No. 25-1217

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

ANGELA FUELLING,
Plaintiff-Appellant,

v.

ECHO GLOBAL LOGISTICS, INC.,
Defendant-Appellee.

Appeal from the United States District Court
for the District of South Carolina, Spartanburg Division

APPELLANT'S REPLY BRIEF

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July 28, 2025

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INTRODUCTION

Angela Fuelling's negligent-hiring claim against freight broker Echo Global Logistics arises from Echo's hiring of an unsafe motor carrier to provide motor vehicle transportation, resulting in a motor vehicle crash, and is based on a state-law requirement aimed at protecting the public from the dangers of motor vehicles. As Ms. Fuelling explained in her opening brief—and as the Sixth Circuit recently held with respect to a virtually identical claim in *Cox v. Total Quality Logistics, Inc.*, __ F.4th __, 2025 WL 1878770 (6th Cir. July 8, 2025)—this claim is an exercise of the state's safety regulatory authority "with respect to motor vehicles" and thus falls within the safety exception to preemption in the Federal Aviation Administration Authorization Act (FAAAA), 49 U.S.C. § 14501(c)(2)(A).

In response, Echo insists that the safety exception only applies to laws regulating entities that own or operate motor vehicles or select motor-vehicle drivers, even though the plain text of the exception demonstrates that the exception is based on the nature of the state law, not the nature of the regulated entity. Echo also urges the Court to adopt an unnaturally constricted interpretation of the safety exception that

ignores the Supreme Court's construction of the phrase "with respect to." It invents problems with Ms. Fuelling's ordinary-meaning interpretation of the exception that do not exist. And it claims that the broader context demonstrates that the safety exception does not apply to claims against brokers, without citing anything that suggests that Congress intended to preempt "the preexisting and traditional state police power over safety" when the state exercises that power by regulating brokers. *City of Columbus v. Ours Garage & Wrecker Serv., Inc.*, 536 U.S. 424, 439 (2002). Nothing in Echo's brief alters the fact that the state-law requirement underlying Ms. Fuelling's claim is genuinely responsive to safety concerns respecting motor vehicles, or that her "claim substantively concerns motor vehicles and motor vehicle safety." *Cox*, 2025 WL 1878770, at *9. In short, nothing alters the conclusion that her claim falls within the safety exception and is not preempted by the FAAAA.

ARGUMENT

I. Ms. Fuelling's negligent-hiring claim falls within the plain text of the safety exception.

The FAAAA's safety exception applies to the state's "safety regulatory authority … with respect to motor vehicles." 49 U.S.C. § 14501(c)(2)(A). Echo does not question that Ms. Fuelling's negligent-

hiring claim invokes the "safety regulatory authority of a State." Echo contests only whether that state safety authority is "with respect to motor vehicles."

It plainly is.

"With respect to" in the FAAAA means "concern[s]." *Dan's City Used Cars, Inc. v. Pelkey*, 569 U.S. 251, 261 (2013). The state-law requirement to exercise reasonable care in selecting a safe motor carrier to provide motor vehicle transportation clearly concerns motor vehicles. *See*, *e.g.*, *Johnson v. Herbert*, 699 F. Supp. 3d 523, 534 (E.D. Tex. 2023) ("A claim seeking damages for negligently placing an unsafe carrier on a highway is a claim that concerns motor vehicles and their safe operation." (cleaned up)); *Skowron v. C.H. Robinson Co.*, 480 F. Supp. 3d 316, 321 (D. Mass. 2020) (explaining that negligent-hiring claims against brokers are "genuinely responsive to safety concerns respecting motor vehicles"). Indeed, the purpose of such a requirement is to protect the public from unsafe motor vehicles.

