No.

In the Supreme Court of the United States

TOTAL QUALITY LOGISTICS, LLC, PETITIONER

v.

ROBERT COX

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

The Federal Aviation Administration Authorization Act of 1994 (FAAAA) preempts state laws related to motor carrier and broker prices, routes, and services. 49 U.S.C. 14501(c)(1). Another provision—commonly known as the "safety exception"—preserves the "safety regulatory authority of a State with respect to motor vehicles." 49 U.S.C. 14501(c)(2)(A). The question presented is:

Whether a common-law negligence claim alleged against a freight broker, based on the broker's selection of a motor carrier to provide transportation of cargo, is preempted because it does not fall within the safety exception in Section 14501(c)(2)(A).

CORPORATE DISCLOSURE STATEMENT

Petitioner Total Quality Logistics, LLC, has no parent corporation, and no publicly held company owns 10% or more of its stock.

RELATED PROCEEDINGS

United States District Court (S.D. Ohio):

Cox v. *Total Quality Logistics, Inc.*, Civ. No. 22-26 (June 12, 2024)

United States Court of Appeals (6th Cir.):

Cox v. *Total Quality Logistics, Inc.*, No. 24-3599 (July 8, 2025)

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Total Quality Logistics, LLC,[1] respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit in this case.

[1] The complaint named "Total Quality Logistics, Inc." as an additional defendant in this case, and the captions below listed that entity as a party. "Total Quality Logistics, Inc." is a nonexistent entity, however, and it did not receive service of the summons. See D. Ct. Dkt. 6-1, at 1 n.1. Accordingly, petitioner has omitted that entity from the caption in this Court.

OPINIONS BELOW

The opinion of the court of appeals (App., *infra*, 1a-21a) is reported at 142 F.4th 847. The opinion of the district court (App., *infra*, 22a-38a) is unreported but is available at 2024 WL 2962783.

JURISDICTION

The judgment of the court of appeals was entered on July 8, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATUTORY PROVISION INVOLVED

Section 14501(c) of Title 49 of the United States Code provides in relevant part:

> (1) General rule. — Except as provided in paragraphs (2) and (3), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier * * * or any motor private carrier, broker, or freight forwarder with respect to the transportation of property.
>
> (2) Matters not covered. — Paragraph (1) —
>
> (A) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization[.]

STATEMENT

This case presents an exceptionally important question concerning the Federal Aviation Administration Authorization Act of 1994 (FAAAA) that has sharply divided the courts of appeals. The FAAAA broadly preempts any "[state] law, regulation, or other provision" that is "related to a price, route, or service of any motor carrier * * * or * * * broker." 49 U.S.C. 14501(c)(1). At the same time, another provision—known as the "safety exception"—states that the preemption provision does not "restrict" the "safety regulatory authority of a State with respect to motor vehicles." 49 U.S.C. 14501(c)(2)(A). The question presented is whether a common-law negligence claim alleged against a freight broker, based on the broker's selection of a motor carrier to provide transportation of cargo, is preempted because it does not constitute an exercise of the "safety regulatory authority of a State with respect to motor vehicles" within the meaning of the FAAAA.

Petitioner is among the Nation's largest freight brokerage companies. A freight broker is hired by a shipper to arrange for the transportation of property; the broker then hires a motor carrier, which selects a driver and appropriate equipment to conduct the transportation. Most motor carriers rely on freight brokers to act as intermediaries, matching available motor carriers with shippers that need goods to be transported.

In this case, a shipper hired petitioner to arrange for the transportation of goods from Illinois to California. Petitioner then hired a federally licensed motor carrier. A truck operated by the motor carrier collided with a vehicle operated by respondent's wife in Oklahoma; she died as a result of the collision.

Respondent, as administrator and special representative of his wife's estate, filed suit in federal district court,

alleging that, under Ohio common law, petitioner had negligently selected the motor carrier. The district court granted petitioner's motion to dismiss, concluding that the FAAAA preempted respondent's lawsuit. The court concluded that the preemption provision in Section 14501(c)(1) applied to respondent's claim against petitioner in its capacity as freight broker, and it rejected respondent's contention that the claim fell within the safety exception in Section 14501(c)(2)(A).

The court of appeals reversed, concluding that respondent's claim fell within the FAAAA's safety exception. The court reasoned that a common-law negligent-selection claim involves an exercise of the State's "safety regulatory authority" and that the enforcement of such a claim against a freight broker constitutes an exercise of such authority "with respect to motor vehicles."

The court of appeals' decision was erroneous, and it deepens a recognized and entrenched circuit conflict on the question whether the safety exception in Section 14501(c)(2)(A) applies to a common-law negligent-selection claim against a freight broker. Two courts of appeals have held that the exception does not apply to such claims. But two other courts of appeals, including the court below, have reached the opposite conclusion. Because this case is an ideal vehicle for resolving that conflict on an important question of federal law, the petition for a writ of certiorari should be granted.

