No. _____

In the Supreme Court of the United States

DAVE YOST, ATTORNEY GENERAL OF OHIO,

Petitioner,

v.

KENNETH M. MILLER; HOUSE OF GLUNZ, INC.,

Respondents.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

The Twenty-first Amendment grants to the States the power to regulate the "transportation or importation" of alcohol into the States. U.S. Const. amend. XXI, §2. Employing that authority, Ohio operates a three-tier system for the sale and distribution of wine. Wine suppliers must sell to licensed wholesalers with a physical presence in Ohio; wine wholesalers must sell to licensed retailers that maintain a physical presence in Ohio; and only those licensed retailers may sell wine to consumers in Ohio. Wine sold in Ohio must, generally, pass through all three tiers. Doing so reduces alcohol consumption and serves the State's health and safety goals by facilitating inspection of in-state retail premises and products meant for consumption in Ohio as well as ensuring adherence to other Ohio liquor laws. This system is "unquestionably legitimate." *Granholm v. Heald*, 544 U.S. 460, 489 (2005) (quotation omitted).

To seal off leaks from the three-tier funnel, Ohio law imposes two restrictions: (1) retailers located outside Ohio may not directly ship wine to consumers in Ohio and (2) individuals may not personally transport more than six bottles of wine, per thirty-day period, into the State.

The Question Presented is: under §2 of the Twenty-first Amendment, may a State restrict out-of-state retailers from directly shipping alcohol to in-state consumers and may it cap the amount of alcohol that individuals may personally transport into the State?

LIST OF PARTIES

The petitioner is Ohio Attorney General Dave Yost.

The respondents are Kenneth M. Miller and House of Glunz, Inc.

The Wholesale Beer & Wine Association of Ohio was intervenor in proceedings below.

LIST OF DIRECTLY RELATED PROCEEDINGS

1. Petitioners appeal from a panel decision of the Sixth Circuit reversing the district court and directing summary judgment be entered for plaintiffs. That case is *Block v. Canepa*, No. 25-3305, 2026 WL 1243383 (6th Cir. May 6, 2026).

2. The district court's decision reviewed in No. 25-3305 is *Block v. Canepa*, No. 2:20-cv-3686, 771 F.Supp.3d 1010 (S.D. Ohio 2025).

3. A previous appeal in this case that remanded to the district court is *Block v. Canepa*, No. 22-3852 (6th Cir. 2023).

4. The final judgment in the district court underlying the first appeal is *Block v. Canepa*, No. 2:20-cv-3686, 2022 WL 4133221 (S.D. Ohio Sept. 12, 2022).

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INTRODUCTION

"This case pits the twenty-first amendment, which appears in the Constitution, against the 'dormant commerce clause,' which does not." *Bridenbaugh v. Freeman-Wilson*, 227 F.3d 848, 849 (7th Cir. 2000). Section 2 of the Twenty-first Amendment grants to the States the power to regulate the "transportation or importation" of alcohol into their territories. U.S. Const. amend. XXI, §2. Wielding that authority, Ohio, along with three dozen other states of the Union, operates a three-tier system of alcohol distribution. Wine suppliers must sell to licensed wholesalers with a physical presence in Ohio; wine wholesalers must sell to licensed retailers that maintain a physical presence in Ohio; and finally, in-state retailers may sell the wine to consumers in Ohio. With limited exceptions, wine must pass through each of these tiers before reaching Ohio consumers. This Court has described the three-tier system as "unquestionably legitimate." *Granholm v. Heald*, 544 U.S. 460, 489 (2005) (quotation omitted).

To funnel wine through these three tiers, Ohio law restricts retailers located out of state from directly shipping wine to consumers in Ohio. And it restricts individuals from personally transporting more than six bottles of wine per month across state lines. A wine retailer located outside of Ohio and an Ohio oenophile challenged Ohio's direct-ship restriction and individual-transport limitation as violating the so-called dormant commerce clause.

Seven circuits that have considered direct-ship restrictions identical to Ohio's have sided with the provision that "appears in the Constitution"—the

Twenty-first Amendment. *Bridenbaugh*, 227 F.3d at 849; *see Arnold's Wines, Inc. v. Boyle*, 571 F.3d 185, 192 (2d Cir. 2009); *Jean-Paul Weg LLC v. Dir. of N.J. Div. of Alcoholic Beverage Control*, 133 F.4th 227, 231 (3d Cir. 2025); *B-21 Wines, Inc. v. Bauer*, 36 F.4th 214, 228 (4th Cir. 2022); *Wine Country Gift Baskets.com v. Steen*, 612 F.3d 809, 821 (5th Cir. 2010); *Chicago Wine Co. v. Braun*, 148 F.4th 530, 531–32 (7th Cir. 2025) (*per curiam*), *cert. denied*, __ S. Ct. __, 2026 WL 1377162 (2026); *Sarasota Wine Mkt., LLC v. Schmitt*, 987 F.3d 1171, 1183–84 (8th Cir. 2021), *cert. denied*, 142 S. Ct. 335 (2021); *Day v. Henry*, 152 F.4th 961, 975–76 (9th Cir. 2025), *cert. denied*, __ S. Ct. __, 2026 WL 1377175 (2026). The Second, Third, Fourth, Fifth, Eighth, and Ninth circuits have upheld direct-ship restrictions as valid *per se* because such restrictions form an "essential feature" of a State's three-tier system. *See Arnold's Wines, Inc.*, 571 F.3d at 190–91; *Jean-Paul Weg LLC*, 133 F.4th at 239; *B-21 Wines, Inc.*, 36 F.4th at 228; *Wine Country Gift Baskets.com*, 612 F.3d at 819–20; *Day*, 152 F.4th at 970; *Sarasota Wine Mkt.*, 987 F.3d at 1184. The Third and Ninth circuits went on to conclude that such restrictions are legitimate public health and safety measures rather than protectionist laws. *Jean-Paul Weg*, 133 F.4th at 237; *Day*, 152 F.4th at 974. Judge Scudder of the Seventh Circuit, sitting on a two-judge panel, agreed. *Chicago Wine*, 148 F.4th at 540 (Op. of Scudder, J.). And though the two judges of the Seventh Circuit panel adopted "two different lines of reasoning," the decision aligns with the other six circuits on outcome. *Id.* at 532 (*per curiam*).

