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SUPREME COURT OF THE UNITED STATES

LASLO GROSS, SUSAN GROSS, Petitioners,
vs.
SMARTSKY NETWORKS, LLC, Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
NORTH CAROLINA COURT OF APPEALS

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether state courts may use a contractual choice-of-law clause to exempt arbitration confirmation proceedings from the FAA's one-year deadline, its vacatur grounds, and Rule 65(d)'s injunction requirements, in violation of the Supremacy Clause.

PARTIES TO THE PROCEEDING

The Petitioners are Laslo Gross and Susan Gross.

Respondent is SmartSky Networks, LLC.

The other parties listed in the docket record for case no. 295P25; i.e. DAG Wireless LTD, DAG Wireless USA LLC, DAG Wireless LTD, et al and David D. Gross are not parties in this case matter.

CORPORATE DISCLOSURE STATEMENT

Petitioners Laslo Gross and Susan Gross are individuals. No corporate disclosure statement is required under Rule 29.6.

STATEMENT OF RELATED PROCEEDINGS

The following proceedings are directly related to the case in this Court:

1. *SmartSky Networks, LLC v. DAG Wireless Ltd., et al.*, Superior Court of North Carolina, Durham County (judgment confirming arbitration award entered August 23, 2024).
2. *SmartSky Networks, LLC v. DAG Wireless Ltd., et al.*, No. COA25-25, Court of Appeals of North Carolina (judgment entered October 1, 2025).
3. *SmartSky Networks, LLC v. DAG Wireless Ltd., et al.*, No. 295P25, Supreme Court of North Carolina (order denying petition for discretionary review entered December 10, 2025; order denying petition for writ of certiorari entered December 17, 2025).
4. *SmartSky Networks, LLC v. Wireless Systems Solutions, LLC, et al.*, U.S. District Court for the Middle District of North Carolina (order confirming arbitration award entered February 7, 2022).
5. *SmartSky Networks, LLC v. DAG Wireless, Ltd., et al.*, No. 22-1253, U.S. Court of Appeals for the Fourth Circuit, 93 F.4th 175 (judgment entered February 13, 2024).
6. *In re Wireless Systems Solutions, LLC*, No. 22-00513-5-JNC, U.S. Bankruptcy Court for the Eastern District of North Carolina (Chapter 7 proceeding in which Respondent invoked the confirmed arbitration award and injunction).

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I. PETITION FOR WRIT OF CERTIORARI

The Petitioners, Laslo Gross and Susan Gross, respectfully petition this court for a writ of certiorari to review the judgment of the North Carolina Court of Appeals, as left undisturbed by the Supreme Court of North Carolina's denial of discretionary review.

II. OPINIONS BELOW

The unpublished opinion of the Court of Appeals of North Carolina (App. 1a-12a) is available in the appendices attached. The Supreme Court of North Carolina denied discretionary review without opinion (App. 13a) and subsequently denied a writ of certiorari (App. 14a). The opinion of the United States Court of Appeals for the Fourth Circuit (App. 15a-35a) is reported at *SmartSky Networks, LLC v. DAG Wireless, Ltd.*, 93 F.4th 175 (4th Cir. 2024).

III. JURISDICTION

The North Carolina Court of Appeals entered judgment on October 1, 2025 (App. 1a-12a). Petitioners timely sought discretionary review in the Supreme Court of North Carolina, which was denied on December 10, 2025, in Case No. 295P25. App. 13a. Petitioners' subsequent petition for a writ of certiorari was denied on December 17, 2025 App. 14a. This petition seeks review of the judgment of the North Carolina Court of Appeals, as left undisturbed by the Supreme Court of North Carolina's denial of discretionary review.

This Court has jurisdiction under 28 U.S.C. § 1257(a) as the decision below resolves a federal question concerning the scope and preemptive effect of the Federal Arbitration Act.

By order dated March 10, 2026, the time within which to file a petition for a writ of certiorari was extended for a period of sixty (60) days, to and including May 9, 2026 and subsequently extended on May 7, 2026 to and including July 6, 2026. See Sup. Ct. R. 14.5. This petition is timely filed within that extended period.

IV. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The following constitutional and statutory provisions are central to this petition.

1. The Supremacy Clause, U.S. Const. art. VI, cl. 2, provides: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under

the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

2. The Federal Arbitration Act, 9 U.S.C. § 2, provides: "A written provision in any maritime transaction or a contract evidencing a transaction involving commerce to settle by arbitration a controversy thereafter arising out of such contract or transaction, or the refusal to perform the whole or any part thereof, or an agreement in writing to submit to arbitration an existing controversy arising out of such a contract, transaction, or refusal, shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract..."

3. The Federal Arbitration Act, 9 U.S.C. § 9, provides in relevant part: "If the parties in their agreement have agreed that a judgment of the court shall be entered upon the award made pursuant to the arbitration, and shall specify the court, then at any time within one year after the award is made any party to the arbitration may apply to the court so specified for an order confirming the award, and thereupon the court must grant such an order unless the award is vacated, modified, or corrected as prescribed in sections 10 and 11 of this title. . . ." (Emphasis added.)

4. The Federal Arbitration Act, 9 U.S.C. § 10(a), provides grounds for vacating an arbitration award, including: "(3) where the arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced; or (4) where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made."

