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No.

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SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES

VALERIE PREVOST, *Petitioner*,

v.

CITY OF HOUSTON, *Respondent*.

ORIGINAL

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Revocation of an Established Reasonable Accommodation

Whether Title I of the Americans with Disabilities Act requires an employer that has provided a reasonable accommodation for an extended period to conduct an individualized reassessment, engage in the interactive process, and demonstrate undue hardship before revoking that accommodation, and whether an employer's failure to do so—despite possessing current medical documentation and offering shifting or pretextual justifications—violates the ADA, where the courts of appeals are divided regarding the legal standards governing the withdrawal of established accommodations.

Adverse Employment Action, Constructive Discharge, and Judicial Review

Whether a municipal employer's revocation of a long-standing disability accommodation, forcing a disabled employee to work under hazardous conditions and beyond documented medical restrictions, constitutes an adverse employment action or constructive discharge under Title I of the ADA, and whether a federal court may affirm summary judgment by disregarding competent medical evidence and evidence of disability-related physical injury, creating a conflict among the courts of appeals regarding the evidentiary standards applicable to ADA discrimination.

Federal Remedies Under the ADA

Whether the Supremacy Clause and Title I of the Americans with Disabilities Act preempt state workers' compensation exclusivity provisions that bar recovery for physical injuries directly caused by intentional disability discrimination, retaliation, or the unlawful withdrawal of reasonable accommodations, where the courts of appeals are divided concerning the availability and scope of federal remedies under the ADA.

Neutral Workplace Policy to Create Workplace Barriers (ADA)

Whether Title I of the Americans with Disabilities Act permits an employer to revoke a long-standing reasonable accommodation and rely on a facially neutral workplace policy to deny equal access, without conducting an individualized assessment or engaging in the interactive process, when enforcement of that policy creates workplace barriers that foreseeably cause physical injury to a qualified employee with a disability, thereby creating a conflict among the federal courts of appeals regarding the scope of the ADA's reasonable accommodation requirements.

The Decision below violates Title I of the Americans with Disabilities Act and the Family and Medical Leave Act by imposing an improper Prima Facie Standards.

Whether an employer violates Title I of the Americans with Disabilities Act, 42 U.S.C. §§ 12112(a), (b)(5)(A), and the Family and Medical Leave Act, 29 U.S.C. §§ 2612–2615, by revoking a long-standing medically necessary accommodation supported by FMLA physician certification, refusing to engage in the ADA interactive process, and requiring a qualified employee with a mobility disability to work under unsafe conditions, and whether the Fifth Circuit's decision conflicts with the Second, Seventh, Tenth, and Eleventh Circuits regarding constructive discharge, reasonable accommodation, deliberate indifference, and employer knowledge of disability.

Establishes a Prima Facie under Title I ADA / FMLA

Whether a qualified employee establishes a prima facie claim under Title I of the Americans with Disabilities Act(42 U.S.C. §§ 12112(a), (b)(5)(A)) when the employer possesses physician-certified medical documentation under the Family and Medical Leave Act (29 U.S.C. §§ 2612–2615), has actual knowledge of the employee's disability, previously provided the requested accommodation for years, and later revokes that accommodation pursuant to a facially **neutral workplace policy** without engaging in the interactive process, and whether the Fifth Circuit's decision conflicts with the Second, Seventh, Tenth, and Eleventh Circuits.

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RELATED PROCEEDINGS

This case arises out of the following proceedings: Valerie Prevost VS City of Houston, No. 4:23 -cv- 04115 Southern District of Texas Houston Division /court (Summary judgment entered June 20, 2025) Valerie Prevost VS City of Houston, United States Court of Appeals for the Fifth Circuit in Case No. 25-20264 was entered as a final judgment on May 26, 2026. There are no related proceedings within the meaning of this Court's Rule 14.1(b)(iii).

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PETITION FOR WRIT OF CERTIORARI

Valerie Prevost respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in this case.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fifth Circuit in Case No. 25-20264 was entered as a final judgment on May 26, 2026. The order of the Court of Appeals denying Petitioner's timely petition for panel rehearing and rehearing en banc was entered on May 18, 2026, noting that no judge in regular active service requested a poll. These opinions and orders are reproduced in the accompanying Appendix. (Federal Rule of Appellate Procedure 40)

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). The United States Court of Appeals for the Fifth Circuit entered an order denying a timely petition for panel rehearing and rehearing en banc on May 18, 2026, in Case No. 25-20264. This petition is timely filed within ninety (90) days of that denial. Petitioner, proceeding pro se and in forma pauperis, respectfully submits this Petition for a Writ of Certiorari pursuant to Rules 10, 12–14, 33.2, and 39 of the Rules of the Supreme Court of the United States.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the Supremacy Clause of the United States Constitution, U.S. Const. art. VI, cl. 2. It further involves Title I of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12112(a), which mandates that no covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

