No. 24-1238

In the Supreme Court of the United States

SHAWN MONTGOMERY,

Petitioner,

v.

CARIBE TRANSPORT II, LLC, ET AL.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF OF *AMICI CURIAE* THE STATE OF OHIO, 28 OTHER STATES, AND THE DISTRICT OF COLUMBIA IN SUPPORT OF THE PETITIONER

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STATEMENT AND *AMICI*'S INTEREST

"[E]very schoolchild learns" of our Constitution's dual-sovereign system. *Gregory v. Ashcroft*, 501 U.S. 452, 457 (1991). But not every schoolchild learns the multifold reasons why federalism is particularly "genius." *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 838 (1995) (Kennedy, J., concurring). Most critical, diffusing power among many sovereigns provides a check against abuses of power. The credibility of that check rests on "the tension" created "between federal and state power." *Gregory,* 501 U.S. at 459. And more practically, diffused sovereignty permits fifty-one distinct experiments in law, each offering wisdom and insight into addressing shared challenges like road safety. For these reasons, this Court has instructed courts to be cautious before displacing state law with federal law, especially in domains that are traditionally regulated by the States. Absent a "clear statement" from Congress, the rule goes, courts should not read a statute to force "a significant change in the sensitive relation between" the federal and state governments in an area of traditional state authority. *Bond v. United States*, 572 U.S. 844, 858–59 (2014) (quotation omitted).

In this case, these principles of federalism collide with the quintessential tort, a motor-vehicle accident. A tractor-trailer, driven by an employee of Caribe Transport, LLC, collided with Shawn Montgomery. Montgomery sued the driver and the motor carrier. He also sued the broker, C.H. Robinson Worldwide, under state tort law for negligently hiring an unfit motor carrier. Pet. App. 1a. But the district court held, and the Seventh Circuit affirmed, that Illinois' law was preempted by the Federal Aviation Administration Authorization Act (the "Act"). *See* Pet. App. 2a

(citing *Ye v. GlobalTranz Enterprises, Inc.*, 74 F.4th 453 (7th Cir. 2023)). Congress enacted the Act to deregulate the trucking industry. Two provisions of the Act address the balance between federal and State law in this space. The first, a preemption clause, expressly 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). The second, a saving clause, limits the preemption clause's scope by retaining the "safety regulatory authority of a State with respect to motor vehicles." §14501(c)(2)(A).

Together, these provisions show that Congress did not envision removing the States from their traditional role of regulating safety, and protecting their citizens, on roadways with a statute aimed at deregulating *economic* barriers to interstate commercial transportation. In fact, the opposite: Congress *preserved* the States' traditional role of regulating road safety in the saving clause, §14501(c)(2)(A). Despite this clear indication that the Act preserves State authority to police their roadways, the Seventh Circuit got the answer wrong when it comes to whether the Act preempts the States' road-safety laws.

Amici States agree with petitioner's arguments on why the Act does not preempt the negligent-selection tort. And they write to make three additional points. *First*, the States explain the theoretical and practical underpinnings of the clear-statement rule, especially as it pertains to Congress displacing state law in areas traditionally regulated by the States. *Second,* the States discuss their traditional authority and role in regulating the safety of their roadways through statutes and tort law. And *third*, the States explain that

the Act should not be read to preempt the road-safety-enforcing tort of negligent selection of motor carriers. Interpreting the Act correctly will preserve the States' longstanding authority to regulate roadway safety and to protect their citizens from dangerous truckers that cause devastating injuries in roadway collisions every day.

SUMMARY OF ARGUMENT

I. The Constitution "split the atom of sovereignty … into one Federal Government and the States." *Seila Law LLC v. Consumer Fin. Prot. Bureau*, 591 U.S. 197, 223 (2020) (quotation omitted). That energetic fission created two equally vigorous systems of law. The federal sovereign is supreme in its domain, but the States retain authority in theirs.

