No. 19-1334

IN THE
Supreme Court of the United States

SIGNODE INDUSTRIAL GROUP LLC AND ILLINOIS TOOL WORKS, INC.,

Petitioners,

v.

HAROLD STONE, ET AL.,

Respondents.

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

BRIEF IN OPPOSITION

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QUESTION PRESENTED

Whether the Seventh Circuit correctly applied the rule that labor agreements must be interpreted in accordance with "ordinary principles of contract law," *M&G Polymers USA, LLC v. Tackett*, 574 U.S. 427, 435 (2015), to the facts here, where the agreement explicitly states that retiree health insurance coverage shall continue without termination or reduction "notwithstanding the expiration of this Agreement" and the Seventh Circuit interpreted that language, consistently with the two other circuits that had previously interpreted identical language, to mean that coverage is indeed to continue without termination or reduction notwithstanding the expiration of the agreement.

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COUNTERSTATEMENT OF THE CASE

A. Factual Background

Respondents Harold Stone and John Woestman retired from Acme Packaging Corporation's plant in Riverdale, Illinois after 46 and 37 years of employment, respectively. Pet. App. 21a. At the Riverdale plant, they were represented by respondent United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial Service Workers International Union, AFL-CIO-CLC ("the Union"). *Id.* at 2a-3a. In 1994, the Union negotiated a collective-bargaining agreement with Acme providing for a program of retiree healthcare coverage. The agreement, titled the "Pensioners' and Surviving Spouses' Health Insurance Agreement" ("1994 Pensioners' Agreement"), specified that the program of health insurance coverage would be available to those who retired with at least 15 years of continuous service, as well as to their surviving spouses. *Id.* at 3a.

Two provisions of the 1994 Pensioners' Agreement have been the focus of this dispute. The first, a general duration provision, was captioned "Term of this Agreement," and it stated: "This Agreement shall become effective as of January 1, 1994 and shall remain in effect until December 31, 1999 and thereafter subject to the right of either party on 120 days written notice served on or after September 1, 1999 to terminate this Agreement." *Id.*

The second, a specific benefits-conferring provision, was captioned "Continuation of Coverage," and it stated:

> Any Pensioner or individual receiving a Surviving Spouse's benefit who shall become covered by the

> Program established by this Agreement shall not have such coverage terminated or reduced (except as provided in this Program) so long as the individual remains retired from the Company or receives a Surviving Spouse's benefit, *notwithstanding the expiration of this Agreement*, except as the Company and the Union may agree otherwise.

Id. (emphasis added).

The 1994 Pensioners' Agreement continued until 2002. That year, Acme, going through bankruptcy and as part of a settlement with the Union, replaced the 1994 agreement with a successor agreement approved by the bankruptcy court (the "2002 Pensioners' Agreement"). *Id.* at 3a-4a.

The "Continuation of Coverage" provision in the 2002 Pensioners' Agreement was identical to the provision in the 1994 Pensioners' Agreement, repeating that retirees' coverage would continue throughout their retirement "notwithstanding the expiration of this Agreement," except if the parties were to agree otherwise. *Id.* at 3a-4a. The "Term of this Agreement" provision was modified only to move the initial expiration to February 29, 2004. *Id.* at 4a.

After emerging from bankruptcy, Acme was acquired by Petitioner Illinois Tool Works, Inc. ("ITW"), which, in 2004, closed the Riverdale plant. Pet. App. 22a. That same year the collective-bargaining agreement expired. *Id.* Consistent with the "Continuation of Coverage" provision—and with statements as to that provision's meaning communicated by a key member of management to employees who were deciding whether to retire—ITW continued for another decade to provide retiree health coverage

to Respondents Stone, Woestman, and other Riverdale retirees and their families. *Id.* at 4a, 18a-19a.