The statutory definition of discrimination under 42 U.S.C. § 12112(b)(5)(A) includes a failure to make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability. The regulatory framework under 29 C.F.R. § 1630.2(o)(3) implements the necessity for an employer to initiate an informal, interactive process to determine appropriate reasonable accommodations. The regulatory defenses of the respondent never argued that petitioners posed a direct threat or cause undue hardship under 29 C.F.R. § 1630.15(r) regarding direct safety threats are also implicated, alongside the standards established under Federal Rules of Civil Procedure 8(a) and 56, and Federal Rules of Appellate Procedure 32 and 40., (29 C.F.R. § 1630.2(p)), (29 C.F.R. § 1630.9), (29 C.F.R. pt. 1630) (42 U.S.C. § 12111(9)), (42 U.S.C. § 12111(10)).

STATEMENT OF THE CASE

Statement of Material Facts:

The Petitioner was a municipal employee of the Respondent for 25 years with an excellence employee evaluation and qualified to perform the essential functions of position. Petitioner is an individual with a Chronic disability as defined by the Americans with Disabilities Act (ADA), Title I. Petitioner suffer from Chronic Inflammatory Demyelinating Polyneuropathy (CIDP), which is a severe, documented neurological disorder that substantially limits major life activities, specifically narrowing painful mobility, undermining motor function, and severely impairing her ability to walk extended distances. In Doctor's statement's Petitioners' is a severe fall risk. Petitioners' husbands are caregivers.

For approximately six consecutive years, the Respondent recognized Petitioner's disability and successfully provided necessary reasonable accommodation to keep their disabled employee safe. These specific accommodations included an accessible parking designation, a proximate gate assignment to minimize walking distances, and a dry, safe indoor work environment. These logistical adjustments allowed Petitioner to perform all essential functions of her employment successfully and without incident.

Despite this long-standing and mutually viable arrangement contract, at Respondent Deputy Director in 2020 an African American woman served in an executive supervisory capacity over department personnel, including Petitioner. Formal affidavits and complaint forms by employees charging were filed against Deputy Director and created and maintained a hostile and discriminatory work environment. The filings asserting that Deputy Director targeted employees based on protected characteristics—including disability, race against (white

employees), sexual orientation, age, and religion—and bypassed established city government administrative procedures to isolate targeted staff members. Affidavits and complaints submitted regarding the Deputy Director conduct detailed formal grievances brought to the Office of Inspector General (OIG). Following the documentation of these contentions and administrative complaints, Respondent abruptly coerced Deputy Director to resign from position as Respondent Deputy Director in lieu of termination. Deputy Director was Petitioner immediate supervisor and building manager are Municipal Officer and department heads for City Respondent. (*Isbell v. John Crane, Inc.*, 30 F.4th 1264 (11th Cir. 2022))

Respondent abruptly, unilaterally, and without structural justification or interactive consultation, revoked Petitioner's accommodation. Consequently, the Respondent "City" forced Petitioner to walk significantly greater physical distances from an unaccommodated parking area and reassigned her workspace to a facility that municipal management knew contained severe hazardous conditions. Specifically, the designated work area suffered from an active leaking roof, accumulating standing water, and saturated, wet carpeting. Though Respondent "City" possessed actual, documented knowledge of these structural hazards, it failed to remedy them or return Petitioner to a safe environment.

As a direct result of these unaccommodated workplace hazards, Petitioner suffered two severe physical falls. The first occurred indoors on July 10, 2021, in the workspace, caused entirely by the severe water intrusion and unsafe flooring. The second fall occurred on October 8, 2021, on unaccommodated exterior concrete surfaces outside of building forcing Petitioner to walk to and from outside gate with the CIDP condition. These incidents significantly aggravated Petitioner's underlying CIDP, leading to severe physical pain, structural bodily

impairment, and long-term diminished mobility as documented in the physician report objective clinical finding support that the falls resulted in further disabilities.

Furthermore, City officials failed to execute their administrative duty to timely report these workplace injuries, actively withholding internal injury reports from the appropriate municipal departments until September 2023, nearly two years post-incident. Faced with a hazardous environment that threatened her physical safety and met with the City's absolute refusal to engage in an interactive process (building manager, statement until further notice) to restore accommodations which Petitioner had accommodation from 2017-2021 and was revoked September 2021, Petitioner was constructively discharged, as Petitioner was forced to leave employment to preserve health under doctor strict orders serves as a **proximate cause** of the final decision. Petitioner is now 100% disable and approved for Full disability.

Prior Proceedings

Petitioner Valerie Prevost filed a civil action against the City of Houston in the United States District Court for the Southern District of Texas, Houston division extensive violations of Title I of the Americans with Disabilities Act, including failure to accommodate, disability discrimination, Family Medical Leave Act, constructive discharge as part of proceedings, and related federal laws. The district court subsequently granted summary judgment to the City of Houston, discarding Petitioner's Disability discrimination as matter of law.

