

21 - No. 6306

SUPREME COURT OF THE UNITED STATES

JASON T. SHORTES,

Petitioner,

vs.

GOOGLE, LLC,

Respondent.

ORIGINAL

FILED

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SUPREME COURT, U.S.

PETITION FOR WRIT OF CERTIORARI

On Petition for a Writ of Certiorari
From District Court Of Appeal Fifth District Of Florida

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QUESTIONS PRESENTED

(1). Whether, First Amendment to the United States Constitution, Freedom of the Press; survives, GOOGLE, LLC enforcing the Federal Republic of Germany, The Network Enforcement Law, NetzDG, in the United States, Florida?

(2). Whether, First Amendment to the United States Constitution, Freedom of Expression; survives, GOOGLE, LLC enforcing the Federal Republic of Germany, The Network Enforcement Law, NetzDG, in the United States, Florida?

(3). Whether Commerce survives, GOOGLE, LLC enforcing the Federal Republic of Germany, The Network Enforcement Law, NetzDG, in the United States, Florida?

(4). Whether Trade survives, GOOGLE, LLC enforcing the Federal Republic of Germany, The Network Enforcement Law, NetzDG, in the United States, Florida?

(5). Whether First Amendment to the United States Constitution, and State of Florida Commerce, and Trade, survives, GOOGLE, LLC enforcing the Federal Republic of Germany, The Network Enforcement Law, NetzDG, under Community Guidelines in the United States, Florida?

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A. B. C. D. E. Attached and, demonstrated in bold type letters below:

Plaintiff's original complaint entered into the record at the lower Court on June 26, 2019. [R. Vol. 1 pp. 1-11]. The Defendant filed a notice of request for judicial notice on July 29, 2019. [R. Vol. 7 pp. 1-61]. The Defendant also filed a motion to dismiss on July 29, 2019. [R. Vol. 8 pp. 1-61].

On August 1, 2019 Plaintiff moved the Court, motion to strike and dismiss defendant Google's notice of request to take judicial notice. [R. Vol. 10 pp. 1-4].

On August 9, 2019 Plaintiff moved the Court, motion to strike and dismiss defendant Google's motion to dismiss. [R. Vol. 11 pp. 1-36].

A. Attached: On December 30, 2019 the Court held: "Although the Defendant as a strong argument the Plaintiff shall have 30 days to amend his complaint so as to persuade this Court that his action is not the same as the previous case. It Is Therefore Ordered And Ajudged that the Motion to Dismiss is granted and Plaintiff shall have 30 days from the date of this order to file an Amended Complaint." [R. Vol. 15 pp. 1-2].

Plaintiff amended the complaint on January 16, 2020 in compliance with Court Order: "Plaintiff shall have 30 days to amend his complaint," and with the Court Order, as to persuade the Court that Plaintiff is factually Pro se. [R. Vol. 16 pp. 1-12].

On February 14, 2020 Defendant filed a motion to dismiss. [R. Vol. 22 pp. 1-13] On February 27, 2020 Plaintiff moved the Court, motion to strike and dismiss defendant Google's motion to dismiss amended complaint. [R. Vol. 23 pp. 1-26]. On March 9, 2020 Defendant

filed notice of supplemental authority. [R. Vol. 26 pp. 1-8].

On March 19, 2020 Plaintiff moved the Court, motion to strike and dismiss defendant Google's notice of supplemental authority. [R. Vol. 28 pp. 1-6].

B. Attached: On June 22, 2020 the Court held: "Ordered And Adjudged that: (1). The Motion to Dismiss Amended Complaint is Granted. [R. Vol. 30 pp. 1-2]. (2). Counts I and II of the Amended Complaint are Dismissed With Prejudice. [R. Vol. 30 pp. 1-2]. (3). Counts III and IV of the Amended Complaint are Dismissed. Plaintiff may file an amended complaint as to Florida Statutes §§ 542.18 and 542.19 within thirty (30) days of the date of this Order. [R. Vol. 30 pp. 1-2]. Plaintiff's Motion to Strike and Dismiss Defendant Google LLC's Motion to Dismiss Amended Complaint is Denied." [R. Vol. 30 pp. 1-2].

On July 2, 2020 Plaintiff amended the third complaint in compliance with Court Order naming complaint Third Amended Complaint for Damages. [R. Vol. 32 pp. 1-11]. On July 23, 2020 Defendant filed a motion to dismiss. [R. Vol. 35 pp. 1-10].

