No. 25-1004

In the Supreme Court of the United States

CITIZENS BANK, N.A.,
Petitioner,

v.

JOHN CONTI, on behalf of himself and all others similarly situated.
Respondent.

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

RESPONSE TO PETITION FOR REHEARING

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

REASONS FOR DENYING THE PETITION

In April, this Court denied Citizens Bank's petition for certiorari without calling for a response. Citizens now asks this Court to take the extreme step of granting rehearing of that denial. But Citizens does not show that such extraordinary relief is warranted here.

A Rhode Island law requires mortgage lenders to pay a modest interest rate on the money advanced to them by borrowers for paying taxes and insurance premiums on mortgaged properties. R.I. Gen. Laws § 19-9-2(a). The law applies to all mortgage lenders—not just banks—and both state-chartered banks and non-banks have complied with it for decades. But some federally chartered banks, like petitioner Citizens Bank, have refused to do the same. So respondent John Conti sued Citizens for the interest that he is owed under the law. The bank moved to dismiss his complaint, asserting that Rhode Island's law is preempted by the National Bank Act, or NBA.

The NBA's preemption standard is codified in Dodd-Frank. It provides that a "State consumer financial law[]" is preempted "only if," as relevant here, it "prevents or significantly interferes with" a national banking power. 12 U.S.C. § 25b(b)(1)(B). Citizens argued that the Rhode Island law "significantly interferes with" the "express banking power to make real estate loans, *see* 12 U.S.C. § 371(a), and the incidental power to establish mortgage-escrow accounts, *see id.* § 24, Seventh." Pet. App. 18a.

The First Circuit rejected this argument. When it did so, it was the first and only appellate court to grapple with this Court's decision in *Cantero v. Bank of America, N.A.*, 602 U.S. 205 (2024), which unanimously vacated a Second Circuit decision that had declared a similar state statute preempted as a matter of law. "Applying the standard adopted by the Supreme Court in *Cantero*," the First

Circuit explained, "we conclude that Citizens has failed to satisfy its burden of showing the Rhode Island statute should be preempted as a matter of law." Pet. App. 34a. This Court then denied certiorari.

Contrary to the arguments advanced by Citizens in its petition for certiorari, this Court was right to deny the petition when it did. At the time, no other circuit had applied *Cantero* to any state law—much less disagreed on how to apply it. And the First Circuit's decision faithfully follows both *Cantero* and section 25b of Dodd-Frank.

As *Cantero* requires, the First Circuit undertook a "practical assessment of the nature and degree of the interference caused by [the] state law," and spent nearly 20 pages conducting a "nuanced comparative analysis" of this Court's key precedents. Pet. App. 8a, 12a–30a. The First Circuit explained why there is no basis for finding significant interference under those precedents: "[T]here is no express conflict between the Rhode Island statute and the National Bank Act" or "with the overall federal-banking scheme." Pet. App. 34a. Nor did Citizens "develop[] any substantial argument about the practical effects that arise from the enforcement of the Rhode Island statute on the exercise of federal-banking power." Pet. App. 27a. Instead, it "proposed other sweeping theories of preemption that would essentially … impose field preemption regimes"—and so "cannot be reconciled with section 25b or Supreme Court precedent." Pet. App. 34a. Citizens "therefore failed to satisfy its burden of showing that as a matter of law, the Rhode Island statute is preempted by the National Bank Act." *Id.* at 34a–35a.

In short, the First Circuit got it right in applying this Court's precedents. And, given the absence of a circuit split, this Court got it right in declining to review that decision through the ordinary certiorari process.

Citizens claims that the Court should grant rehearing based on an intervening decision by the Second Circuit on remand in *Cantero*. *See Cantero v. Bank of Am., N.A.*, 175 F.4th 201 (2d Cir. 2026). But there is now a petition for certiorari seeking review of that decision. It presents the same question that Citizens asks the Court to decide here: whether the NBA preempts the application of state interest-on-escrow laws to national banks. Pet. for Cert., *Cantero v. Bank of Am., N.A.*, (May 22, 2026) (No. 25-1313). If the Court is inclined to decide that question, it may do so through the ordinary certiorari process. It need not resort to the extraordinary remedy of rehearing.

Citizens does not contend that the petition in *Cantero* is flawed as a vehicle for deciding that question, or that its petition is a better vehicle. *See* Pet. for Rehearing 10. To the contrary, the petition concedes (at 9–10) that *Cantero* is a suitable vehicle. It says only that the Court should grant rehearing because "there is no reason for this Court to wait to see whether the *Cantero* plaintiffs … will file another petition." *Id.* That reason—the only reason that the petition gives for why rehearing is necessary—is no longer applicable. That petition and this one are poised to be considered by the Court at the same conference. And, unlike this case, *Cantero* has already been battle-tested: This Court granted certiorari and decided the case once before without encountering any lurking issues that might interfere with resolution of the merits.

This Court should therefore deny this petition. Even if the Court eventually decides the question presented, its decision on the merits will govern this case, which is only at the motion-to-dismiss stage. So there is no need for this Court to grant rehearing here. At the very least, the

Court should hold this petition pending resolution of the petition in *Cantero*, and then dispose of it accordingly.[1]

CONCLUSION

The Court should deny the rehearing petition.

Respectfully submitted,

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[1] Although this Court ordered a response only to the rehearing petition, and has not ordered a response to the petition for certiorari, the respondent respectfully requests that the Court also treat this response as a response to the petition for certiorari.

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