

No. 26-12240

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

PAMELA PATEL,
Plaintiff-Appellant,

v.

BAYCARE HEALTH SYSTEM, INC.,
Defendant-Appellee.

On Appeal from the United States District Court
for the Middle District of Florida
No. 8:24-cv-01886-WFJ-AAS

**BRIEF OF THE NATIONAL WOMEN'S LAW CENTER AS *AMICUS*
CURIAE IN SUPPORT OF NEITHER PARTY**

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**CERTIFICATE OF INTERESTED PERSONS AND CORPORATE
DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1-1, *amicus curiae* the National Women’s Law Center (“NWLC”) certifies that the Certificates of Interested Persons presented by the Plaintiff-Appellant and Defendant-Appellee are complete, subject to the following additions:

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Amicus curiae National Women’s Law Center has no publicly traded parent, subsidiary, or affiliated corporations.

Dated: October 28, 2026

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INTEREST OF AMICUS CURIAE¹

National Women’s Law Center (“NWLC”) is a non-profit legal advocacy organization that fights for gender justice—in the courts, in public policy, and in our society—working across the issues that are central to the lives of women and girls, especially women of color, LGBTQI+ people, and low-income women and families. Since its founding in 1972, NWLC has worked to advance the progress of women and their families in core aspects of their lives, including workplace justice, income security, and health and reproductive rights. NWLC has long worked to remove barriers to equal treatment of women in the workplace, and protecting against pregnancy discrimination is at the core of our work. NWLC has also supported the passage and implementation of the Pregnant Workers Fairness Act (“PWFA”), including by submitted written formal rulemaking comments to the Equal Employment Opportunity Commission (“EEOC”) and filing amicus briefs regarding the statute’s scope and interpretation.

¹ Counsel for amicus curiae authored this brief. No party’s counsel authored this brief in whole or in part, and no party beyond amicus contributed any money toward the brief. The parties consented to its filing.

STATEMENT OF THE ISSUES

Whether the district court erred by conflating the legal standards governing the PWFA with those governing the ADA and by enunciating inconsistent standards for evaluating a PWFA claim.

SUMMARY OF THE ARGUMENT

In 2022, Congress passed the historic PWFA to ensure that workers' pregnancy-related limitations do not cost them their jobs. Like the Pregnancy Discrimination Act of 1978 ("PDA"), the Americans with Disabilities Act of 1990 ("ADA"), and the Family and Medical Leave Act of 1993 ("FMLA"), as well as dozens of other federal, state, and local laws, the PWFA recognizes that forcing workers to choose between their health and their paychecks is a cognizable civil rights violation.

For the first time, the PWFA establishes an affirmative right to reasonable workplace accommodations for workers with limitations related to pregnancy, childbirth, and other medical conditions. Congress enacted the PWFA in direct response to gaps in the PDA and ADA that had failed to meet pregnant workers' needs. In doing so, Congress built upon the familiar frameworks of those existing statutes while departing from them in key respects to expand and strengthen protections in federal law.

The district court's order misreads the statute's text and risks undermining its remedial purpose in three ways. First, the court conflated the PWFA with the ADA, importing burdensome requirements from the latter statute that Congress intentionally left out of the former. Second, the court construed the PWFA's definition of a "qualified employee" in a way that nullifies an express provision protecting employees who are temporarily unable to perform an essential function of their job. Third, the court articulated multiple inconsistent standards for a failure-to-accommodate claim under the PWFA—a particularly consequential error given that no appellate court, including this one, has yet established the standard applicable to a PWFA claim.

NWLC submits this brief to assist the Court in interpreting and applying the PWFA consistently with its text and purpose.

ARGUMENT

I. Congress Enacted the PWFA to Establish an Affirmative Right to Pregnancy-Related Accommodations and Fill Gaps in the Existing Statutory Framework.

In passing the PWFA² in 2022, Congress established—for the first time—an affirmative federal right to reasonable accommodations for workers whose ability to perform the functions of their jobs is limited by pregnancy, childbirth, postpartum, or related medical conditions. The PWFA requires covered employers to modify workplace conditions where needed to accommodate pregnancy-related conditions as long as the accommodation is reasonable and does not present an undue hardship to the employer. 42 U.S.C. § 2000gg-1(1). It also prohibits employers from forcing employees to take leave when an accommodation is available, *id.* § 2000gg-1(4), or retaliating against workers who seek accommodations, *id.* § 2000gg-5.

As the PWFA’s legislative history illustrates, Congress primarily sought to address the limitations of two existing federal anti-discrimination statutes whose protections had proven inadequate in the pregnancy

² Pub. L. No. 117-328, 136 Stat. 6084 (2022), codified at 42 U.S.C. §§ 2000gg *et seq.*

context.³ First, the PDA,⁴ which amended Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, prohibited discrimination against pregnant workers but did not establish an affirmative right to reasonable accommodations, instead requiring employees to satisfy a comparator-based standard that courts often interpreted narrowly. *Infra* Part I.A. Second, the ADA, 42 U.S.C. §§ 12111 *et seq.*, as amended by the ADA Amendments Act of 2008 (“ADAAA”),⁵ required employers to accommodate qualified individuals with disabilities but generally excluded pregnancy itself from its protections, leaving workers whose pregnancy-related limitations did not independently satisfy the statute’s disability threshold without a right to accommodation. *Infra* Part I.B.