This dual-sovereignty setup demands that courts take care before concluding that Congress intends to preempt state law. To navigate the dual-sovereign landscape, this Court employs a now well-established rule: that preemption requires a clear statement from Congress, particularly in areas historically governed by state law. *See Bond v. United States*, 572 U.S. 844, 858–59 (2014); *CTS Corp. v. Waldburger*, 573 U.S. 1, 12 (2014); *cf. Medtronic, Inc. v. Lohr*, 518 U.S. 470, 485 (1996); *CSX Transp. v. Easterwood*, 507 U.S. 658, 664 (1993); *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947). This clear-statement rule is firmly rooted in principles of federalism. Among other reasons, the clear-statement rule reminds courts of the gravity inherent in a congressional decision to end experimentation in the States' laboratories. *Cf.* Jeffrey S. Sutton, *51 Imperfect Solutions* 17 (2018). It prevents courts from lightly tossing aside the wisdom and insights developed in States in matters traditionally

governed by state law. And it bolsters political accountability. With such consequences at stake, federal preemption in areas historically governed by state law requires a clear directive from Congress.

II. The States have long regulated their roadways—through state statutes and state tort law—to ensure public safety and provide remedies for those injured on the roads. Robust tort systems, in particular, offer injured drivers and passengers recovery against negligent motorists. Indeed, the public looks to state law to understand the rules of the road. And it looks to state tort law to vindicate injuries caused by drivers that break the rules of the road. Roadway safety laws also vary from state to state, reflecting local policy choices and responding to local needs. After all, tire chains are a sensible requirement in the mountainous roads of Colorado, but make little sense on the flat, and warm, roads of Florida.

These variations are a feature of the dual-sovereign system. They reflect the States' role as laboratories of democracy. And they allow the States to respond to local needs in a way that a one-size-fits-all federal law cannot. Only a clear statement from Congress should displace the differing policy judgments reflected in these different approaches.

III. This case concerns one such roadway-safety tort: negligent selection of motor carriers. The tort aims to protect motorists from dangerous truckers. It does so by imposing liability on freight brokers who negligently hire unsafe truckers—usually those with a track record of safety violations and unsafe driving, or who lack commercial-driving experience—who go on to injure motorists that share the roadway.

Although negligent selection is a common tort recognized in many States, it is not uniform across all of them. Variations in the tort reflect the States' role as places of experimentation in which torts are shaped to reflect local policy choices and to meet State-specific safety needs. The Act does not preempt torts like negligent selection against freight brokers because Congress did not clearly state an intent to do so. That conclusion is reinforced by the Act's saving clause, which preserves the States' traditional authority to regulate roadway safety. Respecting Congress's judgment not to preempt these torts allows the States to address roadway safety through their chosen regulatory frameworks.

ARGUMENT

I. The Constitution's dual-sovereign structure cautions against interpreting statutes to displace areas of traditional State authority.

Perhaps the Constitution's most innovative structural feature is its dual-sovereign setup. That is something "every schoolchild learns." *Gregory v. Ashcroft*, 501 U.S. 452, 457 (1991). But one detail those grade-school lessons may omit is the true "genius" of that dual sovereignty. *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 838 (1995) (Kennedy, J., concurring). The Framers of our federal Constitution feared the "gradual concentration of power in the same hands." *Seila Law LLC v. Consumer Fin. Prot. Bureau*, 591 U.S. 197, 223 (2020). They "recognized that, in the long term, structural protections against abuse of power were critical to preserving liberty." *Id.* (quotation omitted). Their "solution"? "[D]ivide it." *Id.* Shaped by these well-founded fears, the Founders

"split the atom of sovereignty … into one Federal Government and the States." *Id.* (quotation omitted).

The genius of the dual-sovereign structure thus lies in its ability to "check … abuses of government power." *Gregory*, 501 U.S. at 458. That check stems in part from a "diffusion of sovereign power" that fosters greater liberty than centralized power. *Bond v. United States*, 564 U.S. 211, 221 (2011) (quotation omitted). But that diffusion also secures liberty through "the tension" created "between federal and state power." *Gregory,* 501 U.S. at 459; *see Printz v. United States*, 521 U.S. 898, 921 (1997); U.S. Const. amend. X. The States, as sovereigns, "create centers of political opposition that [can] control the excesses of the national government." Clarence Thomas, *Why Federalism Matters*, 48 Drake L. Rev. 231, 237 (2000). "[A]mbition … counteract[s] ambition at every turn." *Seila Law LLC,* 591 U.S. at 223 (quoting The Federalist No. 51, p. 349 (J. Cooke ed. 1961) (J. Madison)).

