

No. 24-453

IN THE

Supreme Court of the United States

EMMANUEL G. LOUIS, JR., *et al.*,

Petitioners,

v.

BLUEGREEN VACATIONS UNLIMITED, INC., *et al.*,

Respondents.

On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Eleventh Circuit

**BRIEF FOR MILITARY AND VETERANS
ORGANIZATIONS AS *AMICI CURIAE*
SUPPORTING PETITIONERS**

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QUESTION PRESENTED

Do plaintiffs who paid money under a void contract have Article III standing to challenge the enforcement of that contract and seek restitution of their payment in federal court?

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INTERESTS OF *AMICI CURIAE*

Amici curiae are nonprofit organizations that represent the interests of United States military service-members, veterans, and their spouses and dependents. As military and veterans nonprofits, *amici* have an interest in ensuring that the Military Lending Act remains effective, enforceable, and uniformly available to military families nationwide. *Amici* comprise hundreds of thousands of members and provide programming and resources focused on financial wellness and career advancement to millions of individuals in the military community each year. Those efforts include protecting military families from unfair or predatory lending practices, counseling them on fiscal planning and responsibility, and ensuring their overall financial stability. *Amici*'s missions would be disrupted if the Eleventh Circuit's decision that limits the Article III standing of military families to sue is left in place. *Amici* are the following organizations:¹

- Blue Star Families is a nationwide nonprofit that supports the wellbeing of military and veteran families with over 330,000 members;
- Coast Guard Chief Petty Officers Association is a national nonprofit that focuses on issues affecting Coast Guard personnel and families;
- Fleet Reserve Association is a nonprofit with over 450,000 members that has advanced the

¹ Pursuant to Supreme Court Rule 37.6, *amici curiae* state that no counsel for a party authored this brief in whole or in part and that no person or entity other than *amici* or their counsel made a monetary contribution toward the preparation or submission of this brief. Pursuant to Rule 37.2, *amici* timely notified counsel of record for all parties of their intention to file this brief.

interests of Coast Guard, Marine Corps, and Navy personnel and families since 1924;

- Iraq and Afghanistan Veterans of America is a nonprofit of over 425,000 members that represents the post-9/11 military community;
- Jewish War Veterans of the USA, founded in 1896, is the oldest active national veterans service organization and is dedicated to representing Jewish servicemembers and veterans;
- Military Officers Association of America is the Nation's largest organization of uniformed servicemembers and surviving spouses, with more than 360,000 members;
- Minority Veterans of America is a nationwide nonprofit advocating on behalf of historically marginalized and underserved servicemembers and veterans;
- National Military Family Association is the leading nonprofit dedicated to serving all military families and has, since 1969, worked with families to identify and solve the unique challenges of military life;
- United States Army Warrant Officers Association is a nonprofit focused on the advancement and professional development of warrant officers in the Army; and
- Veterans Education Success is a nonprofit working to advance higher-education success for servicemembers, veterans, and military families and to protect the promise of the G.I. Bill and other postsecondary programs.

INTRODUCTION AND SUMMARY OF ARGUMENT

Over one million Americans proudly serve our Nation as active-duty members of today's fully volunteer force, at personal cost to themselves and their loved ones. Congress enacted the Military Lending Act almost two decades ago out of a concern that predatory lenders were deepening that cost of military service by burying servicemembers and their families in debt. *See John Warner National Defense Authorization Act for Fiscal Year 2007*, Pub. L. No. 109-364, tit. VI, subtit. F, § 670, 120 Stat. 2083, 2266 (2006) (codified at 10 U.S.C. § 987). The Act followed a careful study from the U.S. Department of Defense that had outlined the precise predatory lending practices that harmed military families and explained how personal debt could deplete the readiness of the military as a whole.

Congress responded through the Act by targeting the specific consumer-lending practices that naturally and predictably harmed military families. Lenders offered payday loans with sky-high interest rates, so Congress capped interest rates. Lenders tacked on hidden fees and ancillary financial products, so Congress required loan disclosures. And lenders offered follow-on loans just to cover the cost of prior loans, so Congress barred that practice, too.

