No. 25A____

In the Supreme Court of the United States

META PLATFORMS, INC. AND INSTAGRAM, LLC,

Applicants,

v.

EIGHTH JUDICIAL DISTRICT COURT OF NEVADA, CLARK COUNTY, ET AL.,

Respondents.

APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NEVADA

MARK W. MOSIER
KENDALL T. BURCHARD
COVINGTON & BURLING LLP
850 Tenth Street NW
Washington, DC 20001

JEFFREY B. WALL
Counsel of Record
JONATHAN C. BOND
MORGAN L. RATNER
JESSICA L. WAGNER
GIBSON, DUNN & CRUTCHER LLP
1700 M Street NW
Washington, DC 20036
(202) 955-8500
jwall@gibsondunn.com

Counsel for Applicants

PARTIES TO THE PROCEEDING AND RULE 29.6 DISCLOSURE STATEMENT

Applicant Meta Platforms, Inc. is a publicly traded company (NASDAQ: META). Meta Platforms, Inc. has no parent company, and no publicly held corporation owns 10% or more of its stock. Applicant Instagram, LLC is a wholly owned subsidiary of Meta Platforms, Inc.

Respondents Eighth Judicial District Court of Nevada, Clark County and District Judge Joanna Kishner were nominal respondents in the state supreme court. Respondent State of Nevada was plaintiff in the district court and real party in interest in the state supreme court.

TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF THE SUPREME COURT AND CIRCUIT JUSTICE FOR THE NINTH CIRCUIT:

Under this Court's Rules 13.5 and 30.2, applicants Meta Platforms, Inc. and Instagram, LLC respectfully request an 18-day extension of time, to and including August 10, 2026, within which to file a petition for a writ of certiorari to review the judgment of the Supreme Court of Nevada. That court entered its judgment on April 24, 2026. App., *infra*, 1a-10a. Unless extended, the time within which to file a petition for a writ of certiorari will expire on July 23, 2026. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1257(a). Counsel for respondents does not oppose this request.

1. This case presents important and recurring questions about the scope of Section 230 of the Communications Decency Act, 47 U.S.C. § 230(c)(1), and the First Amendment's protections for a social-media service's "editorial choices," *Moody* v. *NetChoice, LLC*, 603 U.S. 707, 717 (2024). In this case, the state supreme court limited protection under Section 230 to claims that seek to impose liability "for third party content, material, or speech that is posted on the operator's website," excluding claims concerning how applicants choose to display third-party content. App., *infra*, 7a. And it similarly limited protection under the First Amendment to claims based on the "content or . . . curation" of third-party material, again excluding claims concerning how applicants choose to display third-party content. *Id.* at 8a (citation omitted).

a. Section 230 and the First Amendment offer distinct but overlapping protections for a social-media service's choices concerning the display and arrangement of user-generated content on the service. Section 230 states that "[n]o 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." 47 U.S.C. § 230(c)(1). Congress barred any state cause of action that is "inconsistent" with that directive, *id.* § 230(e)(3), and foreclosed liability for any "claim" that "holds the defendant responsible as the publisher or speaker" of third-party content, *M.P. ex rel. Pinckney* v. *Meta Platforms Inc.*, 127 F.4th 516, 524 (4th Cir. 2025) (citation omitted). At the same time, "laws curtailing [a publisher's] editorial choices must" also "meet the First Amendment's requirements." *Moody*, 603 U.S. at 717. The First Amendment thus doubly protects social-media services' "choices about what third-party speech to display and how to display it." *Ibid.*

b. Applicants own and operate Messenger, Facebook, and Instagram, three services that publish third-party content. App., *infra*, 2a. These services organize, display, and disseminate a diverse array of user-generated content, including messages, photos, and videos.

The State filed three complaints (one for each service) against applicants in Nevada state court. The State alleged that applicants harmed young users' health and well-being by, among other things, designing their services to send notifications about the availability of third-party content, displaying posts in an "infinite scroll" and videos with "autoplay," and allowing users to post time-limited "ephemeral content" that disappears in a short time. The State also alleged that applicants deceived and failed to warn the public about the risks associated with their services.

c. Applicants moved to dismiss all three cases, arguing that Section 230 and the First Amendment bar the State's claims. App., *infra*, 2a. The district court denied those motions. *Id.* at 2a-3a.

d. On applicants' petitions for writs of prohibition and mandamus, the Nevada Supreme Court upheld the trial court's rulings and denied the writs. Relying on its prior opinion in *TikTok, Inc.* v. *Eighth Judicial District Court of Nevada, Clark County*, 578 P.3d 640 (Nev. 2025), the court concluded that the State's social-media "addict[ion]" claims here target only "the design of [applicants'] platforms rather than the content of posted videos." App., *infra*, 7a (citation omitted); *see id.* at 2a. The court also rejected the First Amendment defense, reasoning that the targeted features of applicants' services were not protected expressive activity because they were neutral design choices not tied to the "content" or "curation" of third-party material. *Id.* at 7a-8a; *see TikTok*, 578 P.3d at 652.

