APPENDIX

TABLE OF CONTENTS

Appendix A:	Court of appeals opinion, July 8, 2025	1a
Appendix B:	District court opinion, June 12, 2024	22a

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 24-3599

ROBERT COX, AS DULY APPOINTED PERSONAL REPRESENTATIVE AND SPECIAL ADMINISTRATOR OF THE ESTATE ON BEHALF OF GRETA COX, PLAINTIFF-APPELLANT

v.

TOTAL QUALITY LOGISTICS, INC; TOTAL QUALITY LOGISTICS, LLC, DEFENDANT-APPELLEES

Filed: July 8, 2025

Before: GILMAN, STRANCH, and LARSEN, Circuit Judges.

OPINION

JANE B. STRANCH, Circuit Judge.

Robert Cox sued Total Quality Logistics, Inc. and Total Quality Logistics, LLC (together, "TQL") for negligence under Ohio law. Mr. Cox alleged that TQL, in its capacity as a freight broker, negligently hired an unsafe motor carrier, resulting in a motor vehicle crash that

killed his wife, Greta Cox. The district court dismissed the action on the ground that Mr. Cox's claims were preempted by the Federal Aviation Administration and Authorization Act ("FAAAA" or "the Act"), 49 U.S.C. § 14501(c). For the reasons set forth below, we **REVERSE** the judgment of the district court and **REMAND** for further proceedings consistent with this opinion.

I. BACKGROUND

A. Statutory Background

In 1978, Congress passed the Airline Deregulation Act ("ADA"), which heavily deregulated the American airline industry. Pub. L. No. 95-504, 92 Stat. 1705; *see Dan's City Used Cars, Inc. v. Pelkey*, 569 U.S. 251, 255-56 (2013). Congress's express purpose in passing the ADA was "to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services." 92 Stat. at 1705. To "ensure that the States would not undo federal deregulation with regulation of their own," *Morales v. Trans World Airlines*, 504 U.S. 374, 378 (1992), the ADA included a preemption provision, providing that:

> [A] State, political subdivision of a State, or political authority of at least 2 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 an air carrier that may provide air transportation under this subpart.

49 U.S.C. § 41713(b)(1).

Two years later, Congress passed the Motor Carrier Act of 1980, extending this deregulation to the trucking industry. Pub. L. No. 96-296, 94 Stat. 793; *see Dan's City*,

569 U.S. at 256. In 1994, Congress built on these deregulatory efforts by passing the FAAAA. In particular, the Act sought to mitigate "unreasonable burden[s] on interstate commerce," "unreasonable cost[s] on the American consumers," and "imped[iments] [to] the free flow of trade, traffic, and transportation of interstate commerce" by preempting "certain aspects of the State regulatory process." Pub. L. No. 103-305, 108 Stat. 1569, 1605. "Borrowing from the ADA's preemption clause, but adding a new qualification," *Dan's City*, 569 U.S. at 256, the Act provided that:

> [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 (other than a carrier affiliated with a direct air carrier covered by section 41713(b)(4)) or any motor private carrier, broker, or freight forwarder *with respect to the transportation of property*.

49 U.S.C. § 14501(c)(1) (emphasis added). At the same time, the Act enumerated multiple exceptions to § 14501 (c)(1), including the following "safety exception":

> [Section 14501(c)(1)] *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[.]

Id. § 14501(c)(2)(A) (emphasis added). Congress passed the safety exception "to ensure that its preemption of

States' economic authority over motor carriers of property, § 14501(c)(1), 'not restrict' the preexisting and traditional state police power over safety." *City of Columbus v. Ours Garage & Wrecker Serv., Inc.*, 536 U.S. 424, 439 (2002) (quoting 49 U.S.C. § 14501(c)(2)(A)).

B. Factual and Procedural Background

TQL is an Ohio-based freight broker.[1] As a broker, TQL works with shippers to find authorized motor carriers to transport goods. In May 2019, TQL arranged for motor carrier Golden Transit, Inc. to transport a load of goods via tractor trailer from Minooka, Illinois to Perris, California. In doing so, TQL disregarded public information, available via the Federal Motor Carrier Safety Administration ("FMCSA") website's Safety Measurement System, indicating that Golden Transit was an unsafe motor carrier with a history of "on-road safety violations and deficiencies." R. 1, Compl., PageID 4. An "overwhelming number of [Golden Transit's] drivers [were] deemed illegal to be on the road," and "more than 7 out of every 10 of its trucks were not allowed to legally be on the roadway." *Id.* The driver of the May 2019 shipment, Amarjit Singh Khaira, was purportedly an inexperienced and unsafe driver.

On May 8, 2019, Greta Cox was driving along Interstate 40 in Oklahoma with her grandson, Brion Ragland, in the passenger seat. The two approached a construction zone where the left lane of the highway was closed, and all traffic was directed to move to the right lane at a reduced speed. Ms. Cox complied with these directives, remaining in the right lane and slowing down her vehicle. But

[1] In reciting the relevant facts, we accept as true all factual allegations in Mr. Cox's complaint. *See DiGeronimo Aggregates, LLC v. Zemla*, 763 F.3d 506, 509 (6th Cir. 2014).

Khaira, whose "semi-truck" was just behind Ms. Cox's vehicle, failed to slow down and, going at a rate of over sixty miles per hour, collided with Ms. Cox's vehicle. Ms. Cox died in the collision and Ragland incurred physical injuries.

Mr. Cox, in his capacity as the personal representative and special administrator of his wife's estate, joined by Ragland, sued TQL in federal court, alleging that TQL, in its capacity as a broker, was negligent in hiring Golden Transit. The complaint also alleged that TQL qualified as a motor carrier, and it lodged claims against TQL in that capacity, including negligence and violations of various federal and state regulations regarding motor carriers. The district court dismissed the complaint in full for failure to state a claim, holding that (1) the lawsuit fell within the scope of the FAAAA's preemption provision, § 14501 (c)(1); and (2) the lawsuit did not fall within the Act's safety exception, § 14501(c)(2)(A). Mr. Cox timely appealed.[2]

II. ANALYSIS

The district court had diversity jurisdiction to hear this case under 28 U.S.C. § 1332.[3] Mr. Cox, in turn, appeals

---

[2] Ragland did not join Mr. Cox in appealing the district court's judgment, and is, therefore, not a party to this appeal.

[3] Mr. Cox's complaint does not allege the citizenship of each of Total Quality Logistics, LLC's members and sub-members. Instead, it simply alleges that "Total Quality Logistics, LLC is an Ohio limited liability company with its principal place of business [in] . . . Ohio." R. 1, Compl., PageID 2. Because a limited liability company ("LLC") "has the citizenship of its members and sub-members" for purposes of diversity jurisdiction, *Akno 1010 Mkt. St. St. Louis Mo. LLC v. Pourtaghi*, 43 F.4th 624, 626 (6th Cir. 2022), we ordered supplemental briefing on Defendants' citizenship. In their supplemental briefing,

the district court's final judgment, conferring this court with jurisdiction to hear the appeal under 28 U.S.C. § 1291.

On appeal, Mr. Cox appears to concede that TQL qualifies solely as a broker, not a motor carrier, and challenges only the district court's dismissal of his negligent hiring claim against TQL in its capacity as a broker. He contends that the court erred in finding that the negligent hiring claim fell outside the safety exception and was therefore preempted by the FAAAA.

