'n v. Jeffrey*, 178 So. 3d 460, 464 (Fla. 1st DCA 2015) (quoting *Martin-Johnson, Inc. v. Savage*, 509 So. 2d 1097, 1098 (Fla. 1987), *superseded by statute on other grounds*, § 768.72, Fla. Stat. (2021)).

> [F]or a district court to "determine whether the circumstances" constitute "one of the rare cases . . . in which certiorari review is appropriate," the district court must answer "yes" to these questions: Has there been: "(1) a departure from the essential requirements of the law, (2) resulting in material injury for the remainder of the case (3) that cannot be corrected on postjudgment appeal[?]."

Univ. of Fla. Bd. of Trs. v. Carmody, 372 So. 3d 246, 252 (Fla. 2023) (alteration in original) (citation omitted) (quoting *Williams v. Oken*, 62 So. 3d 1129, 1132 (Fla. 2011)). "The last two elements are jurisdictional and must be analyzed before the court may even consider the first element." *Williams*, 62 So. 3d at 1132. "In other words, before certiorari can be used to review non-final orders, the appellate court must focus on the threshold jurisdictional question: whether there is a material injury that cannot be corrected on appeal, otherwise termed as irreparable harm." *Citizens Prop. Ins. v. San Perdido Ass'n,* 104 So. 3d 344, 351 (Fla. 2012); *cf. Fla. Power & Light Co. v. Rehab. Ctr. at Hollywood Hills, LLC*, 285 So.

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expand the availability of appellate review of nonfinal orders denying sovereign immunity").

3d 335, 337-38 (Fla. 4th DCA 2019) ("When the Florida Supreme Court has amended Florida Rule of Appellate Procedure 9.130 to allow for immediate review of a nonfinal order determining that a party is not entitled to certain types of immunity from suit, it has done so only where the immunity can be determined 'as a matter of law.' " (first quoting Fla. R. App. P. 9.130(a)(3)(C)(v); then citing Fla. R. App. P. 9.130(a)(3)(C)(vii); then citing Fla. R. App. 9.130(a)(3)(C)(x); and then citing Fla. R. App. P. 9.130(a)(3)(C)(xi))). And "while Florida courts 'have recognized exceptions' to the general rule that 'certiorari review is an inappropriate means of challenging a trial court's denial of a motion to dismiss,' " Meta has not shown that this is one of them. *See Carmody*, 372 So. 3d at 248 (quoting *Univ. of Fla. Bd. of Trs. v. Carmody*, 331 So. 3d 236, 237 (Fla. 1st DCA 2021)).

The question presented, whether Meta will suffer irreparable harm, turns on whether section 230 confers an absolute immunity, protecting Meta from being involved in a lawsuit of any nature. In the context of certiorari, we review this case of first impression.

III.

Section 230 was enacted for the purposes of providing service providers with protections from civil liability for restricting objectionable online material and encouraging service providers to self-regulate the distribution of offensive material, among other purposes. *Doe v. Am. Online, Inc.*, 783 So. 2d 1010, 1014 (Fla. 2001). There are three key substantive components of section 230. First are the safe harbor provisions of subsections (c)(1) and (2):

> **(c) Protection for "Good Samaritan" blocking and screening of offensive material**
>
> **(1) Treatment of publisher or speaker**

> No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.
>
> **(2) Civil liability**
>
> No provider or user of an interactive computer service shall be held liable on account of--
>
> **(A)** any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or
>
> **(B)** any action taken to enable or make available to information content providers or others the technical means to restrict access to material described in [sub]paragraph [A].

Second, section 230 sets forth "[o]bligations of interactive computer service" and requires providers of interactive computer service to notify customers of available parental control protections. 47 U.S.C. § 230(d). Third, the statute provides for its preemptive[4] "[e]ffect on other laws," including

> **(3) State law**
>
> Nothing in this section shall be construed to prevent any State from enforcing any State law that is consistent with this section. No cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section.

