

No. 24-453

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

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EMMANUEL G. LOUIS AND TAMARAH C. LOUIS,  
*Petitioners,*

v.

BLUEGREEN VACATIONS UNLIMITED, INC. AND  
BLUEGREEN VACATIONS CORPORATION,  
*Respondents.*

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

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**BRIEF OF AMICI CURIAE CENTER FOR  
CONSUMER LAW AND ECONOMIC JUSTICE  
AND DEBORAH L. RHODE CENTER  
ON THE LEGAL PROFESSION  
IN SUPPORT OF PETITIONERS**

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## INTEREST OF AMICI CURIAE<sup>1</sup>

Amici curiae Center for Consumer Law and Economic Justice and the Deborah L. Rhode Center on the Legal Profession are leading academic and research institutions that advocate for access to justice, including for populations disproportionately likely to be targeted for scams and unfair business practices, such as active-duty members and veterans of the U.S. Armed Forces.

The **Center for Consumer Law & Economic Justice** at the University of California, Berkeley, School of Law is the leading law school research and advocacy center dedicated to ensuring safe, equal, and fair access to the marketplace. Through regular participation as an amicus before this Court, the federal courts of appeals, and state supreme courts, the Center seeks to develop and enhance protections for consumers, especially those who compose critical segments of the national economy. The Center appears in this proceeding to underscore the importance of a uniform and consistent application nationwide of federal laws like the Military Lending Act (MLA) that protect servicemembers from financial fraud and deception.

The **Deborah L. Rhode Center on the Legal Profession** at Stanford Law School employs a multidisciplinary approach to teaching, research, and policy to make the civil justice system more equitable and accessible. One of the Center's primary focuses is protecting consumers and clients in civil litigation,

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<sup>1</sup> No counsel for any party has authored this brief in whole or in part, and no person or entity, other than amici or their counsel, made a monetary contribution to the preparation or submission of this brief. S. Ct. Rule 37.6. Counsel for amici provided timely notice of intent to file this brief to counsel for the parties. S. Ct. Rule 37.2(a).

including consumers' access to the courts for relief from harm. As part of this, the Center has extensive experience with consumer protection statutes like the MLA. This mission and expertise encompass promoting access to justice for servicemembers and veterans. The Center appears in this proceeding to underscore the importance of equal and full access to justice via the federal courts for servicemembers and other populations.

Amici are well-versed in the requirements of the MLA, which Congress enacted to safeguard active-duty members of the military and promote military readiness. The Eleventh Circuit's newfangled traceability standard weakens enforcement of not only the MLA but also analogous consumer protection statutes. Because other circuits continue to apply a very different, well-established Article III standing analysis, the Eleventh Circuit's standard threatens to result in inconsistent enforcement of these laws nationwide. Accordingly, amici have a strong interest in this Court's resolution of the question presented by petitioners.

## **INTRODUCTION & SUMMARY OF ARGUMENT**

As a matter of historical doctrine and practice, a party who is harmed by the solicitation and collection of money under a void contract has always had a remedy: to seek redress in court. Army Private Louis and his wife sought that remedy after Respondents Bluegreen Vacations manipulated them into signing and making payments on a vacation timeshare contract rendered void under the Military Lending Act, 10 U.S.C. § 987.

Yet Private Louis and other similarly situated servicemembers are no longer guaranteed their day in court, at least in the Eleventh Circuit. Their right to judicial redress was effectively curtailed by the Court

of Appeals' invention of an additional requirement for Article III standing: that the injured party must also establish a causal line between the lost money and the law that renders the contract void. That holding runs counter to decisions by other circuits, not to mention this Court's own traceability precedent.

The Eleventh Circuit's decision creates a fractured and inconsistent traceability standard across the country. By requiring that the Plaintiffs in this case establish that their injury resulted not just from Bluegreen's conduct, but specifically from Bluegreen's failure to comply with the MLA, the Eleventh Circuit erected a novel and ill-founded barrier to establishing traceability. The Court of Appeals rejected this Court's longstanding jurisprudence that plaintiffs need only show a "fairly traceable" causal connection between the plaintiff's harm and the defendant's "challenged conduct." *Duke Power Co. v. Carolina Env't Study Grp., Inc.*, 438 U.S. 59, 72 (1978); *see also Biden v. Nebraska*, 143 S. Ct. 2355, 2366 (2023) (finding a financial injury "directly traceable to the Secretary's [student loan] plan"); *Bennett v. Spear*, 520 U.S. 154, 170-71 (1997) (finding injury traceable to administrative opinion). The Eleventh Circuit also broke with at least three other circuits that have ruled that loss of money pursuant to a void contract suffices to establish standing.

