No. 23-997

IN THE

# Supreme Court of the United States

KARYN D. STANLEY,

*Petitioner*,

v.

CITY OF SANFORD, FLORIDA,

*Respondent.*

**On Writ of Certiorari**
**To the United States Court of Appeals**
**For the Eleventh Circuit**

## BRIEF OF THE LOCAL GOVERNMENT LEGAL CENTER, NATIONAL ASSOCIATION OF COUNTIES, NATIONAL LEAGUE OF CITIES, INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION, GOVERNMENT FINANCE OFFICERS ASSOCIATION, AND INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION AS *AMICI CURIAE* IN SUPPORT OF RESPONDENT


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## INTEREST OF *AMICI CURIAE*[1]

The Local Government Legal Center ("LGLC") is a coalition of national local government organizations formed in 2023 to educate local governments regarding the Supreme Court and its impact on local governments and local officials and to advocate for local government positions at the Supreme Court in appropriate cases. The National Association of Counties, the National League of Cities, and the International Municipal Lawyers Association are the founding members of the LGLC, and the Government Finance Officers Association and the International City/County Management Association are associate members of the LGLC.

The National Association of Counties ("NACo") is the only national organization that represents county governments in the United States. Founded in 1935, NACo provides essential services to the nation's 3,069 counties through advocacy, education, and research.

The National League of Cities ("NLC"), founded in 1924, is the oldest and largest organization representing U.S. municipal governments. NLC works to strengthen local leadership, influence federal policy, and drive innovative solutions. In partnership with 49 state municipal leagues, NLC advocates for over 19,000 cities, towns, and villages, where more than 218 million Americans live.

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[1] Pursuant to Supreme Court Rule 37.6, *amici curiae* state that no counsel for any party authored this brief in whole or in part and no entity or person, other than *amici curiae*, their members, or their counsel, made any monetary contribution intended to fund the preparation or submission of this brief.

The International Municipal Lawyers Association ("IMLA") is the oldest and largest association of attorneys representing United States municipalities, counties, and special districts. IMLA's mission is to advance the development of municipal law through education and advocacy by providing the viewpoints of local governments around the country on legal issues before state and federal appellate courts.

The Government Finance Officers Association ("GFOA") is the professional association of state, provincial, and local finance officers in the United States and Canada. GFOA has served the public finance profession since 1906 and continues to provide leadership to government-finance professionals through research, education, and the identification and promotion of best practices. Its more than 21,000 members are dedicated to the sound management of government financial resources.

The International City/County Management Association (ICMA) is a nonprofit professional and educational organization of over 13,000 appointed professional city, town, and county managers who are appointed by elected officials to oversee the day-to-day operation of local communities. ICMA's mission is to create excellence in local governance through advocacy and by developing the professional management of local governments throughout the world.

The question here is of significant concern to local governments nationwide. State and local governments employ 20 million Americans. Like private employers, local governments may occasionally restructure the benefit packages they

offer their employees. And local governments, which rely on public funds, must also contend with significant resource constraints. Litigation by former employees can deplete those limited resources, hindering the locality's ability to fund employee salaries and benefits and to serve its citizens.

The Americans with Disabilities Act (ADA) carefully defines the individuals who may invoke the statute's protections. It was designed to ensure that current employees and job applicants do not suffer discrimination in connection with jobs they are able to perform with reasonable accommodations; it was *not* designed to regulate employers' relationships with *former* employees—relationships that are governed by other legal regimes. *Amici* submit this brief to address how petitioner's proposed interpretation of the ADA contravenes the text of the statute and its purpose, and to explain how petitioner's proposed interpretation of the ADA would adversely affect local governments nationwide and compromise their mission to serve the public.

## SUMMARY OF ARGUMENT

Title I of the ADA was enacted with the vital goal of helping workers with disabilities obtain—and keep—jobs. The statute covers "qualified individuals": individuals with a disability who can perform the essential duties of the position with or without reasonable accommodation. Petitioner asks the Court to expand the definition of "qualified individuals" beyond its plain boundaries to include individuals litigating against their *former* employers for alleged discrimination occurring *after* the individual's period

of employment. Her interpretation runs contrary to the text, purpose, and legislative history of Title I.

