

No. 26-

IN THE
Supreme Court of the United States

NANCY TYSON,

Petitioner,

v.

PARK MEADOWS HEALTHCARE AND
REHABILITATION CENTER, LLC,
AND THE OAKS NH, L.L.C.,

Respondents.

**ON PETITION FOR A WRIT OF CERTIORARI TO THE
DISTRICT COURT OF APPEAL OF FLORIDA, FIRST DISTRICT**

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Florida Statutes section 400.023(1) declares that certain claims against nursing homes “may be brought only” pursuant to its exclusive-remedy scheme, and companion provisions impose pre-suit notice, claims-evaluation, and limitations requirements, Fla. Stat. §§ 400.0233, 400.0236, that have no counterpart in Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181 et seq. Applying that state scheme, the courts below dismissed, with prejudice, a nursing home resident’s Title III disability-discrimination claim in its entirety, without reaching its merits.

Section 400.023(1), by its own terms, governs only a cause of action “which seeks damages” for a resident’s injury or death; Petitioner’s Title III claims sought only injunctive and declaratory relief and fees, as Title III itself requires. The questions presented are:

1. Whether a State may apply a nursing-home liability statute’s exclusive-remedy provision — which by its own terms reaches only claims “which seek[] damages” — to bar a Title III claim that seeks no damages.
2. Whether, in any event, the Supremacy Clause permits a State to apply such a statute’s exclusive-remedy and pre-suit notice provisions to bar, in their entirety, a private cause of action created by Congress under Title III of the Americans with Disabilities Act.

**PARTIES TO THE PROCEEDING
AND RELATED PROCEEDINGS**

All parties to the proceeding below are named in the caption. Petitioner Nancy Tyson was the Plaintiff/Appellant below. Respondents Park Meadows Healthcare and Rehabilitation Center, LLC, and The Oaks NH, L.L.C., were the Defendants/Appellees below.

The following proceedings are directly related to this case within the meaning of this Court's Rule 14.1(b)(iii): *Tyson v. Park Meadows Healthcare and Rehabilitation Center, LLC, et al.*, No. 2023-CA-001552 (Fla. 8th Jud. Cir. Ct., Alachua County) (order on motions to dismiss entered Mar. 26, 2024; judgment on the pleadings entered Aug. 28, 2024); *Tyson v. Park Meadows Healthcare and Rehabilitation Center, LLC, et al.*, No. 1D2024-2405 (Fla. 1st DCA) (per curiam affirmance entered Mar. 26, 2026; rehearing and rehearing en banc denied May 11, 2026). Petitioner is unaware of any other proceeding in state or federal trial or appellate courts, or in this Court, directly related to this case.

Petitioner's Second Amended Complaint also asserted claims under 42 U.S.C. § 1983 (Counts III and IV), premised on alleged violations of the Federal Nursing Home Reform Act. The circuit court dismissed those claims with prejudice on March 26, 2024, in its Order Granting In Part Defendants' Motion to Dismiss Second Amended Complaint, included in Petitioner's appendix as Pet. App. 1a, on the independent ground that Respondents, as private nursing home operators, are not state actors for purposes of § 1983 liability. That ruling is not challenged here and has no bearing on

the question presented; this petition concerns only the subsequent dismissal of Petitioner's Title III claims (Counts I and II).

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OPINIONS BELOW

The order of the District Court of Appeal of Florida, First District, affirming the judgment below is unpublished and is reproduced at Pet. App.1a.

The order of the District Court of Appeal of Florida, First District, denying Petitioner's motion for rehearing and rehearing en banc, or alternatively for issuance of a written opinion and certification, is reproduced at Pet. App.12a.

The order of the Circuit Court of the Eighth Judicial Circuit, in and for Alachua County, Florida, granting Respondents' motions for judgment on the pleadings, entered August 28, 2024, is reproduced at Pet. App.2a.

JURISDICTION

The District Court of Appeal of Florida, First District, entered its judgment on March 26, 2026. Pet. App. 1a. A timely motion for rehearing and rehearing en banc, or alternatively for issuance of a written opinion and certification, was denied on May 11, 2026. Pet. App. 12a.

On September 2, 2026, Justice Thomas, Circuit Justice for the Eleventh Circuit, granted Petitioner's application (No. 26A159) extending the time within which to file this petition to and including October 8, 2026.

The District Court of Appeal of Florida, First District, is the highest state court in which a decision on the merits of this case could be had. The Supreme Court of Florida lacks jurisdiction to review a per curiam affirmance issued

without a written opinion. See Fla. Const. art. V, § 3(b)(3); *Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980).

This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. The Supremacy Clause of the United States Constitution, U.S. Const. art. VI, cl. 2, provides in relevant part:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof ... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

2. Section 2 of the Americans with Disabilities Act, 42 U.S.C. § 12101(b)(1), provides in relevant part:

It is the purpose of this chapter ... to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities[.]

3. Title III of the Americans with Disabilities Act, 42 U.S.C. § 12182(a), provides:

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 by any person who owns, leases (or leases to), or operates a place of public accommodation.

4. Title III’s enforcement provision, 42 U.S.C. § 12188(a)(1), provides:

The remedies and procedures set forth in section 2000a-3(a) of this title are the remedies and procedures this subchapter provides to any person who is being subjected to discrimination on the basis of disability in violation of this subchapter or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 12183 of this title.

5. The remedies Title III incorporates by that cross-reference — 42 U.S.C. § 2000a-3(a), captioned “Civil actions for injunctive relief” — provide:

Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 2000a-2 of this title, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved[.]