For servicemembers as well as the broader public, the ramifications of the Eleventh Circuit's decision are profound for several reasons. First, over 1.3 million Americans are active-duty members of the Armed Forces and guaranteed the particular protections of the MLA.<sup>2</sup> Military service is a profession without

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<sup>2</sup> U.S. Dep't of Def., *2022 Demographics Profile of the Military Community* 34 (2023), <https://perma.cc/6MLG-SYEX>.

borders; servicemembers are stationed across all fifty states and regularly move from state to state as part of their service to the nation. The transient nature of military life exposes servicemembers and their families to unique financial instabilities.<sup>3</sup> Because of the Eleventh Circuit’s opinion, members of the military in three states are now far less able to rely on the MLA’s protections than their peers in the rest of the country. These critical protections include voiding of contracts that fail to disclose the total price of loans or that force servicemembers to waive rights to judicial processes, and affording members a private right to sue on such void contracts. 10 U.S.C. § 987(e)-(f).

Also, the Eleventh Circuit’s traceability standard would apparently deny *any* party to a void contract—whether it involves shipping, procurement, insurance, or any number of other matters—of access to a federal forum. Finally, this requirement could make it significantly more difficult for individuals to challenge other wrongful conduct, including unlawful actions by administrative agencies, that cannot be tied to the alleged violation of a specific statutory provision.

Moreover, and most consequentially, the Eleventh Circuit’s opinion immediately impacts the mission readiness of the United States military. Aggressive and deceptive lenders routinely target members of the military.<sup>4</sup> Onerous loans can burden servicemembers

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<sup>3</sup> Nat’l Veterans Tech. Assistance Ctr. (NVTAC), *Research Roundup: The Financial Impact of Military Service*, <https://perma.cc/8TN6-7NHH>.

<sup>4</sup> U.S. Dep’t of Def., *Report on Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents 4*, 10-11, 45 (2006), <https://perma.cc/2848-GA97> (hereafter “2006 Def. Dep’t Rep.”); Steven M. Graves & Christopher L. Peterson, *Predatory Lending and the Military: The Law and Geography of*

with unmanageable and inescapable debt, which in turn jeopardizes their security clearances—security clearances that are often required for their continued service.<sup>5</sup> In cases of severe indebtedness, servicemembers may even be subject to disciplinary action or discharged.<sup>6</sup> This financial instability in America’s military not only harms servicemembers’ overall readiness to serve—it puts the nation’s security at risk. Indeed, concern for national security motivated Congress to enact the MLA in the first place. *Steines v. Westgate Palace, LLC*, 113 F.4th 1335, 1343 (11th Cir. 2024) (citing 2006 Def. Dep’t Rep.).

The Eleventh Circuit’s traceability standard, which makes it much more difficult for servicemembers to bring claims under the MLA, thereby contravenes Congress’s express intent: to protect members of the military against deceptive lending as a means of maintaining military readiness. The timeshare industry that ensnared the Louises is emblematic of the type of fraudulent practices that Congress intended to curb. Yet the Eleventh Circuit’s standard would all but eliminate the ability of military families like the Louises to seek judicial remedies against aggressive lenders that sap the financial strength of America’s

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“Payday” Loans in Military Towns, 66 Ohio St. L.J. 653, 659 (2005) (finding “irrefutable geographic evidence” of this behavior).

<sup>5</sup> U.S. Dep’t of Def., *Report on the Military Lending Act and the Effects of High Interest Rates on Readiness* 15 (2021), <https://perma.cc/6D5Q-WJ83>; 2006 Def. Dep’t Rep., *supra* note 4, at 39-43 (offering servicemember case studies); *id.* at 86-87 (testimony of Captain Mark Paton, Commanding Officer, Naval Base Point Loma).

<sup>6</sup> U.S. Dep’t of Def., *DOD Instruction 1344.09: Indebtedness of Military Personnel* 3 (2022), <https://perma.cc/N6K2-4HCU>; Graves & Peterson, *supra* note 4, at 685-86.

servicemembers. The standard undermines the explicit purpose of Congress and poses a threat to military combat readiness. These are urgent matters that demand this Court's attention.