A panel of the Sixth Circuit sided with a principle "which does not" appear in the Constitution—the dormant commerce clause. *Bridenbaugh*, 227 F.3d at 849. The aberrant decision breaks sharply from the national consensus on both fronts, holding that Ohio's direct-shipping restriction is neither an "essential feature" of an "unquestionably legitimate" system nor a measure that justifiably advances health-and-safety interests over protectionism. This lopsided, seven-to-one circuit split, alone, warrants this Court's review and correction.

This case also raises an exceptionally important question worthy of review—whether Ohio may exercise its sovereign power expressly reserved to the State under the Twenty-first Amendment to regulate the sale and distribution of alcohol within its borders—because it strikes at the core of state sovereignty expressly reserved. As it stands, the decision below uniquely impugns Ohio's sovereign power to do what approximately three dozen other States permissibly do today, thus treating Ohio worse than its sister States. That degradation of Ohio's sovereign authority is exactly the kind of problem that merits this Court's attention. Such sovereign injuries peak where, as here, a federal court elevates an implied constitutional restraint over an explicit power reserved to the States. The Constitution, though, "deals with substance, not shadows." *See Cummings v. Missouri*, 71 U.S. 277, 325 (1866). If the dormant commerce clause's shadow is to further eclipse the Twenty-first Amendment's substance, this Court should be the one to say so.

Though similar questions on the same issue have reached this Court three times before, and this Court has declined review each time, this is the first time it arrives at this Court with a clean (and lopsided) circuit split. *See Chicago Wine Co. v. Braun*, __ S. Ct.

__, 2026 WL 1377162 (May 18, 2026); *Day v. Henry*, __ S. Ct. __, 2026 WL 1377175 (May 18, 2026); *Sarasota Wine Mkt., LLC v. Schmitt*, 142 S. Ct. 335 (2021). This Court has waited before to take up important legal issues until a circuit split arises. *See, e.g.*, *Fed. Commc'ns Comm'n v. Consumers' Research*, 606 U.S. 656 (2025); *Obergefell v. Hodges*, 576 U.S. 644 (2015).

On this issue, that time is now. This Court should grant *certiorari* and steer the law back onto the right path.

OPINIONS BELOW

This case originated in the federal district court for the Southern District of Ohio. The trial court granted summary judgment to several Ohio officials (collectively, "Ohio"). *Block v. Canepa*, No. 2:20-CV-3686, 2022 WL 4133221 (S.D. Ohio Sept. 12, 2022). On appeal, a panel of the Sixth Circuit reversed and remanded for further consideration of the record. *Block v. Canepa*, 74 F.4th 400 (6th Cir. 2023). The State sought rehearing *en banc*, which was denied. Pet.App.64a.

After inviting additional summary-judgment evidence and briefing, the district court again granted summary judgment to Ohio. Pet.App.38a; *Block v. Canepa*, 771 F. Supp. 3d 1010 (S.D. Ohio 2025). On appeal, a panel of the Sixth Circuit reversed and directed that summary judgment be entered for plaintiffs. Pet.App.1a; *Block v. Canepa*, No. 25-3305, __ F.4th __, 2026 WL 1243383 (6th Cir. May 6, 2026).

JURISDICTIONAL STATEMENT

An Illinois wine retailer, House of Glunz, and an Ohio wine enthusiast, Kenneth Miller, challenged the constitutionality of Ohio's three-tiered system for alcohol distribution in the state. The district court had jurisdiction under 28 U.S.C. §§1331, 1343. In previous rounds of this litigation, the district court dismissed one claim for lack of standing, *see Block*, 2022 WL 4133221 at *3–5, and granted summary judgment to Ohio on the other claim, *id.* at *12. Miller and Glunz timely appealed, and a panel of the Sixth Circuit Court of Appeals reversed the decision below on both claims and ordered further consideration of the evidence in the record. *Block v. Canepa*, 74 F.4th 400, 414 (6th Cir. 2023).

On remand, the district court entered its final judgment on March 20, 2025, upholding Ohio's wine-importation laws. Pet.App.38a–63a. House of Glunz and Miller timely appealed; the Sixth Circuit Court of Appeals had jurisdiction under 28 U.S.C. §1291. The Sixth Circuit issued its decision on May 6, 2026, holding Ohio's wine-importation laws unconstitutional and directing judgment for the challengers. Pet.App.37a. This Petition timely invokes this Court's jurisdiction under 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Commerce Clause of the United States Constitution, art. I, §8, cl.3, provides:

> The Congress shall have Power … [t]o regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

Section 2 of the Twenty-first Amendment to the United States Constitution provides:

> The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Ohio Rev. Code §4301.01(A)(2), Ohio Rev. Code §4301.20(L), Ohio Rev. Code §4301.58(C), Ohio Rev. Code §4301.60, Ohio Rev. Code §4303.03, Ohio Rev. Code §4303.07, Ohio Rev. Code §4303.071, Ohio Rev. Code §4303.12, Ohio Rev. Code §4303.25, Ohio Rev. Code §4303.232, Ohio Rev. Code §4303.233, Ohio Rev. Code §4303.236, and Ohio Rev. Code §4303.35 are listed in the petition appendix at Pet.App.66a–80a.

STATEMENT

1. a. Mankind's struggle with the ills associated with alcohol consumption is a tale as old as time. *See, e.g.*, Homer, The Odyssey, Book 10, lines 608–22 (Robert Fagles trans., 1996); C. Rajagopalachari, *Mahabharatha*, Chapter 4: Devayani and Kacha (available at https://perma.cc/VJ9D-SMU4); The Holy Bible, Genesis 9:20–23. The many States of this nation know. Their battles against the "social problems attributed to alcohol use" predate even the creation of our Union. *Tenn. Wine & Spirits Retailers Ass'n v. Thomas*, 588 U.S. 504, 520 n.6 (2019).