³ Other federal, state, and local laws also provide additional protection. The FMLA, 29 U.S.C. §§ 2601 *et seq.*, permits eligible employees to take unpaid leave for qualifying pregnancy-related medical needs. The Fair Labor Standards Act of 1938, as amended by the Providing Urgent Maternal Protections for Nursing Mothers Act, 29 U.S.C. §§ 201 *et seq.*, requires most nursing employees to receive reasonable break time and a private space to express breast milk. *See* H.R. REP. NO. 117-27, pt. 1, at 31-32 (2021) (hereinafter “House Report”) (observing that, as of 2021, 30 states, Washington, DC, and four cities require employers to provide accommodations to pregnant workers).

⁴ Pub. L. No. 95-555; 92 Stat. 2076 (1978).

⁵ Pub. L. No. 110-325, 122 Stat. 3553 (2008).

The PWFA's legislative history extensively documents how these statutory gaps—compounded by employers' pervasive refusals to accommodate even minor pregnancy-related limitations—forced pregnant workers to take unpaid leave or pushed them out of the workforce entirely.⁶ It further demonstrates how Congress deliberately crafted the PWFA to fill those gaps and ensure that covered employees would receive reasonable workplace accommodations.⁷

⁶ House Report, at 11-21; *see* 29 C.F.R. § 1636, app. A. ("Congress determined that the legal protections offered by [the PDA and ADA], particularly as interpreted by the courts, were 'insufficient to ensure that pregnant workers receive the accommodations they need.'") (citing [House Report], at 12); Markup of the Paycheck Fairness Act; Pregnant Workers Fairness Act; Workplace Violence Prevention Act 54:46 (2021), <https://www.youtube.com/watch?v=Cn4Q5b0tCIU> (hereinafter "PWFA Markup") (statement of Rep. Kathy Manning) (stating that a goal of the PWFA is to help pregnant workers "deliver healthy babies while maintaining their jobs"); *id.* at 1:35:01 (statement of Rep. Lucy McBath) ("[N]o mother should ever have to choose between the health of herself/themselves and their child or a paycheck.").

⁷ *See* House Report, at 5, 11-21 (explaining why the PDA and ADA are inadequate to protect pregnant workers); *id.* at 31-32 ("[W]orkers and employers face a patchwork of state and local laws that leave many pregnant workers with no protection at all."). Because the PWFA was enacted as a floor amendment to an omnibus appropriations bill, no conference or committee report addresses the final text, but that text did not alter the PWFA's relationship to the PDA and ADA.

A. The PDA Does Not Guarantee Accommodations for Pregnant or Postpartum Workers.

In 1978, the PDA became the first federal statute to explicitly prohibit discrimination against workers “affected by pregnancy, childbirth, and related medical conditions.” 42 U.S.C. § 2000e(k). Congress enacted the PDA to overturn two Supreme Court decisions holding that pregnancy discrimination was not sex discrimination: *General Electric Co. v. Gilbert*, 429 U.S. 125 (1976), and *Geduldig v. Aiello*, 417 U.S. 484 (1974). The PDA amended Title VII in two parts. First, it amended Title VII’s definition of sex discrimination to include discrimination on the basis of pregnancy, childbirth, or related medical conditions. 42 U.S.C. § 2000e(k); see *Newport News Shipbuilding & Dry Dock Co. v. EEOC*, 462 U.S. 669, 670 (1983). Second, it added a provision stating that workers “affected by pregnancy, childbirth, or related medical conditions shall be treated the same” as other workers “not so affected but similar in their ability or inability to work[.]” 42 U.S.C. § 2000e(k).

Although the PDA’s express prohibition against pregnancy discrimination was a critical modification to Title VII, it did not create an affirmative right to pregnancy-related workplace accommodations. In

practice, this deficiency had profound effects. The PDA's comparative framework generally required a pregnant worker to (i) identify a comparable coworker whom the employer had accommodated and then (ii) show that the employer had treated the pregnant worker less favorably. *See Young v. United Parcel Service, Inc.*, 575 U.S. 206, 229 (2015); *Durham v. Rural/Metro Corp.*, 955 F.3d 1279, 1285 (11th Cir. 2020). While the absence of comparator evidence is not invariably fatal to a PDA claim, *see, e.g., Smith v. Lockheed-Martin Corp.*, 644 F.3d 1321, 1328 (11th Cir. 2011), courts have routinely applied the PDA's comparator requirement to deny pregnant workers' accommodation requests, even where the worker's need is modest and the accommodation easy to provide.⁸ Indeed, in more than two-thirds of cases between 2015 and 2019, courts rejected PDA claims largely because there was no adequate comparator.⁹ As a result, many pregnant workers were denied simple, common-sense accommodations, such as a stool for a

⁸ House Report, at 13-14.