In 2014, ITW transferred its obligations under the 2002 Pensioners' Agreement to Petitioner Signode Industrial Group LLC ("Signode"). *Id.* at 4a. In August 2015, Signode announced to the Union that "effective January 1, 2016, [the health care program] and the Agreement will terminate and participants will no longer be eligible for benefits thereunder." *Id.* at 5a. Beginning in 2016, Signode and ITW ceased providing retirees and their families with health insurance coverage. *Id.*

B. Proceedings Below

1. Retirees Stone and Woestman, joined by the Union (collectively, "Respondents"), filed suit in the Northern District of Illinois, alleging that Signode and ITW ("Petitioners" or the "Company") breached the obligation to continue health insurance coverage under the 2002 Pensioners' Agreement, in violation of § 301 of the Labor Management Relations Act, 29 U.S.C. § 185, and § 502(a)(1)(B) of the Employee Retirement Income Security Act, 29 U.S.C. § 1132(a)(1)(B). Pet. App. 5a.

Upon cross-motions for summary judgment, the district court granted the retirees' motion and entered a permanent injunction ordering the Company to reinstate the retirees' health insurance coverage. Pet. App. 5a, 20a-21a. In so doing, the district court considered the parties' competing interpretations of the "Continuation of Coverage" provision and the "Term of this Agreement" provision and applied the rule enunciated by this Court in *M&G Polymers USA, LLC v. Tackett*, 574 U.S. 427, 435 (2015), and the follow-on decision in *CNH Industrial N.V. v. Reese*,

138 S. Ct. 761, 764 (2018) (per curiam), that retiree-health-insurance clauses in labor agreements must be interpreted in accordance with "ordinary principles of contract law." Pet. App. 23a-24a.

2. Petitioners appealed to the Seventh Circuit, which affirmed. Like the district court, the Seventh Circuit began with the rule of *Tackett* and *Reese* that disputes over the meaning of collective-bargaining agreements are to be resolved by application of "ordinary principles of contract law." *Id.* at 7a.

The Seventh Circuit then applied the "ordinary principles" of interpretation to the dispute, starting with the principle that "contractual obligations will cease, in the ordinary course, upon termination of the bargaining agreement." *Id.* (quoting *Tackett*, 574 U.S. at 429, in turn quoting *Litton Fin. Printing Div.*, *Litton Bus. Sys., Inc. v. NLRB*, 501 U.S. 190, 207 (1991)). The Seventh Circuit observed that it previously had applied this principle in *Bidlack v. Wheelabrator Corp.*, 993 F.2d 603, 606-07 (7th Cir. 1993) (en banc), a decision that had anticipated *Tackett* by rejecting the Sixth Circuit's now-defunct *Yard-Man* approach to labor-contract interpretation. *See UAW v. Yard-Man, Inc.*, 716 F.2d 1476, 1479-81 (6th Cir. 1983). The *Yard-Man* approach applied a special presumption to the effect that retiree-benefit obligations ordinarily do *not* cease upon termination of the labor contract of which they are part. Pet. App. 7a.

After stating that under *Tackett* and its own pre-*Tackett* precedents, contractual obligations will *ordinarily* cease upon termination of the bargaining agreement, the Seventh Circuit next quoted from *Tackett* to state the corollary of that principle: that "a

collective-bargaining agreement [may] provid[e] in explicit terms that certain benefits continue after the agreement's expiration." *Id.* at 8a (quoting *Tackett*, 574 U.S. at 442).

The Seventh Circuit considered two other "ordinary principles of contract law" in interpreting the Agreement: (i) that "[c]ontractual provisions must be read in a manner that makes them consistent with each other," Pet. App. 12a (quoting *Barnett v. Ameren Corp.*, 436 F.3d 830, 833 (7th Cir. 2006)); and (ii) that where the parties use a particular phrase, "courts [will] give[] the phrase a meaning that parties knowledgeable in the relevant areas of law are presumed to use," *id.* at 18a (quoting Antonin Scalia & Bryan Garner, *Reading Law: The Interpretation of Legal Texts* 322, 324 (2012)), particularly if the phrase has already received a uniform construction in the courts, *id.* at 17a-18a.