The correctness of Congress's causal judgment was confirmed when military families saw the immediate benefits of the Act. Payday lending dropped. And the credit scores of servicemembers who stay in the military are now better than those of the civilian population. Contributing to those results has been the Act's robust enforcement mechanisms, which allow military

families to sue for statutory violations and to prevent enforcement of loans that are void from their inception under the statute.

The Eleventh Circuit’s decision vitiates the Act’s protections, by improperly heightening the requirements for military families to prove that illegal loan products caused them harm for purposes of their Article III standing to sue. *Amici curiae* agree with petitioners (Pet. at 10–20) that the decision is wrong, deepens a circuit split, and presents an important question. *Amici* submit this brief to additionally show how the decision below exposes military families to the very predatory lending practices that the Act sought to keep in check.

This Court should grant the petition.

ARGUMENT

I. IN ENACTING THE MILITARY LENDING ACT, CONGRESS RECOGNIZED THE UNIQUE POSITION OF SERVICEMEMBERS AND THEIR FAMILIES

A. Congress Credited Reports of Predatory Lenders Targeting Military Families

1. Enacted in 2006 with broad bipartisan support, the Military Lending Act builds upon our Nation’s rich history of protecting those who serve to protect the Nation. *See* 10 U.S.C. § 987. In doing so, the Act manifests Congress’s “broad and sweeping” constitutional authority to devise measures that both raise and support the armed forces. *Torres v. Texas Dep’t of Pub. Safety*, 597 U.S. 580, 585 (2022) (quotation omitted); *see* U.S. CONST. art. I, § 8, cl. 1, 12–13.

As Congress has historically appreciated, military service places unique burdens on servicemembers and their families. Congress has, in turn, drawn statutes that target the real-world causes of those challenges.

Congress has, for instance, passed statutes to fund the education and workplace training of members of the armed forces to ease their reintegration into civilian life. *E.g.*, 38 U.S.C. §§ 3001 *et seq.*, 4100 *et seq.*; *see Rudisill v. McDonough*, 601 U.S. 294, 299 (2024). Congress has extended housing and small-business assistance to servicemembers to fortify their economic well-being. *E.g.*, 38 U.S.C. §§ 2001 *et seq.*, 3701 *et seq.*, 8127 *et seq.*; *see Kingdomware Techs., Inc. v. United States*, 579 U.S. 162, 165 (2016). And Congress has enacted programs that offer healthcare and disability benefits to veterans and their dependents to address health issues that come with service. *E.g.*, 38 U.S.C. §§ 1101 *et seq.*; *see Arellano v. McDonough*, 598 U.S. 1, 4 (2023).

2. With the Military Lending Act, Congress continued this tradition, by regulating predatory lending practices that had hindered the full economic participation of servicemembers and their families.

The economic stability of military families is a cornerstone of effective armed forces. The Department of Defense has for years recognized the intertwined “commitments [between] Service members (to the defense of the nation), their families (to being part of that commitment), and the Department of Defense (to caring for their well-being).” *A Review of the Department of Defense’s Report on Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents: Hearing Before the S. Comm. on Banking, Hous. & Urb. Affs.*, 109th Cong. 1 (2006)

(2006 Senate Hearing) (statement of David S. C. Chu, Under Secretary of Defense for Personnel and Readiness). After all, servicemembers need to be focused on defense, not debt. Increased debt causes “a significant decline in overall job performance” and “a concomitant decline in retention.” Scott Carrell & Jonathan Zinman, *In Harm’s Way? Payday Loan Access and Military Personnel Performance*, 27 REV. FIN. STUD. 2805, 2830 (2014).

Congress realized, however, that predatory lending had infiltrated the military system, as outlined in a Defense Department report issued in 2006 in accordance with the National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, tit. V, subtit. I, § 579, 119 Stat. 3136, 3276 (2006). The report confirmed the harsh reality that “predatory loan practices and unsafe credit products are prevalent and targeted at military personnel.” U.S. Dep’t of Def., *Report on Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents* 45 (2006) (2006 Def. Report).