⁹ A BETTER BALANCE, LONG OVERDUE: IT IS TIME FOR THE FEDERAL PREGNANT WORKERS FAIRNESS ACT 9 (2019); *see* House Report, at 14; *Long Overdue: Exploring the Pregnant Workers' Fairness Act (H.R. 2694): Hearing Before the Subcomm. on Civ. Rts. & Hum. Servs. of the H. Comm. on Educ. & Lab.*, 116th Cong. 75 (2019) (statement of Dina Bakst) (hereinafter "Long Overdue").

cashier or bathroom breaks for a preschool teacher.¹⁰ And even when the pregnant worker could identify other workers similar in their ability or inability to work, some courts still found no Title VII violation.¹¹

The PDA thus fell short of ensuring equal opportunity for women in the workplace by placing the burden on pregnant workers to identify comparable employees. That burden was particularly difficult to meet in workplaces historically structured around male workers, where pregnancy-related limitations often had no close analogue in existing accommodation practices.¹² Rather than ensuring pregnant workers could remain in the

¹⁰ See, e.g., *Portillo v. IL Creations Inc.*, No. 17-1083-RDM, 2019 WL 1440129, at *5 (D.D.C. Mar. 31, 2019); *Wadley v. Kiddie Acad. Int'l, Inc.*, No. 17-05745, 2018 WL 3035785, at *4 (E.D. Pa. June 19, 2018).

¹¹ See, e.g., *EEOC v. Wal-Mart Stores East, L.P.*, 46 F.4th 587, 597-99 (7th Cir. 2022) (concluding that the employer did not engage in discrimination when it failed to accommodate pregnant workers with light-duty assignments, even though the employer provided light-duty assignments for workers who were injured on the job).

¹² *Finally Protected: Analyzing the Potential of the Pregnant Workers Fairness Act*, 137 HARV. L. REV. 662, 668 (2023) (“[T]he nondiscrimination model for accommodations under the PDA hinges the right to pregnancy accommodations on ‘others’ abilities to achieve structural justice first.”); see Natalia Kitroeff & Jessica Silver-Greenberg, *Pregnancy Discrimination Is Rampant Inside America’s Biggest Companies*, N.Y. TIMES (Feb. 8, 2019), https://www.nytimes.com/interactive/2018/06/15/business/pregnancy-discrimination.html?eafs_enabled=false (“[G]etting pregnant is often the moment [women] are knocked off the professional ladder.”).

workforce on equal terms, the comparator requirement reinforced their “otherness” from male colleagues, making access to accommodation depend on how closely their pregnancy-related needs resembled the circumstances of other employees.¹³ As a result, a worker’s ability to obtain a modest accommodation often turned not on the legitimacy of her need or the feasibility of the requested adjustment, but on whom she worked with.

B. The ADA Set the Benchmark for Workplace Accommodations But Left Most Pregnant Workers Outside Its Reach.

In 1990, Congress enacted the ADA to prohibit covered employers from discriminating against qualified individuals with disabilities. Among other things, the ADA established the critical framework requiring covered employers to provide reasonable workplace accommodations to qualified individuals with a disability (unless doing so would cause undue hardship). 42 U.S.C. § 12112(b)(5)(A). To access the ADA’s protections, however, an employee must first establish that she has a “disability.” *Id.* § 12112(a); *see Hilburn v. Murata Elec. N.A., Inc.*, 181 F.3d 1220, 1226 (11th Cir. 1999). The

¹³ 137 HARV. L. REV. at 667-68 (observing that the comparator standard requires a plaintiff to identify not only “‘a near twin,’” but also a “nonpregnant worker, and then prove that they share the same job as the litigant, that they are similarly able or unable to work, and that they were accommodated in a way that litigant was not”).

ADA defines “disability,” in relevant part, as “a physical or mental impairment that substantially limits one or more major life activities of such individual.” 42 U.S.C. § 12102(1)(A); *see also* 29 C.F.R. §§ 1630.2(h)-(i) (defining “[p]hysical or mental impairment” and “[m]ajor life activities”).

Crucially, pregnancy itself is not a disability under the ADA. *See* 29 C.F.R. § 1630.2(h), app. A.; *Owens v. Georgia, Governor’s Office of Student Achievement*, 52 F.4th 1327, 1336 (11th Cir. 2022). Nor does pregnancy constitute a “physical [] impairment” under the statute.¹⁴ 29 C.F.R. § 1630, app. § 1630.2(h). Instead, an ADA plaintiff seeking reasonable accommodations for a pregnancy-related limitation must establish both that she has a pregnancy-related impairment and that the impairment substantially limits a major life activity. *Owens*, 52 F.4th at 1336; *Penaloza v. Target Corp.*, 549 F. App’x 844, 849 n.2 (11th Cir. 2013). This requires a plaintiff to pinpoint a discrete, pregnancy-related condition of sufficient severity to qualify. *See Owens*, 52 F.4th at 1336-37. Courts have further distinguished “impairments” from the ordinary symptoms of pregnancy, requiring a pregnancy-related condition to “significantly intensify” those

¹⁴ Enforcement Guidance on Pregnancy Discrimination and Related Issues, 29 C.F.R. § 1604 (2015).

symptoms, such as in “nature, duration, [or] severity.” *Jones v. Wireless Time of Alabama, LLC*, No. 2:20-00613-KD-B, 2022 WL 414377, at *7 (S.D. Ala. Feb. 10, 2022) (internal citations omitted).

This threshold functionally excludes all but the most serious pregnancy-related complications from ADA coverage. Even after Congress broadened the definition of “disability” in the ADAAA in 2008, courts frequently held that the temporary, moderate restrictions common in pregnancy did not qualify.¹⁵ The House report accompanying the PWFA observed that “courts have been more aggressive in limiting the application of the ADAAA to pregnant workers,” including by holding that even serious pregnancy-related complications did not qualify as disabilities.¹⁶ Numerous courts continued to hold that “pregnancy, absent unusual circumstances, is not considered a disability under the ADA.”¹⁷ In short, “[o]nly in extremely

¹⁵ House Report, at 19; see Nicole B. Porter, *Explaining ‘Not Disabled’ Cases Ten Years After the ADAAA*, 26 GEO. J. POVERTY L. & POL’Y 383, 392 (2019).