In applying these "ordinary principles of contract law" to the facts before it, the Seventh Circuit observed that the Agreement here is "precisely" the type of contract to which *Tackett* was referring when it stated that retiree health benefits could vest under a contract that "provid[es] in explicit terms that certain benefits continue after the agreement's expiration." *Id.* at 9a (quoting *Tackett*, 547 U.S. at 442). That is because, in the "Continuation of Coverage" provision of the Agreement, the Company promised that covered individuals "*shall not have such coverage terminated or reduced . . . notwithstanding the expiration of this Agreement*, except as the Company and the Union may agree otherwise." *Id.* (emphasis in opinion). This language, the Seventh Circuit held, "made clear that the promised health-

care benefits vested, i.e., they would survive the termination of the underlying agreement." *Id.*

The Seventh Circuit explained that the specific protections of the "notwithstanding the expiration of this Agreement" clause would be entirely "nullif[ied]" if the "Term of this Agreement" provision, which set forth the Agreement's expiration date, were itself deemed to override that clause. *Id.* at 13a. In contrast, honoring the clear language of the "notwithstanding the expiration of this Agreement" clause would *not* nullify the "Term of this Agreement" provision, but would result in a contract that had "coherence," as it would "give[] employers and employees the opportunity to change the scope of benefits for *future* retirees," i.e., those whose right to coverage under the Agreement had *not* already commenced, while giving effect to the promise that those whose coverage *had* already commenced "shall not have such coverage terminated or reduced . . . notwithstanding the expiration of this Agreement." *Id.* at 3a, 14a-15a (emphasis in opinion). The Seventh Circuit also explained that a reading of the Agreement that gave effect to, and did not nullify, the "Continuation of Coverage" promise accorded with "the more natural reading" of the contract's text. *Id.* at 14a.

By contrast, the Seventh Circuit reasoned, the Company's interpretation of the Agreement "disregards ordinary principles of contract interpretation" by creating an unnecessary "conflict[]" between the "Term of this Agreement" provision and the "Continuation of Coverage" provision. *Id.* at 12a; *see also id.* at 13a (the Company's proffered interpretation would "compel a tortured reading of the Coverage Provision that would nullify the parties'

clearly expressed choice to create vested retirement health-care benefits").

The Seventh Circuit found the foregoing principles sufficient to conclude that the text of the Agreement "unambiguously" provided for vesting. *Id.* at 9a. At the same time, it also found that reading the Agreement to provide for vesting accorded with (i) steel-industry usage as confirmed by circuit court interpretations of materially identical language in collective-bargaining agreements in the steel industry that predated the Agreement here, *id.* at 17a (citing *United Steelworkers of Am. v. Connors Steel Co.*, 855 F.2d 1499, 1505 (11th Cir. 1988), and *Keffer v. H.K. Porter Co.*, 872 F.2d 60, 63 (4th Cir. 1989)); and (ii) the testimony of the Company's own benefits-program administrator (a key member of management's 1994 and 2002 negotiating teams), who testified that he understood the Agreement's language to provide for the vesting of retiree health benefits and that he had communicated this to employees deciding whether to retire during the term of the 2002 Pensioners' Agreement, Pet. App. 18a-19a.

3. The Company petitioned for rehearing or rehearing en banc, which the Seventh Circuit denied with no judge requesting a vote on the petition. *Id.* at 30a. This petition for a writ of certiorari followed.

REASONS FOR DENYING THE PETITION

This case involves a prosaic dispute over how a given rule of law—a rule that all parties agree governs—applies to a specific set of facts. The rule in question, announced in *M&G Polymers USA, LLC v. Tackett*, 574 U.S. 427 (2015), and reaffirmed in *CNH Industrial N.V. v. Reese*, 138 S. Ct. 761 (2018), is that a retiree-health-insurance clause in a labor agree-

ment must be interpreted in accordance with "ordinary principles of contract law," *Tackett*, 574 U.S. at 435, as opposed to special principles devised for that type of clause.