More concretely, federalism checks federal power through several channels. These include the States' political representation in Congress, *see Gregory*, 501 U.S. at 464, the typical citizen's attachment to and trust in his state government, Robert A. Mikos, *The Populist Safeguards of Federalism*, 68 Ohio St. L. J. 1669, 1696–1704 (2007), and the competition between the States and federal government for the affection of their citizens, Todd E. Pettys, *Competing for the People's Affection: Federalism's Forgotten Marketplace*, 56 Vand. L. Rev. 329, 332–33 (2003). Operating in these channels, federalism "becomes not so much a matter of drawing lines as one of calibrating incentives, enforcing procedural rules, and interpreting the output of the national political process in a way that respects

the system's structural safeguards for states." Ernest A. Young, *The Ordinary Diet of the Law: The Presumption Against Preemption in the Roberts Court*, 2011 Sup. Ct. Rev. 253, 261 (2011). At its core, federalism "consists of discerning the proper division of authority between the Federal Government and the States" and is "perhaps our oldest question of constitutional law." *New York v. United States*, 505 U.S. 144, 149 (1992).

One arena in which federalism theory meets real-world practice is when a court confronts a question about federal preemption of state law. Such questions are frequent because "nearly every federal statute addresses an area in which the states also have authority to legislate." Caleb Nelson, *Preemption*, 86 Va. L. Rev. 225, 225 (2000). That means that there may be conflicts when a State and the federal government regulate in an area of concurrent authority. In the case of such a conflict, the Constitution contains a solution: the Supremacy Clause. It is a "fundamental conflict of laws rule in the text of the Constitution." Allison H. Eid, *Preemption and the Federalism Five*, 37 Rutgers L. J. 1, 29 (2005) (quotations omitted). It provides that "the laws of the United States … shall be the supreme law of the land … any thing in the Constitution or laws of any State to the contrary notwithstanding." U.S. Const., art. VI, cl. 2. So, when Congress exercises its regulatory authority in a way that preempts the authority of the States to regulate in an area of concurrent jurisdiction, the Supremacy Clause says that federal law controls. In other words, Congress can change the balance of power between the States and federal government by preempting state laws in an area of concurrent jurisdiction, and "the Supremacy Clause is the reason" why. Nelson, *Preemption*, 86 Va. L. Rev. at 234.

But whether Congress can preempt state law is not the same question as whether Congress did preempt state law. That second question, of course, turns on the text of federal law. *Kansas v. Garcia*, 589 U.S. 191, 202 (2020). And to give statutory text a "fair reading," courts must remain aware that "Congress legislates against the backdrop" of certain presumptions. *Bond v. United States*, 572 U.S. 844, 857 (2014) (quotation omitted). One of those presumptions is that, without a clear statement from Congress, courts should not read a statute to usher in "a significant change in the sensitive relation between" the federal and state governments in an area traditionally committed to state authority. *Id.* at 858–59 (quotation omitted). Courts thus need "to be certain of Congress' intent before finding that federal law overrides the usual constitutional balance of federal and state powers." *Id.* at 858 (quotation omitted).

This background rule against displacing state law has special bite when federal law might be read to displace the States from areas they have traditionally regulated. Courts should thus be especially "reluctant to find" preemption in an area "traditionally governed by state law." *CSX Transp. v. Easterwood*, 507 U.S. 658, 664 (1993). Put another way, "the States' coordinate role in government counsels against reading federal laws … to restrict the States' sovereign capacity to regulate in areas of traditional state concern." *CTS Corp. v. Waldburger*, 573 U.S. 1, 12 (2014) (quotations omitted).

A clear-statement requirement for federal law that displaces traditional state regulation rests on firm normative footing. First, a clear-statement rule reinforces the gravity of a congressional decision to "prevent the democratic process from working in" all the

States. *Cf.* Jeffrey S. Sutton, *51 Imperfect Solutions* 17 (2018). A clear-statement rule also gives notice to the States' representatives in Congress. "By requiring Congress to speak clearly in order to preempt state law," the clear-statement rule gives the States' representatives in Congress notice "that preemption is contemplated in proposed legislation, and it imposes an additional procedural hurdle to legislation that undermines state prerogatives." Young, *The Ordinary Diet of Law*, 2011 Sup. Ct. Rev. at 265. And, when Congress provides advance notice of preemption during the legislating process, it prompts States to respond to the threat. A clear statement of preemption thus "ensur[es] that the states are afforded an opportunity to respond to legislation having significant federalism consequences" when such legislation is proposed and enacted. Pettys, *Competing for the People's Affection*, 56 Vand. L. Rev. at 383–84.