Local governments would be particularly vulnerable to the costs and liabilities stemming from petitioner's reading of the statute. Employee compensation typically constitutes at least half of a locality's budget. Employment benefits, which average nearly 40% of total compensation, sometimes need to be trimmed in tough financial times. Petitioner's broad interpretation of "qualified individual" could lead to a flood of litigation—and its costs—whenever budgets are rebalanced. And petitioner's proposal offers no real advantage for disabled workers at the end of the day. Individuals can always challenge discrimination during their employment, and can draw upon other legal protections to secure their vested benefits once their employment concludes.

## ARGUMENT

### I. The ADA Does Not Authorize A Former Employee To Challenge A Former Employer's Post-Employment Conduct.

**A.** Title I's purpose is to help workers with disabilities get—and keep—jobs. H.R. Rep. No. 101-485, pt. 3, at 31 ("The underlying premise of [Title I] is that persons with disabilities should *not be excluded from job opportunities* unless they are actually unable to do the job."); *Morgan v. Joint Admin. Bd., Ret. Plan of Pillsbury Co. & Am. Fed'n of Grain Millers, AFL-CIO-CLC*, 268 F.3d 456, 458 (7th Cir. 2001) ("The purpose of the Act's employment provisions is to draw workers with a disability into the workforce.").

The legislative history of Title I makes that impetus clear. Congress was concerned about the "staggering" numbers of people with disabilities who wanted to join the workforce but were unable to gain employment because of discrimination. S. Rep. No. 101-116. Explaining the "need for the legislation," Congress cited a number of statistics about the unemployment rates for people with disabilities that, "[t]ranslated into absolute terms, . . . mean[t] that about 8.2 million people with disabilities want to work but cannot find a job." H.R. Rep. No. 101-485, pt. 2, at 32. Legislators cited the "major categories" of employment discrimination that Title I sought to address:

> [U]se of [employment] standards and criteria that have the effect of denying such individuals equal job opportunities; failure to provide or make available reasonable accommodations; refusal to hire based on presumptions, stereotypes and myths about job performance, safety, insurance costs, absenteeism, and acceptance by others; placement into dead-end jobs; under-employment and lack of promotion opportunities; and use of application forms and other pre-employment inquiries that inquire about the existence of a disability rather than about the ability to perform the essential functions of a job.

*Id.* at 33. Each of these categories concerns discrimination in obtaining or maintaining employment. To achieve the "critical goal" of Title I—

"to allow individuals with disabilities to be part of the economic mainstream of our society"—Congress sought to prevent employers from making hiring and promotion decisions based on stereotypes or preconceived notions about disabilities, when disabled individuals could do the job with reasonable accommodations. The ADA requires employers to "work together to eliminate the pervasive bias against *employing persons* with disabilities." H.R. Rep. 101-485, pt. 3, at 32 (emphasis added).

**B.** Consistent with this purpose, Title I provides recourse to "qualified individual[s]" who experience discrimination because of a disability. 42 U.S.C. § 12111(8). A "qualified individual" is one "who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires." *Id.* Under that definition, Title I covers people applying for or currently performing a job, and does not extend to discrimination experienced by former employees.

When the plain language of a statute is unambiguous, this Court's "inquiry begins with the statutory text, and ends there as well." *Nat'l Ass'n of Mfrs. v. Dep't of Def.*, 583 U.S. 109, 127 (2018) (internal quotation marks omitted). There is no ambiguity here. Congress's definition of "qualified individual" includes several temporal qualifiers that can only pertain to applicants or current employees. First, a "qualified individual" is someone who "*can* perform the essential functions of the employment position." 42 U.S.C. § 12111(8) (emphasis added). "Thus, one must be able to perform the essential functions of employment at the time that one is discriminated against in order to

bring suit under Title I" of the ADA. *Weyer v. Twentieth Century Fox Film Corp.*, 198 F.3d 1104, 1112 (9th Cir. 2000). Second, a "qualified individual" must be able to perform the "essential functions of the employment position" that she "*holds* or *desires*." 42 U.S.C. § 12111(8) (emphasis added). This use of the present tense is no accident; a former employee—who no longer has a present or future interest in her job—cannot be a "qualified individual" within the meaning of the ADA. Finally, a "qualified individual" is someone who can perform the "*essential functions*" of her employment position. *Id.* (emphasis added). A former employee does not continue to perform the "essential functions" of a former position.