Petitioner timely appealed to the United States Court of Appeals for the Fifth Circuit. A panel of the Fifth Circuit affirmed the district court's dismissal in Case No. 25-20264. Petitioner then sought panel rehearing and rehearing en banc on May 18, 2026, the Fifth Circuit denied the petition for rehearing and rehearing en banc. Petitioners now seek a writ of certiorari from

this Supreme Court to correct a profound departure from federal statutory protections and constitutional principles.

REASONS FOR GRANTING THE PETITION

Without this Court's review, disabled employees will continue to receive different protections under the same federal statute depending upon the jurisdiction in which they are employed. The America with Disability Act Title I / Family Medical Leave Act. benefit was enacted to establish a uniform national standard protecting qualified individuals with disabilities. Review is warranted to resolve the conflict among the circuits and provide clear guidance concerning an employer's obligations when withdrawing a long-standing mobility accommodation that exposes a disabled employee to foreseeable physical injury. The federal government's own enforcement actions confirm that public entities have an affirmative obligation to engage in a timely accommodation process and eliminate physical barriers that impede access. In *U.S. Department of Justice v. Housing Authority of the City of Bridgeport*, the **Department of Justice** alleged that the public entity failed to timely process reasonable accommodation requests and maintained physical barriers that denied meaningful access and reconstruct inaccessible pathways. This enforcement action reflects the Department of Justice's interpretation that delaying accommodation requests and maintaining physical barriers violates federal disability law. Petitioners' allegations present the same fundamental question: whether a public employer may withdraw effective accommodation, suspend the interactive process, and require a qualified employee with a mobility disability to navigate known physical barriers without violating the ADA.

A. The Circuits Are Deeply Divided Over Whether a Failure-to-Accommodate Claim Requires Proof of a Separate Adverse Employment Action.

The federal courts of appeals are split on a foundational question of statutory construction under Title I of the ADA: whether an employer's failure to provide a reasonable accommodation is an independent, self-executing statutory violation, or whether a disabled plaintiff must additionally prove an independent adverse employment action like a termination or demotion.

The Tenth Circuit, sitting en banc in *Exby-Stolley v. Board of County Commissioners*, 979 F.3d 784 (10th Cir. 2020), correctly recognized that the text of the ADA defines the failure to accommodate as a complete and actionable act of discrimination in and of itself. Under this rule, a plaintiff does not need to show a secondary adverse employment action to survive summary judgment.

Conversely, **the Eleventh Circuit** in *Beasley v. O'Reilly Auto Parts*, 69 F.4th 744 (11th Cir. 2023), held that an employee must explicitly demonstrate a separate adverse employment action alongside the denial of the accommodation.

By affirming the dismissal of Petitioner's claims, the Fifth Circuit aligned itself with the restrictive approach, creating a system where identical federal civil rights violations are fully actionable in Denver but summarily dismissed in New Orleans and Houston. This Court should grant certiorari to clarify that the text of 42 U.S.C. § 12112(b)(5)(A) contains no requirement of a secondary adverse action.

B. The Courts of Appeals Disagree on the Evidentiary Standards Governing the Sudden Revocation of Long-Standing Accommodations.

A severe split exists regarding the evidentiary burdens applied when an employer abruptly revokes an accommodation that has operated successfully for multiple years. Several circuits

recognize that when an employer unilaterally withdraws an established accommodation under absent any documented showing of novel undue hardship, the revocation itself constitutes prima facie evidence of discrimination and bad faith.

In sharp contrast, other circuits, including the Fifth Circuit below, place an extra-textual burden on the employee, requiring them to proffer separate, independent evidence of discriminatory animus to survive summary judgment. This conflict rewards employers who revoke functional accommodations and penalize long-term disabled employees. Certiorari is necessary to establish uniform evidentiary standards governing the sudden withdrawal of proven accommodation.

Seventh Circuit – recognizes that employers generally choose among reasonable accommodations but has acknowledged that withdrawing a long-standing accommodation without justification may violate the ADA. More recently, the Seventh Circuit declined to adopt a rule requiring employers to prove undue hardship every time they modify accommodation, while discussing *Isbell*.

Ninth Circuit – generally requires employers to engage in a meaningful interactive process before denying or changing accommodations. The Ninth Circuit requires employers to engage in a timely, good-faith, and meaningful interactive process before denying or modifying reasonable accommodation. See *Barnett v. U.S. Air, Inc.* (holding that the interactive process is a mandatory component of the ADA's reasonable-accommodation requirement); *Humphrey v. Memorial Hospitals Ass'n* (holding that an employer may be liable when its failure to engage in the interactive process prevents identification or continuation of a reasonable accommodation); *Dark v. Curry County* (2006) (requiring an individualized assessment before adverse employment action based on disability).

Tenth Circuit – likewise emphasizes the interactive process and individualized assessment.

The **Tenth Circuit** likewise emphasizes an individualized assessment and a good-faith interactive process before an employer may deny or withdraw reasonable accommodation.