In addition, in *Dan's City*, in determining whether claims were "with respect to the transportation of property," the Supreme 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." *Cox*, 2025 WL 1878770, at *6 (quoting *Dan's City*, 569 U.S. at 262). Here, the "crux of the alleged negligent conduct" is that Echo "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 [Mr. Fuelling]—allegations that plainly 'involve' motor vehicles and motor vehicle safety." *Id.* at *7 (quoting *Dan's City*, 569 U.S. at 262). Motor carrier S&J Logistics' "track record of unsafe motor vehicle operation, and [Echo's] alleged disregard for that public track record, constitute the basis of the negligent hiring claim." *Id.* "Simply put, there is no way to disentangle motor vehicles from [Ms. Fuelling's] substantive claim." *Id.*

II. Echo's reading of the safety exception is atextual and incorrect.

Echo does not explain why the state safety regulatory authority underlying Ms. Fuelling's claim does not concern motor vehicles. Instead, it contends that the safety exception "demands a direct connection to

motor vehicles," Echo Br. 24, and that Ms. Fuelling's claim lacks a sufficiently direct connection, *id.* at 25. Echo's argument fails on both accounts.

A. First, "the plain language of the safety exception … does not require a 'direct' connection to motor vehicles to be applicable." *Hawkins v. Milan Express, Inc.*, 735 F. Supp. 3d 933, 940 (E.D. Tenn. 2024). "The word 'direct' does not appear in the statute's text." *Cox*, 2025 WL 1878770, at *8. Rather, the exception uses the broader phrase "with respect to motor vehicles." 49 U.S.C. § 14501(c)(2)(A).

Despite the breadth of the phrase "with respect to motor vehicles," and despite Congress's decision to use that phrase rather than language expressly requiring a direct connection to motor vehicles, Echo contends that "with respect to" should be interpreted to require a direct connection. Echo Br. 21. According to Echo, Congress's use of "with respect to" in the safety exception, when it used "related to" in the preemption provision, requires giving the phrases different meanings and the meaning given to "with respect to" should be one that includes a requirement of a direct connection to motor vehicles. *Id.* at 21–23. The principle that different terms usually have different meanings, however, "is mostly applied to

terms with some heft and distinctiveness, whose use drafters are likely to keep track of and standardize," *Pulsifer v. United States*, 601 U.S. 124, 149 (2024), unlike the prepositional phrases at issue here. And even then, the principle is a particularly weak one, because legislators "often (out of a misplaced pursuit of stylistic elegance) use different words to denote the same concept." Antonin Scalia & Bryan Garner, Reading Law: The Interpretation of Legal Texts § 25 (2012). Moreover, interpreting "with respect to" and "related to" to have separate meanings would not necessarily require that "with respect to" have the meaning Echo desires.

Most importantly, there is no need to interpret the phrase "with respect to" in the FAAAA by comparing it to "related to," because the Supreme Court has already construed "with respect to" in the FAAAA and has equated it with "concern[s]," *Dan's City*, 569 U.S. at 261—as Echo itself recognized in the district court, *see* ECF 204, at 7; *see also* Echo Br. 22 (agreeing that "with respect to" has a "well-established meaning[]" in the FAAAA). As explained above and in Ms. Fuelling's opening brief, the state-law requirement here "concerns" motor vehicles.

Echo also contends that because the phrase "with respect to the transportation of property" in the preemption provision "massively

limits" the scope of that provision, *Dan's City*, 569 U.S. at 261 (citation omitted), the phrase "with respect to motor vehicles" must also massively limit the scope of the safety exception, Echo Br. 23. That massive limitation, Echo continues, "demands" a direct connection between the claim at issue and motor vehicles. *Id*.

Echo's argument is illogical. That the two limitations both use the phrase "with respect to" does not mean that the limitations affect the same number or percentage of claims. The effect of the limitations is also dependent on their objects. *See Cox*, 2025 WL 1878770, at *6 n.6 (explaining that, in stating that the "phrase 'with respect to the transportation of property' 'massively limits the scope of preemption,'" the *Dan's City* Court "was commenting not on the 'with respect to' portion of the phrase, but on its object, 'transportation of property'" (cleaned up)).