Section 2000a-3(a) authorizes only injunctive and other preventive relief; it does not authorize an award of damages. A private plaintiff suing under Title III of the ADA accordingly cannot recover damages — her only

private remedies are injunctive and declaratory relief, together with attorney's fees and costs under 42 U.S.C. § 12205. Consistent with that limitation, Petitioner's Second Amended Complaint sought only a declaratory judgment, injunctive relief compelling compliance with Title III, and attorney's fees and costs under § 12205 on her Title III counts; it did not seek damages on those counts. See Second Am. Compl. ¶¶ 53, Prayer for Relief (a)–(d), Count I; ¶¶ 63, Prayer for Relief (c)–(f), Count II. As developed in Part I of the Reasons for Granting below, this is independently significant: Chapter 400's exclusivity provision, by its own terms, reaches only a cause of action "which seeks damages for such injury or death," Fla. Stat. § 400.023(1) — a category into which Petitioner's damages-less Title III claims do not fall.

6. Florida Statutes section 400.023(1) provides:

An exclusive cause of action for negligence or a violation of residents' rights as specified under this part which alleges direct or vicarious liability for the personal injury or death of a nursing home resident arising from such negligence or violation of rights and which seeks damages for such injury or death may be brought only against the licensee, the licensee's management or consulting company, the licensee's managing employees, and any direct caregivers, whether employees or contractors. A passive investor is not liable under this section. An action against any other individual or entity may be brought only pursuant to subsection (3).

7. Florida Statutes section 400.0233 (“Presuit notice”) and section 400.0236 (“Statute of limitations”) impose additional pre-suit notice, investigation, and timing requirements applicable to claims within the scope of Chapter 400.

§§ 400.0233 (2) Prior to filing a claim for a violation of a resident’s rights or a claim for negligence, a claimant alleging injury to or the death of a resident shall notify each prospective defendant by certified mail, return receipt requested, of an asserted violation of a resident’s rights provided in s. 400.022 or deviation from the standard of care. Such notification shall include an identification of the rights the prospective defendant has violated and the negligence alleged to have caused the incident or incidents and a brief description of the injuries sustained by the resident which are reasonably identifiable at the time of notice. The notice shall contain a certificate of counsel that counsel’s reasonable investigation gave rise to a good faith belief that grounds exist for an action against each prospective defendant.

(3)(a) No suit may be filed for a period of 75 days after notice is mailed to any prospective defendant. During the 75-day period, the prospective defendants or their insurers shall conduct an evaluation of the claim to determine the liability of each defendant and to evaluate the damages of the claimants. Each defendant or insurer of the defendant shall have a

procedure for the prompt evaluation of claims during the 75-day period....

§§ 400.0236 (1) Any action for damages brought under this part shall be commenced within 2 years from the time the incident giving rise to the action occurred or within 2 years from the time the incident is discovered or should have been discovered with the exercise of due diligence; however, in no event shall the action be commenced later than 4 years from the date of the incident or occurrence out of which the cause of action accrued.

STATEMENT OF THE CASE

A. Factual Background

Petitioner Nancy Tyson is a resident of Alachua County, Florida. Second Am. Compl. ¶¶ 4. Respondents Park Meadows Healthcare and Rehabilitation Center, LLC, and The Oaks NH, L.L.C., jointly own, operate, and/or maintain a skilled nursing and rehabilitation facility located at 3250 SW 41st Place, Gainesville, Florida (the “Premises”). *Id.* ¶¶ 5–6. Respondents hold the Premises out to the public as a facility providing skilled nursing, short-term rehabilitation, long-term care, and hospice and palliative care services, supported in part by Medicare and Medicaid funding. *Id.* ¶¶ 20–26.

On October 17, 2019, Petitioner was transferred to the Premises from Shands Hospital. *Id.* ¶ 9. Upon admission, she was identified as a fall risk, was given an identifying arm band reflecting that status, and requested — and

signed paperwork to receive — a bed equipped with rails. *Id.* ¶¶ 9–10. Respondents’ staff told Petitioner daily that the railed bed would arrive “the next day,” but did not provide it. *Id.* ¶ 11. On the morning of October 20, 2019 — three days after her admission and request — Petitioner fell from her unrailed bed, striking a wheelchair positioned beside it. *Id.* ¶ 12. Respondents did not obtain an X-ray until approximately 5:00 p.m. that day despite Petitioner’s reported pain, and did not honor her request to transfer to North Florida Regional Medical Center until roughly a week later. *Id.* ¶¶ 15–16.

Petitioner is disabled within the meaning of the ADA, 42 U.S.C. § 12102, and required ambulatory aids and other accommodations, including bed rails, before and independently of the October 20, 2019 fall. *Id.* ¶¶ 29–30. She alleged that Respondents’ failure to provide the requested bed rail denied her the “most integrated setting appropriate to [her] needs,” 42 U.S.C. § 12182(b)(1)(B), and failed to take steps necessary to ensure she was not “excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services,” *Id.* § 12182(b)(2)(A)(iii), in violation of Title III. Second Am. Compl. ¶¶ 36–40, 48.

B. Proceedings in the Circuit Court

On February 19, 2024, Petitioner filed her Second Amended Complaint, asserting four counts: Title III ADA claims against Park Meadows (Count I) and The Oaks (Count II), and claims under 42 U.S.C. § 1983 against each Respondent (Counts III and IV), premised on alleged violations of the Federal Nursing Home Reform Act, 42

U.S.C. § 1396r et seq. On the Title III counts, Petitioner sought only a declaratory judgment, injunctive relief compelling compliance with Title III, and attorney’s fees and costs under 42 U.S.C. § 12205 — she did not seek damages on those counts. Second Am. Compl., Prayer for Relief, Counts I–II.

