No. 25-1421

In the Supreme Court of the United States

CHRISTINA CASAREZ,

Petitioner,

v.

IRIGOYEN FARMS, INC., ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the Court of Appeal of California, Fifth Appellate District

MOTION OF RESPONDENT IRIGOYEN FARMS, INC. FOR LEAVE TO FILE A SUR-REPLY BRIEF

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October 23, 2026

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MOTION FOR LEAVE TO FILE A SUR-REPLY BRIEF

Pursuant to Rule 21 of the Rules of this Court, Respondent Irigoyen Farms, Inc. respectfully moves for leave to file the accompanying sur-reply brief. The sur-reply is limited to points Petitioner raised for the first time in her reply and to contrary statements in the brief in opposition of Respondent Walmart Inc. The grounds for this motion are as follows:

1. On August 26, 2026, Respondent Irigoyen Farms, Inc. filed a brief as respondent that supported certiorari limited solely to Petitioner's second question presented and opposed certiorari, summary reversal, and a grant, vacate, and remand (GVR) on Petitioner's remaining questions.

2. On October 13, 2026, Respondent Walmart Inc. filed a separate brief in opposition supporting a GVR and opposing summary reversal and plenary review. Petitioner thereafter filed a reply. Because Irigoyen Farms' brief preceded both filings, Irigoyen Farms has had no opportunity to address either the arguments in Walmart's brief or the new contentions in Petitioner's Reply.

3. Petitioner's Reply raised points directed at Irigoyen Farms for the first time. Petitioner (a) expressly declined Irigoyen Farms' proposal that any grant be limited to the second question presented; (b) advanced a reformulated question directed to the reach of the Federal Aviation Administration Authorization Act's safety exception, 49 U.S.C. § 14501(c)(2)(A),

to defendants other than brokers, which was said to be "fairly included" in the first question presented; and (c) characterized Irigoyen Farms as "accept[ing] a remand as its fallback disposition," a characterization that does not reflect the position Irigoyen Farms took in its brief. Reply to Walmart's Brief in Opposition at 1.

4. Walmart's brief in opposition advances several positions contrary to those in Irigoyen Farms' brief, which Irigoyen Farms has had no opportunity to answer:

   a. Walmart contends that the second question presented "will be purely academic" if the California Court of Appeal resolves the safety exception on remand, and that the Court should "wait for a case in which the answer to that question is clearly outcome-determinative." Walmart's Brief in Opposition at 2, 11. Irigoyen Farms' brief took the opposite view: the threshold question whether a nonenumerated shipper or receiver may invoke § 14501 (c)(1) "must be decided by the receiving court even if remanded," and leaving it unresolved guarantees continued conflicting, piecemeal rulings. Irigoyen Farms' Brief in Opposition at 8-9.

   b. Walmart contends that the second question "is not independently worthy of certiorari" and that Irigoyen Farms "fails to identify any split of authorities or any other ordinary basis for" plenary review. Walmart's Brief in Opposition

at 12. A circuit split is not required for plenary review and Irigoyen Farms established that the second question is "an important, pure question of statutory interpretation" of national importance that independently warrants this Court's review. Irigoyen Farms' Brief in Opposition at 8.

c. Walmart contends that a GVR "conserves the scarce resources of this Court" and that the California Court of Appeal should reconsider in the first instance. Walmart's Brief in Opposition at 8. But, on reconsideration, the California Court of Appeal could reach the same result it reached before, again holding that a non-broker shipper's dockside conduct lacks the required motor-vehicle nexus, or again resting on its threshold holding that a nonenumerated shipper may invoke § 14501(c)(1), leaving the identical questions to return to this Court and defeating the very efficiency that Walmart claims to be concerned about.

5. Because the Rules permit only a petitioner to file a reply at this stage, Irigoyen Farms cannot respond to these matters without the Court's leave. Each bears directly on the scope and form of any disposition and on Irigoyen Farms' distinct position as the shipper. A brief sur-reply will aid the Court and will not delay its consideration of the petition.

6. The accompanying sur-reply is short and is confined to the points Petitioner raised for the

first time in reply and the contrary statements in Walmart's brief. Granting leave will impose no prejudice on any party.

For these reasons, Irigoyen Farms, Inc. respectfully requests that the Court grant leave to file the accompanying sur-reply brief.

Respectfully submitted,

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SUR-REPLY BRIEF OF RESPONDENT IRIGOYEN FARMS, INC.

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CORPORATE DISCLOSURE STATEMENT

Respondent IRIGOYEN FARMS, INC. is not publicly traded, has no parent corporation and no public company owns 10% or more of its stock.

Respondent Walmart, Inc. who is not a party to this brief, is publicly traded. (NYSE: WMT)

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SUR-REPLY BRIEF OF RESPONDENT IRIGOYEN FARMS, INC.

