No. 24-592

In the Supreme Court of the United States

KATIA GAUTHIER, PETITIONER

v.

TOTAL QUALITY LOGISTICS, LLC

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

BRIEF FOR THE RESPONDENT

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QUESTION PRESENTED

The Federal Aviation Administration Authorization Act (FAAAA) preempts state laws related to motor carrier and broker prices, routes, and services, 49 U.S.C. 14501(c)(1), but contains an exception from preemption for the "safety regulatory authority of a State with respect to motor vehicles," 49 U.S.C. 14501(c)(2)(A). The question presented is:

Whether a wrongful-death or personal-injury claim against a freight broker that is based on the broker's negligent hiring of a motor carrier to provide motor vehicle transportation is preempted because it does not constitute an exercise of the "safety regulatory authority of a State with respect to motor vehicles" within the meaning of the FAAAA.

CORPORATE DISCLOSURE STATEMENT

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

TABLE OF CONTENTS

TABLE OF AUTHORITIES

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-6a) is unreported. The opinion of the district court (Pet. App. 7a-43a) is unreported.

JURISDICTION

The judgment of the court of appeals was entered on July 9, 2024. A petition for rehearing was denied on August 29, 2024 (Pet. App. 44a-45a). The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATUTORY PROVISION INVOLVED

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

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

STATEMENT

This case presents the question whether the Federal Aviation Administration Authorization Act (FAAAA) preempts a wrongful-death or personal-injury claim against a freight broker that is based on the broker's negligent hiring of a motor carrier to provide motor vehicle transportation. See 49 U.S.C. 14501(c)(1) & (2)(A). The decision below deepened an existing conflict on that question; the question is exceedingly important to the national transportation industry; and this case is a suitable vehicle

for resolving it. Respondent thus agrees with petitioner that the petition for a writ of certiorari should be granted.

1. The FAAAA represented the culmination of a broad deregulatory agenda undertaken by Congress over a 15-year period, aimed at "ensur[ing] that the States would not undo federal deregulation with regulation of their own." *Morales* v. *Trans World Airlines, Inc.*, 504 U.S. 374, 378-379 (1992); see also Motor Carrier Reform Act, Pub. L. No. 96-296, 94 Stat. 793 (1980); Airline Deregulation Act, Pub. L. No. 95-504, 92 Stat. 1705 (1978). By the early 1990s, Congress concluded that the patchwork of state rules presented a "huge problem" for "national and regional" transportation companies "attempting to conduct a standard way of doing business." *City of Columbus* v. *Ours Garage & Wrecker Service, Inc.*, 536 U.S. 424, 440 (2002). Such regulation, Congress determined, imposed an "unreasonable burden" on interstate commerce and thus an "unreasonable cost on the American consumers." Pub. L. No. 103-305, § 601(a)(1), 108 Stat. 1605.

Accordingly, in 1994, Congress enacted the FAAAA to preempt certain state regulation of the transportation industry, including the trucking industry. See Pub. L. No. 103-305, 108 Stat. 1605. The preemption provision for the transportation industry is codified at 49 U.S.C. 14501(c) and is entitled "Motor Carriers of Property." As amended, Section 14501(c) provides that a State may not "enact or enforce a law, regulation, or other provision having the force and effect of law" if it is "related to a price, route, or service of any motor carrier * * * or * * * broker." 49 U.S.C. 14501(c)(1).

The purpose of that provision is to ensure that "rates, routes, and services" in the transportation industry reflect "maximum reliance on competitive forces." *Rowe* v. *New Hampshire Motor Transport Association*, 552 U.S.

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

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

2. Respondent is a federally registered freight broker, which is an entity hired by a shipper to arrange for the transportation of property, ordinarily across state lines. The broker hires a motor carrier to conduct the transportation, and the motor carrier in turn employs a driver to transport the cargo by motor vehicle. As a freight broker, respondent neither owned nor operated any of the vehicles involved in the accident at issue in this case. Pet. App. 2a, 5a, 8a-9a; D. Ct. Dkt. 27, at 3, 5-6.

