No. 23-997

In The
Supreme Court of the United States

KARYN D. STANLEY,

Petitioner,

v.

CITY OF SANFORD,

Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

BRIEF OF THE NATIONAL EMPLOYMENT LAWYERS ASSOCIATION AND THE NATIONAL EMPLOYMENT LAW PROJECT AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

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INTEREST OF *AMICI CURIAE*[1]

The **National Employment Lawyers Association** ("NELA") is the largest professional membership organization in the country focused on empowering workers' rights attorneys. NELA is comprised of lawyers who represent workers in labor, employment, and civil rights disputes. NELA advances employee rights and serves lawyers who advocate for equality and justice in the American workplace, including for those employees with disabilities. NELA represents employees with disabilities across the United States and is invested in the impact that this decision will have on those individuals. The present split across the circuits on the issue of whether employees are able to pursue claims related to benefits earned while working but not disbursed until the post-employment period, or "fringe benefits," creates confusion and uncertainty for workers. This uncertainty endangers the financial stability of workers in the United States and burdens those who presently or will eventually rely on disability benefits to plan effectively for their finances long term.

The **National Employment Law Project** ("NELP") is a national non-profit with over fifty years of experience advocating for the employment and labor rights of low-wage and unemployed workers. NELP

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[1] Pursuant to Sup.Ct. R. 37.2 and 37.6, *Amici* submit that no counsel for any party authored the brief in whole or in part. In addition, no other person or entity, other than *Amici*, has made any monetary contribution to the preparation and/or submission of this Brief. Counsel for all parties received timely notice via email on March 18, 2024, of *Amici's* intent to file this brief.

seeks to ensure that all employees, and especially the most vulnerable ones, receive the full protection of labor and employment laws, including protections for disabled workers. NELP's community-based partners, including worker centers, unions, and other worker-support organizations in communities across the fifty states, have seen the impact of cases like this. NELP has litigated and participated as *amicus curiae* in numerous cases in federal circuit and state courts and the U.S. Supreme Court addressing the importance of workplace protections.

Because a decision in this case will impact the rights of employees across the country and better inform workers and their attorneys about legal protections in the workplace, we respectfully ask that the Supreme Court grant certiorari and review the Eleventh Circuit's holding to clarify the scope of the Americans with Disabilities Act ("ADA") and square the law with the purposes of the ADA.

SUMMARY OF ARGUMENT

Title I of the ADA prohibits employment discrimination against employees with disabilities. 42 U.S.C.S. §§ 12101—12213. Three decades after Congress passed the ADA, the question as to how far these protections reach for former employees and their benefits remains unanswered by this Court. A circuit split has developed on the issue, which continues to splinter as courts consider the language of the ADA, its legislative

intent, and the impact of *Robinson v. Shell Oil Co.*, 519 U.S. 337 (1997). The heart of the split centers on whether the ADA's use of the term "qualified individual" forecloses suits brought by former employees who are subject to discrimination regarding their post-employment benefits on the basis of disability. Now, with a clearly defined split in the circuits, it is crucial that this Court clarify the scope of the ADA's coverage.

Fringe benefits are a critical part of an employment compensation package, even though many of these benefits are not paid out until an employee leaves their former employment. Typically, Social Security retirement benefits only amount to about forty percent of preretirement income; therefore, post-employment benefits are particularly important for retirees, who frequently depend on employer provided retirement plans, to survive financially as they age. *See* Seth D. Harris, *Increasing Employment for Older Workers with Effective Protections Against Employment Discrimination*, 30 Cornell J. L. & Pub. Pol'y 199, 201 (2020). Indeed, many retirees from jobs in state and local government are ineligible for Social Security retirement benefits,[2] making employer provided benefits, like those at issue here, even more critical. This issue is especially salient for low-income individuals, who already face struggles in financing long term care.

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[2] *State and Local Government Employees Social Security and Medicare Coverage*, Internal Revenue Serv. (27-Mar-2024) https://www.irs.gov/government-entities/federal-state-local-governments/state-and-local-government-employees-social-security-and-medicare-coverage#.

Without a clear federal policy addressing the ADA's protection of these benefits, employees are forced to face the stress of financial uncertainty as they plan for retirement.