See *Smith v. Midland Brake, Inc.* (holding that employers must participate in good faith in the interactive process and consider reassignment and other reasonable accommodations through an individualized inquiry); *Templeton v. Neodata Services, Inc.* (recognizing the employer's duty to engage in the interactive process to determine appropriate accommodation).

Fifth Circuit – gives employers broader discretion and has held that failure to engage in the interactive process is not independently actionable unless it results in the denial of a reasonable accommodation. Fifth Circuit affords employers broader discretion and has held that the interactive process is not an independent basis for liability unless its breakdown results in the denial of reasonable accommodation.

C. The Fifth Circuit's Standard for Constructive Discharge and Deliberate Indifference Under Title I of the ADA Conflicts with the Second, Seventh, Tenth, and Eleventh Circuits.

This case presents an important and recurring question of federal law concerning when an employer constructively discharges a qualified employee with a disability under Title I of the Americans with Disabilities Act ("ADA"). The Fifth Circuit's decision conflicts with the standards applied by the Second, Seventh, Tenth, and Eleventh Circuits regarding constructive discharge, deliberate indifference, and an employer's obligation to maintain reasonable accommodations. The Court should grant certiorari to resolve a direct and entrenched circuit split concerning whether an employer constructively discharges a qualified employee with a disability by revoking long-standing reasonable accommodation and requiring the employee to work under objectively unsafe and physically intolerable conditions. The lower courts are fractured over whether forcing a disabled worker in a unsafe

working condition and a person with painful mobility disability unaccommodated workspace satisfies the "intolerable working conditions" standard required to establish a constructive discharge claim. This Court held in *Green v. Brennan*, 578 U.S. 547 (2016), that a constructive discharge occurs when an employer makes working conditions so intolerable that a reasonable person would feel compelled to resign. The Fifth Circuit's Standard for Constructive Discharge and Deliberate Indifference Conflicts Directly with the Second, Seventh, Sixth Circuit and Eleventh Circuit.

The Second Circuit in *Lopez v. S.B. Thomas, Inc.*, 831 F.2d 1184 (2d Cir. 1987), recognized that an employer's deliberate failure to provide a safe, accommodated workspace creates an intolerable environment that amounts to a constructive discharge.

Similarly, the Seventh Circuit in *EEOC v. Sears, Roebuck & Co.*, 417 F.3d 789 (7th Cir. 2009), held that when an employer abruptly strips away existing, necessary accommodation for a known disability without justification, it effectively forces the employee out of the workplace.

The Tenth Circuit in *Exby-Stolley v. Board of County Commissioners* (10th Cir. 2020): An en banc Tenth Circuit similarly ruled that a plaintiff must demonstrate an adverse employment action to establish an ADA failure-to-accommodate claim, ruling that a failure to accommodate alone does not automatically constitute one.

The Eleventh Circuit in *United States v. Horton*, 601 F.2d 319 (11th Cir. 1979), similarly noted that deliberate indifference to medical restrictions satisfies the objective standard for constructive discharge. By downplaying a flooded, structurally dangerous workspace and a total revocation of mobility accommodations, the Fifth Circuit's restrictive approach conflicts with these neighboring circuits, leaving disabled workers unprotected in the face of hazardous ultimatums. *Beasley v. O'Reilly Auto Parts* (11th Cir. 2023): The Eleventh Circuit explicitly

held that an employer's failure to accommodate is only actionable if it negatively impacts a tangible term, condition, or privilege of employment (like hiring, advancement, or discharge).

D. The Fifth Circuit's Application of State-Law Exclusivity to Bar Federal Remedies Conflicts with the Supremacy Clause and Other Circuits.

The Fifth Circuit's decision improperly allowed state-law workers' compensation exclusivity provisions to shield a municipal employer from federal civil rights liability where intentional discrimination caused physical injuries. This application directly violates the Supremacy Clause, U.S. Const. art. VI, cl. 2. District Court in *Wood v. County of Alameda*, 875 F. Supp. 659 (N.D. Cal. 1995), explicitly ruled that state workers' compensation provisions cannot bar or limit the recovery of statutory civil rights damage under ADA. **The Third Circuit** similarly holds that federal remedial civil rights statutes override state tort immunities when an employer's defiance of federal law causes direct physical harm. **The Fifth Circuit's** departure from these tenets creates an unconstitutional loophole, letting state statutes block federal remedies meant to deter intentional discrimination.

E. The Decision Conflicts with Settled Precedents Governing the Interactive Process, Summary Judgment, and Pretext.

The decision below conflicts with this Court's ruling in *Reeves v. Sanderson Plumbing Products, Inc.*, 530 U.S. 133 (2000), which established that a factfinder may infer intentional discrimination when a plaintiff proves a prima facie case and demonstrates that the employer's explanation is false. Here, the City asserted a false need for medical documentation that Petitioner had already provided, yet the lower courts ignored this evidence of pretext.