On March 26, 2024, the circuit court granted in part and denied in part Respondents’ motions to dismiss the Second Amended Complaint. The court held that Petitioner had adequately pleaded all three elements of a Title III claim and allowed Counts I and II to proceed. Pet. App.1a. The court dismissed Counts III and IV with prejudice, however, holding that Respondents, as privately owned nursing home operators, were not state actors for purposes of § 1983 liability notwithstanding their receipt of Medicare and Medicaid funding and state licensure. *Id.* That ruling is not challenged in this petition; it is reproduced in the Appendix solely for context and completeness.

Respondents subsequently moved for judgment on the pleadings as to the remaining Title III claims, arguing that Chapter 400, Florida Statutes, barred those claims. On August 28, 2024, the circuit court granted the motion. The court’s *Order Granting Defendants’, The Oaks NH, L.L.C. and Park Meadows Healthcare and Rehabilitation Center LLC, Motions for Judgement on the Pleadings* — held that “[b]oth Defendants are entitled to judgment on the pleadings as a matter of law based solely on the pleadings”, that “Chapter 400 Fla. Stat. applies to the allegations of the Second Amended Complaint,” and that Petitioner “did not comply with the statutory pre-suit requirements of Chapter 400 or bring her claim within the

statutory period of Chapter 400.” Pet. App.2a. The order dismissed Petitioner’s Second Amended Complaint “with prejudice” in a single, undifferentiated ruling, *Id.*, but by that point Counts III and IV had already been dismissed with prejudice on the unrelated state-action ground described above; the only claims the order’s Chapter 400 holding could have disposed of, and did dispose of, were Petitioner’s Title III claims in Counts I and II — claims on which she sought only injunctive and declaratory relief and fees, no damages. The order did not reach the merits of those claims and did not address whether Chapter 400, by its own terms or under the Supremacy Clause, could extinguish a federal cause of action Congress created. The order reserved jurisdiction over an award of attorney’s fees and costs to Respondents. *Id.*

C. Proceedings in the First District Court of Appeal

Petitioner timely appealed to the District Court of Appeal of Florida, First District. On March 26, 2026, the First DCA per curiam affirmed the judgment below without a written opinion. Pet. App.1a.

On April 10, 2026, Petitioner timely moved for rehearing and rehearing en banc, or alternatively for issuance of a written opinion and certification, pursuant to Florida Rules of Appellate Procedure 9.330 and 9.331. The motion argued that the panel’s affirmance conflicted with this Court’s decision in *Adams Fruit Co. v. Barrett*, 494 U.S. 638 (1990), with the Eleventh Circuit’s decision in *Barrett v. Adams Fruit Co.*, 867 F.2d 1305 (11th Cir. 1989), *aff’d*, 494 U.S. 638 (1990), and with the Florida Supreme Court’s decision in *Byrd v. Richardson-Greenshields Securities, Inc.*, 552 So. 2d 1099 (Fla. 1989), and that

the question — whether Chapter 400’s exclusive-remedy provision is preempted by Title III of the ADA — was a matter of exceptional public importance warranting rehearing en banc, a written opinion, or certification to the Florida Supreme Court.

On May 11, 2026, the First DCA denied the motion in its entirety, without opinion. Pet. App.12a. This petition followed.

SUMMARY OF ARGUMENT

The decision below is wrong on two independent levels, either of which warrants certiorari. First, and most narrowly, it misapplies Chapter 400 on its own terms: section 400.023(1) governs only a cause of action that “seeks damages,” and Petitioner’s Title III claims sought none — only injunctive and declaratory relief and fees, the only remedies Title III itself allows. The courts below never confronted that mismatch.

Second, and more broadly, the decision below permits a state statute to accomplish what the Supremacy Clause forbids a State from accomplishing directly: the wholesale extinguishment of a cause of action Congress created. This Court held in *Adams Fruit Co. v. Barrett* that a Florida exclusivity provision does not bar a federal statutory right of action absent a clear congressional signal that the federal remedy was meant to yield to the state scheme. The decision below reaches the opposite result on materially indistinguishable facts, applying Chapter 400’s exclusivity and pre-suit provisions to bar a Title III ADA claim in its entirety.

That result also cannot be reconciled with this Court’s settled rule that a State may not use a procedural or remedial device — a notice-of-claim statute, an exhaustion requirement, an immunity defense, or, as here, an exclusivity provision — to immunize conduct from a federal cause of action where doing so would produce forum-dependent evisceration of the federal remedy. See *Felder v. Casey*, 487 U.S. 131 (1988); *Howlett v. Rose*, 496 U.S. 356 (1990); *Williams v. Reed*, 604 U.S. 168 (2025). Even within Florida’s own exclusivity jurisprudence, the Florida Supreme Court has refused to apply an exclusivity rule where doing so would nullify a weightier statutory or constitutional policy. *Byrd v. Richardson-Greenshields Sec., Inc.*, 552 So. 2d 1099 (Fla. 1989).

The question is important and recurring, implicates this Court’s recent and closely divided treatment of adjacent Supremacy Clause doctrine in *Williams v. Reed*, and is presented cleanly, because the circuit court’s order rested solely on Chapter 400 and the First DCA affirmed per curiam without opinion. The petition should be granted.

REASONS FOR GRANTING THE PETITION

I. The Decision Below Is Independently Wrong Because Chapter 400’s Exclusivity Provision, by Its Own Terms, Does Not Reach a Claim That Seeks No Damages.