To illustrate the point: Although everyone agrees that the term "related to" is broad, an FAAAA exception that applied only to state laws "related to apples" would be narrow. The object of the phrase matters. Likewise, the universe of state laws to which the limitation applies makes a difference. A provision exempting from preemption state laws related to apples would have a more limiting effect if it were an exception

to a preemption provision regulating fruit farms than if it were an exception to the FAAAA. The phrases "with respect to the transportation of property" in the preemption provision and "with respect to motor vehicles" in the safety exception have different objects (in the former, the transportation of property; in the latter, motor vehicles) and apply to different state laws (in the former, laws related to the prices, routes, or services of motor carriers, brokers, or freight forwarders with respect to the transportation of property; in the latter, the state's safety regulatory authority). There is thus no reason to assume that they have identical limiting effects on the provisions to which they apply. And there is certainly no reason to ignore the Supreme Court's construction of the term "with respect to" and to adopt an unnaturally crabbed interpretation of the term, all in service of trying to ensure that the phrases limit to the same degree the different provisions to which they apply.

B. Second, the state-law requirement underlying Ms. Fuelling's claim *is* directly connected to motor vehicles. It regulates a broker's "arrangement of *motor vehicle* transportation." *Cox*, 2025 WL 1878770, at *8 (emphasis added). And its purpose is to protect the public from the

dangers of *motor vehicles*. Thus, "[e]ven if such a connection [were] required, [Ms. Fuelling's] claim would not be preempted." *Id.*; *see Ruff v. Reliant Transp., Inc.*, 674 F. Supp. 3d 631, 635 (D. Neb. 2023) ("DOT authorized brokers *exist* to arrange for the carriage of goods *by motor vehicle*—to put motor vehicles on the roads. A direct connection to motor vehicles, which seems to ask more than the statute does, appearing on the face of the relationship, the exception applies.").

In arguing to the contrary, Echo focuses on the relationship between brokers and motor vehicles, stating that "[b]rokers do not own, lease, control, or select motor vehicles [or] employ or select the individual drivers who operate them." Echo Br. 25. As Ms. Fuelling explained in her opening brief (at 20), however, under the plain text of the safety exception, the relevant relationship is the relationship between the *state safety regulatory authority* and motor vehicles, not the *regulated entity* and motor vehicles. *See Cox*, 2025 WL 1878770, at *8. That is, the question is whether the state-law requirement is "with respect to motor vehicles," not whether broker services are "with respect to motor vehicles."

Echo acknowledges Ms. Fuelling's argument only in a footnote, where it states that the argument "misses the point," because the applicable state-law requirement "is a duty of care *on brokers*." Echo Br. 30 n.9. But it is Echo's "formulation [that] misses the mark." *Cox*, 2025 WL 1878770, at *8. Where a state-law safety requirement concerns motor vehicles, as the law at issue here does, it falls within the safety exception, regardless of whether it imposes a duty on brokers, motor carriers, or some other entity.

Echo likewise misses the mark in contending that the "absence of any reference to brokers in the motor vehicle safety exception confirms that the exception does not apply" to claims against them. Echo Br. 26. As the Sixth Circuit recently explained, that argument "is based on a faulty reading of the safety exception." *Cox*, 2025 WL 1878770, at *7. "The exception contains no mention of *any* regulated persons or entities, including the three other entities listed in the preemption provision. … Instead, it provides a carveout from § 14501(c)(1) for certain state laws based on the substance of those laws—that is, whether the laws respond to safety issues and concern motor vehicles." *Id*. In other words, the exception does not mention brokers or motor carriers or any other entity

because its application does not depend on whether the regulated entity is a broker or motor carrier or some other entity; its application is based on the nature of the state-law requirement, not on the nature of the regulated entity. *See Kaipust v. Echo Glob. Logistics, Inc.*, 2025 IL App (1st) 240530-U, ¶ 43 (unpublished) ("[I]t is clear from the plain language of the 49 U.S.C. § 14501(c)(2)(A) (2024) that Congress did not purposefully omit certain parties to exclude them from the safety exception; it omitted *any reference* to *any parties* because the exception applies to the conduct of *anyone*, so long as such conduct falls under the 'safety regulatory authority of a State with respect to motor vehicles.'").