Irigoyen Farms submits this sur-reply to address points Petitioner raised for the first time in her reply and to correct a mischaracterization of Irigoyen Farms' position. Irigoyen Farms also wishes to address contrary statements made in Walmart's brief in opposition. Irigoyen Farms' position remains: the Court should grant certiorari limited to the second question presented — whether a nonenumerated defendant such as a shipper or receiver may invoke 49 U.S.C. § 14501(c)(1) at all — and should deny certiorari, summary reversal, and GVR relief on the remaining questions.

First, Petitioner's Reply states that Irigoyen Farms "accepts a remand as its fallback disposition." That is not Irigoyen Farms' position. Irigoyen Farms opposed GVR relief and did not ask for a remand. Second, both Petitioner and Walmart urge a GVR as the efficient course. It is not. On a fully developed record and a published decision resting solely on preemption, a GVR would most likely send the case back only for the California Court of Appeal to reinstate the same judgment, returning the dispute to this Court and wasting the resources a GVR is supposed to conserve.

I. A GVR Is Not the Efficient Disposition Walmart and Petitioner Describe.

Walmart urges a GVR on the ground that it "conserves the scarce resources of this Court" and lets the California Court of Appeal decide in the first instance. Walmart's Brief in Opposition at 8-9. On the posture of this case, a GVR would do the opposite.

The record is complete. This case comes to the Court on a published decision affirming summary judgment, and the California Court of Appeal rested its judgment solely on FAAAA preemption, expressly declining to reach the parties' other arguments. Irigoyen Farms' Brief in Opposition at 1. Petitioner concedes that "[t]he summary-judgment record is fixed, and Walmart does not suggest otherwise." Reply to Walmart's Brief in Opposition at 4.

There is thus no factual development a remand could supply and a GVR would accomplish little more than a round trip. On reconsideration in light of *Montgomery v. Caribe Transport II, LLC*, 608 U.S. 219 (2026), the California Court of Appeal could easily reach the same result it reached before by holding, as it already has, that a shipper's dockside conduct lacks the direct motor-vehicle nexus the safety exception requires for a non-broker defendant, or by resting again on the threshold holding that a nonenumerated shipper may invoke § 14501(c)(1). Either path returns the case to this Court on the identical questions. That is precisely the inefficiency Irigoyen Farms' brief warned against: the threshold statutory question "must be decided by the receiving court even if remanded," and remanding it "without guidance" invites continued "conflicting, piecemeal rulings." Irigoyen's Brief in Opposition at 8-9.

The efficient course is the one Irigoyen Farms proposed: grant certiorari now on the threshold question whether a nonenumerated shipper or receiver may invoke § 14501(c)(1), decide it on the clean record presented, and give the lower courts the guidance a bare remand would withhold.

II. Petitioner's Objection to a Grant Limited to the Second Question Presented Is Misplaced.

Petitioner now argues that the Court should not grant review on the second question alone because the threshold preemption question "may never need to be reached" if the safety exception applies. Reply to Walmart's Brief in Opposition. That analysis puts the cart before the horse (or the trailer before the tractor). Whether a shipper or receiver is even within the class of defendants that § 14501(c)(1) reaches is the logically antecedent question: if nonenumerated defendants cannot invoke the preemption clause, the safety exception is never implicated as to them. The second question is therefore the issue most likely to control the outcome for Irigoyen Farms, and it is a pure question of statutory interpretation presented on a clean factual record.

III. Petitioner's Reformulated Safety-Exception Question Should Not Displace the Second Question Presented.

Petitioner proposes that, if the Court grants plenary review, it decide whether, under *Montgomery*, the safety exception reaches claims against defendants other than brokers. Reply to Walmart's Brief in Opposition at 3. That question is not a sound vehicle here.

First, by Petitioner's and Walmart's own account, no federal appellate court has addressed the safety exception on facts like these since *Montgomery*. Walmart's Brief in Opposition at 10; Reply to Walmart's Brief in Opposition at 5.

Second, Petitioner's reformulated question presupposes that § 14501(c)(1) reaches shippers and receivers in the first place — the very premise that the second

question presented would resolve. The Court should not decide the reach of the exception before deciding whether the preemption clause applies to these defendants at all.

Third, Irigoyen Farms' role differs materially from the broker in *Montgomery*. Irigoyen Farms did not select the motor carrier, the driver, or the tractor-trailer; it is the grower and shipper of the produce. The negligent-selection reasoning Petitioner draws from *Montgomery* does not translate to a shipper that played no part in choosing the carrier. Resolving the safety exception question on these facts would require the Court to apply a standard to a defendant very different from the broker before it in *Montgomery*.

IV. Irigoyen Farms' Position on Disposition.

Irigoyen Farms maintains the position stated in its brief. It supports certiorari limited solely to the second question presented, and it opposes certiorari, summary reversal, and GVR relief on Petitioner's remaining questions. If the Court declines to resolve the threshold question now, the most it should do is deny certiorari or order a standard remand without predetermined instructions, and not a GVR that directs reconsideration and predicts the outcome.

CONCLUSION

For the foregoing reasons, and those stated in Irigoyen Farms' brief, the Court should grant certiorari limited to the second question presented and should deny summary reversal, plenary review on Petitioner's reformulated question, and GVR relief.

Respectfully submitted,

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