This Court need not reach the preemption question to grant review, because the decision below misapplies Chapter 400 on its own terms. Section 400.023(1) is textually limited: it governs “[a]n exclusive cause of

action for negligence or a violation of residents’ rights ... which seeks damages for such injury or death.” Fla. Stat. § 400.023(1) (emphasis added). Petitioner’s Title III claims sought no damages. Consistent with 42 U.S.C. § 12188(a)(1), which incorporates only the injunctive remedies of 42 U.S.C. § 2000a-3(a), Petitioner’s Second Amended Complaint requested solely a declaratory judgment, injunctive relief compelling Title III compliance, and attorney’s fees and costs under 42 U.S.C. § 12205. Second Am. Compl., Prayer for Relief, Counts I–II. A private plaintiff cannot recover damages under Title III as a matter of federal law; Petitioner’s operative complaint did not purport to seek any.

The circuit court nonetheless applied § 400.023(1) to bar Petitioner’s Title III claims in their entirety, without addressing — and the First DCA’s unelaborated per curiam affirmance did not explain — how a statute limited by its own text to damages claims can extinguish a claim that seeks none. That is not a question of preemption; it is a question of whether the courts below correctly read their own State’s statute. But it independently warrants this Court’s attention for the same reason the preemption question does: left uncorrected, the decision below allows a state exclusivity statute to be applied beyond its own textual boundaries to eliminate a federal cause of action, achieving by misapplication of state law the same result the Supremacy Clause forbids a State from achieving by design. This provides an independent, narrower ground on which the petition may be granted and the judgment below reversed without resolving the broader preemption question addressed in Parts II through IV below — though, for the reasons given there, Petitioner submits

that question is also properly presented and warrants this Court's review.

II. The Decision Below Conflicts with This Court's Decision in *Adams Fruit Co. v. Barrett*.

This Court held that a Florida exclusivity provision — there, the workers' compensation exclusivity provision, Fla. Stat. § 440.11 (1989) — does not bar a federal statutory cause of action absent a clear expression of congressional intent that the federal remedy yield to the state scheme. *Adams Fruit Co. v. Barrett*, 494 U.S. 638, 650–51 (1990). The Court rejected the employer's argument that Congress intended to preserve the balance that state workers' compensation exclusivity provisions strike between assured compensation and limited employer liability, holding instead that the federal Migrant and Seasonal Agricultural Worker Protection Act preempts state law “to the limited extent that it does not permit States to supplant, rather than to supplement,” the federal remedial scheme. *Id.* at 649.

The decision below reaches the opposite result on materially indistinguishable facts. The trial court applied Chapter 400's exclusivity and pre-suit provisions to extinguish Petitioner's Title III claim in its entirety, with prejudice, without any inquiry into whether Congress intended the ADA's remedies to yield to a state nursing-home exclusivity scheme — and the First DCA affirmed that result without opinion, and declined on rehearing to explain its reasoning even when squarely asked to do so.

III. The Decision Below Conflicts with Florida's Own Exclusivity Jurisprudence.

Even within Florida's own exclusivity doctrine, the Florida Supreme Court has refused to apply an exclusivity rule mechanically where doing so would nullify a weightier statutory policy. In *Byrd v. Richardson-Greenshields Securities, Inc.*, the court held that the workers' compensation exclusivity provision did not bar common-law tort claims for workplace sexual harassment, explaining that courts have "an equal obligation to honor the intent and policy of other enactments and, accordingly, may not apply the exclusivity rule in a manner that effectively abrogates the policies of other law." 552 So. 2d 1099, 1102 (Fla. 1989). The court went further, holding that a claim "based on the Human Rights Act, Title VII of the Civil Rights Act of 1964, the Educational Equity Act, or any other statute prohibiting sexual discrimination or harassment" could not, "in logic or fairness," be barred by an exclusivity rule. *Id.* at 1104.

Byrd did not involve a federal cause of action, and the petition should not overstate it. But its reasoning — that a State's own exclusivity provision must yield when its rigid application would nullify a separately enacted anti-discrimination policy — applies with at least equal force when the policy being nullified is not merely a state enactment but a federal civil-rights statute Congress itself enacted pursuant to its Commerce Clause and Fourteenth Amendment authority. The panel below gave *Byrd* no consideration in affirming the dismissal of a disability-discrimination claim on exclusivity grounds.

IV. The Decision Below Conflicts with This Court’s Settled Rule That State Procedural and Exclusivity Devices Cannot Be Used to Extinguish a Federally Created Cause of Action.

“The Supremacy Clause unambiguously provides that if there is any conflict between federal and state law, federal law shall prevail.” *Gonzales v. Raich*, 545 U.S. 1, 29 (2005). This Court has applied that principle with particular force where a State has attempted to use a procedural or remedial device — a notice-of-claim statute, an exhaustion requirement, a sovereign-immunity rule — to foreclose a federally created cause of action altogether.

In *Felder v. Casey*, this Court held that a state notice-of-claim statute, requiring pre-suit notice and a waiting period before a civil-rights plaintiff could sue, was preempted because it conflicted with the federal statute’s remedial objectives and would produce different outcomes depending on whether suit was brought in state or federal court. 487 U.S. 131, 138 (1988). In *Howlett v. Rose* — on certiorari to a Florida district court of appeal — this Court held that Florida could not invoke a state sovereign-immunity defense to bar a federal civil-rights claim in state court when that defense would not be available in federal court. 496 U.S. 356, 375–76 (1990). And recently, in *Williams v. Reed*, this Court held that a state exhaustion requirement that functions to immunize state officials from a class of federal claims is preempted, regardless of the neutral terms in which the State frames it. 604 U.S. 168 (2025).