In 2020, respondent brokered the transportation of certain goods from Claxton, Georgia, to Tampa, Florida. Respondent hired Hard to Stop LLC, a motor carrier registered with the Federal Motor Carrier Safety Admin-

istration. The driver of the tractor-trailer was an employee of Hard to Stop. Before the goods were picked up, the truck operated by Hard to Stop's driver and a motor vehicle operated by petitioner's husband collided in Georgia. Petitioner's husband died as a result of his injuries. Pet. App. 8a-9a; D. Ct. Dkt. 1, at 6; D. Ct. Dkt. 27, at 5-7, 10.

On August 20, 2020, petitioner filed suit in state court against Hard to Stop, the driver, and other defendants. On October 2, 2020, defendants removed the action to the United States District Court for the Southern District of Georgia. After removal, petitioner amended her complaint to include claims for negligence, negligent hiring, and negligent maintenance under Georgia law against respondent in connection with its role as the broker that hired Hard to Stop. Petitioner later dismissed all defendants except respondent. Pet. App. 2a-3a, 9a, 42a-43a; D. Ct. Dkt. 1; D. Ct. Dkt. 27, at 10-15, 17.

3. Respondent moved to dismiss petitioner's claims against it, and the district court granted the motion. Pet. App. 7a-43a.

As is relevant here, the district court held that the express preemption provision in Section 14501(c)(1) of the FAAAA covered petitioner's negligent-hiring claim and that no exception to the provision applied. Pet. App. 21a-41a.[*] The court first concluded that "negligence claims which are sufficiently connected to or have a significant impact on brokers' core bargained-for services"—that is, "arranging for the transportation of property"—fall within the FAAAA's express preemption provision. *Id.* at 28a. The district court then concluded that, although "a state's safety regulatory authority includes common law

[*] The district court dismissed the other causes of action for failure to state a claim. Pet. App. 18a-21a. Petitioner pursued only the negligent-hiring claim on appeal. See Pet. C.A. Br. 11.

claims," those claims are "too tenuously connected to motor vehicle safety" to fall within the safety exception to the express preemption provision. *Id.* at 39a-40a (citing 49 U.S.C. 14501(c)(2)(A)).

4. Relying on its intervening decision in *Aspen American Insurance Co.* v. *Landstar Ranger, Inc.*, 65 F.4th 1261 (11th Cir. 2023)—which involved the preemption of a claim for property loss—the court of appeals affirmed. Pet. App. 1a-6a.

The court of appeals first agreed with the district court that petitioner's negligent-hiring claim fell within the scope of Section 14501(c). Pet. App. 4a-5a. As the court of appeals acknowledged, the Act "does not preempt general state laws (like a prohibition on smoking in certain public places) that regulate brokers only in their capacity as members of the public." *Id.* at 4a (quoting *Aspen*, 65 F.4th at 1268 (internal quotation marks and citation omitted)). While "Georgia common law, broadly speaking, is generally applicable," petitioner's "specific claim * * * is aimed solely at the performance of brokers' core transportation-related services." *Id.* at 5a (alterations and citation omitted).

Turning to the safety exception, the court of appeals reasoned that "common law negligence claims are generally within a state's 'safety regulatory authority.'" Pet. App. 3a (citing *Aspen*, 65 F.4th at 1268-1270). But the court concluded that the safety exception did not apply to such claims on the ground that it saves only claims that "have a *direct* relationship to motor vehicles." *Ibid.* (citation omitted). "[A] claim against a broker," the court of appeals observed, "is necessarily one step removed from a 'motor vehicle'" and thus is not a claim "with respect to motor vehicles." *Ibid.* (citation omitted). The court extended the reasoning of its earlier decision in *Aspen* to petitioner's claim, explaining that all "negligent-selection-

of-broker claims *necessarily* lack" the requisite "direct relationship" to motor vehicles regardless of whether the "back-end injury" is property loss (as in *Aspen*) or personal injury (as here). *Id.* at 5a (citation omitted).