5. Federal Rule of Civil Procedure 65(d)(1) provides: "Every order granting an injunction and every restraining order must: (A) state the reasons why it issued; (B) state its terms specifically; and (C) describe in reasonable detail, and not by referring to the complaint or other document, the act or acts restrained or required."

These requirements apply to all federal courts and, through the Supremacy Clause, to state courts when enforcing federal rights or confirming arbitration awards as federal judgments.

6. North Carolina Rule of Civil Procedure 65(d) provides substantially identical requirements, yet the courts below held these mandatory requirements do not apply to injunctions in confirmed arbitration awards,

despite the fact that such awards become judicial judgments enforceable by contempt. App. 11a.

7. North Carolina Revised Uniform Arbitration Act (2003-345, s.3) (RUAA) § 1-569.22 permits confirmation after a party receives notice of an award, with no temporal limitation, in direct conflict with FAA § 9's one-year deadline. Upon granting confirmation, the court shall enter a judgment enforceable as any other judgment of the court.

8. North Carolina Rules for Court Ordered Arbitration, Rule 8(b) (eff. June 2, 2025), provides that confirmed arbitration awards "have the same effect as a consent judgment in the action" and may be enforced as any other judgment of the court—confirming that confirmed awards are judicial judgments subject to all requirements governing court orders.

V. STATEMENT OF THE CASE

The North Carolina courts held that a choice of law clause specifying state law in an arbitration agreement eliminates all federal requirements from confirmation proceedings; i.e., the FAA's mandatory one-year deadline, its grounds for vacatur, and Rule 65(d)'s procedural safeguards. The result: an award confirmed thirty months after issuance under an injunction that uses undefined terms, incorporates extrinsic documents by reference, provides no statement of reasons, and has already been weaponized in bankruptcy proceedings to harass competitors.

This case presents a Supremacy Clause violation of the first magnitude.

A. The Arbitration and Choice of Law Clause.

In April 2019, Respondent SmartSky Networks, LLC and Petitioners¹ entered into a "Teaming Agreement" for development of an air-to-ground wireless communication network. App. 52a- 54a. The Agreement contained an arbitration clause providing for "binding arbitration" of disputes "under the laws of the State of North Carolina" and pursuant to the Commercial Rules of the American Arbitration Association. App. 52a. This standard choice-of-law boilerplate became the basis for the courts' conclusion that no federal law applies to any aspect of the arbitration or its confirmation. App. 5a-6a, 11a. The courts reasoned that because the agreement specified "the laws of the State of North Carolina" and "does not discuss the application of federal law," only the RUAA controls and all federal requirements are inapplicable.

After disputes arose among the Parties, Respondent initiated arbitration in September 2020. The arbitration panel issued its final award on October 1,

¹ The Teaming Agreement was originally executed by the Wireless Systems Solutions LLC, the company that was managed by the Petitioners. When disputes arose, Respondent included the individual Petitioners in the legal proceedings. Therefore, references to the Petitioners also include the Company until its conversion to Chapter 7 in October 2022.

2021. The award included extensive injunctive relief prohibiting Petitioners from using or disclosing "know-how," "ideas," and "trade secrets whether or not registered, published or unpublished." App. 52a-54a. These terms have no established legal definition, are inherently vague or self-contradictory, and provide no meaningful guidance about what conduct is prohibited.

B. Federal Confirmation Within One Year

On October 5, 2021 - four days after the award and well within the one-year period of 9 U.S.C. § 9 - Respondent filed to confirm in the United States District Court for the Middle District of North Carolina. Petitioners moved to vacate on three grounds: (1) the injunction violated Rule 65(d) by using undefined terms and incorporating extrinsic documents; (2) the arbitrators committed misconduct by basing findings on incorrect sequence of dates and refusing to consider documentary evidence; and (3) the arbitrators exceeded their authority. The district court granted confirmation on February 7, 2022. Petitioners appealed to the Fourth Circuit in July 2022. While the appeal was pending, this Court decided *Badgerow v. Walters*, 596 U.S. 1 (2022), holding that federal courts lack independent subject matter jurisdiction to confirm or vacate arbitration awards under FAA §§ 9-10 absent some other basis for federal jurisdiction.

C. Badgerow Eliminates Federal Jurisdiction

On February 13, 2024 - more than two years after confirmation and sixteen months after the FAA § 9 one-year deadline expired - the Fourth Circuit reversed on Badgerow jurisdictional grounds without reaching the merits. App. 15a-35a. Critically, this Court in *Badgerow* recognized that its holding shifts primary enforcement responsibility to state courts: where no federal forum is available under Section 9 or 10, a litigant must seek confirmation or vacatur in state court, and in many cases the state court is the only forum that can act. 596 U.S. at 12.

Recent developments include a decision by the Court to grant certiorari in another case, *Jules v. Andre Balazs Properties*, to resolve whether a federal district court that stayed an action pending arbitration retains jurisdiction to confirm or vacate an award absent an independent jurisdictional basis on the face of the post-award petition. The grant in *Jules* reflects continuing disagreement among lower courts concerning the scope of federal jurisdiction over arbitration enforcement proceedings.

