No. 22-____

IN THE

Supreme Court of the United States

EXPEDIA GROUP, INC, HOTELS.COM, L.P., HOTELS.COM GP, and ORBITZ, LLC,

Petitioners,

v.

MARIO DEL VALLE, ENRIQUE FALLA, and ANGELO POU,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Respondents are descendants of persons who allegedly owned properties that were confiscated by the Cuban government. They contend that they own "claims" to the properties created by the Helms-Burton Act and have sued Petitioners, who are owners and operators of online travel websites where bookings at hotels on the properties were listed, for allegedly violating their statutory right against trafficking in the properties.

In *TransUnion LLC* v. *Ramirez*, 141 S. Ct. 2190 (2021), issued after this case was briefed in the court of appeals, this Court held that statutory injuries must have a close historical or common law analogue to support standing, *id.* at 2204, and also that standing must be demonstrated for "each form of relief" a plaintiff seeks, *id.* at 2210.

The court of appeals held Respondents' alleged statutory injury bears a close relationship to the common-law harm of unjust enrichment and Respondents therefore have standing, even though the relief they seek is statutory damages equal to the full value of the properties, not disgorgement of Petitioners' allegedly ill-gotten gains.

The question presented is:

Whether, under *TransUnion*, intangible, statutory harm must have a historical or common-law analogue in the context of the particular relief sought to satisfy Article III.

PARTIES TO THE PROCEEDING

Petitioners Expedia Group, Inc., Hotels.com, L.P., Hotels.com GP, LLC, and Orbitz, LLC were defendants in the district court and appellees in the court of appeals.

Booking.com BV and Booking Holdings, Inc. were defendants in the district court and appellees in the court of appeals.

Respondents are Mario Del Valle, Enrique Falla, and Angelo Pou were plaintiffs in the district court and appellants in the court of appeals.

CORPORATE DISCLOSURE STATEMENT

Expedia Group, Inc. is a publicly held Delaware corporation that has no parent corporation, and no publicly held corporation owns 10% or more of its stock.

Hotels.com L.P., a Texas limited liability partnership, is owned by HRN 99 Holdings, LLC, a New York limited liability company, and Hotels.com GP, LLC, a Texas limited liability company. HRN 99 Holdings, LLC and Hotels.com GP, LLC are wholly owned by Expedia, Inc., a Washington corporation that is wholly owned by Expedia Group, Inc.

Hotels.com GP, LLC, a Texas limited liability company, is wholly owned by Expedia, Inc., a Washington corporation that is wholly owned by Expedia Group, Inc.

Orbitz, LLC is a Delaware limited liability company, which is wholly owned by Orbitz, Inc., a Delaware corporation, which is wholly owned by

Orbitz Worldwide, LLC, a Delaware limited liability company, which is wholly owned by Orbitz Worldwide, Inc., a Delaware corporation, which is wholly owned by Expedia, Inc., a Washington corporation. Expedia, Inc. is wholly owned by Expedia Group, Inc.

RELATED PROCEEDINGS

United States District Court (S.D. Fla.):

Del Valle v. *Trivago GMBH*, No. 1:19-cv-22619

United States Court of Appeals (11th Cir.):

Del Valle v. *Trivago GMBH*, No. 20-12407

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The opinion of the district court (Pet. App. 23a) is not published but may be found at 2020 WL 2733729. The opinion of the court of appeals (Pet. App. 1a) is published at 56 F.4th 1265.

JURISDICTION

Respondents assert claims against Petitioners and others under the Cuban Liberty and Democratic Solidarity Act, 22 U.S.C. § 6021 *et seq.* The district court had original jurisdiction over this action under 28 U.S.C. § 1331. On Petitioners' motion, the district court dismissed the action on May 26, 2020.

Respondents filed a timely notice of appeal to the court of appeals, which exercised appellate jurisdiction under 28 U.S.C. § 1291. That court reversed on November 22, 2022. Petitioners timely filed a petition for rehearing with the court appeals, which the court of appeals denied on January 31, 2023. Pet. App. 36a.