On August 7, 2020 Plaintiff moved the Court, motion to strike and dismiss defendant Google's motion to dismiss third amended complaint for damages. [R. Vol. 37 pp. 1-6].

C. Attached: On December 18, 2020 the Court held: "Ordered And Adjudged. The Third Amended Complaint for Damages is Dismissed With Prejudice. Plaintiffs Motion to Strike and Dismiss Defendant Google LLC's Motion to Dismiss Third Amended Complaint for Damages is Denied." On dates describe recorded with Clerk of the Court. [R. Vol. 45 pp. 1-2].

On January 15, 2021 Appellant filed Initial Brief.

D. Attached: Fifth District Of Florida, Per Curiam Affirmed,

On September 30, 2021 Appellant Petition for Issuance Of Rehearing, Written Opinion, Certification *En Banc*.

E. Attached: Petition Rehearing, was denied on October 18, 2021.

PRELIMINARY STATEMENT

Petitioner, Jason T. Shortes, referred to herein as "Plaintiff," or "Jason T. Shortes." Respondent, GOOGLE, LLC, referred to herein as "Defendant" or "GOOGLE, LLC."

Format for citing the record, volume, and page numbers are, for example: R for record, Vol. for volume.

Record indicates original record, lower Clerk of the Court, register of actions. Volume indicates, original document number under register of actions, recorded at the lower Clerk of the Court, record on appeal, and (p) or (pp) indicates page or pages.

STATEMENT OF THE CASE AND FACTS

This is an appeal petition (1) Fifth District Of Florida, Per Curiam Affirmed, This is an appeal in the civil case of two final orders: (2) Counts I and II of the Amended Complaint are dismissed with prejudice. [R. Vol. 30 pp. 1-2]. (3) Third Amended Complaint for Damages is Dismissed With Prejudice. [R. Vol. 45 pp. 1-2].

FACTUAL HISTORY

On or about June 20, 2019 Jason T. Shortes requested news inclusion at the common carrier GOOGLE, LLC News Publisher Center on behalf of himself to publish financial related news, not fake news, disinformation, misinformation, illegal content as defined under Federal Republic of Germany, The Network Enforcement Law, NetzDG (Netzwerkdurchsetzungsgesetz). [R. Vol. 1 p. 10 as Exhibit 1]. On or about June 21, 2019, GOOGLE, LLC site rejected Jason T. Shortes. [R. Vol. 1 p. 11 as Exhibit 2]. About June 21, 2019, Jason T. Shortes discovered GOOGLE, LLC enforcing the Federal Republic of Germany, The Network Enforcement Law, NetzDG, in the United States, Florida. [R. Vol. 11 pp. 25-30]. About June 21, 2019, Jason T. Shortes discovered GOOGLE, LLC enforcing the Federal Republic of Germany, The Network Enforcement Law, NetzDG, under, Community Guidelines, in the United States, Florida [R. Vol. 11 pp. 25-30]. That Jason T. Shortes has been a Google AdSense 1099 self-employed worker with GOOGLE, LLC since about 2009, before that he was Departments of Finance, licensed in many States, as that result he utilized the Global Network Internet and has paid money to Google Adwords advertising since about 2005.

JURISDICTIONAL BASIS

The Per Curiam, Affirmed judgment of the court of appeals was entered on September 21, 2021. Petition for Issuance Of Rehearing, Written Opinion, Certification *En Banc* was denied on October 18, 2021.

See, e.g., Hobbie v. Unemployment Appeals Commission of Florida, 480 U.S. 136 (1987) (reversing Florida 5th DCA's per curiam affirmance).

The jurisdiction of this Supreme Court of the United States is invoked under 28 U.S. Code § 1254 (1) and 28 U.S. Code § 1254 (2).

CONSTITUTIONAL PROVISIONS INVOLVED

Constitution of United States of America, Article I, First Amendment – Freedom of Press.

Constitution of United States of America, Article I, First Amendment – Freedom of expression.

Commerce Clause, Article 1, Section 8, Clause 3 of the United States Constitution,

See, Art. III, United States Constitution.

STATUTORY PROVISIONS INVOLVED

47 U.S.C. § 230, Section 230 Of The Communications Decency Act.

Federal Republic of Germany, The Network Enforcement Law, NetzDG

PETITION FOR A WRIT OF CERTIORARI

Jason T Shortes, on behalf of himself, respectfully petitions for a writ of certiorari to review the judgment of the District Court Of Appeal Fifth District Of Florida in this case; because the District Court is Per Curiam, Affirmed; pursuant to (1) 28 U.S. Code § 1254 and (2) 28 U.S. Code § 1254. review, Brevard County Florida, Court records, judgments in conjunction with interpretations of law demonstrated below in argument. And give binding instructions.