Finally, a clear-statement rule assures political accountability. Requiring Congress to speak clearly before preempting state law gives citizens notice of which sovereign is regulating them. It allows them "continually to assess the sovereigns' conduct and capabilities, and to confer or withdraw regulatory power as they deem[] appropriate," so that they may direct their ire and affection toward the proper regulators in an area of concurrent regulatory authority. *Id.* at 333. In short, the clear-statement rule is fairly described as a "basic principle[] of federalism embodied in the Constitution." *Bond*, 572 U.S. at 859–60.

The clear-statement rule also helps courts avoid overreading Congress's words. For one thing, well-developed state tort law might serve as a model for well-considered federal law once Congress expresses through a clear statement that state law will be

pushed aside. *Cf., e.g.*, Mark Geistfeld, *A Roadmap for Autonomous Vehicles: State Tort Liability, Automobile Insurance, and Federal Safety Regulation*, 105 Calif. L.R. 1611, 1677 (2017) (arguing that new federal regulations should "satisfy the tort obligations of most states"). But when courts overread federal law to casually displace varied state laws, Congress never gets the chance to craft well-considered law that takes into account the States' variations. In other words, the clear-statement rule assures that preemption does not get ahead of Congress's designs. For another thing, the clear-statement rule recognizes that Congress may want to "delegate around hyper-polarized divisions at the national level" by leaving some issues for the States. Ernest A. Young, *States in the Separation of Powers*, 48 Harv. J.L. & Pub. Pol'y 1, 23 (2025); *see also* Ilya Somin, *How Federalism Promotes Unity Through Diversity*, 47 Harv. J.L. & Pub. Pol'y 65, 66 (2025). The clear-statement rule thus guards against regulated parties asking courts to read more into Congress's actions than may be justified.

The clear-statement rule's deep theoretical and practical grounding is reflected in its long pedigree. The Court's cases have long presumed "that the historic police powers of the States [are] not to be superseded by [a] Federal Act unless that was the clear and manifest purpose of Congress." *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947); *see also City of Columbus v. Ours Garage & Wrecker Serv., Inc.*, 536 U.S. 424, 432–33 (2002); *Mintz v. Baldwin*, 289 U.S. 346, 350 (1933); Stephen A. Gardbaum, *Nature of Preemption*, 79 Cornell L. Rev. 767, 805–07 (1994). That is because Congress's authority to "legislate in areas traditionally regulated by the States" and preempt the States from doing so "is an extraordinary

power in a federalist system," and the Court presumes "that Congress does not exercise [it] lightly." *Gregory*, 501 U.S. at 460.

II. Road safety is traditionally regulated under state law, including under torts such as negligent selection.

The clear-statement background to any preemption question arises here in the context of federal law preempting state roadway-safety laws. States have long and extensively wielded regulatory authority over road safety. *See, e.g.*, *Mackey v. Montrym*, 443 U.S. 1, 17 (1979); *South Carolina State Highway Department v. Barnwell Bros.,* 303 U.S. 177, 187–89 (1938); *Hendrick v. Maryland*, 235 U.S. 610, 622 (1915). And the Court has recognized that "[p]rotection against accidents, as against crime, presents ordinarily a local problem." *Bradley v. Pub. Util. Com.*, 289 U.S. 92, 95 (1933). The States fulfill their responsibility to address this "local problem" of road safety in several ways.