This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

The Helms-Burton Act creates the following right of action in 22 U.S.C. § 6082(a)(1)(A):

(1) Liability for trafficking

(A) Except as otherwise provided in this section, any person that, after the end of the 3-month

period beginning on the effective date of this subchapter, traffics in property which was confiscated by the Cuban Government on or after January 1, 1959, shall be liable to any United States national who owns the claim to such property for money damages in an amount equal to the sum of--

(i) the amount which is the greater of--

(I) the amount, if any, certified to the claimant by the Foreign Claims Settlement Commission under the International Claims Settlement Act of 1949, plus interest;

(II) the amount determined under section 6083(a)(2) of this title, plus interest; or

(III) the fair market value of that property, calculated as being either the current value of the property, or the value of the property when confiscated plus interest, whichever is greater; and

(ii) court costs and reasonable attorneys' fees.

The Helms-Burton Act defines "traffics" in 22 U.S.C. § 6023(13)(A) as follows:

(13) Traffics

(A) As used in subchapter III, and except as provided in subparagraph (B), a person "traffics" in confiscated property if that person knowingly and intentionally--

(i) sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property, or purchases, leases, receives, possesses, obtains control of,

manages, uses, or otherwise acquires or holds an interest in confiscated property,

(ii) engages in a commercial activity using or otherwise benefiting from confiscated property, or

(iii) causes, directs, participates in, or profits from, trafficking (as described in clause (i) or (ii)) by another person, or otherwise engages in trafficking (as described in clause (i) or (ii)) through another person,

without the authorization of any United States national who holds a claim to the property.

(B) The term "traffics" does not include--

(i) the delivery of international telecommunication signals to Cuba;

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national;

(iii) transactions and uses of property incident to lawful travel to Cuba, to the extent that such transactions and uses of property are necessary to the conduct of such travel; or

(iv) transactions and uses of property by a person who is both a citizen of Cuba and a resident of Cuba, and who is not an official of the Cuban Government or the ruling political party in Cuba.

STATEMENT

I. Statutory Background—The Helms-Burton Act

After he seized power in 1959, Fidel Castro also seized swaths of private property in Cuba, including property that had been owned by U.S. nationals. Decades later, Congress enacted the Cuban Liberty and Democratic Solidarity Act of 1995, Pub. L. No. 104-114, 110 Stat. 785 (1996) (codified at 22 U.S.C. §§ 6021–6091), known as the "Helms-Burton Act," to create new rights and remedies for affected U.S. nationals. In its codified "findings," Congress declared that "[t]o deter trafficking in wrongfully confiscated property, United States nationals who were the victims of these confiscations should be endowed with a judicial remedy * * * that would deny traffickers *any profits from* economically exploiting Castro's wrongful seizures." 22 U.S.C. § 6081(11) (emphasis added). But the right of action Congress actually created for "trafficking" in Title III of the Act goes far beyond preventing unjust enrichment.

Title III gives any U.S. national "who owns the claim to" property that "was confiscated by the Cuban Government" a right to sue "any person that * * * traffics in [that] property" for statutory damages. 22 U.S.C. § 6082(a)(1)(A)(i). All "confiscated" property is property presently "own[ed] or control[led]" by the Cuban government. 22 U.S.C. § 6023(4). Thus, while Title III creates a right of ownership *of "the claim to*" confiscated property, it does not create or declare any ownership interest in the property itself. See *Glen* v. *Club Mediterranee, S.A.*, 450 F.3d 1251, 1255 (CA11 2006) (confiscation by Cuban government

"extinguish[ed] the ownership rights of those who owned the properties prior to the takings" and Helms-Burton Act's creation of a "claim to such property" that gives rise to a right to sue for statutory damages did not unwind or invalidate the takings).

The Act gives claim owners a right to sue for statutory damages *equal to the property's full fair-market value*, even against alleged "traffickers" whose profits are nowhere near that amount. This is because the Act broadly defines "traffics" to include more than buying and selling confiscated property. It includes engaging in in any "commercial activity using or otherwise benefitting from confiscated property." 22 U.S.C. § 6023(13)(A).

The Helms-Burton Act became law in March 1996, but the right of action Congress created was not available until recently. The President could suspend the right of action for successive six-month periods. 22 U.S.C. § 6085(c). President Clinton immediately did so when the Act became law, and he and his successors continued to do so every six months, without interruption, until May 2019.

II. Case Background

1. Respondents allege that the Castro government confiscated properties located in Cuba from their ancestors. These properties are now home to two resorts—Starfish Cuatro Palmas and Memories Jibacoa Resort. Respondents allege that they own the statutory "claims" to the properties under Title III of the Helms-Burton Act.