The Court should grant the writ of certiorari.

## **REASONS FOR GRANTING THE WRIT**

### **I. THE ELEVENTH CIRCUIT'S DECISION CONTRAVENES THIS COURT'S PRECEDENT AND CONFLICTS WITH DECISIONS OF OTHER CIRCUITS.**

The Eleventh Circuit's decision deviates from this Court's longstanding Article III jurisprudence and creates a split with its sister circuits on standing to challenge void contracts. At bottom, the Eleventh Circuit's rule suggests that plaintiffs must allege a direct connection between their injury and a specific statutory or constitutional violation, instead of—as this Court has repeatedly held and as other courts of appeals accept—simply a causal link between their injury and the defendant's conduct. A return to national uniformity and consistency counsels in favor of this Court's review.

In the Second, Eighth, and Ninth Circuits, there would be no doubt that the Plaintiffs have standing. The Louises paid \$1,600 in fees to Bluegreen when they signed their financing agreement. *Louis v. Bluegreen Vacations Unlimited, Inc.*, No. 22-12217, 2024 WL 2873778, at \*1 (11th Cir. June 7, 2024); see Pet. 9-10. As those circuits recognize, a financial loss on a void contract is the kind of “pocketbook injury [that] is a prototypical form of injury in fact.” *Collins v. Yellen*, 594 U.S. 220, 243 (2021). Because the Plaintiffs' concrete injury “flows directly from” the performance of a statutorily void contract, they have

established standing. *Id.* at 244 (finding a sufficient causal link between a purchasing agreement amendment and loss of shareholders’ property rights). In holding otherwise and grafting a made-up additional element onto the standing inquiry, the Eleventh Circuit’s decision threatens the core right to challenge actions that are per se unlawful, absent a palpable causal connection between the plaintiff’s harm and the statutory provision at issue. This error creates incompatibility in the law that undermines enforcement of the MLA nationwide, as well as other claims brought against parties to void contracts.

**A. The Eleventh Circuit’s Traceability Standard Is Inconsistent With This Court’s Article III Jurisprudence.**

The rule applied by the Eleventh Circuit conflicts with this Court’s foundational precedent on traceability, which simply requires that a plaintiff’s injury be caused by the defendant’s conduct. *See, e.g., FDA v. Alliance for Hippocratic Medicine*, 602 U.S. 367, 385 (2024); *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). That burden is “modest.” *Bennett*, 520 U.S. at 171. It requires only a “concrete link,” *Murthy v. Missouri*, 603 U.S. 43, 76 (2024), or “actionable causal relationship,” *Warth v. Seldin*, 422 U.S. 490, 507 (1975), between the plaintiff’s harms and the defendant’s actions. In other words, the injury must simply be “the result of,” *City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983), or “the consequence of” the defendant’s alleged misconduct, *Murthy*, 603 U.S. at 68 n.8 (quoting *Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 42 (1976)). Nowhere has this Court suggested that plaintiffs must show that their harm is tied to the defendant’s violation of a specific statutory provision.



The Plaintiffs have met this Court’s standard. *See Murthy*, 603 U.S. at 93 (Alito, J., dissenting) (declaring that traceability is “not a demanding standard”). They alleged that their financial injuries—payments in furtherance of a void contract—were fairly traceable to Bluegreen’s actions collecting on that void contract. Put simply, the Plaintiffs’ financial harms resulted from Bluegreen’s collection of payments on a contract that violates the MLA. As this Court has repeatedly explained, that is all that is required to establish traceability.

**B. The Eleventh Circuit’s Standard Creates A Circuit Split On Standing To Challenge Void Contracts.**

The Eleventh Circuit’s holding that Plaintiffs failed to show traceability, and thus lack Article III standing, heralds nationwide inconsistency in whether people who have lost money on void contracts can vindicate their rights. In accordance with this Court’s precedent, individuals who have suffered economic harm under a contract rendered void by statute have standing to hold the purveyor of the contract liable for their injuries. Indeed, that is the rule in the Eighth and Second Circuits. *See Dubuisson v. Stonebridge Life Ins. Co.*, 887 F.3d 567, 574 (2d Cir. 2018) (holding that insureds have standing where they allegedly paid premiums on disability and medical expense insurance policies that were void under New York law); *Graham v. Catamaran Health Sols. LLC*, 940 F.3d 401, 407-08 (8th Cir. 2017) (finding standing where the insured alleged that he paid premiums on disability insurance policies that failed to comply with Arkansas insurance law). This standard also applies in the Ninth Circuit, which held that minors have standing in federal court to seek compensation for money lost in videogame

purchases through contracts void under California minority law. *V.R. v. Roblox Corp.*, No. 23-15216, 2023 WL 8821300, at \*2 (9th Cir. Dec. 21, 2023).