Whatever the outcome in *Jules*, *Badgerow* requires that in a substantial category of cases, federal courts lack jurisdiction to confirm or vacate arbitration awards and state courts are the only available forum for enforcement under the Federal Arbitration Act. The present case illustrates the structural implications of that shift. When federal jurisdiction proved unavailable, Respondent sought confirmation in state court beyond the FAA's one-year deadline, and the state courts declined to apply federal confirmation standards at all.

D. State Court Confirmation 30 Months After Award

One week after the Fourth Circuit denied rehearing, on March 20, 2024 - thirty months after the award and nearly eighteen months after the FAA § 9 deadline - Respondent filed in North Carolina Superior Court, Durham County. App. 3a, 36a-42a. Petitioners opposed on three independent federal grounds: First, the petition violated FAA § 9's mandatory one-year deadline; Respondent offered no justification for the eighteen-month delay. Second, the injunction violated Rule 65(d) by using undefined terms ("know-how," "ideas," "published trade secrets"), incorporating extrinsic documents by reference, and providing no statement of reasons. Third, the award was procured through arbitral misconduct: the arbitrators based findings on incorrect sequence of dates (finding computer access occurred "August-September 2020" when Respondent's own documents showed "late 2019-July 2020"), refused to consider that documentary evidence, denied discovery requests, then faulted Petitioners for failing to meet their evidentiary burden without the discovery denied them. The superior court rejected all three arguments without substantive analysis. App. 36a-42a.

E. The Court of Appeals' Blanket Rejection of Federal Law

The Court of Appeals affirmed in an unpublished opinion that began with a threshold determination:

"We apply only the RUAA to Defendant's claims because the Agreement mandates "binding arbitration" under the "laws of the State of North Carolina" The Agreement does not discuss the application of federal law in any relevant context. Thus, the RUAA controls the scope of the Agreement's obligations under North Carolina law." App. 5a-6a. Based on this interpretation, the court held:

- **FAA § 9 deadline:** "We decline to analyze Defendants' federal-statute-of-limitations argument because only state law governs the arbitration here." App. 11a.
- **Rule 65(d):** "We similarly do not apply Rule 65(d) here because . . . [our Rules] do not apply to arbitration, which is governed by our RUAA." App. 11a.
- **FAA § 10 vacatur:** The court applied state standards for reviewing arbitral discretion without analyzing whether the arbitrators' conduct violated federal statutory protections. App. 4a-10a.

This was not an inadvertent failure to address federal issues; it was an explicit holding that federal law does not apply based on the court's interpretation of the contract. Petitioners sought discretionary review in the Supreme Court of North Carolina. The Supreme Court denied review without opinion, App. 13a, and subsequently denied a writ of certiorari without opinion, App. 14a. The federal questions were front and center at every stage and explicitly violate the Supremacy Clause. App. 1a-12a.

VI. REASONS FOR GRANTING THE PETITION

In *Badgerow v. Walters*, this Court held that applications to confirm or vacate arbitration awards under FAA §§ 9 and 10 do not themselves confer federal jurisdiction. As a result, federal courts may entertain such petitions only if an independent jurisdictional basis exists. The decision significantly narrowed federal court access for post-award proceedings. The Court's recent grant of certiorari in *Jules v. Andre Balazs Properties* confirms that lower courts continue to divide over the jurisdictional consequences of *Badgerow*. *Jules* presents the question whether a federal court that previously stayed litigation pending arbitration retains jurisdiction to adjudicate a subsequent confirmation or vacatur petition even if the petition itself does not independently satisfy federal jurisdictional requirements.

Under *Badgerow*, many confirmations and vacatur proceedings now proceed exclusively in state court with state courts sitting as the primary forum for enforcing federal arbitration policy. The question presented here - whether state courts must apply the FAA's confirmation deadline and vacatur standards notwithstanding contractual selection of state law - will therefore arise with increasing frequency nationwide.

Without this Court's guidance, the enforceability of arbitration awards will depend not on uniform federal standards, but on divergent state-court interpretations of choice-of-law clauses. That fragmentation is in direct contrast with this Court's repeated recognition that the FAA establishes a nationally uniform framework governing arbitration agreements and their enforcement and violates the Supremacy Clause by permitting state to create a blanket exemption from federal law through contract interpretation.

VII. THE DECISION BELOW VIOLATES THE SUPREMACY CLAUSE BY PERMITTING STATES TO CREATE A BLANKET EXEMPTION FROM FEDERAL LAW

A. The FAA and Rule 65(d) Constitute Federal Law Binding on State Courts

1. The FAA Creates Federal Substantive Law

This Court has consistently held that the FAA creates substantive federal law that applies in state courts and preempts conflicting state law. In *Southland Corp. v. Keating*, 465 U.S. 1 (1984), the Court held that the FAA established substantive federal law governing arbitration that applies in both state and federal courts and preempts contrary state rules. *Badgerow v. Walters*, 596 U.S. 1, 9-10, 12 (2022) (recognizing that although FAA §§ 9-10 do not themselves supply federal jurisdiction, the Act's substantive command remains binding on state courts, which must enforce arbitration

agreements under federal standards); *Marmet Health Care Center, Inc. v. Brown*, 565 U.S. 530, 533 (2012) ("the conflicting rule is displaced by the FAA"). The FAA's supremacy extends to its entire framework. This Court has recognized that the FAA's procedural provisions - including §§ 9-11's one-year confirmation deadline, vacatur grounds, and notice requirements - apply with equal force in state and federal proceedings. See *Southland*, 465 U.S. at 12, 16; *Marmet*, 565 U.S. at 530.