¹⁶ House Report, at 19-20.

¹⁷ *Mayorga v. Alorica, Inc.*, No. 12-cv-21578, 2012 WL 3043021, at *5 (S.D. Fla. July 25, 2012) (collecting cases).

rare cases have courts found that conditions that arise out of pregnancy qualify as disability.”¹⁸

The ADA—like the PDA—thus left many pregnant workers without protection. Absent an ADA-qualifying disability or comparator evidence sufficient to satisfy the PDA, employers had no obligation to accommodate even those common pregnancy-related limitations that were temporary, modest, or preventative.¹⁹ Courts frequently held that garden-variety symptoms of pregnancy, including vomiting, hypertension, vaginal bleeding, and dizziness, didn’t meet the ADA’s stringent disability standard.²⁰ Nor did courts protect prophylactic accommodations, such as additional restroom breaks to prevent a urinary tract infection or temporary light duty to prevent a miscarriage.²¹

¹⁸ *Sam-Sekur v. Whitmore Grp., Ltd.*, No. 11-cv-4938, 2012 WL 2244325, at *8 (E.D.N.Y. June 15, 2012).

¹⁹ House Report, at 11; Long Overdue, at 7 (statement of Rep. Jerrold Nadler).

²⁰ Emily Easton, *A Scope for Survival*, 30 LEWIS & CLARK L. REV. 181, 193-94 (2026).

²¹ 168 CONG. REC. S10081-82 (daily ed. Dec. 22, 2022) (statement of Sen. Bob Casey).

C. The PWFA’s Remedial Purpose, Reinforced by Its Text and Legislative History, Confirms Congress’s Intent to Remedy Gaps in the Existing Statutory Framework.

By 2021, it had become inescapably clear that “varying interpretations” of the PDA and ADA had “created an unworkable legal framework[,] ... frustrat[ing] pregnant workers’ ability to secure reasonable accommodations.”²² *See* Statement of Rep. Jerrold Nadler (noting that “courts have hamstrung other attempts by Congress to address pregnancy-related discrimination”).²³ Based on its assessment of this flawed statutory and precedential landscape, Congress enacted the PWFA to guarantee equal employment opportunity for pregnant workers while protecting their health and their pregnancies – once and for all.

To this end, rather than construct an entirely new statute, Congress modeled key elements of the PWFA after the ADA to facilitate implementation and compliance.²⁴ For example, the PWFA features ADA

²² House Report, at 11; *see also* Long Overdue, at 2-3 (statement of Rep. Suzanne Bonamici) (“[O]ur current laws are inadequate, and many pregnant workers are placed on unpaid leave or forced out of work when they only need a simple accommodation to stay on the job during their pregnancy.”).

²³ 167 CONG. REC. H2333 (daily ed. May 14, 2021) (statement of Rep. Jerrold Nadler).

²⁴ 168 CONG. REC. S10081-82 (daily ed. Dec. 22, 2022) (statement of Sen. Bob Casey) (explaining that lawmakers relied on the ADA so that both

terminology—"reasonable accommodation" and "undue hardship"—and mirrors the ADA's use of the "interactive process" for establishing reasonable accommodations. 42 U.S.C. § 2000gg(7). And it adopts the PDA's terminology about "pregnancy, childbirth, or related medical conditions." *Compare* 42 U.S.C. § 2000e(k), *with* 42 U.S.C. § 2000gg(4).

But while the PWFA retains certain familiar elements of the PDA and ADA, it also departs from them in three core ways that reflect Congress' intent to eliminate the statutory and judicial barriers that had left pregnant workers largely unaccommodated.

First, the PWFA establishes an affirmative right to reasonable accommodation that does not turn on whether similarly situated employees received the same accommodation or were treated more favorably. 42 U.S.C. § 2000gg-1; *see* 29 C.F.R. § 1636.7(a)(1)(4).²⁵ The PWFA's legislative history confirms that Congress created this right to eliminate the evidentiary

employers and employees would be familiar with the framework to empower pregnant workers to request reasonable accommodations from their employers); *see also* Long Overdue, at 8 (statement of Rep. Jerrold Nadler) (explaining that the PWFA "us[es] the framework and language of the ADA"); 168 CONG. REC. S7049 (daily ed. Dec. 8, 2022) (statement of Sen. Bob Casey) ("If this process sounds familiar, that is because we have crafted it to closely resemble the process under the [ADA].").

²⁵ House Report, at 17.

hurdles that had prevented workers from obtaining accommodations under the PDA.²⁶ The House report described the comparator requirement as a “burdensome and often impossible standard to meet.”²⁷ Similarly, Congressman Jerrold Nadler testified that the Supreme Court’s decision in *Young* had imposed an “insurmountable” burden by requiring pregnant workers to obtain information about other employees’ medical and employment histories. Especially for low-wage workers, “there is simply no way to get” that form or scale of information.²⁸

Second, the PWFA replaces the ADA’s more stringent disability threshold with the broader concept of a “known limitation[] related to pregnancy, childbirth, or related medical conditions.” 42 U.S.C. § 2000gg-1(1); *see also* 29 C.F.R. § 1636.3(a). The ADA’s definition of disability encompasses only those impairments that “substantially limit[] one or more major life activities.” 42 U.S.C. § 12102(1). In contrast, the PWFA defines

²⁶ House Report, at 15-17, 26; 167 CONG. REC. H2327 (daily ed. May 14, 2021) (statement of Rep. Sheila Jackson Lee) (“The Supreme Court decision ... that allowed pregnant workers to bring reasonable accommodation discrimination claims is not enough because pregnant workers are still being denied accommodations, because [it] set an unreasonably high standard for proving discrimination.”).