In the Eleventh Circuit, however, this bedrock standard no longer applies. This case is a prime vehicle to resolve this conflict.

**C. The Eleventh Circuit's Standard Creates Inconsistency Nationwide And Poses Barriers To Relief For Many Types Of Unlawful Conduct.**

The conflict among the circuits presents compounding risks of nonuniformity and lack of access to justice. At the most basic level, active-duty servicemembers in Florida, Georgia, and Alabama who seek restitution for payments on void agreements are now no longer able to turn to the MLA for relief as Congress intended. As a result, members of the military and their families face significant and avoidable threats to their financial stability and security clearances, which weakens the country's military readiness. A pilot stationed at Eglin Air Force Base in Florida is now effectively blocked from pursuing her claims in federal court against lenders with MLA-voided contracts, while her counterpart stationed at Fort Ellsworth in South Dakota can do so under the same facts. What's more, should that South Dakota-based pilot be transferred to Florida and have her rights under the MLA violated there, she will have suddenly and nonsensically lost the ability to enforce the MLA's provisions against void contracts. For a population that is transient and likely to transfer among bases in

different states many times over their careers,<sup>7</sup> inconsistency in legal protections can result in lost opportunities for redress and all of the consequences that may follow. The nation's defenders are equally entitled to the MLA's coverage, for which equal access to the courts is a prerequisite.

These threats to access to justice extend beyond servicemembers. The Eleventh Circuit's traceability standard could severely restrict federal court jurisdiction over any claim challenging a contract that is void *ab initio* by statute. Numerous federal statutes include voiding provisions like that in the MLA. For example, the Investment Advisors Act and the Investment Company Act declare certain securities-related contracts void if they include terms waiving protections under those laws. *See* 15 U.S.C. §§ 80a-46, 80b-15; *Transamerica Mortg. Advisors, Inc. (TAMA) v. Lewis*, 444 U.S. 11, 19 (1979); *Oxford Univ. Bank v. Lansuppe Feeder, LLC*, 933 F.3d 99, 105 (2d Cir. 2019). Many other statutes similarly void contracts in certain circumstances. *See, e.g.*, 41 U.S.C. § 6305(a) (declaring that assignments of government contract are generally null and void); 46 U.S.C. § 30527(a) (voiding passenger vessel contracts that limit the ship owner's liability for personal injury or wrongful death claims); 46 U.S.C. § 11107 (voiding contracts with seamen that are contrary to another federal law).

Under the Eleventh Circuit's approach, untold numbers of plaintiffs—from ship passengers, to government contractors, to anyone with an investment contract—would effectively lack standing to seek restitution for

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<sup>7</sup> *See* Danielle DeSimone, *5 Things You Need to Know About Military Families*, United Service Orgs. (Aug. 15, 2018), <https://perma.cc/5W6Q-435C> (noting that most military families move every two to three years).

money lost pursuant to an agreement that Congress has expressly deemed void. In order to maintain their case, they would have to allege that the harm they suffered was traceable not just to the defendant's conduct, but to the defendant's violation of the particular provision in an investment or procurement contract, or any other law that renders the contract void. That is a steep hill to climb that tends more toward the merits rather than the threshold standing inquiry. *See Dubuissou*, 887 F.3d at 576; *Graham*, 940 F.3d at 407-08.