5. A petition for rehearing was denied without recorded dissent. Pet. App. 44a-45a.

ARGUMENT

In the decision below, the court of appeals deepened an existing circuit conflict on the question presented. Although the court of appeals reached the correct result in this case, the question presented is one of considerable importance to the transportation industry. The increasing uncertainty concerning the question presented not only imposes significant costs on respondents and other freight brokers but also undermines Congress's deregulatory objectives in enacting the FAAAA. Moreover, this case is a suitable vehicle to resolve the conflict on the question presented. Respondent thus agrees with petitioner that the petition for a writ of certiorari should be granted.

1. The Seventh, Ninth, and Eleventh Circuits have adopted conflicting interpretations of the FAAAA's safety exception. According to the Seventh and Eleventh Circuits, the safety exception does not save negligent-hiring claims against freight brokers because they are generally applicable private causes of action that lack a direct relationship to motor vehicles, as required by the safety exception.

a. In *Miller* v. *C.H. Robinson Worldwide, Inc.*, 976 F.3d 1016 (9th Cir. 2020), cert. denied, 142 S. Ct. 2866 (2022), a federally registered freight broker hired a federally registered motor carrier to transport cargo. See *id.* at 1020. While delivering the cargo, the motor carrier's

driver collided with a vehicle on a Nevada highway, resulting in severe injuries to the other driver. *Ibid.* The injured driver filed suit against the freight broker, alleging negligent hiring under Nevada common law. *Id.* at 1020-1021.

The Ninth Circuit held that the FAAAA did not preempt the plaintiff's state-law claim. See 976 F.3d at 1031. The Ninth Circuit first held that a claim for negligent hiring falls within the scope of the express preemption provision in Section 14501(c). See *id.* at 1024-1025. Turning to the safety exception, the Ninth Circuit first considered whether a common-law claim for negligent hiring against a freight broker constitutes the "safety regulatory authority of a State." See *id.* at 1026-1029. Construing the safety exception "broadly," in part based on the presumption against preemption, the Ninth Circuit determined that the answer was yes. See *id.* at 1028.

The Ninth Circuit then addressed whether such a claim involved the exercise of authority "with respect to motor vehicles." See 976 F.3d at 1030. Citing circuit precedent, the court started from the proposition that the phrase "with respect to" in the safety exception is "synonymous" with the phrase "relating to" in the preemption provision. *Ibid.* Accordingly, the court treated the exception as saving any state safety regulation bearing "'a connection with' motor vehicles, whether directly or indirectly." *Ibid.* (quoting *Dan's City Used Cars, Inc.* v. *Pelkey*, 569 U.S. 251, 260 (2013)). To that end, the court noted that it had previously extended the safety exception to cover criminal-history disclosure requirements for tow-truck drivers. *Ibid.*; see *California Tow Truck Association* v. *City & County of San Francisco*, 807 F.3d 1008 (2015). If those rules had the requisite "connection with" motor vehicles, the court of appeals reasoned, "then neg-

ligence claims against brokers that arise out of motor vehicle accidents must as well," given that "both promote safety on the road." 976 F.3d at 1030.

Judge Fernandez concurred in part and dissented in part. See 976 F.3d at 1031-1032. He joined the portions of the majority's opinion concluding that the plaintiff's claims fell within the scope of the preemption provision in Section 14501(c) and that common-law tort claims form part of the state safety regulatory authority preserved by the safety exception. See *id.* at 1031. But he dissented from the conclusion that negligence claims against freight brokers were sufficiently connected to motor vehicles to satisfy the exception. See *id.* at 1031-1032. In his view, a claim against a freight broker—as opposed to a motor carrier or driver—does *not* operate "with respect to motor vehicles." *Ibid.* That is because the connection between a broker's actions and the "actual operational safety of motor vehicles" is "too remote." *Id.* at 1031. A contrary conclusion, he warned, would "conscript brokers into a parallel regulatory regime," requiring that they "evaluate and screen motor carriers" according to the "varied common law mandates of myriad states." *Id.* at 1032.

b. In the decision below, the Eleventh Circuit rejected the Ninth Circuit's position that negligence claims against freight brokers involves the exercise of a State's regulatory authority "with respect to motor vehicles." Pet. App. 4a.

