No. 25-145

IN THE

Supreme Court of the United States

TOTAL QUALITY LOGISTICS, LLC,
Petitioner,

v.

ROBERT COX,
Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Sixth Circuit

RESPONDENT'S BRIEF IN OPPOSITION

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QUESTION PRESENTED

The Federal Aviation Administration Authorization Act (FAAAA) preempts state laws "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). It also contains an exception from preemption, known as the safety exception, that preserves "the safety regulatory authority of a State with respect to motor vehicles." *Id.* § 14501(c)(2)(A).

The question presented is: Whether the Sixth Circuit correctly held that a negligent-hiring claim based on a freight broker's negligence in hiring an unsafe motor carrier to provide motor vehicle transportation, resulting in a motor vehicle crash, falls within the safety exception and is not preempted by the FAAAA.

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INTRODUCTION

In 1994, Congress determined that "certain aspects of the State regulatory process should be preempted" and enacted a provision regarding the "preemption of state economic regulation of motor carriers." Federal Aviation Administration Authorization Act (FAAAA), Pub. L. No. 103-305, § 601(a)(2), (c), 108 Stat. 1569, 1605, 1606 (1994). As later amended, that provision preempts state laws "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).

When enacting the preemption provision, Congress sought "to ensure that its preemption of States' economic authority over motor carriers of property" would "'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)). Accordingly, Congress enacted an exception, commonly referred to as the safety exception, that provides that the preemption provision "shall not restrict the safety regulatory authority of a State with respect to motor vehicles." 49 U.S.C. § 14501(c)(2)(A).

This case concerns the death of Respondent Robert Cox's wife, Greta, who was killed in a motor vehicle crash that resulted from freight broker Total Quality Logistics, LLC's (TQL's) negligent hiring of an unsafe motor carrier to provide motor vehicle transportation. In the decision below, the Sixth Circuit held that Mr. Cox's negligent-hiring claim against TQL falls within the FAAAA's safety exception and therefore is not preempted by the FAAAA. "[W]here a negligent hiring

claim against a broker substantively concerns motor vehicles and motor vehicle safety," the Sixth Circuit held, "that claim is within 'the safety regulatory authority of a State with respect to motor vehicles.'" Pet. App. 21a (quoting 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." *Id.*

TQL seeks review of the Sixth Circuit's decision, relying largely on a conflict among the circuits over whether negligent-hiring claims against freight brokers invoke the state's safety regulatory authority "with respect to motor vehicles." But although that conflict predates the decision below, the decision in this case is the first circuit decision to explain why the analysis in the decisions on the other side of the conflict is incorrect. Now that the Sixth Circuit has demonstrated the faulty reasoning in those cases, this Court should give the issue additional time to percolate to allow those circuits to reevaluate their precedent in light of the Sixth Circuit's careful analysis.

Furthermore, review of the Sixth Circuit's decision is unnecessary because the decision correctly held that Mr. Cox's claim falls within the safety exception. On this point, TQL's only argument in the court of appeals was that Mr. Cox's claim is not "with respect to motor vehicles." As the Sixth Circuit explained, however, "[t]he 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." Pet. App. 16a

(quoting *Dan's City Used Cars, Inc. v. Pelkey*, 569 U.S. 251, 262 (2013)). "Simply put, there is no way to disentangle motor vehicles from Mr. Cox's substantive claim." *Id.*

STATEMENT OF THE CASE

A. TQL is a freight broker—a company hired by shippers to arrange for the transportation of property by a motor carrier. Pet. App. 4a. In May 2019, TQL arranged for Golden Transit Inc. to transport goods over an interstate route, from Minooka, Illinois to Perris, California. *Id.* TQL selected Golden Transit to transport the load even though public information, readily available on the website of the Federal Motor Carrier Safety Administration (FMCSA), revealed that Golden Transit was an unsafe motor carrier with a history of safety violations. *Id.* Golden Transit's percentage of driver out-of-service violations—that is, the percentage of inspections that led to the driver being prohibited from continuing to operate the motor vehicle—was five times the national average. D. Ct. Dkt. 1, at 4. In the year before TQL selected Golden Transit to transport the load, more than 7 out of every 10 of Golden Transit's trucks were not allowed to legally be on the roadway. *Id.*; Pet. App. 4a.