This circuit has yet to consider whether the FAAAA preempts negligent hiring claims brought against brokers under a state's common law. But various federal courts across the country, including three circuit courts, have addressed the issue, resulting in a circuit split. *Compare Miller v. C.H. Robinson Worldwide, Inc.*, 976 F.3d 1016, 1030-31 (9th Cir. 2020) (holding that negligent hiring claims against brokers fall within the safety exception and are thus not preempted by the Act), *with Aspen Am. Ins. Co. v. Landstar Ranger, Inc.*, 65 F.4th 1261, 1272 (11th

---

the parties confirmed the citizenship of each of Total Quality Logistics, LLC's members and sub-members. *See* D. 50, Appellees' Letter (listing the LLC's members and sub-members and attesting that each is a citizen or resident of Ohio); D. 52, Appellant's Supp. Br. (averring that each member and sub-member of the LLC was a citizen of Ohio when the action commenced, based in part on public filings in the Southern District of Georgia showing that the LLC had the same members and sub-members—all of which were citizens of Ohio—as of 2021, just before Mr. Cox's suit commenced in 2022, and through 2023 (citing ECF Nos. 83-1, 83-2, 86-1, *Gauthier v. Hard to Stop LLC*, No. 6:20-CV-00093 (S.D. Ga. 2020))). Because the complaint and supplemental briefing establish that each Plaintiff was a citizen of New Mexico and each Defendant was a citizen of Ohio at the time the action commenced, we are satisfied that there is complete diversity of citizenship. *See Akno*, 43 F.4th at 626.

Cir. 2023) (concluding that negligent hiring claims against brokers are preempted because they fall within the scope of § 14501(c)(1) and are not "with respect to motor vehicles" under the safety exception), *and Ye v. GlobalTranz Enters., Inc.*, 74 F.4th 453, 464 (7th Cir. 2023) (agreeing with *Aspen* that the Act preempts negligent hiring claims against brokers).[4] District courts across the country, including district courts in this circuit, have also diverged on this issue. *See Hawkins v. Milan Express, Inc.*, 735 F. Supp. 3d 933, 939-40 (E.D. Tenn. 2024) (reaffirming its prior ruling that the safety exception applies to negligent hiring claims against brokers); *McElroy Truck Lines, Inc. v. Moultry*, No. 3:23-CV-01056, 2024 WL 4593852, at *9-11 (M.D. Tenn. Oct. 28, 2024) (concluding that the FAAAA preempts negligent hiring claims against brokers); *Bertram v. Progressive Se. Ins. Co.*, No. 2:19-CV-01478, 2021 WL 2955740, at *2 (W.D. La. July 14, 2021) (collecting cases outside the Sixth Circuit). Now, with this caselaw in mind, and without an on-point Supreme Court precedent, this court must conduct its own independent review.

"We review de novo the district court's dismissal on federal preemption grounds." *McDaniel v. Upsher-Smith Lab'ys, Inc.*, 893 F.3d 941, 944 (6th Cir. 2018). "State-law claims can be preempted expressly in a federal statute or regulation, or impliedly, where congressional intent to

---

[4] The defendant in *Miller* sought Supreme Court review. In response, the United States filed an amicus brief arguing that *Miller* correctly applied the safety exception, and that Supreme Court review was not warranted. Brief for the United States as Amicus Curiae, *C.H. Robinson Worldwide, Inc. v. Miller*, 142 S. Ct. 2866 (2022) (Mem.) (No. 20-1425). The Court denied certiorari. *C.H. Robinson Worldwide, Inc. v. Miller*, 142 S. Ct. 2866 (2022). The plaintiff in *Ye* also sought review from the Court, which again denied certiorari. *Ye v. GlobalTranz Enters., Inc.*, 144 S. Ct. 564 (2024) (Mem.).

preempt state law is inferred." *Yates v. Ortho-McNeil-Janssen Pharms., Inc.*, 808 F.3d 281, 293 (6th Cir. 2015). This case deals with the FAAAA's express preemption provision. Accordingly, to determine whether Mr. Cox's claim is preempted, this court must look to the "plain wording" of the Act, which "necessarily contains the best evidence of Congress' pre-emptive intent." *CSX Transp., Inc. v. Easterwood*, 507 U.S. 658, 664 (1993); *accord Freeman v. Wainwright*, 959 F.3d 226, 232 (6th Cir. 2020) (noting that courts must interpret a statute based on its "statutory text and precedents interpreting that text").

Mr. Cox does not contest the district court's conclusion that § 14501(c)(1) encompasses his state law claim; he argues only that the safety exception saves his claim from preemption. Nonetheless, because the initial applicability of § 14501(c)(1) is a threshold issue, we address it below, before turning to the exception.

A. The Scope of § 14501(c)(1)

For Mr. Cox's state law claim to be preempted, it must fall within the scope of § 14501(c)(1). The relevant inquiry, therefore, is whether the claim constitutes a state "law, regulation, or other provision having the force and effect of law related to a price, route, or service of any . . . broker . . . with respect to the transportation of property." 49 U.S.C. § 14501(c)(1).

The Supreme Court has held that "the phrase 'other provision having the force and effect of law' includes common-law claims." *Northwest, Inc. v. Ginsberg*, 572 U.S. 273, 284 (2014) (interpreting identical language in the ADA's preemption provision). Thus, Mr. Cox's claim falls within the ambit of § 14501(c)(1) if it is "related to" a broker's "price, route or service." 49 U.S.C. § 14501(c)(1). In

the preemption context, the terms "related to" or "relating to" "express a broad pre-emptive purpose" and should be broadly construed to mean "having a connection with or reference to." *Morales*, 504 U.S. at 383-84. The connection to a broker's prices, routes, or services may be direct or indirect, as long as the connection is not "too tenuous, remote, or peripheral." *Rowe v. N.H. Motor Transp. Ass'n*, 552 U.S. 364, 371, 375 (2008) (quoting *Morales*, 504 U.S. at 390).

Mr. Cox's claim seeks to hold TQL liable for negligently hiring an unsafe motor carrier. The claim "challeng[es] the adequacy of care the company took—or failed to take—in hiring [Golden Transit] to provide shipping services." *Ye*, 74 F.4th at 459. Recognition of this type of claim under Ohio's common law obligates brokers to adhere to a basic standard of care when hiring motor carriers. To avoid litigation and the imposition of monetary judgments, brokers are required to conform to that standard in their hiring practices—for example, by dedicating time and resources to evaluating the safety metrics of prospective motor carriers. *See id.* In other words, negligent hiring claims affect how brokers conduct their services and the amount of money that they spend on those services. That establishes a connection between Mr. Cox's claim and broker services that is more than "tenuous, remote, or peripheral." *Rowe*, 552 U.S. at 375 (quoting *Morales*, 504 U.S. at 390).

Section 14501(c)(1) also requires that the state common law claim relate to the services of a broker "with respect to the transportation of property." 49 U.S.C. § 14501 (c)(1). The Act defines "transportation" to "include[]" any "services related to" the "*movement [of] . . . property*." 49 U.S.C. § 13102(23)(B) (emphasis added). Although the Act does not define "with respect to," the Supreme Court in

Dan's City Used Cars, Inc. v. Pelkey construed the term to mean "concern[s]." 569 U.S. at 261. We need not parse the exact contours of the term here because there is no genuine dispute that the transportation of property is core to the services at issue in Mr. Cox's claim. As discussed, the claim alleges that TQL negligently hired an unsafe motor carrier to transport goods from Illinois to California. The broker services implicated in this type of tort claim plainly "concern" the transportation, or movement, of property. *Id.*; *accord* 49 U.S.C. § 13102(2) (defining the term "broker" as any entity that "as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, *transportation by motor carrier* for compensation" (emphasis added)). Mr. Cox's negligent hiring claim thus meets the criteria of each of § 14501(c)(1)'s subparts.