As the Department’s report found, military communities held features that made them especially vulnerable to predatory lending. Many servicemembers were “young and financially inexperienced,” often stationed away from family or other support networks. 2006 Def. Report at 4, 21. And predatory lenders were attracted to those individuals precisely because of their military service, which delivered a “guaranteed continued income” that lenders could prey on. *Id.* at 4, 22.

As a result, predatory lenders targeted military families by operating near military communities and by advertising directly to them. Payday lenders set up

shop “heavily concentrated” around military bases, and active military personnel became up to three times more likely than civilians to take out a payday loan. 2006 Def. Report at 10–12. In addition to encroaching on bases, lenders built “venus fly trap[s]” for military personnel in their marketing campaigns. 2006 Senate Hearing (statement of Ret. Adm. Charles S. Abbot, President & Chief Executive Officer, Navy–Marine Corps Relief Society). Lending shops took out “large, color advertisements” across military magazines (e.g., ARMY TIMES, NAVY TIMES) promising that the lenders were “dedicated exclusively to military personnel.” *Ibid.* And online lenders posted digital ads that passed off official seals and individuals in uniform to promote their loans. 2006 Def. Report at 63–64.

As found in one study relied on by the Department, payday lenders targeting the military community often “charge[d] annual interest rates averaging 450 percent.” Steven M. Graves & Christopher L. Peterson, *Predatory Lending and the Military: The Law and Geography of “Payday” Loans in Military Towns*, 66 OHIO ST. L.J. 653, 673 (2005); see 2006 Def. Report at 10, 13. Other lenders made successive loans when families could not repay their original loans in full, pushing them further into debt. See 2006 Def. Report at 14, 18, 22. And among various other harmful practices, lenders secured loans with servicemembers’ car titles or tax refunds and offered complex rent-to-own transactions. *Id.* at 16–17, 19–20.

3. The resulting consumer-related harms to servicemembers and their families were predictable. An estimated one in five servicemembers had taken out a payday loan. See 2006 Def. Report at 38 (citing Ctr. for

Responsible Lending, *Payday Lenders Target the Military* (Sept. 29, 2005), <https://perma.cc/PW3A-B48Q>). Under the pressure of predatory lenders, military families were pulled into debt-collection actions and stood to “los[e] essential transportation and key family assets.” *Id.* at 16, 20–21. Servicemembers faced “enormous debt, family problems, [and] difficulty maintaining personal readiness.” *Id.* at 39.

As the Department of Defense’s report made clear, there was a direct line between predatory lending and the unique harms posed to individuals’ military service and to the military itself. Servicemembers could face disciplinary action—potentially including separation from the armed forces—for their indebtedness, as military policy requires them to pay their just debts. *See* 2006 Def. Report at 10 n.3, 40, 42–43 (citing U.S. Dep’t of Def., *Directive 1344.9: Indebtedness of Military Personnel* (Oct. 27, 1984)). Financial issues associated with high levels of debt also resulted in the loss of security clearances. *Id.* at 45. Indeed, the rise in predatory practices aimed at servicemembers had been linked to a 1,600% increase in security-clearance revocations and denials for Navy and Marine Corps personnel. *Id.* at 86–87 (statement of Capt. Mark D. Patton, U.S. Navy).

All told, predatory lending had “undermine[d] military readiness, harm[ed] the morale of troops and their families, and add[ed] to the cost of fielding an all-volunteer fighting force.” 2006 Def. Report at 9.

B. The Military Lending Act Targets Predatory Consumer-Lending Practices That Predictably Result in Harm

In the Military Lending Act, Congress reached a judgment that certain lending practices naturally and predictably cause harm to the military community. As the chairperson of the Senate committee considering the statute recognized, because “unscrupulous lenders continue to employ predatory practices, our servicemen and women suffer and the toll on our readiness will increase.” 2006 Senate Hearing (statement of Sen. Richard S. Shelby). The principal proponent of commissioning the Department of Defense’s 2006 report affirmed that “predatory lending can seriously harm” both the Nation’s combat capabilities and military families’ livelihoods. *Id.* (statement of Sen. Elizabeth Dole).

