No. 23-997

IN THE
Supreme Court of the United States

KARYN D. STANLEY,
Petitioner,

v.

CITY OF SANFORD, FLORIDA,
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

BRIEF OF AMICI CURIAE AARP AND AARP FOUNDATION IN SUPPORT OF PETITIONER

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STATEMENT OF INTEREST[1]

AARP is the nation's largest nonprofit, nonpartisan organization dedicated to empowering Americans age 50 and older to choose how they live as they age. With a nationwide presence, AARP strengthens communities and advocates for what matters most to the more than 100 million Americans 50-plus and their families: health security, financial stability, and personal fulfillment. AARP's charitable affiliate, AARP Foundation, works for and with vulnerable people over 50 to end senior poverty and reduce financial hardship by building economic opportunity.

AARP supports the rights of all older Americans to receive comprehensive and affordable health insurance. Indeed, in 1958, Dr. Ethel Percy Andrus founded AARP to advocate for an affordable group health plan for all retired Americans. As part of its work to protect the health and financial security of retired Americans, AARP advocates for older workers with disabilities to receive fair and nondiscriminatory benefits. Because nearly two-thirds of workers with disabilities are age 45 or older, discrimination against workers with disabilities often adversely impacts older workers. AARP and AARP Foundation regularly

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[1] Pursuant to Supreme Court Rules 37.2 and 37.6, we submit that no counsel for any party authored the brief in whole or in part. In addition, no person or entity, other than amici, their members, and their counsel, has made any monetary contribution to the preparation or submission of this brief. We provided counsel for all parties with timely notice of our intent to file this brief.

participate as counsel or amici in cases advocating for older workers facing disability discrimination and retired Americans seeking fair access to affordable and nondiscriminatory health insurance and other benefits.

SUMMARY OF ARGUMENT

The Americans with Disabilities Act of 1990 (ADA) broadly seeks to prohibit and remedy disability discrimination. The statute's plain language protects against discrimination in fringe benefits, which are often earned during a qualified individual's service but provided after the employment relationship has ended. Former employees can challenge discriminatory benefits under the ADA because their claims do not accrue until they are affected by the discrimination, which is often during their retirement. Any limitation on the right of former employees to challenge such discrimination contradicts not only the ADA's plain text, but also its broader purpose of creating enforceable standards to guard against offering lesser job benefits to people with disabilities.

As growing numbers of Americans retire earlier than planned due to the onset or worsening of a disability, they are more likely to depend upon the ADA's broad protections in post-employment fringe benefits, such as health insurance. Access to such benefits is critical for millions of retired Americans who depend upon them for their health and quality of life during retirement. Carving out retirees and other former employees from the ADA's ambit not only violates the law, but also risks their ability to pay for

their retirement and robs them of their peace of mind, often at the time they need it most.

ARGUMENT

I. THE ADA'S STATUTORY LANGUAGE, CONTEXT, AND PURPOSE ESTABLISH THAT FORMER EMPLOYEES CAN SUE FOR DISCRIMINATORY FRINGE BENEFITS.

When interpreting a statute, this Court considers first "the language itself, the specific context in which that language is used, and the broader context of the statute as a whole." *Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 (1997) (citing *Estate of Cowart v. Nikols Drilling Co.*, 505 U.S. 469, 477 (1992)). Where the language is ambiguous, attention focuses on the "broader context" and "primary purpose" of the statute. *Id.* at 345-46. In establishing a broad mandate against disability discrimination, Title I of the ADA plainly prohibits employers from discriminating "on the basis of disability in regard to . . . compensation . . . and other terms, conditions, and privileges of employment." 42 U.S.C. § 12112(a). Respondent City of Sanford, Florida, offers lesser post-employment health insurance benefits to employees who retire due to disability—like firefighter Karyn Stanley—than it offers to employees who retire for other reasons. To avoid liability for such discrimination, Respondent seeks a loophole that would limit qualified employees from challenging discrimination after they retire. That result

contradicts the plain language, broader context, and central purpose of the ADA.

A. The Plain Text of the ADA Prohibits Employers from Discriminating Against Former Employees in the Provision of Fringe Benefits.