²⁷ House Report, at 12.

²⁸ Long Overdue, at 8 (statement of Rep. Jerrold Nadler).

“known limitation” as any “physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions that the employee ... has communicated to the employer whether or not such condition meets the definition of disability specified in [the ADA].” *Id.* at § 2000gg(4) (citing 42 U.S.C. § 12102). A PWFA plaintiff therefore need not show that her pregnancy-related condition meets the ADA’s definition of disability. Whereas the ADA requires reasonable accommodations only for *serious* limitations, the PWFA goes farther, entitling workers to temporary accommodations for even those limitations that are minor and episodic.

The EEOC’s implementing regulations further confirm that the PWFA does not impose a severity threshold on the limitations it protects. *See* 29 C.F.R. § 1636.3(a). The agency explains that “the physical or mental condition leading the worker to seek an accommodation can be a modest, minor, and/or episodic problem or impediment: there is no threshold of severity required under the PWFA.”²⁹ In fact, when promulgating the Final Rule, the EEOC rejected calls to impose a more restrictive threshold, explaining that “the PWFA was intended to cover all types of limitations,

²⁹ 88 Fed. Reg. 54717-18 (Aug. 11, 2023) (codified at 29 C.F.R. § 1636.3(a)).

including those that are minor and those that are needed to maintain the employee's health or the health of the pregnancy." 89 Fed. Reg. 29097 (Apr. 19, 2024) (codified at 29 C.F.R. § 1636.3(a)(2)). A heightened threshold, the EEOC explained, "would be contrary to congressional intent, and would impede a qualified employee's ability to stay on the job." *Id.*

Third, while the PWFA adopts the ADA's threshold requirement that an employee seeking accommodations be "qualified," it defines the term "qualified employee" more broadly than the term "qualified individual" in the ADA. *Compare* 42 U.S.C. § 12111(8) (ADA), *with* 42 U.S.C. § 2000gg(6) (PWFA).³⁰ Like the ADA, the PWFA defines a "qualified" employee or applicant to include one who, "with or without reasonable accommodation, can perform the essential functions of the employment position." 42 U.S.C. § 2000gg(6); *see* 42 U.S.C. § 12111(8). Unlike the ADA, however, the PWFA expressly provides that an employee or applicant "shall be considered qualified" even when she is unable to perform an essential function of the employment position if three conditions are met: "(A) any inability to perform an essential function is for a temporary period; (B) the essential

³⁰ House Report, at 27-28.

function could be performed in the near future; and (C) the inability to perform the essential function can be reasonably accommodated.” *Id.* § 2000gg(6)(A)-(C); 29 C.F.R. § 1636.3(f)(2). The PWFA thus expressly protects workers who are temporarily unable to meet the “qualified” test, which the ADA does not.³¹

This distinction makes sense: Congress deliberately adopted this broader standard to account for the impermanence of pregnancy and related medical conditions. The House report explains that the temporary-inability “language was inserted into the PWFA to make clear that the temporary inability to perform an essential function due to pregnancy, childbirth, or a related medical condition does not render a worker ‘unqualified[.]’” from receiving an accommodation.³² The report further observed that “there may be a need for a pregnant worker to temporarily perform other tasks or otherwise be excused from performing essential functions before fully returning to her position once she is able.”³³

³¹ See *id.* at 27 (explaining how the PWFA’s definition of qualified deviates from the ADA’s).

³² *Id.*

³³ House Report, at 27.

Congress intended these three features of the PWFA to safeguard the health and economic security of pregnant and postpartum employees in concrete, real-world ways. As lawmakers emphasized, seventy-five percent of working women will become pregnant while employed at some time in their lives.³⁴ Pregnancy imposes unique physical demands.³⁵ Women are increasingly either the primary or co-breadwinners of households.³⁶ Accommodations like seating, water, and light-duty modifications – while rarely complicated or costly – are essential to giving pregnant and postpartum workers full access to the workplace.³⁷

II. The District Court’s Reading of the PWFA Was Inconsistent With Its Remedial Purpose.

With this background in mind, the district court made three fundamental errors in its interpretation of the PWFA. First, mistakenly interpreting the PWFA as if it were the ADA, the district court imported an extratextual medical-restriction requirement into the PWFA’s broader

³⁴ House Report, at 11.

³⁵ Long Overdue, at 2 (statement of Rep. Suzanne Bonamici).

³⁶ SARAH JANE GLYNN, BREADWINNING MOTHERS CONTINUE TO BE THE U.S. NORM 5 (Ctr. for Am. Progress 2019).

³⁷ See, e.g., 29 C.F.R. § 1636.3(i)(1)-(5) (listing examples of reasonable accommodations under the PWFA).

