UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 2nd day of October, two thousand twenty-six.

PRESENT:

RICHARD C. WESLEY,
RICHARD J. SULLIVAN,
BETH ROBINSON,
Circuit Judges.

KAREN PUTZ,

Plaintiff-Appellant,

v. No. 25-1713

HOSPITALITY SYRACUSE, INC., d.b.a. TACO BELL,

Defendant-Appellee.

For Plaintiff-Appellant:	ANDREW ROZYNSKI, Eisenberg & Baum, LLP, New York, NY.
For Defendant-Appellee:	CLAIRE G. BOPP (Jennifer M. Schwartzott, *on the brief*), Bond, Schoeneck & King PLLC, Rochester, NY.

Appeal from a judgment of the United States District Court for the Western District of New York (Meredith A. Vacca, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the July 11, 2025 judgment of the district court is **VACATED** and the case is **REMANDED**.

Karen Putz, who is deaf, appeals the district court's grant of summary judgment to Hospitality Syracuse, Inc. ("Hospitality Syracuse") on Putz's claims that it unlawfully denied her public accommodations – in violation of Title III of the Americans with Disabilities Act (the "ADA"), 42 U.S.C. § 12181 *et seq.*; the Rehabilitation Act (the "RA"), 29 U.S.C. § 794; the New York State Human Rights Law (the "NYSHRL"), N.Y. Exec. Law § 290 *et seq.*; and the New York Civil Rights Law ("NYCRL"), N.Y. Civ. Rts. Law § 40 *et seq.* – when it denied her service at the drive-through window of a Taco Bell that it operated in Henrietta, New York. We

assume the parties' familiarity with the underlying facts, procedural history, and issues on appeal, to which we refer only as necessary to explain our decision.

"We review *de novo* both a district court's grant of summary judgment and its determination of standing." *Nat. Res. Def. Council, Inc. v. U.S. Food & Drug Admin.*, 710 F.3d 71, 79 (2d Cir.) (italicization added), *as amended* (Mar. 21, 2013). "Summary judgment is appropriate only if 'there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.'" *Bey v. City of New York*, 999 F.3d 157, 164 (2d Cir. 2021) (quoting Fed. R. Civ. P. 56(a)). "In considering the evidence, the court must resolve all ambiguities, and credit all factual inferences that could rationally be drawn, in favor of the [non-movant]." *Nat. Res. Def. Council*, 710 F.3d at 79 (internal quotation marks omitted). And when we evaluate standing at summary judgment, we consider the "'specific facts'" that the plaintiff "'set forth by affidavit or other evidence' . . . supporting standing." *Id.* (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992)).

I. Putz Lacks Standing to Bring Her Claim for Injunctive Relief Under the ADA.

Putz first argues that the district court's grant of summary judgment to Hospitality Syracuse was based on the erroneous legal conclusion that "one instance of discrimination cannot give rise to a claim under the ADA." Putz Br.

at 13. But Putz mischaracterizes the district court's holding. In fact, the district court expressly *rejected* Hospitality Syracuse's assertion that "one isolated occasion does not amount to actionable disability discrimination." *Putz v. Hosp. Syracuse, Inc.*, No. 22-cv-6324 (MAV), 2025 WL 1932669, at *5 (W.D.N.Y. July 11, 2025) (internal quotation marks omitted and alterations adopted). Instead, it concluded that summary judgment was warranted because Putz failed to establish a "need for [the] injunctive relief" that she had requested, *id.* at *7, which is the only relief available for a Title III claim, *Powell v. Nat'l Bd. of Med. Examiners*, 364 F.3d 79, 86 (2d Cir.), *as amended*, 511 F.3d 238 (2d Cir. 2004). Although we agree with the district court that Putz failed to establish a need for injunctive relief, that failure meant that Putz lacked standing to bring her Title III claim. *Lugo v. City of Troy*, 114 F.4th 80, 86–88 (2d Cir. 2024) (analyzing need for injunctive relief under Article III–standing doctrine). As a result, the district court should have dismissed Putz's Title III claim without prejudice. *See John v. Whole Foods Market Grp.*, 858 F.3d 732, 735 (2d Cir. 2017) ("[W]here a complaint is dismissed for lack of Article III standing, the dismissal must be without prejudice, rather than with prejudice." (internal quotation marks omitted)).