The district court was therefore correct in holding that § 14501(c)(1) encompasses negligent hiring claims against brokers, including Mr. Cox's claim. This conclusion aligns us with every circuit court to consider the issue to date. *See Miller*, 976 F.3d at 1023-26; *Aspen*, 65 F.4th at 1266-68; *Ye*, 74 F.4th at 458-60.

Because the district court did not err in its finding that Mr. Cox's claim falls within the scope of § 14501(c)(1), we must next consider whether the claim falls within the Act's safety exception.

B. The Safety Exception

Mr. Cox argues that his claim falls within the scope of § 14501(c)(2)(A), which exempts from preemption "the safety regulatory authority of a State with respect to motor vehicles." 49 U.S.C. § 14501(c)(2)(A). To determine

whether the exception applies, we must address two issues: (1) whether common law tort claims like Mr. Cox's negligent hiring claim are part of a state's "safety regulatory authority," and (2) whether Mr. Cox's claim is "with respect to motor vehicles." *Id.* TQL does not contest that the term "safety regulatory authority of a State" encompasses common law actions like Mr. Cox's negligent hiring claim. Nonetheless, because Mr. Cox's claim must satisfy this first prong for the safety exception to apply, we address the issue below.

1. The "Safety Regulatory Authority of a State"

The FAAAA does not expressly define the term "safety regulatory authority of a State." We must, therefore, construe the term based on its "plain wording," in accordance with the broader statutory text and judicial precedent. *Easterwood*, 507 U.S. at 664; *see Freeman*, 959 F.3d at 232.

The Supreme Court has repeatedly held that a state's "regulatory authority" encompasses "common-law duties and standards of care." *Kurns v. R.R. Friction Prods. Corp.*, 565 U.S. 625, 637 (2012); *accord Riegel v. Medtronic, Inc.*, 552 U.S. 312, 324 (2008) ("Absent other indication, reference to a State's 'requirements' [in an express preemption statute] includes its common-law duties."). This is because common law duties are often a powerful tool of governmental regulation. By creating a standard of care and imposing the "obligation to pay compensation" in the form of monetary damages when that standard is violated, states retain "a potent method of governing conduct and controlling policy." *Kurns*, 565 U.S. at 637 (quoting *San Diego Bldg. Trades Council v. Garmon*, 359 U.S. 236, 247 (1959)). In keeping with this principle, the Supreme Court and lower courts have consistently rejected

the argument that a state's regulatory authority can encompass only positive enactments of law. *See, e.g., id.*; *Riegel*, 552 U.S. at 324; *Miller*, 976 F.3d at 1026-29 (holding that the term "regulatory authority" in § 14501(c)(2)(A) encompasses a state's common law); *Aspen*, 65 F.4th at 1268-70 (same).

This accords with the FAAAA's broader statutory text and context. As noted above, the Supreme Court has held that the language of the Act's preemption provision includes common law claims. *Ginsberg*, 572 U.S. at 284 (interpreting identical language in the ADA's preemption provision). The safety exception, in turn, carves out an exemption to the preemption provision that preserves a state's power to regulate motor vehicle safety. 49 U.S.C. § 14501(c)(2)(A); *Ours Garage*, 536 U.S. at 439 (explaining that Congress added § 14501(c)(2)(A) to maintain "the preexisting and traditional state police power over safety"). Although the preemption provision broadly preempts any state laws "related to" a broker's transportation services, including common law claims, the safety exception correspondingly shields from preemption the subset of those laws that regulate motor vehicle safety, which necessarily includes certain types of common law claims. As other courts have noted, excluding the common law from the safety exception's reach could also produce the odd result of exempting from preemption certain tort claims in states that have codified their common law, while simultaneously preempting virtually identical tort claims in states that have not done so. *See Miller*, 976 F.3d at 1027.

The determination that a state's "regulatory authority" encompasses common law claims, however, is not the end of the matter. The common law claim must also implicate "safety." 49 U.S.C. § 14501(c)(2)(A) (excluding from

preemption a state's "safety regulatory authority . . . with respect to motor vehicles" (emphasis added)). A state law meets this criterion if it is "genuinely responsive to safety concerns." *Ours Garage*, 536 U.S. at 442. Mr. Cox has sued TQL for negligently hiring a dangerous motor carrier, which resulted in a vehicular accident that killed his wife. Such negligent hiring claims seek to enforce a standard of care on brokers which, in turn, requires brokers to do their due diligence in ensuring that they are hiring safe motor carriers. This type of tort claim is, therefore, "genuinely responsive to safety concerns." *Id.*

Because common law claims like Mr. Cox's are part of the "safety regulatory authority of a State," Mr. Cox has satisfied the first prong of § 14501(c)(2)(A).

2. The "With Respect to Motor Vehicles" Requirement

The second prong of the safety exception provides that the state law at issue must be "with respect to motor vehicles." 49 U.S.C. § 14501(c)(2)(A). Whether negligent hiring claims like Mr. Cox's claim are "with respect to motor vehicles" is vigorously disputed by the parties and is the source of the current circuit split. The district court, like the Seventh and Eleventh Circuits, adopted a narrow interpretation of this portion of the exception, concluding that "Congress intended claims concerning brokers to be outside the scope of the safety exception." R. 29, D. Ct. Op. & Order, PageID 613. Mr. Cox contends that the district court's reading of the Act was substantively erroneous and logically flawed, and he argues that negligent hiring claims against brokers, brought pursuant to a state's common law, can indeed be "with respect to motor vehicles." Once again, we look to the exception's "plain wording," as well as the broader statutory text and judicial

precedent. *Easterwood*, 507 U.S. at 664; *see Freeman*, 959 F.3d at 232.

To determine whether § 14501(c)(2)(A) applies, we must first construe the term "with respect to." As noted, in the FAAAA context, the Supreme Court in *Dan's City* construed the term to mean "concern[s]." *Dan's City*, 569 U.S. at 261 (interpreting the phrase "*with respect to the* transportation of property" in § 14501(c)(1) and holding that the plaintiff's claim for negligent storage and disposal of his vehicle did not fall within its scope (emphasis added)). The *Dan's City* Court did not, however, delineate the precise contours of the term or provide detailed explanation on what it requires. It did not, for example, explain whether, or the extent to which, the term requires a "direct" connection, which some circuits have read the safety exception to require.[5] *See Ye*, 74 F.4th at 462; *Aspen*, 65 F.4th at 1271.