47 U.S.C. § 230(e)(3).

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[4] *Doe*, 783 So. 2d at 1018 (referring to section 230 as a "preemptive law"); *Gen. Steel Domestic Sales, L.L.C. v. Chumley*, 840 F.3d 1178, 1182 (10th Cir. 2016) (stating that "47 U.S.C. § 230(e)(3) is merely a preemption provision"); *Kathleen R. v. City of Livermore*, 87 Cal. App. 4th 684, 696 (Cal. Ct. App. 2001) (same); *see also Jordan v. AVCO Fin. Servs. of Ga., Inc.*, 117 F.3d 1254, 1257-58 (11th Cir. 1997) (stating that a federal law which only clarified the boundaries of state and federal jurisdiction did not create an immunity from suit).

Meta meets the "interactive computer service" provider definition under the statute. *See* 47 U.S.C. § 230(f)(2).

Significantly, the safe harbor provisions of subsections (c)(1) and (2) speak purely to immunity from "[c]ivil liability." *See also Simmons v. State*, 886 So. 2d 399, 407 (Fla. 5th DCA 2004) (stating that section 230 of the CDA "restricts civil liability against providers or users of interactive computer services"). The preemptive language in subsection (e)(3) clearly permits the enforcement of actions that are consistent with section 230, while at the same time disallowing actions under state or local law that are inconsistent with section 230. *See Doe*, 783 So. 2d at 1016 (stating that if "the development of technologies, procedures and techniques by which objectionable material could be blocked or deleted either by the interactive computer service provider itself or by the families and schools receiving information via the Internet . . . is frustrated by the imposition of distributor liability on Internet providers, then preemption is warranted" (quoting *Zeran v. Am. Online, Inc.*, 958 F. Supp. 1124, 1134-35 (E.D. Va. 1997))).

IV.

Meta first equates the immunity conferred by section 230 to the absolute immunity afforded to public officials and the like, arguing under *Mills v. Kinnan*, 411 So. 3d 501, 507 (Fla. 2d DCA 2025), that they will suffer irreparable harm as a result of "being forced to defend the suit[, which] is itself a material injury."

To be sure, Florida courts have exercised certiorari jurisdiction in cases falling under the umbrella of absolute immunity by virtue of common law where a party is protected from being involved in a lawsuit of any nature and the irreparable harm is the evisceration of the immunity itself by requiring the party to litigate. *Gay v. Jupiter Island*

Compound, LLC, 358 So. 3d 780, 787 (Fla. 4th DCA 2023) ("[Common law absolute immunity is] based chiefly upon a recognition of the necessity that certain persons, because of their special position or status, should be as free as possible from fear that their actions in that position might have an adverse effect upon their own personal interests." (alteration in original) (quoting *Fridovich v. Fridovich*, 598 So. 2d 65, 68 (Fla. 1992))). Overwhelmingly, those cases involve qualified immunity and appear in the realm of public officials, judicial and quasi-judicial offices, and tribal sovereign immunity. *See, e.g.*, *Tucker v. Resha*, 648 So. 2d 1187, 1189 (Fla. 1994) ("[T]he qualified immunity of public officials involves '*immunity from suit* rather than a mere defense to liability' " and as such "is effectively lost if a case is erroneously permitted to go to trial." (quoting *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985))); *Seminole Tribe of Fla. v. McCor*, 903 So. 2d 353, 357 (Fla. 2d DCA 2005) ("Certiorari jurisdiction exists in [the tribal sovereign immunity] context because the inappropriate exercise of jurisdiction by a trial court over a sovereignly-immune tribe is an injury for which there is no adequate remedy on appeal."); *Stephens v. Geohegan*, 702 So. 2d 517, 526-27 (Fla. 2d DCA 1997) (stating that police officers enjoyed absolute immunity from suit against them in their official capacities); *Cent. Fla. Psych. Consults., Inc. v. Comas*, 434 So. 3d 795, 802 (Fla. 5th DCA 2026) (holding that the litigation privilege protected a psychologist with absolute immunity); *Harris v. Dazzo*, 419 So. 3d 175, 179 (Fla. 3d DCA 2025) (reaffirming that certiorari remains available for absolute immunity claims against arbitrators, similar to judges); *Fla. State Univ. Bd. of Trs. v. Monk*, 68 So. 3d 316, 319 (Fla. 1st DCA 2011) (holding that an executive branch entity enjoys absolute immunity); *Fuller v. Truncale*, 50 So. 3d 25, 27-28 (Fla.