Throughout its opinion, the Seventh Circuit invoked *Tackett* and *Reese* and applied ordinary principles of contract law. The Seventh Circuit concluded that the Agreement's specific "Continuation of Coverage" promise to retirees—that their health benefits coverage would continue without termination or reduction throughout their retirement "notwithstanding the expiration of this Agreement"—unambiguously survived the expiration of the Agreement as set out in the Agreement's general duration provision. *Supra* at 5-7. In concluding that the retirees' insurance coverage had vested, the Seventh Circuit unanimously affirmed the district court, which likewise had reviewed carefully the language of the Agreement under ordinary principles of contract law and likewise had concluded that the retirees' health insurance coverage had vested. *Supra* at 3-4.

In apparent recognition that this Court does not sit to review the application of a settled rule of law to a particular set of facts, Petitioners attempt to impute to the Seventh Circuit the adoption of a "unique" or "special rule." Pet. 7, 19. Petitioners then portray this supposed rule as inconsistent with this Court's decisions in *Tackett* and *Reese*, *id.* at 11-12, and "in conflict with decisions reached by at least two other federal courts of appeals," *id.* at i. This gambit fails. The Seventh Circuit's opinion invokes and applies the *Tackett-Reese* rule, breaks no new legal ground, and contains no express or implied disapproval or

limitation of the decisions of the courts of appeals that Petitioners claim are in "conflict" with it.

The Seventh Circuit decision also is correct and entirely sound in its reasoning. But even on the (mistaken) premise that the decision misapplied the governing *Tackett-Reese* rule and the ordinary principles of contract law that the *Tackett-Reese* rule incorporates, the decision would at most involve a claimed "misapplication of a properly stated rule of law" to the facts of this case and would thus still be the type of petition that is "rarely granted." Sup. Ct. R. 10. And because there is nothing about this case that elevates it above the countless other courts of appeals decisions that apply a properly stated rule of law to a given set of facts, the Petition here is *not* among those "rare[]" application-of-law-to-fact petitions that merit this Court's attention.

I. THE SEVENTH CIRCUIT'S DECISION IS CONSISTENT WITH THIS COURT'S PRECEDENTS.

Petitioners lead with the assertion that the Seventh Circuit adopted "a special rule for construing collective bargaining agreements," Pet. 7, and with the accompanying argument that this supposed "special rule" is "fundamentally at odds with both *Tackett* and *Reese*." *Id.* at 11. Petitioners are wrong.

1. The Seventh Circuit, far from deviating from the *Tackett-Reese* rule, treated that rule as its polestar.

The Seventh Circuit began its analysis by setting out the rule of *Tackett* and *Reese* that "[v]esting of health-care benefits is determined according to ordinary principles of contract law," and by emphasizing that, under those cases, vesting is *not* to

be determined by applying any special rule or "presumption" in favor of vesting, such as the Sixth Circuit's now-defunct *Yard-Man* presumptions. Pet. App. 7a ("*Tackett* and its successor, *CNH Industrial N.V. v. Reese*, 138 S. Ct. 761 (2018), endorsed the application of ordinary principles of contract law in such cases, and they rejected the '*Yard-Man*' presumptions in favor of vesting").