The ruling also conflicts with by imposing a rigid requirement physical proof to establish an adverse environment and ignores the rule of law outlined in *United States v. Nixon*, 418 U.S. 683 (1974), that courts may not ignore binding statutory protections. Furthermore, the

decision directly departs from traditional Fifth Circuit standards set in *Feist v. Louisiana Department of Justice*, 730 F.3d 450 (5th Cir. 2013), *Cutrer v. Board of Supervisors of LSU*, 429 F.3d 108 (5th Cir. 2005), and *EEOC v. LHC Group, Inc.*, 773 F.3d 688 (5th Cir. 2014), all of which emphasize that the denial of a reasonable accommodation constitutes actionable discrimination and requires a good-faith interactive process. Recent federal jurisprudence, including *Strife v. Aldine ISD* (5th Cir. 2024), (5th Cir. 2025), further demonstrates that federal courts must require functional adjustments for physical workplace barriers rather than affirming hasty summary judgments.

F. The Decision Below Conflicts with Decisions of Other Federal Courts of Appeals and Undermines the Uniform Application of Title I of the Americans with Disabilities Act/ Family Medical Leave Act.

This case presents an exceptionally important and recurring question of federal law concerning the obligations of employers under Title I of the Americans with Disabilities Act ("ADA")/FMLA: whether an employer may revoke a long-standing, effective reasonable accommodation without conducting an individualized assessment, engaging in a meaningful interactive process, or demonstrating that continuation of the accommodation would impose an undue hardship.

The decision of the United States Court of Appeals for the Fifth Circuit deepens an existing conflict among the federal courts of appeals regarding the legal duties imposed by Title I of the ADA before an employer may withdraw an established accommodation. This Court's review is necessary to restore nationwide uniformity in the interpretation of federal disability law. The Fifth Circuit has adopted one of the most restrictive interpretations of the ADA's accommodation requirements. In *Loulseged v. Akzo Nobel Inc.*, 178 F.3d 731 (5th Cir. 1999), the court held that the interactive process is not an independent source of liability.

Fifth Circuit later recognized in *Strife v. Aldine Independent School District* that an unreasonable delay in providing accommodation may itself violate the ADA, the decision below nevertheless permits an employer to withdraw a successful without meaningful judicial scrutiny, thereby deepening the inconsistency within ADA jurisprudence.

Other circuits have adopted materially different standards.

The Ninth Circuit has repeatedly held that employers have an affirmative obligation to engage in a timely, good-faith interactive process before denying or withdrawing accommodation. In *Humphrey v. Memorial Hospitals Ass'n*, (2001) the court recognized that the interactive process is central to ADA's reasonable-accommodation requirement and that an employer's failure to participate in good faith may itself establish liability when it prevents identification or continuation of effective accommodation.

The Tenth Circuit likewise requires employers to conduct an individualized assessment before denying or rescinding accommodation. In *Smith v. Midland Brake, Inc.*, (98F.SUPP2D1233) (D.KAN.2000,1999) the court held that both employer and employee must participate in good faith in an interactive process designed to identify reasonable accommodations and that employers may not simply make unilateral decisions affecting disabled employees.

Similarly, the Seventh Circuit has recognized that employers violate the ADA when they prematurely terminate or obstruct the interactive process. In *Beck v. University of Wisconsin Board of Regents* (1 and EEOC v. *Sears, Roebuck & Co.*, 628F.SUPP.1264(N.D.III.1986) the court emphasized that employers must engage in good-faith efforts to preserve effective accommodation whenever reasonably possible.

This case squarely presents that conflict.

Petitioners suffer from Chronic Inflammatory Demyelinating Polyneuropathy ("CIDP"), a severe neurological disability affecting mobility, balance, and motor function. For approximately six years, Respondent acknowledged Petitioner's disability and provided an effective reasonable accommodation that enabled Petitioner to perform the essential functions of her position safely and successfully. Without any documented change in Petitioner's medical condition, without any change in the essential functions of her position, without conducting an individualized reassessment, without engaging in the ADA's required interactive process, and without demonstrating undue hardship, Respondent unilaterally revoked that accommodation.

Respondent then required Petitioner to travel substantially greater distances and assigned her to work in an area affected by a leaking roof, saturated carpeting, standing water, and slippery walking surfaces. Those hazardous conditions substantially increased the risk of falls for an employee whose disability impaired balance and mobility. Petitioner subsequently experienced multiple slip-and-fall incidents after her accommodation was withdrawn.

Petitioner presented substantial evidence demonstrating genuine disputes of material fact regarding Respondent's withdrawal of a successful accommodation, failure to engage in the interactive process, absence of any documented undue hardship, unsafe workplace conditions, disability discrimination, and constructive discharge. Nevertheless, the district court granted summary judgment, and the Fifth Circuit affirmed.