SUMMARY REASONS FOR GRANTING THE WRIT

The lower Court committed errors: (1) Fifth District Of Florida, Per Curiam Affirmed, Order is Ordered on Constitution of United States of America issue (2) lower court erred dismissing Counts I and II of the amended complaint are dismissed with prejudice: (3) Count I claims are specific to violation of the First Amendment to the United States Constitution, freedom of the press. (4) Count II claims are specific to violation of the First Amendment to the United States Constitution, Freedom of Expression. (5) The lower court erred dismissing, Third Amended Complaint For Damages is Dismissed With Prejudice. Plaintiff is entitled Motion For Leave To Amend Complaint to comply with Rule 1.190(b) Amendments to Conform with the Evidence.

STANDARD OF REVIEW

This Court ordinarily reviews final orders:

Google LLC v. Equustek Solutions Inc., 2017 WL 5000834 (N.D. Cal. Nov. 2, 2017).

Gerber Trade Finance, Inc. v. Bayou Dock Seafood Co., Inc., 917 So. 2d 964, 968 (Fla. 3d DCA 2005),

Trotter v. Ford Motor Credit Co., 868 So. 2d 593 (Fla. 2d DCA 2004).

Boca Burger, Inc. v. Forum, 912 So. 2d 561, 567 (Fla. 2005).

The order is based on an issue of law this Court's review is *de novo*. *Id.*

This Court ordinarily reviews interpretation of Law and Fact.

Google LLC v. Equustek Solutions Inc., 2017 WL 5000834 (N.D. Cal. Nov. 2, 2017) *de novo*.

Id.

REASONS FOR GRANTING THE WRIT I.

The conflict issues of great public importance before this Court is The District Court Of Appeal Fifth District Of Florida, Per Curiam Affirmed, Order is Ordered on, Constitution of United States of America, issues addressed below:

The issue before this Court is whether, in light of the lower Court's recent decision: "Counts I and II of the Amended Complaint are Dismissed With Prejudice." Rule 1.140(b) requires that "the substantial matters of law intended to be argued shall be stated specifically and with particularity." Fla. R. Civ. P. 1.140(b). In other words, a motion simply stating that a complaint fails to state a cause of action likely will not be sufficient. *See, e.g., Liton Lighting v. Platinum Television Group, Inc., 2 So. 3d 366, 367* (Fla. 4thDCA 2008) (trial judge may not dismiss a cause of action on grounds not pleaded because the claim is being dismissed without notice and the opportunity to be heard). Amendments generally relate back to the date of the original pleading, so long as the claim or defense arose from the facts giving rise to the original pleading. *See* Fla. R. Civ. P. 1.190(c).

A. Plaintiff's Counts I of the Amended Complaint is specific to First Amendment to the United States Constitution, Freedom of the Press to be included in Google, LLC News Index;¹, not to remove or enforce censorship. Defendant's argument therein: "Defendant Google, LLC's Motion To Dismiss Amended Complaint;" "IV. Plaintiff's Claims are barred by Section 230 Of The Communications Decency Act." Whereas in *Google LLC v. Equustek Solutions Inc., 2017 WL 5000834* (N.D. Cal. Nov. 2, 2017) United States District Court

¹ Indexing comprises methods for indexing the contents of a website, e.g., pull,fetch, extract, parse, a website's (often XML-based) Feed, or static cache also referred to as a snapshot.

northern District Of California held: "By forcing intermediaries to remove links to third-party material, the Canadian order undermines the policy goals of Section 230 and threatens free speech on the global internet."

Therein Plaintiff's: " Motion To Strike And Dismiss Defendant Google's Motion To Dismiss Amended Complaint." Plaintiff demonstrates Defendant GOOGLE, LLC is enforcing Federal Republic of Germany, The Network Enforcement Law, NetzDG, in the United States, Florida.