Petitioners operate online travel service websites, such as www.expedia.com. Through these websites, travelers can secure reservations at various accommodations owned and operated by third parties.

Respondents do not allege that Petitioners have ever owned, bought, sold, operated, or otherwise used the properties. Instead, Respondents allege that, in 2019, travelers could book stays at the Starfish Cuatro Palmas and the Memories Jibacoa Resort through Petitioners' websites. For this reason, Respondents claim Petitioners "trafficked" in the two properties within the meaning of the Helms-Burton Act. As the alleged owners of claims to the two properties, and on behalf of a putative, nationwide class, Respondents sue Petitioners under 22 U.S.C. § 6082(a)(1)(A)(i) for statutory damages equal to the properties' market values, treble damages, attorneys' fees, and costs.

2. Petitioners moved to dismiss the operative pleading, the Second Amended Complaint, for lack of personal jurisdiction, lack of subject-matter jurisdiction, and failure to state a claim. The U.S. District Court for the Southern District of Florida concluded that it lacked personal jurisdiction over Petitioners under Florida's long-arm statute and dismissed the case. Pet. App. 26a–31a.

3. The Eleventh Circuit reversed. The court of appeals concluded that the requirements for specific jurisdiction under Florida's long-arm statute were satisfied and that the exercise of personal jurisdiction comports with due process. Pet. App. 5a–18a. The court of appeals also considered Petitioners' alternative argument for affirmance that the court lacked subject-matter jurisdiction because Respondents lack standing. Petitioners argued that Respondents failed to plausibly allege an injury-in-fact.

Respondents did not contend that their alleged statutory violation had a close relationship to unjust enrichment until their reply brief. The appeal was

fully briefed before this Court's decision in *TransUnion LLC* v. *Ramirez*, 141 S. Ct. 2190 (2021). Petitioners suggested that supplemental briefing would be helpful, but the court of appeals did not request supplemental briefs. See Supplemental Authority, *Del Valle* v. *Trivago GMBH*, No. 20-12407, ECF No. 64 (11th Cir., filed July 12, 2021). So Petitioners addressed the asserted analogy to common-law unjust enrichment and *TransUnion* at oral argument and in their petition for rehearing. Petitioners argued, among other things, that unjust enrichment is not a proper analogue in this case because Respondents do not seek restitution of Petitioners' profits or gains; they seek statutory damages equal to the full value of the properties. See Petition for Rehearing En Banc, *Del Valle* v. *Trivago GMBH*, No. 20-12407, ECF No. 98 (11th Cir., filed Dec. 13, 2022).

The court of appeals held that Respondents have standing and, in particular, that the alleged violation of Respondents' asserted statutory rights under the Helms-Burton Act constituted a "concrete" injury. Pet. App. 18a–21a. Adopting the Fifth Circuit's reasoning in a similar case, *Glen* v. *Am. Airlines, Inc.*, 7 F.4th 331 (CA5 2021), the court of appeals reasoned that Respondents' alleged harm—violation of their statutory right against trafficking in property confiscated from their ancestors—is "an injury tantamount to unjust enrichment." Pet. App. 20a–21a. The court of appeals further held that unjust enrichment is "a harm with 'common law roots.'" Pet. App. 20a. The court of appeals summed up as follows: "Like the Fifth Circuit in *Glen*, we hold that the plaintiffs have adequately alleged that they suffered a concrete injury because the [defendants] were

unjustly enriched by the use of their confiscated properties." *Ibid.*

Neither the Fifth Circuit in *Glen* nor the Eleventh Circuit below considered the remedies available at common law for unjust enrichment or whether those remedies bear a "close relationship" to the remedy Respondents seek in this case: statutory damages equal to the full amount of the properties.

REASONS FOR GRANTING THE PETITION

I. The Eleventh Circuit's decision conflicts with *TransUnion* v. *Ramirez* by failing to analyze standing to pursue an intangible, statutory violation in the context of the relief sought.

A. This Court's decisions require that standing be established for each form of relief sought.

Injury-in-fact is the principal requirement for Article III standing. *Steel Co.* v. *Citizens for a Better Env't*, 523 U.S. 83, 103 (1998). An injury must be "concrete," "particularized," and either "actual or imminent" to qualify as an injury-in-fact. *Lujan* v. *Defenders of Wildlife*, 504 U.S. 555, 560 (1992). An injury is not "concrete" unless it "actually exists" in that it is "real, and not abstract." *Spokeo* v. *Robbins*, 578 U.S. 330, 340 (2016) (cleaned up).