A plaintiff bears the burden of showing standing under Article III of the Constitution. *Lugo*, 114 F.4th at 86–88 (internal quotation marks omitted). A court may *sua sponte* consider standing "at any stage in the litigation," including at summary judgment or on appeal, *id.* at 87 (internal quotation marks omitted), and must do so before turning to the merits, *All. For Env't Renewal, Inc. v. Pyramid Crossgates Co.*, 436 F.3d 82, 85 (2d Cir. 2006). When we review standing "[a]fter discovery, the summary-judgment standard typically applies." *Lugo*, 114 F.4th at 89. Thus, we consider the evidence presented at summary judgment to determine whether there is a genuine dispute of material fact as to standing. *Id.* at 88.

To establish Article III standing, the plaintiff must show that he suffered "an injury in fact," as well as causation and redressability. *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423 (2021). In the context of claims for forward-looking relief available under Title III of the ADA, an injury in fact requires the plaintiff to show that (i) she suffered a "past injury under the ADA"; (ii) "it was reasonable to infer that the discriminatory treatment would continue"; and (iii) "it was reasonable to infer, based on the past frequency of [the] plaintiff's visits and the proximity of [the] defendant['s] restaurants to plaintiff's home, that [the] plaintiff intended to

return to the subject location." *Kreisler v. Second Ave. Diner Corp.*, 731 F.3d 184, 187–88 (2d Cir. 2013); *Lugo*, 114 F.4th at 86. Accordingly, "to defeat a defendant's motion for summary judgment[,] the plaintiff must produce evidence showing the *presence* of a genuine issue regarding standing that would warrant resolution by trial." *Lugo,* 114 F.4th at 88.

Title III of the ADA provides that, as a "[g]eneral rule[,] . . . [n]o individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation." 42 U.S.C. § 12182(a). In *Camarillo v. Carrols Corp.*, we noted that summary judgment on a plaintiff's claim for injunctive relief under Title III "is warranted where all the evidence in the record demonstrates that the defendants have taken all necessary steps 'to ensure that no individual with a disability is excluded, denied services, segregated[,] or otherwise treated differently than other individuals.'" 518 F.3d 153, 158 (2d Cir. 2008) (quoting 42 U.S.C. § 12182(b)(2)(A)(iii)). In other words, if the defendant has taken the necessary steps to ensure that it will not discriminate

against the plaintiff again, the plaintiff lacks standing to seek injunctive relief, which is the only relief available under the statute.

Here, it is undisputed that, as a general matter, "Hospitality Syracuse policy does not require that deaf customers place their orders inside the restaurant." J. App'x at 1838; *see Camarillo*, 518 F.3d at 157–58 (indicating that official policy against discriminatory conduct at issue weighs against injunction). The record further reflects that, after the incident, Hospitality Syracuse took affirmative steps at the Henrietta restaurant to ensure that deaf customers would not be subject to such mistreatment in the future. For starters, the restaurant installed plaques next to drive-through speakers directing customers to drive up to the window if they needed further assistance. It also retrained its employees, directing them to provide a pen and paper to hearing-impaired customers so that they can place their orders at the window. *See Camarillo*, 518 F.3d at 157–58 (suggesting that "signs out front" and "further training[s]" weigh against injunction). And the undisputed record reflects that immediately after the incident – and before Putz filed her complaint – Hospitality Syracuse accommodated deaf customers, including Putz's own son, at the drive-through window when they explained that their disabilities prevented them from using the speaker; indeed, Putz herself even

ordered from the drive-through window at a different Hospitality Syracuse location without incident *before* filing her complaint.

Taken together, Hospitality Syracuse's actions to prevent further discrimination – coupled with deaf customers' having experienced no further discrimination – indicate that an "individual with [this] disability [will no longer be] excluded, denied services, segregated[,] or otherwise treated differently than other individuals" at Hospitality Syracuse's restaurants. *Id.* at 158 (quoting 42 U.S.C. § 12182(b)(2)(A)(iii)). Because, on this record, it is not "reasonable to infer . . . that this discriminatory treatment will continue," we conclude that Putz lacks standing to bring her Title III claim. *Id.*

The district court, however, granted Hospitality Syracuse's motion for summary judgment and ordered dismissal of that claim "with prejudice." Dist. Ct. Doc. No. 27; *Putz*, 2025 WL 1932669, at *8. Because Putz lacked standing, the district court should have instead dismissed without prejudice and should do so on remand. *Katz v. Donna Karan Co.*, 872 F.3d 114, 121 (2d Cir. 2017).[1]

[1] Putz also sought injunctive relief under the NYSHRL. Because we likewise conclude that Putz lacked standing to seek injunctive relief under the NYSHRL, we remand for the district court to dismiss this part of the claim without prejudice.