2. Rule 65(d) Applies to Injunctions in Confirmed Awards

Rule 65(d) establishes mandatory requirements for all injunctions: (1) state the reasons why it issued, (2) state its terms specifically, and (3) describe in reasonable detail the acts restrained. This Court has explained that Rule 65(d) "was designed to prevent uncertainty and confusion on the part of those faced with injunctive orders." *Schmidt v. Lessard*, 414 U.S. 473, 476 (1974). The rule ensures "explicit notice of precisely what conduct is outlawed", particularly important because injunctions are enforceable through contempt, including potential incarceration.

When a state court confirms an arbitration award containing an injunction, that injunction becomes a judicial judgment enforceable through contempt. North Carolina's RUAA codifies this directly: upon confirmation, the court "shall enter a judgment in conformity with the order," which "may be recorded, docketed, and enforced as any other judgment in a civil action." RUAA. § 1-569.25(a). The state's Rules for Court-Ordered Arbitration likewise provide that confirmed awards "have the same effect as a consent judgment in the action." N.C. Rules for Court-Ordered Arbitration, Rule 8(b). A confirmed arbitration award is indistinguishable from any other judicial judgment - a public court order backed by state coercive power. It must therefore satisfy the procedural requirements that govern all judicial injunctions.

The North Carolina Court of Appeals has itself held that an injunction must be self-contained and cannot incorporate external documents. *Ferrell v. Doub*, 160 N.C. App. 373, 378 (2003). Yet the decision below held these requirements do not apply to injunctions in confirmed arbitration awards, creating an absurd double standard: injunctions issued directly by courts must comply with Rule 65(d), but identical injunctions confirmed from arbitration need not, despite carrying identical enforcement power through contempt.

3. The Supremacy Clause Requires State Courts to Apply Federal Law

The Supremacy Clause provides that federal law "shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. Const. art. VI, cl. 2. *Southland's* preemption holding rests squarely on this clause. States cannot avoid their obligation by characterizing the issue as "contract interpretation" any more than they

can avoid federal civil rights laws by characterizing discrimination as “freedom of contract.” As this Court has repeatedly emphasized, state law “must yield” when it conflicts with federal arbitration policy. *Marmet*, 565 U.S. at 533; *AT&T Mobility*, 563 U.S. at 344; *Nitro-Lift Techs., L.L.C. v. Howard*, 568 U.S. 17 (2012). The decision below violates this principle in the most fundamental way: by holding that federal law simply does not apply when parties specify state law in their contract.

4. Badgerow Confirms That This Question Is Properly Presented.

In *Badgerow*, this Court observed that while Section 2’s substantive command “applies in state courts, just as it does in federal courts,” it had not yet decided whether the FAA’s “more procedural provisions, including Sections 4 and 9 through 11, also apply in state courts.” 596 U.S. at 5 n.2. That acknowledgment confirms, rather than undermines, the need for review here. The same footnote explains that Section 2 “carries with it” a duty for States to provide “certain enforcement mechanisms equivalent to the FAA’s,” and that “most, if not all, States in fact provide procedural vehicles, similar to those in the FAA, to enforce arbitration agreements—including . . . confirming, modifying, or vacating arbitral awards.” *Id.* North Carolina purports to provide such mechanisms through the RUAA, N.C.G.S. § 1-569.22, but the decision below strips those mechanisms of any equivalence: confirmation has “no time limit whatsoever,” Rule 65(d)’s specificity requirements do not apply, and FAA § 10’s vacatur standards are displaced. The question *Badgerow* reserved—whether §§ 9 through 11 apply in state court—is now before this Court in its most concrete form: may a state court opt out of those provisions entirely through choice-of-law interpretation, while claiming to provide the equivalent mechanisms Section 2 requires? This case presents that question squarely.

B. The Decision Below Permits Wholesale Avoidance of Federal Requirements

The North Carolina courts did not dispute that the FAA ordinarily creates federal law applicable in state courts. Instead, they held that when parties include a choice-of-law clause specifying state law, federal law ceases to apply entirely. This is not selective application of state procedural rules during arbitration. Rather, it is a blanket determination that federal law does not apply to any aspect of arbitration confirmation when parties choose state law. The breadth of this exemption is staggering.

Based on this interpretation, the court held that the FAA’s one-year confirmation deadline, Rule 65(d)’s injunction requirements, and FAA § 10’s vacatur grounds all cease to apply. Each is a federal requirement enacted by Congress or established by federal court rules. If this interpretation stands, sophisticated parties can avoid all federal requirements through careful contract drafting: avoid the one-year deadline by specifying a state with no time limit; obtain confirmation of injunctions that violate Rule

65(d); choose favorable vacatur standards; and select states with permissive procedures. This is precisely what the Supremacy Clause forbids. *Southland* itself rejected this approach. California argued its anti-arbitration statute was merely a rule of contract formation, state law governing contract interpretation. 465 U.S. at 15-16. This Court held the statute was preempted regardless of how California characterized it: "In creating a substantive rule applicable in state as well as federal courts, Congress intended to foreclose state legislative attempts to undercut the enforceability of arbitration agreements." *Id.* at 16. State characterization does not determine whether federal law applies; the Supremacy Clause does. North Carolina characterized the question as "interpretation" of a choice-of-law clause - supposedly a matter of state contract law. But the ultimate issue is whether federal statutory requirements apply to state court confirmation proceedings. That is a federal question state courts cannot avoid through creative contract interpretation.