These clear temporal qualifiers distinguish Title I from other provisions of the ADA and from other anti-discrimination statutes, too. Title VII of the Civil Rights Act bars employers from discriminating "against any of his employees or applicants for employment," 42 U.S.C. § 2000e-3(a), and defines "employee" to "mean[] an individual employed by an employer[,]" 42 U.S.C. § 2000e(f). In *Robinson v. Shell Oil Co.*, 519 U.S. 337 (1997), this Court considered whether Title VII of the Civil Rights Act protected former employees against retaliatory discrimination. This Court determined that the lack of temporal language made the term "employees" ambiguous, and ultimately concluded that "'it is far more consistent to include former employees within the scope of 'employees' protected by" Title VII of the Civil Rights Act. *Id.* at 345. This same reasoning does not apply to a statute that includes unambiguous temporal qualifiers.

Other anti-discrimination statutes are different from Title I in ways that reinforce the distinct meaning of "qualified individual." The protections of Title III of the ADA—which addresses public accommodations—apply to "individual[s]," rather than "qualified individuals." *See* 42 U.S.C. § 12182(a) ("No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation[.]"); *Weyer*, 198 F.3d at 1112. And the ADA's retaliation prohibition similarly protects "*any* individual." *See* 42 U.S.C. § 12203(a) ("No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter[.]"); *Morgan*, 268 F.3d at 458–59. Title I's use of "qualified," rather than "any," makes clear that it applies to a distinct subset of "individuals." *See Sw. Airlines Co. v. Saxon*, 596 U.S. 450, 457–58 (2022) ("[W]here [a] document has used one term in one place, and a materially different term in another, the presumption is that the different term denotes a different idea." (quoting A. Scalia & B. Garner, *Reading Law* 170 (2012))).

The ADA's legislative history reinforces the text's plain meaning. In a Senate Report, the Committee on Labor and Human Resources cited many examples illustrating the intended meaning of "qualified individual with a disability,"[2] all of which involve only

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[2] Section 12111(8) originally defined the term "qualified individual with a disability," *see* 104 Stat. 331, and was later

prospective or current employees. Staff of H. Comm. on Educ. & Lab., 101st Cong., The Americans with Disabilities Act 124–25 (1991) (S. Rep. 101-116). One example: "[S]uppose an employer has an opening for a typist and two persons apply for the job, one being an individual with a disability who types 50 words per minute and the other being an individual without a disability who types 75 words per minute[.]" *Id.* at 124. Under Title I of the ADA, "the employer is permitted to choose the applicant with the higher typing speed." *Id.* But "if the two applicants are an individual with [] hearing [loss] who requires [a reasonable accommodation] and an individual without a disability, both of whom have the same typing speed, the employer is not permitted to choose the individual without a disability because of the need to provide the needed reasonable accommodation." *Id.* The Report explains that the "qualified individual with a disability" limitation was intended to prevent employers from not hiring individuals with disabilities, except where the disability would prevent the individual "from performing the essential functions of the job," or would pose "a direct threat to the health or safety of others" or "a direct threat to property." *Id.* at 125. This discussion reflects

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amended to omit the phrase "with a disability." *See* 122 Stat. 3557. But Title I's substantive prohibition on employment discrimination specifies that "[n]o covered entity shall discriminate against a qualified individual on the basis of disability[.]" 42 U.S.C. § 12112(a). Thus, to sue under Title I of the ADA, the disability must still "exist at the time of the discrimination and be the motivation for the discrimination." *Weyer*, 198 F.3d at 1112.

legislators' concern with ensuring that disabled individuals have access to jobs and that discrimination does not hinder their professional development; there is no discussion of ensuring access to post-employment benefits for former employees.