This case is about one battle in particular: the battle over the three-tier system to sell and distribute alcohol, which is designed to protect the public health and to promote temperance. Its seeds were planted during the years following the Civil War. In the postwar period, saloons flourished across the land. *Id.* at 521. And that proliferation spawned inevitable social ills—so much so that many States restricted or even banned the sale of alcohol. *Id.*

With the rise of saloons came another problem. Alcohol producers pursued "tied-house" arrangements in which an alcohol producer would also run the saloon that sold the producer's products exclusively. *Id.* at 521 & n.7. Saloonkeepers, in turn, encouraged irresponsible drinking to meet the producers' sales quotas. This exacerbated the social maladies linked to increased alcohol consumption. *Id.* To combat this vertical-integration problem, many States adopted a three-tier system that separates the producers, the wholesalers, and the retailers. *See id.*

But those systems, and other laws regulating the alcohol trade, faced constitutional headwinds because they reached only as far as the enacting State's borders. *Id.* at 522–24. Dry states—that is, States that had banned the production and sale of alcohol—found their laws enfeebled by the flow of out-of-state alcohol into their States. Importation bans routinely failed as violating the so-called "dormant" Commerce Clause, which prohibits "States from adopting protectionist measures and thus preserves a national market for goods and services." *Id.* at 514–15, 522–27; U.S. Const. art. I, §8, cl. 3. Ultimately the nation embarked on an experiment with forced temperance by ratifying the Eighteenth Amendment, which prohibited the manufacture, sale, transportation, and importation of alcoholic beverages anywhere in the country. *Id.* at 527–28.

Prohibition was short-lived. Section 1 of the Twenty-first Amendment repealed the Eighteenth Amendment and thus ended nationwide prohibition. *Id.* at 529. And, remembering the States' preprohibition struggles to make and enforce alcohol-consumption policy, the Twenty-first Amendment granted to the States broad authority to regulate importation of alcohol into their borders. *Id.* at 528. That section states, in relevant part that:

> The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

U.S. Const. amend. XXI, §2.

That addition to the Constitution gave the States "latitude with respect to the regulation of alcohol" that they lack for any "commodity other than alcohol." *Tenn. Wine*, 588 U.S. at 533, 518. Because of this express grant of authority to the States, for alcohol, courts engage in "a different inquiry," *id.* at 539, compared to regulations of, say, "cabbages and candlesticks." *Carter v. Virginia*, 321 U.S. 131, 139 (1944) (Frankfurter, J., concurring).

b. The States may have won that battle, but the war continued. The States' various exercises of their hard-won §2 authority came under constitutional fire.

Several decades ago, this Court considered a challenge by the Department of Defense to North Dakota's alcohol-distribution law requiring out-of-state alcohol shippers to file monthly reports and to affix a label to each bottle of liquor sold to military bases for on-base domestic consumption. *North Dakota v. United States*, 495 U.S. 423, 426, 428–29 (1990) (plurality op.). The case pitted the State's §2 authority to prevent the diversion of out-of-state liquor into its

State markets against the Supremacy Clause. The Court held that the State's reporting and label-fixing regulations fell within the "core" of its §2 powers. *Id.* at 432. The Court recognized that regulations were part of North Dakota's "extensive system" of liquor distribution, which facilitated the State's "interest of promoting temperance, ensuring orderly market conditions, and raising revenue." *Id.* at 439. That system, the Court declared, was "unquestionably legitimate." *Id.* at 432. And the Court held that the regulations—which had only an incidental effect on prices for the federal government's purchase of out-of-state liquor—did not violate Supremacy Clause principles. *Id.* at 439, 441; *id.* at 447 (Scalia, J., concurring).

The next two decisions of this Court about the States' §2 power—*Granholm v. Heald*, 544 U.S. 460 (2005), and *Tenn. Wine*, 588 U.S. 504—addressed the conflict between that power and the negative aspect of the Commerce Clause, the dormant commerce clause.

In *Granholm*, this Court considered Michigan's and New York's laws allowing in-state wineries to ship wine directly to consumers while prohibiting out-of-state wineries from doing the same. 544 U.S. at 466. While the States have "broad power to regulate liquor" under their §2 authority, the Court reiterated, if a State "chooses to allow direct shipment of wine, it must do so on evenhanded terms." *Id.* at 493. The producer-level discrimination in the laws reviewed, the Court held, violated the dormant commerce clause. *Id.* But, the Court noted, its "holding" did not "call into question the constitutionality of the three-tier system." *Id.* at 488.

More recently, in *Tennessee Wine*, this Court found another limit on a State's §2 authority. This time, the Court addressed whether Tennessee's law requiring an individual to reside in the State for two years before seeking a license to operate an in-state liquor store violated the dormant commerce clause. *Tenn. Wine,* 588 U.S. at 510. The Court reiterated that States' §2 power is broad: they may "pursue their legitimate interests in" promoting "responsible sales and consumption practices" in line with the "preferences of [their] citizens." *Id.* at 535, 542, 539. And, as in *Granholm*, the Court acknowledged State power to regulate through three-tiered alcohol-distribution systems. *Id.* at 534–35.

Nevertheless, the Court invalidated Tennessee's durational-residency requirement under the dormant commerce clause. *Id.* at 543. The Court first explained that a durational-residency requirement was not an "essential feature" of a three-tiered model. *Id.* at 535. Indeed, the Court noted, many three-tier systems do not impose durational-residency requirements. *Id.* (collecting examples). Second, the Court noted that alcohol-import regulations "address[ing] the public health and safety effects of alcohol use" are within a State's "legitimate" exercise of its §2 authority. *Id.* at 538. So, state laws that discriminate against interstate commerce pass constitutional muster when they serve health, safety, or other non-protectionist goals. *Id.* at 539–40. For example, the laws that allow States to maintain oversight over alcohol distributors through "on-site inspections, audits, and the like" may serve these goals without running afoul of the dormant commerce clause. *Id.* at 541. At bottom, Tennessee's two-year-residence requirement was not a valid health-and-safety regulation. *Id.* at 543.

2. With that background in mind, turn to the Buckeye State. Ohio, like many other States, has a three-tier system for regulating the sale and distribution of alcohol. Pet.App.3a. Entities operating in each tier (first, suppliers; second, wholesalers; and third, retailers) must each obtain a permit from the Ohio Division of Liquor Control. *See, e.g.,* Ohio Rev. Code §§4303.03, 4303.07, 4303.10, 4303.12. Permitted suppliers must sell to permitted wholesalers (who may purchase only from permitted suppliers), *see* Ohio Rev. Code §§4303.03, 4303.07, 4303.10, 4301.58(C), and permitted wholesalers must sell to permitted retailers (who may purchase only from permitted wholesalers), *see* Ohio Rev. Code §§4303.03(B)(1), 4303.35; Ohio Admin. Code 4301:1-1-46(B), (F). Entities may not operate across more than one tier and alcohol products must generally pass through each tier before reaching the consumer. *See* Ohio Rev. Code §4301.24.