Under Title I of the ADA, employers cannot discriminate against employees with disabilities when providing fringe benefits. 42 U.S.C. §§ 12112(a) and (b)(2); *see also* 29 C.F.R. § 1630.4(a)(1)(vi) (forbidding disability discrimination "in regard to . . . [f]ringe benefits available by virtue of employment"). Fringe benefits include health insurance, pension benefits, long-term disability insurance, and other retirement benefits. *See Ford v. Schering-Plough Corp.*, 145 F.3d 601, 604 (3d Cir. 1998) (health insurance); *Castellano v. City of New York*, 142 F.3d 58, 66-67 (2d Cir. 1998) (pension benefits); *Johnson v. K Mart Corp.*, 273 F.3d 1035, 1050-51 (11th Cir. 2001) (long-term disability insurance), *vacated on other grounds* (2001); Equal Employment Opportunity Commission, *Interim Enforcement Guidance on the Application of the ADA to Disability-Based Distinctions in Employer-Provided Health Insurance*, Notice No. 915.002 (June 8, 1993) (giving examples of "fringe benefits, such as employer provided pension plans, life insurance, and disability insurance" (internal quotations omitted)).

Many post-employment "fringe benefits are paid out to those who no longer work and who are no longer able to work, and some fringe benefits are paid out to individuals precisely because they can no longer

work." *Castellano*, 142 F.3d at 68; *see also Ford*, 145 F.3d at 605 (noting that plaintiff requested disability benefits because she was no longer able to work due to disability). This Court has already recognized that a "benefit need not accrue before a person's employment is completed to be a term, condition, or privilege of that employment relationship." *Hishon v. King & Spalding*, 467 U.S. 69, 77 (1984) ("Pension benefits, for example, qualify as terms, conditions, or privileges of employment even though they are received only after employment terminates.") Post-employment fringe benefits are, therefore, especially important for older employees who—like Ms. Stanley—rely upon such benefits as they retire or become too disabled to work.

Title I of the ADA explicitly incorporates the enforcement scheme, including the various "powers, remedies, and procedures," set forth in Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. §§ 2000e-4, 2000e-5, 2000e-6, 2000e-8, and 2000e-9. 42 U.S.C. § 12117(a). In this respect, "the ADA is essentially a sibling statute of Title VII." *Ford*, 145 F.3d at 606. Under these provisions, "*any person* alleging discrimination on the basis of disability in violation of any provision of [the ADA]" may bring a claim. 42 U.S.C. § 12117(a) (emphasis added). The statutory remedies for such violations may include, among other things, "reinstatement." 42 U.S.C. § 2000e-5(g)(1). That "reinstatement" is an available remedy to "any person" alleging disability discrimination plainly demonstrates that Congress intended former employees to be able to bring claims under the ADA.

The requirement under Title I of the ADA that a person alleging discrimination be a "qualified individual" with a disability does not limit a person's ability to recover for discrimination in post-employment fringe benefits. 42 U.S.C. §§ 12112(b)(2) and (4). Yet here, some courts recognize "an internal contradiction in the ADA itself, namely the disjunction between the ADA's definition of 'qualified individual with a disability' and the rights that the ADA confers." *Ford*, 145 F.3d at 605; *but see Stanley v. City of Sanford*, 83 F.4th 1333, 1341 (11th Cir. 2023) (denying any ambiguity in these conflicting notions). Under the statute, the term "qualified individual" focuses on one's ability to "perform the essential functions of the employment position that such individual holds or desires" with or without a reasonable accommodation. 42 U.S.C. § 12111(8). In this way, this term is meant to assess whether a person can perform a job, not whether she already has one. However, the statute does not expressly specify when an employee must be a "qualified individual" with a disability as a prerequisite to filing a claim for discrimination in fringe benefits. *Ford*, 145 F.3d at 605; *Castellano*, 142 F.3d at 67.

To resolve this type of textual ambiguity, courts examine the "specific context" in which the language is used and the broader context of the statute as a whole. *Robinson*, 519 U.S. at 341. In the specific context at issue in this case, "many fringe benefits are earned during years of service before the employment has terminated but are provided in years after the employment relationship has ended." *Castellano*, 142 F.3d at 67. Thus, "it is irrelevant whether former

employees, otherwise eligible for fringe benefits, could also perform such essential functions at or after termination of their employment." *Id.* at 68.