As enacted, the Act promotes the full economic participation of active-duty servicemembers and their dependents. 10 U.S.C. § 987(i)(1)–(2). The Act does so by prohibiting consumer-lending practices that had demonstrably harmed military families.

The Act first protects against high interest rates, and complex terms that conceal the true rates. The Act imposes a maximum annual percentage rate on the interest that can be charged for consumer-lending products. 10 U.S.C. § 987(b). To prevent lenders from skirting that limit, the Act defines interest and the annual percentage rate to broadly include the fees, charges, and ancillary products packaged with a loan. *Id.* § 987(i)(3). And the Act requires lenders to disclose that interest rate and borrowers’ payment obligations. *Id.* § 987(c)(1).

The Act also prohibits a list of specific consumer-lending practices. 10 U.S.C. § 987(e)(1)–(7). These include, for instance, barring lenders from offering successive loan products just so borrowers can pay off debt from a prior loan. *Id.* § 987(e)(1). The Act limits lenders' direct access to military families' checking and savings accounts and prohibits requiring borrowers to set up separate funds for the repayment of lending products. *Id.* § 987(e)(5)–(6). And the Act bars lenders from taking the title of borrowers' vehicles as collateral. *Id.* § 987(e)(5).

The Act further reflects Congress's determination that these unlawful consumer-lending practices inflict predictable harms on military families. The Act states that any contract for a prohibited lending product is "void from the inception of such contract." 10 U.S.C. § 987(f)(3). To ensure that military families are able to access judicial remedies, the Act also prohibits the use of arbitration clauses. *Id.* § 987(e)(3), (f)(4).

Since the Act's passage, Congress and the Executive Branch have only strengthened its provisions. Congress in 2013 amended the Act to provide for enhanced protections. See National Defense Authorization Act for Fiscal Year 2013, Pub. L. No. 112-239, tit. VI, subtit. G, §§ 661–663, 126 Stat. 1632, 1785–86 (2013). Those amendments ensured, for instance, that state statutes could not authorize higher interest rates. *Id.* § 661(a) (codified at 10 U.S.C. § 987(d)(2)). And Congress crafted statutory mechanisms that authorized administrative enforcement and private rights of action. *Id.* § 662 (codified at 10 U.S.C. § 987(f)(5)–(6)). The Department of Defense has further promulgated regulations that implement the Act. See 32 C.F.R. § 232.1 *et seq.* In doing so, the Depart-

ment reiterated that predatory lending practices that are barred by the Act are in effect “debt trap[s]” that result in “a cycle of debt” for servicemembers and their families. *Limitations on Terms of Consumer Credit Extended to Service Members and Dependents*, 72 Fed. Reg. 50,580, 50,582 (Aug. 31, 2007).

II. THE MILITARY LENDING ACT SUCCESSFULLY SHIELDS MILITARY FAMILIES FROM THE HARMS OF PREDATORY LENDING

A. Real-World Results Confirm Congress’s Judgment That Predatory Lending Predictably Causes Harm

1. The Department of Defense has declared that the Military Lending Act is “currently working as intended.” U.S. Dep’t of Def., *Report on the Military Lending Act and the Effects of High Interest Rates on Readiness* 7 (May 2021) (2021 Def. Report). That is, as soon as Congress prohibited lending practices that naturally and predictably harm servicemembers and their families, the military community felt the Act’s benefits. It has been a “[g]roundbreaking [s]uccess.” Paul E. Kantwill & Christopher L. Peterson, *American Usury Law and the Military Lending Act*, 31 LOY. CONSUMER L. REV. 498, 529 (2019).

