No.

IN THE

Supreme Court of the United States

YING YE, as Representative of the Estate of Shawn Lin, Deceased,
Petitioner,

v.

GLOBALTRANZ ENTERPRISES, INC.,
Respondent.

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

Petition for a Writ of Certiorari

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QUESTION PRESENTED

The Federal Aviation Administration Authorization Act 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 a personal injury claim against a freight broker based on the broker's negligent hiring of an unsafe motor carrier to transport property by motor vehicle falls within the safety exception, as the Ninth Circuit has held, or whether such a claim is insufficiently connected to motor vehicles to fall within the exception, as the Seventh Circuit held below.

RELATED PROCEEDINGS

United States District Court for the Northern District of Illinois:

Ye v. Global Sunrise, Inc., No. 18-cv-1961 (default judgment granted against Global Sunrise, Inc., Nov. 10, 2021; judgment entered for GlobalTranz Enterprises, Inc., Nov. 23, 2021; order assessing damages against Global Sunrise, Inc., Apr. 5, 2022)

United States Court of Appeals for the Seventh Circuit:

Ying Ye v. GlobalTranz Enterprises, Inc., No. 22-1805 (judgment entered, July 18, 2023; denial of petition for rehearing en banc, Aug. 16, 2023)

Ying Ye v. GlobalTranz Enterprises, Inc., No. 22-1906 (dismissal of cross-appeal, May 27, 2022)

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INTRODUCTION

Petitioner Ying Ye's husband, Shawn Lin, was killed in a motor vehicle crash that resulted from respondent GlobalTranz Enterprises' decision to hire a motor carrier with a history of safety violations. Ms. Ye then filed this case, alleging that GlobalTranz negligently hired the unsafe motor carrier.

The case presents an important issue of statutory interpretation over which federal courts of appeals are divided: whether personal injury claims against freight brokers based on the brokers' negligent hiring of unsafe motor carriers fall within an exception to preemption in the Federal Aviation Administration Authorization Act (FAAAA) that is commonly known as the "safety exception."

The FAAAA preempts state laws related to a price, route, or service of a motor carrier or broker with respect to the transportation of property. 49 U.S.C. § 14501(c)(1). It also contains the safety exception, which exempts from preemption the "safety regulatory authority of a State with respect to motor vehicles." *Id*. § 14501(c)(2)(A).

Below, the Seventh Circuit held that Ms. Ye's claim against broker GlobalTranz based on its negligent hiring of the unsafe motor carrier did not fall within the safety exception. Although GlobalTranz hired the motor carrier to provide motor vehicle transportation, the negligent-hiring claim arose from a motor vehicle accident, and the state-law requirement underlying the claim protects the public from the dangers posed by motor vehicles, the Seventh Circuit held that the claim was not "with respect to

motor vehicles" and was therefore preempted by the FAAAA. Pet. App. 11a.

The Seventh Circuit's decision is in direct conflict with the Ninth Circuit's decision in *Miller v. C.H. Robinson Worldwide, Inc.*, 976 F.3d 1016 (9th Cir. 2020), *cert. denied*, 142 S. Ct. 2866 (2022). As the Seventh Circuit acknowledged, *Miller* "arose from near-identical facts to those here," Pet. App. 20a, but the court there held that the safety exception applied to save the negligent-hiring claim from preemption.

Whether personal injury claims against freight brokers for negligently hiring unsafe motor carriers are preempted by the FAAAA is an important issue affecting safety on America's roads. If freight brokers cannot be held accountable for negligently hiring unsafe motor carriers, they will have reduced incentives to ensure that they are not hiring carriers that place unsafe motor vehicles on the road. This reduction in safety will come at the expense of other drivers and their passengers, who are placed at risk of being injured or killed by motor vehicles when brokers negligently hire unsafe motor carriers to provide motor vehicle transportation.

The Seventh Circuit erred in holding that personal injury claims against freight brokers based on the negligent hiring of an unsafe motor carrier are not sufficiently related to motor vehicles to fall within the safety exception. As the United States explained when this Court invited the Solicitor General to file a brief regarding the petition for certiorari in *Miller*, "where a State requires a broker to exercise ordinary care in selecting a motor carrier to safely operate the motor vehicle, the State's exercise of its safety regulatory authority occurs 'with respect to motor vehicles.'"