The third exception in 49 U.S.C. § 14501(c)(2)(A) demonstrates the distinction between an exception based on a regulated party and an exception based on the nature of the state law. That exception exempts from preemption "the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization." 49 U.S.C. § 14501(c)(2)(A). Echo argues that that exception's explicit inclusion of a reference to "motor carriers," but not brokers, indicates that the safety exception likewise applies to claims against motor carriers, but not

brokers. Echo Br. 27. Echo has it backwards. That exception's express reference to motor carriers indicates that the application of that exception is based on the nature of the regulated party: it only applies to certain regulation of motor carriers. In contrast, the absence of a reference to motor carriers or any other entities in the safety exception indicates that the application of the safety exception is not based on the nature of the regulated entity. It is based on whether the state law is part of the state's safety regulatory authority with respect to motor vehicles, "regardless of who is subject to the regulatory requirement." *Cox*, 2025 WL 1878770, at *7.

III. Echo's criticisms of Ms. Fuelling's plain-text reading of the safety exception are meritless.

Contrary to Echo's arguments, recognizing that claims such as Ms. Fuelling's fall within the safety exception does not create "severe"—or, for that matter, any—"textual problems." Echo Br. 28. Echo's attempts to depict such problems do not withstand examination.

A. Echo fights a straw man, contending that it is "insufficient," for purposes of the safety exception, for a state law to be "genuinely responsive to safety concerns." Echo Br. 28. It must also, Echo states, be "with respect to motor vehicles." *Id*. at 29. Ms. Fuelling, however, has not

argued that all state laws that are genuinely responsive to safety concerns fall within the safety exception. Rather, her opening brief explains that laws fall within the safety exception where they are "'genuinely responsive to safety concerns' *respecting motor vehicles*," Opening Br. 1 (quoting *Ours Garage*, 536 U.S. at 442) (emphasis added)—that is, where they are "genuinely responsive to concerns about the safety risks posed by dangerous motor vehicles," *id.* at 20. The fact that such laws are "genuinely responsive to safety concerns" satisfies the "safety regulatory authority" part of the exception. *See Ours Garage*, 536 U.S. at 442. And the fact that they are responding to the risks posed by motor vehicles satisfies the "with respect to motor vehicles" requirement. Recognizing that state laws that are genuinely responsive to the safety risks posed by motor vehicles are part of the state's "safety regulatory authority with respect to motor vehicles" is a straightforward application of the text of the safety exception.

In arguing to the contrary, Echo rehashes its contention that a state law cannot be part of the state's safety regulatory authority with respect to motor vehicles—even if its purpose is to protect the public from the safety risks posed by motor vehicles—unless it regulates a party that

operates motor vehicles or assigns drivers to operate them. As explained above, however, the safety exception is not dependent on the nature of the regulated party, but on the nature of the state law. *See supra* pp. 9–11. "Requiring that the regulated entity directly own or operate motor vehicles would impose an additional limitation beyond what the text of the exception requires." *Cox*, 2025 WL 1878770, at *8.

B. Echo next contends that recognizing that claims such as Ms. Fuelling's fall within the safety exception renders the term "with respect to motor vehicles" superfluous. But state laws can relate to motor carrier or broker prices, routes, or services with respect to the transportation of property, and can be responsive to safety concerns, without being responsive to safety concerns respecting motor vehicles. For example, in *Rowe v. New Hampshire Motor Transport Ass'n*, 552 U.S. 364 (2008), the Supreme Court held that the FAAAA preempted laws regulating the delivery of tobacco. Although the laws related to public health, they did not concern the safety of motor vehicles, and the safety exception did not apply. *See id.* at 374 (explaining that the FAAAA contains an exception "governing motor vehicle safety" but not one governing public health).

Moreover, as explained in Ms. Fuelling's opening brief (at 5–6), Congress enacted *two* preemption provisions in the FAAAA: the provision at issue here, and a preemption provision preempting state laws related to the "price, route, or service of an air carrier or carrier affiliated with a direct air carrier through common controlling ownership when such carrier is transporting property by aircraft or by motor vehicle." FAAAA, Pub. L. No. 103-305, § 601(b), 108 Stat. 1569, 1605 (1994), *codified at* 49 U.S.C. § 41713(b)(4)(A). Congress attached the safety exception to both preemption provisions. *See* 49 U.S.C. §§ 14501(c)(2)(A) & 41713(b)(4)(B)(i). The "with respect to motor vehicles" language limits the safety exception to the state's safety regulatory authority concerning motor vehicles, not its safety regulatory authority concerning aircraft.