VIII. THE DECISION CREATES MULTIPLE, CASCADING VIOLATIONS OF FEDERAL LAW

The Supremacy Clause violation here is not abstract. The decision below created concrete violations of multiple federal requirements, each independently sufficient to require reversal.

A. Violation One: The FAA's Mandatory One-Year Deadline
 FAA § 9 provides that parties may seek confirmation "at any time within one year after the award is made." 9 U.S.C. § 9 (emphasis added). Here, the undisputed timeline shows Respondent's state court petition was filed approximately thirty months after the award - roughly eighteen months beyond the statutory deadline.

The North Carolina courts acknowledged the FAA's one-year requirement but refused to apply it: "We decline to analyze Defendants' federal-statute-of-limitations argument because only state law governs the arbitration here. The corresponding RUAA section does not mention any time limit whatsoever." App. 11a. North Carolina thus permits confirmation at any time-with "no time limit whatsoever." N.C.G.S. § 1-569.22. This direct conflict cannot be reconciled: federal law says "within one year"; state law says "any time." The Supremacy Clause requires application of federal law.

A Circuit Split Deepens the Cert- Worthiness of This Issue. A separate layer of federal nonuniformity compounds the question presented. The federal courts of appeals are divided over whether FAA § 9's one-year period is mandatory. The Second Circuit has held that it is. *Photopaint Techs.*, 335 F.3d at 158. The Fourth Circuit, whose jurisdiction covers North Carolina, has held the provision is permissive, reasoning that § 9 "may apply" language that does not bar confirmation beyond one year. *Sverdrup Corp. v. WHC Constructors, Inc.*, 989 F.2d

148, 156 (4th Cir. 1993). That split alone has sown confusion about § 9's effect in federal court. The decision below goes further: it holds that § 9 does not apply in state court at all, for any purpose, whenever the parties' agreement invokes state law. The result is a third, hybrid regime, distinct from both *Photopaint* and *Sverdrup*, in which state courts sitting within the Fourth Circuit apply neither federal interpretation. Only this Court can resolve what deadline, if any, governs post-*Badgerow* state-court confirmations.

The one-year deadline serves Congress's purposes of finality, repose, and prevention of strategic delay. Respondent has no basis for equitable tolling. That doctrine requires (1) extraordinary circumstances preventing timely filing and (2) due diligence. Neither is present. Respondent chose to file in federal court rather than state court - a strategic decision, not an extraordinary circumstance. Respondent knew of the one-year deadline and could have filed in state court as a protective measure. It did not. When Respondent's federal strategy failed under *Badgerow*, it waited eighteen months beyond the deadline before filing in state court. That is forum shopping, not equitable tolling. If Respondent's conduct qualifies for tolling, the doctrine is meaningless. Under the Supremacy Clause, FAA § 9's mandatory deadline applies in state court just as in federal court. The confirmation here was untimely and should have been denied.

B. Violation Two: Rule 65(d)'s Injunction Requirements

The confirmed award contains a permanent injunction enforceable through contempt. N.C. Rules for Court-Ordered Arbitration, Rule 8(b).

Yet the injunction violates every mandatory requirement of both the Federal Rules of Civil Procedure Rule 65(d) as well as NC Rule 65 (d).

1. No Statement of Reasons. Rule 65(d)(1)(A) requires every injunction to "state the reasons why it issued." The injunction here provides no explanation of why injunctive relief is necessary, why less restrictive remedies are inadequate, or why it serves any legitimate purpose. App. 28a-44a.

2. Undefined and Vague Terms. The injunction prohibits disclosure or use of "know-how," "ideas," and "trade secrets whether or not registered, published or unpublished." App. 52a-54a. "Know-how" has no settled legal definition - it could encompass virtually any practical knowledge or skill. "Ideas" is among the most expansive terms in the English language and could prohibit Petitioners from discussing industry trends or participating in their field. "Trade secrets whether or not . . . published" is self-contradictory: by definition, information that is "published" cannot be a trade secret, which must "derive value from not being generally known." This Court has held that "[b]asic fairness requires that those enjoined receive explicit notice of precisely what conduct is outlawed." *Schmidt v. Lessard*, 414 U.S. 473, 476 (1974). Rule 65(d) requires that injunctions "describe in reasonable detail . . . the act or acts restrained." Fed. R. Civ. P.

65(d)(1)(C). Undefined terms like “know-how” and “ideas” satisfy neither requirement.

3. Incorporation by Reference. The injunction incorporates multiple extrinsic contracts and documents not attached to the award. The Fourth Circuit has held that injunctions must state their terms with clarity and specificity, without incorporating extrinsic documents to supply the required detail. *CPC Int'l Inc. v. Skippy Inc.*, 214 F.3d 456, 459 (4th Cir. 2000) (injunction vacated for failing to comply with the requirements of Fed. R. Civ. P. 65(d)). By incorporating extrinsic documents, the injunction forces Petitioners to examine multiple sources to determine what is prohibited—precisely what Rule 65(d) forbids.