In Ohio's three-tier system, only companies with the appropriate permit may sell wine to consumers, including by direct shipment. Pet.App.5a; *see also* Ohio Rev. Code §§4303.12, 4301.01(A)(2). Ohio does not grant such permits to companies without a physical presence in Ohio. *See* Pet.App.14a–15a (analyzing Ohio statues). Retailers located outside Ohio thus cannot ship wine directly to consumers in Ohio.

Some exceptions apply. Like many other States that impose direct-ship restrictions, Ohio permits in- and out-of-state wineries that obtain special "S" permits to ship wine directly to Ohio households without routing those sales through Ohio retailers or wholesalers. Pet.App.4a; Ohio Rev. Code §§4303.232, 4303.233, 4303.236(B). An individual household may purchase no more than twenty-four cases (or 288 bottles) of wine in a single year. Ohio Rev. Code § 4303.236(A). That cumulative limit applies to in-state and out-of-state purchases alike. In- and out-of-state wineries may also acquire a special "B-2a" permit to sell wine directly to Ohio retailers. Pet.App.4a–5a; Ohio Rev. Code §§4303.071(A)(3), 4301.24(E)(4). And until 2021, Ohio allowed some small-scale out-of-state manufacturers who were also "brand owner[s]" or "importer[s] of … wine" to ship wine directly to Ohio consumers. Pet.App.5a; Ohio Rev. Code §4303.232(A)(1), (3) (2011) (repealed 2021). Pre-2021 permit holders can continue to ship wine directly to Ohio consumers. Pet.App.5a.

Entities licensed to participate in Ohio's three-tier system are subject to extensive oversight. They must submit to regular physical inspections by the Ohio Division of Liquor Control and the Ohio Department of Public Safety's Ohio Investigative Unit. These inspections allow state regulators to identify tainted alcohol and to trace and contain any tainted alcohol at the source. Ohio regulators conduct thousands of in-person inspections of retailers' physical Ohio locations. Pet.App.61a. These inspections uncover hundreds of infractions each year. Pet.App.61a–62a.

One example of these inspections in action drive home their importance. In response to a consumer report about falling ill after drinking "Saint Sadler" wine, Ohio investigated the wine's provenance. Pet.App.57a. The investigation ultimately revealed that Paul Sadler had purchased several make-your-own-wine kits and then sold the home-made wine to

Ohio retailers. Pet.App.57a. Investigators were able to trace the wine to its manufacturing source, a dingy Cleveland warehouse, and discovered problems such as uncovered wine jugs, tubes touching the floor, and restrooms without soap. Pet.App.57a. From that warehouse, investigators confiscated more than 600 intact bottles and "several gallons" more in various stages of fermentation. *Id.*; *see also* Lockhart Decl. III, R.116-5, PageID#6165 (¶13). Investigators were also able to promptly clear store shelves of 437 bottles of the illicit wine from 18 licensed retailers throughout Ohio. Pet.App.57a–58a; *see also* Callahan Decl., R.116-3, PageID#6158 (¶22). Such incidents "highlight the importance of physical access to information and premises." Pet.App.58a.

What is more, Ohio controls alcohol prices through required markups and excise taxes. Ohio's tax rates on wine are higher than those of other large states, such as California, Texas, and New York. Kerr Report, R.116-1, PageID#6026. And out-of-state retailers do not consistently collect taxes on wine shipped into Ohio. Miller Dep., R.48, PageID#440–42; Powers Decl., R.53-1, PageID#4117–18 (¶¶26–27). These laws raise alcohol prices, which, in turn, promote temperance. Pet.App.58a–59a. Indeed, "the direct shipment of alcoholic beverages" by out-of-state retailers "would be expected to increase alcohol consumption, heavy drinking and the consequences associated with alcohol use and abuse through the expansion of alcohol suppliers" as those retailers "may be able to supply the alcohol to Ohio consumers at lower prices, which could increase price competition and lower prices." Pet.App.59a (quotation omitted).

Importantly, Ohio's enforcement agency does not have jurisdiction outside Ohio. Lockhart Decl. III, R.116-5, PageID#6164 (¶4). So, to ensure effective regulatory oversight and to ensure that wine channels through each tier, Ohio imposes shipping and transportation restrictions on out-of-state wine. Relevant to this case, Ohio limits retail direct-to-consumer shipments of alcohol. Under this "direct-ship restriction," only licensed retailers with a physical presence in Ohio may ship wine to an Ohio purchaser. Pet.App.14a–15a; *see also* Ohio Rev. Code §§4301.58(C), 4303.25. Ohio also imposes a transportation limit on individual citizens bringing wine into the State. The "individual-transportation limit" caps individual transport across state lines at 4.5 liters per 30-day period. Ohio Rev. Code §4301.20(L); *see id.* §§4303.25, 4303.60. All other wine, generally, must flow through the three tiers of permitted entities—suppliers, wholesalers, retailers—with in-state, and thus inspectable, presence at the retail step.

3. House of Glunz, an Illinois wine retailer, and Kenneth Miller, an Ohio wine enthusiast, challenged the constitutionality of Ohio's direct-ship restriction and individual-transportation limit. Pet.App.4a. Glunz does not hold any Ohio permits and does not have a physical presence in Ohio. *See id.* Glunz and Miller sued Ohio's Attorney General and various state officials who enforce Ohio's liquor laws (collectively, "Ohio"), seeking a declaratory judgment that the restrictions are unconstitutional and an injunction barring the State from enforcing both laws. Pet.App.6a–7a.

a. In the first round of litigation, the district court granted summary judgment to Ohio, holding that the direct-ship restriction was a constitutional exercise of the State's §2 power. Pet.App.7a. The court also found that Miller lacked standing to challenge the individual-transport limit. *Id.* A panel of the Sixth Circuit disagreed. Pet.App.7a; *Block v. Canepa*, 74 F.4th 400 (6th Cir. 2023). According to that panel, the district court overread a prior Sixth Circuit decision, *Lebamoff Enterprises Inc. v. Whitmer*, 956 F.3d 863 (6th Cir. 2020), as establishing a *per-se* rule that state restrictions on direct-to-consumer wine shipments by out-of-state retailers were constitutional. *Block*, 74 F.4th at 412–14. It further held that the district court had "failed to consider" the evidence regarding the direct-ship law. *Id.* at 414. The panel also held that Miller had standing for the transportation claim because he faced a credible threat of enforcement. *Id.* at 408–11. The court then instructed the district court to "consider the facts and evidence presented in this case and determine whether the challenged statutes (1) 'can be justified as a public health or safety measure or on some other legitimate nonprotectionist ground', and whether (2) their 'predominant effect' is 'the protection of public health or safety,' rather than 'protectionism.'" *Id.* at 414 (quoting *Tenn. Wine*, 588 U.S. at 539).