The decision below cannot be squared with this line of authority. Chapter 400’s pre-suit notice and limitations

requirements, as applied by the trial court, did not merely regulate the timing or forum of Petitioner’s Title III claim — they extinguished it, with prejudice, in its entirety. As in *Felder*, applying Chapter 400’s pre-suit regime to a Title III claim produces exactly the forum-dependent disparity this Court has repeatedly condemned: an identical ADA claim filed in federal court would face no such pre-suit notice requirement, yet the same claim, filed in Florida state court as Title III expressly permits, was extinguished before it was heard. That is the precise obstacle identified in *Crosby v. National Foreign Trade Council*: a state law “stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress” whenever its enforcement would frustrate the federal remedy Congress created. 530 U.S. 363, 372–73 (2000) (quoting *Hines v. Davidowitz*, 312 U.S. 52, at 67, 61 S. Ct. 399, 404, 85 L. Ed. 581 (1941)).

Nor can Chapter 400’s exclusivity provision, standing alone, be reconciled with *Adams Fruit*. If the decision below stands, Florida — and any other State — would be free to accomplish through an “exclusive remedy” label what it could not accomplish through an express immunity statute or a notice-of-claim requirement standing alone: the wholesale extinguishment of a federal civil-rights cause of action, simply by routing it through a state statute that declares itself exclusive. Nothing in *Adams Fruit*, *Felder*, *Howlett*, or *Williams* permits a State to achieve by label what the Supremacy Clause forbids it from achieving by direct immunity. Left undisturbed, the decision below supplies a template: a State need only enact an “exclusive remedy” statute covering a disfavored category of federal claims, and the federal right disappears in state court even though it survives, unimpaired, in federal court —

the identical forum-dependent evisceration of a federal remedy this Court has rejected for nearly four decades.

V. The Question Presented Is Important and Recurring, and Warrants This Court’s Review Notwithstanding the Absence of a Traditional Circuit Conflict.

No court of appeals or state court of last resort has yet addressed whether a state nursing-home exclusivity statute may be applied to bar a Title III ADA claim, and this case therefore does not present a square circuit conflict in the traditional sense. But the absence of authority is itself the problem this Court’s Rule 10(c) exists to address: the decision below sits at the unexamined intersection of two settled but seemingly uncoordinated lines of this Court’s precedent — the state-exclusivity-provision line exemplified by *Adams Fruit*, and the state-procedural-device line exemplified by *Felder*, *Howlett*, and, as recently as 2025, *Williams v. Reed* — and the panel below applied neither.

That this Court narrow holding, divided 5–4, in *Williams* on how far this principle extends confirms that lower courts and litigants need further guidance, not less, on where a State’s procedural and remedial authority ends and the Supremacy Clause’s protection of federally created rights begins. Absent review, state and lower federal courts are left free, as the panel below was, to extend state exclusivity regimes to foreclose federal civil-rights claims by nursing-home residents — one of the most vulnerable populations Title III was enacted to protect — with no opinion explaining why, and no mechanism for this Court’s error-correction function to operate at all.

The consequences extend beyond this case. As the Eleventh Circuit recognized in the closely analogous context of *Adams Fruit*, allowing a state exclusivity provision to displace a federal remedial scheme removes the incentive the federal statute was designed to create: once a regulated entity knows that a state exclusivity statute will extinguish the federal claim, it has little incentive to comply with the federal requirements the statute enforces. *See Barrett v. Adams Fruit Co.*, 867 F.2d 1305, 1310 (11th Cir. 1989), *aff'd*, 494 U.S. 638 (1990) (exclusivity provision preempted because, absent preemption, federal safety protections “would become effectively unenforceable”). The same dynamic is at work here: if Chapter 400 can extinguish a Title III claim before it is heard, nursing homes operating in Florida have correspondingly less incentive to comply with Title III’s accessibility and non-discrimination requirements than facilities anywhere else in the country.

VI. This Case Is an Optimal Vehicle for Resolving the Question Presented.

The trial court’s order rested squarely and solely on Chapter 400 as a bar to Petitioner’s Title III claim; it did not rely on any alternative or fact-bound ground that might complicate this Court’s review. Pet. App.2a. The First DCA affirmed *per curiam*, without opinion, and denied rehearing, rehearing en banc, issuance of a written opinion, and certification without explanation. Pet. App.1a,12a. The question presented is accordingly isolated and cleanly presented, unclouded by alternative grounds for decision or unresolved factual disputes.

CONCLUSION

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

Respectfully submitted,

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APPENDIX

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1a

**APPENDIX A — OPINION OF THE FIRST
DISTRICT COURT OF APPEAL, STATE OF
FLORIDA, DATED MARCH 26, 2026**

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D2024-2405

NANCY TYSON,

Appellant,

v.

PARK MEADOWS HEALTHCARE AND
REHABILITATION CENTER, LLC,
AND THE OAKS NH, L.L.C.,

Appellees.

Dated March 26, 2026

On appeal from the Circuit Court for Alachua County.
George M. Wright, Judge.

PER CURIAM.

AFFIRMED.

RAY, WINOKUR, and M.K. THOMAS, concur.

***Not final until disposition of any timely and authorized
motion under Fla. R. App. P. 9.330 or 9.331.***

2a

**APPENDIX B — ORDER OF THE CIRCUIT COURT,
EIGHTH JUDICIAL CIRCUIT, ALACHUA COUNTY,
FLORIDA, FILED SEPTEMBER 4, 2024**

IN THE CIRCUIT COURT OF THE
EIGHTH JUDICIAL CIRCUIT IN AND FOR
ALACHUA COUNTY, FLORIDA

Case No. 2023-CA-001552

NANCY TYSON,

Plaintiff,

vs.

PARK MEADOWS HEALTHCARE AND
REHABILITATION CENTER, LLC,
AND THE OAKS NH, LLC,

Defendant.