4. Concrete Harm: The Injunction Has Been Weaponized. The vagueness is not theoretical. Respondent has already wielded this defective injunction in bankruptcy proceedings involving Wireless Systems Solutions, LLC (the original party to this case), alleging violations based on conduct the arbitrators never found unlawful, use of publicly available information not covered by any legitimate trade secret claim, and activities bearing no relationship to any actual confidential information. App. 45a–51a; *In re Wireless Systems Solutions, LLC*, No. 22-00513-5-JNC (Bankr. E.D.N.C. Apr. 20, 2022) (ECF Doc. 94). This demonstrates precisely the danger Rule 65(d) was designed to prevent: an ambiguous injunction becomes a tool for harassment and suppression rather than a remedy for proven wrongdoing. So long as states may confirm defective injunctions that violate Rule 65(d), such abuse will continue.

C. Violation Three: FAA § 10's Vacatur Standards

The award also violates FAA § 10's standards, which the state courts refused to apply. FAA § 10(a)(3) permits vacatur where arbitrators “were guilty of misconduct in refusing to . . . hear evidence pertinent and material to the controversy.” 9 U.S.C. § 10(a)(3). FAA § 10(a)(4) permits vacatur where arbitrators “exceeded their powers.” *Id.* § 10(a)(4).

Here, the arbitrators based their findings on an incorrect series of dates regarding when Respondent accessed Petitioners' computer systems. The arbitrators found access occurred “in or around August–September 2020.” Respondent's own internal documents, produced in discovery and submitted to the arbitrators, established that access occurred “in late 2019 through July 2020.” This timeline was critical to determining whether the access was authorized under the parties' agreements. Despite this documentary contradiction, the arbitrators refused discovery requests seeking additional materials about the unauthorized access, ignored Respondent's own documents establishing the correct timeline, and faulted Petitioners for failing to meet their evidentiary burden without the discovery they had denied. This circular reasoning violates FAA § 10(a)(3). The First Circuit has held that an arbitrator's refusal to consider evidence central to a party's claim constitutes misconduct warranting vacatur. *Hoteles Condado Beach v. Union de Tronquistas*, 763 F.2d 34, 40 (1st Cir. 1985). The arbitrators here

did worse: they ignored key documents and used their erroneous reading to justify denying the discovery that would have corrected their error. The North Carolina Court of Appeals declined to examine this evidence, holding that arbitral discretion over evidentiary matters insulates such decisions from review. App. 6a–9a. This transforms procedural misconduct into unreviewable discretion and eliminates the safeguards Congress built into FAA § 10. This Court has held that the statutory grounds are exclusive for vacating or modifying an arbitration award under the FAA. *Hall Street Assocs., L.L.C. v. Mattel, Inc.*, 552 U.S. 576, 578 (2008). The decision below renders them unenforceable.

IX. POST-BADGEROW, THIS ISSUE IS OF CRITICAL NATIONAL IMPORTANCE

A. State Courts Are Now the Primary Forum for Arbitration Enforcement Before *Badgerow*, parties seeking to confirm or vacate arbitration awards typically filed in federal court, which routinely found jurisdiction by “looking through” the confirmation petition to the underlying dispute. *Badgerow* ended this practice. The Court there held that Sections 9 and 10 of the FAA cannot themselves serve as a basis for federal subject-matter jurisdiction; federal courts must instead identify some independent statutory grant of jurisdiction. 596 U.S. at 9. This eliminates federal jurisdiction in a substantial class of cases involving only state-law claims or parties who do not satisfy diversity requirements. The Court recognized that its holding shifts primary enforcement responsibility to state courts. 596 U.S. at 12.

This shift is fundamental. Many arbitrations involve only state-law claims (employment disputes, commercial contracts, construction) or parties who do not satisfy diversity requirements. After *Badgerow*, state court is the only option.

The present case illustrates the problem. Without this Court’s guidance, post-*Badgerow* state court confirmations will become vehicles for evading all federal requirements.

B. The Decision Creates Perverse Incentives and a Two-Tier System After *Badgerow*, state courts frequently provide the only available forum for confirmation or vacatur of arbitration awards. The Court expressly acknowledged this consequence, noting that absent an independent jurisdictional basis, the only available recourse for a party seeking to confirm or vacate an arbitral award is a state-court proceeding. 596 U.S. at 12.

The grant of certiorari in *Jules* underscores the ongoing uncertainty regarding the scope of federal jurisdiction in post-arbitration proceedings. Even where federal courts initially exercised jurisdiction over the underlying dispute, it remains unsettled whether that jurisdiction carries forward to enforcement of the award. As a practical matter, this uncertainty channels additional enforcement proceedings into state courts.

In that environment, the question presented here is of exceptional importance. If state courts may decline to apply FAA § 9's one-year confirmation deadline and § 10's vacatur standards based solely on a contractual choice-of-law clause, the FAA's uniform framework will operate inconsistently across jurisdictions. Parties to identical arbitration agreements will face materially different confirmation rules depending solely on forum.

The resulting asymmetry is not theoretical. Here, the award was confirmed thirty months after issuance because the state court concluded that the FAA's one-year deadline did not apply. Had federal jurisdiction remained available, the same petition would have been untimely under federal law. The enforceability of a federal arbitration award thus turned entirely on the availability of a state forum and the state court's interpretation of the choice-of-law clause.