The State sought *en banc* review, arguing an intracircuit conflict between *Lebamoff* and the panel's decision. Pet.App.64a. The Sixth Circuit rejected that request without a single judge registering a view that the full court should take up the question. Pet.App.64a–65a.

b. On remand, the district court followed the panel's instruction and invited additional summary-judgment evidence and briefing. After that, both parties moved for summary judgment again. The court then granted summary judgment to Ohio on both claims. The district court rested that judgment on three main findings: that Ohio's system enhanced health and safety oversight, promoted temperance, and did not serve protectionist goals.

On health-and-safety oversight, the court concluded that the Sadler tainted-wine incident "highlight[ed] the importance of physical access to information and premises in policing alcohol sales." Pet.App.57a–58a. Next, the court credited the importance of a three-tier system to the State's regulation of alcohol prices. Pet.App.58a–59a. From evidence linking alcohol prices to consumption, the court concluded that higher alcohol prices established by the three-tier system "promote[] temperance, and tax proceeds are used to offset the societal costs of alcohol consumption." Pet.App.58a.

Addressing possible protectionism, the Court explained that the record did not show that the direct-ship restriction or the individual-transportation limit served protectionist goals. Pet.App.59a–62a. It showed the opposite. Pet.App.62a. The court held that the State had "produced concrete evidence" showing that the challenged laws were "essential components of Ohio's three-tier system and operate with the predominant purpose and effect of promoting public health and safety." Pet.App.62a.

Again, the panel of the Sixth Circuit disagreed. As a threshold matter, the panel determined that Glunz and Miller had standing to challenge the direct-ship and individual-transport restrictions, respectively. Pet.App.9a–17a. On the constitutionality of the provisions, the panel concluded that the challenged laws served predominantly protectionist, rather than public health or safety, ends. Pet.App.19a.

The panel's merits analysis first concluded that neither restriction was an essential feature of Ohio's three-tier system. Off the top, the panel cast doubt on whether this Court's precedent requires an essential-feature framework. Pet.App.21a–22a & n.5. The panel then measured each restriction against that framework anyway. For the direct-ship restriction, the court noted that some States with three-tier systems did not make use of such a restriction and so Ohio's law could not be essential to the functioning of a three-tier system. Pet.App.21–23a. And the panel held that various exceptions to the direct-ship restriction made it doubtful that it was an essential feature at all. Pet.App.22a. With respect to the transportation limit, the panel concluded that there was "no clear relationship" between the limit and Ohio's three-tier system, which, the panel opined, concerns only wine brought to market and sold in the State, not wine transported for personal use. Pet.App.23a.

Having concluded that neither restriction warrants *per-se* validity as an essential feature of a three-tier system, the panel turned to assessing each restriction under *Tennessee Wine*'s public-health-and-safety-versus-protectionism test. The panel decided neither restriction passed that test.

Beginning with the direct-ship restriction, the panel first considered the State's argument that in-state presence ensures that Ohio liquor-enforcement agents can physically inspect wine sellers for product-safety violations. Pet.App.25a–29a. The panel dismissed the Sadler incident as a one-off episode concerning an "amateur vintner" that was unlikely to pertain to professional retailers. Pet.App.26a. And it again surmised that Ohio's few exceptions to its direct-ship restrictions watered down the State's justification for in-state presence—ease of inspection—especially because, the panel speculated, regulations like tracking out-of-state wine shipments and other disclosure requirements could do the job just as well. Pet.App.26a–27a.

Next, the panel turned to the price-control and taxation mechanisms designed to promote temperance. Pet.App.29a–32a. The panel rejected that as well. According to the panel, the number of out-of-state retailers that would flood Ohio's market with cheap alcohol absent the direct-ship restriction could be controlled by simply issuing fewer permits. Pet.App.30a. And it was skeptical that the data showed increased alcohol consumption in states that allowed out-of-state retailers to direct ship to consumers. Pet.App.30a–31a. As for Ohio's argument that in-state presence enhances the State's ability to collect excise tax, the panel dismissed Ohio's concerns, speculating that Ohio would do just fine collecting excise taxes from out-of-state retailers as well. Pet.App.31a–32a. The panel concluded that Ohio's public health and safety rationales are insufficiently supported "by convincing evidence," and so it could not "conclude that the 'predominant effect' of the Direct Ship Restriction is the 'protection of public health or safety,' rather than 'protectionism.'" Pet.App.33a (quoting *Tenn. Wine*, 588 U.S. at 539–40).

Turning to the individual-transport limit, the panel reiterated its bare conclusion that the limit has no connection to the three-tier system. Pet.App.34a–

36a. The panel discounted Ohio's safety-inspection rationale for the limit, reading the limited, six-bottle monthly allowance together with the limited allowance for wine shipped from out-of-state wineries as a concession that Ohio could tolerate a certain amount of uninspected wine in the State. Pet.App.34a–35a. And it rejected Ohio's price-control justification because, as the panel saw it, the transportation limit concerns individual consumption, not wine put up for sale. Pet.App.35a.

The panel remanded the case again, this time directing the trial court to fashion an appropriate remedy "for the constitutional injuries inflicted by both the Transportation Restriction and Direct Ship Restriction." Pet.App.36a–37a.