The current tension between the circuits and confusion over the scope of ADA liability causes harm to both employees and employers. A decision in this case is vital to establish uniformity across the nation and clarify the rights and legal obligations of both employees and employers. When making crucial decisions about their benefits, employees with disabilities need to know if they can rely on protections from the ADA to guarantee that those benefits are paid out. Employers likewise need to know the scope of their responsibilities under the ADA to best eliminate discrimination against employees with disabilities in the American workplace and to avoid costly legal disputes. This case is ideal for addressing the issue because the question presented is narrow: the Court need only address whether former employees can sue under Title I of the ADA. Hence, the Court would be able to overturn the judgment below without deciding the merits of the alleged discrimination.

ARGUMENT

A. THERE IS A CLEAR CIRCUIT SPLIT ON THIS ISSUE AND NOW IS THE TIME FOR THE COURT TO RESOLVE IT.

The circuits do not agree as to whether former employees with a disability are eligible to bring suit under

Title I of the Americans with Disabilities Act ("ADA") for discriminatory acts that impact their post-employment benefits. *See* 42 U.S.C.S. §§ 12101—12213. This circuit split has persisted for decades,[3]with Justice Alito, then on the Third Circuit, acknowledging it in his 1998 concurrence in *Ford*. *See* 145 F.3d at 615 (Alito, J., concurring) ("[t]hese issues have divided the circuits."). While, at that time, Justice Alito was inclined to reserve judgment until "a case in which the unique considerations of insurance plans [were] not at stake," over twenty-five years have passed since *Ford*, and the Court has still not taken that opportunity. *See id*. In the meantime, employees remain uncertain as to the breadth of their protections, and employers remain puzzled as to the scope of their liability. The case is ripe for this Court, and the question is limited to whether former employees have the ability to sue under the

[3] The details of the split will not be restated here as it is extensively covered in the Petition for Certiorari. *See* Pet. for Cert. at 15-23. *Compare Castellano v. City of New York*, 142 F.3d 58 (2d Cir. 1998) (determining that former employees can sue under the ADA), *and Ford v. Schering-Plough Corp.*, 145 F.3d 601 (3d Cir. 1998) (determining that former employees can sue under the ADA), *with McKnight v. General Motors Corp.*, 550 F.3d 519 (6th Cir. 2008) (determining that former employees cannot sue under the ADA), *cert. denied*, 557 U.S. 935 (2009), *and Morgan v. Joint Admin. Bd.*, 268 F.3d 456 (7th Cir. 2001) (determining that former employees cannot sue under the ADA), *and Weyer v. Twentieth Century Fox Film Corp.*, 198 F.3d 1104 (9th Cir. 2000) (determining that former employees cannot sue under the ADA), *and Gonzales v. Garner Food Servs*., 89 F.3d 1523 (11th Cir. 1996) (determining that former employees cannot sue under the ADA), *cert. denied*, 520 U.S. 1229 (1997).

ADA for benefits earned while working but not paid out until the post-employment period.

The split is multifaceted: one aspect of the split, discussed in detail in the Petition for Certiorari, considers whether the language and purpose of the ADA, especially as amended, covers former employees. Another factor is the Supreme Court's holding in *Robinson v. Shell Oil*. *See* 519 U.S. 337 (1997). *Robinson* held that the term "employees" includes "former employees" under Title VII of the Civil Rights Act of 1964 ("Title VII"), *see id.* at 346, and the circuits are split as to whether its reasoning extends to ADA claims. The Second and Third Circuits agree that, applying the logic of *Robinson* and the legislative intent of the ADA,[4] former employees with a disability are eligible to bring ADA claims when they are denied post-employment fringe benefits.[5] *See Castellano*, 142 F.3d at 68; *see also*

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[4] The purpose of the ADA is "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." 42 U.S.C.S. § 12101(b)(1). The Petition for Certiorari addresses the legislative purpose in great detail. *See* Pet. for Cert. at 15-23.

[5] In addition to these circuits, the Equal Employment Opportunity Commission ("EEOC") and Department of Justice ("DOJ") have long held that Title I of the ADA protects the fringe benefits that are earned during an employee's tenure and distributed in the post-employment period. *See*, *e.g.*, Brief for the United States Department of Justice as *Amicus Curiae*, at 2, *Stanley v. City of Sanford*, 83 F.4th 1333 (11th Cir. 2023) (quoting EEOC *Amicus* Br. at 9-25, *Ford v. Schering-Plough Corp*., 145 F.3d 601 (3d Cir. 1998) (No. 96-5674); EEOC *Amicus* Br. at 14-22, *Lewis v. K Mart Corp.*, 180 F.3d 166 (4th Cir. 1999) (No. 98-2179); EEOC *Amicus* Br. at 13-22, *Gonzales v. Garner Food Servs., Inc*., 89 F.3d 1523 (11th Cir. 1996) (No. 95-8533)).