Brief for the United States as Amicus Curiae at 16, *C.H. Robinson Worldwide, Inc. v. Miller*, No. 20-1425 (U.S. May 24, 2022) (hereinafter "U.S. Br., *Miller*") (quoting 49 U.S.C. § 14501(c)(2)(A)). "The safe operation of a vehicle is necessarily connected to the vehicle's operator, *i.e.*, the motor carrier providing the motor vehicle transportation." *Id.* at 17. "The selection of a safe motor carrier therefore is logically a meaningful component of commercial motor-vehicle safety." *Id.*

In its brief in *Miller*, the United States explained that, whereas review of *Miller* was not warranted, given that the Ninth Circuit's decision was "correct and d[id] not conflict with any decision of this Court or another court of appeals," *id.* at 6, "[i]f a conflict of appellate authority ultimately results, this Court may then reconsider whether certiorari is warranted," *id.* at 19. A conflict now exists, and the time for this Court to consider the question presented thus has arrived.

The Court should grant the petition for a writ of certiorari, resolve the circuit split, and reverse the judgment below.

OPINIONS BELOW

The Seventh Circuit's decision is reported at 74 F.4th 453 and is reproduced in the appendix at 1a. The district court's opinion dismissing Petitioner's negligent-hiring claim is unreported, but is available at 2020 WL 1042047 and is reproduced in the appendix at 24a.

JURISDICTION

The Seventh Circuit entered judgment on July 18, 2023, and denied a timely petition for rehearing on

August 16, 2023. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

49 U.S.C. § 14501(c)(1) provides:

> (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.

49 U.S.C. § 14501(c)(2) provides:

> (2) Matters not covered.—Paragraph (1)—
> (A) shall not restrict the safety regulatory authority of a State with respect to motor vehicles[.]

STATEMENT OF THE CASE

A. Statutory Background

The Airline Deregulation Act of 1978 (ADA), Pub. L. No. 95-504, 92 Stat. 1705, largely eliminated federal economic regulation of the airline industry. "In keeping with the statute's aim to achieve 'maximum reliance on competitive market forces,' … Congress sought to 'ensure that the States would not undo federal deregulation with regulation of their own.'" *Dan's City Used Cars, Inc. v. Pelkey*, 569 U.S. 251, 255–56 (2013) (quoting *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 378 (1992)). Accordingly, the ADA includes a preemption provision that, as currently codified, prohibits states from enacting or

enforcing laws "related to a price, route, or service of an air carrier." 49 U.S.C. § 41713(b)(1).

In 1980, Congress similarly deregulated the trucking industry, *see* Motor Carrier Act of 1980, Pub. L. No. 96-296, 94 Stat. 793, but did not preempt state trucking regulation. 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." 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).

At the same time that it enacted 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)). Congress therefore specified 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).

B. Factual Background

Respondent GlobalTranz Enterprises is a freight broker, Pet. App. 2a—a company that is hired by shippers to arrange for the transportation of freight by a motor carrier, "a person providing motor vehicle transportation for compensation." *See* 49 U.S.C. § 13102(2) & (14) (defining "broker" and "motor

carrier"). In 2017, GlobalTranz hired the motor carrier Global Sunrise, Inc., to transport freight from Illinois to Texas. Pet. App. 2a. GlobalTranz hired Global Sunrise to transport the freight even though public information revealed that the motor carrier had a history of violating federal motor carrier safety regulations, including engaging in violations related to unsafe driving and drivers' hours of service. *Id*. at 2a–3a, 25a; 7th Cir. App. 24–25. In addition, Global Sunrise was what is known as a "chameleon" or "reincarnated" carrier: It was the continuation of two related businesses, operated under other names, that ceased operations due to multiple violations of federal regulations and the imposition of a conditional safety rating by the Federal Motor Carrier Safety Administration. 7th Cir. App. 22; *see* 49 C.F.R. § 385.3 (explaining that a conditional safety rating means that "a motor carrier does not have adequate safety management controls in place to ensure compliance with the [applicable] safety fitness standard"); *id*. § 385.1005 (forbidding motor carriers from using "common ownership, common management, common control, or common familial relationship … to avoid compliance, or mask or otherwise conceal non-compliance, or a history of non-compliance, with [commercial motor vehicle safety] statutory or regulatory requirements").