A. Background

In 1994, Congress enacted the FAAAA to preempt certain state regulation of the transportation industry. The FAAAA represented the culmination of a broad deregulatory agenda undertaken by Congress over a 15-year period. In 1978, Congress had deregulated the domestic airline industry in the Airline Deregulation Act

(ADA). See Pub. L. No. 95-504, 92 Stat. 1705. The ADA preempted any state laws "relating to rates, routes, or services of any air carrier" in order to "ensure that the States would not undo federal deregulation with regulation of their own." *Morales* v. *Trans World Airlines, Inc.*, 504 U.S. 374, 378-379 (1992) (citation omitted). In 1980, Congress also deregulated the trucking industry, but without a broad preemption provision similar to the ADA's. See Motor Carrier Act of 1980, Pub. L. No. 96-296, 94 Stat. 793.

By the early 1990s, Congress had concluded that the remaining patchwork of state rules governing interstate transportation presented a "huge problem" for "national and regional" transportation companies "attempting to conduct a standard way of doing business." *City of Columbus* v. *Ours Garage & Wrecker Service, Inc.*, 536 U.S. 424, 440 (2002) (citation omitted). Such regulation, Congress determined, imposed an "unreasonable burden" on interstate commerce and thus an "unreasonable cost on the American consumers." 49 U.S.C. 11501 note.

Accordingly, in 1994, Congress enacted the FAAAA to preempt certain state regulation of the transportation industry, including the trucking industry. See Pub. L. No. 103-305, 108 Stat. 1569-1607. The preemption provision for the trucking industry is codified at 49 U.S.C. 14501(c) and is titled "Motor Carriers of Property." As amended, the FAAAA provides that a State may not "enact or enforce a law, regulation, or other provision having the force and effect of law" if it is "related to a price, route, or service of any motor carrier * * * or * * * broker." 49 U.S.C. 14501(c)(1).

As this Court has explained, the purpose of the FAAAA's preemption provision is to ensure that "rates, routes, and services" in the transportation industry reflect "maximum reliance on competitive forces." *Rowe* v.

New Hampshire Motor Transport Association, 552 U.S. 364, 370-371 (2008) (citation omitted). The language of the provision is thus broad, preempting state laws that have a "connection with" or "reference to" the prices, routes, or services of a motor carrier or broker. *Id.* at 370 (emphases and citation omitted). The connection may be "indirect," and a state law will be preempted as long as it has a "significant impact" on the FAAAA's "deregulatory and pre-emption-related objectives." *Id.* at 370-371 (internal quotation marks and citations omitted).

At the same time, the FAAAA preserves a sphere of state regulation. The second half of Section 14501(c) lists three express exceptions to the preemption provision. The first, and most relevant here, saves from preemption "the safety regulatory authority of a State with respect to motor vehicles." 49 U.S.C. 14501(c)(2)(A). The Court has explained that this "safety exception" preserves the "traditional state police power over safety," including the power to ensure "safety on municipal streets and roads." *Ours Garage & Wrecker Service*, 536 U.S. at 439-440.

The FAAAA also leaves in place significant federal regulation of motor carriers and commercial motor vehicles. Congress has instructed the Department of Transportation and the Federal Motor Carrier Safety Administration (FMCSA) to establish minimum safety standards for commercial motor vehicles. See 49 U.S.C. 113, 31136; 49 C.F.R. 1.87. The FMCSA has promulgated regulations governing, for example, the standards for commercial drivers' licenses (49 C.F.R. pt. 383) and rules for the driving of commercial motor vehicles (49 C.F.R. pt. 392). The FMCSA also monitors federally registered motor carriers for compliance with those regulations—and can revoke the registration of motor carriers that do not comply. See 49 U.S.C. 31144; 49 C.F.R. 385.5, 385.7, 385.13(e). And through a federal grant program, the

States coordinate with the FMCSA to enforce those safety standards. See 49 U.S.C. 31102; 49 C.F.R. 350.201.

B. Facts And Procedural History

1. Petitioner is a federally registered freight broker based in Ohio. A freight broker is an entity hired by a shipper to arrange for the transportation of property, ordinarily across state lines. The broker hires a motor carrier to conduct the transportation, and the motor carrier in turn employs a driver and selects the appropriate equipment to transport the cargo by motor vehicle. As a freight broker, petitioner neither owned nor operated any of the vehicles involved in the accident at issue in this case. App., *infra*, 23a-24a; D. Ct. Dkt. 6-1, at 2.

In 2019, Kraft Heinz hired petitioner to arrange for the transportation of certain goods from Minooka, Illinois, to Peris, California. Petitioner in turn selected Golden Transit, a federally licensed motor carrier, to drive the goods cross-country in a tractor trailer. During that trip, a tractor-trailer driven by a Golden Transit employee collided with a vehicle driven by respondent's wife on an Oklahoma highway. Respondent's wife died as a result of the collision; respondent's adult grandson, who was a passenger in the car, suffered injuries but survived. App., *infra*, 24a; D. Ct. Dkt. 6-2, at 2.