Indeed, the term "qualified individual" in Title I of the ADA is tied directly to Congress's concern "that employers not be forced to hire, promote, or retain unqualified, disabled employees." *Id.*; *see also Fletcher v. Tufts Univ.*, 367 F. Supp. 2d 99, 106 (D. Mass. 2005) (agreeing with the Second Circuit on the interpretation of "qualified individual"). It does not impose a free-standing requirement that a person hold or seek a job to be covered under the statute. Indeed, where the alleged discrimination relates to post-employment fringe benefits—rather than hiring, promotion, or firing—Congress's concerns about qualifications are no longer implicated because the former employees were qualified and earned post-employment fringe benefits during their employment. *Castellano*, 142 F.3d at 68. It is, therefore, axiomatic that when a former employee is qualified during the term of her employment and earned fringe benefits at that time, the purpose of the "qualified individual" provision in the ADA has been met. *Id.*

Here, there is no dispute that Ms. Stanley was a "qualified individual" capable of performing the essential functions of her firefighter job throughout her 20-year tenure. The fringe benefit of post-employment health insurance at issue in this case did not accrue until Ms. Stanley retired due to her Parkinson's Disease, which eventually made her

unqualified to continue working in that position.[2] Fringe benefits earned during an employee's tenure but distributed post-employment are a form of employment-based compensation. In the Lilly Ledbetter Fair Pay Act of 2009, Pub. L. No. 111-2, 123 Stat. 5, Congress clarified that individuals may challenge discrimination in such benefits "when an individual becomes subject to a discriminatory compensation decision or other practice" or "when an individual is affected by application of a discriminatory compensation decision or other practice." 42 U.S.C. § 2000e-5(e)(3)(A). This change in the law further supports the right of retirees and former employees—like Ms. Stanley—to challenge discriminatory post-employment fringe benefits under Title I of the ADA because their claims do not accrue until they are affected by discrimination.

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[2] Ms. Stanley's Parkinson's Disease is not surprising given the significantly higher frequency of the disability in firefighters as compared to the general population. Roshni Kotwani et al., 13(3) *Assessment of Parkinsonian Symptoms and Toxin Exposures in Firefighters*, J. Basic & Clinical Pharmacy 172, 176 (2022), https://www.jbclinpharm.org/articles/assessment-of-parkinsonian-symptoms-and-toxin-exposures-in-firefighters.pdf. Because of this connection, some states have adopted a legal presumption that firefighters who develop Parkinson's Disease did so in the line of duty. *E.g.,* N.Y. Gen. Mun. Law § 207-kkk (McKinny 2021); Ind. Code Ann. § 5-10-15-5.5.

B. Interpreting the ADA to Permit Claims by Former Employees Challenging Discriminatory Fringe Benefits Furthers the Core Purpose of the ADA.

Stepping back to look at the "broader context" and purpose of the statute—as this Court does when reviewing an ambiguous provision, *Robinson*, 519 U.S. at 341—Congress enacted the ADA with the express purpose of "provid[ing] a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." 42 U.S.C. § 12101(b)(1). Congress found that Americans with disabilities "continually encounter various forms of discrimination, including . . . relegation to lesser services, programs, activities, *benefits*, jobs, or other opportunities," 42 U.S.C. § 12101(a)(5) (emphasis added), and that such discrimination "persists in such critical areas as employment." *Id.* § 12101(a)(3). In response, Congress drafted the ADA to provide wide-ranging remedies for discrimination against people with disabilities, including when employers provide lesser post-employment fringe benefits that especially impact older adults with disabilities such as Ms. Stanley.

An interpretation of Title I of the ADA that prohibits former employees from challenging discrimination in post-employment fringe benefits would create a right without a remedy, which Congress clearly did not intend. *See* 42 U.S.C. § 12101(b)(2) (the ADA's purpose is "to provide clear, strong, consistent, *enforceable* standards addressing

discrimination against individuals with disabilities") (emphasis added). The ADA's "proscription of discrimination in fringe benefits generates the need for disabled individuals to have *legal recourse* against such discrimination." *Ford*, 145 F.3d at 608 (emphasis added). A contrary position would permit employers to discriminate freely against disabled retirees—like Ms. Stanley—who had been qualified individuals under the statute right up to the point of retirement.