On November 7, 2017, David Antoine Carty, a Global Sunrise driver, was operating a tractor-trailer on the frontage road of Interstate 45 in Conroe, Texas, while transporting the cargo brokered by Global-Tranz. Pet. App. 2a; 7th Cir. App. 25. Mr. Carty made a right turn from the third lane from the right, crossing two other lanes of travel, without using his mirrors or ensuring that no traffic was coming. 7th

Cir. App. 25, 28. As a result, the truck collided with a motorcycle ridden by Shawn Lin. *Id.* at 25. Mr. Lin died from injuries sustained in the crash. *Id.*; Pet. App. 2a.

C. Procedural Background

Mr. Lin's widow, Ying Ye, filed this action in the United States District Court for the Northern District of Illinois, alleging claims against Global Sunrise and GlobalTranz. As relevant here, the operative complaint alleges that GlobalTranz was negligent in hiring Global Sunrise to transport freight because it knew or should have known that Global Sunrise was an unsafe company with a history of hours-of-service violations and violations for unsafe driving. Pet. App. 2a–3a; *see generally* Restatement (Second) of Torts § 411 (1965) (discussing negligence in selection of contractors).

The district court granted GlobalTranz's motion to dismiss the negligent-hiring claim, holding that the claim is preempted by the FAAAA. Pet. App. 26a–33a.[1] The Seventh Circuit affirmed. The court of appeals first held that the negligent-hiring claim falls within the scope of the FAAAA's preemption provision, 49 U.S.C. § 14501(c)(1). Pet. App. 6a–10a. The court then held that the claim does not fall within the scope of the safety exception—which preserves the "safety regulatory authority of a State with respect to motor vehicles," 49 U.S.C. § 14501(c)(2)(A)—because

[1] The district court subsequently granted summary judgment to GlobalTranz on the merits of Ms. Ye's other claim against the company, which was based on a theory of vicarious liability, *see* Pet. App. 3a–4a, and entered a default judgment against Global Sunrise, whose counsel had withdrawn in 2019 after Global Sunrise's insurer went into receivership, *see id.* at 3a.

it "is not a law that is 'with respect to motor vehicles,'" Pet. App. 11a.

With respect to the safety exception, the Seventh Circuit acknowledged that this Court "has broadly interpreted 'with respect to' to mean 'concern[s].'" *Id.* (quoting *Dan's City*, 569 U.S. at 261). Nonetheless, the court held that "the exception requires a direct link between a state's law and motor vehicle safety." *Id.* Although GlobalTranz hired Global Sunrise to provide motor vehicle transportation, resulting in a motor vehicle accident, and although the state-law requirement underlying the negligent-hiring claim protects the public from the dangers posed by motor vehicles, the court of appeals stated that it saw no "direct link between negligent hiring claims against brokers and motor vehicle safety." *Id.*

In holding that Ms. Ye's claim does not fall within the safety exception, the Seventh Circuit recognized that it was adopting an "opposing interpretation[]" of the exception to the interpretation that was adopted by the Ninth Circuit in *Miller v. C.H. Robinson Worldwide, Inc.*, 976 F.3d 1016—a case that, the Seventh Circuit stated, "arose from near-identical facts to those here." Pet. App. 20a–21a. As the Seventh Circuit explained, the Ninth Circuit in *Miller* held that a personal injury claim against a broker based on its negligent hiring of an unsafe motor carrier was "saved by the Act's safety exception" and thus was not preempted by the FAAAA. *Id.* at 21a.

Ms. Ye filed a timely petition for rehearing en banc, which the Seventh Circuit denied. *Id.* at 37a.

REASONS FOR GRANTING THE PETITION

This case presents an important issue of statutory interpretation: whether personal injury claims against freight brokers based on the negligent hiring of an unsafe motor carrier fall within the FAAAA's exception from preemption for the "safety regulatory authority of a State with respect to motor vehicles." 49 U.S.C. § 14501(c)(2)(A). This issue is of vital importance to the safety of America's roads, and it has engendered a conflict among the circuit courts, with the Seventh Circuit wrongly concluding that such claims are not sufficiently related to motor vehicles to fall within the exception. This Court should grant the petition, resolve the conflict, and reverse the Seventh Circuit's judgment.