The Eleventh Circuit first interpreted the FAAAA's safety exception in *Aspen American Insurance Co.* v. *Landstar Ranger, Inc.*, 65 F.4th 1261 (2023). There, a shipper's insurer sued a broker for negligently hiring a carrier that stole the cargo instead of transporting it. See *id.* at 1264. The Eleventh Circuit reasoned that, under Section 14501(c)(1) of the FAAAA, "the phrase 'with re-

spect to motor vehicles' limits the safety exception's application to state laws that have a *direct* relationship to motor vehicles." *Id.* at 1271. In the Eleventh Circuit's view, the "indirect connection" between a negligent-hiring claim brought against a broker and a State's regulation of motor vehicles is insufficient to trigger the safety exception. *Id.* at 1271-1272 (citation omitted).

According to the Eleventh Circuit, that conclusion followed from applying the canons of interpretation to the phrase "with respect to motor vehicles" and its surrounding context. See *Aspen*, 65 F.4th at 1271. Construing the phrase more broadly, the court reasoned, would be inconsistent with the Supreme Court's construction of a parallel phrase in an immediately preceding subsection; strip the language of the safety exception of meaningful operative effect; and render the safety exception redundant of other exceptions in the same statute. See *id.* at 1271-1272.

In the decision below, the Eleventh Circuit extended its reasoning in *Aspen* to a negligent-hiring claim against a freight broker arising out of the death of a third party operating a motor vehicle. Pet. App. 2a-3a. In so doing, the court reaffirmed its view that the safety exception does not save any negligent-hiring claims against freight brokers. *Id.* at 4a.

c. The Seventh Circuit has taken the same position as the Eleventh Circuit in the decision below (and the contrary position to the Ninth Circuit). When faced with "near-identical" facts as the Ninth Circuit in *Miller*, the Seventh Circuit held that the safety exception "requires a direct link between state laws and motor vehicle safety." *Ye* v. *GlobalTranz Enterprises, Inc.*, 74 F.4th 453, 464 (2023), cert. denied, 144 S. Ct. 564 (2024). According to the Seventh Circuit, "[n]egligent hiring claims against brokers fall short of having that direct link." *Ibid.* The Seventh Circuit acknowledged that its interpretation of

the safety exception conflicted with the Ninth Circuit's. See *id.* at 464-465. But it reasoned that a departure was justified because the Ninth Circuit had "unduly emphasized" statutory purpose over statutory text; had improperly relied on a presumption against preemption; and had erroneously concluded that the phrase "with respect to" in the safety exception was coterminous with the phrase "relating to" in the preemption provision. *Id.* at 465.

2. Respondent agrees with petitioner that this case presents a question of enormous legal and practical importance. The Ninth Circuit's approach severely curtails the preemptive scope of the FAAAA, thus contravening Congress's clear intent to establish a uniform regulatory regime. The ensuing uncertainty imposes significant costs on the transportation industry. Because this case is a suitable vehicle for resolution of the question presented, the Court should grant review.

a. The question presented is one of significant importance. Because jury awards in personal-injury cases sometimes exceed insurance limits for motor carriers or drivers, plaintiffs have begun to target freight brokers and others in an effort to secure large damage awards in such cases. See Robert D. Moseley & C. Fredric Marcinak, *Federal Preemption in Motor Carrier Selection Cases Against Brokers and Shippers*, 39 Transp. L.J. 77, 77-78 (2012). If plaintiffs are permitted to bring such lawsuits, the patchwork of state negligence doctrines invoked will "create uncertainty and even conflict," as "different juries in different States reach different decisions on similar facts." *Geier* v. *American Honda Motor Co.*, 529 U.S. 861, 871 (2000). The current uncertainty over the question presented profoundly affects the core business functions of freight brokers, which serve a central role in the efficient operation of supply chains throughout the United States.