The same problem arises in cases brought in federal court alleging violations of state laws. For example, it has been understood since the Founding that insurance policies that contain fraudulent or illegal terms are void *ab initio*, and the insured is entitled to restitution of premiums paid on void policies. *See Clark v. Mfrs.' Ins. Co.*, 49 U.S. 235, 247-48 (1850); *Delavigne v. United Ins. Co.*, 1 Johns. Cas. 310, 312 (N.Y. Sup. Ct. 1800); Jordan R. Plitt et al., 5 *Couch on Insurance* § 79:25 (3d ed. 2024). Most states have insurance statutes—like those at issue in *Dubuissou*, 887 F.3d at 571, and *Graham*, 940 F.3d at 404-05—that bar issuance of insurance policies unless they contain particular substantive provisions. *See, e.g.*, Ark. Code § 23-86-108(5)(A); Me. Stat. tit. 24-A, § 2816; Minn. Stat. § 62A.11(3); N.C. Gen. Stat. § 58-51-80; N.Y. Ins. Law § 3221(a). Notably, the insurance codes in all three states embraced by the Eleventh Circuit forbid delivery of group life insurance policies that fail to contain certain standard terms. Ala. Code § 27-8-2; Fla. Stat. § 627.452(1); Ga. Code § 33-27-3(a). The Eleventh Circuit's standard imposes an unnecessary and likely insuperable hurdle that breaks from centuries of precedent and would create inconsistency

in the application of nearly identical insurance laws nationwide.

Finally, the Eleventh Circuit’s version of traceability could have broader effects on access to federal court for adjudication of all sorts of claims apart from those challenging void contracts. For example, if the Court of Appeals’ standard applied in challenges to administrative actions premised on unconstitutional appointment or removal powers (including several that have prevailed before this Court), it is unlikely that plaintiffs harmed by the agency’s rulemaking could establish standing unless that harm directly arose from the allegedly unconstitutional appointment. *See, e.g., Collins*, 594 U.S. at 243-44 (permitting standing to challenge for-cause removal structure of Federal Housing Finance Agency because injury was traceable to agency’s third amendment to stock purchasing agreements); *Seila Law LLC v. CFPB*, 591 U.S. 197, 210-11 (2020) (rejecting the view that the challenger “must show that the challenged act would not have been taken if the responsible official had been subject to the President’s control”).

The question presented is thus one of great importance both to reestablishing national uniformity and to preserving the jurisdiction of the federal judiciary over a wide variety of disputes.

## **II. THE THREAT TO MILITARY READINESS POSED BY THE ELEVENTH CIRCUIT’S DECISION CALLS FOR THIS COURT’S IMMEDIATE REVIEW.**

The Eleventh Circuit’s traceability standard vitiates a crucial, express provision of the MLA. If the decision is allowed to stand, the nearly 133,000 servicemembers stationed in Florida, Georgia, and Alabama—twelve

percent of the entire U.S. military stateside<sup>8</sup>—will be subject to precisely the threats to national security that Congress expressly sought to prevent.

Additional standing hurdles to enforcement of the MLA could tangibly weaken our national defense. In 2006, the Department of Defense issued a landmark report identifying and decrying widespread deceptive lending practices affecting servicemembers' creditworthiness, security clearances, and preparedness for mission-critical activities.<sup>9</sup> The Department proposed, and Congress later that year adopted via the MLA, a suite of "clear enforceable limitations" to address "predatory lending to Service members."<sup>10</sup> *See* Pub. L. No. 109-364, § 670(a), 120 Stat. 2083, 2266-69 (2006). Congress's determination, based on the Department's expert recommendations, that national security is served by affording servicemembers special protections against unscrupulous lenders merits significant deference. *See Rumsfeld v. Forum for Academic & Inst. Rights, Inc.*, 547 U.S. 47, 58 (2006) (noting that "judicial deference is at its apogee when Congress legislates under its authority to raise and support armies"); *Goldman v. Weinberger*, 475 U.S. 503, 507 (1986) (explaining that this Court defers to the Department's "professional judgment" on military matters). Yet by imposing a nearly insurmountable barrier to standing to effectuate the MLA, the decision below overrides Congress's intent to provide servicemembers with a ready remedy against lenders who caused them financial harm. *See Warth*, 422 U.S. at 501 (explaining that "persons to whom Congress has granted a right of

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<sup>8</sup> Dep't of Def., *2022 Demographics Profile*, *supra* note 2, at 36.

<sup>9</sup> 2006 Def. Dep't Rep., *supra* note 4, at 3-4, 10, 45-46.

<sup>10</sup> *Id.* at 50-53.

action, either expressly or by clear implication, may have standing to seek relief” as long as a concrete injury is demonstrated).