I. The circuits are divided over whether personal injury claims against freight brokers based on the negligent hiring of an unsafe motor carrier fall within the safety exception.

The decision below creates a direct conflict on the question presented, a conflict that can be resolved only by this Court. The Seventh Circuit held that personal injury claims against freight brokers based on the negligent hiring of an unsafe motor carrier do not fall within the scope of the safety exception and are preempted by the FAAAA. In *Miller v. C.H. Robinson Worldwide, Inc.*, 976 F.3d 1016, the Ninth Circuit held the opposite.

As the Seventh Circuit acknowledged, *Miller* "arose from near-identical facts to those here: Allen Miller sought to recover damages from a freight broker that he alleged was negligent in hiring an unsafe motor carrier whose driver caused a highway

accident leaving Miller a quadriplegic." Pet. App. 20a–21a. The Ninth Circuit held that Mr. Miller's claim fell within the scope of the preemption provision, 49 U.S.C. § 14501(c)(1), but that it was "saved from preemption by the safety exception." *Miller*, 976 F.3d at 1025. "In enacting that 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.[2]

Because of the stark conflict between the decision below and the Ninth Circuit's decision in *Miller*, whether a freight broker can be held liable when its negligent hiring of an unsafe motor carrier results in a motor vehicle accident that causes an injury or

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[2] Westlaw incorrectly indicates that *Miller* has been abrogated, citing *R.J. Reynolds Tobacco Co. v. County of Los Angeles*, 29 F.4th 542 (9th Cir. 2022). In *R.J. Reynolds*, the Ninth Circuit held that the Family Smoking Prevention and Tobacco Control Act (TCA) does not preempt a Los Angeles County ban on the sale of flavored tobacco products. In dicta in a footnote, the court stated that it was interpreting the TCA without applying a presumption against preemption, and it rejected the argument that *Miller* supported application of such a presumption. *Id*. at 553 n.6. However, *Miller*'s conclusion that negligent-hiring claims against brokers arising out of motor vehicle accidents have a sufficient connection with motor vehicles to fall within the safety exception did not rest on the presumption against preemption. *See Miller*, 976 F.3d at 1030–31. Moreover, as a panel decision, *R.J. Reynolds* cannot abrogate a prior Ninth Circuit decision.

death depends on where the broker can be sued. If the broker can be sued in a court in the Ninth Circuit, a personal injury claim against the broker will be able to proceed. If the broker can be sued only in courts in the Seventh Circuit, the claim will be dismissed. And because the preemption provision in 49 U.S.C. § 14501(c)(1) applies to interstate services, the circuits' opposing interpretations of the safety exception could lead to particularly arbitrary results: Whether a claim against a broker for negligently selecting an unsafe motor carrier to provide motor vehicle transportation between California and Illinois is held to be preempted, for example, could depend on whether the resulting motor vehicle crash occurred at the beginning or end of the relevant trip.

Absent this Court's intervention, this division in the circuits will persist. This Court's review is necessary to restore uniformity.

II. The Seventh Circuit's decision is wrong.

A. The Seventh Circuit erred in holding that personal injury claims against freight brokers based on the negligent hiring of an unsafe motor carrier are insufficiently connected to motor vehicles to fall within the safety exception.

The exception applies to the state's safety regulatory authority "with respect to motor vehicles." 49 U.S.C. § 14501(c)(2)(A). A state law is "with respect to" a topic when it "concern[s]" that topic. *Dan's City*, 569 U.S. at 261. As the United States explained when invited by this Court to file a brief concerning the petition for certiorari in *Miller*, "[a] state requirement that a broker exercise ordinary care in selecting a motor carrier to safely operate a motor vehicle when providing motor vehicle transportation on public

roads is a requirement that 'concerns' motor vehicles." U.S. Br., *Miller*, at 16. The purpose of imposing such a requirement on brokers is to protect third parties from the dangers posed by unsafe motor vehicles. And because the "safe operation of a vehicle is necessarily connected to the vehicle's operator, *i.e.*, the motor carrier providing the motor vehicle transportation," the selection of a safe motor carrier "is logically a meaningful component of commercial motor-vehicle safety." *Id*. at 17.