Ford, 145 F.3d at 606-607. Conversely, the Sixth, Seventh, Ninth, and Eleventh Circuits have held that *Robinson* is not applicable, and under their view of the language of the ADA, former employees with a disability may not bring ADA claims for any reason. *See McKnight*, 550 F.3d at 528; *see also Morgan*, 268 F.3d at 458; *Weyer*, 198 F.3d at 1112; *Gonzales*, 89 F.3d at 1530-31. The time is now: this Court should step in and clarify that former employees do have the ability to sue under Title I of the ADA.

B. RESOLVING THIS ISSUE IS NECESSARY TO CLARIFY THE SCOPE OF RIGHTS AVAILABLE TO EMPLOYEES AND THE SCOPE OF LIABILITY FOR EMPLOYERS.

The current circuit split regarding prior employees' eligibility to sue for discrimination under the ADA has continued for over a quarter of a century, impacting a substantial number of American workers.[6] The impact of this split stems from the breadth of the ADA's coverage. For instance, the ADA's anti-discrimination provisions cover all employee compensation, including post-employment benefits such as pension and healthcare payments to former employees, like Ms. Stanley, who have retired due to disability. *See*

[6] In 2023, "the employment- population ratio for people with a disability increased to . . . 22.5 percent," amounting to "the highest recorded ratio since comparable data were first collected in 2008." U.S. Bureau of Lab. Stats., *Persons with a Disability: Labor Force Characteristics—2023* (February 22, 2024) https://www.bls.gov/news.release/disabl.htm.

Stanley v. City of Sanford, 83 F.4th 1333, 1338 (2023) ("We recognized [in *Gonzales*] that the ADA protects against discrimination in fringe benefits, such as health insurance, because these benefits have always been recognized as one example of a term, condition, or privilege of employment.") (citing *Gonzales*, 89 F.3d at 1526 & n.9). Since the ADA Amendments Act of 2008, 110 P.L. 325, 122 Stat. 3553, the ADA no longer requires claimants to show a "substantial[ly] limit[ing]" impairment in cases like this, where the alleged bias is not an employer's failure to make workplace adjustments in the form of "reasonable accommodation." Rather, claimants need show only "an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity." 42 U.S.C.S. § 12102(3) (defining proof standard for "regarded as" having a disability). Congress further broadened "covered individuals" to include those affected by bias "on the basis of disability," 42 U.S.C.S. § 12112(a), instead of only those "with a disability." *See* Pet. for Cert. at 27.

Accordingly, the Eleventh Circuit's misreading of the ADA to exempt former employees unfairly denies potential relief to a significant number of workers, most of whom will have labored many years to earn post-employment benefits of the sort at issue in this case. This is particularly damaging to employees with disabilities—as data on workforce participants in the same age range as Ms. Stanley, or older, show that reliance on employment income is far more tenuous for

participants with disabilities.[7] Further, the data indicates substantial drop-offs in workplace participation for older workers with disabilities as compared to their younger counterparts.[8] Overall, civilian workers with disabilities in the age range of Ms. Stanley, or older, numbered approximately 4.5 million in 2023, up from approximately 3.7 million in 2020; the total civilian non-institutional population in this age cohort was approximately 26.2 million in 2023, up from approximately 24.1 million in 2020.[9]

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[7] U.S. Bureau of Lab. Stats., *Table 1, Employment status of the civilian noninstitutional population by disability status and selected characteristics, 2023 annual averages* (February 22, 2024) https://www.bls.gov/news.release/disabl.t01.htm. For Bureau of Labor Statistics's disability definition, *see* U.S. Bureau of Lab. Stats., *Persons with a Disability: Labor Force Characteristics Technical Note*, (February 22, 2024) https://www.bls.gov/news.release/disabl.tn.htm.