The Second and Third Circuits concluded that this Court's *Robinson* decision supports their holdings that former employees may bring claims for discrimination in post-employment fringe benefits under Title I of the ADA. In *Robinson*, the Court held that former employees are protected under Title VII's anti-retaliation provision given the "broader context of Title VII and the primary purpose" of its anti-retaliation provision. 519 U.S. at 346. The Court noted that holding otherwise "would effectively vitiate much of the protection afforded" by that provision and would allow for "an employer to be able to retaliate with impunity against an entire class of acts under Title VII." *Id*. While the ambiguity concerning the rights of former employees to bring claims under Title I of the ADA is predicated on a different statutory provision, *Robinson*'s reasoning "applies with equal force to the instant case." *Castellano*, 142 F.3d at 69. To give meaning to the ADA's broad mandate as well as Title I's prohibition of discrimination in the compensation, terms, conditions, and privileges of employment, former employees with disabilities must have "legal recourse against . . . discrimination" in the class of acts involving the provision of fringe benefits. *Ford*, 145

F.3d at 608 (citing *Robinson* to support holding allowing former employees to sue under Title VII); *see also* 42 U.S.C. § 12101(a)(5) (enumerating types of discrimination that people with disabilities "continually encounter," including "relegation to lesser services, programs, activities, benefits, jobs, or other opportunities.").

The ADA's plain purpose and language—like that of Title VII—aim to eliminate and remedy discrimination against people with disabilities, including with respect to post-employment fringe benefits. An interpretation excluding former employees or employees who can no longer perform the essential functions of their former jobs due to disability from pursuing their claims "would undermine the purpose of preventing disability discrimination in the provision of fringe benefits." *Castellano*, 142 F.3d at 69. Such a conclusion would contradict Congress's express prohibition of discrimination in fringe benefits by "allow[ing] employers to discriminatorily deny or limit post-employment benefits to former employees who ceased to be 'qualified' at or after their retirement, although they had earned those fringe benefits through years of service in which they performed the essential functions of their employment." *Id.* A better and more considered interpretation—consistent with the ADA's plain language, context, and purpose—is one that effectuates "the full panoply of rights guaranteed by the ADA." *Ford*, 145 F.3d at 607.

The decision in this case will affect millions of older Americans who retire due to disability and then

are denied equal access to post-employment health insurance benefits when they need them most. A ruling in favor of Ms. Stanley—who retired after likely developing her disability in the line of duty as a firefighter for almost 20 years—would not open the floodgates to ADA claims from unqualified employees. Instead, such a decision would reinforce the existing rights of qualified individuals to recover for discrimination that only occurs or takes effect after they end their employment, consistent with Congress's clear goal of thwarting "lesser . . . benefits" for Americans with disabilities.

II. BECAUSE AMERICANS OFTEN RETIRE EARLIER THAN PLANNED DUE TO DISABILITY, THE ADA'S PROTECTIONS FOR RETIREES ARE MORE IMPORTANT THAN EVER.

The ADA's antidiscrimination protections regarding fringe benefits are essential to protect retirees who leave the workforce because of disability. *See* 42 U.S.C. §§ 12112(a) and (b)(2); *see also* 29 C.F.R. § 1630.4(a)(1)(vi). This is so because Americans today are more likely than in the past to remain in the workforce until they can no longer physically or mentally work, i.e., because of an onset or worsening of disability. In 1940, a 65-year-old person could

expect to live almost 14 additional years.[3] Now, that same person can expect to live at least 20 more years.[4]

Accordingly, Americans must continue working later in life to pay for retirement. Nearly one in five (19%) Americans age 65 and older were employed in 2023—nearly double the share of those working in the late 1980s.[5] Statisticians forecast that the participation rate of older adults in the workforce will continue rising. For example, individuals age 55 to 64 are projected to have a 69% participation rate in the civilian labor force in 2033.[6] In the interim—between 2022 and 2032—workers age 65 and older are projected to account for 57% of labor force growth.[7] And by 2032, 21% of all adults age 65 and older are projected to be in the labor force.[8]

Even with these projections, older adults are more likely to be forced out of the workforce due to the

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[3] *Fact Sheet on Social Security,* Soc. Sec. Admin. (June 30, 2024), https://www.ssa.gov/news/press/factsheets/basicfact-alt.pdf.

[4] *Id.*

[5] Richard Fry and Dana Braga, *Older Workers Are Growing in Number and Earning Higher Wages*, Pew Rsch. Ctr., 5 (Dec. 14, 2023), https://www.pewresearch.org/wp-content/uploads/sites/20/2023/12/ST_2023.12.14_Older-Workers_Report.pdf.

[6] Employment Projections, *Civilian labor force participation rate by age, sex, race, and ethnicity*, Bureau of Lab. Stat. (last modified Aug. 29, 2024), https://www.bls.gov/emp/tables/civilian-labor-force-participation-rate.htm.

[7] Fry and Braga, *supra* note 5, at 11.