2. On January 13, 2022, respondent and his grandson filed suit in the Southern District of Ohio, alleging that petitioner had negligently selected Golden Transit under Ohio common law. Petitioner moved to dismiss the lawsuit, arguing that it was preempted by the FAAAA. App., *infra*, 26a; D. Ct. Dkt. 1, 6-1.

The district court granted petitioner's motion to dismiss. App., *infra*, 26a-38a. As is relevant here, the district court first held that the preemption provision in Section 14501(c)(1) applied to the claim against petitioner in

its capacity as freight broker because the claim was "related to" broker services with respect to the transportation of property. *Id.* at 29a-34a. The district court explained that there was a clear relationship between that claim and broker services, because "subjecting a broker's hiring decisions to a common-law negligence standard would have significant economic effects" on such services. *Id.* at 34a.

The district court then held that the claim did not fall within the safety exception in Section 14501(c)(2)(A). App., *infra*, 34a-37a. The court reasoned that the text of the safety exception was limited to laws "concerning 'motor vehicles'" and that the statute's omission of the term "brokers" in the exception evidenced Congress's intent to exclude claims against brokers. *Id.* at 35a.

3. Respondent appealed, and the court of appeals reversed and remanded. App., *infra*, 1a-21a.[2] As is relevant here, the court held that respondent's claim was not preempted because it fell within the "safety exception" in Section 14501(c)(2)(A). *Id.* at 10a-21a. The court first concluded that a state's "safety regulatory authority" encompassed common-law negligence claims, reasoning that "common law duties are often a powerful tool of government regulation." *Id.* at 11a. The court then held that respondent's common-law negligent-selection claim constituted an exercise of such authority "with respect to motor vehicles." *Id.* at 21a. The court reasoned that the phrase "with respect to" means "involves." *Id.* at 15a. And according to the court, respondent's claim sufficiently involved motor vehicles because there was "no way

[2] Respondent's grandson did not appeal the district court's judgment. See App., *infra*, 5a n.2.

to disentangle motor vehicles" from respondent's "substantive claim" that petitioner had negligently selected the motor carrier. *Id.* at 17a.

In so holding, the court of appeals acknowledged the existence of a "circuit split" on the question whether common-law negligent-selection claims against freight brokers constitute an exercise of state regulatory authority "with respect to motor vehicles." App., *infra*, 13a. As the court noted, the Seventh and Eleventh Circuits have required a "direct" connection between the state law and motor vehicles in order for a claim to fall within the safety exception. *Id.* at 19a.

The court of appeals assumed, *arguendo*, that the safety exception requires a "direct" connection to motor vehicles, but it nevertheless "diverge[d]" from the Seventh and Eleventh Circuits as to what such a "direct" connection entails. App., *infra*, 19a. In the court's view, a state law need not regulate an entity that "owns or operates motor vehicles" as long as the law "substantively concern[s] motor vehicles." *Ibid.* That is so, the court reasoned, because the safety exception focuses on "the connection between the state law and motor vehicles" rather than "the connection between the regulated entity and motor vehicles." *Ibid.* Respondent's negligent-selection claim against petitioner had a direct connection to motor vehicles, the court concluded, because "motor vehicles are core to the services provided by brokers" and "brokers are ultimately responsible for placing such motor vehicles on the road." *Id.* at 20a.

REASONS FOR GRANTING THE PETITION

This case presents the question whether a common-law negligence claim alleged against a freight broker, based on the broker's selection of a motor carrier to provide transportation of cargo, is preempted because it does not constitute an exercise of the "safety regulatory authority of a State with respect to motor vehicles" within the meaning of the FAAAA. That question is the subject of a recognized and entrenched conflict among the courts of appeals. In holding that common-law negligent-selection claims against freight brokers are not preempted, the court of appeals badly misinterpreted the safety exception in Section 14501(c)(2)(A). Only the Court can resolve the conflict on this question of immense importance to the transportation industry, and this case is an ideal vehicle in which to do so. The petition for a writ of certiorari should be granted.

A. The Decision Below Deepens A Conflict Among The Courts of Appeals

The court of appeals acknowledged the existence of a "circuit split" on the question whether a negligent-selection claim against a freight broker constitutes an exercise of the safety regulatory authority of a State "with respect to motor vehicles" within the meaning of the FAAAA. App., *infra*, 13a. Two courts of appeals, including the court of appeals in the decision below, have held that such claims fall within the FAAAA's safety exception. Two other courts of appeals have reached the opposite conclusion. And as the court of appeals in this case noted, the question presented has divided district courts "across the country." *Id.* at 7a. The resulting conflict warrants the Court's review.

1. In the decision below, the Sixth Circuit joined the Ninth Circuit to hold that the safety exception applies to

common-law negligent-selection claims against freight brokers and thus that such claims are not preempted by the FAAAA.

a. In *Miller* v. *C.H. Robinson Worldwide, Inc.*, 976 F.3d 1016 (9th Cir. 2020), cert. denied, 142 S. Ct. 2866 (2022), a federally registered freight broker selected a federally registered motor carrier to transport cargo. See *id.* at 1020. While doing so, the motor carrier's driver collided with a vehicle on a Nevada highway, resulting in severe injuries to the other driver. See *ibid.* The injured driver sued the freight broker, alleging negligent selection under Nevada common law. See *id.* at 1020-1021.