B. Plaintiff's Counts II of the Amended Complaint is specific to First Amendment to the United States Constitution, Freedom of the Expression, to be included in Google, LLC News Index; not, remove or censor, as Defendant's argument therein: "Defendant Google, LLC's Motion To Dismiss Amended Complaint;" " IV. Plaintiff's Claims are barred by Section 230 Of The Communications Decency Act." Whereas in *Google LLC v. Equustek Solutions Inc.*, 2017 WL 5000834 (N.D. Cal. Nov. 2, 2017) United States District Court northern District Of California held: "By forcing intermediaries to remove links to third-party material, the Canadian order undermines the policy goals of Section 230 and threatens free speech on the global internet."

Therein Plaintiff's: " Motion To Strike And Dismiss Defendant Google's Motion To Dismiss Amended Complaint." Plaintiff demonstrated Defendant GOOGLE, LLC is enforcing Federal Republic of Germany, The Network Enforcement Law, NetzDG, in the United States, Florida.

C. Whether, First Amendment to the United States Constitution, Freedom of the Press; survives, GOOGLE, LLC enforcing the Federal Republic of Germany, The Network Enforcement Law, NetzDG, in the United States, Florida?

D. Whether, First Amendment to the United States Constitution, Freedom of the Press; survives, GOOGLE, LLC enforcing the Federal Republic of Germany, The Network Enforcement Law, NetzDG, under, Community Guidelines, in the United States, Florida?

E. Whether, First Amendment to the United States Constitution, Freedom of Expression; survives, GOOGLE, LLC enforcing the Federal Republic of Germany, The Network Enforcement Law, NetzDG, in the United States, Florida?

F. Whether, First Amendment to the United States Constitution, Freedom of Expression; survives, GOOGLE, LLC enforcing the Federal Republic of Germany, The Network Enforcement Law, NetzDG, under Community Guidelines, in the United States, Florida?

G. In *Google LLC v. Equustek Solutions Inc.*, 2017 WL 5000834 (N.D. Cal. Nov. 2, 2017). The Court Held: “The Canadian order would eliminate Section 230 immunity for service providers that link to third-party websites. By forcing intermediaries to remove links to third-party material, the Canadian order undermines the policy goals of Section 230 and threatens free speech on the global internet;” thus, application of A., B., C., D., E., F., G., of law is applicable. The petition for a writ of certiorari should be granted.

H. The Court erred Dismissing Count I of the Amended Complaint with Prejudice.

I. The Court erred Dismissing Count II of the Amended Complaint with Prejudice.

Under the Florida rule, all reasonable inferences must be construed in favor of the non-moving party, and a complaint should not be dismissed unless the movant can establish beyond any doubt that the claimant could prove no set of facts whatever in support of his claim. *See Meadows Cnty. Ass'n, Inc. v. Russell-Tutty*, 928 So. 2d 1276, 1280 (Fla. 2d DCA 2006). The plaintiff does not have the burden of anticipating a defense and then overcoming it in his initial pleading. *See Legrande v. Emmanuel*, 889 So. 2d 991 (Fla. 3d DCA 2004). The petition for a writ of certiorari should be granted.

REASONS FOR GRANTING THE WRIT II.

The issue before this Court is whether, in light of the lower Court's recent decision: "Counts I and II of the Amended Complaint are Dismissed With Prejudice." Court order from December 30, 2019 demonstrates: "Although the Defendant as a strong argument the Plaintiff shall have 30 days to amend his complaint so as to persuade this Court that his action is not the same as the previous case." "It Is Therefore Ordered And Ajudged that the Motion to Dismiss is granted and Plaintiff shall have 30 days from the date of this order to file an Amended Complaint."

The Court Ordered Plaintiff to Amended Complaint based on defendant's false accusations. Plaintiff complied with the Court Order, Plaintiff is factually Pro se. The Court did not allow Plaintiff to "exercised the right to amend once."

Rule 1.140(b) requires that "the substantial matters of law intended to be argued shall be stated specifically and with particularity." Fla. R. Civ. P. 1.140(b). In other words, a motion simply stating that a complaint fails to state a cause of action likely will not be sufficient. *See*,

e.g., *Liton Lighting v. Platinum Television Group, Inc.*, 2 So. 3d 366, 367 (Fla. 4thDCA 2008) (trial judge may not dismiss a cause of action on grounds not pleaded because the claim is being dismissed without notice and the opportunity to be heard). “If the trial court grants a motion to dismiss, the plaintiff ordinarily must be given leave to amend the complaint.” See *Trotter v. Ford Motor Credit Co.*, 868 So. 2d 593 (Fla. 2d DCA 2004).