Filed September 4, 2024

**ORDER GRANTING DEFENDANTS', THE OAKS
NH, L.L.C. AND PARK MEADOWS HEALTHCARE
AND REHABILITATION CENTER LLC, MOTIONS
FOR JUDGEMENT ON THE PLEADINGS**

THIS CAUSE, having come before the Court on Defendants', THE OAKS NH, L.L.C. and PARK MEADOWS HEALTHCARE AND REHABILITATION CENTER L.L.C., Motions for Judgment on the Pleadings as to Plaintiff's Second Amended Complaint and the Court being duly advised in the premises, it is:

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ORDERED and ADJUDGED as follows:

1. Defendants', THE OAKS NH, L.L.C. and PARK MEADOWS HEALTHCARE AND REHABILITATION CENTER L.L.C., Motions are **GRANTED**.
2. Both Defendants are entitled to judgment on the pleadings as a matter of law based solely on the pleadings.
3. Chapter 400 Fla. Stat. applies to the allegations of the Second Amended Complaint.
4. Plaintiff did not comply with the statutory pre-suit requirements of Chapter 400 or bring her claim within the statutory period of Chapter 400.
5. Plaintiff's Second Amended Complaint is dismissed with prejudice.
6. This Court reserves jurisdiction over the award of attorney's fees and costs in this matter.

DONE AND ORDERED on Wednesday, August 28, 2024.

/s/ George M. Wright

George M. Wright, Circuit Judge

01-2023-CA-001552 08/28/2024 06:12:49 PM

4a

**APPENDIX C — ORDER OF THE CIRCUIT COURT,
EIGHTH JUDICIAL CIRCUIT, ALACHUA COUNTY,
FLORIDA, FILED MARCH 27, 2024**

IN THE CIRCUIT COURT OF THE
EIGHTH JUDICIAL CIRCUIT IN AND FOR
ALACHUA COUNTY, FLORIDA

CASE NUMBER: 01-2023-CA-001552
Circuit Civil Division L

NANCY TYSON,

Plaintiff,

v.

PARK MEADOWS HEALTHCARE AND
REHABILITATION CENTER, LLC,
AND THE OAKS NH, L.L.C.,

Defendants.

Filed March 27, 2024

**ORDER GRANTING IN PART DEFENDANTS'
MOTIONS TO DISMISS SECOND AMENDED
COMPLAINT**

This matter is before the Court on the Motions to Dismiss filed by Defendants Park Meadows Healthcare and Rehabilitation Center, LLC, and The Oaks NH, LLC. On January 29, 2024, the Court dismissed the Plaintiff's First Amended Complaint, finding that it failed to state a

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cause of action, and granting Plaintiff leave to file a second amended complaint. Having reviewed the allegations in the Plaintiffs Second Amended Complaint, the Court finds that the facts alleged state a cause of action under federal law under the Americans with Disabilities Act, but fail to state a cause of action for a deprivation of rights under color of state law.

On a motion to dismiss, the trial court must accept all allegations as true and draw all reasonable inferences in favor of the pleader. *City of Miami v. Cruz*, 342 So.3d 741 (Fla. 3d DCA 2022). A trial court may not consider information outside the four corners of the complaint when ruling on a motion to dismiss. *Norwich v. Glob. Fin. Assocs., LLC*, 882 So. 2d 535, 537 (Fla. 4th DCA 2004). The Second Amended Complaint alleges violations of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12182(a), and that Plaintiff was deprived of rights under color of state law, 42 U.S.C. § 1983. To state a claim under the ADA, the plaintiff must plausibly allege that (1) the plaintiff is disabled within the meaning of the ADA; (2) the defendant is a place of public accommodation; and (3) the defendant discriminated against the plaintiff by denying the plaintiff a full and equal opportunity to enjoy the goods and services provided by the defendant. *Brown v. Whole Foods Mkt. Grp., Inc.*, 789 F.3d 146, 151 (D.C. Cir. 2015); *Arizona ex rel. Goddard v. Harkins Amusement Enters., Inc.*, 603 F.3d 666, 670 (9th Cir. 2010); *Camarillo v. Carrots Corp.*, 518 F.3d 153, 156 (2d Cir. 2008). Plaintiff’s Second Amended Complaint sufficiently alleges elements one and three. The Court will address element two, which was argued by the Defendants at the prior motion to dismiss.

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Under section 12181(7)(f), a place of public accommodation includes “a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a **health care provider, hospital, or other service establishment**” (emphasis added). Defendants are nursing homes, which are covered entities under Title III of the ADA, and thus places of public accommodation. *See Hubbard v. Twin Oaks Health & Rehab. Ctr.*, 408 F.Supp.2d 923, 929 (E.D.Cal.2004) (undisputed that a “skilled nursing facility” was a place of public accommodation under the ADA); *Herriot v. Channing House*, 2009 WL 225418, *6 (N.D.Cal.2009) (undisputed that defendant, a continuing care retirement community for people over age 62, was covered entity under ADA); *see also* Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, 56 Fed.Reg. 35,544-01, 35,552 (July 26, 1991) (nursing facility or residential care facility is “a place of public accommodation under the ADA” if “it can appropriately be categorized as a service establishment or as a social service establishment”). The Court, accepting the allegations as true, finds that Plaintiff has properly pleaded all three elements of an ADA violation.

In order to recover on a § 1983 claim, a plaintiff must prove two elements: (1) that she was deprived of a right “secured by the Constitution and laws” of the United States; and (2) that the person depriving the plaintiff of that right acted “under color of state law.” 42 U.S.C. § 1983. The Supreme Court has emphasized that plaintiffs seeking redress for an alleged violation of a statute through a section 1983 action “must assert the violation

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of a federal *right*, not merely a violation of federal *law*.” *Blessing v. Freestone*, 520 U.S. 329, 340 (1997). It is not enough for plaintiffs to fall “within the general zone of interest that the statute is intended to protect;” nothing “short of an unambiguously conferred right. . . phrased in terms of the persons benefited” can support a section 1983 action. *Gonzaga University v. Doe*, 536 U.S. 273, 283-84 (2002).