[8] Workforce participation by age is as follows: 40.6% for people with disabilities aged forty-five to fifty-four, compared to 85.9% of the non-disabled population of the same age; 29.1% of people with disabilities aged fifty-five to sixty-four, compared to 72.1% of the non-disabled population of the same age; and 8.3% of people with disabilities aged sixty-five or older, compared with 23.4% of the non-disabled population of the same age. *See* U.S. Bureau of Lab. Stats., *Table 1, Employment status of the civilian noninstitutional population by disability status and selected characteristics, 2023 annual averages*, (February 22, 2024) https://www.bls.gov/news.release/disabl.t01.htm.

[9] *See id*.; *see also* U.S. Bureau of Lab. Stats., *Table 1, Employment status of the civilian noninstitutional population by disability status and selected characteristics, 2020 annual averages*, (February 24, 2021) https://www.bls.gov/news.release/archives/disabl_02242021.pdf.

Further, over the last two decades workers have become more likely to take early retirement, largely due to disability. While many Americans are living longer and working later into their lives, this reality parallels the "increasing prevalence of workers exiting the labor force due to disability," which is a "significant trend in the health and work in the United States." Courtney Coile, *Future Directions for the Demography of Aging: Proceedings of a Workshop*, 8 The Demography of Retirement (Malay K. Majmundar & Mark D. Hayward eds. 2018). To put this trend in more concrete terms, "U.S. workers are increasingly likely to exit the labor force via the disability route, with about one in seven now receiving [disability] benefits before they reach Social Security eligibility." *See id.* For the younger generation, this reality is sobering, as more than one in four current twenty-year-olds will become disabled before reaching retirement.[10] *See* Soc. Sec. Admin., *Facts: The Faces and Facts of Disability*, Social Security (February 12, 2024, 8:27 PM), https://www.ssa.gov/disabilityfacts/facts.html.

The current circuit split has caused uncertainty in the lives of this vulnerable and growing population of workers. Because of this split, it is currently unclear whether a former employee with a disability can sue for the discriminatory denial of post-employment

[10] While retirement benefits of the sort at issue in this case have declined in recent decades in private sector employment, they remain an important source of economic security in state and local government employment. *See Public Plans Data*, National Data https://publicplansdata.org/quick-facts/national/ (Last visited Apr. 1, 2024).

benefits that they earned during their employment. The answer to this question currently hinges on where that former employee resides. For instance, an individual living in the Third Circuit in Pennsylvania would have the ability to sue as a former employee, while that same individual—if they were living one hundred yards away in the neighboring state of Ohio, in the Sixth Circuit—would not. *Compare Ford*, 145 F.3d at 607 (holding that former employees can sue under Title I of the ADA to challenge discrimination in the allocation of fringe benefits), *with McKnight*, 550 F.3d at 528 (holding that former employees cannot sue under Title I of the ADA). The ADA's express purpose is "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." 42 U.S.C.S. § 12101(b)(1). An employee's right to sue under the ADA, a federal statute, should not depend on where the employee lives. Disparate holdings make it difficult to make financial plans, especially in the case of employees who move into a different jurisdiction or employers that span jurisdictions.

Moreover, the circuits that misinterpret the demands of the ADA provide no opportunity for former employees to protect their earned benefits of employment. It is undisputed within these circuits that the ADA protects post-employment benefits while the employee is still employed. *See*, *e.g.*, *Gonzales*, 89 F.3d at 1526. However, none of these circuits provide a clear answer as to *how* a former employee can vindicate their rights to these earned benefits in the

post-employment period. Before a discriminatory action occurs, the employee lacks access to such rights because they have not suffered an actionable harm; yet, when no longer employed, these circuits hold that the former employee, who was undeniably entitled to the benefits while employed, is no longer qualified for ADA protection. Bereft of the ability to sue before and after the discriminatory action, former employees are left with no means of vindicating their rights to the benefits they earned during employment.[11] The inability for employees to enforce their right to these benefits critically undermines the employees' financial wellbeing, as "[t]he need for reliable lifelong income to supplement 'social security' is apparent to anyone planning for retirement." Harris, *Increasing Employment*, *supra*.