Although the panel commanded the district court to refashion Ohio's wine-shipping regulations, the panel did not discuss or even cite the *seven* other circuits that have gone the other way to uphold direct-ship restrictions across the country. *Arnold's Wines, Inc. v. Boyle*, 571 F.3d 185, 192 (2d Cir. 2009); *Jean-Paul Weg LLC v. Dir. of N.J. Div. of Alcoholic Beverage Control*, 133 F.4th 227, 231 (3d Cir. 2025); *B-21 Wines, Inc. v. Bauer*, 36 F.4th 214, 229 (4th Cir. 2022); *Wine Country Gift Baskets.com v. Steen*, 612 F.3d 809, 821 (5th Cir. 2010); *Sarasota Wine Mkt., LLC v. Schmitt*, 987 F.3d 1171, 1183–84 (8th Cir. 2021), *cert. denied*, 142 S. Ct. 335 (2021); *Chicago Wine Co. v. Braun*, 148 F.4th 530, 531–32 (7th Cir. 2025) (*per curiam*), *cert. denied*, __ S. Ct. __, 2026 WL 1377162 (May 18, 2026); *Day v. Henry*, 152 F.4th 961, 972 (9th Cir. 2025), *cert. denied*, __ S. Ct. __, 2026 WL 1377175 (May 18, 2026).

The State timely appealed to this Court.

REASONS FOR GRANTING THE WRIT

The decision below kicks multiple tripwires for *certiorari* review. *First*, it creates a Sixth-Circuit-against-the-world conflict among the circuits. The Second, Third, Fourth, Fifth, Seventh, Eighth, and Ninth circuits have upheld direct-ship restrictions imposed by States in their circuits. The Sixth Circuit *alone* stands apart from this national consensus. The result is national dis-uniformity between Ohio's alcohol market and that of the other States. That uneven landscape disserves not only Ohio as a sovereign singularly handcuffed among its sister States, but also the consumers, retailers, and others who participate in the market for wines. Consumers and retailers in the Ohio market should not operate in a different regulatory ecosystem than consumers and retailers in all other States. The Court should grant *certiorari* to correct this lopsided circuit split.

Second, the question presented is exceptionally important because it goes to the heart of State sovereignty. If States lack the power to regulate alcohol under the Twenty-first Amendment in the way that Ohio regulates alcohol, this Court should say so rather than leave the question with geographically disparate answers across the country. By reaching the wrong conclusion and confusing this Court's most relevant precedent along the way, the decision below denigrates Ohio's sovereign power and treats Ohio worse than sister States in the Sixth, and other, circuits. This Court should grant review and restore Ohio's sovereign power to regulate alcohol importation into its borders. If not, Ohio *alone* among its sister States will suffer an influx of cheap, unregulated alcohol, which will undermine the three-tier system it erected to protect its citizens.

I. This Court should resolve the lopsided seven-to-one circuit split created by the decision below.

Every other circuit—seven total—to have considered direct-ship restrictions on out-of-state retailers like Ohio's have upheld them. Six have done so in full-fledged decisions upholding such restrictions as *per se* valid features of a three-tier system. A Seventh Circuit decision brings the split count to seven against the one decision below. The Seventh Circuit's decision defies easy categorization because the Seventh Circuit decided the case as a two-judge panel and the two judges took "two different lines of reasoning." *Chicago Wine v. Braun*, 148 F.4th 530, 532 (7th Cir. 2025) (per curiam). The Sixth Circuit stands alone.

The Court should grant this case to correct the outlier.

A. In the Second, Third, Fourth, Fifth, Eighth, and Ninth circuits, direct-ship restrictions are *per-se* valid as an essential feature of a State's three-tier system.

Start with the sharpest conflict: whether restricting out-of-state retailers from shipping wine to in-state consumers is valid *per se* because it is an essential feature of a State's three-tier system of alcohol sale and distribution. Six circuits have concluded that it is—four after this Court's *Tennessee Wine* decision, and two before. *See Jean-Paul Weg LLC v. Dir. of N.J. Div. of Alcoholic Beverage Control*, 133 F.4th 227, 231 (3d Cir. 2025); *B-21 Wines, Inc. v. Bauer*, 36 F.4th 214, 228 (4th Cir. 2022); *Sarasota Wine Mkt., LLC v. Schmitt*, 987 F.3d 1171, 1183–84

(8th Cir. 2021), *cert. denied*, 142 S. Ct. 335 (2021); *Day v. Henry*, 152 F.4th 961, 972 (9th Cir. 2025), *cert. denied*, __ S. Ct. __, 2026 WL 1377175 (2026); *see also Wine Country Gift Baskets.com v. Steen*, 612 F.3d 809, 821 (5th Cir. 2010); *Arnold's Wines, Inc. v. Boyle*, 571 F.3d 185, 192 (2d Cir. 2009). Thus direct-ship restrictions in those circuits are a *per se* valid exercise of a State's §2 authority.

The four circuits to have addressed the constitutionality of a State's direct-ship restriction after *Tennessee Wine* have concluded that direct-ship restrictions identical to Ohio's are valid regardless of any evidence probing the restriction's efficacy. Those circuits all agree that "[w]ithout a physical-premise requirement" on retailers, the unquestionably legitimate "three-tier scheme falls apart, and so do some of the benefits that come with it." *Day*, 152 F.4th at 973; *accord Jean-Paul Weg*, 133 F.4th at 239; *B-21 Wines, Inc.*, 36 F.4th at 228; *Sarasota Wine Mkt.*, 987 F.3d at 1183–84. In other words, invalidating the direct-ship restriction "would effectively be hacking off two of the three legs" of a State's three-tiered system, so that the "system would functionally cease to exist." *Day*, 152 F.4th at 973, 974. Put another way, these four circuits held that direct-ship restrictions are valid even "without further determinations as to whether its predominant effect is to support public health and safety." *Id.* at 974; *see Jean-Paul Weg*, 133 F.4th at 239; *B-21 Wines, Inc.*, 36 F.4th at 227 n.8; *Sarasota Wine Mkt.*, 987 F.3d at 1183–84.

And, of these four, three circuits expressly rejected claims that allowing out-of-state *wineries* to directly ship to in-state consumers eroded the three-tier system such that the State could not claim to route alcohol through a three-tier system at all. *Day*, 152 F.4th at 975; *Jean-Paul Weg*, 133 F.4th at 239; *B-21 Wines, Inc.*, 36 F.4th at 226; *see also Wine Country Gift Baskets.com*, 612 F.3d at 815, 820–21. These circuits concluded that such limited exceptions did not dent the three-tier system, let alone damage it to the point of unconstitutionality.