Applying the safety exception, the Ninth Circuit held that the FAAAA did not preempt the plaintiff's state-law claim. See 976 F.3d at 1031. The Ninth Circuit began by considering whether a common-law claim for negligent selection against a freight broker constitutes the "safety regulatory authority of a State." See *id.* at 1026-1029. Construing the safety exception "broadly," in part based on the presumption against preemption, the Ninth Circuit determined that it does. See *id.* at 1028.

The Ninth Circuit then analyzed whether such a claim involved the exercise of that authority "with respect to motor vehicles." See 976 F.3d at 1030. Citing circuit precedent, the court reasoned that the phrase "with respect to" in the safety exception is "synonymous" with the phrase "relating to" in the preemption provision. *Ibid.* (citation omitted). Accordingly, the court treated the exception as saving any state safety regulation bearing "'a connection with' motor vehicles, whether directly or indirectly." *Ibid.* (quoting *Dan's City Used Cars, Inc.* v. *Pelkey*, 569 U.S. 251, 260 (2013)). To that end, the court noted that it had previously held that the safety exception covers criminal-history disclosure requirements for tow-

truck drivers. *Ibid.*; see *California Tow Truck Association* v. *City & County of San Francisco*, 807 F.3d 1008 (2015). If those rules had the requisite "connection with" motor vehicles, the court reasoned, "then negligence claims against brokers that arise out of motor vehicle accidents must as well," given that "both promote safety on the road." 976 F.3d at 1030. The court thus held that the safety exception applied and that the driver's claims were not preempted.

Judge Fernandez concurred in part and dissented in part. See 976 F.3d at 1031-1032. He joined the portion of the majority's opinion concluding that common-law tort claims form part of the "safety regulatory authority of a State" preserved by the safety exception. See *id.* at 1031. But he dissented from the conclusion that negligence claims against freight brokers were sufficiently connected to motor vehicles to satisfy the exception. See *id.* at 1031-1032. In his view, a claim against a freight broker—as opposed to a motor carrier or driver—does not operate "with respect to motor vehicles." *Ibid.* That was so, Judge Fernandez reasoned, because the connection between a broker's actions and the "actual operational safety of motor vehicles" is "too remote." *Id.* at 1031. A contrary conclusion, he warned, would "conscript brokers into a parallel regulatory regime," requiring that they "evaluate and screen motor carriers" according to the "varied common law mandates of myriad states." *Id.* at 1032.

b. In the decision below, the Sixth Circuit joined the Ninth Circuit and "diverge[d]" from other courts of appeals in holding that a common-law negligent-selection claim against a freight broker falls within the safety exception in Section 14501(c). App., *infra*, 19a. Like the Ninth Circuit, the court of appeals held that common-law claims involve the "safety regulatory authority of a State"

because such claims are a "powerful tool of governmental regulation." *Id.* at 11a. The court of appeals then considered whether claims against freight brokers constitute the exercise of such authority "with respect to motor vehicles." *Id.* at 13a. The court reasoned that the safety exception applies when "the alleged negligent conduct 'involves' motor vehicles." *Id.* at 15a (quoting *Dan's City Used Cars*, 569 U.S. at 262). And assuming that the safety exception requires a "direct" connection to motor-vehicle safety, the court concluded that common-law negligent-selection claims against freight brokers satisfy that requirement because they "substantively concern motor vehicles"—that is, because "motor vehicles are core to the services provided by brokers" and "brokers are ultimately responsible for placing such motor vehicles on the road." *Id.* at 15a.

2. By contrast, the Seventh and Eleventh Circuits have held that the safety exception does not cover common-law negligent-selection claims against freight brokers and thus that such claims are preempted by the FAAAA.

a. The Eleventh Circuit first interpreted the FAAAA's safety exception in *Aspen American Insurance Co.* v. *Landstar Ranger, Inc.*, 65 F.4th 1261 (2023). There, a shipper's insurer sued a broker for negligently selecting a carrier that stole the cargo instead of transporting it. See *id.* at 1264. The Eleventh Circuit initially held that claims seeking damages for "property loss," rather than for "bodily injury," were "sufficiently related to safety"

for purposes of the safety exception to qualify as an exercise of state "safety regulatory authority." *Id.* at 1269-1270.[3]

The Eleventh Circuit then held that, under Section 14501(c)(2)(A), "the phrase 'with respect to motor vehicles' limits the safety exception's application to state laws that have a *direct* relationship to motor vehicles." 65 F.4th at 1271-1272. According to the Eleventh Circuit, that conclusion followed from applying ordinary canons of statutory interpretation to the phrase "with respect to motor vehicles" and its surrounding context. See *ibid.* The court reasoned that construing the phrase more broadly to cover state laws with an "indirect connection" to motor vehicles would be inconsistent with this Court's construction of a parallel phrase in an immediately preceding subsection. *Ibid.* Such a reading would also strip the phrase "with respect to motor vehicles" of any independent meaning and would render other exceptions in the same statute redundant. See *ibid.* In the Eleventh Circuit's view, the connection between a negligent-selection claim brought against a broker and a State's regulation of motor vehicles is too "attenuated" to trigger the safety exception. See *ibid.* (citation omitted).