Finally, limiting the ADA's protections to prospective and current employees comports with the Title I's purpose: to help people with disabilities get and keep jobs. To achieve this, Congress has the authority to prioritize assisting individuals with disabilities in a specified set of circumstances. After all, a "statute may provide a partial remedy for what Congress perceives as a social problem because the proponents are compelled to compromise with others who think a broader statute would be a worse social problem." *Weyer*, 198 F.3d at 1112. "Congress could reasonably decide to enable disabled people who can work with reasonable accommodation to get and keep jobs, without also deciding to equalize post-employment fringe benefits for people who cannot work." *Id.* Petitioner's reading of Title I ignores this legislative compromise.

Two circuits have concluded that *Robinson*, which held that former employees may recover for retaliation claims under the Civil Rights Act, applies with equal force to ADA discrimination claims. *See Castellano v. City of New York*, 142 F.3d 58, 69 (2d Cir. 1998); *Ford v. Schering-Plough Corp.*, 145 F.3d 601, 607 (3d Cir. 1998). But there is good reason why Congress would treat disability discrimination claims differently from retaliation claims. Preventing former employees from bringing retaliation claims under the Civil Rights Act "would undermine the effectiveness of Title VII by

allowing the threat of postemployment retaliation to deter victims of discrimination from complaining to the EEOC, and would provide a perverse incentive for employers to fire employees who might bring Title VII claims." *Robinson*, 519 U.S. at 346. But under the ADA, the incentives run the opposite way. Because employers are not legally required to offer retirement and other benefits, "compelling employers who do [offer such benefits] to maintain them in lockstep with other benefits [c]ould deter their provision" altogether. *Morgan*, 268 F.3d at 458. And disabled individuals might be deterred from entering the workforce if fewer employers offer post-employment benefits, *see id.*—the very problem Title I is intended to prevent. Excluding former employees from the definition of "qualified individuals" frees employers from the burden of potential litigation over the administration of post-employment benefits. This leads to more opportunities for disabled individuals, not fewer.

Most circuits that have confronted the question have concluded that totally disabled former employees lack standing to bring a discrimination claim under Title I of the ADA. *See McKnight v. Gen. Motors Corp.*, 550 F.3d 519, 525 (6th Cir. 2008) ("[F]ormer disabled employees do not have standing under Title I of the ADA."); *Morgan*, 268 F.3d at 458 (totally disabled former employees "cannot perform the essential functions of their job, and therefore they have no rights under the [relevant ADA] statutory provisions"); *EEOC v. CNA Ins. Cos.*, 96 F.3d 1039, 1045 (7th Cir. 1996) ("Because [claimant] no longer has an 'employment position' with [claimant's former employer], nor is she an applicant, she has no claim

under § 102" of the ADA.); *Weyer*, 198 F.3d at 1112 ("Title I unambiguously excludes totally disabled persons."); *Gonzales v. Garner Food Servs., Inc.*, 89 F.3d 1523, 1530–31 (11th Cir. 1996) ("Since [claimant] was neither a job applicant nor a current employee capable of performing essential functions of an available job with [claimant's former employer] or subsequent to the time the alleged discriminatory conduct was committed, he was not a ["qualified individual"] within the meaning of the ADA."). As these decisions recognize, interpreting "qualified individual" to encompass current but not former employees advances the statute's purpose without imposing costs that Congress elected to forgo.

**C.** Following Congress's clear temporal limits, this Court should reject any attempt to stretch the term "qualified individual" beyond its plain meaning. In particular, the text of the statute cannot reasonably accommodate the government's argument that "Title I prohibits discrimination in postemployment benefits even if the discrimination occurs only after the plaintiff is no longer employed." U.S. Br. at 10–11. The government reasons that such post-employment decisions operate on "qualified individuals" retroactively, by changing the terms and conditions of their employment. That is not the case here as a matter of fact, where no vested benefits of petitioner were impaired before or after her employment. But the argument is also illogical: an employer who makes changes to an individual's post-employment benefits after the end of their employment has necessarily *not* taken action against an employee or applicant. That is enough to answer the Title I question as a textual

matter. And as discussed next, federal and state law elsewhere protect bona fide vested benefits—retired employees do not need the ADA for that.