Nonetheless, *Dan's City*'s analysis provides some helpful guidance. In explaining why the plaintiff's state law action was not "with respect to," or concerning, the transportation of property, the Court noted that the claim against the defendant was negligent storage and disposal of the plaintiff's vehicle. *Dan's City*, 569 U.S. at 262. Consequently, the conduct for which the plaintiff sought redress was entirely "subsequent to [the vehicle's] 'transportation.'" *Id.* Because this alleged negligent conduct "d[id] not involve 'transportation' within the meaning of the [FAAAA]," *Dan's City* reasoned, the plaintiff's state

[5] In contrast, the Court reiterated its preexisting caselaw explaining that the term "related to," as used in § 14501(c)(1), "embraces state laws 'having a connection with or reference to' carrier 'rates, routes, or services,' whether directly or indirectly." *Dan's City*, 569 U.S. at 260 (quoting *Rowe*, 552 U.S. at 370).

law claim lacked the requisite connection to the transportation of property, thereby escaping § 14501(c)(1)'s preemptive scope. *Id.* Applying this reasoning to the identical language in the safety exception indicates that, when courts evaluate whether a common law negligence claim concerns motor vehicles, they must look to the substance of the underlying allegations and assess whether the alleged negligent conduct "involve[s]" motor vehicles.[6] *Id.*

Turning to the second half of the phrase, "with respect to ***motor vehicles***," the FAAAA expressly defines "motor vehicle" as any "vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination." 49 U.S.C. § 13102(16). The Act's statutory definitions also make clear that such motor vehicles are core to the services provided by brokers. The Act defines "broker" as any "person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, *transportation by motor carrier* for compensation." *Id.* § 13102(2) (emphasis added). And it defines "motor carrier" as any "person providing *motor vehicle transportation* for compensation." *Id.* § 13102(14)

---

[6] TQL points to the *Dan's City* Court's observation that the "phrase 'with respect to the transportation of property'" "'massively limits the scope of preemption' ordered by the FAAAA" in § 14501(c)(1). *Dan's City*, 569 U.S. at 261 (quoting *Ours Garage*, 536 U.S. at 449 (Scalia, J., dissenting)). But there, the Court was commenting not on the "with respect to" portion of the phrase, but on its object, "transportation of property." That term, the Court explained, required that the state law at issue implicate "services related to th[e] movement of property," which narrowed the types of laws subject to § 14501(c)(1) and saved the plaintiff's negligence claim from preemption. *Id.* at 261-62.

(emphasis added). Thus, the Act recognizes that brokers are entities that work with motor carriers to sell, provide, and arrange for transportation via motor vehicles.

With this statutory language and Supreme Court precedent in mind, we turn to Mr. Cox's substantive claim. Mr. Cox alleges that TQL negligently "disregarded the lives and the safety of the travelling public" by overlooking Golden Transit's history of "on-road safety violations and deficiencies" when it selected Golden Transit to transport goods on the highway via a "semi-truck." R. 1, Compl., PageID 4-6. Neither party disputes that the "semi-truck" at issue in the complaint constitutes a "motor vehicle," as defined by § 13102(16). The complaint also alleges that the "publicly available red flags" that TQL allegedly ignored included information, reported by FMCSA's Safety Measurement System, that an "overwhelming number of [Golden Transit's] drivers [were] deemed illegal to be on the road" and "more than 7 out of every 10 of its trucks were not allowed to legally be on the roadway." *Id.* at PageID 4.

The crux of the alleged negligent conduct is that TQL failed to exercise reasonable care in selecting a safe motor carrier to operate a motor vehicle on the highway, resulting in a vehicular accident that killed Ms. Cox—allegations that plainly "involve" motor vehicles and motor vehicle safety. *Dan's City*, 569 U.S. at 262. Indeed, the safety violations that TQL allegedly ignored pertain directly to motor vehicles. A core purpose of FMCSA's Safety Measurement System, after all, is to discern and report "crash risk." *Flat Creek Transp., LLC v. Fed. Motor Carrier Safety Admin.*, 923 F.3d 1295, 1297 (11th Cir. 2019) (quoting 81 Fed. Reg. 11875-11876 Table 2 (Mar. 7, 2016)). Golden Transit's track record of unsafe motor ve-

hicle operation, and TQL's alleged disregard for that public track record, constitute the basis of the negligent hiring claim. Simply put, there is no way to disentangle motor vehicles from Mr. Cox's substantive claim.

To address this alleged negligence, Mr. Cox's claim seeks to enforce a common law requirement that brokers exercise reasonable care in selecting a safe motor carrier to transport goods by motor vehicle. This requirement would necessarily constitute an exercise of a state's regulatory authority "with respect to," or concerning, "motor vehicles." *See* 49 U.S.C. § 14501(c)(2)(A); *Dan's City*, 569 U.S. at 259.

On appeal, TQL largely relies on the reasoning of the district court, as well as the reasoning of the Seventh and Eleventh Circuits, that, because the safety exception does not expressly reference "brokers," it follows that Congress intended to place claims against brokers outside the exception's scope. *See* Appellee Br. 16. That interpretation, however, is based on a faulty reading of the safety exception. The exception contains no mention of *any* regulated persons or entities, including the three other entities listed in the preemption provision. *Compare* 49 U.S.C. § 14501(c)(1) (preempting state laws relating to the prices, routes, or services of brokers, as well as motor carriers, motor private carriers, and freight forwarders), *with id.* § 14501(c)(2)(A) (shielding from preemption "the safety regulatory authority of a State with respect to motor vehicles"). Instead, it provides a carveout from § 14501(c)(1) for certain state laws based on the substance of those laws—that is, whether the laws respond to safety issues and concern motor vehicles. The language of the safety exception indicates that its role is not to set forth which persons or entities can and cannot have their conduct regulated; rather, it is to set forth which state laws are and

are not preempted and to preserve a state's "preexisting and traditional [] police power" to regulate motor vehicle safety, regardless of who is subject to the regulatory requirement.[7] *Ours Garage*, 536 U.S. at 439.

TQL raises a related argument, also relied on by the Seventh and Eleventh Circuits, that § 14501(c)(2)(A) requires a *direct* connection between the state law and motor vehicles, and that negligent hiring claims like Mr. Cox's fail to fulfill this connection because their relationship to motor vehicles is too attenuated. There is, however, good reason to doubt that the safety exception requires a *direct* connection to motor vehicles. The word "direct" does not appear in the statute's text. And as mentioned above, "with respect to" means "concerns." *Dan's City*, 569 U.S. at 261. The verb "concern" means "to have to do with *or relate to*." *Concern*, Am. Heritage Coll. Dictionary (4th ed. 2007) (emphasis added); *accord Concern*, Merriam-Webster, https://perma.cc/C3GT-AVHU (last visited June 30, 2025) (defining "concern" as "to relate to" or "to bear on"). In *Morales*, the Court reasoned that "[t]he ordinary meaning of ['relating to'] is a broad one." 504 U.S. at 383. Following its preemption caselaw in the ERISA context, the Court, in both *Morales* and *Rowe*,

---

[7] For similar reasons, it is immaterial that, "[w]here Congress regulates motor vehicle safety" in the FAAAA and Title 49 more broadly, it "addresses motor vehicle ownership, operation, and maintenance—but not broker services." *Ye*, 74 F.4th at 462. The safety exception preserves *state* authority to regulate motor vehicle safety. Congress is entitled to its own policy choices, and its lack of federal regulation of broker services does not mean that it intended to proscribe states from promulgating their own regulations of brokers. Construing the safety exception based on what Congress itself does and does not regulate would contravene the purpose of the exception, which is to preserve "the preexisting and traditional state police power over safety." *Ours Garage*, 536 U.S. at 439.

further reasoned that a state law may "relate to" a particular subject (like broker rates, routes, and services) "even if a state law's effect . . . 'is only indirect.'" *Rowe*, 552 U.S. at 370 (quoting *Morales*, 504 U.S. at 386). Because we read the ordinary meaning of "with respect to" as synonymous with both "concern" and "relating to," there is reason to believe that a state law may be "with respect to" motor vehicle safety even if the law's connection to that subject is not direct.