Affirming that "ordinary principles of contract law" govern, the Seventh Circuit applied those principles to the specific contract language here. Pet. App. 7a-16a. And while Petitioners *assert* that the Seventh Circuit introduced a "special rule" into the analysis, Pet. 7, Petitioners do not—and cannot—identify any passage from the Seventh Circuit's decision that actually announces such a rule. Instead, Petitioners repeatedly stitch together disparate fragments of sentences in which the Seventh Circuit applied ordinary principles of interpretation to the particular terms of the Agreement here and then Petitioners try to make it appear through juxtaposition with their own language that the Seventh Circuit was announcing some new "special" rule and imposing that rule on the Agreement.[1]

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[1] *See* Pet. 6-7 (imputing to Seventh Circuit a "special rule" that "a contract with 'express statements extending benefits beyond the term of agreement' creates vested benefits unless the contract elsewhere 'expressly allow[s] alteration or termination of benefits.' Pet. App. 12a."); Pet. i (imputing to Seventh Circuit the supposed rule that "a collective bargaining agreement with an 'express statement[] extending benefits beyond the term of agreement' irrefutably confers vested, lifetime benefits, even if the agreement separately reserves for the employer the right to terminate the agreement in its entirety"). In one instance, the Company imputes a "bright-line rule" and "sweeping principle"

The truth is that the Seventh Circuit did not adopt any new rule that might control future cases. Nothing in the opinion below remotely suggests that the Seventh Circuit was adopting, expressly or implicitly, some special rule of construction or *Yard-Man*-like presumption in favor of vesting that might substitute for case-by-case and contract-specific textual analysis performed in accordance with ordinary principles of contract law.

In fact, the Seventh Circuit had already rejected the *Yard-Man* approach long ago, sitting en banc in *Bidlack v. Wheelabrator Corp.*, 993 F.2d 603, 606-07 (7th Cir. 1993). It held in that case that collective-bargaining agreements are no different from ordinary contracts in that the obligations they contain are "presume[d]" to cease when the contract expires, *id.* at 606-07, and that—again as with ordinary contracts—the presumption against obligations surviving post-expiration can be rebutted by language specifying that a particular obligation does survive the contract's expiration, *id.* at 607. The Seventh Circuit noted this history in its decision here, observing that "*Tackett and Reese* are consistent with the approach we have taken for decades." Pet. App. 7a. That passage reconfirms the conclusion that the Seventh Circuit adopted no "special rule" of contract interpretation here.

2. While it should suffice to say, for purposes of disposing of the Petition, that the Seventh Circuit conscientiously applied the *Tackett-Reese* rule and did not adopt any inconsistent rule, we would also add

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to the Seventh Circuit, crafted *entirely* in the Company's own words, without even the pretense that there is any language in the opinion to support the professed "rule." *See* Pet. 21.

that the Seventh Circuit *correctly* applied the *Tackett-Reese* rule.

Tackett and *Reese* instruct courts, when faced with the question whether the parties to a collective-bargaining agreement provided for vested health care benefits, to refrain from "placing a thumb on the scales" in favor of vesting and instead to examine under ordinary principles of contract law whether the collective-bargaining agreement provides "in explicit terms" that the benefits "continue after the agreement's expiration." *Tackett*, 574 U.S. at 438; *see also Reese*, 138 S. Ct. at 766 (rejecting vesting where benefits-conferring provision was tied "to the duration of the rest of the agreement"). As the Seventh Circuit noted, "*Tackett* and *Reese* teach that courts may not infer vesting from silence but also indicate that courts should find vesting where the contract provides for it." Pet. App. 8a.

Rather than placing a thumb on any scale, the Seventh Circuit scrupulously applied the *Tackett-Reese* principles to the Agreement here.

First, the court pointed to the language in the Agreement's "Continuation of Coverage" provision that, in stark contrast to the language of the contracts in *Tackett* and *Reese*, decoupled the duration of retiree health-insurance coverage from the duration of the Agreement itself by explicitly providing that "*notwithstanding the expiration of the Agreement*," retirees who became entitled to health insurance coverage under the Agreement "*shall not have such coverage terminated*." *Id.* at 9a (emphasis in opinion). That explicit language, the Seventh Circuit explained, was exactly the kind that this Court described in *Tackett* as sufficient to overcome the general principle

that benefits do not survive the expiration of a labor agreement. *Id.* ("[V]ested benefits are created when an agreement 'provid[es] in explicit terms that certain benefits continue after the agreement's expiration.'" (quoting *Tackett*, 574 U.S. at 442)).