In *Gauthier* v. *Hard to Stop LLC*, No. 22-10774, 2024 WL 3338944 (July 9, 2024), cert. denied, 145 S. Ct. 1062 (2025), the Eleventh Circuit extended its reasoning in *Aspen* to a negligent-selection claim against a freight broker (petitioner in this case) arising out of the death of a third party operating a motor vehicle. See *id.* at *2. In so doing, the court reaffirmed its view that the safety exception

[3] Judge Jordan declined to join the portion of the majority's opinion addressing whether the plaintiff's negligence claim was within the State's "safety regulatory authority." *Aspen*, 65 F.4th at 1273 (Jordan, J., concurring).

does not save any negligent-selection claims against freight brokers, and it rejected the plaintiff's argument that "*Aspen* was wrongly decided." *Ibid.* A petition for rehearing en banc was denied without recorded dissent. See Order, *Gauthier*, *supra* (Aug. 29, 2024).

b. In *Ye* v. *GlobalTranz Enterprises, Inc.*, 74 F.4th 453 (2023), cert. denied, 144 S. Ct. 564 (2024), the Seventh Circuit took the same position as the Eleventh Circuit on the scope of the safety exception. Specifically, the Seventh Circuit held that the exception does not save common-law negligent-selection claims against freight brokers from preemption. See *id.* at 464. The court interpreted the safety exception to "require[] a direct link between state laws and motor vehicle safety." *Ibid.* And negligent-selection claims against brokers, the court reasoned, "fall short of having that direct link." *Ibid.*

The Seventh Circuit acknowledged that its interpretation of the safety exception conflicted with the Ninth Circuit's decision on "near-identical facts" in *Miller*. *Ye*, 74 F.4th at 464-465. But it reasoned that the Ninth Circuit had "unduly emphasized" statutory purpose over statutory text; had improperly relied on a presumption against preemption in the context of an express preemption provision; and had erroneously concluded that the phrase "with respect to" in the safety exception was coterminous with the phrase "relating to" in the preceding preemption provision. *Id.* at 465. In a subsequent decision, the Seventh Circuit followed *Ye* and declined to "overrule" its interpretation of the safety exception. *Montgomery* v. *Caribe Transport II, LLC*, 124 F.4th 1053, 1058 (2025), petition for cert. pending, No. 24-1238 (filed June 2, 2025).

3. As the decision below recognized, district courts have also "diverged" on the question presented. See App., *infra*, 7a. Some district courts have held that the safety exception covers common-law negligent-selection claims

against freight brokers; others have reached the opposite conclusion.[4] That disagreement will only deepen the existing circuit conflict as new appeals raising that question are filed. See, *e.g.*, *Fuelling* v. *Echo Global Logistics, Inc.*, No. 25-1217 (4th Cir.) (filed Mar. 10, 2025); *Crane* v. *Liberty Lane, L.L.C.*, No. 25-40012 (5th Cir.) (filed Jan. 13, 2025).

State appellate courts have also begun to weigh in on the issue. See, *e.g.*, *Lagrange* v. *Boone*, 337 So. 3d 921, 928 (La. Ct. App. 2022); *Quinones* v. *Ladejo*, 174 N.E.3d 407, 496 (Ohio Ct. App. 2021); see also, *e.g.*, Petition for Mandamus, *In re Allen Lund Co.*, No. 25-596 (Tex.) (July 9, 2025). For example, the Illinois Appellate Court recently held that the safety exception applies to negligent-selection claims, "reject[ing] the reasoning" of the Seventh Circuit and creating a federal-state split within one of the largest freight-shipping States in the Nation. *Kaipust* v. *Echo Global Logistics, Inc.*, 2025 IL App (1st) 240530-U, ¶¶ 32, 37; see Department of Transportation, Bureau of Transportation Statistics, *Freight Flows By State* (accessed July 28, 2025) <tinyurl.com/freightstats> (*Freight Flows*). The Court's intervention is thus badly