That said, we need not decide today whether the safety exception requires a direct connection to motor vehicles. Even if such a connection is required, Mr. Cox's claim would not be preempted. On this point, we respectfully diverge from the Seventh and Eleventh Circuits. Both suggest that, for a direct connection to exist, the regulated entity must be one which directly owns or operates motor vehicles. *Aspen*, 65 F.4th at 1272 (concluding that "a claim against a broker is necessarily one step removed from a 'motor vehicle'" because motor carriers, not brokers, are the entities who provide motor vehicle transportation); *Ye*, 74 F.4th at 461-62 (reasoning that, because brokers "do[] not own or operate motor vehicles like" motor carriers, the connection between broker services and motor vehicles "is too attenuated").

That formulation misses the mark. The exception requires that the state law at issue substantively concern motor vehicles. It focuses on the connection between the state law and motor vehicles, and not necessarily on the connection between the regulated entity and motor vehicles. Requiring that the regulated entity directly own or operate motor vehicles would impose an additional limitation beyond what the text of the exception requires. Such a requirement also stands in tension with Supreme Court

caselaw indicating that, when we evaluate whether a negligence claim "concern[s]" a subject, we should consider the claim's substantive allegations, including whether the alleged negligent conduct "involve[s]" that subject.[8] *Dan's City*, 596 U.S. at 261-62.

As discussed, the basis of Mr. Cox's claim is that TQL negligently hired an unsafe motor carrier to transport goods by motor vehicle, resulting in a fatal vehicular accident. He seeks to hold TQL liable for ignoring Golden Transit's record of unsafe motor vehicle operation and placing a motor vehicle, driven by an unsafe driver, on the highway. That theory of liability comports with the FAAAA's recognition that motor vehicles are core to the services provided by brokers, as well as the basic reality that brokers are ultimately responsible for placing such motor vehicles on the road, even if those motor vehicles are driven and owned by a different entity. *See* 49 U.S.C. § 13102(2), (14), (16). The common law requirement that

---

[8] *Aspen* and *Ye* also reason that a broader interpretation of the safety exception would render redundant § 14501(c)(2)(A)'s subsequent preservation of "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." 49 U.S.C. § 14501(c)(2)(A); *see Aspen*, 65 F.4th at 1272; *Ye*, 74 F.4th at 464. As Mr. Cox notes, however, that provision is no less redundant under *Aspen*'s and *Ye*'s interpretation because it relates directly to motor vehicles, particularly the portion allowing states to impose "limitations based on the size or weight of the motor vehicle." 49 U.S.C. § 14501(c)(2)(A). Moreover, the Supreme Court has emphasized that, in the context of statutory interpretation, "[r]edundancy is not a silver bullet," and sometimes a "statute contains some redundancy." *Rimini St., Inc. v. Oracle USA, Inc.*, 586 U.S. 334, 346 (2019). It is logical that Congress would provide a broad carveout for states to regulate motor vehicle safety, while expressly enumerating other areas of state regulatory authority that are motivated not only by motor vehicle safety, but also other concerns, such as traffic efficiency and public health.

Mr. Cox's claim seeks to enforce would, in turn, directly regulate a broker's sale, provision, and arrangement of motor vehicle transportation. *See id.* Assuming that a direct link between Mr. Cox's substantive claim and motor vehicles is indeed required, we conclude that such a link exists here.

We therefore hold that, where a negligent hiring claim against a broker substantively concerns motor vehicles and motor vehicle safety, that claim is within "the safety regulatory authority of a State with respect to motor vehicles." 49 U.S.C. § 14501(c)(2)(A). Because Mr. Cox's claim is part of that specific class of common law negligence claims, it falls within the ambit of the safety exception.

III. CONCLUSION

For the foregoing reasons, we **REVERSE** the judgment of the district court and **REMAND** the case for further proceedings consistent with this opinion.

APPENDIX B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

No. 1:22-CV-00026

COX, ET AL.,
PLAINTIFFS,

v.

TOTAL QUALITY LOGISTICS, INC., ET AL.,
DEFENDANTS

Filed: June 12, 2024

OPINION AND ORDER

HOPKINS, United States District Judge.

This case concerns the transportation of a condiment company's goods that resulted in a fatal automobile accident. On May 6, 2019, Defendants Total Quality Logistics, Inc., and Total Quality Logistics, LLC (together, "TQL") contracted with Kraft Heinz to transport a load of goods from Illinois to California. TQL, as a registered broker who works with trucking companies to transport goods, entered into an agreement with Golden Transit Inc.

("Golden Transit"), a third-party carrier, to pick up the goods and transport them to California.

Around the same time, Greta Cox (the "Decedent") was on a trip across the country with her grandson, Plaintiff Robert Brion Ragland ("Mr. Ragland"). On May 8, 2019, the Decedent was tragically killed when her car was hit from behind by a tractor-trailer driven by third-party Amarjit Singh Khaira ("Mr. Khaira") while under the employment of Golden Transit. Mr. Ragland survived the accident with injuries.

Plaintiffs Estate of Greta Cox, Robert Cox, and Mr. Ragland (collectively, "Plaintiffs") have now brought a lawsuit against TQL alleging negligent hiring and supervision of Golden Transit and Mr. Khaira. As explained below, the Court finds that Plaintiffs' negligent hiring claim is preempted by 49 U.S.C. § 14501(c)(1) of the Federal Aviation Administration Authorization Act of 1994 ("FAAAA"). Accordingly, the Court **GRANTS** TQL's Motion to Dismiss (Doc. 6) and **DISMISSES** Plaintiffs' Complaint (Doc. 1) **WITH PREJUDICE**. The Court further **DENIES** the two pending Motions for Leave to File Supplemental Authority (Docs. 14, 23) as **MOOT**.

I. BACKGROUND

TQL is a registered broker that works with shippers to find authorized motor carriers to transport goods throughout the United States. Doc. 1, ¶ 12.[1] On May 6,

[1] The Court notes that Plaintiffs believe that TQL served as an "authorized motor carrier" concerning the transportation of goods in this case. Doc. 1, ¶¶ 13-15. While Plaintiffs did not attach the relevant contract to their Complaint, TQL attached it to their motion to dismiss. Doc. 6-2. The contract clearly states that TQL served as a "BROKER" and Golden Transit served as the "CARRIER." Doc. 6-2,

2019, TQL contracted with Kraft Heinz to transport a load of goods from Illinois to California. *Id.* at ¶ 14. TQL subsequently negotiated with Golden Transit to transport the goods across the country. *Id.* at ¶ 16. Plaintiffs allege that TQL ignored a "history of publicly available red flags" when vetting Golden Transit, which include a history of safety violations. *Id.* at ¶¶ 20-21. Despite these alleged red flags, Golden Transit was hired and assigned a driver, Mr. Khaira, to pick up the load on May 7, 2019, and deliver it by May 11, 2019. *Id.* at ¶¶ 24-25.

Around that same time, the Decedent and Mr. Ragland were engaged in a cross-country trip. *Id.* at ¶ 28. On May 8, 2019, the Decedent was driving across Oklahoma with Mr. Ragland in the passenger seat. *Id.* at ¶ 29. As the two approached a construction work zone, traffic became congested, and Decedent slowed their vehicle to a glacial pace. *Id.* at ¶ 33. Contemporaneously, a semi-truck, driven by Mr. Khaira, failed to recognize the flow of traffic had slowed and crashed into Decedent's vehicle. *Id.* at ¶¶ 39-45. The Decedent died from the crash and Mr. Ragland sustained injuries. *Id.* at ¶¶ 46-47.