**A. The Eleventh Circuit’s Decision Undermines Military Readiness.**

The urgency of protecting servicemembers’ mission-readiness underscores the significance of this case and the need for this Court’s review. Congress enacted the MLA out of concern that predatory lending negatively impacts troop morale and military readiness. *Steines*, 113 F.4th at 1343; *see also Davidson v. United Auto Credit Corp.*, 65 F.4th 124, 140-41 (4th Cir. 2023) (Wilkinson, J., dissenting) (warning that “service members’ financial plight . . . ‘undermines military readiness, harms the morale of troops and their families, and adds to the cost of fielding an all volunteer fighting force,” (quoting 2006 Def. Dep’t Rep., *supra* note 4, at 53)).

Members of the military are uniquely susceptible to abusive lending practices.<sup>11</sup> Servicemembers must typically relocate every few years depending on military need and deploy overseas for months at a time for combat, peacekeeping, or training missions.<sup>12</sup> Consequently, they may face unexpected moving costs, abrupt fluctuations in household income due to spousal unemployment or job changes, and the need to borrow money to cover expenses.<sup>13</sup> Compared to the general population, servicemembers also are disproportionately young,

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<sup>11</sup> 2006 Def. Dep’t Rep., *supra* note 4, at 10; Graves & Peterson, *supra* note 4, at 674.

<sup>12</sup> *Duty Stations & Deployment*, Today’s Military, U.S. Dep’t of Def., <https://perma.cc/45DS-7QLG>.

<sup>13</sup> NVTAC, *supra* note 3; Graves & Peterson, *supra* note 4, at 681-85.

from lower socioeconomic backgrounds, and geographically isolated on their bases.<sup>14</sup> All of these characteristics render them particularly prone to deceptive and aggressive tactics by unscrupulous lenders and scammers.<sup>15</sup>

This elevated susceptibility to predatory lending practices puts America’s national defense in considerable jeopardy because it reduces servicemembers’ “financial readiness.” The Pentagon has determined that financial readiness—defined as “[t]he state in which successful management of personal financial responsibility supports a Service member’s ability to perform their wartime responsibilities”—is a crucial aspect of military operational readiness.<sup>16</sup> Financial insecurity can impact job performance and poses particular risks to military service and national security, in addition to a servicemember’s personal well-being.<sup>17</sup> To obtain and recertify a security clearance, servicemembers must submit their credit history to the Department of Defense.<sup>18</sup> A poor credit history, or

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<sup>14</sup> 2006 Def. Dep’t Rep., *supra* note 4, at 10; Graves & Peterson, *supra* note 4, at 675-78.

<sup>15</sup> See, e.g., *Protecting Military Servicemembers and Veterans from Financial Scams and Fraud: Hearing Before the Subcomm. on Nat’l Sec. of the H. Comm. on Oversight & Reform*, 117th Cong. (statement of Malini Mithal, Associate Director, FTC) (July 13, 2022); Def. Dep’t Rep., *supra* note 3, at 10; Richard Buddin & D. Phuong Do, RAND Corp., *Assessing the Personal Financial Problems of Junior Enlisted Personnel* 51 (2002) (finding, prior to the MLA’s enactment, that servicemembers were twice as likely as civilians to experience financial pressure from creditors).

<sup>16</sup> Dep’t of Def., *DOD Instruction No. 1342.22: Military Family Readiness* 5, 16, 53 (2021), <https://perma.cc/29M8-M2NG>.

<sup>17</sup> 2006 Def. Dep’t Rep., *supra* note 4, at 15.

<sup>18</sup> U.S. Dep’t of Def., *DOD Manual 5200.02: Procedures for the DOD Personnel Security Program* 28 (2020); see Michael Knisley,



worse, a default, can jeopardize a servicemember's career.<sup>19</sup> In 2014, the Department estimated that 80 percent of security clearance revocations and nearly 5,000 separations each year were due to financial difficulties.<sup>20</sup> Overseas deployments make it disproportionately difficult for servicemembers to promptly discover or address adverse entries on their credit reports.<sup>21</sup>

Congress enacted the MLA to protect servicemembers' financial readiness, and by extension, to preserve national security. During the debate over the Act, lawmakers echoed the Department's concerns about "service members falling into a cycle of debt whether through inappropriate use of credit cards, payday loans, or other forms of credit."<sup>22</sup> Adopting the Department's recommendations that "[s]ervice members should maintain full legal recourse against unscrupulous lenders,"<sup>23</sup> lawmakers took the decisive step of voiding loan contracts that did not contain uniform price

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*How Debt and Credit Scores Affect Security Clearances*, Military Money (Sept. 1, 2023), <https://perma.cc/2ELM-X7RY>.