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[4] Compare, *e.g.*, *Rivera* v. *Convoy Inc.*, Civ. No. 23-1353, 2025 WL 2098129, at *6-*7 (D. Conn. July 25, 2025); *Glover* v. *Argonaut Insurance Co.*, Civ. No. 22-445, 2025 WL 1805708, at *4 (M.D. La. June 30, 2025); and *Milne* v. *Move Freight Trucking, LLC*, Civ. No. 23-432, 2024 WL 762373, at *8 (W.D. Va. Feb. 20, 2024); with, *e.g.*, *Fuelling* v. *S&J Logistics LLC*, Civ. No. 22-905, 2024 WL 4802709, at *6 (D.S.C. Nov. 15, 2024), appeal pending, No. 25-1217 (4th Cir.); *Schriner* v. *Gerard*, Civ. No. 23-206, 2024 WL 3824800, at *7 (W.D. Okla. Aug. 14, 2024); *Hamby* v. *Wilson*, Civ. No. 23-249, 2024 WL 2303850, at *5 (E.D. Tex. May 21, 2024); *Lee* v. *Golf Transportation, Inc.*, Civ. No. 21-1948, 2023 WL 7329523, at *16-*17 (M.D. Pa. Nov. 7, 2023); and *Flanagan* v. *BNSF Railway Co.*, Civ. No. 21-14, 2021 WL 9667999, at *7 (S.D. Iowa Nov. 19, 2021).

needed to resolve the growing conflict, which is causing nationwide disarray for the Nation's shipping industry.

B. The Decision Below Is Incorrect

In the decision below, the court of appeals held that a common-law negligence claim alleged against a freight broker, based on the broker's selection of a motor carrier to provide transportation of cargo, constitutes an exercise of the "safety regulatory authority of a State with respect to motor vehicles" within the meaning of the FAAAA. That holding is erroneous.

1. A common-law negligent-selection claim against a freight broker does not operate "with respect to motor vehicles." 49 U.S.C. 14501(c)(2)(A). That reading follows from the safety exception's text and statutory context, and the court of appeals erred by holding otherwise.

a. In *Dan's City Used Cars*, *supra*, this Court interpreted the phrase "with respect to," as used in Section 14501(c)(1), to mean "concern[ing]," thereby placing a limitation on the language that precedes the phrase. 569 U.S. at 261. Congress's use of the phrase "with respect to transportation of property" in Section 14501(c)(1) thus "massively limits the scope of preemption" under the FAAAA. *Ibid.* (citation omitted).

Congress's use of that same phrase in the safety exception has a similar limiting effect. By saving only state safety regulatory authority "with respect to motor vehicles," Congress created a narrow exception only for state safety authority concerning motor vehicles. And because Title 49 defines the phrase "motor vehicle" to mean a "vehicle, machine, tractor, trailer, or semitrailer * * * used on a highway in transportation," 49 U.S.C. 13102(16), it follows that the safety exception applies only to state regulatory authority concerning the safe use of a motor vehicle on a highway in transportation.

Freight brokers do not "use[]" any vehicle "on a highway for transportation" as part of their ordinary course of business. Instead, they "arrang[e]" transportation "by motor carrier." 49 U.S.C. 13102(2). The "motor carrier," which actually "provid[es] motor vehicle transportation," 49 U.S.C. 13102(14), then hires and selects a driver—and it is that driver who "uses" the vehicle on a highway in transportation.

Statutory context confirms the natural reading of the text. The preemption provision in Section 14501(c)(1) expressly refers to "brokers," whereas the safety exception does not. The safety exception's neighboring provision, Section 14501(b), also refers specifically to brokers: it is titled "Freight Forwarders and Brokers," and (as the title suggests) it provides additional preemption for certain laws applicable to freight forwarders and brokers. 49 U.S.C. 14501(b)(1). Accordingly, when Congress wanted a provision of the FAAAA to apply to laws or regulations relating to brokers, it explicitly used the word "brokers." The absence of any reference to brokers in the safety exception thus suggests an intentional choice by Congress to omit brokers from its scope. See, *e.g.*, *Rotkiske* v. *Klemm*, 589 U.S. 8, 14 (2019).

Moreover, Section 14501(b) broadly preempts claims related to "intrastate services of any * * * broker," without providing any safety exception. 49 U.S.C. 14501(b)(1). To interpret the limiting language in the safety exception as extending to interstate regulations of brokers would ascribe to Congress the peculiar intent to preempt all *intra*state broker regulations, but not all *inter*state broker regulations. Nothing in the statute supports that outcome.

b. The court of appeals concluded that common-law negligent-selection claims against freight brokers are not preempted because the safety exception applies to any

safety law that "involves" motor vehicles. App., *infra*, 14a-15a. But that interpretation would render parts of the statute superfluous. See, *e.g.*, *Ysleta Del Sur Pueblo* v. *Texas*, 586 U.S. 685, 698-699 (2022). For example, the safety exception is implicated only where the express preemption provision in Section 14501(c) covers a state law because the law is "related to a price, route, or service of any motor carrier * * * broker, or freight forwarder with respect to the transportation of property." 49 U.S.C. § 14501(c)(1). But "every state law" that relates to the prices, routes, or services of a motor carrier, a freight broker that contracts with a motor carrier, or a freight forwarder that uses a motor carrier will "involve" motor vehicles, because "motor vehicles are how motor carriers move property from one place to another." *Aspen*, 65 F.4th at 1271-1272 (internal quotation marks, citations, and alteration omitted). The court of appeals' interpretation would thus fail to give the phrase "with respect to motor vehicles" any meaning that is independent of the preemption provision to which it creates an exception.