Under the standards applied by the Ninth, Tenth, and Seventh Circuits require meaningful judicial scrutiny when an employer unilaterally revokes a long-standing reasonable accommodation without conducting an individualized assessment, engaging in the interactive process, or demonstrating undue hardship. Under those courts' interpretation of Title I of the

ADA, such conduct may support liability. The Fifth Circuit's decision below, however, afforded little legal significance to these statutory protections, creating a direct conflict over the proper application of federal disability law.

The conflict results in inconsistent enforcement of a federal civil rights statute. Employees with the same disabilities, the same accommodations, and substantially similar facts receive different legal protections based solely on the circuit in which they work. Congress enacted ADA to establish a uniform national standard prohibiting disability discrimination, yet the decision below permits that standard to vary among the federal courts of appeals.

This case presents an ideal vehicle for resolving that conflict. Petitioner's accommodation was effective for approximately six years before Respondent revoked it without an individualized assessment, without meaningful participation in the interactive process, without establishing undue hardship, and without providing an effective alternative accommodation. As a result, Petitioner was required to work under hazardous conditions that allegedly caused repeated injuries. These undisputed procedural facts squarely present the recurring legal question dividing the circuits.

Review is also warranted because the court of appeals affirmed summary judgment despite substantial evidence creating genuine disputes of material fact. By allowing disputed issues concerning reasonable accommodation, the interactive process, and workplace safety to be resolved as a matter of law, the decision below weakens the protections Congress established under the ADA and deprives disabled employees of their right to have contested factual issues determined by a jury.

Absent this Court's intervention, the meaning and enforcement of Title I of the ADA will continue to differ across the country, leaving disabled employees with unequal protection

under the same federal statute. This Petition presents questions of exceptional national importance concerning the uniform interpretation of Title I of the ADA, the legal requirements governing the withdrawal of established accommodations, an employer's obligation to engage in the interactive process, and the proper application of summary judgment in disability discrimination cases. The Petition for a Writ of Certiorari should therefore be granted.

G. The Decision below violates Title I of the Americans with Disabilities act and the Family and Medical Leave Act by imposing an improper Prima Facie Standards

This case presents an important and recurring question of federal law concerning when a qualified employee with a disability establishes a prima facie case under Title I of the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12111-12117, where the employer possesses physician-certified medical documentation under the Family and Medical Leave Act ("FMLA"), 29 U.S.C. §§ 2611-2654,

Respondent stated Petitioner never provided medical documentation in position statement. had actual knowledge of the employee's disability and had previously provided the requested accommodation for 6 years and documented by certified physicians. The decision below conflicts with the decisions of the Second, Seventh, Tenth, and Eleventh Circuits regarding the evidentiary showing necessary to establish a prima facie ADA claim, the employer's obligation to engage in the interactive process, and the legal consequences of revoking an effective accommodation after years of successful use.

Petitioner presented evidence that:

- Petitioner's treating physician completed FMLA medical certifications documenting serious medical condition and permanent mobility limitations.

- Respondent accepted those certifications and possessed actual knowledge of Petitioner's disability.
- Respondents provided accommodation for approximately six years, acknowledging both the disability and the necessity of the accommodation.
- Respondent later revoked that accommodation without conducting an individualized assessment, demonstrating undue hardship, or engaging in the interactive process required by 42 U.S.C. § 12112(b)(5)(A)
- Respondent thereafter required Petitioner to walk distances inconsistent with physician-documented restrictions and required work in unsafe conditions that aggravated Petitioner's disability.
- Respondent unlawfully terminated ADA's mandatory interactive process by declaring that Petitioner's long-standing accommodation would remain suspended **"until further notice."** That unilateral decision eliminated any meaningful opportunity to identify an effective reasonable accommodation and compelled Petitioner to work in hazardous conditions while walking excessive distances despite a documented mobility disability, exposing Petitioner to foreseeable pain, physical injury, and constructive discharge.

Those facts establish a *prima facie* ADA claim under the standards recognized by multiple federal courts of appeals. Nevertheless, the Fifth Circuit affirmed judgment against Petitioner, effectively requiring disabled employees to satisfy a substantially higher evidentiary burden than employees in other circuits.

The resulting conflict creates unequal protection under federal disability law depending solely upon the circuit in which an employee works.

II. THE FIFTH CIRCUIT'S DECISION CONFLICTS WITH THE SECOND, SEVENTH, TENTH, AND ELEVENTH CIRCUITS.

The conflict concerns several recurring questions of federal law.

First, the Fifth Circuit permits an employer to revoke long-standing accommodation despite years of successful implementation and despite physician-certified medical evidence establishing continuing mobility limitations.

Second, the Fifth Circuit permits dismissal even where the employer possessed actual knowledge of the disability through FMLA medical certification, prior accommodations, physician documentation, and repeated requests for continued accommodation.

Third, unlike the Second, Seventh, Tenth, and Eleventh Circuits, the Fifth Circuit does not require meaningful enforcement of the ADA's interactive-process obligation before an employer withdraws effective accommodation.