Plaintiffs sued Golden Transit and Mr. Khaira in Oklahoma for negligence related to the accident. *See Estate of Greta Cox, et al. v. Golden Transit, Inc., et al.*, No. 5:19-cv-01049 (W.D. Okla.).[2] Plaintiffs dismissed the Oklahoma lawsuit after a settlement. *Id.*; Doc. 6-5.

PageID 137. Because Plaintiffs' allegation is contradicted by the contract, "the [contract] trumps the allegation." *Gulfside Casino P'ship v. Churchill Downs Inc.*, 861 F. App'x 39, 42 (6th Cir. 2021).

[2] The court may take a judicial notice of Plaintiffs' prior lawsuit and subsequent dismissal with prejudice against Golden Transit and Mr. Khaira. *Lyons v. Stovall*, 188 F.3d 327, 322 n.3 (6th Cir. 1999) ("[I]t is

Plaintiffs have now brought a lawsuit against TQL alleging three different counts of negligent hiring and supervision of Golden Transit and Mr. Khaira. Doc. 1. TQL has subsequently moved to dismiss the Complaint. Doc. 6.

II. STANDARD OF REVIEW

TQL seeks to dismiss the Complaint for failure to state a claim under Rule 12(b)(6). Under Fed. R. 12(b)(6), a plaintiff must "state[] a claim for relief that is plausible, when measured against the elements" of a claim. *Darby v. Childvine, Inc.*, 964 F.3d 440, 444 (6th Cir. 2020) (citing *Binno v. Am. Bar Ass'n*, 826 F.3d 338, 345-46 (6th Cir. 2016)). "To survive a motion to dismiss, in other words, [the plaintiff] must make sufficient factual allegations that, taken as true, raise the likelihood of a legal claim that is more than possible, but indeed plausible." *Id.* (citations omitted).

In making that assessment, the Court must similarly "construe the complaint in the light most favorable to the plaintiff, accept its allegations as true, and draw all reasonable inferences in favor of the plaintiff." *Bassett v. Nat'l Collegiate Athletic Ass'n*, 528 F.3d 426, 430 (6th Cir. 2008) (internal quotation omitted). That is true, however, only as to factual allegations. The Court need not accept as true Plaintiff's legal conclusions. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). Moreover, the well-pled facts must be sufficient to "raise a right to relief above the speculative level," such that the asserted claim is "plausible on its face." *Iqbal*, 556 U.S. at 678; *Twombly*, 550 U.S. at 546-47. Under the *Twombly/Iqbal* plausibility

---

well-settled that '[f]ederal courts may take judicial notice of proceedings in other courts of record.'").

standard, courts play an important gatekeeper role, ensuring that claims meet a plausibility threshold before defendants are subjected to the potential rigors (and costs) of the discovery process. "Discovery, after all, is not designed as a method by which a plaintiff discovers whether he has a claim, but rather a process for discovering evidence to substantiate plausibly-stated claims." *Green v. Mason*, 504 F. Supp. 3d 813, 827 (S.D. Ohio 2020).

III. LAW AND ANALYSIS

TQL argues that Plaintiffs' negligent hiring claims should be dismissed for three reasons. The Court finds one of those reasons dispositive. Specifically, TQL argues, in part, that Plaintiffs' negligent hiring claims are preempted by 49 U.S.C. § 14501(c)(1) of the FAAAA. The Court agrees.

A. Federal Preemption.

Federal preemption doctrine owes its existence to the Supremacy Clause of the United States Constitution, which obligates that "the Laws of the United States which shall be made in Pursuance" of the Constitution "shall be the supreme Law of the Land." U.S. Const. art. VI, cl. 2. In short, the Supremacy Clause precludes courts from giving effect to state laws that conflict with federal laws. *See State Farm Bank, FSB v. Reardon*, 539 F.3d 336, 341-42 (6th Cir. 2008).

The Sixth Circuit has identified three different types of federal preemption:

> (1) express preemption, which occurs when Congress expresses an intent to preempt state law in the language of the statute; (2) field preemption, where Congress intends fully to occupy a field of regulation; and

> (3) conflict preemption, where it is impossible to comply with both federal and state law, or where state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.

Pertuso v. Ford Motor Credit Co., 233 F.3d 417, 425 (6th Cir. 2000) (internal quotation marks omitted). Given that the language FAAAA expressly bars states from "enact[ing] or enforc[ing] a law, regulation, or other provision having the force and effect of law related to a price, route, or service" of any motor or air carrier, 49 U.S.C. § 14501(c)(1), this case concerns express preemption. *See Solo v. UPS Co.*, 819 F.3d 788, 797 (6th Cir. 2016). The Court must look at the history, language, and structure of the FAAAA to determine whether Plaintiffs' state law claims fall within the FAAAA's express prohibitions and, if so, whether any exception saves the claims from preemption.

B. The FAAAA Bars Plaintiffs' Claims.

In 1978, Congress initially began its effort to deregulate interstate transportation industries with a focus on deregulating domestic air travel. *See Dan's City Used Cars, Inc. v. Pelkey*, 569 U.S. 251, 255-56 (2013). In 1994, Congress followed that effort up when it enacted the FAAAA as part of a greater push to deregulate interstate transportation industries. *Id.* at 569 U.S. 256. The FAAAA signified Congress's change in attention to the trucking industry. Congress enacted the legislation in part because it found "that state governance of intrastate transportation of property had become 'unreasonably burden[some]' to 'free trade, interstate commerce, and American consumers.'" *Id.* at 256 (alteration in original) (quoting *City of Columbus v. Ours Garage & Wrecker Service, Inc.*, 536

U.S. 424, 440 (2002)). The FAAAA includes several provisions barring such unreasonably burdensome state regulations. *See, e.g.*, 49 U.S.C. § 14501(a)(1), (b)(1), (c)(1).

The relevant preemptive language lies in 49 U.S.C. § 14501(c)(1), which governs "Motor Carriers of Property." The provision provides that a state:

> 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.

49 U.S.C. § 14501(c)(1). Several exceptions follow, including the so-called safety exception in 49 U.S.C. § 14501(c)(2)(A). Under this exception, any express preemption from § 14501(c)(1) 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.

49 U.S.C. § 14501(c)(2)(A).

A comprehensive view of the FAAAA's structure illustrates a tug-of-war between its broad prohibition of certain state laws and its narrow exceptions. Specifically, "Congress broadly disallowed state laws that impede its deregulatory goals," in the market for motor carriers, brokers, freight forwarders, and the like, with § 14501(c)(1). *Ye v. GlobalTranz Enters.*, 74 F.4th 453, 458 (7th Cir. 2023). And then made specific carve-out laws within a

state's "safety regulatory authority . . . with respect to motor vehicles," even though such laws may burden interstate commerce, with § 14501(c)(2)(A). *Id.* (citing *Ours Garage*, 536 U.S. at 441). It thus follows that to solve the issue of preemption here, the Court must make two determinations.

First, do Plaintiffs' negligent hiring claims fall within 49 U.S.C. § 14501(c)(1)? The Court finds that common law tort claims, such as negligent hiring, fit within the text of § 14501(c)(1). Namely, the Court finds such claims fall within § 14501(c)(1)'s express prohibition on the enforcement of state laws "related to a . . . service of any . . . broker . . . with respect to the transportation of property." 49 U.S.C. § 14501(c)(1).

