

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

Carolyn Hoskins and Lolita E. Johns, her wife v. Jenna Harrison,
D.O., and Women's Care Florida, LLC

Hoskins · No. No. 2D2025-2263 · Decided April 22, 2026

SUMMARY

The Florida Second District Court of Appeal dismissed a petition for writ of certiorari challenging an order dismissing, without prejudice, a medical malpractice direct-liability claim for failure to satisfy presuit notice requirements. The court held that the petitioners had not established the jurisdictional prerequisite of irreparable harm because the order did not terminate the action, bar the claim, or deny access to the courts.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	Khouzam, Judge; Khouzam, J.; Northcutt, J.; Villanti, J.
JURISDICTION	District Court of Appeal of Florida, Second District
DECIDED	April 22, 2026
DOCKET	No. 2D2025-2263
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petition for writ of certiorari challenging an interlocutory order granting Women's Care's motion to dismiss count III without prejudice for failure to satisfy Florida's medical-malpractice presuit notice requirements.
STANDARD OF REVIEW	Common-law certiorari review of an interlocutory order; the petitioner must establish a departure from the essential requirements of law, material injury for the remainder of the trial, and irreparable harm that cannot be corrected on postjudgment appeal. The latter two prongs are jurisdictional and must be satisfied before the court reaches the merits.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Carolyn Hoskins, Lolita E. Johns v. Jenna Harrison, D.O., Women's Care Florida, LLC

TOPICS

writ of certiorari

appellate jurisdiction

medical malpractice

appellate procedure

civil procedure

PRACTICE AREAS

appellate procedure

medical malpractice

civil procedure

health law

QUESTIONS PRESENTED

1. Whether the circuit court's without-prejudice dismissal and stay based on an alleged deficiency in medical-malpractice presuit notice caused legally recognized irreparable harm sufficient to confer certiorari jurisdiction.
2. Whether the district court could reach the merits of Petitioners' challenge to the presuit-notice ruling without first finding the jurisdictional prerequisites for certiorari review.

HOLDINGS

1. A petitioner seeking common-law certiorari must establish legally recognized irreparable harm that cannot be corrected on postjudgment appeal; litigation expenses and the need to restart presuit procedures ordinarily do not satisfy that requirement.
2. A district court must dismiss a certiorari petition for lack of jurisdiction when the petitioner fails to establish the jurisdictional irreparable-harm requirement, without reaching whether the interlocutory order departed from the essential requirements of law.

KEY QUOTATIONS

“A petitioner must establish (1) a departure from the essential requirements of the law, (2) resulting in material injury for the remainder of the trial (3) that cannot be corrected on postjudgment appeal.” (3)

“Regardless of the merits of that ruling, it caused no irreparable harm recognized under Florida law as warranting certiorari relief.” (4)

“In the absence thereof, we are bound to dismiss the petition for lack of jurisdiction.” (4)

FACTUAL BACKGROUND

Petitioners brought a medical-malpractice action against Jenna Harrison, D.O., and Women's Care Florida, LLC. Women's Care challenged only the direct-liability count, asserting that Petitioners had not satisfied chapter 766's presuit requirements as to that claim. The circuit court dismissed that count without prejudice and stayed the litigation while Petitioners restarted the presuit process, causing Petitioners to seek certiorari review.

PROCEDURAL HISTORY

Petitioners filed a medical-malpractice action alleging medical negligence, vicarious liability, direct liability, and loss of consortium. The circuit court granted Women's Care's motion to dismiss the direct-liability count without prejudice, stayed the action on the other claims, and allowed Petitioners to initiate presuit procedures anew. Petitioners sought certiorari review, but the Second District dismissed the petition for lack of jurisdiction because Petitioners failed to establish irreparable harm.

DISPOSITION

dismissed

CASES CITED

- Univ. of Fla. Bd. of Trs. v. Carmody, 372 So. 3d 246, 251-52 (Fla. 2023)
- Mintz Truppman, P.A. v. Cozen O'Connor, PLC, 346 So. 3d 577, 579 n.6 (Fla. 2022)
- Nader v. Fla. Dep't of Highway Safety & Motor Vehicles, 87 So. 3d 712, 722 (Fla. 2012)
- Fassy v. Crowley, 884 So. 2d 359, 363 (Fla. 2d DCA 2004)
- Parkway Bank v. Fort Myers Armature Works, Inc., 658 So. 2d 646, 648-49 (Fla. 2d DCA 1995)
- Est. of Quinn v. CCRC OPCO Freedom Square LLC, 320 So. 3d 300, 304 (Fla. 2d DCA 2021)
- AVCO Corp. v. Neff, 30 So. 3d 597, 601 (Fla. 1st DCA 2010)
- Citizens Prop. Ins. v. San Perdido Ass'n, 104 So. 3d 344, 353 n.6 (Fla. 2012)
- Rodriguez v. Miami-Dade County, 117 So. 3d 400, 405 (Fla. 2013)
- Damsky v. Univ. of Miami, 152 So. 3d 789, 792 (Fla. 3d DCA 2014)

OPINION

PER CURIAM.

DISTRICT COURT OF APPEAL OF FLORIDA SECOND DISTRICT CAROLYN HOSKINS and LOLITA E. JOHNS, her wife, Petitioners, v. JENNA HARRISON, D.O., and WOMEN'S CARE FLORIDA, LLC, Respondents. No. 2D2025-2263 April 22, 2026 Petition for Writ of Certiorari to the Circuit Court for Pinellas County; Thomas M. Ramsberger, Judge. Adam Richardson of Burlington & Rockenbach, P.A., West Palm Beach; and Wesley T. Straw, Matthew D. Emerson, and Nicole M. Ziegler of Emerson Straw, P.L., St. Petersburg, for Petitioners.