On May 7, 2019, a Golden Transit driver, Amarjit Singh Khaira, picked up the load. The following day, Greta Cox and her grandson, Robert Brion Ragland, were driving through Oklahoma on a road trip following Mr. Ragland's completion of his freshman year of college. Pet. App. 4a; D. Ct. Dkt. 1, at 5. Near mile marker 48 on Interstate 40, a well-marked construction work zone closed the left lane of the highway, and all traffic was directed to move to the right lane, with a reduced speed limit. Pet. App. 4a; D. Ct. Dkt. 1, at

6. Ms. Cox drove carefully and safely in the right lane. In front of her, a truck slowed to nearly a complete stop, and Ms. Cox likewise slowed down. Pet. App. 4a; D. Ct. Dkt. 1, at 6.

At approximately 2:56 p.m., Ms. Cox saw the truck brokered by TQL and driven by Mr. Khaira barreling toward her in her rear-view mirror. D. Ct. Dkt. 1, at 6. Ms. Cox attempted to get out of the way of the truck but was unable to escape. *Id*. The truck smashed into the car at a speed exceeding 60 mph, crushing the car to less than half its size. *Id*. As a result of the crash, Ms. Cox died on the highway. *Id*. at 7. Mr. Khaira was subsequently indicted for vehicular manslaughter. *Id*.

B. On January 13, 2022, Ms. Cox's widower Robert Cox and Mr. Ragland filed this case against TQL in the Southern District of Ohio. D. Ct. Dkt. 1, at 2. Mr. Cox brought the case both individually and as the personal representative and special administrator of Ms. Cox's estate. *Id*. at 1. As relevant here, the complaint alleges that TQL was negligent in selecting Golden Transit to transport the load, given Golden Transit's egregious safety record. *Id*. at 10–11. The district court granted TQL's motion to dismiss, holding that the negligent-hiring claim is preempted by the FAAAA. *See* Pet. App. 22a–38a.

The Sixth Circuit reversed. The court held that Mr. Cox's claim falls within the scope of the FAAAA's preemption provision, 49 U.S.C. § 14501(c)(1), Pet. App. 8a–10a, but that it is not preempted because it also falls within the scope of the safety exception, 49 U.S.C. § 14501(c)(2)(A), Pet. App. 10a–21a. With respect to the safety exception, the court first held that "common law claims like Mr. Cox's are part of the 'safety regulatory authority of a State.'" *Id*. at 13a

(quoting 49 U.S.C. § 14501(c)(2)(A)). The court then held that Mr. Cox's claim is "with respect to motor vehicles." 49 U.S.C. § 14501(c)(2)(A). "Golden Transit's track record of unsafe motor vehicle operation, and TQL's alleged disregard for that public track record," the court explained, "constitute the basis of the negligent hiring claim." Pet. App. 16a–17a. "[T]here is no way to disentangle motor vehicles from Mr. Cox's substantive claim." *Id*. at 17a.

The Sixth Circuit recognized that, in holding that claims such as Mr. Cox's are "with respect to motor vehicles," it was disagreeing with the Seventh and Eleventh Circuits—the two circuits on one side of a preexisting circuit split on the issue. It explained, however, that the analysis in the Seventh and Eleventh Circuits' decisions is incorrect. The court explained, for example, that part of those courts' reasoning "is based on a faulty reading of the safety exception," *id*., and that another part "impose[s] an additional limitation beyond what the text of the exception requires" and "stands in tension with Supreme Court caselaw," *id*. at 19a–20a.

REASONS FOR DENYING THE WRIT

I. The Court should let the question presented percolate further in light of the Sixth Circuit's analysis.

The circuits disagree about whether claims such as Mr. Cox's are "with respect to motor vehicles" for purposes of the safety exception. Because of the way the split developed, however, the decision below is the first court of appeals decision to address the reasoning in the cases on the other side of the split and to explain why those cases were wrongly decided.

The Ninth Circuit was the first circuit to address whether claims based on a freight broker's negligent hiring of an unsafe motor carrier, resulting in a motor vehicle crash, fall within the safety exception. *Miller v. C.H. Robinson Worldwide, Inc.*, 976 F.3d 1016 (9th Cir. 2020). Like the decision below, the court held that they do. In enacting the safety exception, the Ninth Circuit explained, "Congress intended to preserve the States' broad power over safety, a power that includes the ability to regulate conduct … through common-law damages awards." *Id.* at 1020. Moreover, the court held, "negligence claims against brokers, to the extent that they arise out of motor vehicle accidents, have the requisite 'connection with' motor vehicles." *Id.* at 1031. Such claims, the court explained, "promote safety on the road." *Id.* at 1030.