Immediately after the Act’s enactment, numerous lenders stopped targeting military families. Payday loans to military borrowers in some States decreased by 92% in under two years. See Creola Johnson, *Congress Protected the Troops: Can the New CFPB Protect Civilians from Payday Lending?*, 69 WASH. & LEE L. REV. 649, 663 (2012). Independent researchers in the following years identified similar positive changes in

California, finding a 70 percent reduction in payday-loan outlets in the vicinity of Camp Pendleton, the primary West Coast base of the Marine Corps. See Consumer Fed. of Am., *The Military Lending Act Five Years Later: Impact on Servicemembers, the High-Cost Small Dollar Loan Market, and the Campaign Against Predatory Lending* 9 (May 2012), <https://perma.cc/V86B-4EMG>. A recent report from Washington likewise shows that payday lenders in effect ceased targeting military borrowers in that State. See Wash. State Dep’t of Fin. Insts., *2022 Payday Lending Report* 9 (2022), <https://perma.cc/BZ3R-SUWY>.

The specific lending practices that Congress targeted have also dropped in military communities. The Department of Defense reported in 2021 that “online lenders that traditionally targeted the military population and charged exorbitant interest rates have modified their lending practices to comply.” 2021 Def. Report at 15.

The Act stands out as a model for effective bipartisan legislation that tackles the military community’s challenges. Senators have pointed out its “successful track record.” 169 Cong. Rec. S5999–6000 (daily ed. Dec. 14, 2023) (statement of Sen. Jack Reed). The Act is the “gold standard” for how the Nation effectively protects the military community. Carolyn Carter, *et al.*, *Predatory Installment Lending in the States: How Well Do the States Protect Consumers Against High-Cost Installment Loans?*, Nat’l Consumer Law Ctr. (Nov. 21, 2023), <https://perma.cc/QUB7-Z23L>. And Congressmembers have only sought to extend its protections. See Press Release, S. Comm. on Banking, Hous. & Urban Affs., *Senators Seek to Cap Consumer Loans at 36%* (July 28, 2021).

2. The Act has also yielded significant benefits for military personnel. Since 2007, the number of active-duty servicemembers who need emergency financing to escape payday loans has decreased by around 99.8 percent. Mike Saunders, *Here's Why Vets Need to Avoid Predatory Lenders More Than Ever*, MILITARY.COM (Aug. 21, 2020), <https://perma.cc/T47H-H9HG> (citing Navy–Marine Corps Relief Soc'y, *Assistance Provided to Active Duty and Retired Navy and Marine Corps Personnel Due to Pay Day Loan Involvement 2004–2010*, <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5c7d3ec0e79c70579f44162c/1551711937100/>). And the Department has likewise found a “decreased use of high-cost credit products and improved financial condition among Service members over time.” 2021 Def. Report at 7.

Now, rather than being more likely to be preyed on by lenders, servicemembers who stay in military service for at least five years have *better* credit scores than the civilian population. See Consumer Fin. Prot. Bureau, *Financially Fit? Comparing the Credit Scores of Young Servicemembers and Civilians* 4 (July 2020). As intended, the Act “appears to be effective in deterring unfair credit practices, ensuring Service members and families have continued access to affordable and responsible credit, and sustaining financial readiness in support of the Department’s National Defense Strategy.” 2021 Def. Report at 7.

B. Military Families Rely on the Effective Enforcement of the Military Lending Act

Critical to the Military Lending Act’s success has been a robust process for enforcing its protections, by authorizing both administrative and judicial avenues

for relief. *See* 10 U.S.C. § 987(f)(5), (6). Countless servicemembers and their families have, in turn, relied on those enforcement mechanisms.

Some of those enforcement efforts have come without the need for judicial intervention. The Consumer Financial Protection Bureau has handled over 400,000 servicemember complaints, including relating to violations of the Act. *See* Consumer Fin. Prot. Bureau, *Office of Servicemember Affairs Annual Report: January–December 2023* at 5 (Sept. 2024). And where judicial proceedings are needed, the Bureau has been able to bring enforcement actions to give military families a measure of monetary relief for violations of the Act. *Id.*, App. C.