**D.** A faithful interpretation of Title I does not mean that employees have no legal mechanism to ensure that they do not suffer discrimination in the design of post-employment benefits. Indeed, petitioner here could have brought a claim challenging the revised length-of-service requirements while she was still employed by the City. *See, e.g.*, *City of Hollywood v. Bien*, 209 So. 3d 1, 1 (Fla. Dist. Ct. App. 2016) (examining employed police officers' challenge to retirement program changes as "an unconstitutional impairment of their right to contract and an unlawful taking of private property without compensation").

Other legal regimes afford remedies for changes to vested benefits that occur after an individual's employment. State law specifically protects public employees. Even when a "city is justifiably concerned with keeping its pension system actuarily sound, any mistakes or miscalculations as to the financial demands on the fund cannot be corrected by depriving those who have already retired of the benefits provided to them by the law in effect when they retired." *City of Daytona Beach v. Caradonna*, 456 So. 2d 565, 568 (Fla. Dist. Ct. App. 1984). So, for example, although the Florida legislature "can alter retirement benefits of active employees," after an employee reaches retirement, that "contractual relationship may not thereafter be affected or adversely altered by subsequent statutory enactments." *Fla. Sheriffs Ass'n v. Dep't of Admin., Div. of Ret.*, 408 So. 2d 1033, 1036 (Fla. 1981). Florida state employees, such as

petitioner, also enjoy state constitutional protections: Article I, section 10 "prohibits laws impairing the obligation of contracts," and Article X, section 6 "provides that no private property shall be taken except for a public purpose and with full compensation paid therefor." *Scott v. Williams*, 107 So. 3d 379, 382 (Fla. 2013). For private employees, the Employee Retirement and Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001, et seq., provides robust protections "by making sure that if a worker has been promised a defined pension benefit upon retirement—and if he has fulfilled whatever conditions are required to obtain a vested benefit—he actually will receive it." *Nachman Corp. v. Pension Ben. Guar. Corp.*, 446 U.S. 359, 375 (1980).[3] If a former employee is denied an ERISA benefit, that statute provides the remedy.

The ADA requires only that "persons with disabilities have the opportunity to receive the same benefits as non-disabled officers who have given an equivalent amount of service." *Castellano*, 142 F.3d at 70; *see also Fobar v. City of Dearborn Heights*, 994 F. Supp. 878, 886 (E.D. Mich. 1998) (holding that a disabled employee who retires before the length of service requirement "is not receiving lower benefits because of his disability, but because he failed to meet the essential age and service eligibility requirements

[3] Petitioner is aware of the other claims available to her—she pleaded many of them in her complaint. *See Stanley v. City of Sanford, Fla.*, No. 6:20-cv-629, 2021 WL 6333059, at *1 (M.D. Fla. Mar. 1, 2021), *aff'd*, 83 F.4th 1333 (11th Cir. 2023) (noting Stanley's claims included violations of the Florida Civil Rights Act, Declaratory Judgment Act, and Section 1983 claims).

for receiving those benefits"). The City of Sanford has fully complied with this requirement—all employees who serve twenty-five years earn the post-employment health insurance subsidy—while additionally offering a compassionate relief provision for employees who retire due to disability before reaching twenty-five years of service. It is up to Congress to decide whether Title I's existing protections are inadequate to serve the statute's policy objectives.

## II. Litigation Can Detract Limited Resources From Local Governments And Their Workers.

Local governments sometimes face economic crises that force them to make difficult decisions to maintain financial stability.[4] In even the best of times, they must carefully balance expenditures against revenues, weigh assets against liabilities, and plan for the future. Localities are limited in their ability to rely on borrowing to navigate economic crises, and their ability to raise taxes is often constrained by law or political reality.