The next circuit to address a negligent-hiring claim against a broker was the Eleventh Circuit, in *Aspen American Insurance Co. v. Landstar Ranger, Inc.*, 65 F.4th 1261 (11th Cir. 2023). There, a shipper's insurer filed suit against a broker who had given the shipment to a thief. *Id.* at 1264. Unlike in *Miller* (and here), the case did not involve a motor vehicle crash, a claim that the broker hired a motor carrier that placed unsafe motor vehicles on the road, or a state-law requirement that was genuinely responsive to concerns about the safety risks posed by motor vehicles, and the court of appeals correctly held that the claim did not fall within the safety exception. *Id.* at 1272. In so holding, however, the court incorrectly held that the safety exception requires a direct connection between state regulation and motor vehicles and that negligence claims against brokers can never be directly connected to motor vehicles because "a broker and the services it provides have no direct

connection to motor vehicles." *Id.* (cleaned up). Thus, in a subsequent unpublished decision that addressed a claim that a broker had negligently hired an unsafe motor carrier, resulting in a motor vehicle crash, the Eleventh Circuit held that the claim was foreclosed by *Aspen*. *See Gauthier v. Hard to Stop LLC*, No. 22-10774, 2024 WL 3338944, at *2 (11th Cir. July 9, 2024), *cert. denied sub nom. Gauthier v. Total Quality Logistics, LLC*, 145 S. Ct. 1062 (2025).

Finally, in *Ye v. GlobalTranz Enterprises, Inc.*, 74 F.4th 453 (7th Cir. 2023), *cert. denied,* 144 S. Ct. 564 (2024), the Seventh Circuit held that a claim against a freight broker for negligently hiring an unsafe motor carrier, resulting in a motor vehicle crash, was "not a law that is 'with respect to motor vehicles'" and therefore did not fall within the safety exception. *Id.* at 460. The court held that "the exception requires a direct link between a state's law and motor vehicle safety," and stated that it saw no "direct link between negligent hiring claims against brokers and motor vehicle safety." *Id.*

Because *Ye* and *Aspen*/*Gauthier* post-date *Miller*, until the decision in this case, no court of appeals had explained the problems with the reasoning in those decisions. The decision below, however, explained several of the fallacies in those decisions. For example, the decision in *Ye* relied heavily on the fact that the safety exception does not expressly mention brokers, stating that the absence of such a direct reference suggests that Congress intended to exclude laws regulating brokers from the scope of the exception. *Id.* at 461. The Sixth Circuit here, though, explained that that interpretation "is based on a faulty reading of the safety exception," which "contains no mention of *any*

regulated persons or entities, including the three other entities listed in the preemption provision." Pet. App. 17a. "Instead," the court explained, the exception "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." *Id.* "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." *Id.* (quoting *Ours Garage*, 536 U.S. at 439).

Likewise, both *Ye* and *Aspen* suggest that a state law can fall within the safety exception only if it regulates an entity that owns or operates motor vehicles. *See Ye*, 74 F.4th at 461–62; *Aspen*, 65 F.4th at 1272. The Sixth Circuit's decision explains why that "formulation misses the mark." Pet. App. 19a. As the Sixth Circuit explained, the safety exception "focuses on the connection between the state law and motor vehicles, and not necessarily on the connection between the regulated entity and motor vehicles." *Id.* "Requiring that the regulated entity directly own or operate motor vehicles would impose an additional limitation beyond what the text of the exception requires." *Id.* Moreover, it "stands in tension" with this Court's decision in *Dan's City*, which indicates that, in determining whether a claim is "with respect to" a subject for purposes of the FAAAA, courts "should consider the claim's substantive allegations, including whether the alleged negligent conduct 'involve[s]' that subject." *Id.* at 19a–20a (quoting *Dan's City*, 596 U.S. at 261–62).

These examples are just two of the instances in which the Sixth Circuit explained why *Ye* and *Aspen* missed the mark. Now that it has done so, the Seventh and Eleventh Circuits may wish to reevaluate those precedents in light of the Sixth Circuit's well-reasoned analysis.

This Court denied petitions for certiorari in both *Ye* and *Gauthier*. *See Ye v. GlobalTranz Enters., Inc.*, 144 S. Ct. 564 (2024); *Gauthier v. Total Quality Logistics, LLC*, 145 S. Ct. 1062 (2025). Given the new analysis and responses to *Ye* and *Aspen*/*Gauthier* in the decision below, this Court should again refrain from granting certiorari and should allow the issue to percolate further in the courts of appeals to see if the split can be resolved without this Court's intervention.

II. The Sixth Circuit correctly held that Mr. Cox's claim falls within the safety exception.

Review is also unwarranted because the Sixth Circuit correctly held that the safety exception applies to Mr. Cox's negligent-hiring claim.