Employing the same logic as the post *Tennessee Wine* decisions, two other circuits—the Second and the Fifth—upheld direct-ship restrictions identical to that of Ohio's almost a decade before this Court's *Tennessee Wine* decision. *Wine Country Gift Baskets.com*, 612 F.3d at 820; *Arnold's Wines*, 571 F.3d at 186. Both concluded that such restrictions were simply a "benign incident of an acceptable three-tier system," *Wine Country Gift Baskets.com*, 612 F.3d at 820, and thus necessary for maintaining an "unquestionably legitimate" three-tier system, *Arnold's Wines*, 571 F.3d at 190 (quotation omitted).

To be sure, two circuit decisions remanded for further evidentiary analysis after a State prevailed in a district court. *Anvar v. Dwyer*, 82 F.4th 1, 11 (1st Cir. 2023) (summary judgment); *Lebamoff Enters., Inc. v. Rauner*, 909 F.3d 847, 857 (7th Cir. 2018) (motion to dismiss). Neither decision blunts the sharp circuit split the Sixth Circuit opened up. The First Circuit's decision faulted the district court for failing to "engage with any concrete evidence" that Rhode Island's laws protected public safety. *Anvar*, 82 F.4th at 10 (quotation omitted). The panel noted, for example, that the district court "made no mention of whether" Rhode Island actually enforced its inspection laws, or whether such inspections "curtailed behavior deleterious to the public health." *Id.* And the Seventh Circuit's decision, which preceded *Tennessee Wine*, simply refused to decide the Twenty-first Amendment question on the pleadings. *Rauner*, 909 F.3d at 856. Both cases eventually fizzled out on remand when the plaintiffs voluntarily dismissed. *See* Mot. For Voluntary Diss., R.166 in *Lebamoff Enters., Inc. v. Rauner*, No. 1:16-cv-8607 (Aug. 26, 2021); Stip. of Dismissal, R.149 in *Anvar v. Dwyer*, No. 1:19-cv-00523 (D.R.I. Nov. 22, 2024). As a result, neither case ultimately decided the legality of the laws at issue.

The decision below thus creates conflicts with six circuits in three ways:

First, it conflicts with all six (and one more, *discussed* at 21, 26) on outcome: all concluded that direct-ship restrictions do not violate the Constitution. "Not so" says the decision below, which held Ohio's direct-ship restriction is unconstitutional.

Second, it conflicts with all six analytically: each employed an essential-feature framework—four expressly after *Tennessee Wine* and two implicitly adopting the same logic before *Tennessee Wine*—and concluded that direct-ship restrictions are valid *per se* because they are "essential features" of States' three-tier systems. "Not so" says the decision below, holding that the identical restriction in Ohio is not an essential feature of Ohio's three-tier system. The panel thought so little of even the essential-feature *analysis* that it cast it aside in a single, unreasoned footnote. *See* Pet.App.22a & n.3.

Third, it conflicts with three circuits expressly (and three implicitly) on one more analytical point: whether any exceptions to a State's three-tier system mean that a State no longer has a three-tier system. Three circuits have held (and three more have implied) that three-tiered systems survive similar exceptions to the one Ohio imposes. Again, "not so" says the decision below.

This threefold conflict with six circuits (seven on outcome), alone, justifies this Court's review (and correction).

B. The Third and Ninth circuits have concluded that direct-ship restrictions promote public health and safety.

The lower court's split with other circuits goes beyond the question whether a direct-ship restriction involves an essential feature of a three-tier system and extends to whether a direct-ship restriction "can be justified as a public health or safety measure or on some other legitimate nonprotectionist ground." *Tenn. Wine & Spirits Retailers Ass'n v. Thomas*, 588 U.S. 504, 539 (2019). Three circuits have explicitly addressed that question after considering summary-judgment evidence.

The Third Circuit, despite concluding that direct-ship restrictions are valid *per se*, alternatively held that New Jersey's direct-ship restriction could be justified as sufficiently promoting public health and safety. *Jean-Paul Weg*, 133 F.4th at 237. That court reasoned that such a law "further[ed] New Jersey's goal of quickly identifying product tampering and contamination." *Id.* Its health and safety interests aligned, in that respect, with the need to "keep[] retailers within [the State] investigators' jurisdiction" for purposes of enforcing its three-tier system. *Id.* at 239.

The Ninth Circuit, after holding that Arizona's direct-ship restriction is *per se* valid as an essential feature of that State's three-tier system, also recognized that such restrictions *do* "bear on a state's ability to support public health and safety." *Day*, 152 F.4th at 974. Specifically, the restriction at issue allowed Arizona to conduct "thousands of on-site inspections of licensees' establishments between 2016 and 2021, in addition to running covert underage buyer programs," and to "inspect[] the records of wholesalers to determine whether a retailer is complying with Arizona liquor laws." *Id.*

A Seventh Circuit judge (operating on a two-judge panel) agreed when affirming summary judgment for Indiana in a challenge to the State's direct-ship restriction. Judge Scudder reasoned that Indiana's law furthered "legitimate interests in health and safety," in part, because the "State's ability to detect violations and enforce" its laws "lessens when it comes to out-of-state retailers." *Chicago Wine*, 148 F.4th at 542 (Op. of Scudder, J.). And the two-judge panel upheld Indiana's direct-ship restriction in full, adding to the circuit tally opposite the Sixth Circuit on the bottom-line result for laws like Ohio's. *Id.* at 531–32.

Recall that Ohio, too, proffered evidence about how its direct-ship restriction facilitates in-state inspections designed to identify and contain wine unsafe for consumption, to inspect premises for health and safety hazards, and to ensure compliance with Ohio's price-markup requirements. *Above* at 12–14, 16. The decision below discredits all that, in direct conflict with decisions from the Third, Seventh, and Ninth circuits. It is yet one more reason this Court should grant *certiorari* and resolve the split.

C. The Sixth Circuit, alone, misapplied this Court's instructions for evaluating a State's alcohol-import restrictions, further underscoring the panel's class-of-one status on the question presented.

Although this case involves a glow-in-the-dark circuit split, it also features a perhaps more arresting signal that it merits review in this Court. The decision below flips on its head this Court's test for evaluating States' Twenty-first Amendment powers. According to the panel, Ohio needed to prove that the "predominant effect" of its laws is "the protection of public health or safety," rather than "protectionism." Pet.App.7a; *id.* at 33a; *see also Block v. Canepa*, 74 F.4th 400, 413 (6th Cir. 2023). That is flat wrong: the rule is that laws that have "the predominant effect" of "protectionism … are not shielded by §2." *Tenn. Wine*, 588 U.S. at 539–40. So laws shielded by §2 need not have a predominant effect of promoting public health and safety; they just may not have the predominant effect of protectionism.