Second, the Seventh Circuit considered Petitioners' argument that the key language in the "Continuation of Coverage" provision—the language that explicitly stated that retiree-health coverage was to continue without termination "notwithstanding the expiration of the Agreement"—should be given no effect because the provision's final clause states "except as the Company and the Union may agree otherwise" and because, according to Petitioners, the Agreement's "Term of this Agreement" provision, in identifying when the Agreement expires, *itself* qualifies as an "agree[ment]" otherwise. Pet. 9-10.

The Seventh Circuit rejected Petitioners' reading because it would completely "nullif[y]" the key "notwithstanding the expiration" language in the "Continuation of Coverage" provision, Pet. App. 9a, in contravention of the ordinary contract-law principle that "[c]ontractual provisions must be read in a manner that makes them consistent with each other" rather than at war with each other, Pet. App. 12a (citing *Barnett*, 436 F.3d at 833). In this regard, the Seventh Circuit stressed that "[t]he entire purpose of the 'notwithstanding expiration' language is to establish that termination of the Agreement *would not* extinguish the benefits it promised." Pet. App. 13a.

The Seventh Circuit's reasoning was entirely sound, for while Petitioners' strained interpretation would nullify a crucial clause in the Agreement, the

Seventh Circuit's plain reading gives every clause operative effect, including the "except as the Company and the Union may agree otherwise" clause. That clause, naturally read, does not allow for other provisions *in the Agreement itself* to nullify the "Continuation of Coverage" provision but rather allows for the prospect that some *subsequent* agreement between the Company and Union—and not any unilateral Company action—might later affect the retiree-benefit coverage guaranteed in the "Continuation of Coverage" provision. *See* Pet. App. 14a; *see also Keffer*, 872 F.2d at 63 (interpreting identical language in a collective-bargaining agreement to mean that the employer and union may later "renegotiate" retiree benefit terms, "[b]ut such action requires bilateral participation in the alteration or elimination of the benefits; it does not allow for unilateral action" by the Company).

Third, the Seventh Circuit correctly cited, as confirmation of its interpretation, the decisions of the Eleventh and Fourth Circuits, the only two courts of appeals to have interpreted collective-bargaining language materially identical to the language here. Pet. App. 10a (citing *Connors Steel Co.*, 855 F.2d at 1505, and *Keffer*, 872 F.2d at 63). Those courts found the language to create vested benefits. And, while they cited *Yard-Man*, they did not rely on the discredited *Yard-Man* presumptions but rooted their respective interpretations in ordinary principles of contract law and the specific contract language at issue. Pet. App. 10a n.3.

Finally, although the Seventh Circuit found the Agreement here "unambiguous[]," *id.* at 9a, it also observed that the undisputed record evidence provided additional proof that the Agreement

provided vested retiree health insurance coverage. This included (i) "compelling evidence of industry-specific usage" that the parties would be presumed to know, especially given that the steel-industry usage had been explicated in the Eleventh and Fourth Circuit decisions just referenced, both of which predated the 1994 Agreement; and (ii) the "powerful" contemporaneous statements of a key Company manager that the Agreement provided vested benefits, communicated to employees making decisions about whether to retire. *See* supra at 7. This evidence, the Seventh Circuit explained, confirmed the conclusion, apparent from the unambiguous contractual language itself, that the parties understood and intended that retiree health benefits would survive the expiration of the Agreement. Pet. App. 16a-19a.

* * *

In sum, the Seventh Circuit applied the *Tackett-Reese* rule—not any "special rule"—to the facts of record. For good measure, the Seventh Circuit's application of the *Tackett-Reese* rule was entirely correct. But even if there were a colorable argument that the Seventh Circuit erred in applying that rule—and there is none—the decision below would still involve a run-of-the-mill application of an undisputed rule of law, which does not merit review by this Court.