A. TQL's only argument in the court of appeals for why Mr. Cox's claim does not fall within the safety exception was that the claim is not "with respect to motor vehicles." This Court, however, has construed the phrase "with respect to" in the FAAAA to mean "concern[s]." *Dan's City*, 569 U.S. at 261. The state-law requirement to exercise reasonable care in selecting a safe motor carrier to provide motor vehicle transportation clearly concerns motor vehicles. Indeed, the purpose of such a requirement is to protect the public from unsafe motor vehicles.

Moreover, in determining whether claims were "with respect to the transportation of property" in

Dan's City, this Court considered whether the challenged conduct "involve[d]" transportation. 569 U.S. at 262. Applying the reasoning of *Dan's City* "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." Pet. App. 15a (quoting *Dan's City*, 569 U.S. at 262). Here, 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." *Id.* at 16a (quoting *Dan's City*, 569 U.S. at 262). "Simply put, there is no way to disentangle motor vehicles from Mr. Cox's substantive claim." *Id.* at 17a.

TQL's arguments to the contrary are meritless. TQL first argues that the safety exception does not apply to state laws regulating brokers because brokers do not themselves use motor vehicles. Pet. 17–18. As the state-law requirement at issue here demonstrates, however, state laws can concern motor vehicles and motor vehicle safety without directly regulating motor vehicle operators.

TQL next contends that the absence of an express reference to brokers in the safety exception suggests that Congress intended to exclude brokers from the exception's scope. *Id.* at 18, 20. As the Sixth Circuit explained, however, the "exception contains no mention of *any* regulated persons or entities, including the

three other entities listed in the preemption provision." Pet. App. 17a. The exception's application rests on the nature of the state-law requirement, not the nature of the regulated entity.

TQL notes that 49 U.S.C. § 14501(b)(1), which preempts state laws "relating to intrastate rates, intrastate routes, or intrastate services of any freight forwarder or broker," does not include a safety exception. Pet. 18. TQL does not claim that § 14501(b)(1) applies here, where the brokered transportation was *inter*state, not *intra*state. Nonetheless, TQL suggests that the lack of a safety exception to § 14501(b)(1) indicates that Congress did not intend the safety exception to § 14501(c)(1) to apply to laws regulating brokers. Congress, however, chose to treat laws related to interstate and intrastate broker prices, routes, and services separately, and it chose to address laws related to interstate broker prices, routes, and services in § 14501(c)(1), which has an express safety exception. Rather than demonstrating an intent to exclude laws relating to interstate broker prices, routes, and services from the safety exception, Congress's decision to address those laws in § 14501(c)(1), instead of § 14501(b)(1), indicates that Congress wanted the safety exception to apply to them where, as here, the exception's conditions are met.

TQL asserts that the Sixth Circuit's decision renders the phrase "with respect to motor vehicles" in the safety exception superfluous because all laws that fall within the scope of § 14501(c)(1) will also be "with respect to motor vehicles." Pet. 19. But a state-law claim can relate to motor carrier or broker prices, routes, or services with respect to the transportation of property without substantively involving motor vehicles and

motor vehicle safety. *See, e.g.*, *Lotte Ins. Co. v. R.E. Smith Enters., Inc.*, 733 F. Supp. 3d 494, 509 (E.D. Va. 2024) (holding that the safety exception did not apply to a claim against a broker "predicated on the allegedly negligent storage of [cargo] in a dilapidated warehouse").

TQL also errs in arguing that claims like Mr. Cox's are "too attenuated" from motor vehicle safety to fall within the safety exception. Pet. 20 (quoting *Ye*, 74 F.4th at 462). Mr. Cox's claim is based on a state-law requirement aimed at protecting the public from the dangers posed by unsafe motor vehicles. And as the Sixth Circuit explained, the basis of his "claim is that TQL negligently hired an unsafe motor carrier to transport goods by motor vehicle, resulting in a fatal vehicular accident." Pet. App. 20a. Simply put, the claim "substantively concerns motor vehicles and motor vehicle safety," *id.* at 21a, and falls within the safety exception.

B. TQL also argues in its petition that common-law tort claims brought by private parties seeking damages for past action never fall within the safety exception because they do not invoke the state's safety regulatory authority. There is no circuit split on this issue. Every court of appeals to decide whether common-law claims can fall within the safety exception has held that they can. *See* Pet. App. 11a–13a; *Aspen*, 65 F.4th at 1268–70; *Miller*, 976 F.3d at 1026–29. And TQL "d[id] not contest [in the court of appeals] that the term 'safety regulatory authority of a State' encompasses common law actions like Mr. Cox's negligent hiring claim." Pet. App. 11a.

