IN THE SUPREME COURT OF THE UNITED STATES

No. 24-1238

SHAWN MONTGOMERY, PETITIONER

v.

CARIBE TRANSPORT II, LLC, ET AL.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

MOTION OF THE UNITED STATES
FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE
AND FOR DIVIDED ARGUMENT

Pursuant to Rules 21 and 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae and for divided argument, and respectfully requests that the United States be allowed ten minutes of argument time. The United States has filed a brief as amicus curiae supporting respondents. Respondents have consented to this motion and agreed to cede ten minutes of their argument time to the United States.* Accordingly, if this motion were granted, the argument

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* "Respondents" refers to C.H. Robinson Worldwide, Inc.; C.H. Robinson Company; C.H. Robinson Company, Inc.; and C.H. Robinson International, Inc. Respondents Caribe Transport II, LLC; Caribe Transport, LLC; and Yosniel Varela-Mojena do not appear to be participating in the case in this Court.

time would be divided as follows: 30 minutes for petitioner, 20 minutes for respondents, and 10 minutes for the United States.

This case arises out of an accident in which petitioner's tractor-trailer was struck by a vehicle owned and operated by a federally registered motor carrier that was transporting property in interstate commerce. The arrangement of such transportation, including the selection of a motor carrier, often is done by a broker. Invoking Illinois law, petitioner sued the broker that had arranged the transportation here, alleging that the broker had failed to exercise due care in selecting the carrier and driver.

The question presented is whether a provision of the Federal Aviation Administration Authorization Act of 1994 (FAAAA), Pub. L. No. 103-305, 108 Stat. 1606, as amended and codified at 49 U.S.C. 14501(c), preempts petitioner's claims. The FAAAA generally preempts any state "law, regulation, or other provision having the force and effect of law related to a price, route, or service of any * * * broker * * * with respect to the transportation of property." 49 U.S.C. 14501(c)(1). The FAAAA further provides, however, that the general preemption rule "shall not restrict the safety regulatory authority of a State with respect to motor vehicles." 49 U.S.C. 14501(c)(2)(A).

The United States has filed a brief as amicus curiae arguing that the FAAAA preempts petitioner's claims because those claims fall within the scope of the express preemption rule in Section

14501(c)(1) but outside the "safety exception" to preemption in Section 14501(c)(2)(A). A common-law rule governing a broker's selection of a motor carrier to transport property is "related to" a broker's "service" "with respect to the transportation of property." 49 U.S.C. 14501(c)(1). At the same time, such a common-law rule is not "with respect to motor vehicles," 49 U.S.C. 14501(c)(2)(A), because it lacks a sufficiently direct connection to the ownership or operation of the motor vehicles themselves.

The United States has a substantial interest in the resolution of the question presented here. Congress enacted Section 14501(c) to prevent States from undermining federal deregulation of the prices, routes, and services of motor carriers, brokers, and freight forwarders. And although Congress preserved state safety regulatory authority over motor vehicles, it also has authorized the Department of Transportation and its delegees, including the Federal Motor Carrier Safety Administration, to regulate the safety practices of commercial motor carriers and drivers. E.g., Motor Carrier Safety Act of 1984, Pub. L. No. 98-554, tit. II, 98 Stat. 2832. The United States therefore has a substantial interest in an interpretation of Section 14501(c) that protects and appropriately balances the Act's deregulatory, pro-competitive purposes; the federal government's duties and responsibilities with respect to commercial motor vehicle safety; and the States' safety regulatory authority. In C.H. Robinson Worldwide, Inc. v. Miller,

142 S. Ct. 2866 (2022) (No. 20-1425), this Court invited the government to express its views on the same question as is presented in this case.

The United States has previously presented oral argument as amicus curiae in cases involving express preemption under the FAAAA, e.g., American Trucking Associations, Inc. v. City of Los Angeles, 569 U.S. 641 (2013); Dan's City Used Cars, Inc. v. Pelkey, 569 U.S. 251 (2013); Rowe v. New Hampshire Motor Transport Association, 552 U.S. 364 (2008); City of Columbus v. Ours Garage and Wrecker Service, Inc., 536 U.S. 424 (2002), as well as under a materially identical preemption provision in the Airline Deregulation Act of 1978, Pub. L. No. 95-504, 92 Stat. 1705, on which the FAAAA provision was modeled, e.g., Northwest, Inc. v. Ginsberg, 572 U.S. 273 (2014); American Airlines, Inc. v. Wolens, 513 U.S. 219 (1995); Morales v. Trans World Airlines, Inc., 504 U.S. 374 (1992). The participation of the United States in the oral argument here thus is likely to be of material assistance to the Court.

Respectfully submitted.

D. JOHN SAUER
Solicitor General
Counsel of Record

JANUARY 2026