But the additional availability of private enforcement empowers military families to take charge of their economic wellbeing by suing financial predators. Those civil actions have sought to deter lenders who flouted the Act’s cap on interest rates, tacked on hidden fees to their loans, failed to disclose loan terms, or otherwise included unlawful provisions in consumer-lending products. For instance:

- In April 2024, servicemembers filed a class action against OneMain Financial Group, a Virginia-based company offering personal and auto loans, alleging it had issued loans with interest rates exceeding the 36% cap, with exploitative loan collateralization and bundling conditions, without the required disclosures, and with unlawful clauses mandating arbitration. Am. Compl. at 2, *Ramirez v. OneMain Fin. Grp. LLC.*, No. 24-cv-54 (E.D. Va. filed July 3, 2024), ECF No. 23;

- In March 2024, servicemembers filed a class action in North Carolina against Wells Fargo Bank, alleging that the bank had offered loans that violated the interest-rate cap and failed to provide mandatory disclosures, all while the bank lacked appropriate safeguards for identifying military customers. Compl. at 19–20, *Nowlin v. Wells Fargo Bank, NA*, No. 24-cv-179 (E.D.N.C. filed Mar. 20, 2024), ECF No. 1;
- In February 2024, servicemembers filed a class action against TitleMax, a Georgia-based pawn and title lender, alleging that the company had issued unlawful loans that violated the interest-rate cap, imposed illegal requirements regarding loan refinancing and collateralization, failed to provide mandatory disclosures, and included unlawful arbitration clauses. Am. Compl. at 2–3, *Blackmon v. TitleMax of Ga., Inc.*, No. 24-cv-49 (N.D. Ga. filed May 10, 2024), ECF No. 21;
- In March 2023, servicemembers filed a class action against Wyndham Vacation Resorts, Inc., a timeshare chain, alleging that the company had issued timeshare loans that added exorbitant hidden fees and maintenance expenses, failed to include mandatory disclosures, and included unlawful arbitration clauses and class-action waivers. Compl. at 17–19, *Huskey v. Wyndham Vacation Resorts, Inc.*, No. 23-cv-601 (M.D. Fla. filed Mar. 31, 2023), ECF No. 1;
- In February 2023, a class of up to 100 servicemembers filed a class action against Holiday

Inn Club Vacations, Inc., a timeshare chain, alleging that the company had issued timeshare loans that failed to include mandatory disclosures, and included unlawful arbitration clauses and class-action waivers. Second Am. Compl. at 17–19, *Lingard v. Holiday Inn Club Vacations, Inc.*, No. 23-cv-323 (M.D. Fla. filed Mar. 28, 2023), ECF No. 20; and

- In 2021, servicemembers sued Omni Financial of Nevada, Inc., a lender of so-called “military loans,” alleging that the lender had issued installment loans that were unlawfully conditioned on repayment by allotments from borrowers’ paychecks. Am. Compl. at 4–5, *Naylor v. Omni Fin. of Nev. Inc.*, No. 21-cv-272 (D. Nev. filed Mar. 25, 2021), ECF No. 12.

The Act has permitted military families to obtain meaningful relief, supporting servicemembers’ continued service to the Nation. The Act has “prevent[ed] Service members from becoming trapped in a harmful cycle of debt that leads to pervasive financial management challenges that could ultimately result in involuntary separation from the military.” 2021 Def. Report at 16–17.

III. THE ELEVENTH CIRCUIT’S DECISION HARMS MILITARY FAMILIES AND THE MILITARY

A. The Eleventh Circuit Improperly Saddled Military Families with Added Article III Standing Burdens

Not only did Congress articulate its judgment that certain lending practices naturally and predictably result in harm to military families, but evidence from

the past decade under the Military Lending Act has solidified that causal connection. Military families have indeed benefitted from keeping predatory lending in check. The Eleventh Circuit nonetheless held that petitioners lacked Article III standing to sue for violations of the Act even though they had in fact paid a timeshare lender for an illegal timeshare loan. Pet. App. 1a–7a.