1st DCA 2010) (holding that certiorari review was available to quash the denial of a motion to dismiss based on judicial immunity).

Meta's immunity claim under section 230 can hardly be reconciled with these common law absolute and qualified immunity cases where Meta is a private company and holds no special status or position. In fact, Meta sits in no better position than a governmental entity claiming limited statutory sovereign immunity, which the supreme court in *San Perdido* has held cannot overcome a showing of material injury beyond that of continuing to defend the litigation. 104 So. 3d at 355; *see also* Fla. R. App. P. 9.130(a)(3)(F)(iii) (providing for appeal of nonfinal orders that deny claims of sovereign immunity).

Nevertheless, Meta insists that they enjoy complete immunity under section 230, relying in part on *Giordano v. Romeo*, 76 So. 3d 1100, 1102 (Fla. 3d DCA 2011). In *Giordano*, the Third District affirmed the dismissal with prejudice of a defamation suit brought against interactive computer service provider Xcentric. *Id.* at 1101. The *Giordano* court relied on *Doe*, 783 So. 2d at 1018, and ultimately held that Xcentric "enjoye[d] complete immunity from any action brought against it as a result of the postings of third party users of its website." *Id.* at 1102. *Giordano* misconstrued *Doe* in stating that the "Florida Supreme Court has held that the CDA provides absolute immunity to interactive computer services." 76 So. 3d at 1101. This was not the holding in *Doe*. 783 So. 2d at 1012. Doe alleged, among other things, that AOL aided in the "sale and distribution of child pornography, including obscene images of John Doe." *Id.* The court in *Doe* approved the district court's decision affirming the trial court's dismissal of the complaint with prejudice based upon section 230's preemption and addressed the following certified questions:

> [1] Whether section 230 of the Communications Decency Act [CDA] applies to complaints filed after its effective date where the complaint alleges a cause of action based upon acts occurring prior to its effective date?
>
> [2] If the answer [to question 1] is in the affirmative, whether section 230 of the Communications Decency Act preempts Florida law?
>
> [3] Whether a computer service provider with notice of a defamatory third party posting is entitled to immunity under section 230 of the Communications Decency Act?

Id. at 1011 (alterations in original) (quoting *Doe v. Am. Online, Inc.*, 718 So. 2d 385, 390 (Fla. 4th DCA 1998)). Significantly, *Doe* rephrased the second and third certified questions, eliminating any reference to "immunity":

> Whether section 230 preempts Florida law as to causes of action based in negligence against an Internet Service Provider (ISP) as a distributor of information allegedly in violation of Florida criminal statutes prohibiting the distribution of obscene literature and computer pornography?

Id. at 1013 (emphasis added). *Doe* characterized section 230 not in terms of absolute immunity but as a preemptive law: "We specifically concur [with the court in *Zeran*, 958 F. Supp. at 1135-37,] that section 230 expressly bars 'any actions' and we are compelled to give the language of this preemptive law its plain meaning." *Doe*, 783 So. 2d at 1018 (emphasis added). The "bars 'any actions' " language is contained in the supreme court's analysis of the first certified question regarding the statute's effective date. *Id.* And so, *Doe* was referring to the fact that section 230 broadly applies to "all suits filed after its enactment, notwithstanding when the operative facts arose." *Id.*

Accordingly, with the exception of the outlier *Giordano*, based upon this court's canvass of the decisional law, no court has held that section 230 confers absolute immunity. Although several courts have referred to