[8] *Id.*

onset or worsening of a disability than younger workers. Older Americans are significantly more likely than younger Americans to have or develop disabilities. About one-quarter (24%) of adults age 65 to 74 and almost half (46%) of adults age 75 and older reported having a disability in 2021.[9] In comparison, only 8% of surveyed adults under age 35 reported having a disability.[10]

Moreover, about half (46%) of retirees surveyed by the Employee Benefit Research Institute in 2023 reported that they had retired earlier than planned, and of those who retired earlier than planned, 35% did so because of a health problem or disability.[11] In other words, 16% of all retirees surveyed reported retiring earlier than planned due to disability.[12] Given current trends, this percentage will likely grow in coming years. As of 2024, the Social Security Administration predicts that more than one in four current 20-year-

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[9] Rebecca Leppert and Katherine Schaeffer, *8 facts about Americans with disabilities*, Pew Res. Ctr. (July 24, 2023), https://www.pewresearch.org/short-reads/2023/07/24/8-facts-about-americans-with-disabilities/.

[10] *Id.*

[11] Emp. Benefits Rsch. Inst., 2 2023 RCS *Fact Sheet #2: Expectations About Retirement* (2023), https://www.ebri.org/docs/default-source/rcs/2023-rcs/rcs_23-fs-2.pdf.

[12] *Id. See also Don't Let Retirement Surprise You*, AARP (Jan. 2024), https://datastories.aarp.org/2024/preparing-for-retirement/#ref4 ("This gap between expected and actual retirement age is likely because people often retire earlier than expected due to health problems or disability, or because they can afford to retire earlier, or due to changes at their employer.").

olds will become disabled before reaching retirement.[13]

The number of Americans age 65 and older is projected to increase by approximately 47% in the next 30 years, reaching 82 million in 2050.[14] A decision holding that former employees—like Ms. Stanley—cannot challenge discrimination in post-employment fringe benefits under the ADA will leave the growing population of Americans who retire due to disability without any legal remedy as they face staggering health care costs in retirement.

III. AN ADVERSE DECISION IN THIS CASE WOULD AFFECT MILLIONS OF RETIREES WHO DEPEND ON POST-EMPLOYMENT HEALTH INSURANCE BENEFITS FOR FINANCIAL SECURITY.

In enacting the ADA, Congress stated that "the Nation's proper goals regarding individuals with disabilities are to assure . . . independent living, and economic self-sufficiency for such individuals." 42 U.S.C. § 12101(a)(7). To that end, millions of retired Americans—including many with disabilities—rely on the fringe benefit of employer-sponsored health

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[13] *Facts: The Faces and Facts of Disability*, Soc. Sec. Admin. (last visited Sept. 12, 2024, 8:01 PM), https://www.ssa.gov/disabilityfacts/facts.html.

[14] *2023 National Population Projection Tables, Table 2: Projected Population by Age Group and Sex*, U.S. Census Bureau (last revised Oct. 31, 2023), https://www2.census.gov/programs-surveys/popproj/tables/2023/2023-summary-tables/np2023-t2.xlsx.

insurance for their financial security and wellbeing in retirement. Nearly one-quarter (23%) of Americans age 65 and older had employment-based health insurance in 2022.[15] In addition, about 15.2 million Medicare beneficiaries carry some form of employer or union-sponsored health insurance coverage in 2021.[16] These figures approximate, but underestimate, the number of Americans who retire with employer-sponsored health insurance, because 16% of workers, including Ms. Stanley, retire early due to disability.[17] When employers offer lesser health insurance to disability retirees than to other retirees, the resulting discrimination causes workers to lose financial security and economic self-sufficiency when they can least afford to do so.

Workers like Ms. Stanley, who were promised, then denied, post-employment health insurance, endure two major costs when they lose their insurance. First, they must pay out-of-pocket for health insurance until they become eligible for Medicare at age 65. The average person age 40, 50,

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[15] Administration for Community Living, *2023 Profile of Older Americans* 18 (May 2024), https://acl.gov/sites/default/files/Profile%20of%20OA/ACL_ProfileOlderAmericans2023_508.pdf. (citing U.S. Census Bureau, *Current Population Survey, 2023 Annual Social and Economic Supplement* (2023)).

[16] Nancy Ochieng et al., *A Snapshot of Sources of Coverage Among Medicare Beneficiaries*, KFF (Dec. 13, 2023), https://www.kff.org/medicare/issue-brief/a-snapshot-of-sources-of-coverage-among-medicare-beneficiaries/.