The Eleventh Circuit reached that result by imposing additional burdens on military families, requiring them to prove that their injuries are caused by more than the unlawful loan itself. The court of appeals instead held that the injuries must be caused by the specific “alleged violations” of the Act. Pet. App. 5a. That is, the court of appeals required petitioners to prove that they executed the loan “because they were not provided the required disclosures or because the [loan] included an arbitration provision,” for instance. *Ibid.* The court of appeals, however, offered no framework for how any servicemember or their family could ever demonstrate that individual provisions of a loan were what in fact made them enter into the loan in the first place.

The Eleventh Circuit’s decision flips the Act and its structure on its head, and as petitioners argue (Pet. at 14–18), needs this Court’s correction. Petitioners are correct that this Court has never demanded a “causal nexus between their injury and the specific statutory provision that the defendant violated.” Pet. at 16 (discussing *Collins v. Yellen*, 594 U.S. 220, 243–44 (2021)). But insofar as the court of appeals found an analysis of the statute helpful, the Act itself describes the lending practices that predictably harm military families. That is, in devising the Act, Con-

gress “articulate[d] chains of causation” that were founded in its thorough investigation of the pertinent issue. *Spokeo, Inc. v. Robins*, 578 U.S. 330, 341 (2016) (quoting *Vermont Agency of Natural Resources v. United States ex rel. Stevens*, 529 U.S. 765, 780 (2000) (Kennedy, J., concurring)); *see* 10 U.S.C. § 987(b), (c), (e)(1)–(7).

In dismissing this suit, the Eleventh Circuit came to the anomalous conclusion that lending practices that predictably result in harms to military families are not causally linked to harms to military families. That error threatens to erode the Act’s protections and calls out for this Court’s correction.

**B. The Court Should Grant Review
Because the Decision Below Threatens
Military Families and the Military Itself**

1. Significant harms result from restricting the ability of servicemembers and their families to enforce the Military Lending Act. “With decreased monitoring” from military families, predatory lenders’ efforts to settle “outside military gates” would only “start up again.” Karen Jowers, *Advocates to Mattis: Don’t Waver in Protecting Troops Against Predatory Lenders*, MILITARY TIMES (Aug. 23, 2018), <https://perma.cc/C5AS-7E3K> (quoting John Davis, Director of Legislative Programs, Fleet Reserve Ass’n). That is, without the robust protections of the Act, payday and other predatory lenders would—as they once did—prey on our troops. *See* Part I, *supra*.

Financial threats to military families could not come at a worse moment for the armed forces. The Department of Defense “is facing its most challenging recruitment environment in 50 years,” as “quality of

life issues” plague the military’s ability to retain active-duty personnel. U.S. Gov’t Accountability Off., *DOD Active-Duty Recruitment and Retention Challenges* (Mar. 2023). Among other things, military families face “[r]ising housing costs, high child care fees, [and] increased out-of-pocket costs” for necessary relocation expenses. *Ensuring Financial Protection for Servicemembers, Veterans, and Their Families: Hearing Before the S. Comm. on Banking, Hous. & Urban Affs.*, 118th Cong. (Nov. 2, 2023) (statement of National Military Family Association).

These financial threats have started to dampen the appeal of service as a career. See David Vergun, U.S. Dep’t of Def., *DOD Addresses Recruiting Shortfall Challenges*, (Dec. 23, 2023). An independent survey from the RAND Corporation in 2022 found that—in “one of the worst U.S. military recruitment years on record”—the “majority of Americans (54.4%) would discourage a young person close to them from enlisting in the military (i.e., not as an officer).” RAND Corp., *What Americans Think About Veterans and Military Service: Findings from a Nationally Representative Survey* 8 (2023), <https://perma.cc/Y769-83P6>. Based in part on financial pressures, for perhaps the first time in American history, military families are “increasingly expressing concern about their own children enlisting rather than continuing to support the institution by encouraging them to join.” *Id.* at 6 (citing Ben Kesling, *The Military Recruiting Crisis: Even Veterans Don’t Want Their Families to Join*, WALL ST. J. (June 30, 2023), <https://perma.cc/9W2H-QSMG>). Those recruiting challenges already threaten military readiness; additional financial burdens exacerbate the problem.