Echo similarly errs in contending that the plain-text reading of the safety exception would "gut" the preemption provision as it relates to brokers, Echo Br. 33, or cause the exception "to swallow the rule," *id*. at 32. Many state-law claims relating to broker prices, routes, or services are not concerned with the safety of motor vehicles, and the safety exception does not apply to those claims. For example, in *Lotte Insurance Co. v. R.E. Smith Enterprises, Inc.*, 733 F. Supp. 3d 494, 509 (E.D. Va.

2024), the court held that the safety exception did not apply to a property damage claim against a broker "predicated on the allegedly negligent storage of [the property] in a dilapidated warehouse." That issue, the court stated, was "completely unrelated to the 'safety regulatory authority of a state with respect to motor vehicles'" and the plaintiff's claim thus could not "evade preemption as part of a state's residual authority to impose motor-vehicle-related safety regulations." *Id.* (quoting 49 U.S.C. § 14501(c)(2)(A)); *see also*, *e.g.*, *Notash v. Total Mil. Mgmt., Inc.*, No. 1:23-CV-890, 2025 WL 605607, at *7 (M.D.N.C. Feb. 25, 2025), *report and recommendation adopted,* No. 1:23-CV-890, 2025 WL 844509 (M.D.N.C. Mar. 18, 2025) (without mentioning the safety exception, holding that the FAAAA preempted a claim that a broker breached a duty to deliver goods without destroying or damaging them); *Heliene, Inc. v. Total Quality Logistics, LLC*, No. 1:18-CV-799, 2019 WL 4737753 (S.D. Ohio Sept. 27, 2019) (without mentioning the safety exemption, holding that a claim against a broker for fraud based on a false statement that the broker had transported cargo over the border by an agreed-upon date was preempted by the FAAAA). Indeed, *Aspen American Insurance Co. v. Landstar Ranger Inc.*, 65 F.4th 1261 (11th Cir.

2023), on which Echo relies heavily, did not involve the state's safety regulatory authority with respect to motor vehicles. There, a shipper's insurer brought a negligent-hiring claim against a broker who gave the shipment to a thief. *Id.* at 1264. The state-law requirement to exercise reasonable care not to give the shipment to a thief is not responsive to safety concerns respecting motor vehicles, and the Eleventh Circuit correctly held (albeit with faulty reasoning) that the claim did not fall within the safety exception.

Echo's argument that recognizing that Ms. Fuelling's claim falls within the safety exception would cause the exception to swallow the rule rests on a misunderstanding of Ms. Fuelling's position—and of the safety exception. Echo wrongly contends that "Plaintiff's theory is that the *core* broker service of matching shippers and carriers is itself *safety-related* for purposes of the exception." Echo Br. 33. It then asserts that "it follows from Plaintiff's theory" that all "regulation of that service … would *also* be safety-related and thus escape preemption." *Id.* But, again, the application of the safety exception is not based on the nature of the regulated party's services, but on the nature of the state law at issue. *See supra* pp. 9–11. Regardless of whether broker services are deemed safety

related, if a state-law requirement is part of the state's safety regulatory authority with respect to motor vehicles, it falls within the safety exception; if it is not, it does not.

C. Finally, Echo argues that recognizing that claims such as Ms. Fuelling's fall within the safety exception would render superfluous the second exception in 49 U.S.C. § 14501(c)(2)(A), which exempts from preemption "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." But the laws preserved by that exception directly relate to motor vehicles and are thus no more redundant under Ms. Fuelling's reading of the safety provision than under Echo's. "Moreover, the Supreme Court has emphasized that, in the context of statutory interpretation, '[r]edundancy is not a silver bullet,' and sometimes a 'statute contains some redundancy.'" *Cox*, 2025 WL 1878770, at *8 n.8 (quoting *Rimini St., Inc. v. Oracle USA, Inc.*, 586 U.S. 334, 346 (2019)). "It is logical that Congress would provide a broad carveout for states to regulate motor vehicle safety, while expressly enumerating other areas of state regulatory authority that are motivated

not only by motor vehicle safety, but also other concerns, such as traffic efficiency and public health." *Id.*

IV. Echo's arguments about the broader context of the FAAAA are unavailing.

Echo's arguments based on other parts of Title 49 are similarly meritless.