Unsurprisingly, given the obvious connection between motor vehicles and state-law requirements that freight brokers exercise care in hiring motor carriers to provide motor vehicle transportation, the Seventh Circuit's decision is contrary to a substantial majority of district court decisions that address the issue. Those decisions hold that personal injury claims against brokers based on their negligent selection of an unsafe motor carrier fall within the safety exception.[3]

B. The Seventh Circuit made numerous analytical errors in holding that Ms. Ye's claim was not "with respect to motor vehicles."

1. In holding that Ms. Ye's claim does not fall within the safety exception, the Seventh Circuit

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[3] *See Ruff v. Reliant Transp., Inc.*, __ F. Supp. 3d __, 2023 WL 3645719, at *3 (D. Neb. May 25, 2023); *Wardingley v. Ecovyst Catalyst Techs., LLC*, 639 F. Supp. 3d 803, 810 (N.D. Ind. 2022); *Carter v. Khayrullaev*, No. 4:20-CV-00670-AGF, 2022 WL 9922419, at *4 (E.D. Mo. Oct. 17, 2022); *Ortiz v. Ben Strong Trucking, Inc.*, 624 F. Supp. 3d 567, 584 (D. Md. 2022); *Mata v. Allupick, Inc.*, No. 4:21-CV-00865-ACA, 2022 WL 1541294, at *6 (N.D. Ala. May 16, 2022); *Dixon v. Stone Truck Line, Inc.*, No. 2:19-CV-000945-JCH-GJF, 2021 WL 5493076, at *14 (D.N.M.

(footnote continued)

generally focused on the relationship between brokers and motor vehicles, rather than between the state safety regulatory authority and motor vehicles. "Absent unusual circumstances," the court of appeals stated, "the relationship between brokers and motor vehicle safety will be indirect, at most." Pet. App. 14a. GlobalTranz, it noted, "does not own or operate motor vehicles." *Id.* Under the plain text of the safety

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Nov. 23, 2021); *Taylor v. Sethmar Transp., Inc.*, No. 2:19-CV-00770, 2021 WL 4751419, at *16 (S.D. W. Va. Oct. 12, 2021); *Crouch v. Taylor Logistics Co.*, 563 F. Supp. 3d 868, 876 (S.D. Ill. 2021); *Gerred v. FedEx Ground Packaging Sys., Inc.*, No. 4:21-CV-1026-P, 2021 WL 4398033, at *3 (N.D. Tex. Sept. 23, 2021); *Montgomery v. Caribe Transp. II, LLC*, No. 19-CV-1300-SMY, 2021 WL 4129327, at *2 (S.D. Ill. Sept. 9, 2021); *Bertram v. Progressive Se. Ins. Co.*, No. 2:19-CV-01478, 2021 WL 2955740, at *6 (W.D. La. July 14, 2021); *Reyes v. Martinez*, No. EP-21-CV-00069-DCG, 2021 WL 2177252, at *6 (W.D. Tex. May 28, 2021); *Popal v. Reliable Cargo Delivery, Inc.*, No. P:20-CV-00039-DC, 2021 WL 1100097, at *4 (W.D. Tex. Mar. 10, 2021); *Grant v. Lowe's Home Ctrs., LLC*, No. CV 5:20-02278-MGL, 2021 WL 288372, at *4 (D.S.C. Jan. 28, 2021); *Mendoza v. BSB Transp., Inc.*, No. 4:20 CV 270 CDP, 2020 WL 6270743, at *4 (E.D. Mo. Oct. 26, 2020); *Skowron v. C.H. Robinson Co.*, 480 F. Supp. 3d 316, 321 (D. Mass. 2020); *Uhrhan v. B&B Cargo, Inc.*, No. 4:17-CV-02720-JAR, 2020 WL 4501104, at *5 (E.D. Mo. Aug. 5, 2020); *Lopez v. Amazon Logistics, Inc.*, 458 F. Supp. 3d 505, 516 (N.D. Tex. 2020); *Huffman v. Evans Transp. Servs., Inc.*, No. CV H-19-0705, 2019 WL 4143896, at *4 (S.D. Tex. Aug. 12, 2019), *report and recommendation adopted*, 2019 WL 4142685 (S.D. Tex. Aug. 28, 2019); *Gilley v. C.H. Robinson Worldwide, Inc.*, No. CV 1:18-00536, 2019 WL 1410902, at *5 (S.D. W. Va. Mar. 28, 2019); *Finley v. Dyer*, No. 3:18-CV-78-DMB-JMV, 2018 WL 5284616, at *6 (N.D. Miss. Oct. 24, 2018); *Mann v. C.H. Robinson Worldwide, Inc.*, No. 7:16-CV-00102, 2017 WL 3191516, at *8 (W.D. Va. July 27, 2017); *Morales v. Redco Transp. Ltd.*, No. 5:14-CV-129, 2015 WL 9274068, at *3 (S.D. Tex. Dec. 21, 2015); *Owens v. Anthony*, No. 2-11-0033, 2011 WL 6056409, at *4 (M.D. Tenn. Dec. 6, 2011).