section 230 immunity in terms of "federal immunity," "full immunity," and "broad immunity," each of these courts limited section 230's immunity to the very action protected under the safe harbor protections of subsections (c)(1) and (2). *See Doe v. MySpace, Inc.*, 528 F.3d 413, 418 (5th Cir. 2008) ("Congress provided broad immunity under the CDA to Web-based service providers for all claims stemming from their publication of information created by third parties."); *Carafano v. Metrosplash.com, Inc.*, 339 F.3d 1119, 1124 (9th Cir. 2003) ("[S]o long as a third party willingly provides the essential published content, the interactive service provider receives full immunity regardless of the specific editing or selection process."); *Zeran v. Am. Online, Inc.*, 129 F.3d 327, 330 (4th Cir. 1997) ("By its plain language, § 230 creates a federal immunity to any cause of action that would make service providers liable for information originating with a third-party user of the service."); *Fleites v. MindGeek S.A.R.L.*, 801 F. Supp. 3d 1045, 1065 (C.D. Cal. 2025) ("While § 230 immunity is broad, however, it is not absolute.").[5]

[5] Numerous federal and state courts have held that section 230 grants only immunity from liability. *See, e.g.*, *e-ventures Worldwide, LLC v. Google, Inc.*, 188 F. Supp. 3d 1265, 1272 (M.D. Fla. 2016) (holding that section 230 immunity is an affirmative defense); *Chumley*, 840 F.3d at 1182 (holding that subsection 230(e)(3) "does not contain an explicit bar to suit"); *California v. Meta Platforms, Inc.*, 186 F.4th 663, 673-76 (9th Cir. 2026) (holding that the court lacked jurisdiction to review the district court's ruling on an interlocutory basis where section 230 provided a defense to liability and not immunity from suit). *But see Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.*, 591 F.3d 250, 260 (4th Cir. 2009) (affirming the grant of the motion to dismiss holding that section 230 confers immunity from suit). Nevertheless, these cases have no binding effect on our court. *See, e.g.*, *Bd. of Cnty. Comm'rs of Lee Cnty. v. Dexterhouse,* 348 So. 2d 916, 918 (Fla. 2d DCA 1977) ("The only federal decisions binding upon the courts of our state are those of the United States Supreme Court." (quoting *State v. Dwyer*, 332 So. 2d 333 (Fla. 1976))).

When immunity is less than absolute, our supreme court has historically rejected the opportunity to extend certiorari jurisdiction and instead commissioned the Florida Bar Appellate Court Rules Committee to submit narrow rule amendments to allow for nonfinal appeals based upon specific statutory immunity claims involving individuals whose claims are comparable to qualified immunity claims shared by government officials. *See San Perdido*, 104 So. 3d at 355 (explaining that certiorari is not available where the statute provides immunity only "for certain designated claims" and not "absolute immunity where a party is protected from being involved in a lawsuit of any nature," where Citizens claimed immunity grounded on its status as a governmental entity); *Keck v. Eminisor*, 104 So. 3d 359, 365-66 (Fla. 2012) (declining to utilize certiorari to review an order denying summary judgment based on a claim of state sovereign immunity under section 768.28(9)(a) and requesting the Florida Bar Appellate Court Rules Committee to submit a narrow rule amendment allowing for nonfinal appeal of the denial of such claims); *Tucker*, 648 So. 2d at 1189-90 (requesting that the rules committee submit a rule amendment allowing for the expansion of nonfinal appeals to include those involving an individual qualified immunity against federal claims based upon policy reasons)*; cf. Dep't of Educ. v. Roe*, 679 So. 2d 756, 758 (Fla. 1996) (declining to expand the category of appealable nonfinal orders to include those denying limited claims of sovereign immunity).

The most recent illustration of the supreme court's rejection of certiorari relief as the proper vehicle to address the denial of nonabsolute immunity claims can be seen in *Vericker v. Powell*, 406 So. 3d 939 (Fla. 2025). There, the supreme court again declined to utilize certiorari relief

to address free-speech immunity under the Anti-SLAPP[6] statute, holding that the harm was not sufficient to support certiorari relief. *Id.* at 945. Vericker argued that the Anti-SLAPP statute created a de facto immunity from the speech-targeted lawsuit. *Id.* at 944. Recognizing the continued availability of certiorari review for true immunity-from-suit claims, the supreme court reviewed the language of the statute and noted the absence of the word "immunity" or other similar words and the absence of "structural or textual clues that might support an absolute right to be free from litigation." *Id.* at 944-45.