Plaintiff alleges a violation of the Federal Nursing Home Reform Act (FNHRA), *see* 42 U.S.C. § 1396r et seq., which establishes the minimum standards of care to which nursing-home facilities must adhere in order to receive federal funds in the Medicaid program. The Supreme Court has held that nursing home residents could use § 1983 to enforce two provisions of FNHRA—unnecessary-restraint and predischARGE-notice. *Health & Hosp. Corp. of Marion Cnty. v. Talevski*, 599 U.S. 166, 183 (2023). Other courts have interpreted the FNHRA to include violations such as inadequate staffing and training. “The FNHRA provisions at issue satisfied this test because they are set forth under § 1369r(c) concerning ‘requirements relating to residents’ rights,’ and the language of the provisions refers to the rights of the nursing home residents.” *Alexander v. Fair Acres Geriatric Center*, 2023 WL 4166456, at *6-7 (E.D. Pa. June 23, 2023). The Court finds that the Plaintiff’s Second Amended Complaint alleges violations of rights set forth in the FNHRA.

However, there is no explicit federal private cause of action promulgated in FNHRA. *See e.g., Grammer v. John J. Kane Reg’l Ctrs.—Glen Hazel*, 570 F.3d 520, 525 n. 2 (3d

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Cir.2009). Such a claim must be brought under § 1983, and state action is an essential element of any § 1983 claim. Plaintiff's Second Amended Complaint acknowledges that Defendants are "privately owned establishments," but alleges that both Defendants operated under "color of state law" on account of their licensing with the State of Florida and through their receipt of federal Medicaid funds. A private corporate entity may be deemed a state actor "only if (1) the government created the corporate entity by special law, (2) the government created the entity to further governmental objectives, and (3) the government retains permanent authority to appoint a majority of the directors of the corporation[.]" *Horvath v. Westport Library Ass'n*, 362 F.3d 147, 153 (2d Cir.2004)

Merely acting pursuant to a statute does not make one's conduct "under color of state law." *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 938 (1982). Rather, the deprivation of rights must be "fairly attributable to the state," and it must be caused by the exercise of some right or privilege created by the State, and the party charged with the deprivation must be "a person who may fairly be said to be a state actor." *Id.*

Just because one acts pursuant to, or even under the authority of a statute does not make one a state actor under § 1983. Mechanics liens, garnishments, replevins and other such acts of deprivation are done with statutory authority and must be done in accordance with statutory procedure, but one availing himself of them certainly is not acting on behalf of the state or

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by the authority of the state. Legislation allows the implementation of the rules and procedures to effect the ends but in no way causes the actor to do so. If the actor misbehaves then it is not the government, but a private person, who has misbehaved and § 1983 does not offer relief from this type of misbehavior.

Foshee v. Health Management Asso., 675 So.2d 957, 959 (Fla. 5th DCA). Under federal law, “private actors and institutions, such as the hospitals, nursing home[s], and cemeteries] ... are generally not proper § 1983 defendants because they do not act under color of state law,” and the power of the State to license such institution “does not transform a private party’s actions into state action.” *White v. St. Joseph’s Hosp.*, 369 Fed.Appx. 225, 226 (2d Cir. 2010). Where a privately owned hospital—not a state or municipal owned facility—provides medical care, no matter the misdeed the hospital may have committed in providing treatment and care, the hospital is not a state actor. *Kia P. v. McIntyre*, 235 F.3d 749, 756 (2d Cir. 2000).

To reiterate, private nursing homes have always provided day-to-day medical care and treatment that was never a traditional public function. The treatment of bed sores, notwithstanding a federal regulation discussing such treatment, was never an exclusive and traditional government function, and simply because there is legislation that provides (1) governmental funding, (2) governmental oversight over private concerns in order to

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improve the quality of care, (3) the ability to impose sanctions, such as withdrawing funds, and (4) an overall regulatory scheme, such treatment and care will not convert into a state action. The receipt of public funds does not make a nursing home's course of treatment of bed sores an act of the State.

Baum v. N. Dutchess Hosp., 764 F.Supp.2d 410, 425 (N.D.N.Y.2011); *see also Stewart v. Bernstein*, 769 F.2d 1088, 1092 (5th Cir.1985) (finding no cause of action implied under Medicaid Act against private nursing home and its administrator); *Prince v. Dicker*, 29 FedAppx. 52, 54 (2d Cir.2002) (same); *Schwerdtfeger v. Alden Long Grove Rehab. & Health Care Ctr., Inc.*, No. 13 C 8316, 2014 WL 1884471, at *5 (N.D.Ill. May 12, 2014) (“Here, [Defendant] is a private nursing facility, and thus, is not a state actor subject to Section 1983.”)

The Court has examined the complaint and determines that no cause of action against any of the Defendants has been properly pleaded to support a claim under 42 U.S.C. § 1983. Defendant Park Meadows additionally alleges that they are not a proper party since they never provided services to the Plaintiff. The Court cannot consider such arguments on a motion to dismiss. “The other issue raised—whether Plaintiff sued the wrong defendant—cannot be considered in a motion to dismiss because such a motion must generally be premised only upon the four corners of Plaintiff’s complaint.” *Mancher v. Seminole Tribe of Fla., Inc.*, 708 So.2d 327, 328 (Fla. 4th DCA 1998). The remaining grounds raised by the Defendants are more

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appropriately addressed through a motion for summary judgment, and the Court will consider them if necessary at that time. Therefore, the Court having reviewed the specifics of both motions, it is hereby

ORDERED AND ADJUDGED:

1. Defendants' Motions to Dismiss are Granted in Part and Denied in Part.
2. Counts III and IV of the Plaintiff's Second Amended Complaint are Dismissed with Prejudice.
3. Defendants shall have 20 days from the date of this order to file an answer to the remaining counts.