Fourth, the Fifth Circuit applies an unusually restrictive constructive-discharge standard by concluding that requiring a disabled employee to perform work inconsistent with documented medical restrictions and without necessary accommodations does not constitute objectively intolerable working conditions and force a disabled employee to which have painful mobility impairment, even where the employee unsafe workplace conditions that aggravated the disability.

These conflicting standards produce different outcomes under identical federal statutes and regulations, frustrating Congress's intent that the ADA provide uniform nationwide protection.

III. THIS CASE PRESENTS AN IMPORTANT QUESTION CONCERNING THE RELATIONSHIP BETWEEN THE FMLA AND THE ADA.

Congress enacted the FMLA and the ADA to protect employees with serious medical conditions while preserving their ability to remain employed.

An employer that receives physician-certified FMLA medical documentation has actual notice of the employee's medical limitations. When that employer also provides reasonable accommodation for years, its knowledge of the employee's disability and accommodation needs cannot reasonably be disputed.

The question presented is whether an employer may thereafter revoke that accommodation without an individualized assessment, without demonstrating undue hardship, and without engaging in the interactive process mandated by the ADA.

The courts of appeals have answered that question differently.

This Court should grant certiorari to establish a uniform national standard governing the evidentiary requirements for a prima facie ADA claim, the legal significance of FMLA medical certification, the employer's duty to maintain reasonable accommodations absent changed circumstances, and the proper standard for constructive discharge of qualified employees with disabilities.

Table of Conflicting Authorities, such as:

Circuit	Rule:
Second Circuit	Employer knowledge of disability and failure to engage in the interactive process may support an ADA accommodation claim.
Seventh Circuit	Revoking existing accommodation without justification may violate the ADA.
Tenth Circuit	An employer cannot ignore known medical restrictions and avoid the interactive process.

Circuit	Rule:
Eleventh Circuit	Forcing an employee to work contrary to known disability limitations may support constructive discharge.
Fifth Circuit (this case)	Affirmed dismissal despite physician-certified medical documentation, years of accommodation, and allegations that the accommodation was revoked without the interactive process.

H. The Court Should Grant Certiorari to Resolve the Circuit Split Regarding whether Title I of The ADA Permits Employers To Rely on Facially Neutral Workplace Policy To Deny Reasonable Accommodations that Create Foreseeable Physical Harm To Qualified Employees With Disabilities.

This Court should grant review because the Fifth Circuit's decision below creates a stark, irreconcilable conflict among the federal courts of appeals on how to evaluate employer policies that create physical safety hazards for disabled individuals. The Fifth Circuit's uncritical adoption of the Respondent's "neutrality" defense represents a profound misunderstanding of federal disability law that directly conflicts with both this Court's precedent and the binding rulings of other circuits.

The City's "Neutrality" Claim Is an Admission of a Failure to Accommodate under Barnett. In its filings below, the Respondent, the City of Houston, successfully argued that its restrictive gate access and security checkpoint policies were facially neutral and applied to all employees uniformly. The Respondent asserted that because non-disabled employees were bound by the same physical boundaries, the Petitioner could not claim discrimination or a hostile work environment.

This defense is a fundamental misstatement of federal law. The central core of Title I of the Americans with Disabilities Act (ADA) is the explicit mandate of reasonable accommodation. When the employer is a governmental entity—federal, state, county, or municipal—it is subject not only to Title I of the Americans with Disabilities Act ("ADA"), but also to additional federal accessibility obligations, including Title II of the ADA where

applicable, Section 504 of the Rehabilitation Act, and, where applicable, the Architectural Barriers Act. These statutes require government employers to eliminate unnecessary physical barriers and provide meaningful access to qualified individuals with disabilities. A government employer therefore cannot invoke a facially neutral security protocol as a blanket justification for maintaining a physical gate-access barrier that denies reasonable accommodation or excludes a qualified employee with a disability.

In *US Airways, Inc. v. Barnett*, 535 U.S. 391, 397 (2002), this Court explicitly ruled that the ADA commands the modification of neutral rules to provide equal access for disabled workers. Justice Breyer, writing for the Court, stated: “explained that “the Act requires preferences in the form of ‘reasonable accommodations’” and held that “the simple fact that an accommodation would provide a ‘preference’ cannot, in and of itself, automatically show that the accommodation is not ‘reasonable.’” *US Airways, Inc. v. Barnett*, 535 U.S. 391, 397–98 (2002). Supreme Court authorities reject the argument that:

- An employer’s neutral workplace policy automatically defeats ADA accommodation;
- A reasonable accommodation is improper simply because it gives a disabled employee something that other employees do not receive; or equal treatment means treating disabled employees the same as everyone else.
- Employers cannot enforce rigid security rules that create an absolute barrier for an employee with a mobility disability. The law requires them to modify those policies unless they can prove doing so causes an “undue hardship”
- employer’s security protocols effectively lock you out of the facility, and they refuse Petitioner an alternative, they have failed to provide a reasonable accommodation