The panel's sharp break from this Court's on-the-books teaching about the proper standard is exactly the kind of question the Court routinely reviews on *certiorari* (and reverses). *See, e.g.*, *Barnes v. Felix*, 605 U.S. 73, 81 (2025); *Caniglia v. Strom*, 593 U.S. 194, 199 (2021); *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 394 (2006); *Texas Dep't of Cmty. Affs. v. Burdine*, 450 U.S. 248, 256 (1981). The Sixth Circuit's break from this Court's statement of the binding test is all the more evident when viewed against the other circuit decisions in this space. No other circuit flips the test to a state-unfriendly burden as the Sixth Circuit did here. *See, e.g.*, *B-21 Wines*, 36

F.4th at 224 (rejecting challengers' plea for a more stringent standard).

II. This case presents another exceptionally important constitutional question that is well-situated for resolution in this case.

Even without the Sixth-against-the-world circuit split and the sharp conflict with the most relevant precedent, this petition asks a question of exceptional importance that warrants this Court's weighing in. That question is whether Ohio may exercise its sovereign power expressly reserved to the State under the Twenty-first Amendment to regulate the sale and distribution of alcohol in its borders.

Questions that touch on States' sovereign powers to regulate are fertile ground for this Court's review. *Montgomery v. Caribe Transp. II*, *LLC*, 608 U.S. __ (2026); *Ohio v. Env't Prot. Agency*, 603 U.S. 279 (2024); *Virginia Uranium, Inc. v. Warren*, 587 U.S. 761 (2019). While every injunction against a State "effectuating statutes enacted by representatives of its people" imposes "a form of irreparable injury," *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (quotation omitted), such injuries peak where a federal court elevates an implied constitutional restraint over an explicit power reserved to the States. That is all the more true here because the Sixth Circuit twice reached past a standing concern raised by the State to chip away at Ohio's sovereign shield. *See Anvar v. Dwyer*, No. 1:19-CV-00523, 2024 WL 4771357, *1 (D.R.I. Nov. 13, 2024) (noting similar standing problem in suit about direct-ship restriction); *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 338 (2006) (vacating Sixth Circuit's dormant-commerce-clause holding for lack of standing).

By splitting from seven circuits that have gone the other way, the decision below uniquely impinges Ohio's sovereignty by denying to Ohio what around three dozen other States permissibly do today. And it opens the door to Ohio's being disadvantaged compared to its neighbors. Courts have already approved some of Ohio neighbors' direct-ship restrictions. *See Lebamoff Enterprises Inc. v. Whitmer*, 956 F.3d 863, 867 (6th Cir. 2020) (Michigan); *Chicago Wine Co.*, 148 F.4th at 532 (Indiana); *cf. Jean-Paul Weg*, 133 F.4th at 239 (precedential in Pennsylvania); *B-21 Wines, Inc.*, 36 F.4th at 229 (precedential in West Virginia). As things stand, the panel sets up a world where Ohio alone cannot regulate direct alcohol shipments into its borders. That "inequit[y]" in "cross-border trade," *Lebamoff*, 956 F.3d at 871, calls out for this Court's review. When geography drives outcomes, this Court takes a hard look. *See, e.g.*, *Ohio*, 603 U.S. 279. And, no State, let alone three dozen others, should possess "greater authority to regulate" than its sister States. *Nat'l Pork Producers Council v. Ross*, 598 U.S. 356, 388 (2023) (Gorsuch, J., op.). Such inequity strains a foundational premise "upon which the Republic was organized"—that the States are "equal in power, dignity, and authority." *Coyle v. Smith,* 221 U.S. 559, 580, 567 (1911).

This issue is also well suited for resolution now. It is "no secret" that this Court takes a hard look where the circuits are split, as they are here. *Stanley v. City of Sanford, Fla.*, 606 U.S. 46, 68 (2025) (Thomas, J., concurring in part and concurring in the judgment); *see, e.g.*, *Bowe v. United States*, 607 U.S. 13, 21–22 (2026); *Rico v. United States*, 607 U.S. __, 146 S. Ct. 947, 952 (2026). That is more so when the issue comes to this Court after full percolation in the courts below. *See Snope v. Brown*, 605 U.S. __, 145 S. Ct. 1534, 1534 (2025) (Kavanaugh, J., concurring) (noting that "[o]pinions from other Courts of Appeals should assist this Court's ultimate decisionmaking"). Indeed, this Court sometimes waits for a circuit split before reviewing an important legal issue that it has passed over before. *Compare, e.g.*, *Fed. Commc'ns Comm'n v. Consumers' Research*, 606 U.S. 656 (2025), *with Consumers' Research v. Fed. Commc'ns Comm'n*, 67 F.4th 773 (6th Cir. 2023), *cert. denied*, 144 S. Ct. 2628 (2024); *Obergefell v. Hodges*, 576 U.S. 644 (2015) *with Bostic v. Schaefer*, 760 F.3d 352 (4th Cir. 2014), *cert. denied,* 574 U.S. 875 (2014); *Wilson v. Sellers*, 584 U.S. 122 (2018), *with Cannedy v. Adams*, 706 F.3d 1148 (9th Cir. 2013), *cert. denied*, 571 U.S. 1170 (2014); *cf. District of Columbia v. Heller*, 554 U.S. 570 (2008), *with Silveira v. Lockyer*, 312 F.3d 1052 (9th Cir. 2003), *cert. denied*, 540 U.S. 1046 (2003).

That is the case here. Up until now, this Court has received and denied petitions for *certiorari* raising similar questions presented. *Day v. Henry*, No. 25-788, 2026 WL 1377175, *1 (U.S. May 18, 2026); *Chicago Wine Co. v. Braun*, No. 25-844, 2026 WL 1377162, *1 (U.S. May 18, 2026); *Sarasota Wine Mkt., LLC v. Schmitt*, 142 S. Ct. 335 (2021). Each was filed before the decision below cleaved the prevailing national consensus. The circuit split is now ripe. This case, which created the split and was decided on summary judgment with the benefit of a full evidentiary record, is a good vehicle to resolve the Question Presented definitively.

CONCLUSION

The Court should grant the petition for *certiorari* and reverse.

Respectfully submitted,

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