DONE AND ORDERED on Tuesday, March 26, 2024.

/s/ George M. Wright
George M. Wright, Circuit Judge
01-2023-CA-001552 03/26/2024 02:34:52 PM

12a

**APPENDIX D — DENIAL OF REHEARING AND
REHEARING EN BANC OF THE DISTRICT COURT
OF APPEAL, FIRST DISTRICT, STATE OF FLORIDA,
DATED MAY 11, 2026**

**DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive,
Tallahassee, Florida 32399-0950
Telephone No. (850) 488-6151**

**Case 1D2024-2405
L.T. No.: 2023-CA-001552**

NANCY TYSON,

Appellant(s),

v.

**PARK MEADOWS HEALTHCARE AND
REHABILITATION CENTER, LLC,
AND THE OAKS NH, L.L.C.,**

Appellee(s).

Dated May 11, 2026

BY ORDER OF THE COURT:

The Court denies the motion for rehearing and rehearing en banc, or alternatively motion for issuance of a written opinion and certification docketed April 10, 2026.

I HEREBY CERTIFY that the above order is issued at the Court's direction.

13a

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/s/ Kristina Samuels
Kristina Samuels, Clerk
1D2024-2405 May 11, 2026

**APPENDIX E — CONSTITUTIONAL AND
STATUTORY PROVISIONS INVOLVED**

1. The Supremacy Clause of the United States Constitution, U.S. Const. art. VI, cl. 2, provides in relevant part:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof ... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

2. Section 2 of the Americans with Disabilities Act, 42 U.S.C. § 12101(b)(1), provides in relevant part:

It is the purpose of this chapter ... to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities[.]

3. Title III of the Americans with Disabilities Act, 42 U.S.C. § 12182(a), provides:

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 by any person who owns, leases (or leases to), or operates a place of public accommodation.

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4. Title III’s enforcement provision, 42 U.S.C. § 12188(a)(1), provides:

The remedies and procedures set forth in section 2000a-3(a) of this title are the remedies and procedures this subchapter provides to any person who is being subjected to discrimination on the basis of disability in violation of this subchapter or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 12183 of this title.

5. The remedies Title III incorporates by that cross-reference —42 U.S.C. § 2000a-3(a), captioned “Civil actions for injunctive relief” —provide:

Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 2000a-2 of this title, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved[.]

Section 2000a-3(a) authorizes only injunctive and other preventive relief; it does not authorize an award of damages. A private plaintiff suing under Title III of the ADA accordingly cannot recover damages —her only private remedies are injunctive and declaratory relief, together with attorney’s fees and costs under 42 U.S.C.

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§ 12205. Consistent with that limitation, Petitioner's Second Amended Complaint sought only a declaratory judgment, injunctive relief compelling compliance with Title III, and attorney's fees and costs under § 12205 on her Title III counts; it did not seek damages on those counts. See Second Am. Compl. ¶¶ 53, Prayer for Relief (a)–(d), Count I; ¶¶ 63, Prayer for Relief (c)–(f), Count II. As developed in Part I of the Reasons for Granting below, this is independently significant: Chapter 400's exclusivity provision, by its own terms, reaches only a cause of action "which seeks damages for such injury or death," Fla. Stat. § 400.023(1) —a category into which Petitioner's damages-less Title III claims do not fall.

6. Florida Statutes section 400.023(1) provides:

An exclusive cause of action for negligence or a violation of residents' rights as specified under this part which alleges direct or vicarious liability for the personal injury or death of a nursing home resident arising from such negligence or violation of rights and which seeks damages for such injury or death may be brought only against the licensee, the licensee's management or consulting company, the licensee's managing employees, and any direct caregivers, whether employees or contractors. A passive investor is not liable under this section. An action against any other individual or entity may be brought only pursuant to subsection (3).

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7. Florida Statutes section 400.0233(“Presuit notice”) and section 400.0236(“Statute of limitations”) impose additional pre-suit notice, investigation, and timing requirements applicable to cims within the scope of Chapter 400.

§§ 400.0233 (2) Prior to filing a claim for a violation of a resident’s rights or a claim for negligence, a claimant alleging injury to or the death of a resident shall notify each prospective defendant by certified mail, return receipt requested, of an asserted violation of a resident’s rights provided in s. 400.022 or deviation from the standard of care. Such notification shall include an identification of the rights the prospective defendant has violated and the negligence alleged to have caused the incident or incidents and a brief description of the injuries sustained by the resident which are reasonably identifiable at the time of notice. The notice shall contain a certificate of counsel that counsel’s reasonable investigation gave rise to a good faith belief that grounds exist for an action against each prospective defendant.

(3)(a) No suit may be filed for a period of 75 days after notice is mailed to any prospective defendant. During the 75-day period, the prospective defendants or their insurers shall conduct an evaluation of the claim to determine the liability of each defendant and to evaluate

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the damages of the claimants. Each defendant or insurer of the defendant shall have a procedure for the prompt evaluation of claims during the 75-day period....

§§ 400.0236 (1) Any action for damages brought under this part shall be commenced within 2 years from the time the incident giving rise to the action occurred or within 2 years from the time the incident is discovered or should have been discovered with the exercise of due diligence; however, in no event shall the action be commenced later than 4 years from the date of the incident or occurrence out of which the cause of action accrued.