Tension between the circuits and lack of clarity over the scope of liability is causing serious hardship and harm to both employees and employers. When making crucial decisions about their financial futures, employees with disabilities deserve to know if they will need to look elsewhere to fill the gap, or if they can rely on the ADA to protect them from post-employment discrimination in their fringe benefits. Choosing incorrectly, a very likely result in such a fractured legal landscape, can result in insolvency or severe financial

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[11] The court in *Weyer* sought to dismiss this issue by asserting that it simply falls under the purview of other laws. *See Weyer*, 198 F.3d at 1112 (holding that "other legislation, such as ERISA," address this issue). *Weyer*'s guidance is insufficient, however, due to many post-employment benefits being unrelated to healthcare.

hardship for the employee in question. Conversely, just as employees need to know the full scope of their protection under the statute, employers need to know the full scope of their liability in order to avoid costly litigation and other issues.[12] Regardless, the growing population of Americans currently relying on disability benefits—and those who will one day cash in their accrued post-employment fringe benefits—deserve to know if Title I of the ADA protects them.

C. ABSENT GUIDANCE THE CIRCUITS WILL CONTINUE TO SPLINTER.

Taken together, Title VII and the ADA provide some of the broadest and most impactful protections to employees in the American workplace. *See* 42 U.S.C.S. §§ 12101—12213; *see also* 42 U.S.C.S. §§ 2000e—2000e-17. Currently, both the ADA and Title VII define employee simply as "an individual employed by an employer." 42 U.S.C.S. § 2000e(f); 42 U.S.C.S. § 12111(4). The Court should decide whether "employee" has a common definition among civil rights statutes such as Title VII and the ADA. At least in the context of Title VII, *Robinson* was clear: "employee" includes former employees. *See Robinson*, 519 U.S. at 346. However,

[12] This is particularly important for large, national employers who operate in multiple federal circuit jurisdictions, as it can be burdensome for national employers to operate when they face different obligations in different jurisdictions. *See*, *e.g.*, *Golden Gate Rest. Ass'n v. City & County of San Francisco*, 558 F.3d 1000, 1007 (9th Cir. 2009). Furthermore, a lack of uniformity will give some employers an unfair competitive advantage in jurisdictions where they are free to cut benefits for employees with disabilities.

several circuits refuse to read the same definition of "employee" to include former employees in the ADA context. *See*, *e.g.*, *McKnight*, 550 F.3d at 528. This contradiction undermines *Robinson*'s rationale and Congress's intent in passing the ADA. Courts have long considered the ADA and Title VII to be "sibling statutes," and as such, have applied rulings applicable to Title VII to similar situations under the ADA. *See Ford*, 145 F.3d at 606. Here, this Court should step in and clarify whether the same term, "employee," should be interpreted differently between Title VII and the ADA, even though both statutes use the exact same definition. *See* 42 U.S.C.S. § 2000e(f); *see also* 42 U.S.C.S. § 12111(4).[13]

The circuit split will also continue to splinter because some circuits do not focus on the term "employee," but rather language in the ADA which these circuits interpret as requiring a claimant be a qualified individual with a disability to be able to sue. But absent any meaningful temporal qualifier, the term "qualified individual" should not be read as creating a barrier to suit for former employees otherwise subject to discrimination on the basis of disability. *See* 42 U.S.C.S § 12111(8). The ADA's definition of "qualified individual" is as follows:

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[13] In the Title VII context, the Court found that absent language like "current" or "former," the term "employee" had no temporal qualifier and was therefore ambiguous. *See Robinson*, 519 U.S. at 341-42. Because the language was ambiguous, the Court relied on additional methods of statutory interpretation to clarify the term. *See id*.

> The term "qualified individual" means an individual with a disability who, with or without reasonable accommodation, can perform the functions of the employment position that such individual holds or desires. For the purposes of this subchapter, consideration shall be given to the employer's judgment as to what functions of a job are essential.

Id. The circuits that focus on the "qualified individual" language largely do not address the fact that this language does not concern who can sue or when they may sue. Nor does the statute specify *when* a potential plaintiff must be a "qualified individual." Is it that an individual needs to be a "qualified individual" when they earn their fringe benefits? Or is it that they must be a "qualified individual" when a discriminatory action in the post-employment period impacts those benefits? Without this Court's intervention, this ambiguity will continue to intensify.