II. THERE IS NO CIRCUIT SPLIT

Based on the premise that the Seventh Circuit applied some "special rule" for retiree-benefit clauses rather than the *Tackett-Reese* rule incorporating ordinary principles of contract law, Petitioners contend that the decision "creates new divisions amongst the courts of appeals," Pet. 12, referring to the unpublished decisions in *Grove v. Johnson*

Controls, Inc., 694 F. App'x 864 (3d Cir. 2017), and *Kerns v. Caterpillar, Inc.*, 791 F. App'x 568 (6th Cir. 2019). Because, as we have already demonstrated, Petitioners' premise is mistaken, their conclusion derived from that premise is mistaken as well.

In *Grove*, the Third Circuit reviewed a series of collectively-bargained insurance plans that differed from the Agreement here in two crucial respects. First, there was no language in *Grove* akin to the "notwithstanding the expiration" language here that explicitly delinked the provisions describing the duration of the retiree health benefits from the provisions setting out the duration of the underlying agreement. 694 F. App'x at 869. Second, the various plans in *Grove* all included express reservation-of-rights provisions allowing the employer to "adopt, modify or terminate" the retirees' health insurance benefits without the union's consent. *Id.* at 868, 869. It was those two features of the documents that led the Third Circuit to conclude that, under ordinary principles of contract law, language describing the retiree-health coverage as extending "until [a retiree's] death," *id.* at 869, did not vest the benefits *beyond* the term of the agreement but, instead, merely stated how long they would be provided *within* the term of the agreement (or until any unilateral reservation-of-rights privilege was exercised by the employer). *Grove* therefore is fully consistent with the Seventh Circuit's decision.

So too is the Sixth Circuit's decision in *Kerns*. There, the agreement contained not only a general duration clause but also a specific duration clause applicable to the health benefits section that, in diametric opposition to the health-benefits section here, stated that the benefits would be provided "*for*

the duration of any Agreement to which this Plan is a part." 791 F. App'x at 572 (emphasis added). The clause did *not* state that the benefits would continue "*notwithstanding* the expiration" of any such agreement. Given the particular language there, the court, applying ordinary contract-law principles, concluded that the provision in the benefits section stating that the surviving-spouse benefit would be provided "for the remainder of [her] life" merely described the duration of that benefit within the term of the underlying agreement. *Id.*

The distinction between contract language like that in *Kerns*, which explicitly limits retiree-benefit promises to the duration of the agreement, and language like that here, which explicitly states that retiree health-insurance benefits continue "*notwithstanding* the expiration" of the agreement, could hardly be any clearer. Indeed, *Kerns* itself highlighted this precise distinction. There, the Sixth Circuit considered its earlier precedent, *Cooper v. Honeywell, International, Inc.*, 884 F.3d 612, 620 (6th Cir. 2018), where the agreement promising healthcare to retirees "until age 65" did not denote a vesting of retiree healthcare to that age, but rather was limited by the agreement's duration provision. As *Kerns* noted, "for that benefit to have vested, rather, the agreement would have needed to 'say something more—for example, "retirees will continue to be covered under the plan until age 65, *regardless of whether this CBA expires before they reach that age*[.]"'" 791 F. App'x at 572 (quoting *Cooper*, 884 F.3d at 620 (emphasis added)). The "regardless of" expiration clause that the *Kerns* court would consider sufficient to support vesting is indistinguishable from the "notwithstanding expiration" clause found to support vesting

here. The Sixth Circuit's analysis on this point thus leaves no room for Petitioners to argue that *Kerns* is somehow in *conflict* with the decision below.

In sum, there is no conflict between the decision below and *Grove* or *Kerns*. All three decisions apply the same *Tackett-Reese* "ordinary principles of contract law." They reach different results because of the different facts before them. There is neither a conflict with this Court's decisions nor a circuit conflict, and there is no issue that requires this Court's attention.

CONCLUSION

The petition for a writ of certiorari should be denied.

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