A. Echo notes that 49 U.S.C. § 14501(b)(1), which preempts laws "relating to intrastate rates, intrastate routes, or intrastate services of any freight forwarder or broker," does not include a safety exception. Although Echo does not claim that § 14501(b)(1) applies here, where the brokered transportation was *inter*state, not *intra*state, it contends that the lack of a safety exception in § 14501(b)(1) is "powerful evidence" that the safety exception to § 14501(c)(1) does not apply to claims against brokers. Echo Br. 37.

Congress, however, chose to treat laws related to *inter*state and *intra*state broker prices, routes, and services differently. Instead of addressing laws related to *inter*state broker prices, routes, and services alongside laws related to *intra*state broker prices, routes, and services in § 14501(b)(1), which does not have an express safety exception, Congress addressed those laws in § 14501(c)(1), which does have a safety exception.

Rather than demonstrating an intent to exclude laws relating to the interstate prices, routes, and services of a broker from the safety exception, Congress's decision to address those laws in § 14501(c)(1), rather than in § 14501(b)(1), indicates that Congress wanted the safety exception to apply to them where, as here, the exception's conditions are met.

Although Echo may consider it "absurd" to address state laws related to interstate broker prices, routes, and services in a preemption provision that is subject to a safety exception, while addressing state laws related to intrastate broker, prices, routes, and services in a preemption provision that is not, Echo Br. 37, that choice was Congress's to make. If Echo disagrees with Congress's decision, it can take its disagreement to Congress. But it should not ask this Court to rewrite the safety exception to exempt "the safety regulatory authority of a State with respect to motor vehicles, *except where that authority regulates brokers*." "[R]ewrit[ing] [a] statute based on speculation as to Congress' intent … is not the proper role for this Court." *United States v. Helton*, 944 F.3d 198, 205 (4th Cir. 2019).

B. Echo states that the "definition of 'motor vehicle safety' in Title 49 does not plausibly reach broker services." Echo Br. 38. Echo neglects to mention that the definition it cites, 49 U.S.C. § 30102(9), defines "motor vehicle safety" only for purposes of chapter 301 of Title 49. Section 14501 is not in chapter 301, so that definition is irrelevant here. In any event, the safety exception does not use the term "motor vehicle safety." *See Cole v. City of Dallas*, 314 F.3d 730, 733 (5th Cir. 2002) (noting that "the term 'motor vehicle safety' is obviously narrower than the term 'safety regulatory authority of a State with respect to motor vehicles'").

More fundamentally, as Ms. Fuelling explained in her opening brief (at 19), "it is immaterial that, '[w]here Congress regulates motor vehicle safety' in the FAAAA and Title 49 more broadly, it 'addresses motor vehicle ownership, operation, and maintenance—but not broker services.'" *Cox*, 2025 WL 1878770, at *7 n.7 (quoting *Ye v. GlobalTranz Enters., Inc.*, 74 F.4th 453, 462 (7th Cir. 2023)); *see* Echo Br. 39–40. As the Sixth Circuit has explained, the "lack of federal regulation of broker services does not mean that [Congress] intended to proscribe states from promulgating their own regulations of brokers. Construing the safety exception based on what Congress itself does and does not regulate would

contravene the purpose of the exception, which is to preserve 'the preexisting and traditional state police power over safety.'" *Cox*, 2025 WL 1878770, at *7 n.7 (quoting *Ours Garage*, 536 U.S. at 439).