The Eleventh Circuit's treatment of this issue exemplifies the confusion that will persist unless resolved by this Court. The circuit first examined this issue in *Gonzales*, where it held that a former employee is not a "qualified individual" under the ADA, and therefore could not sue for denial of post-employment fringe benefits. *See* 89 F.3d at 1530-31. Only five years later, the court re-examined the same question in *Johnson v. K Mart*, where it applied *Robinson* and reached the opposite conclusion. *See Johnson*, 273 F.3d 1035, 1037 (11th Cir. 2001), *vacated*, 273 F.3d 1035 ("In our judgment, *Robinson* mandates the conclusion that

Gonzales is no longer good law and must be deemed overruled."). *Johnson* was then vacated for rehearing *en banc*, but the defendant filed for bankruptcy, and the parties eventually settled. *Stanley*, 83 F.4th at 1339.

This extra-judicial happenstance left *Gonzales*, once again, precedential in the Eleventh Circuit—governing until *Stanley* was decided. *See id*. at 1333. Without additional changes to the legal landscape, when the court ruled on *Stanley*, rather than revert to the vacated reasoning of *Johnson*, the court affirmed *Gonzales*. *See id.* at 1336 ("we must decide whether *Gonzales* is still good law after (1) the Supreme Court's decision about Title VII retaliation in *Robinson* . . . and (2) Congress's changes to the text of the ADA. We believe *Gonzales* is still good law."). Given this clear reversal in reasoning, the Eleventh Circuit demonstrates the precise inconsistency that this Court must resolve.

The circuit split further confuses the standards for substantive and retaliatory discrimination claims, and this confusion will continue to fester until addressed by this Court. As the law currently stands, former employees can bring retaliation claims under Title VII pursuant to *Robinson.* If an employee were terminated in retaliation for a protected activity, that employee becomes a *former employee*, and *Robinson* makes it clear that *former employees* must be able to pursue retaliation claims. Otherwise, an employer could discriminatorily terminate workers and—because terminated individuals are no longer employees—they would be left without recourse. Plaintiffs, like Ms. Stanley,

should be covered under the ADA for substantive claims—just as they would be under Title VII for retaliation claims. By preventing former employees from bringing claims of discrimination regarding post-employment fringe benefits, courts undermine the plain purpose of the ADA. *See* 42 U.S.C.S. §§ 12112(a), (b)(2).

D. THE COURT SHOULD RESOLVE THIS QUESTION TO ENSURE THAT THE LAW CONFORMS WITH THE BROAD PURPOSE OF THE ADA.

The ADA is so integral to the American workplace that every branch of government has commented on its breadth and impact. In the text of the ADA itself, Congress describes the purpose of the ADA as being to "eliminat[e] discrimination against individuals with a disability." 42 U.S.C.S. § 12101(b)(1). When signing the ADA into law, former president George H.W. Bush declared, "I sign legislation which takes a sledgehammer to another wall, one which has for too many generations separated Americans with disabilities from the freedom they could glimpse, but not grasp." Presidential Statement on Signing the ADA, 2 Pub. Papers 1067 (July 26, 1990). In 2001, this Court interpreted the ADA's "sweeping purpose" as being to "integrate [people with disabilities] into the economic and social mainstream of American life." *PGA Tour, Inc. v. Martin*, 532 U.S. 661, 675 (2001). Now, this Court must decide whether the Eleventh Circuit's decision below honors this purpose.

Depriving employees of the ability to pursue claims against their former employers for discriminatory actions impacting fringe benefits earned while working does *not* honor the purpose of the ADA. To be clear, any employee alleging such a discriminatory action would still need to prove the merits of the case to prevail—and employees with disabilities deserve the chance to get in the courthouse door. The loophole perpetuated by decisions like *Stanley* provides employers with an opening to push individuals with disabilities back out of the workforce—the precise evil the ADA was intended to prevent. This would erode the significant progress this country has made toward ensuring equity in the workplace and frustrate Congress's unambiguous goal of protecting workers with disabilities.

CONCLUSION

For over twenty years, the circuit split has created confusion about the application of Title I of the ADA. The issue presented in this case is of national importance and is ripe for clarification by this Court. This case is ideal for addressing the issue because the question presented is narrow; the Court need only address the ability of former employees to sue under Title I of the ADA regarding post-employment benefits. Thus, the Court could overturn the judgment below without deciding the merits of the alleged discrimination.

For the foregoing reasons, this Court should grant the petition for writ of certiorari to review the

judgment and opinion of the United States Court of Appeals for the Eleventh Circuit.

Respectfully submitted,

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