Ultimately, the supreme court rested on the grounds that the statute required a judicial determination that the lawsuit was without merit, which may "not be possible at the outset of a case and may require the development of a factual record." *Id.* at 945. In holding that the denial of Vericker's claimed immunity under the Anti-SLAPP statute did not support certiorari review, the supreme court reasoned that the only hardships raised were those related to the ongoing litigation. *Id.* ("[W]e have repeatedly held that this sort of burden [hardships typically associated with continued litigation] does not constitute irreparable harm in the ordinary circumstances."). But before concluding its analysis, the supreme court acknowledged the statute's purpose in swiftly resolving suits targeting free speech and exercised its constitutional authority "to ensure that Florida's procedural rules of court manifest the substantive legal enactments of the Legislature" and amended rule 9.130(a)(3) under separate opinion to allow for nonfinal appeals of orders denying Anti-

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[6] The Anti-SLAPP statute protects people from lawsuits based upon the exercise of their First Amendment right of free speech regarding a public issue. *See* § 768.295(1).

SLAPP claims. *Id.* at 946 (quoting *Carmody*, 372 So. 3d at 255); *In re Amends. to Fla. Rule of App. Proc. 9.130*, 406 So. 3d 937, 938 (Fla. 2025).

Comparable to the statute addressed in *San Perdido*, here the plain text of section 230 only narrowly shields providers from claims seeking to treat them as the publisher or speaker of third-party content or to hold them liable for actions related to their screening of objectionable content. *See* 47 U.S.C. § 230(c)(1)-(2). This type of limited statutory immunity is not absolute immunity from involvement in any type of lawsuit, such that, here, Meta would suffer irreparable harm merely by litigating the matter. *See San Perdido*, 104 So. 3d at 355.

Further, as in *Vericker*, section 230 equally contains no words of "immunity" or other similar words or any "structural or textual clues that might support an absolute right to be free from litigation." 406 So. 3d at 944-45. But perhaps more importantly, Meta, like Vericker, asserts nothing more than the hardships of continued litigation, which the supreme court has held insufficient to support certiorari review. *See id.*

No matter how section 230 is described, we see no distinction between the protections in section 230 and the type of limited statutory immunity claimed in *San Perdido* and *Vericker*. *See Almeida v. Amazon.com, Inc.*, 456 F.3d 1316, 1321-22 (11th Cir. 2006) ("The majority of federal circuits have interpreted the CDA to establish broad 'federal immunity to any cause of action that would make service providers liable for information originating with a third-party user of the service.' . . . [B]ut even this broad statutory immunity does not apply without limitation." (citation omitted) (quoting *Zeran*, 129 F.3d at 330)). Our interpretation of section 230's limited statutory immunity is in line with the majority of other federal courts. *See, e.g.*, *Roca Labs, Inc. v. Consumer Op. Corp.*, 140 F. Supp. 3d 1311, 1321 (M.D. Fla. 2015)

(applying safe harbor provision in a FDUTPA suit against the website creator whose edits were lawful but acknowledging that immunity is lost "when the [provider] substantively alters third-party content or becomes directly involved in the alleged illegality"); *Alvi Armani Med., Inc. v. Hennessey*, 629 F. Supp. 2d 1302, 1307 (S.D. Fla. 2008) (holding that where complaint alleged defendant itself created and developed content, defendant may not be entitled to immunity under section 230 and dismissal on this ground was inappropriate); *Est. of Bride v. Yolo Techs., Inc.*, 112 F.4th 1168, 1176 (9th Cir. 2024) ("[N]either [subsection 230(c)] nor any other declares a general immunity from liability deriving from third-party content." (second alteration in original) (quoting *Barnes v. Yahoo!, Inc.*, 570 F.3d 1096, 1100 (9th Cir. 2009))); *Fair Hous. Council of San Fernando Valley v. Roommates.Com, LLC*, 521 F.3d 1157, 1164-66 (9th Cir. 2008) (holding that section 230 immunity did not apply to those acts where Roommates was sued for the predictable consequences of creating a website designed to solicit and enforce housing preferences in violation of the Fair Housing Act and state laws; "[CDA] was not meant to create a lawless no-man's-land on the Internet").