A. The Court erred Dismissing Count I of the Amended Complaint with Prejudice.

B. The Court erred Dismissing Count II of the Amended Complaint with Prejudice.

“A plaintiff has an absolute right to amend once before a responsive pleading is filed. A motion to dismiss is not a responsive pleading, and so a plaintiff can amend an initial complaint at any point prior to the trial court’s ruling on a motion to dismiss. A judge’s discretion to deny amendment of a complaint arises only after the defendant files an answer or if the plaintiff already has exercised the right to amend once.” See *Boca Burger, Inc. v. Forum*, 912 So. 2d 561, 567 (Fla. 2005).”

The defendant made false accusations on Plaintiff which caused the Court to Order Amended Complaint to prove the Complaint was not the same as a different case number.

Plaintiff complied with the Court Order, Plaintiff is factually Pro se. The Court did not allow Plaintiff to “exercised the right to amend once.” See *Boca Burger, Inc. v. Forum*, 912 So. 2d 561, 567 (Fla. 2005). The petition for a writ of certiorari should be granted.

REASONS FOR GRANTING THE WRIT III.

The issue before this Court is whether, in light of the lower Court's recent decision The Third Amended Complaint for Damages is Dismissed With Prejudice. The Third Amended Complaint is the third complaint, which is specific to Commerce, and Trade.

Florida Rule of Civil Procedure 1.190(a) in pertinent part provides that when "a party files a motion to amend a pleading . . . [l]eave of court shall be given freely when justice so requires." Rule 1.190 is consistently interpreted to "allow free and liberal amendments to pleadings unless it appears that the privilege to amend will be abused." *See Gerber Trade Finance, Inc. v. Bayou Dock Seafood Co., Inc.*, 917 So. 2d 964, 968 (Fla. 3d DCA 2005).

A. Plaintiff mistakenly "error or defect" included two URL's² to go outside the "four corners of the complaint" instead of the evidence as per Florida Rule of Civil Procedure 1.190(b). Florida Rule of Civil Procedure 1.190(a).

B. The Court erred Dismissing Third Amended Complaint with Prejudice.

The Fourth DCA held that the amendment should be allowed, reasoning that (1) Fla. R. Civ. Pro. 1.190(e) requires the court to allow amendments when necessary to further justice; (2) the court should be especially liberal in permitting amendments sought at or before summary judgment, *See Thompson v. Bank of New York*, 862 So. 2d 768, 770 (Fla. 4th DCA 2003). "The function of a motion to dismiss a complaint is to raise as a question of law the sufficiency of the facts alleged to state a cause of action, and a court is not permitted to speculate as to whether a plaintiff has any prospect of proving the allegations." *See Raney v. Jimmie Diesel Corp.*, 362 So.2d 997, 998 (Fla. 3d DCA 1978); accord, *Connelly v. Merritt*,

2 A Uniform Resource Locator (URL), colloquially termed a web address.

273 So.2d 7, 8 (Fla. 1st DCA 1973)." "A dismissal with prejudice should not be ordered without giving the party offering the defective pleading an opportunity to amend unless it is clear that the pleading cannot be amended so as to state a cause of action." *See Delia & Wilson, Inc. v. Wilson*, 448 So. 2d 621, 622 (Fla. 4th DCA 1984); accord *Kovach v. McLellan*, 564 So. 2d 274, 276 (Fla. 5th DCA 1990). The petition for a writ of certiorari should be granted.

IV. The District Court Of Appeal Fifth District Of Florida, erred *Per Curiam*
Affirmed.

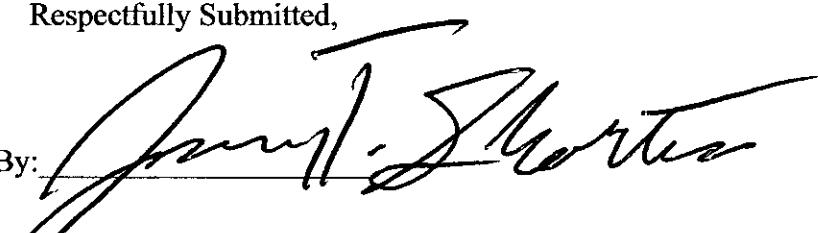
V. CONCLUSION

For the reasons given in the body of this petition brief, the petition for a writ of certiorari should be granted and, reverse the lower Court Order(s), and remand his case to the Circuit Court with instructions.

Compliance with 28 U. S. C. § 1746 "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct."

Respectfully Submitted,

By:



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