2. The Nevada Supreme Court's decision warrants this Court's review.

a. The decision below is incorrect. The state supreme court held that Nevada could avoid Section 230 by "target[ing] the design of [applicants'] platforms rather than the content of posted videos." App., *infra*, 7a (quoting *TikTok*, 578 P.3d at 651). But the statute unequivocally prohibits treating providers as the "publisher" of "any information provided by another," 47 U.S.C. § 230(c)(1), thereby insulating a provider from liability for any exercise of "a publisher's traditional editorial functions," *Zeran* v. *America Online, Inc.*, 129 F.3d 327, 330 (4th Cir. 1997). The design features the State challenges implicate applicants' "editorial decisions regarding third-party" material, including how to display that material. *Force* v. *Facebook, Inc.*, 934 F.3d 53, 66 (2d Cir. 2019). The State's theory that "social media platforms" have "addict[ed] young users" would impose liability on applicants for facilitating users' engagement with third-party content. App., *infra*, 2a.

After allowing the State to sidestep Section 230, the state supreme court exacerbated its error by concluding that applicants' design choices concerning how to display

third-party content also are not "expressive First Amendment activity." *Id.* at 8a (quoting *TikTok*, 578 P.3d at 652). But this Court has held that "[a]n entity 'exercis[ing] editorial discretion in the selection *and presentation'* of content is 'engage[d] in speech activity.'" *Moody*, 603 U.S. at 731 (quoting *Arkansas Educational Television Comm'n* v. *Forbes*, 523 U.S. 666, 674 (1998)) (some alterations in original; emphasis added). The State's asserted interest in protecting youth from online addiction does not alter the basic First Amendment framework. *Brown* v. *Entertainment Merchants Ass'n*, 564 U.S. 786, 790, 794 (2011).

b. The decision below deepened conflicts on the scope of Section 230 and the First Amendment, as well as the relationship between them.

Many courts have held that Section 230 bars any claim that implicates the provider's role as a publisher, including decisions about how to display content. *See, e.g.*, *Force*, 934 F.3d at 65; *Zeran*, 129 F.3d at 330. But the state supreme court sided with the outlier view that Section 230 does not extend to the ways in which social-media services present third-party content. App., *infra*, 7a-8a; *see Commonwealth* v. *Meta Platforms, Inc.*, 277 N.E.3d 166, 179-182 (Mass. 2026) (describing cases on both sides of the split). The state supreme court's decision to place editorial decisions about the presentation of content outside the ambit of the First Amendment also flouts this Court's decision in *Moody* and conflicts with decisions recognizing that other editorial choices, such as the decision to include "push notifications," trigger First Amendment scrutiny. *NetChoice, LLC* v. *Yost*, — F.4th —, 2026 WL 1758907, at *14 (6th Cir. June 18, 2026) (opinion of Clay, J.); *see also Children's Health Defense* v. *Meta Platforms, Inc.*, 112 F.4th 742, 759 (9th Cir. 2024) (noting that publishers "receive First Amendment protection" when they make editorial decisions about

"how" third-party content "will be ordered and organized" because such decisions involve "expressive choices" (quoting *Moody*, 603 U.S. at 740)).

The decision below also implicates divisions among lower courts regarding the proper relationship *between* Section 230 and the First Amendment as applied to an interactive computer service's decisions concerning the presentation of third-party content. Courts have held that *both* Section 230 and the First Amendment protect such editorial decisions. *E.g.*, *Patterson* v. *Meta Platforms, Inc.*, 239 N.Y.S.3d 726, 733-734 (App. Div. 2025). The Third Circuit has concluded that the First Amendment's protections do not overlap with Section 230 and held that editorial decisions like content moderation are unprotected by Section 230 *whenever* they reflect a social-media platform's own "expressive activity." *Anderson* v. *TikTok, Inc.*, 116 F.4th 180, 184 (2024). And the Nevada Supreme Court took the even more extreme position that decisions concerning the presentation of third-party content are protected by neither Section 230 nor the First Amendment. App., *infra*, 7a-8a.

3. Additional time is necessary for counsel to prepare a petition that would be most helpful to the Court. Undersigned counsel of record did not represent applicants in the proceedings below. Counsel has had and will continue to have substantial briefing and professional obligations near the current July 23 deadline. Counsel seeks an 18-day extension to align the deadline with another petition in which applicants intend to present an overlapping issue. *Meta Platforms, Inc.* v. *Massachusetts*, No. 25A__ (filed June 26, 2026).

4. Counsel for respondents does not oppose the requested extension.

Accordingly, applicants respectfully request that their time to file a petition for a writ of certiorari be extended by 18 days, to and including August 10, 2026.

Respectfully submitted,

MARK W. MOSIER
KENDALL T. BURCHARD
COVINGTON & BURLING LLP
850 Tenth Street NW
Washington, DC 20001

JEFFREY B. WALL
Counsel of Record
JONATHAN C. BOND
MORGAN L. RATNER
JESSICA L. WAGNER
GIBSON, DUNN & CRUTCHER LLP
1700 M Street NW
Washington, DC 20036
(202) 955-8500
jwall@gibsondunn.com

Counsel for Applicants

June 26, 2026