

No. 25-856

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IN THE  
**Supreme Court of the United States**

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WILLIAM KING, INDIVIDUALLY AND  
ON BEHALF OF OTHERS SIMILARLY  
SITUATED AS A CLASS, *et al.*,

*Petitioners,*

*v.*

UNITED STATES,

*Respondent.*

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ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

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**BRIEF OF ANITA GAGLIARDI AS AMICA  
CURIAE IN SUPPORT OF PETITIONERS**

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**INTEREST OF AMICA\***

Anita Gagliardi is the widow of Michael Gagliardi, a retired Teamsters truck driver from Road Carriers Local 707. Michael drove trucks for more than thirty years, earning a thirty-year pension. But by no fault of the Gagliardis, the pension became insolvent, and the government—under the Multiemployer Pension Reform Act of 2014—authorized the suspension of Michael’s benefits for fifty-nine months. Despite fighting to recover what he had earned, Michael passed away before seeing a single dollar restored.

Anita continues her husband’s fight. She submits this brief to highlight the real-world impact of the question Petitioners present and to urge the Court to grant certiorari. Government-sanctioned pension cuts inflict real and profound harm on pensioners, their spouses, and their families. Their stories matter. They illustrate precisely why this Court should take this opportunity to clarify when the government may authorize one private party to appropriate another’s vested right to payment.

**SUMMARY OF ARGUMENT**

For more than thirty years, Michael Gagliardi, amica’s husband, drove trucks through the night, through harsh weather, through holidays away from his loved ones—all to

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\* Pursuant to Rule 37.6, amica curiae affirms that no counsel for a party authored this brief in full or in part, and that no person or entity other than amica or her counsel financially contributed to preparing or submitting this brief. Amica provided counsel of record for all parties notice of her intention to file an amicus curiae brief at least ten days before the due date for this brief.

provide for his family and secure future financial stability. Yet halfway through his pension payments, the union—with the government’s blessing under the Multiemployer Pension Reform Act of 2014 (the MPRA)—suspended Michael’s benefits for nearly five years. To this day, those benefits have not been restored.

As countless hardworking Americans do, Michael and Anita planned their lives around income sources like pensions to keep retirement on the table after a lifetime of work. But the MPRA gives pension-plan managers a lifeline they are all too willing to seize when plans begin to collapse: they can keep plans afloat by appropriating vested pension benefits from participants and beneficiaries. That leaves those who labored for decades shouldering the cost of mismanagement they played no part in—all with the government’s imprimatur.

Anita is one of many Americans who has suffered devastating financial loss as a result of these benefit suspensions. The Court should grant certiorari to address the crucial question Petitioners present. It implicates the financial security of pensioners *and* their families. Individuals like Anita deserve to know whether their loved ones’ hard-earned pension benefits may be taken without just compensation.

## ARGUMENT

Anita Gagliardi and her husband, Michael, were born in Brooklyn to Italian immigrant families. They met on a blind date in early 1970, and the rest was history. They married that November, moved to Long Island, and began a life together.

Anita worked as a bookkeeper until she became pregnant with the couple's first child in late 1973; Michael was a truck driver, belonging to Road Carriers Local 707. He worked in that role for more than three decades, serving as the family's primary (and often sole) income earner.

By the time the Gagliardis welcomed their second child in 1977, life's financial realities moved further to the fore. Michael upped his hours behind the wheel, driving on weekends and other odd hours to provide for his wife and two young children. Anita would even join Michael on the road, leaving the kids with their grandparents so she could keep her husband awake and alert. Once their kids were school age, Anita went back to work as a bookkeeper to help the family make ends meet.

Road Carriers Local 707 had a pension plan Michael earned into after more than thirty years on the job. Like Petitioners in this case, he "gave up pay raises and other benefits; skipped vacations; and declined other job opportunities in order to earn [his] vested pension." See Pet. App. 98a. After retiring from the industry in 1999, he began collecting his vested benefits—\$3,000 per month—from his thirty-year pension plan. Michael filled his time with family, friends, and his lifelong dream of being a firefighter—he ramped up his hours as a volunteer firefighter in Hauppauge and Smithtown, ultimately serving for a decade as Smithtown's fire marshal.

In May 2015, Michael learned that Road Carriers Local 707's pension plan was expected to become insolvent in 2016. Before 2014, a pensioner's accrued benefits in active pay status could not be reduced. But

that changed when Congress enacted the Multiemployer Pension Reform Act of 2014, Pub. L. No. 113–235, Div. O, 128 Stat. 2130, which allowed pension-plan managers to suspend benefits for both active and retired participants even if already in pay status. In other words, the benefits Michael accrued over more than three decades as a truck driver were at risk. Sure enough, the managers of Road Carriers Local 707’s pension plan informed participants that beginning July 2016, benefits would be drastically reduced; Michael’s monthly payments dropped from \$3,000 to just shy of \$1,100, a more than 60% decrease. That suspension of benefits lasted from July 1, 2016, through June 1, 2021—nearly \$150,000 of Michael’s vested pension benefits remained undispersed through no fault of his own.

Michael passed away in July 2021. He is survived by his wife, their two sons, and five grandchildren. Regrettably, the unpaid pension benefits remain as well. Despite fighting to recover the money owed to him under Road Carriers Local 707’s pension plan in the remaining years of his life, Michael did not live to see his hard-earned benefits recovered.