It is incumbent on cities and towns, ever adapting to evolving financial pressures, to exercise their "discretionary, policy-making" authority to "allocate scarce public resources." *Town of Gulf Stream v. Palm Beach Cnty.*, 206 So. 3d 721, 725 (Fla. Dist. Ct. App. 2016). They may have to cut budgets to stay solvent

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[4] *See, e.g.*, Carlos Waters, *Many Large U.S. Cities are in Deep Financial Trouble. Here's Why*, CNBC (Apr. 25, 2024), https://www.cnbc.com/2024/04/25/many-large-us-cities-are-in-deep-financial-trouble-heres-why.html.

and re-examine employment benefits—employee compensation accounts for over half of a typical local budget,[5] and employment benefits account for nearly 40% of these employer compensation costs, substantially more than the 30% that private employers spend.[6] As the City of Sanford did here when it modified an exception to its years-in-service requirement, a municipality may decide to adjust the eligibility criteria for benefits going forward.

Those kinds of decisions have historically been governed by state law. *See, e.g.*, *Fla. Sheriffs Ass'n*, 408 So. 2d at 1036 (localities may "alter retirement benefits of active employees"). Courts have found that cities such as Sanford "may generally alter benefits, make them more generous or less generous, or eliminate any or all of them—just as they may give pay raises or order across-the-board salary freezes or cuts." *Cheek v. City of Greensboro*, 152 F. Supp. 3d 473, 476 (M.D.N.C. 2015), *aff'd sub nom. Davis v. City of Greensboro*, 667 F. App'x 411 (4th Cir. 2016). No city official would deny that such decisions are painful, but failing to exercise fiscal prudence is sure to cause only

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[5] Sarah Anzia, *Local Governments Have Limited Ability or Incentive To Control Spending on Union Wages and Benefits*, Promarket (May 13, 2024), https://www.promarket.org/2024/05/13/local-governments-have-limited-ability-or-incentive-to-control-spending-on-union-wages-and-benefits.

[6] News Release, Bureau of Labor Stats., *Employer Costs for Employee Compensation – June 2024*, at 1, U.S. Dep't Lab. (Sept. 10, 2024), https://www.bls.gov/news.release/pdf/ecec.pdf.

more pain later. Citizens are right to expect their local governments to act in a fiscally responsible way.

Expanding the definition of "qualified individual" under the ADA to encompass claims by former employees—particularly over decisions made years in the past—would expose local governments to a new species of litigation, and it would also disrupt the regimes that have traditionally applied to claims by former employees against localities. These new and unnecessary litigation avenues would inevitably strain public resources and consume funding that could otherwise be dedicated to employee wages and benefits. There is no need to extend the ADA's reach beyond its explicit language since there are already multiple legal protections against unlawful and discriminatory reductions in benefits.

Localities pressured by the threat of costly litigation unless they maintain unsustainable benefits risk fiscal crises and in drastic cases, even bankruptcy. It is infeasible for local governments to assume "permanent responsibility for maintaining a retirement plan which could never be amended or repealed irrespective of the fiscal condition of this state." *Fla. Sheriffs Ass'n*, 408 So. 2d at 1037. Such a requirement "could lead to fiscal irresponsibility" as well as imposing "an inflexible plan which would prohibit the legislature from modifying the plan in a way that would be beneficial to a majority of employees, but would not be beneficial to a minority." *Id.* While not common, recent history contains some cautionary tales of bankruptcies of local governments that did not—or could not—exercise the requisite

fiscal discipline or were hamstrung in addressing an economic challenge.[7]

Take Detroit, whose Chapter 9 filing in 2013 covered some $18 billion in debt—which included $6.4 billion in unfunded post-employment benefits (primarily health care costs for municipal employees).[8] At the time, the city was facing declining tax inflows, a shrinking population, deteriorating property values, less revenue from the state, and more. As a result of the bankruptcy, Detroit's creditors were left to absorb billions in unpaid obligations, receiving as little as 14 cents on the dollar.[9] Tradespeople, retailers, small businesses, educators, childcare and eldercare providers, and many others lost money. The impact on city employees was particularly crushing: The bankruptcy eliminated $7.8 billion in payments to

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[7] Jeff Chapman, Adrienne Lu, & Jeff Timerhoff, *By the Numbers: A Look at Municipal Bankruptcies Over the Past 20 Years*, Pew Charitable Tr. (July 6, 2020), https://www.pewtrusts.org/en/research-and-analysis/articles/2020/07/07/by-the-numbers-a-look-at-municipal-bankruptcies-over-the-past-20-years.