Post-*Badgerow*, that scenario will recur nationwide. The Court's review is warranted to ensure that the FAA's substantive confirmation framework applies uniformly in state and federal courts alike.

1. Perverse Incentives for Defective Injunctions. If states will confirm defective injunctions without Rule 65(d) review, powerful incentives emerge: arbitrators draft broad, ambiguous injunctions because specificity is not required; prevailing parties prefer vague injunctions for maximum litigation leverage; trial courts confirm defective orders believing Rule 65(d) does not apply to arbitration; losing parties face contempt for violating injunctions they cannot understand; and third parties are harmed when vague injunctions suppress legitimate competition. This transforms arbitration into a mechanism for evading the mandatory procedural safeguards that apply to all other court judgments. Respondent has already demonstrated this abuse.

2. The Two-Tier System. The decision creates a stark double standard: injunctions issued directly by courts must comply with Rule 65(d), but identical injunctions confirmed from arbitration need not—yet both carry identical enforcement power through contempt. North Carolina's own Rules recognize that confirmed awards "have the same effect as a consent judgment." If confirmed awards are judicial judgments, they must satisfy the requirements governing all judicial judgments. A party facing contempt receives the same punishment whether the order was issued directly by a judge or confirmed from arbitration; due process requires fair notice in both circumstances. The same double standard applies to the one-year deadline: federal court confirmations must occur within one year; state court confirmations have "no time limit whatsoever" when parties choose state law—yet both enforce the same awards through the same judicial mechanism. Congress enacted a uniform one-year deadline precisely to prevent such disparities.

3. Forum Shopping Through Contract Drafting. The decision enables sophisticated parties to engineer favorable legal regimes through contract

drafting: specify North Carolina law to avoid the one-year deadline; specify states that don't enforce Rule 65(d) to obtain vague injunctions; choose states with permissive vacatur standards. This creates incentives for forum shopping based not on substantive arbitration policy, but on which states interpret choice-of-law clauses most favorably to the drafter. *Moses H. Cone* emphasized that FAA § 2 is "a congressional declaration of a liberal federal policy favoring arbitration agreements, notwithstanding any state substantive or procedural policies to the contrary." 460 U.S. at 24. If states may opt out of federal policy through contract interpretation, there is no "liberal federal policy"- just a patchwork of inconsistent state approaches.

C. The Issue Affects Thousands of Cases and Has Caused Concrete Harm Arbitration is pervasive in American commerce—empirical research shows thousands of commercial arbitrations occur annually. The question in each post- *Badgerow* state court confirmation is: do federal requirements apply, or can parties avoid them through choice-of-law clauses? This issue arises in employment, consumer, construction, trade secret, intellectual property, franchise, and business dissolution arbitrations- virtually the entire spectrum of commercial disputes. In each, the question is whether federal requirements apply or can be avoided through contractual choice of state law.

The Second Circuit has held FAA § 9's one-year deadline is "mandatory and jurisdictional." *Photopaint Techs.*, 335 F.3d at 158. Under that approach, confirmation thirty months after an award would be invalid. The decision below holds the deadline does not apply when parties choose state law. Without this Court's guidance, the result will be a patchwork where the FAA's application depends on unpredictable state court interpretations. The record presents concrete evidence of harm: a confirmation petition filed eighteen months after the statutory deadline granted without analysis; an injunction using undefined terms confirmed in violation of Rule 65(d); and that injunction already weaponized in bankruptcy proceedings to allege violations based on conduct the arbitrators never found unlawful, use of publicly available information, and activities unrelated to any confidential information. App. 42a-47a. This demonstrates precisely the danger both the one-year deadline and Rule 65(d) were designed to prevent: strategic delay combined with vague injunctions that become tools for harassment rather than remedies for proven wrongdoing.

X. THIS CASE IS AN IDEAL VEHICLE

A. The Federal Question Is Squarely Presented

Petitioners raised the federal issues at every level below. In superior court, Petitioners argued that (1) FAA § 9's one-year deadline is mandatory federal law applicable in state court under the Supremacy Clause; (2) the injunction violates Rule 65(d) and cannot be confirmed without modification; and (3) the award was procured through arbitral misconduct

violating FAA § 10. Each argument was supported by federal precedent, including this Court's decisions in *Southland*, and *Schmidt*. The superior court rejected these arguments. Petitioners appealed, reiterating that the FAA preempts conflicting state law and that parties cannot avoid federal requirements through contractual choice-of-law clauses.

The Court of Appeals addressed the issues directly and explicitly: "We decline to analyze Defendants' federal-statute-of-limitations argument because only state law governs the arbitration here." App. 11a. **This was not an inadvertent failure to address federal issues; it was an explicit holding that federal law does not apply based on the court's interpretation of the contract.**

Petitioners sought discretionary review in the Supreme Court of North Carolina. The Supreme Court denied review without opinion, App. 13a, and subsequently denied a writ of certiorari, App. 14a. There is no dispute about preservation. The federal questions were front and center at every stage.