To honor her husband, Anita continues the fight. Yet to this day, after persistently petitioning the pension-plan managers and elected officials as well as exploring other avenues, Michael’s benefits have not been restored.

Sadly, the Gagliardis’ story is not unique. It is the story of countless spouses and families of pensioners across this country. Many Americans plan for retirement with a fundamental understanding in mind: benefits—

promised, earned, and vested—belong to them and their families. Congress sought to solidify this understanding by enacting the Employee Retirement Income Security Act of 1974, Pub. L. 93–406, 88 Stat. 829 (ERISA). Under ERISA, employees’ “justified expectations” of receiving promised benefits were to be protected. *Cent. Laborers’ Pension Fund v. Heinz*, 541 U.S. 739, 743 (2004). Congress built in safeguards like the anti-cutback rule to prevent reductions in accrued benefits. See, e.g., 29 U.S.C. § 1054(g). And reducing benefits already in pay status was unheard of—until the MPRA. For the first time, Congress permitted the reduction or suspension of vested benefits already being paid (and for a cabinet secretary to make the decision no less). See *id.* § 1085(e)(9)(G). This change gutted ERISA’s promise for many, including Anita and her husband; Michael’s expectation that his benefits would be there for him and his family proved unjustified.

Anita is not alone in facing this issue. The promise underlying pensions is not incidental to the life choices of pensioners and their families—it is central to them. When benefits are reduced or suspended, working-class Americans face gut-wrenching decisions that jeopardize or altogether upend their financial future, such as “relying on dwindling savings, forgoing necessary medical care, scrimping on food, and falling behind on mortgage payments and other bills.” Pet. App. 52a; see, e.g., *The Cost of Inaction: Why Congress Must Address the Multiemployer Pension Crisis*, Hearing Before the Subcomm. on Health, Emp., Lab., & Pensions of the House Comm. on Educ. & Lab., 116 Cong. 105 (2019) [hereinafter *Cost of Inaction* Hearing] (statement of Rep. Lori Trahan) (“Mr. Morgan, I don’t actually need to ask you anything because when I look at you, I see my

dad. A retired union iron worker, someone who like you worked physically hard every single day. He is battling MS right now in retirement and I often think especially when I am sitting on this committee that if his pension and his benefits were not in place for him that it would bankrupt our entire family.”).

The question Petitioners present is neither abstract nor academic. It strikes at the heart of whether the government may authorize one private party to appropriate another’s vested right to payment—and whether families who depend on those payments have any recourse when the unthinkable occurs. The Court’s answer will reverberate far beyond the parties to this case. It will shape the financial security of millions of Americans who have earned pensions through decades of work and who expect—reasonably and justifiably—that those benefits will be there when they need them most.

This issue is not going away. It is only gaining urgency. Millions of Americans participate in multiemployer pension plans—or are family members of those who do—which represents a “small but significant segment of the retirement system.” See Alicia H. Munnell, Jean-Pierre Aubry & Caroline V. Crawford, B.C. CTR. RET. RSCH., *Multiemployer Pension Plans: Current Status and Future Trends* 5 (Dec. 2017), [https://crr.bc.edu/wp-content/uploads/2017/12/multiemployer\\_specialreport\\_1\\_4\\_2018.pdf](https://crr.bc.edu/wp-content/uploads/2017/12/multiemployer_specialreport_1_4_2018.pdf); see also Letter to the Hon. Bobby Scott and Hon. Virginia Foxx 1 (June 11, 2019), <https://nccmp.org/wp-content/uploads/2019/06/Common-Sense-Sign-on-Letter-6.11.2019.pdf> (explaining why the “multiemployer pension system is an integral part of the U.S. economy”). These plans are “chronically underfunded,” putting “the

retirement benefits of many participants at significant risk.” *Cost of Inaction* Hearing, *supra*, at 43 (statement of Dr. James P. Naughton, Assistant Professor, Kellogg Sch. of Mgmt., Northwestern Univ.); see *Bd. of Trustees of the W. States Off. & Prof’l Emps. Pension Fund v. Welfare & Pension Admin. Serv., Inc.*, 24 F.4th 1278, 1280 (9th Cir. 2022) (noting the “distinctive risks” inherent in multiemployer pension plans). When benefits evaporate after a plan becomes insolvent, pensioners and their families endure devastating loss and perilous financial insecurity. See also, *e.g.*, Alex Brill, MATRIX GLOB. ADVISOR, *The Crisis Facing Multiemployer Pension Plans* 7 (Aug. 2018), <https://getmga.com/wp-content/uploads/2022/04/The-Crisis-Facing-Multiemployer-Pension-Plans-August-2018.pdf> (surveying the economic effects from the theoretical collapse of a multiemployer pension plan).

Like so many others, Anita and Michael did everything possible to pursue the American dream. Michael did his part driving trucks as a member of Road Carriers Local 707 for more than thirty years. Yet now, after being married for nearly a half-century, Anita finds herself fighting to restore what her husband earned and what her family is entitled to. By sharing her family’s story, Anita hopes to make the question presented by Petitioners visible through a human lens—through the names and details of everyday Americans like her husband. She urges the Court to grant certiorari to ensure that those who power the engines of American transportation, construction, manufacturing, and other industries fundamental to the domestic economy can count on their pensions to be there when all is said and done.

**CONCLUSION**

For these reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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