Several of the Court's recent decisions, beginning with *Spokeo*, underscore that a concrete injury is not present simply because "a statute grants a person a statutory right and purports to authorize that person to sue to vindicate that right. *Id.* at 341; see *Thole* v. *U.S. Bank N.A.*, 140 S. Ct. 1615, 1620–21 (2020) (a statutory "cause of action does not affect the

Article III standing analysis"). The Court elaborated on the need for concrete harm, "even in the context of a statutory violation," in *TransUnion LLC* v. *Ramirez*, 141 S. Ct. 2190, 2205 (2021).

TransUnion reiterated *Spokeo*'s holding that intangible harms, like violations of statutory rights, are concrete when the alleged injury has "a close relationship to harms traditionally recognized as providing a basis for lawsuits in American courts." *Id.* at 2204. The Court explained that this "inquiry asks whether plaintiffs have identified a close historical or common-law analogue for their asserted injury." *Ibid.* While "an exact duplicate" is not necessary, the Court made clear that "*Spokeo* is not an open-ended invitation for federal courts to loosen Article III based on contemporary, evolving beliefs about what kinds of suits should be heard in federal courts." *Ibid.*

TransUnion did not instruct courts to look for a close analogue to the alleged harm in a vacuum. Another principle featured prominently in the Court's analysis—that a plaintiff's standing may vary and must be demonstrated for "each form of relief sought. *Id.* at 2210; see, *e.g.*, *Davis* v. *FEC*, 554 U.S. 724, 733–34 (2008) ("[A] plaintiff must demonstrate standing for each claim he seeks to press and for each form of relief that is sought.") (cleaned up); *Lewis* v. *Casey*, 518 U.S. 343, 358 n.6 (1996) ("[S]tanding is not dispensed in gross.").

The reason for this rule is simple. Different forms of relief remedy different types of injuries, so a plaintiff has standing to seek only those forms of relief that will remedy the type of injury asserted. Legal remedies, like damages, *compensate* a plaintiff for past harms. See, *e.g.*, *Memphis Cmty. Sch. Dist.* v. *Stachura*, 477 U.S. 299, 306–07 (1986). Equitable

remedies, like injunctive relief, halt ongoing harm or prevent future harm from occurring. See *AMG Capital Mgmt.* v. *FTC*, 141 S. Ct. 1341, 1347 (2021). There is no rule of standing that applies the same way to every form of relief. Rather, the type of injury required to support standing necessarily varies with the form of relief sought. See *Los Angeles* v. *Lyons,* 461 U.S. 95, 105–06 & n.7 (1983) (plaintiff who had standing to seek damages lacked standing to seek injunctive relief).

This is an important limitation on federal courts' jurisdiction. It ensures that courts resolve only those disputes for which the plaintiff has a concrete and personal stake. To conclude that standing to seek one form of relief qualifies as standing to seek *any* form of relief would dramatically expand federal courts' role. For example, federal courts would be tasked with resolving the claims of absent parties who may actually have suffered an injury that fits the relief sought or rendering advisory opinions relating to harms the plaintiff has not—and may never—suffer. See, *e.g.*, *Town of Chester* v. *Laroe Ests., Inc.*, 581 U.S. 433, 439 (2017) (an intervenor as of right cannot rely on a plaintiff's standing if the intervenor seeks relief that is different from or broader than the relief sought by the plaintiff). The result would also be profoundly unfair to defendants who be responsible for relief that does not remedy the plaintiff's harm attributable to the particular defendant's conduct or that is vastly disproportionate to that harm.

Because standing to seek one form of relief "does not necessarily mean that the plaintiff has standing to seek" another form of relief, *TransUnion*, 141 S. Ct. at 2010, the Court in *TransUnion* analyzed whether the alleged intangible harms were concrete with

reference to history and common law *in the context of the relief sought*. Thus, the Court held that while "a person exposed to a risk of future harm may pursue forward-looking injunctive relief to prevent the harm from occurring, * * * in a suit for damages, mere risk of future harm, standing alone, cannot qualify as a concrete harm." *Id.* at 2210–11; cf. *Uzuegbunam* v. *Preczewski*, 141 S. Ct. 792, 797–98 (2021) (looking "to the forms of relief awarded at common law" to determine whether a particular form of relief can redress a particular type of injury).