II. The District Court Erred in Granting Summary Judgment to Hospitality Syracuse on Putz's RA and State Law Claims.

Putz next contends that the district court wrongly dismissed her RA and state law discrimination claims because it overlooked that those claims, which requested money damages, do not require a showing of future harm. We agree.

"Since the standards adopted by Title[] . . . III of the ADA are, in most cases, the same as those required under the [RA]," we often treat the claims as virtually identical. *Powell*, 364 F.3d at 85. But the RA, unlike Title III of the ADA, allows a plaintiff to recover money damages. *Compare id.* at 86 *with Loeffler v. Staten Island Univ. Hosp.*, 582 F.3d 268, 275 (2d Cir. 2009). Accordingly, when a plaintiff seeks to recover damages under the RA, Title III's particular standing requirements – including that a plaintiff show that "it is reasonable to infer," here based on the evidence available at summary judgment, "that th[e] discriminatory treatment will continue," *Camarillo*, 518 F.3d at 158 – cease to matter. That is because a claim for money damages focuses solely on the defendant's past actions, *see Loeffler*, 582 F.3d at 275 (considering past and not future conduct for monetary relief under the RA), while a claim for injunctive relief is predicated on the showing of future harm, *Nicosia v. Amazon.com, Inc.*, 834 F.3d 220, 239 (2d Cir. 2016).

Here, Putz sought an injunction for her ADA claim, but money damages for her RA claim. The district court ignored that distinction and assumed that its grant of summary judgment to Hospitality Syracuse on Putz's ADA claim compelled dismissal of her RA claim as well. *Putz*, 2025 WL 1932669, at *8 ("The viability of [Putz]'s claims under the RA . . . are contingent upon the viability of her ADA claim."). But the court's grant of summary judgment on the ADA claim was based solely on the evidence that Hospitality Syracuse had taken remedial steps to accommodate deaf customers, making injunctive relief unnecessary. *Id.* The district court therefore used the standing requirements for prospective relief – including whether the discrimination would continue, *Camarillo*, 518 F.3d at 158 – to bar a claim for money damages. That was incorrect as a matter of law. *See Loeffler*, 582 F.3d at 275 (considering only past harm for damages under the RA). We therefore vacate the district court's grant of summary judgment on Putz's RA claim and remand for the court to determine whether there is a genuine dispute of material fact as to whether Putz was "excluded from such participation or enjoyment solely by reason of . . . her handicap." *Id.*

Putz also sought money damages for her state claims. *See* N.Y. Exec. Law § 297(9); N.Y. Civ. Rts. Law § 40-d; *see also Kreisler*, 731 F.3d at 186 n.1 (explaining

that New York law, in contrast to Title III of the ADA, provides for monetary relief). Once again, however, the district court assumed that the "viability" of Putz's state law claims depended "upon the viability of her ADA claim." *Putz*, 2025 WL 1932669, at *8. As with the RA claim, this was incorrect. Moreover, courts must evaluate claims under the NYSHRL independent of their assessment of federal claims under analogous statutes. N.Y. Exec. Law § 300 ("The provisions of [the NYSHRL] shall be construed liberally for the accomplishment of the remedial purposes thereof, regardless of whether federal civil rights laws, including those laws with provisions worded comparably to the provisions of this article, have been so construed."); *cf. Mihalik v. Credit Agricole Cheuvreux North America, Inc.*, 715 F.3d 102, 109 (2d Cir. 2013) (explaining that, "even if the challenged conduct is not actionable under federal . . . law, federal courts must consider separately whether it is actionable under . . . broader [state or local] standards"). The district court failed to conduct the requisite independent analysis.

The district court therefore erred in granting summary judgment on Putz's state law claims. Accordingly, the district court should likewise consider on remand whether there are disputed issues of fact concerning whether Hospitality Syracuse violated those statutes.

* * *

For the reasons stated above, we **VACATE** the district court's judgment and **REMAND** for proceedings consistent with this summary order. On remand, the district court should (i) dismiss Putz's claims for injunctive relief under Title III of the ADA and NYSHRL without prejudice, and (ii) evaluate whether there are disputed issues of fact with respect to Putz's claims for damages under the RA, the NYSHRL, and the NYCRL.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court