exception, however, the relevant inquiry is not into the relationship between the *defendant* and motor vehicles, but between the *state law* and motor vehicles. *See* 49 U.S.C. § 14501(c)(2)(A) (saving the state's "safety regulatory authority … with respect to motor vehicles"). And state safety laws that do not directly regulate motor vehicle drivers or owners can nonetheless concern motor vehicles. Here, where the purpose of requiring brokers to exercise ordinary care in selecting motor carriers to safely provide motor vehicle transportation is to protect third parties from the dangers posed by unsafe motor vehicles, the state-law requirement concerns motor vehicles and falls within the safety exception.

2. The Seventh Circuit pointed out that the safety exception and the definition of "motor vehicle" in 49 U.S.C. § 13102(16) do not "expressly mention brokers." Pet. App. 12a–13a. But the safety exception and definition of motor vehicle also do not mention motor carriers, motor private carriers, or freight forwarders. That is, they do not mention any of the entities whose "price[s], route[s], or service[s]" are referred to in section 14501(c)(1). Accordingly, if the safety exception did not apply to laws regulating entities that are not named in the exception or in the definition of motor vehicle, the exception would not apply to any laws.

Unlike some other exceptions in the FAAAA, the safety exception is not based on the nature of the entity being regulated. It is based on the nature of the state authority being invoked. Where a claim invokes the state's "safety regulatory authority … with respect to motor vehicles," as the claim here does, the claim is exempt from preemption under section 14501(c)(1),

regardless of whether the defendant is a broker, motor carrier, or other entity.

3. The Seventh Circuit relied on its perception of a lack of connection between brokers and motor vehicle safety to hold that the safety exception requires a direct connection between the state law at issue and motor vehicles. It stated, for example, that the "separateness" between federal motor vehicle safety regulations and federal regulation of brokers "counsels a reading of 'with respect to motor vehicles' that requires a direct connection between the potentially exempted state law and motor vehicles." Pet. App. 15a. And it stated that, because "Congress's references to motor vehicle safety do not impose obligations on brokers," "only those laws with a direct link to motor vehicles fall within a state's 'safety regulatory authority ... with respect to motor vehicles.'" *Id.* at 18a.

It makes no sense, however, to determine the relationship between state laws and motor vehicles necessary for a law to be "with respect to motor vehicles" within the meaning of the safety exception—which is not limited to laws concerning brokers—by looking at the relationship between brokers and motor vehicles. Instead, the court of appeals should have first determined the relationship between a state law and motor vehicles necessary for that law to be "with respect to motor vehicles," and then determined whether the state-law requirements underlying claims against brokers such as the claim at issue here have the requisite relationship. The Seventh Circuit's backwards reasoning means that parties in future cases involving the safety exception will have to meet a standard that the court of appeals developed based

on the relationship between brokers and motor vehicles, even if those cases do not involve brokers.

4. This Court has observed that the phrase "with respect to the transportation of property" in 49 U.S.C. § 14501(c)(1) "massively limits the scope of preemption" under the FAAAA. *Dan's City*, 569 U.S. at 261 (quoting *Ours Garage*, 536 U.S. at 449 (Scalia, J., dissenting)). Based on that observation, the Seventh Circuit assumed that the phrase "with respect to motor vehicles" must also "massively limit[]" the scope of the safety exception. Pet. App. 11a. As the United States explained in its invitation brief in *Miller*, however, "the limitation to which the Court referred was not in the meaning of the phrase 'with respect to,' … but in the object of that phrase, 'the transportation of property.'" U.S. Br., *Miller*, at 17 n.4. "That limitation ensures that Section 14501(c)(1) preempts only state law concerning motor carriers of property (not passengers) and only regarding the movement of property (not its storage or handling before transportation or after delivery)." *Id.* (internal quotation marks and citations omitted). Because the object of the phrase "with respect to motor vehicles" is different from the object of the phrase "with respect to the transportation of property," the clauses' effects are also different.