“known limitation” inquiry. Second, the court ignored that a worker’s temporary inability to perform an essential function does not doom her PWFA claim. Third, the court articulated and applied inconsistent standards for evaluating a PWFA claim. This Court should correct these errors so that other district courts do not repeat or amplify them.

A. The District Court Improperly Imported an ADA-Derived Medical-Restriction Requirement Into the PWFA’s “Known Limitation” Inquiry.

Although the PWFA’s text expressly rejects the ADA’s disability threshold, the district court erroneously imported ADA-derived medical-restriction and severity requirements into the statute. The court first announced that it would “apply the ADA standards” to Patel’s PWFA claims because the statutes are “analogous.” R.90, pp.24-25. That was wrong in itself. As set forth above, that Congress used the ADA as a model does not mean that it intended to replicate it in whole. But the court went even further, broadly stating that a plaintiff must establish that “(1) she had a medical condition related to the pregnancy; (2) she was placed on work restrictions by a medical professional; (3) she is requesting reasonable accommodations; and (4) the defendant failed to accommodate those restrictions.” R.90, p.25 (quoting *Carnegie v. Heritage Park Nursing Ctr. LLC*,

No. 8:25-CV-00739-CEH-AEP, 2025 WL 2697857, at *4 (M.D. Fla. Sept. 4, 2025), *report and recommendation adopted*, 2025 WL 2695234 (M.D. Fla. Sept. 22, 2025)). The first two prongs of this standard contravene the PWFA's text and remedial purpose.

To start, the requirement that a plaintiff have a "medical condition related to pregnancy" incompletely states the statutory definition of "known limitation": "a physical or mental condition related to, affected by, or arising out of pregnancy." 42 U.S.C. § 2000gg(4). "Physical and mental conditions" are "impediment[s] or problem[s] that may be modest, minor, and/or episodic." They include needs or problems related to maintaining a pregnant worker's health or the health of the pregnancy, as well as health care related to pregnancy, such as routine doctors' appointments. 29 C.F.R. § 1636.3(a)(2). That broader formulation reflects Congress's intent to reach the full range of pregnancy-related limitations, including modest limitations that don't rise to the level of an ADA disability and the need of workers with otherwise healthy pregnancies to avoid risks to their health or their pregnancy. Indeed, the EEOC has explained that "a severity threshold is not supported by the text of the PWFA and would frustrate the purposes of the

Act.”³⁸ The district court’s formulation therefore improperly collapsed the broader “known limitation” inquiry into the stricter ADA question of whether an employee has a discrete, sufficiently severe “medical condition.”

What’s more, requiring Patel to have been “placed on work restrictions by a medical professional” adds a prerequisite Congress deliberately omitted from the PWFA’s definition of “known limitation.” As discussed above, Congress did not define “known limitations” by reference to a medical professional’s determination, a prescribed work restriction, or medical documentation. The regulations likewise do not make supporting documentation a prerequisite to establishing a known limitation. To the contrary, they provide that “[a] covered entity is not required to seek supporting documentation[,]” and permit an employer to seek such documentation “only when it is reasonable” to “determine whether the employee has a [limitation] and needs an adjustment or change at work because of it.” 29 C.F.R. § 1636.3(l). The regulations explain that it is unreasonable to request documentation when, for example, the limitation or needed adjustment is obvious and the employee provides self-confirmation,

³⁸ 88 Fed. Reg. at 54718.

or when the employer already has sufficient information. *Id.* at 1636.3(l)(i)-(iii). Moreover, the EEOC emphasized that “accommodations under the PWFA may be small, temporary modifications that may not always lend themselves to medical documentation.”³⁹ The regulations therefore confirm that while medical documentation may sometimes be relevant to evaluating an accommodation, *requiring* such documentation as a prerequisite goes “beyond what the PWFA allows.” *Ivy v. Amazon.com Servs., LLC*, No. 24cv6028, 2026 WL 1180070, at *9 (N.D. Ill. Apr. 30, 2026).

By importing *Carnegie’s* requirement that a plaintiff be placed on medical restriction into the PWFA, the district court’s construction of the statute also contravenes its remedial purpose. Congress intended the process of seeking an accommodation to be straightforward and “unencumbered by formal processes, unnecessary documentation, or employer-mandated medical examinations.”⁴⁰ The EEOC likewise recognized that workers often cannot obtain timely appointments with health care providers, which in turn creates significant obstacles to obtaining medical documentation.⁴¹ Those

³⁹ 88 Fed. Reg. at 54787, n.87.

⁴⁰ L. Camille Hébert, *Protecting Pregnancy: From the Pregnancy Discrimination Act to the Pregnant Workers Fairness Act*, 75 AM. U. L. REV. 1287, 1318 (2026).

⁴¹ 88 Fed. Reg. at 54787, n. 87.

obstacles are particularly burdensome for low-wage and rural workers with limited access to health care and limited control over their work schedules.⁴² Additionally, some medical care providers impose fees to fill out forms, which can balloon over time as needs change and as employers request new or different documentation.⁴³

These barriers are especially consequential for workers who face heightened risks of pregnancy-related complications and whose jobs make accommodations critical to their ability to remain safely at work. During congressional markup, Representative Jahana Hayes emphasized that women of color are more likely to hold inflexible, physically demanding jobs—including home health aides, food-service workers, package handlers, and cleaners—that present particular challenges during pregnancy.⁴⁴ For these workers, temporary accommodations may be essential to remaining on the job while protecting their health and that of their pregnancies.⁴⁵ These needs are particularly acute for Black women, who face higher risks of pregnancy-related complications, including preterm labor, preeclampsia,

⁴² House Report, at 22-23.