<sup>19</sup> Dep't of Def., *DOD Instruction 1344.09*, *supra* note 6, at 3-4; Knisley, *supra* note 18.

<sup>20</sup> Cong. Rsch. Serv., No. R46983, *Military Families and Financial Readiness* 1 (2022), <https://perma.cc/YWY6-Z4H5>.

<sup>21</sup> CFPB, *Credit Reporting Companies Should Do More to Ensure That Servicemembers Receive the Free Credit Monitoring Services they Are Legally Entitled To* (Apr. 27, 2023), <https://perma.cc/YV83-HDA8>.

<sup>22</sup> *A Review of the Department of Defense's Report on Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents: Hearing Before the S. Comm. on Banking, Hous. & Urban Aff.*, 109th Cong. 1 (2006) (statement by Sen. Tim Johnson).

<sup>23</sup> 2006 Def. Dep't Rep., *supra* note 4, at 51.

disclosures or that inhibited access to judicial remedies. *See* 10 U.S.C. § 987(f)(3)-(4). To ensure that its mandate would be effective, Congress created a private cause of action against any lender that failed to comply with the MLA's strictures. *Id.* § 987(f)(5).

The Eleventh Circuit's rule jeopardizes these protections and exposes the nation's military to security risks. Its novel and unfounded requirement of an additional showing that violation of the specific statutory provision caused harm—notwithstanding the fact that the contract is a legal nullity—makes it far more difficult for servicemembers to enforce the law, effectuate the intent of Congress, and continue their mission-critical work.

**B. The Prevalence Of Deceptive Practices Targeted At Servicemembers By The Vacation Timeshare Industry Further Highlights The Importance Of This Case.**

Common practices in the notoriously predatory timeshare industry, which regularly targets members of the military, epitomize the type of deception that the drafters of the MLA intended to address. Timeshare companies cast their products as a gateway to flexible and affordable vacation opportunities,<sup>24</sup> but too often

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<sup>24</sup> *See, e.g., Club Wyndham Timeshares – Adventure is Calling*, Club Wyndham, <https://perma.cc/EM69-RJRQ> (“As a Club Wyndham owner, you can expect more vacations, space, and flexibility—all backed by the power of a global brand.”); *Discover Hilton Grand Vacations*, Hilton Grand Vacations, <https://perma.cc/2DTE-K758> (“With Hilton Grand Vacations . . . [y]ou’ll also enjoy the flexibility to choose from global properties and switch up your destinations, dates and accommodations to suit your distinctive travel style.”); *Vacation Ownership*, Marriott Vacations Worldwide, <https://perma.cc/GA8T-NMB4> (“Our vacation ownership businesses offer flexible vacation programs, giving customers the

they are sold through deceptive contracts containing hidden fees and onerous contract terms.<sup>25</sup> Yet under the Eleventh Circuit’s contorted standard, servicemembers defrauded by timeshare companies and similar unscrupulous actors have little recourse.

Timeshare companies routinely target servicemembers because members of the military constitute an ideal timeshare demographic: they generally have steady income streams,<sup>26</sup> half of all active duty servicemembers are married, and nearly a third have children.<sup>27</sup> Timeshares ostensibly offer military families a way to enjoy affordable and regular vacations and recreation, a pleasure that is particularly attractive in light of the pressures and transience of a military career.<sup>28</sup>

But, in reality, servicemembers too often fall victim to the deceptive sales tactics, hidden costs, and onerous terms and conditions that typify timeshares—

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ability to choose the style of vacationing that suits their needs.”).

<sup>25</sup> See, e.g., Rukmini Callimachi & Derek M. Norman, *Lured by Luxury Vacations, They Were Stuck with Debt*, N.Y. Times (Oct. 31, 2024), <https://perma.cc/EDV7-W48Y>; *Timeshares, Vacation Clubs, and Related Scams*, FTC (Dec. 2023), <https://perma.cc/5XFP-J97S>; Better Bus. Bur., *Unpacking Timeshare and Vacation Club Sales* 3, 7 (2023), <https://perma.cc/BJX3-FMXW>.