Second, do the claims fit in 49 U.S.C. § 14501(c)(2)(A)'s safety exception? If not, Plaintiffs' claims are preempted. The Court ultimately finds that Plaintiffs' claims are preempted because a common law negligence claim enforced against a broker is not a law that is "with respect to motor vehicles." 49 U.S.C. § 14501(c)(2)(A). Plaintiffs' claims therefore fail as a matter of law.

The Court will further address each of the issues presented in turn.

i. Common Law Tort Claims, Like Negligent Hiring Claims, Fall Within the Language of the FAAAA.

TQL argues that Plaintiffs' negligent hiring claims fall within § 14501(c)(1)'s express prohibition on the enforcement of state laws "related to a . . . service of any . . . broker . . . with respect to the transportation of property." 49 U.S.C. § 14501(c)(1). Plaintiffs argue in the alternative. The Court agrees with TQL.

The Court must begin with the FAAAA's text, "which necessarily contains the best evidence of Congress' preemptive intent." *Dan's City Used Cars*, 569 U.S. at 260. Specifically, the Court looks at the language that prohibits state laws that are "related to" broker services. In the preemption context, the Supreme Court instructs that "related to" or "relating to" has a "broad preemptive purpose." *See Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 383 (1992) (interpreting an identical provision of the Airline Deregulation Act); *see also Rowe v. New Hampshire Motor Transp. Ass'n*, 552 U.S. 364, 370-71 (2008) (explaining that interpretations of the Airline Deregulation Act directly apply to the Federal Aviation Administration Authorization Act). Thus, to be "related to" broker services under § 14501(c)(1), the state law in question need only have a "connection with, or reference to" broker services. *Rowe*, 552 U.S. at 370 (emphasis removed) (quoting *Morales*, 504 U.S. at 384). While a state law may be preempted even if the law's effect on broker services "is only indirect," such indirect effects still require a clear, articulable connection because the FAAAA cannot preempt state laws that impact broker services in only a "tenuous, remote, or peripheral" manner. *Id.* at 370-71 (quoting *Morales*, 504 U.S. at 386, 390).

The Sixth Circuit has not decided whether the FAAAA's preemption clause applies to state law tort claims. However, this Court finds the Supreme Court's determinations in *Morales* and *Rowe* instructive. In *Morales*, the Supreme Court made four holdings regarding interpretation of an identical preemption provision in the Airline Deregulation Act of 1978 ("ADA"):

> (1) that state enforcement actions having a connection with, or reference to, carrier rates, routes, or services are pre-empted; (2) that such pre-emption may occur

> even if a state law's effect on rates, routes, or services is only indirect; (3) that, in respect to pre-emption, it makes no difference whether a state law is consistent or inconsistent with federal regulation; and (4) that pre-emption occurs at least where state laws have a significant impact related to Congress' deregulatory and pre-emption-related objectives.

Lee v. Werner Enters., Inc., No. 3:22 CV 91, 2022 WL 16695207, at *3 (N.D. Ohio Nov. 3, 2022) (quoting *Morales*, 504 U.S. at 384-87) (cleaned up). Then several years later, the Supreme Court held the same rulings apply to the preemption provision of the FAAAA in *Rowe*:

> In *Morales*, this Court interpreted the pre-emption provision in the Airline Deregulation Act of 1978. And we follow *Morales* in interpreting similar language in the 1994 Act before us here. We have said that "when judicial interpretations have settled the meaning of an existing statutory provision, repetition of the same language in a new statute indicates, as a general matter, the intent to incorporate its judicial interpretations as well."

Rowe, 552 U.S. at 370.

The Seventh Circuit—the most recent federal appellate circuit to rule on this issue—has interpreted *Morales* and *Rowe* to embrace a two-part test that requires the party seeking preemption to show both that a state: (1) enacted or attempted to enforce a state law; and (2) that state law relates to prohibitions of the preemptive provision, either by expressly referring to them or by having a significant economic effect. *See GlobalTranz*, 74 F.4th at 458; *see also Headstream Techs., LLC v. FedEx Corp.*, No. 22-1410, 2023 WL 1434054, at *2-3 (6th Cir. Feb. 1,

2023) (finding that state common law claims are preempted by the ADA's preemption requirement because the claims directly related to the defendant's services as an air carrier and affect pricing). In other words, if Plaintiffs' common law tort claims fall within the language of the § 14501(c)(1), the only question is whether the Ohio law underlying the claims expressly refers to, or has a significant economic impact on, broker services.

Regarding the first part, the Court finds *Northwest, Inc. v. Ginsberg*, 572 U.S. 273 (2014) instructive. In construing the identical provision under the ADA, the Supreme Court found that "state common-law rules fall comfortably within the language of the ADA pre-emption provision." *Ginsberg*, 572 U.S. at 281-84 (holding "that the phrase 'other provision having the force and effect of law' includes common-law claims"). This Court follows the lead of the Supreme Court in *Ginsberg*, as well as the three Circuits to rule on this FAAAA issue and finds the same. *See GlobalTranz*, 74 F.4th at 459 ("[T]he first preemption requirement is easily met."); *Aspen Am. Ins. Co. v. Landstar Ranger, Inc.*, 65 F.4th 1261, 1266 (11th Cir. 2023) ("[S]tate-law negligence claims seek to enforce a 'provision having the force and effect of law' subject to FAAAA preemption."); *Miller v. C.H. Robinson Worldwide, Inc.*, 976 F.3d 1016, 1025 (9th Cir. 2020) ("As an initial matter, there is no question that common-law claims are within the scope of the preemption clause.") (citing *Ginsberg*, 572 U.S. at 284).

Regarding the second part, the Court finds that nothing about either Ohio tort law or Plaintiffs' theory of negligent hiring expressly refer to broker services. Therefore, the Court must focus its inquiry on whether Plaintiffs' claims have a significant economic effect on broker services.

Plaintiffs allege that TQL engaged in "negligent hiring, selection, instruction, training, supervision, and retention" of Golden Transit and Mr. Khaira. Doc. 1, PageID 2. TQL offers services as a broker in the form of "selling, providing, or arranging for, transportation by motor carrier for compensation." 49 U.S.C. § 13102(2) (defining "broker"). As such, Plaintiffs' claims center on TQL's broker services by challenging the adequacy of care the company took—or failed to take—in hiring Golden Transit and Mr. Khaira to provide shipping services.

The enforcement of such a claim and the accompanying imposition of liability would have a significant economic effect on broker services. "By recognizing common-law negligence claims, courts would impose in the name of state law a new and clear duty of care on brokers, the breach of which would result in a monetary judgment." *GlobalTranz*, 74 F.4th at 459. This mode of enforcement is exactly what Plaintiffs seek. As the Seventh Circuit reasoned:

> To avoid these costly damages payouts, [TQL] and other brokers would change how they conduct their services—for instance, by incurring new costs to evaluate motor carriers. Then, by changing their hiring processes, brokers would likely hire different motor carriers than they would have otherwise hired without the state negligence standards. Indeed, that is the centerpiece of [Plaintiffs'] claim[s]: that [TQL] should not have hired [Golden Transit and Mr. Khaira].

Id. In sum, increasing the risk for brokers when hiring motor carriers—an essential part of their industry—has a significant economic impact on broker services because it increases the cost of doing business

Based on the foregoing, Plaintiffs' negligent hiring claim has much more than a tenuous, remote, or peripheral relationship to broker services. The relationship is direct because subjecting a broker's hiring decisions to a common-law negligence standard would have significant economic effects. As such, Plaintiffs' claims are expressly preempted by § 14501(c)(1).

