

No. 24-994

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**In the Supreme Court of the United States**

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NATIONAL BASKETBALL ASSOCIATION, PETITIONER

*v.*

MICHAEL SALAZAR

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*ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT*

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**SUPPLEMENTAL BRIEF FOR PETITIONER**

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## SUPPLEMENTAL BRIEF FOR PETITIONER

Salazar’s latest supplemental brief notes that the district court here has now dismissed his Second Amended Complaint under *Solomon v. Flipps Media, Inc.*, 136 F.4th 41 (2d Cir. 2025), *petition for cert. filed*, No. 25-228 (U.S. Aug. 21, 2025), and that he has appealed that decision to the Second Circuit. Salazar then makes several meritless arguments, which contradict his earlier contentions, to claim that these developments mean the Court should deny the petition. For all the reasons already explained, the Court should grant the petition without delay and resolve what the parties agree is an important, outcome-determinative VPPA question that has split the courts of appeals 2–2.

The district court’s ruling doesn’t change the need for the Court’s immediate intervention. Contrary to Salazar’s arguments, the district court’s ruling and his next-day appeal confirm that this litigation is live and hotly contested, not that there is any impediment to this Court’s review. Indeed, the litigation now continues before the Second Circuit, which Salazar will try to convince that *Solomon* cannot “survive this Court’s intervening precedent.” Salazar’s Third Suppl. Br. 3. Salazar further claims that *Solomon* “involves a circuit split,” *id.* at 4, underscoring his view that this case is far from over no matter what the Second Circuit does with it. That’s precisely why Salazar is trying so hard to avoid this Court’s review—he intends to do everything he can to keep this case alive. There’s little doubt that whatever this Court does with *Solomon*, Salazar will not only pursue his Second Circuit appeal but also seek this Court’s review, ensuring that the question presented in this case remains

important and outcome-determinative not only in many cases across the country, as discussed below, but in Salazar's as well.

Put simply, the Court's review here wouldn't encounter any vehicle problem. Rather, it would create a major problem *for Salazar*. As Salazar acknowledges, the VPPA question presented here is outcome-determinative, *id.* at 3-4—after all, if the Court reverses, Salazar loses this case no matter what happens with the *Solomon* issue.

Resolving that issue now is critically important—it would resolve not just this case, but also other cases turning on the same question in the Sixth, Seventh, Ninth, and D.C. Circuits. *See* NBA's First Suppl. Br. 3-4. Salazar has never disputed this point. Rather, he leans into it, because he *wants* the Court to resolve the question—only he wants the Court to do so in *Salazar v. Paramount Global*, No. 25-459, *seeking review of Salazar v. Paramount Global*, 133 F.4th 642 (6th Cir. 2025), in which he filed a cert petition on October 10, after slow-walking to the end of a 60-day extension. But *Paramount* is no better a vehicle than this case, as the NBA has explained. NBA's First Suppl. Br. 2-3. The *Solomon* issue could likewise spell the end of Salazar's *Paramount* case. And waiting for *Paramount* just means more delay—delay that was avoidable but is occurring because Salazar wanted to drag out filing a cert petition, as the NBA explained, *see id.* at 1-2.

Salazar's shifting arguments—first, the lack of final judgment was supposedly a vehicle problem; now, he says, the final judgment is a vehicle problem—present no reason to deny review. (Inexplicably, Salazar's *Paramount* petition (incorrectly) asserts that there is

no final judgment in this case, without articulating why that supposedly matters.) In fact, this case remains the ideal vehicle. The VPPA question presented is teed up and outcome-determinative. The ongoing Second Circuit appeal—which that court would likely pause if this Court grants review—ensures that the question presented here will remain live and outcome-determinative. And Salazar’s *Paramount* petition only underscores that the question presented here is critically important nationwide and there is no reason to delay review to entertain Salazar’s gamesmanship.

Respectfully submitted.

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