⁴³ *Id.*

⁴⁴ PWFA Markup, at 1:48:28 (statement of Rep. Jahana Hayes).

⁴⁵ *Id.*

and other hypertensive disorders.⁴⁶ Requiring medical restrictions as a prerequisite to relief thus risks denying accommodations to workers who may need them most.⁴⁷ Left uncorrected, the district court's medical-restriction requirement would recreate the very barriers Congress enacted the PWFA to remove.

B. The District Court's Reliance on the ADA's Qualification Standard Functionally Nullified the PWFA's Express Provision Protecting Workers Temporarily Unable to Perform Essential Functions.

The district court erred again when it applied ADA precedent to determine whether Patel was a "qualified employee" and whether her requested accommodations were reasonable. The court applied a three-part test to Patel's PWFA claim, requiring her to show: "(1) she is a qualified individual; (2) the employer was aware of her limitation; and (3) the employer failed to reasonably accommodate the limitation.'" R.90, pp.25-26. Applying the first element, the district court "assume[d]" that Patel "is likely a qualified individual since she 'can perform the essential functions of the employment position,' even if she was temporarily unable to do so." R.90,

⁴⁶ *Id.*

⁴⁷ *Id.*

p.26 (citing 42 U.S.C. § 2000gg(6)(A)-(C)). But rather than apply the PWFA's qualification standard, which permits temporary limitations, the court evaluated the requested accommodations under ADA precedent. *Id.* pp.26-28. Based on that inapposite caselaw, the court concluded that Patel's requested accommodations were unreasonable because they "would eliminate [certain] essential functions for an indefinite period." *Id.* pp.26-27. "[A]n accommodation is only reasonable," the court held, "if it allows the disabled employee to perform the essential functions of the job in question." *Id.* at 28 (citing *Frazier-White v. Gee*, 818 F.3d 1249, 1255 (11th Cir. 2016)).

That conclusion cannot be squared with the PWFA's plain text. The PWFA expressly contemplates temporary limitations on an employee's ability to perform an essential function—and requires employers to provide a reasonable accommodation in those circumstances. *See* 42 U.S.C. § 2000gg(6). And the EEOC's regulations confirm that the accommodation may itself involve temporarily suspending that essential function. 29 C.F.R. § 1636.3(f)(2)(iii), (h)(1)(iv). By treating the elimination of an essential function as a categorically "unreasonable" accommodation, the district court imported an ADA constraint that the PWFA expressly displaced and rendered the PWFA's temporary-inability provision largely superfluous. *See*

Hibbs v. Winn, 542 U.S. 88, 101 (2004) (“[a] statute should be construed ... so that no part will be inoperative or superfluous, void or insignificant”); *EEOC v. STME, LLC*, 938 F.3d 1305, 1318 (11th Cir. 2019) (“[I]t is ‘one of the most basic’ canons of statutory interpretation that ‘a statute should be construed so that effect is given to all its provisions.’”) (quoting *Corley v. United States*, 556 U.S. 303, 314 (2009)).

To be sure, the PWFA does not require an employer to eliminate an essential function *indefinitely*. The employee must satisfy the requirements that the inability be temporary, that the function could be performed in the near future, and that the inability can be reasonably accommodated. 42 U.S.C. § 2000gg(6)(A)–(C). Whether Patel’s requested accommodations satisfy those conditions is, undoubtedly, a question of fact. But the court was wrong to address that question through the lens of ADA precedent that views the temporary suspension of an essential function as off limits. *See, e.g., Trego v. Penske Logistics, LLC*, No. 3:24-cv-00460, 2026 WL 402501, at *7-*8 (M.D. Tenn. Feb. 12, 2026) (under PWFA, holding that the “temporary inability to perform an essential job function does not necessarily mean that a pregnant employee is not ‘qualified’”).

The district court's flawed reading of the PWFA also disregarded the practical realities of pregnancy that Congress intended the temporary-inability standard to address. Pregnancy-related limitations are often temporary because pregnancy itself is temporary, and Congress recognized that courts persistently rejected pregnant workers' ADA claims for precisely that reason.⁴⁸ But the fact that a worker's limitation is short-lived does not mean accommodation is unwarranted. Even during the relatively brief period of pregnancy and postpartum, accommodations may be critical to protecting a worker's health, including by allowing her to step back from certain duties or avoid particular workplace risks.⁴⁹ Often, modest accommodations, like flexible hours or temporary relief from strenuous tasks, can alleviate those risks. Temporarily suspending an essential function or assigning other work in the interim can allow a pregnant worker to remain on the job—and retain her paycheck and health insurance—without

⁴⁸ See House Report, at 18, 20-21 (“In addition to the general reticence to equate pregnancy and disability, courts have sometimes pointed to the short duration of pregnancy complications as a reason to reject an [ADA] claim ... one court held that ‘temporary, non-chronic impairments of short-duration, with little or no long term permanent impact, are usually not disabilities.’”).

⁴⁹ House Report, at 22-23.

compromising her health or pregnancy.⁵⁰ Such accommodations tend to be inexpensive and easily administrable, and where they are not, employers may avail themselves of the undue hardship defense. 42 U.S.C. § 2000gg-1(1).