The court of appeals further reasoned that, assuming that the safety exception requires a "direct" connection to motor vehicles, common-law negligent-selection claims against freight brokers would satisfy that requirement because "motor vehicles are core to the services provided by brokers" and "brokers are ultimately responsible for placing such motor vehicles on the road." App., *infra*, 20a. But even if "at a higher level of generality" brokers have a relationship to motor vehicles and thus to motor-vehicle safety, the court of appeals did not grapple with how its interpretation of the safety exception could be reconciled with the statutory text or context discussed above, nor did it offer any meaningful "limiting principle" for its concededly broad interpretation. *Ye*, 74 F.4th at 462; see App., *infra*, 20a n.8.

The court of appeals also erroneously dismissed the fact that the safety exception, unlike other provisions of the FAAAA, does not mention freight brokers. App., *infra*, 17a. The court reasoned that the exception does not mention "any regulated persons or entities" and thus does not focus on "the connection between the regulated entity and motor vehicle." *Ibid.* (emphasis omitted). But the court ignored that the phrase "with respect to motor vehicles" does refer to persons who use vehicles on highways in transportation. See pp. 17-18, *supra*. The court also failed to explain how there can be a meaningful "connection between the state law and motor vehicles" without a "connection between the regulated entities and motor vehicles." App., *infra*, 19a. As the Seventh and Eleventh Circuits have explained, the connection between a negligent-selection claim against a freight broker and motor-vehicle safety is simply "too attenuated" to fall within the safety exception's scope. *Ye*, 74 F.4th at 462; see *Aspen*, 65 F.4th at 1272.

2. In the proceedings below, the court of appeals also addressed the closely related argument that a common-law negligent-selection claim falls outside the safety exception because it does not constitute an exercise of the "safety regulatory authority of a State." 49 U.S.C. 14501 (c)(2)(A); App., *infra*, 11a-13a. Although the court of appeals disagreed, the better view is that the safety exception excludes common-law tort claims brought by private parties seeking compensation for past wrongs. The phrase "regulatory authority" is almost always synonymous with "regulatory agency" or, derivatively, the powers of such an agency. See, *e.g.*, 15 U.S.C. 7201(1); 16 U.S.C. 824i(a), (b); 42 U.S.C. 16431(a)(1); 49 U.S.C. 14702(a). And while it is perfectly natural to refer to Congress's power to enact legislation as "regulatory authority," see, *e.g.*, *Kaiser Aetna* v. *United States*, 444 U.S. 164,

171-172 (1979), it would be peculiar to refer to the "regulatory authority" of the courts.

Whatever the outer limits of the phrase "safety regulatory authority of a State," it cannot extend to common-law tort claims enforced by private parties seeking recompense for past harms. The common law of torts imposes general duties of care, not specific regulatory duties characteristic of statutes and regulations. And it is enforced not by state or local officials, but rather by private parties and their lawyers.

Some courts of appeals, including the court below, have reached a contrary conclusion. See App., *infra*, 11a-13a; *Miller*, 976 F.3d at 1026-1029; cf. *Aspen*, 65 F.4th at 1268-1270 (concluding that common-law negligence claims seeking damages for property loss are "sufficiently related to safety" as to constitute an exercise of the "safety regulatory authority of a State"). But in so doing, those courts erroneously asked whether common-law claims fall within a State's broad "power" to regulate "safety," rather than what meaning the phrase "safety regulatory authority of a State" conveys. App., *infra*, 12a; *Miller*, 976 F.3d at 1026. And the text of the safety exception does not preserve any claim that invokes a State's "power" and has something to do with "safety."

The courts of appeals have also reasoned that excluding common-law negligence claims would produce an "odd result" because the preemption of tort claims would purportedly depend on whether States codify their common law. See App., *infra*, 12a; *Miller*, 976 F.3d at 1027. But the Court could readily conclude that the safety exception is implicated only where the state regulatory authority actually defines the safety principle—that is, the standard of care—through a positive enactment, rather than judge-made law. And where a motor carrier violates a codified

standard of care, that may provide the basis for a non-preempted state-law negligence claim.

C. The Question Presented Is Exceptionally Important And Warrants Review In This Case

The question presented is one of enormous legal and practical importance. The court of appeals' decision severely curtails the preemptive scope of the FAAAA, thus contravening Congress's clear intent to establish a uniform regulatory regime and imposing significant costs on the transportation industry. This case is an ideal vehicle for resolution of the question presented.

1. As its frequent grants of certiorari demonstrate, the Court has paid particular solicitude to the scope of the FAAAA's preemption provision. See *American Trucking Associations, Inc.* v. *City of Los Angeles*, 569 U.S. 641 (2013); *Dan's City Used Cars*, *supra*; *Rowe* v. *New Hampshire Motor Transport Association*, 552 U.S. 364 (2008); *Ours Garage & Wrecker Services*, *supra*. The Court has likewise repeatedly granted certiorari in cases interpreting the analogous preemption provision in the Airline Deregulation Act. See *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 Court frequently grants review in such cases, and for good reason. Interstate transportation is a bedrock of the United States economy, and Congress has indicated that there is a significant federal interest in ensuring that key sectors of the transportation industry are regulated uniformly nationwide.