B. The Record Contains Concrete Evidence of Multiple Federal Violations

The relevant facts are undisputed:

Timeline: - Award issued: October 1, 2021 - Federal court filing: October 5, 2021 (4 days — TIMELY) - FAA § 9 deadline: October 1, 2022 - Fourth Circuit reversal: February 13, 2024 (*Badgerow*) - State court filing: March 20, 2024 (30 months after award; 18 months after deadline)

Injunction Defects: - Uses undefined terms: "know-how," "ideas," "published trade secrets" - Incorporates extrinsic documents by reference - Provides no statement of reasons - Has been weaponized in bankruptcy proceedings (*In re Wireless Systems Solutions*, App. 45a-51a)

Choice-of-Law Provision: - Agreement specifies "the laws of the State of North Carolina" - NC courts held "only the RUAA" applies and federal law does not. Yet North Carolina's own Revised Uniform Arbitration Act directs that "[i]n applying and construing this Article, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it." N.C. Gen. Stat. § 1-569.29 (Art. 45C of Ch. 1).

Federal vs. State Law Conflict: - FAA § 9: "within one year" vs. NC law: "no time limit whatsoever" - Rule 65(d): mandatory specificity vs. NC holding: does not apply to arbitration - FAA § 10: federal vacatur standards vs. NC holding: state standards apply No additional factual development is needed. The question is purely legal: does the Supremacy Clause require state courts to apply federal requirements to arbitration confirmation, or may states create exemptions through contract interpretation? The North Carolina courts said states may create exemptions. This Court's precedents - *Southland*, *AT&T Mobility*, and their progeny -

establish that federal law applies in state courts "notwithstanding any state substantive or procedural policies to the contrary." The conflict is direct and ready for resolution.

C. No Adequate State Ground Bars Review

The state courts' analysis might appear to rest on contract interpretation - a matter of state law. But this does not present an adequate independent state ground that bars review.²

First, the ultimate federal question is inescapable: whether federal requirements apply notwithstanding the parties' choice-of-law clause. The Supremacy Clause does not permit states to avoid federal law through creative contract interpretation. *Southland* itself rejected California's argument that its statute was merely a contract formation rule. 465 U.S. at 15-16. Characterizing the issue as "contract law" does not eliminate the federal question.

Second, the state courts did not clearly indicate their decision rests on independent state contract principles. They simply held the contract chose state law and therefore federal law does not apply - without analysis of state contract interpretation doctrines.

Third, even if contract interpretation were involved, the subsequent question - whether that interpretation permits avoidance of federal statutory requirements - is purely federal. The FAA and Rule 65(d) are federal law. Whether states may permit parties to contract around them is a question of federal preemption under the Supremacy Clause.

Moreover, this case presents the question in its most compelling form. Respondent filed in federal court within one year, complying with federal law. When that strategy failed under *Badgerow*, Respondent filed in state court eighteen months late and argued successfully that federal law does not apply. Whether that result comports with the Supremacy Clause is precisely the question this Court should resolve.

XI. CONCLUSION

The decision of the North Carolina Court of Appeals, as left undisturbed by the Supreme Court of North Carolina's denial of discretionary review permits states to create blanket exemptions from federal law through contract interpretation.

² North Carolina's Revised Uniform Arbitration Act directs that, "[i]n applying and construing this Article, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it." N.C. Gen. Stat. § 1-569.29 (Art. 45C of Ch. 1).

It permits confirmation eighteen months past a mandatory federal deadline.

It permits confirmation of injunctions that use undefined terms, incorporate extrinsic documents, and have been weaponized to harass competitors. And it eliminates federal safeguards against arbitral misconduct.

Each violation alone would require reversal under the Supremacy Clause. Together they demonstrate why state courts cannot be permitted to exempt themselves from federal requirements simply because parties used standard contractual language choosing state law.

Post-Badgerow, state courts bear primary responsibility for arbitration enforcement. If they may interpret choice-of-law clauses to avoid all federal requirements, the FAA becomes a nullity and the "uniform national policy" Congress established fragments into fifty different state regimes.

The Supremacy Clause does not permit this result. Federal law - including the FAA's one-year deadline, Rule 65(d)'s injunction requirements, and FAA § 10's vacatur standards—applies in state courts "notwithstanding any state substantive or procedural policies to the contrary."

For the foregoing reasons, the petition for a writ of certiorari should be granted.

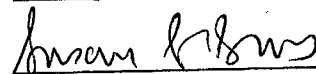
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APPENDIX (contained in Separate book)

APPENDIX A — Opinion of the Court of Appeals of North Carolina, filed October 1, 2025

APPENDIX B — Order of the Supreme Court of North Carolina Denying Petition for Discretionary Review, filed December 10, 2025

APPENDIX C — Order of the Supreme Court of North Carolina Denying Writ of Certiorari, filed December 17, 2025

APPENDIX D — Opinion of the United States Court of Appeals for the Fourth Circuit, filed February 13, 2024, 93 F.4th 175

APPENDIX E — Order of the Superior Court of North Carolina, Durham County, Confirming Arbitration Award and Permanent Injunction, entered August 23, 2024 28a

APPENDIX F — Excerpts from SmartSky's Opposition to Debtor's Motion to Appoint Examiner, In re Wireless Systems Solutions, LLC, No. 22-00513- 5-JNC (Bankr. E.D.N.C. Apr. 20, 2022) (ECF Doc. 94) (documenting weaponization of defective injunction)

APPENDIX G — Arbitration Award, dated October 1, 2021, showing defective injunction language . 52a

APPENDIX H — Teaming Agreement (excerpts showing arbitration clause and choice of law provision), dated April 11, 2019