Moreover, the state-law requirement at issue here—the requirement to exercise reasonable care in

hiring a safe motor carrier—fits squarely within the state's "safety regulatory authority." First, state courts' ability to develop and enforce common-law duties and standards is undoubtedly part of the "authority of [the] State." Second, this Court has "repeatedly held that a state's 'regulatory authority' encompasses 'common-law duties and standards of care,'" making the state-law requirement part of the state's "regulatory authority." Pet. App. 11a (quoting *Kurns v. R.R. Friction Prods. Corp.*, 565 U.S. 625, 637 (2012)). Finally, the state-law requirement is "genuinely responsive to safety concerns," *Ours Garage*, 536 U.S. at 442—specifically, the risk of physical harm if the broker selects a motor carrier that will place dangerous motor vehicles on the road—making the requirement part of the state's "safety regulatory authority."

C. Mr. Cox's claim is also not preempted because it does not fall within the scope of the FAAAA's preemption provision in the first place. Although the Sixth Circuit held that it does, this Court has "cautioned that § 14501(c)(1) does not preempt state laws affecting carrier prices, routes, and services in only a tenuous, remote, or peripheral manner." *Dan's City*, 569 U.S. at 261 (cleaned up). A broker's state-law duty to exercise reasonable care to ensure that it is not hiring a motor carrier that will place unsafe motor vehicles on the road with members of the public has no more than a tenuous, remote, or peripheral connection to the services a broker "offers its customers." *Id.* at 263.

Regardless, the court of appeals correctly determined that, if claims by motor vehicle accident victims or their survivors based on a broker's negligent hiring

of an unsafe motor carrier relate to broker prices, routes, or services, they are nonetheless not preempted because they fall within the safety exception. Further review by this Court of that decision is unnecessary.

D. In enacting the FAAAA, "Congress resolved to displace '*certain* aspects of the State regulatory process.'" *Dan's City*, 569 U.S. at 263 (quoting FAAAA § 601(a)(2) (emphasis in *Dan's City*)). But it specifically sought to preserve other aspects of the regulatory process, including "the safety regulatory authority of a State with respect to motor vehicles." 49 U.S.C. § 14501(c)(2)(A). Stated differently, although Congress believed that *some* state regulation "imposed an unreasonable burden on interstate commerce" that justified preempting such regulation, FAAAA § 601(a)(1)(A), Congress did not believe that *safety* regulation imposed such a burden. Instead of seeking to eliminate state safety laws, Congress specifically sought to preserve them. TQL's assertion that the decision below "contravene[s] Congress's clear intent" in enacting the FAAAA is thus mistaken. Pet. 22.

Claims such as Mr. Cox's help demonstrate why Congress needed to include the safety exception in the FAAAA. Although "competitive market forces" may further "efficiency, innovation, and low prices" in the market for airline services, *Rowe v. N.H. Motor Transp. Ass'n*, 552 U.S. 364, 371 (2008) (citation omitted), those forces do not promote safety in the broker/motor carrier market. If brokers cannot be held liable for negligently hiring unsafe motor carriers, they will be incentivized to hire the cheapest motor

carriers possible, rather than to prioritize safety. Carriers, in turn, will be incentivized to compromise safety to reduce operating costs to remain competitive. The ensuing reduction in safety will come at the expense of other drivers and passengers—people like Greta Cox, who are not part of the market for broker or motor carrier services, but who pay a heavy price when brokers fail to exercise ordinary care.

Under TQL's interpretation of the FAAAA, freight brokers would not be able to be held liable for their selection of motor carriers even if they hire a motor carrier that lacks federal operating authority, either because the motor carrier never had such authority or because the FMCSA revoked it. Freight brokers also would not be able to be held liable when they hire a motor carrier that they know is a "reincarnated" motor carrier that has shut down and re-opened with a new identity "to avoid compliance, or mask or otherwise conceal non-compliance, or a history of non-compliance, with statutory or regulatory requirements." 49 C.F.R. § 385.1005.

Moreover, TQL's interpretation of the FAAAA, if adopted, could have implications for safety on America's roads that extend far beyond whether brokers can be held liable for their negligence. If the safety exception does not apply to common-law claims, then it does not apply to negligence claims against motor carriers and drivers, as well as those against brokers. Immunizing motor carriers from liability when their negligent conduct causes physical injury or death, however, would remove incentives for motor carriers to operate safely, with potentially devastating consequences.

Congress could not possibly have intended such consequences when it preempted economic regulation of motor carriers—and preserved the safety regulatory authority of the state. The decision below respects both Congress's intent to deregulate motor carrier prices, routes, and services and its intent to preserve states' power to regulate safety. No further review is required.

CONCLUSION

The petition for a writ of certiorari should be denied.

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