B. The decision below conflicts with this Court's precedent by basing standing on a common-law analogue of unjust enrichment for a claim for statutory damages measured by the full value of the claimed property, not Petitioners' profits.

The court of appeals ignored this critical part of the standing analysis. The court of appeals hastily analogized Respondents' statutory injuries under the Helms-Burton Act to the common-law harm of unjust enrichment and concluded that this was enough to make the asserted injuries concrete. Pet. App. 20a–21a. But the court of appeals failed to place its analysis in the context of the relief sought by Respondents: the full market value of the properties. There is no historical analogue for the *harm* of unjust enrichment that provides standing *for relief in excess of the defendant's gains*.

Quite the contrary. The remedy for unjust enrichment at common law is restitution. *Restatement (Third) of Restitution & Unjust Enrichment* § 1 (2011) (hereinafter "*Restatement*

(Third)") ("A person who is unjustly enriched at the expense of another is subject to liability in restitution."). Restitution is a form of relief, often used by courts in equity, that is distinct from the remedy of compensatory damages. See, *e.g.*, *Great-West Life & Annuity Ins. Co.* v. *Knudson*, 534 U.S. 204, 215 (2002) (contrasting the two). Standing to sue for restitution is different from standing to sue for damages in much the same way that standing to sue for damages is different from standing to sue for injunctive relief.

Compensatory damages are a legal remedy, whereas restitution in the form of "disgorgement of improper profits" is a remedy "that is traditionally considered … equitable." *Liu* v. *SEC*, 140 S. Ct. 1936, 1941 n.1 (2020) (cleaned up). Restitution's equitable roots run deep. In *Moses v. Macferlan*, 2 Burr. 1005, 1012, 97 Eng. Rep. 676, 681 (K.B. 1760), Lord Mansfield famously observed that the "gist of this kind of action is, that the defendant, upon the circumstances of the case, is obliged by the ties of natural justice and equity to refund the money." *Restatement (Third)* § 1 cmt. *b*.

The restitution remedy unwinds the defendant's unjust gains. Unlike compensatory damages, "restitution is measured *by the defendant's gains*, not by the plaintiff's losses." 1 DAN B. DOBBS, LAW OF REMEDIES §1.1 at 5 (2d ed. 1993) (emphasis added); see 1 GEORGE E. PALMER, THE LAW OF RESTITUTION § 2.1 at 51 (1978) ("[I]n the damage action the plaintiff seeks to recover for the harm done to him, whereas in the restitution action he seeks to recover the gain acquired by the defendant through the wrongful act."). Particularly in the context of disgorgement in restitution, a plaintiff may "recover[] more than a provable loss *so that the defendant may be stripped of*

a wrongful gain." *Restatement (Third)* § 3 cmt. *a.* (emphasis added). Thus, at common law, restitution liability for unjust enrichment may, at times, exceed a plaintiff's losses, but in no event may restitution liability for unjust enrichment exceed the defendant's allegedly unjust gains. See *id.* § 40 cmt. *b.* ("[A] conscious wrongdoer will be stripped of gains from unauthorized interference with another's property; while the restitutionary liability of a defendant without fault will not exceed the value obtained in the transaction for which liability is imposed."); *id.* § 3 cmt. *c.* (explaining that, if the defendant acts with conscious disregard, "the whole of the resulting gain is treated as unjust enrichment, even though the defendant's gain may exceed both (i) the measurable injury to the claimant, and (ii) the reasonable value of a license authorizing the defendant's conduct"). Indeed, under Florida law, an essential element of a claim for unjust enrichment is "the defendant's acceptance and retention of the benefit under circumstances that make *it inequitable for him to retain it without paying the value thereof*." *Vega* v. *T-Mobile, Inc.*, 564 F.3d 1256, 1274 (CA11 2009) (emphasis added) (citing *Rollins, Inc.* v. *Butland,* 951 So.2d 860, 876 (Fla. Ct. App. 2006)).