C. The District Court Applied Conflicting Standards to Plaintiff's PWFA Claim, Neither of Which Comports with the PWFA's Text.

Compounding its erroneous importation of strict ADA requirements, the district court also invoked two different standards for establishing a PWFA claim—neither of which accurately captures that statute's text and purpose. Despite reciting the four-part *Carnegie* test discussed above, the court also cited—and seemed to apply—a different three-part standard, requiring Patel to show: “(1) she is a qualified individual; (2) the employer was aware of her limitation; and (3) the employer failed to reasonably accommodate the limitation.” R.90, pp.25-26 (quoting *Keiper v. CNN Am., Inc.*, No. 24-CV-875, 2024 WL 5119353, at *2 (E.D. Wis. Dec. 16, 2024)). While the court's analysis largely tracks *Keiper's* three-part test rather than

⁵⁰ Long Overdue, at 81-82, 84 (statement of Dina Bakst); 167 CONG. REC. H2333 (daily ed. May 14, 2021) (statement of Rep. Jerrold Nadler) (“We all agree that pregnancy is not a disability, but sometimes pregnant workers need an easy fix, ... to stay on the job.”).

Carnegie's four-part inquiry, *see* R.90, p.27 (discussing qualification, a known limitation, and failure to accommodate), the opinion leaves unclear what standard actually governs.

This lack of clarity matters. No court of appeals has yet articulated the precise elements of a PWFA claim. Courts within this Circuit have adopted *Carnegie's* four-part test, which adds a medical-restriction requirement found nowhere in the PWFA. *See supra* Part II.A. And at least one court, like the district court here, has recited the *Keiper* and *Carnegie* tests side by side without acknowledging that they conflict. *Rolle v. Fla. Care ALF of Vero Beach, Inc.*, No. 26-14052-CIV, 2026 WL 2162149, at *7 (S.D. Fla. July 14, 2026), *report and recommendation adopted*, 2026 WL 2150966 (S.D. Fla. July 27, 2026).

By contrast, other district courts — noting that PWFA caselaw remains “scant” — have adopted *Keiper*, which drew directly from ADA precedent. *See, e.g., Payne v. W. Mich. Univ.*, 811 F. Supp. 3d 889, 901 (W.D. Mich. 2025), *appeal dismissed*, No. 25-2137, 2026 WL 735242 (6th Cir. Feb. 2, 2026); *Cruz v. Port Auth. of N.Y. & N.J.*, No. 24-6938, 2026 WL 2124005, at *9 (D.N.J. July 23, 2026); *King v. Legacy Hospice of the S.*, No. 1:24-cv-197, 2026 WL 812569, at *4 (N.D. Miss. Mar. 24, 2026). Troublingly, the ADA origins of the *Keiper* test have gradually dropped out of view, *see, e.g., Payne*, 811 F. Supp. 3d at 901

(attributing *Keiper* test to PWFA's text without mentioning the ADA), obscuring the need for a standard that flows from the text of the PWFA itself. Still others have applied *Keiper* provisionally, "[f]or purposes of screening," while expressly leaving the governing standard open. *Ventura De Brown v. Centers Lab NJ LLC*, No. 25cv13258-EP-AME, 2026 WL 1329713, at *5 n.4 (D.N.J. May 13, 2026). And other courts have reduced the claim to two elements. *See, e.g., Thomas v. Montgomery Cnty.*, No. 8:25-cv-03672, 2026 WL 2097082, at *5 (D. Md. July 21, 2026). The resulting disarray—a single statutory claim that has two, three, or four elements depending on the forum—is both confusing and untenable.

This Court should correct the district court's reversion to ADA requirements that Congress deliberately excluded from the PWFA and, instead, adopt a standard consistent with the text and purpose of that more protective statute. The EEOC has articulated a straightforward three-part test: "Under the PWFA, in order to establish that she was denied a reasonable accommodation, Complainant must show: (1) she has a known limitation (42 U.S.C. § 2000gg(4)); (2) she is 'qualified' (42 U.S.C. § 2000gg(6)); and (3) the [employer] has failed to provide a reasonable accommodation (42 U.S.C. § 2000gg-1(1))." *Nancy C. v. DeJoy*, EEOC Appeal

No. 2024004182, 2025 WL 368929, at *5 (EEOC Jan. 8, 2025). While *Nancy C.* does not bind this Court, it properly distilled each element of its standard from the PWFA provisions Congress enacted. This Court should likewise give effect to the requirements that Congress included without adding prerequisites it omitted.

CONCLUSION

This Court has an important opportunity to clarify a matter of first impression not only here, but nationwide: the governing standards for a PWFA claim. Accordingly, *Amicus* respectfully requests that this Court vacate the district court's grant of summary judgment to Defendant on Patel's PWFA claim and remand for reconsideration of that claim under the appropriate standard.

Respectfully submitted this 28th day of October, 2026,

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Fed. R. App. P. 29(a)(5) and 32(a)(7)(B) because it contains 6,444 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word 365 in Book Antiqua 14 point.

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CERTIFICATE OF SERVICE

I certify that on October 28, 2026, I electronically filed the foregoing brief in PDF format with the Clerk of Court via the appellate CM/ECF system. I certify that all counsel of record are registered CM/ECF users, and service will be accomplished via the appellate CM/ECF system.

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