[8] Robert C. Pozen, *The Retirement Surprise in Detroit's Bankruptcy*, Brookings (July 25, 2013), https://www.brookings.edu/articles/the-retirement-surprise-in-detroits-bankruptcy.

[9] Matthew Dolan, *Judge Approves Detroit's Bankruptcy-Exit Plan*, Wall St. J. (Nov. 7, 2014), https://www.wsj.com/articles/judge-approves-detroits-bankruptcy-exit-plan-1415383905.

retired workers and $4.3 billion in unfunded healthcare and future costs.[10]

But Detroit is a big city. Sanford's population was 61,000 at the time of the 2020 census, only a little bigger than Prichard, Alabama. A once-thriving community, Prichard's population shrunk from a peak of 47,000 in 1960 to 27,000 by 2009.[11] Still, the city did not modify retirement benefits for city employees, which remained at an unsustainable $150,000 per month.[12] Eventually the funds ran dry, and the city stopped sending checks. That failure, and the resulting lawsuits, resulted in the city's "only solution": Chapter 9, with retirees' benefits cut substantially.[13] Retroactive or late-stage benefit cuts may be hard to swallow, but the consequences of

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[10] Susan Tompor, *Even 5 Years Later, Retirees Feel the Effects of Detroit's Bankruptcy*, Detroit Free Press (July 18, 2018), https://www.freep.com/story/money/personal-finance/susan-tompor/2018/07/18/detroit-bankruptcy-retirees-pension/759446002.

[11] *Prichard, Alabama Population 2024*, World Population Review (May 2024), https://worldpopulationreview.com/us-cities/alabama/prichard.

[12] Editorial Board, *A Warning From Prichard: In Alabama, A Lesson to Learn*, Anniston Star (Dec. 28, 2010), https://www.annistonstar.com/opinion/a-warning-from-prichard-in-alabama-a-lesson-to-learn/article_0b54f728-b159-5278-84d8-8fb1380fa233.html.

[13] David Ferrara, *Prichard Files for Bankruptcy; City Faces Lawsuit Over Nearly Empty Pension Fund*, Al.com (Oct. 28, 2009), https://www.al.com/live/2009/10/prichard_files_for_bankruptcy_1.html.

maintaining unsustainable commitments to public employees are worse.[14]

There have been other municipal bankruptcies like Prichard's: Chester, Pennsylvania, in 2022; Fairfield, Alabama, in 2020; Perla, Arkansas, in 2019.[15] These cities learned—albeit too late—that, despite the immediate adverse impact on various groups, it may be prudent, responsible, and necessary to limit certain employee compensation and benefits to maintain fiscal order.

The City of Sanford took this lesson to heart, recognizing that although it "would have liked to continue paying disability retirees with less than 25 years the same subsidy as 25-year retirees," financial reality made sustaining the program impractical. Resp. Br. at 8. By adjusting the policy to treat disabled retirees the same as all others—while providing an additional subsidy for those who fell short of the service requirement—the City upheld fiscal responsibility, averting financial crisis. Often, local governments are not choosing between making cuts or not making cuts; they are choosing between making cuts now or making deeper cuts later.

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[14] Semoon Chang, *A Tale of the Prichard (AL) Pension Program*, 17 Pensions Int'l J. 112, 117 (May 28, 2012). This article summarizes a continuing series of unsustainable increases in Prichard's employment benefits conferred by the city executives and city council in the decade leading to financial disaster.

[15] *Municipal Bankruptcy: A Primer on Chapter 9*, Nuveen (Oct. 5, 2023), https://www.nuveen.com/en-us/insights/municipal-bond-investing/municipal-bankruptcy-a-primer-on-chapter-9.

Title I of the ADA strikes a carefully crafted balance, safeguarding the rights of employees with disabilities while allowing local governments the flexibility to manage their budgetary spending—including employee benefits—in a way that promotes fiscal stability. The Court should not disrupt this congressionally crafted alignment.

## CONCLUSION

For the foregoing reasons, the Court should affirm the Eleventh Circuit's decision.

Respectfully submitted,

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