The Court recently reiterated the unique nature of unjust enrichment, characterizing it as a "profit-based measure" animated solely by the principle that "it would be inequitable that a wrongdoer should make a profit out of his own wrong." *Liu*, 140 S. Ct. at 1943 (cleaned up). The Court further emphasized that unjust enrichment is "a remedy tethered to a wrongdoer's net unlawful profits." *Ibid.*

Thus, there can be no doubt that the relief Respondents seek under the Helms-Burton Act, which is measured by the full value of the property, not Petitioners' alleged gains, has no historical or common-law analogue in unjust enrichment. The court of appeals reached the opposite conclusion only by ignoring this Court's clear directive in *TransUnion* that standing must be determined in the context of the relief sought. The harm of unjust enrichment may provide a basis for standing for a *remedy tied to the disgorgement* of wrongfully obtained profits, but Respondents do not seek such a remedy. They seek statutory damages equal to the full value of each property (plus treble damages). That is not a form of relief for which plaintiffs would have standing to pursue at common law.

II. The question presented is an important, foundational standing question that may affect a host of cases.

Article III defines the bounds of federal courts' authority. The Court has "always insisted on strict compliance with th[e] jurisdictional standing requirement." *Raines* v. Byrd, 521 U.S. 811, 819 (1997); see, *e.g.*, *Muskrat* v. *United States*, 219 U.S. 346, 356 (1911) ("[F]rom its earliest history this [C]ourt has consistently declined to exercise any powers other than those which are strictly judicial in their nature."). As the Court explained in *TransUnion*, the requirement of a "concrete and particularized injury * * * ensures that federal courts decide only 'the rights of individuals.'" *TransUnion*, 141 S. Ct. at 2203 (quoting *Marbury* v. *Madison*, 1 Cranch 137, 170, 5 U.S. 137 (1803)).

Strict compliance with Article III also ensures "that federal courts exercise their proper function in a limited and separated government." *Id.* (cleaned up). Indeed, "the law of Art. III standing is built on a single basic idea—the idea of separation of powers." *Raines*, 521 U.S. at 820. Article III standing requirements thus "keep[] the Judiciary's power within its proper constitutional sphere." *Ibid.*; accord *Clapper* v. *Amnesty Int'l*, 568 U.S. 398, 408–09 (2013) ("Relaxation of standing requirements is directly related to the expansion of judicial power.").

The "simple rule" that "standing is not dispensed in gross" is an important limitation on the Judiciary's power. *Town of Chester*, 581 U.S. at 439. A plaintiff must demonstrate standing for each claim pressed, *Davis*, 554 U.S. at 734; for each injury asserted, see *Blum* v. *Yaretsky*, 457 U.S. 991, 999 (1982) ("Nor does a plaintiff who has been subject to injurious conduct of one kind possess by virtue of that injury the necessary stake in litigating conduct of another kind, although similar."); and for each form of relief sought, *TransUnion* 141 S. Ct. at 2210–11. Otherwise, a plaintiff could bootstrap standing to assert one claim for one form of relief into standing to assert other claims or for additional forms of relief. "That is of course not the law." *Lewis*, 518 U.S. at 358 n.6; see, *e.g.*, *Lyons,* 461 U.S. at 105–06 & n.7.

The Eleventh Circuit's decision and the similar Fifth Circuit decision it adopted eviscerate a core holding of *TransUnion*—that a historical or common law analogue for a statutory violation cannot provide standing for every and any form of relief sought. This is fast becoming a common mistake: like the Eleventh Circuit, a panel of the Third Circuit, albeit in an unpublished decision, adopted the Fifth Circuit's

conclusion with little analysis and without considering the relief sought. *Glen* v. *TripAdvisor, LLC*, 2022 WL 3538221, at *2 (CA3 2022).[1] District courts outside these circuits have done the same.[2] If left unchecked, the court of appeals' decision will provide a roadmap for courts to dispense standing in gross and revert to past practices of finding standing based on bare statutory violations. That result would upend straightforward application of this Court's recent, crucial standing precedents. To correct this consequential error, and to clarify the rules for constitutional standing—applicable to every case—this Court's intervention is needed.

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[1] One judge on the Third Circuit panel, Judge Bibas, "would have found that [the plaintiff] lacked standing because his harm does not bear a close relationship to any of the kinds of harms that have historically given rise to a claim for unjust enrichment." *TripAdvisor*, 2022 WL 3538221, at *1 n.2. Judge Bibas's reasoning is not provided in the decision. See *ibid.*

[2] See, *e.g.*, *Sucesores de Don Carlos Nuñez y Doña Pura Galvez, Inc.* v. *Société Générale, S.A.*, 577 F. Supp. 3d 29, 309 (S.D.N.Y. 2021);

CONCLUSION

The Court should grant the petition.

Respectfully submitted,

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