The entrenched circuit conflict and the uncertainty about the extent of liability will invite the very mischief that Congress sought to abate with the FAAAA. That statute aimed to address the "huge problem" that the "sheer diversity" of state rules created for "national and regional carriers attempting to conduct a standard way of doing business." H.R. Conf. Rep. No. 677, 103d Cong., 2d Sess. 87 (1994); see *City of Columbus* v. *Ours Garage & Wrecker Service, Inc.*, 536 U.S. 424, 440 (2002) (citing the same report). Congress determined that the "unreasonable burden" on interstate commerce imposed by the regulations would ultimately impose an "unreasonable cost on the American consumers." Pub. L. No. 103-305, § 601 (a)(1), 108 Stat. 1605.

There would be no benefit to allowing the question to percolate further in the lower courts. The conflict has deepened in recent years. Two courts of appeals, the Seventh Circuit and the Eleventh Circuit, now correctly hold that the FAAAA preempts this type of claim. And the Ninth Circuit has not reconsidered its decision in *Miller*, which reaches the opposite conclusion. As petitioner notes, the question presented is a recurring one, and district courts vary widely in their approaches to the question presented. See Pet. 11 n.1. Thorough opinions on both side of the conflict fully ventilate the arguments on the question, making further percolation unnecessary. In the meantime, however, the lack of uniformity exacerbates the uncertainty the trucking industry faces. The transportation industry urgently needs an answer to this critical question, as respondent and the Nation's other leading freight brokers have previously explained in supporting certiorari on the question. See Leading Industry Freight Brokers Br. at 5, *Miller*, *supra* (No. 20-1425) (May 19, 2021).

b. This petition is a suitable vehicle to resolve the question presented. The decision below turned entirely on the holding that the safety exception does not save negligent-hiring claims from preemption. Because that argument was fully briefed at the motion-to-dismiss stage, the facts that underpin that holding are not in dispute. And resolution of the question presented was outcome-determinative, making this petition a clean vehicle for the Court's review.

c. As discussed above, in resolving the question presented, the courts of appeals have addressed two arguments: first, the argument that the safety exception, which applies to exercises of the "safety regulatory authority of a State," is limited to affirmative state regulations and does not cover common-law claims; and, second, the argument that such claims are not "with respect to motor vehicles" within the meaning of the safety exception. See pp. 7-11, *supra*. The circuit conflict on the question presented has resulted from differing views among the courts of appeals as to the second argument.

In the proceedings below, however, the district court also addressed the first argument, noting that it had been "[a] primary area of disagreement among [district] courts." Pet. App. 36a-37a. Respondent preserved that argument in its brief before the Eleventh Circuit despite adverse circuit precedent, see Resp. C.A. Br. 20 n.4, and the Eleventh Circuit reaffirmed that precedent in the decision below when it concluded that "common law negligence claims are generally within a state's 'safety regulatory authority,'" Pet. App. 3a (citing *Aspen*, 65 F.4th at 1268-1270). Petitioner's negligent-hiring claim—the sole remaining claim—is based on Georgia common law. See D. Ct. Dkt. 27, at 11-15; Pet. C.A. Reply Br. 11.

As drafted by petitioner, the question presented is broad enough to encompass both arguments for why the

FAAAA preempts state-law claims such as petitioner's. Should this Court grant review, respondent intends to present both arguments in its merits briefing. If the Court wishes to limit the scope of that briefing, it may wish to reformulate the question presented or otherwise provide the parties with guidance in any order granting certiorari.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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