Instead, **Barnett** recognizes that the ADA sometimes requires employers to make exceptions to neutral workplace rules so employees with disabilities have equal employment opportunities. The Court noted that neutral rules do not create an automatic exemption from ADA's reasonable accommodation requirement. The ADA requires reasonable modifications to neutral workplace policies. Respondent's defense of an inflexible gate security policy is an admission that it refused to modify a neutral rule despite Petitioner's known disability. A neutral policy becomes unlawful discrimination when it is enforced to preserve a physical barrier that denies a qualified employee equal workplace access. Respondent's refusal to modify its gate security policy is not a defense—it is the ADA violation. The Act requires reasonable exceptions to neutral workplace rules when necessary to accommodate a qualified employee with a disability. A policy that is neutral on its face becomes discriminatory when enforced without accommodation to exclude a disabled employee from equal workplace access.

Supreme Court precedent because it supports the principle that an employer cannot rely solely on a neutral policy to justify denying or withdrawing reasonable accommodation.

2. The Decision Below Deepens an Irreconcilable Split Among the Federal Circuit Courts. The decision below stands in direct, irreconcilable conflict with the jurisprudence of the Ninth and Seventh Circuits, which explicitly reject the Fifth Circuit's restrictive rule.

The Ninth Circuit Conflict: In *Humphrey v. Memorial Hospitals Ass'n*, 239 F.3d 1128 (9th Cir. 2001), the Ninth Circuit ruled that an employer's rigid adherence to an internal policy that creates a physical access barrier making it dangerous or impossible for a disabled person to get to work constitutes an immediate, actionable violation of the ADA.

The Seventh Circuit Conflict: Similarly, in *US EEOC v. United Airlines, Inc.*, 287 F.3d 643 (7th Cir. 2012), the Seventh Circuit confirmed that a facially neutral company policy must bend to accommodate a worker's physical, medical restrictions. Had the Petitioner's case

been filed within the jurisdiction of the Seventh or Ninth Circuits, the Respondent's "neutral security policy" defense would have been rejected as a matter of law. Leaving the Fifth Circuit's ruling in place means a disabled American working in Texas, Louisiana, or Mississippi is stripped of vital civil rights and safety protections that are guaranteed to disabled Americans living in California, Washington, or Illinois.

A Workplace Policy Cannot Be Deemed Legally "Reasonable" When It Forces Medical Non-Compliance and Causes Bodily Injury. The Respondent's legal strategy intentionally sought to divorce the city's workplace policies from their real-world physical consequences. The Respondent used its facial neutrality defense to blind the court to a devastating evidentiary record. The policy was not a mere administrative inconvenience; it was a direct physical hazard. The Respondent's rigid enforcement of the gate barrier directly forced the Petitioner to violate explicit, binding medical restrictions from her physicians stating that she could not walk long distances. By prioritizing procedural neutrality over documented medical necessity, the Respondent created a hostile and unsafe working environment that caused the Petitioner to suffer severe physical distress and physically fall on two separate occasions. *Cleveland v. Policy Management Systems Corp.*, 526 U.S. 795 (1999) – The ADA requires individualized determinations. *School Board of Nassau County v. Arline*, 480 U.S. 273 (1987) – Disability determinations require individualized assessments (Rehabilitation Act case that influenced the ADA). This Court must grant certiorari to resolve this profound circuit conflict and reinforce that an employer cannot use a "neutral policy" shield to escape liability for workplace barriers that inflict actual physical injury on disabled Americans. ADA—particularly *failure to accommodate*—frequently generate a distinct circuit split. In fact, under Fifth Circuit precedent like *Strife v. Aldine Independent School District* (5th Cir.2025), the Court has held

that an employer's unreasonable delay in approving ADA accommodation can be actionable, even if the employee suffered no "concrete harm" or job loss. The 5th circuit considered the employee claim that employer failed to accommodate her disability concluding that the delay in accommodation and insistence on an IME when sufficient medical information has been repeatedly provided may constitute a failure to accommodate and a violation of ADA.

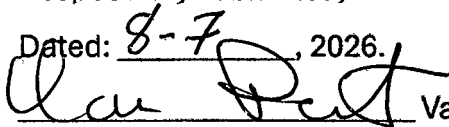
The Fifth Circuit's rigid rule deepens an intractable circuit split. It contradicts the plain text of federal civil rights laws. This Court should grant certiorari to resolve the conflict and restore uniform application of federal employment discrimination law."

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant the Petition for a Writ of Certiorari to resolve the conflict among the courts of appeals concerning an employer's obligations under Title I of the Americans with Disabilities Act before revoking a long-standing reasonable accommodation. This case presents an important question of federal law affecting employees with disabilities nationwide and provides an appropriate vehicle to establish a uniform national standard. Petitioner further requests that the Court reverse the judgment of the United States Court of Appeals for the Fifth Circuit, or alternatively, vacate the judgment and remand the case back to lower court for further proceedings consistent with this Court's decision. These reasons, the Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

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