This conclusion is consistent with our sister court, the United States Court for the Northern District of Ohio, and the three circuit courts that have considered this issue. *See McCarter v. Ziyar Express, Inc.*, No. 3:21 CV 2390, 2023 WL 144844, at *3 (N.D. Ohio Jan. 10, 2023) (finding plaintiff's negligence claims are preempted by the FAAAA); *Lee*, 2022 WL 16695207, at *5 (same); *GlobalTranz*, 74 F.4th at 459 (finding that the plaintiff's negligent hiring claim directly relates to broker services and is expressly preempted by the FAAAA); *Miller*, 976 F.3d at 1024 ("[A] claim that imposes an obligation on brokers at the point at which they arrange for transportation by motor carrier has a 'connection with' broker services."); *Aspen*, 65 F.4th at 1267 ("[T]he [Act] makes plain that [the plaintiff's] negligence claims relate to a broker's services.").

ii. Common Law Negligence Claims Enforced Against a Broker Do Not Fit Within the FAAAA's Safety Exception.

Even if Plaintiffs' claims are preempted, the Court must consider whether it is saved by the safety exception in 49 U.S.C. § 14501(c)(2)(A). The safety exception provides that laws within a state's "safety regulatory authority . . . with respect to motor vehicles" are not preempted. 49 U.S.C. § 14501(c)(2)(A). Following the lead of the Seventh and Eleventh Circuits, the Court finds that the safety exception does not save Plaintiffs' negligent hiring

claims from preemption. *See GlobalTranz*, 74 F.4th at 464 ("Ye's negligent hiring claim against GlobalTranz does not fall within the scope of § 14501(c)(2)'s safety exception."); *Aspen*, 65 F.4th at 1272 ("[N]egligence claims are not 'with respect to motor vehicles' under the FAAAA's safety exception.").

As before, the Court begins with the statutory text. Congress limited the safety exception's application to state laws "with respect to motor vehicles." 49 U.S.C. § 14501(c)(2)(A). The Supreme Court has interpreted "with respect to" to mean "concern[s]." *See Dan's City Used Cars*, 569 U.S. at 261. The scope of the exception is thus narrowed to those laws concerning "motor vehicles," which are defined as a "vehicle, machine, tractor, trailer, or semitrailer . . . used on a highway in transportation." 49 U.S.C. § 13102(16) (defining "motor vehicle"). Notably, there is no mention of "brokers" (like TQL) in the safety exception's text, or in Congress's definition of "motor vehicles." *Compare* 49 U.S.C. § 13102(2) (defining "broker") *with* 49 U.S.C. § 13102(16) (defining "motor vehicle"). The Court finds this omission to be significant because it indicates that Congress intended claims concerning brokers to be outside the scope of the safety exception. *See Dan's City Used Cars*, 569 U.S. at 261-62 (concluding that a state's law was not "with respect to transportation of property" under § 14501(c)(1) where it concerned post-towing storage, which does not constitute "transportation" as defined in § 13102(23)(B)).

The Court's finding is additionally supported by the structure of 49 U.S.C. § 14501(c). While Congress expressly included broker services in § 14501(c)(1)'s express preemption provision, Congress declined to include such a reference in 49 U.S.C. § 14501(c)(2)(A). Congress also expressly declined to include such reference in § 14501(c)

(2)'s two other saving provisions for "intrastate transportation of household goods" and "tow truck operations." 49 U.S.C. § 14501(c)(2)(B)-(C). If Congress intended for brokers to be included in the safety exception it would have. Instead, Congress marked a line in the sand when it limited the safety exception's application to state safety regulations related to "motor vehicles." So does this Court.

Plaintiffs argue that the Court should follow the Ninth Circuit's 2-1 decision in *Miller*, which found that the safety exception did apply to negligent hiring claims against brokers. *Miller*, 976 F.3d at 1030-31. The Court does not find *Miller*'s reasoning persuasive for a couple reasons.

First, *Miller* relied upon a presumption against preemption. *See id.* at 1021, 1027-28. However, the Supreme Court instructs that such a presumption does *not* apply where a "statute contains an express preemption clause," and requires courts to "focus on the plain wording of the clause, which necessarily contains the best evidence of Congress' pre-emptive intent." *Puerto Rico v. Franklin Cal. Tax-Free Tr.*, 579 U.S. 115, 125 (2016) (quoting *Chamber of Commerce of United States of America v. Whiting*, 563 U.S. 582, 594 (2011)). The Court's decision thus focuses on the language of the safety exception which expressly does not include brokers or brokers services.

Second, the Ninth Circuit interpreted the "with respect to" language in § 14501(c)(2)(A) too broadly. The *Miller* court misread the Supreme Court's opinion in *Dan's City Used Cars* when it concluded that the safety exception's narrow "with respect to" language is "synonymous" with the more expansive language of "relating to." *Miller*, 976 F.3d at 1030. The Supreme Court went to great lengths to differentiate the two phrases when contrasting the ADA's air-carrier preemption provision with

the FAAAA by stating that "the FAAAA formulation contains one conspicuous alteration—the addition of the words 'with respect to the transportation of property.' That phrase massively limits the scope of preemption ordered by the FAAAA." *Dan's City Used Cars*, 569 U.S. at 261 (quotations omitted). And "for purposes of FAAAA preemption, it is not ***sufficient that a state law relates*** to the price, route or service of a motor carrier in any capacity," the addition of the words "***with respect to***" require the law to "also ***concern*** a motor carrier's transportation of property." *Id.* (emphasis added). In other words, the Supreme Court differed from the Ninth Circuit when it found that an interpretation of the FAAAA's "with respect to" language (included in the safety exception) should be interpreted in a more narrow and focused manner than "relates to."

The Court therefore finds that the Supreme Court's decision in *Dan's City Used Cars* instructs that "with respect to" more narrowly means "concerns" rather than the more inclusive "relate." *See id.*; *see also GlobalTranz*, 74 F.4th at 465 ("Given Congress's choice in § 14501(c)(1) to use 'relat[ed] to,' its use of 'with respect to' in § 14501(c)(2)(A) implies a different scope."). As a result, the phrase "with respect to motor vehicles" in the safety exception supports a narrower interpretation than the Ninth Circuit formulated in *Miller*. And that interpretation does not include brokers.

* * * *

Based on the foregoing and following the recent decisions by the Seventh Circuit, Eleventh Circuit, and the Northern District of Ohio, this Court finds the claims

against TQL, the freight brokers in this case, are preempted by the FAAAA and must be dismissed.[3]

IV. CONCLUSION

For the reasons stated, the Court **GRANTS** the Motion to Dismiss of TQL (Doc. 6) and **DISMISSES** Plaintiffs' Complaint (Doc. 1) **WITH PREJUDICE**. The Court further **DENIES** the two pending Motions for Leave to File Supplemental Authority (Docs. 14, 23) as **MOOT**. The Court **ORDERS** the clerk to **ENTER JUDGMENT** and **TERMINATE** this matter from the docket.

[3] Plaintiffs' claim for punitive damages (Count IV) is a derivative claim that relies on the three negligent hiring claims to survive. *Grhama v. Am. Cynamid Co.*, 350 F.3d 496, 514-15 (6th Cir. 2003) (dismissing punitive damages claim because it is "derivative in nature" and must be dismissed if the primary cause of action does not survive). Because the Court dismisses Plaintiffs' negligent hiring claims (Counts I-III), their punitive damages claim must also be dismissed.