

No. 22-429

IN THE
Supreme Court of the United States

ACHESON HOTELS, LLC,
Petitioner,

v.

DEBORAH LAUFER,
Respondent.

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

REPLY BRIEF IN SUPPORT OF
PETITION FOR A WRIT OF CERTIORARI

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Laufer agrees that the petition for a writ of certiorari should be granted. As Laufer accurately explains, there is a circuit split on the question presented, which has deepened since the time the petition was filed. In *Laufer v. Naranda Hotels, LLC*, No. 20-2348, -- F.4th --, 2023 WL 2000998 (4th Cir. Feb. 15, 2023), the Fourth Circuit ruled that Laufer had standing to file an ADA claim regarding the hotel reservation website of a hotel in Maryland, regardless of whether she intended to visit the hotel. The court concluded that “Laufer’s allegation of an informational injury accords her Article III standing to pursue her ADA claim ... and to seek injunctive relief.” *Id.* at *15. The court “recognize[d] that [its] decision today appears to even the split among the courts of appeals at 3-3 — three circuits that have ruled in Laufer’s favor based on an informational or stigmatic injury, and three that have ruled against her and similarly situated plaintiff Harty.” *Id.* Given that there is now an acknowledged 3-3 circuit split on the question presented, there is no possibility that the split will go away without this Court’s intervention. This Court’s review is therefore warranted.

Laufer’s response brief largely focuses on the merits. She contends that *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190 (2021), does not foreclose standing in this case because she brought suit under an antidiscrimination statute. She further contends that she has standing under *Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982).

These arguments are unpersuasive. As the petition explained, *TransUnion*’s holding that an “asserted

informational injury that causes no adverse effects cannot satisfy Article III” resolves this case. 141 S. Ct. at 2214 (quotation marks omitted). Contrary to Laufer’s contention, *TransUnion* contains no exception for the ADA. Although the Court’s opinion characterized “discriminatory treatment” as a legally cognizable injury, *id.* at 2205, this case does not involve any allegations of discriminatory treatment: everyone who visited the hotel website received identical information. Nor does Laufer allege she was denied access to any public accommodation. Instead she merely alleges that a public website did not contain information she did not need. Nothing in *TransUnion* suggests this type of claim is actionable. For similar reasons, *Havens Realty*, on which Laufer relies heavily, is readily distinguishable: in that case, the defendant discriminated against the plaintiff by lying to her on account of her race. The Court should decline Laufer’s invitation to extend *Havens Realty* so dramatically.

Further discussion of the merits is more appropriately deferred to the merits stage of the case. The Court should grant certiorari and resolve this important case, as both parties request.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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