In addition, the specific question presented is one of significant importance. Because jury awards in personal-injury cases sometimes exceed insurance limits for motor carriers or drivers, plaintiffs have increasingly targeted freight brokers and others in an effort to secure large

damage awards in such cases. See Robert D. Moseley & C. Fredric Marcinak, *Federal Preemption in Motor Carrier Selection Cases Against Brokers and Shippers*, 39 Transp. L.J. 77, 77-78 (2012) (Mosley & Marcinak). If plaintiffs are permitted to bring such lawsuits, the patchwork of state negligence doctrines invoked will "create uncertainty and even conflict," as "different juries in different States reach different decisions on similar facts." *Geier* v. *American Honda Motor Co.*, 529 U.S. 861, 871 (2000). And as state courts begin to address the question presented, that uncertainty and conflict will only worsen, because a freight broker's liability even within the *same* State will turn on whether it is sued in federal or state court. See p. 16, *supra*. That uncertainty profoundly affects the core business functions of freight brokers, which serve a central role in the efficient operation of supply chains throughout the United States.

The circuit conflict and the uncertainty about the extent of liability will invite the very mischief that Congress sought to abate with the FAAAA. That statute aimed to address the "huge problem" that the "sheer diversity" of state rules created for "national and regional carriers attempting to conduct a standard way of doing business." H.R. Conf. Rep. No. 677, 103d Cong., 2d Sess. 87 (1994); see *Ours Garage & Wrecker Service*, 536 U.S. at 440 (citing the same report). Congress determined that the "unreasonable burden" on interstate commerce imposed by the regulations would ultimately impose an "unreasonable cost on the American consumers." 49 U.S.C. 11501 note. The court of appeals' rule imposes just such a burden on the transportation industry by exposing freight brokers and other business to liability. See Moseley & Marcinak 83.

There would be no benefit to allowing the question to percolate further in the lower courts. The conflict has

only deepened in recent years. Two courts of appeals (the Seventh and Eleventh Circuits) now correctly hold that the FAAAA preempts this type of claim. See pp. 13-15, *supra*. Two other courts of appeals (the Sixth and Ninth Circuits) have reached the opposite conclusion. See pp. 10-13, *supra*. Those four circuits alone cover many of the most important States in terms of the dollar value and tonnage of freight shipping. See *Freight Flows*, *supra*. Nor is there any reason to think that the conflict will resolve on its own. The Seventh and Eleventh Circuits have both rejected requests to reconsider their earlier decisions interpreting the safety exception; the Ninth Circuit has not reconsidered its decision in *Miller* in the five years since; and the Sixth Circuit, in the decision below, consciously chose to "diverge" from the decisions of the Seventh and Eleventh Circuits. See App., *infra*, 19a; pp. 14-15, *supra*. The resulting conflict is unlikely to be resolved without this Court's intervention.

As noted above, moreover, the question presented is a recurring one, and district courts vary widely in their approaches to it. See pp. 10-16 & n.4, *supra*. Thorough opinions on both sides of the conflict have fully ventilated the arguments on the question presented, making further percolation unnecessary. In the meantime, the lack of uniformity creates serious uncertainty for the Nation's freight brokers; petitioner is itself involved in cases on both sides of the circuit conflict. The transportation industry urgently needs an answer to this critical question, as petitioner and other leading freight brokers have previously explained in supporting certiorari on the question. See, *e.g.*, Freight Brokers Br. at 5, *Miller*, *supra* (No. 20-1425). In light of the clear and entrenched conflict that now exists, further review is plainly warranted.

2. This petition is an ideal vehicle to resolve the question presented. Because the question presented arose at

the motion-to-dismiss stage, the relevant facts are not in dispute. And resolution of the question presented was outcome-determinative, making this petition a clean vehicle for the Court's review.

The Court currently has pending before it another petition raising a substantially similar question presented. See Pet. at i, *Montgomery* v. *Caribe Transport II, LLC*, No. 24-1238 (filed June 2, 2025). In this case, the court of appeals fully addressed all of the available arguments as to why the FAAAA's safety exception does not apply to state-law claims such as respondent's, and the question presented in this case is more precisely framed to encompass those arguments. Granting review in this case, either alone or in tandem with *Montgomery*, would thus allow the Court definitively to resolve whether the safety exception applies to common-law negligent-selection claims against freight brokers, thereby providing much-needed guidance to the transportation industry.

CONCLUSION

The Court should grant the petition for a writ of certiorari. The Court may also wish to grant the petition in *Montgomery* v. *Caribe Transport II, LLC*, No. 24-1238; in the alternative, the Court should hold the petition in *Montgomery* pending its disposition of this case.

Respectfully submitted.

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