<sup>26</sup> 2006 Def. Dep’t Rep., *supra* note 4, at 10.

<sup>27</sup> Dep’t of Def., *2022 Demographics Report*, *supra* note 2, at 117.

<sup>28</sup> See, e.g., *Armed Forces Vacation Club*, About Us, <https://perma.cc/8MPV-JRZ9> (Wyndham hotel-sponsored vacation program for active duty military, reservists, and veterans); Sara Perez, *Military Family Vacations: 5 Tips for Making the Most of Your Time Together*, Holiday Inn Club Vacations (May 28, 2021), <https://perma.cc/2CTM-YL6D> (advertisement for vacation club targeted toward members of the military).

exactly the kind of harmful financial product that Congress meant for the MLA to address. Timeshare and similar vacation club companies regularly subject potential clients, including servicemembers, to hours-long sales presentations designed to exhaust them into signing “voluminous and dense” contracts without understanding the terms.<sup>29</sup> Salespeople frequently offer “today-only” deals to coerce buyers into immediate commitments.<sup>30</sup>

Once the contract is signed, the reality often diverges from the promises made. Properties are harder to book than advertised, and the promise of flexibility is severely limited in practice. Obligatory maintenance fees and “special assessments”—additional charges imposed with little or no warning—are rarely disclosed in full and increase over time.<sup>31</sup> Also, timeshare contracts are often written to prevent resale or cancellation,<sup>32</sup> which means that owners, including servicemembers, are trapped in long-term financial commitments that lose significant value over time. Finally, specific to this population, servicemembers often have limited control over their “rest and relaxation” schedules; as a result, they often cannot take advantage of their allotted slots and end up

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<sup>29</sup> Callimachi & Norman, *supra* note 25; *Timeshares, Vacation Clubs, and Related Scams*, *supra* note 25; Better Bus. Bur., *supra* note 25, at 6.

<sup>30</sup> *Timeshares, Vacation Clubs, and Related Scams*, *supra* note 25; Better Bus. Bur., *supra* note 25, at 6.

<sup>31</sup> Better Bus. Bur., *supra* note 25, at 6.

<sup>32</sup> *Id.* at 8; Rosario Mendez, *Want To Get Rid of Your Timeshare? Read This Before You Hire Someone to Help*, Military Consumer (Nov. 22, 2022), <https://perma.cc/HFK2-TUXF>.

paying considerable sums of money, every year, for an essentially worthless product.

The prevalence of unfair and deceptive practices by timeshare companies against servicemembers has resulted in numerous complaints and lawsuits against the industry. *See, e.g., Steines*, 113 F.4th at 1339-40 (challenging timeshare deal that active-duty member of the Army and his wife agreed to after a “five-hour-long, high-pressure sales presentation” that cost them \$18,000 a year plus \$840 in fees and taxes biannually plus additional assessments, and that—contrary to the MLA—included a binding arbitration provision); *In re Omni Fin. of Nevada, Inc.*, CFPB No. 2020-BCFP-0028 (Dec. 30, 2020) (consent order issued against timeshare finance company that targeted servicemembers and structured its loans around the military’s payment allotment system). Lawsuits like these—and the access to the courts upon which they rely—are necessary to protect servicemembers and others who suffer real harm from unlawful timeshare industry tactics.

## CONCLUSION

In enacting the MLA, Congress recognized that leaving servicemembers to fight through a maze of deceptive and unlawful conduct without recourse to the courts threatens their ability to fulfill their critical mission. Put simply, the risks of letting the timeshare and other similar industries take advantage of servicemembers with impunity are dire.

The issues presented in this case thus neatly encapsulate the danger of imposing an additional showing on the Article III causation inquiry. When Congress explicitly declares a contract void and confers a right on the injured party to seek redress, no further connecting of the dots is necessary. A standard

that requires servicemembers to prove a direct connection between their payments on a contract that legally never existed and practices specifically prohibited by the MLA undermines Congress’s expressly stated purpose in enacting the law: to protect servicemembers against lenders like timeshare companies that regularly prey on military families. This Court’s guidance is urgently needed—to provide congressionally mandated protections to servicemembers and their families, and to maintain the military readiness that suffers when those protections are absent.

Our nation’s security depends on it.

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

Respectfully submitted,

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