[17] Although these figures include workers age 65 and older, significantly more workers leave the workforce before age 65 than continue working after age 65. *See* Section II *supra*.

and 60 who purchases health insurance through the Affordable Care Act marketplace in 2024 pays respective average monthly premiums of $509, $712, and $1,079.[18] Second, retirees face heightened co-pays and premiums under Medicare when their employers deny them previously promised post-employment health benefits. For instance, Ms. Stanley faces a cost of over $150,000 to retain her health insurance until age 65 without the subsidy that Respondent promised her.[19]

In 2023, the Employee Benefit Research Institute estimated that without co-insurance, a typical 65-year-old man enrolled in a Medigap plan needs to have saved $106,000 to have a 50% chance of having enough savings to cover premiums and median prescription drug expenditures through retirement; a typical 65-year-old woman needs to have saved $128,000.[20] For a 90% chance of meeting their health care spending needs in retirement, a typical 65-year-old man enrolled in a Medigap plan needs to have saved $184,000, and a typical 65-year-old woman needs to have saved $217,000.[21]

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[18] Les Masterson, *How Much Does Health Insurance Cost In 2024?*, Forbes Advisor (last updated July 22, 2024, 2:33 PM), https://www.forbes.com/advisor/health-insurance/how-much-does-health-insurance-cost/.

[19] Pet. Br. 12.

[20] Jake Spiegel and Paul Fronstin, 1 Issue Brief No. 599: *Projected Savings Medicare Beneficiaries Need for Health Expenses Increased Again in 2023*, at 1, Emp. Benefits Rsch. Inst. (Jan. 18, 2024).

[21] *Id.*

These costs stagger in comparison to most Americans' retirement savings. Americans en masse are financially underprepared for retirement. Almost half (46%) of American households had no savings in retirement accounts in 2022.[22] Twenty percent of those age 50 and older have no retirement savings at all.[23]

Workers and retirees are especially underprepared for unexpected medical expenses that they face in retirement, which often overburden their limited savings. Americans experience increased financial pressures with fewer retirement savings compared to prior generations of retirees.[24] While 55% of Americans worry that they cannot achieve financial security in retirement, 79% believe there is a "retirement crisis," up from 67% in 2020.[25] This concern is warranted. Forty-one percent of non-disability-affected retirees and 61% of disability-

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[22] Dan Doonan and Kelly Kenneally, *Retirement Insecurity 2024: Americans' Views of Retirement*, Nat'l Inst. on Ret. Sec. 10 (Feb. 2024), https://www.nirsonline.org/wp-content/uploads/2024/02/FINAL-2024-Public-Opinion-Research.pdf.

[23] *New AARP Survey: 1 in 5 Americans Ages 50+ Have No Retirement Savings and Over Half Worry They Will Not Have Enough to Last in Retirement,* AARP, (Apr. 24, 2024), https://press.aarp.org/2024-4-24-New-AARP-Survey-1-in-5-Americans-Ages-50-Have-No-Retirement-Savings.

[24] Doonan and Kenneally, *supra* note 22, at 1-2.

[25] *Id.* at 1.

affected retirees surveyed in 2022 acknowledge that they saved less than they needed for retirement.[26]

Given the importance of fringe benefits in attaining financial security in retirement, it is unsurprising that 78% of workers consider retirement benefits, including health insurance, as an important job factor.[27] Depriving retirees of the benefits they earned during their employment risks their ability to pay for their retirement and unfairly cheats them of their well-earned peace of mind. Ms. Stanley and others like her should not have to pay life-altering costs because of their employers' unlawful discrimination in post-employment fringe benefits.

CONCLUSION

For the foregoing reasons, we respectfully request that the Court reverse the judgment of the Eleventh Circuit and hold that Title I of the ADA permits former employees to challenge discrimination in post-employment fringe benefits.

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[26] Bridget Bearden, 1 Issue Brief No. 583: *The Impact of Disability on Spending in Retirement*, at 1, Emp. Benefits Rsch. Inst. (Apr. 20, 2023).

[27] Doonan and Kenneally, *supra* note 22, at 7 fig. 7. Moreover, for many critical public safety jobs that often come with lower salaries, including firefighter positions, post-employment fringe benefits are a major draw for potential employees. Employee Benefits, Bureau of Lab. Stat. (last visited Sept. 13, 2024, 8:48 PM), https://www.bls.gov/ebs/latest-numbers.htm [https://perma.cc/PLP6-7GHL].

September 23, 2024 Respectfully submitted,

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