The Eleventh Circuit’s choice to vitiate financial protections that ensure military families’ economic wellbeing promises to be that additional burden. Beyond the intangible reward of serving the Nation, “financial stability” has long been one of the primary promises that comes with joining the military. Sec’y Christine E. Wormuth, U.S. Army, *Secretary of the Army’s Remarks on the All-Volunteer Force at Duke University* (Nov. 15, 2023). Weakening the Act and the financial stability it affords “will lead to exponentially problematic results, compounding an already constrained military recruiting and retention environment.” Joyce Wessel Raezer & Ret. Lt. Gen. Dana T. Atkins, *Protect the Military Lending Act*, THE HILL (Sept. 20, 2018), <https://perma.cc/8EVJ-J7CX>.

As this Court has recognized, the recruitment and retention of servicemembers present issues of significant constitutional concern. *See Rumsfeld v. Forum for Academic & Institutional Rights, Inc.*, 547 U.S. 47, 67 (2006). The Nation’s ability to field a ready force necessarily implicates national security, which is of paramount importance. *See Rostker v. Goldberg*, 453 U.S. 57, 69 (1981); *see also Holder v. Humanitarian Law Project*, 561 U.S. 1, 33 (2010) (recognizing “sensitive and weighty interests of national security and foreign affairs”). Those interests are impeded by the decision below, which fails to acknowledge the well-documented needs of the modern military.

2. Additionally, this is not an area where the Court should wait for a sharp split in decisions of the courts of appeals, though petitioners convincingly argue that there is one (Pet. at 10–13). No other court of appeals has viewed the Article III standing inquiry in the Military Lending Act context so restrictively. The outlier

nature of the Eleventh Circuit’s decision itself supports review.

The need for uniformity in federal law for servicemembers and their families is especially significant. Indeed, this Court has acknowledged a need for uniform legal requirements among the military community even when it comes to such day-to-day matters as apparel regulations. *See Goldman v. Weinberger*, 475 U.S. 503, 509–10 (1986). It necessarily follows that a same or greater need for uniformity is present for economic protections available to military families.

Servicemembers and their families, after all, often have no choice about the jurisdiction where they reside. They may as easily live in Florida one month as in California the next. The Eleventh Circuit’s decision thus hurts not just the 325,000 servicemembers and their dependents that reside there. *See* Military State Policy Source, *Alabama*, Military OneSource (last visited Nov. 5, 2024), <https://perma.cc/UQ34-XZDU>; Military State Policy Source, *Florida*, Military OneSource (last visited Nov. 5, 2024), <https://perma.cc/P78Q-6ME4>; Military State Policy Source, *Georgia*, Military OneSource (last visited Nov. 5, 2024), <https://perma.cc/U973-VRLA>. From the perspective of military families, an outlier court of appeals like the Eleventh Circuit means that they are only one change-of-station order away from being unable to enforce their rights.

The unpredictable moves that attend military service simultaneously make military families more vulnerable. With each move, military families must reorder aspects of their financial affairs—whether by updating their credit-card accounts, renting new furniture, or engaging in repairs for their new homes. *See*

Protecting Military Servicemembers and Veterans from Financial Scams and Fraud: Hearing before the H. Comm. Oversight & Reform, 117th Cong. 3 (July 13, 2022) (testimony of James S. Rice, Assistant Director, Consumer Fin. Prot. Bureau). That task is difficult enough without needing to learn or be subject to circuit-by-circuit level uncertainties or having to confront inconsistent legal requirements based on geography. As military families who rely on the Act's protections may be unable to choose to live outside the Eleventh Circuit's boundaries, the only solution is this Court's review.

CONCLUSION

This Court should grant the petition for a writ of certiorari.

Respectfully submitted,

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