Accordingly, Meta, at this stage in the underlying proceedings, has failed to establish irreparable harm sufficient to support certiorari review by virtue of its status as an interactive computer service provider named in a lawsuit.

V.

Meta next asserts that the order denying the motion to dismiss deprives them of its First Amendment rights and subjects it to speech-chilling litigation on a daily basis. We do not find any merit in these allegations.

Violations of First Amendment rights are potentially appropriate grounds for certiorari relief. *Cf. 3299 N. Fed. Highway, Inc. v. Bd. of Cnty. Comm'rs of Broward Cnty.*, 646 So. 2d 215, 222 (Fla. 4th DCA 1994) (stating that appellants had sufficiently identified First Amendment rights that could potentially be imperiled by the challenged county code but failed to demonstrate that the code harmed those rights and therefore could not show irreparable harm). "[First Amendment] protections extend to not only unconstitutional laws, but also to unnecessary *litigation* that chills speech." *Green v. Miss United States of Am., LLC*, 52 F.4th 773, 800 (9th Cir. 2022).

However, the Attorney General correctly counters that certiorari is an extraordinary relief granted only in those limited circumstances to "halt a miscarriage of justice where no other remedy exists." *Broward County v. G.B.V. Int'l, Ltd.*, 787 So. 2d 838, 842 (Fla. 2001). The challenged order does not come close to infringing on Meta's First Amendment rights. The order did not alter the status quo—it did not place any new restrictions on Meta, it did not grant the Attorney General's request for temporary or permanent injunctive relief regarding Meta's operations, it did not limit Meta's speech or expression in any way, nor did it compel Meta to do anything. In fact, none of Meta's First Amendment rights have been altered. Accordingly, we are unpersuaded by the authorities upon which Meta rests its First Amendment argument to support certiorari in this case. *See Belair v. Drew*, 770 So. 2d 1164, 1167 (Fla. 2000) (holding that the district court erred in denying certiorari review of a trial court order that "temporarily granted [a] grandmother visitation rights [of her grandchild] and set the matter for a future hearing to determine permanent visitation rights," a ruling which "[o]n its face . . . directly contravene[d] the petitioner's right to privacy

and decision-making in rearing her child"); *Est. of McPherson ex rel. Liebrech v. Church of Scientology Flag Serv. Org.*, 815 So. 2d 678, 679 (Fla. 2d DCA 2002) (quashing a discovery order which required the estate to produce documents pertaining to the source of the funding of the litigation, as the order would "create a chilling effect on receiving future funding" that could not be remedied on appeal); *Joseph v. State*, 642 So. 2d 613, 614-15 (Fla. 4th DCA 1994) (exercising certiorari jurisdiction and quashing a trial court order that prohibited the petitioner "from wearing a sweat shirt and jeans with ostensible religious pictures and names" at trial); *Green*, 52 F.4th at 800 (stating that dispositive First Amendment issues can be resolved in summary proceedings to avoid "unnecessary and protracted litigation").

For these reasons, Meta has again failed to demonstrate irreparable harm sufficient to support certiorari review.

V.

Because section 230 confers a nonabsolute immunity, "such immunity is not lost merely because review must wait until after a final judgment." *San Perdido*, 104 So. 3d at 347 (quoting *Citizens Prop. Ins. v. San Perdido Ass'n,* 46 So. 3d 1052 (Fla. 1st DCA 2010)). Accordingly, Meta cannot show irreparable harm from the denial of its limited immunity claim under section 230. It also have not established an irreparable violation of its First Amendment rights. Therefore, we lack certiorari jurisdiction and dismiss the petition.[7] *See Jeffrey*, 178 So. 3d 460 (dismissing certiorari petition where agency's statutory immunity

[7] Nothing herein shall be construed in any way to constitute a comment on the merits of the Attorney General's FDUTPA complaint or Meta's claim of immunity from liability under section 230 or the First Amendment.

under section 768.28 was only limited immunity from liability and not the suit itself).

Dismissed.

MORRIS and LABRIT, JJ., Concur.

Opinion subject to revision prior to official publication.