5. The Seventh Circuit stated that "Congress's references to motor vehicle safety" in Title 49 "do not impose obligations on brokers." Pet. App. 18a. But the relevant question is not whether the *federal* government regulates brokers in ways that impact safety, but whether the law at issue is part of the *state*'s safety regulatory authority concerning motor vehicles. Because the state-law requirement

underlying Ms. Ye's claim is aimed at protecting the public from the safety risks posed by dangerous motor vehicles, the court of appeals erred in holding that it does not fall within the safety exception.

In sum, the Seventh Circuit's decision rests on numerous analytical mistakes that led it to reach the plainly erroneous conclusion that the law underlying Ms. Ye's claim is insufficiently connected to motor vehicles to fall within the scope of the safety exception. This Court should grant the petition, correct the Seventh Circuit's errors, and hold that personal injury claims against brokers based on the negligent hiring of an unsafe motor carrier to provide motor vehicle transportation invoke the "safety regulatory authority of the State with respect to motor vehicles" and thus fall within the safety exception.

III. The question presented is important and recurring.

The question presented is one of exceptional importance to people who drive and ride on America's roads. The freight broker industry has grown dramatically over the past few decades. As of 2021, over 28,000 brokers were registered with the Federal Motor Carrier Safety Administration.[4] According to

[4] *See* Federal Motor Carrier Safety Administration, *Regulatory Evaluation of Broker and Freight Forwarder Financial Responsibility Notice of Proposed Rulemaking* 14 (Jan. 2023), available at https://www.regulations.gov/document/FMCSA-2016-0102-0132.

industry research, more than 20 percent of truckload shipments are run through brokers.[5]

Under the Seventh Circuit's decision, when it comes to hiring motor carriers, brokers will not be subject to the state-law duty to exercise ordinary care not to hire someone who has "a particular unfitness for the position so as to create a danger of harm to third persons." *Doe v. Coe*, 135 N.E.3d 1, 13 (Ill. 2019) (citation omitted). Plaintiffs will not be able to hold a broker liable for its negligent hiring of an unsafe motor carrier even if the broker *knew* that the motor carrier would place dangerous motor vehicles on the road.

Immunizing brokers from liability for negligently hiring unsafe motor carriers, as the Seventh Circuit's decision does, will reduce safety on the nation's roads. Brokers profit from the difference between the amount the broker charges its customer and the amount the broker pays a carrier to move the customer's load. 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. This pressure to reduce safety will place responsible trucking companies at a competitive disadvantage. And the reduction in safety will come at the expense of other drivers and passengers—people like Ms. Ye's husband, Shawn Lin, who are not part of the market

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[5] *See* XPO Logistics, Inc., Current Report (Form 8-K) (May 3, 2021), Exhibit 99.2: Investor Presentation 34, available at https://investors.xpo.com/static-files/a506ce5a-0a42-40f6-b342-787f4be12a1a.

for broker or motor carrier services, but who pay a heavy price when brokers fail to exercise ordinary care.

Moreover, by interfering with states' abilities to protect their citizens from the safety risks posed by dangerous motor vehicles on the road, the decision below contravenes Congress's intent in enacting the safety exception. As this Court has explained, "Congress' clear purpose" in enacting the safety exception was "to ensure that its preemption of States' economic authority over motor carriers of property, § 14501(c)(1), 'not restrict' the preexisting and traditional state police power over safety." *Ours Garage*, 536 U.S. at 439. The decision below restricts that state power over safety, disrupting the careful balance Congress struck in the FAAAA between preempting state "*economic* regulation" and preserving "state *safety* regulation." *Id.* at 440–41.

As the many district court cases on the issue demonstrate, *see supra* p. 12 n.3, the question presented arises frequently. The Seventh Circuit's decision is deeply flawed. And the issue is of great importance to people who drive and ride on America's roads, as well as to maintaining the balance between federal and state authority embodied in the FAAAA. For these reasons, as well as the circuit-court conflict, this Court should grant review.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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