C. Echo errs as well in arguing that the statutory requirement that motor carriers carry insurance for bodily injury or death, 49 U.S.C. § 13906(a)(1), and the absence of such a requirement for brokers, indicates that the safety exception does not apply to claims against brokers. The motor-carrier insurance provision demonstrates that Congress was concerned about motor carriers' possible inability to pay personal injury claims against them. That Congress did not consider brokers' inability to pay personal injury claims a serious enough problem for it to mandate personal injury insurance does not demonstrate an intent to immunize brokers from personal injury claims by preempting them, let alone to exclude state laws regulating brokers from the safety exception.

Likewise, Echo errs in relying on a 1988 statement by the Interstate Commerce Commission that it was unnecessary to implement a self-insurance program for brokers similar to that for motor carriers. That statement does not concern preemption or the FAAAA. And it does not

speak to whether, when Congress enacted the FAAAA six years later, it intended to preempt claims against brokers that face liability under state law for personal injury or wrongful death.

D. In enacting the safety exception, Congress sought to "ensure that its preemption of States' economic authority over motor carriers of property … 'not restrict' the preexisting and traditional state police power over safety." *Ours Garage*, 536 U.S. at 439. Personal injury and wrongful death claims against brokers based on the negligent hiring of unsafe motor carriers fall squarely within the state police power over safety that Congress sought to preserve in the safety exception.

Echo contends that there is no "reason why negligent-selection liability on *brokers* would meaningfully affect motor carrier safety." Echo Br. 44. It is common sense, however, that if brokers can be held accountable for their failure to exercise ordinary care to hire safe motor carriers, they will be more likely to take such care and less likely to hire motor carriers that place dangerous motor vehicles on the road. Likewise, it is common sense that, if motor carriers' safety records affect whether they get hired, they will be incentivized to ensure that they are operating safely. Negligent-hiring claims against brokers based on their hiring of

unsafe motor carriers thus "promote safety on the road." *Miller v. C.H. Robinson Worldwide, Inc.*, 976 F.3d 1016, 1030 (9th Cir. 2020). "To preempt such claims would undercut an important tool in the states' efforts to maintain reasonably safe roadways." *Milne v. Move Freight Trucking, LLC*, No. 7:23-CV-432, 2024 WL 762373, at *8 (W.D. Va. Feb. 20, 2024).

Echo insists that it is sufficient for safety that motor carriers are liable for their own negligence. The facts of this case demonstrate otherwise. *See*, *e.g.*, JA175 (discussing S&J Logistics' safety violations); JA160–166 (describing S&J Logistics' lack of training and safety controls as well as its driver's crash history and history of falsifying logbooks); JA200, JA214 (finding that the S&J Logistics' trailer had not been properly inspected and had malfunctioning brakes). Moreover, the negligent-hiring claim at issue here does not seek to hold Echo liable for S&J Logistics' negligence; it seeks to hold Echo liable for its *own* negligence in failing to take reasonable steps to ensure that it was not hiring a motor carrier that would place dangerous vehicles on the road with other drivers and passengers, *see*, *e.g.*, JA166–178—a failure that resulted in Mr. Fuelling's death.

Most fundamentally, in enacting the safety exception, Congress left it up to the states—not Echo, or even this Court—to determine how to exercise their police power to respond to concerns about the safety risks posed by motor vehicles, including whether to impose safety-related obligations on brokers. The state-law duty to exercise reasonable care to hire a safe motor carrier is part of the state's "safety regulatory authority with respect to motor vehicles," and Ms. Fuelling's claim falls within the safety exception.

CONCLUSION

This Court should reverse the district court's grant of summary judgment to Echo on Ms. Fuelling's negligent-hiring claim.

Respectfully submitted,

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July 28, 2025

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 32(a)(7)(B). As calculated by my word processing software (Microsoft Word for Office 365), the brief contains 5,006 words, not counting the parts of the brief excluded by Federal Rule of Appellate Procedure 32(f). The brief also complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6). The brief is composed in a 14-point proportional typeface, Century Schoolbook.

/s/ Adina H. Rosenbaum
Adina H. Rosenbaum

CERTIFICATE OF SERVICE

I hereby certify that on July 28, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the CM/ECF system. I certify that all participants in this case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Adina H. Rosenbaum
Adina H. Rosenbaum