Dinah S. Stein and Philip M. Berberian of Hicks, Porter & Stein, P.A., Miami; and Mindy McLaughlin of Beytin, McLaughlin, McLaughlin, Osborne, Brumby, Hoffman & Mirelman, P.A., Tampa, for Respondent Women's Care of Florida, LLC. No appearance for remaining Respondent. KHOUZAM, Judge. This is a medical malpractice action by Carolyn Hoskins and Lolita E. Johns against Jenna Harrison, D.O., and Women's Care of Florida, LLC. In this court, Petitioners seek a writ of certiorari to quash an order granting Respondent Women's Care's motion to dismiss a claim without prejudice on the basis of a failure to satisfy the presuit notice provisions set forth in chapter 766 of the Florida Statutes.

Because Petitioners have not established the jurisdictional prerequisite of irreparable harm, settled Florida law requires us to dismiss the petition. BACKGROUND Petitioners' complaint frames four counts: (I) a medical negligence claim against Dr. Harrison, (II) a vicarious liability count against Women's Care, (III) a direct liability count against Women's Care, and (IV) a loss of consortium claim against both defendants.

The petition in this court concerns only count III for direct liability against Women's Care. Below, Women's Care moved to dismiss count III. Although it did not contest the sufficiency of Petitioners' presuit notice as to the other claims, Women's Care contended they had nonetheless failed to satisfy the mandatory requirements of chapter 766 with respect to count III.

Petitioners opposed Women's Care's motion to dismiss, asserting that they had indeed satisfied all applicable conditions precedent. In the alternative, Petitioners argued that because they were well within the limitations period, the proper resolution of any presuit deficiency would be to either abate the claim or dismiss it without prejudice, thereby giving Petitioners the opportunity to cure.

Following a hearing and supplemental briefing, the trial court granted Women's Care's motion. It specified that the ruling was without prejudice and that the action would be stayed while Petitioners initiated presuit procedures anew with respect to count III. This petition followed. 2 ANALYSIS "The common law writ of certiorari is an 'extraordinary remedy.' " Univ. of Fla. Bd. of Trs. v. Carmody, 372 So.

3d 246, 251 (Fla. 2023) (quoting Mintz Truppman, P.A. v. Cozen O'Connor, PLC, 346 So. 3d 577, 579 n.6 (Fla. 2022)). "Certiorari review is not a substitute for an appeal and 'is intended to be available only in very limited circumstances.' " Id. at 252 (quoting Nader v. Fla. Dep't of Highway Safety & Motor Vehicles, 87 So. 3d 712, 722 (Fla. 2012)).

As to the applicable certiorari standard, this court has explained: A certiorari petition must satisfy three requirements before a district court can grant relief from an erroneous interlocutory order. "A petitioner must establish (1) a departure from the essential requirements of the law, (2) resulting in material injury for the remainder of the trial (3) that cannot be corrected on postjudgment appeal."

Fassy v. Crowley, 884 So. 2d 359, 363 (Fla. 2d DCA 2004) (quoting Parkway Bank v. Fort Myers Armature Works, Inc., 658 So. 2d 646, 648 (Fla. 2d DCA 1995)). Because "the final two prongs of the test are jurisdictional," they must be satisfied first, "before [the district court] is empowered to determine whether to grant relief on the merits, i.e., whether the nonfinal order departs from the essential requirements of the law."

Id. (citing Parkway Bank, 658 So. 2d at 649). Here, we do not reach the merits questions because Petitioners have not established that this court has jurisdiction to grant the requested relief. That is, neither in their briefs nor during pointed questioning at oral argument have Petitioners identified any legally recognized irreparable harm flowing from the without-prejudice ruling.

Although Petitioners point to the requirement that they now must restart the count III presuit procedures anew, "[t]he fact that a petitioner will incur litigation expenses is normally not enough to meet the 3 irreparable harm test." Est. of Quinn v. CCRC OPCO Freedom Square LLC, 320 So. 3d 300, 304 (Fla. 2d DCA 2021) (alteration in original) (quoting AVCO Corp. v. Neff, 30 So.

3d 597, 601 (Fla. 1st DCA 2010)); see also *Citizens Prop. Ins. v. San Perdido Ass'n*, 104 So. 3d 344, 353 n.6 (Fla. 2012) ("stress[ing] that... increased litigation expenses cannot alone constitute irreparable harm"); cf. *Rodriguez v. Miami-Dade County*, 117 So. 3d 400, 405 (Fla. 2013) ("reiterat[ing] that the continuation of litigation and any ensuing costs, time, and effort in defending such litigation does not constitute irreparable harm" and that "[t]hus, the use of certiorari review is improper in such an instance").

As Women's Care asserts, the trial court's ruling here has not terminated any action, barred Petitioners from pursuing any claim, or interfered in any way with their access to the courts. Nor, as the plaintiffs, have Petitioners raised any claim for immunity. Rather, the court merely found their presuit notice defective in part and gave them an opportunity to cure it while staying the litigation on the other claims.

Regardless of the merits of that ruling, it caused no irreparable harm recognized under Florida law as warranting certiorari relief. In the absence thereof, we are bound to dismiss the petition for lack of jurisdiction. See, e.g., *Damsky v. Univ. of Miami*, 152 So. 3d 789, 792 (Fla. 3d DCA 2014) ("Mere legal error without irreparable harm, even a departure from the essential requirements of law... is not a basis for the issuance of a writ of certiorari.

Unless the petitioner establishes irreparable harm, the court must dismiss the petition for lack of jurisdiction."). Dismissed. NORTH CUTT and VILLANTI, JJ., Concur. 4
_____ Opinion subject to revision prior to official publication. 5