Through statutory law, the States govern many aspects of road safety, including speed limits, weight limits for commercial vehicles, and restrictions on transporting hazardous materials, to name but a few. *See, e.g.*, Ohio Rev. Code Chapters 4511, 4513, and 4923; 625 Ill. Comp. Stat. 5/11-100 to 5/11-1518 and 5/15-101 to 5/15-117. The States also address road safety though robust tort systems that offer injured drivers recovery against negligent drivers. "In our federal system, there is no question that States possess the traditional authority to provide tort remedies to their citizens as they see fit." *Wos v. E.M.A. ex rel. Johnson*, 568 U.S. 627, 639–40 (2013) (quotation omitted). These tort remedies are "plainly intend[ed] to

regulate public safety." *Virginia Uranium, Inc. v. Warren*, 587 U.S. 761, 774 (2019) (plurality op.); *cf. United States v. Carroll Towing Co.*, 159 F.2d 169 (2d Cir. 1947) (L. Hand, J.). States impose tort liability to incentivize individuals and companies to exercise reasonable care, and to adequately compensate injured parties. *See* Gary T. Schwartz, *Mixed Theories of Tort Law: Affirming Both Deterrence and Corrective Justice*, 75 Tex. L. Rev. 1801, 1802 (1997). Roadway-accident torts are a steady diet of state courts, even state supreme courts. *See, e.g.*, *Ziegler v. Wendel Poultry Servs.*, 67 Ohio St.3d 10 (1993); *McCullough v. Bennett*, 177 Ohio St.3d 102 (2024).

All told, the motoring public looks to state law, not the U.S. Code, to understand the rules of the road. A motorist injured when another driver breaks the rules of the road expects state tort law to provide a remedy. Injured drivers take no comfort in expecting federal regulations to keep the roads safe *ex ante* while providing no remedies after accidents occur.

Collectively, state statutes and state tort law cover many areas of road safety. But they do not cover them uniformly. Instead, variations in state law are a feature of our dual-sovereign system. *See generally* Gary T. Schwartz, *Considering the Proper Federal Role in American Tort Law*, 38 Ariz. L. Rev. 917, 949 (1996). Statutes and regulations governing roadways often account for local considerations. Freight trucks that trek across Colorado's Rocky Mountains must be equipped with tire chains in winter. Colo. Rev. Stat. §42-4-106(E); 8 C.C.R. 1507-1:MCS 7. In the heavy traffic of New York City, trucks are subject to additional weight, size, and route restrictions. *See* N.Y.C. Traffic Rules and Regulations, https://perma.cc/3MJX-BWFG (last accessed Dec. 3,

2025). Through such variations in roadway-safety laws, the States "perform their role as laboratories for experimentation to devise various solutions where the best solution is far from clear." *United States v. Lopez,* 514 U.S. 549, 581 (1995) (Kennedy, J., concurring).

State tort law about roadway safety also varies based on state values. Perhaps the best-known example is whether comparative negligence is a complete defense, a partial defense, or a defense only if comparative fault exceeds 50%. *See, e.g.*, *Golden v. McCurry*, 392 So. 2d 815 (Ala. 1980) (*per curiam*); *Li v. Yellow Cab Co.*, 13 Cal. 3d 804 (1975); *McIntyre v. Balentine*, 833 S.W.2d 52 (Tenn. 1992); *see also* D. Alan Thompson and John Isaac Southerland, *Personal Responsibility in Product Liability: Who is Responsible for What and Why?*, 37 Am. J. Trial Advoc. 541, 547–49 (2014). States also take different approaches to the risk-utility question in products-liability cases, which intersects with the safety of cars driven on a State's roads. *See, e.g.*, *Branham v. Ford Motor Co.*, 390 S.C. 203, 220–22 & nn. 11–14 (2010). Indeed, tort law generally is a field of dramatic state experimentation. *See, e.g.*, Alexandra B. Klass, *Tort Experiments in the Laboratories of Democracy*, 50 Wm. & Mary L. Rev. 1501, 1510–37 (2009).

When it comes to the safety of the roads, the States have long functioned as Justice Brandeis' laboratories, free to conduct "experiments without risk to the rest of the country." *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting). Courts may not sweep away the differing policy judgments reflected in these differing approaches absent a clear statement from Congress.

III. Preserving States' negligent-selection torts respects the States' traditional authority to balance safety and liability through their common-law tort systems.

Among the many roadway-safety laws, negligent selection of a motor carrier is the one in focus here. The Restatement describes the basic elements of this tort:

> An employer is subject to liability for physical harm to third persons caused by his failure to exercise reasonable care to employ a competent and careful contractor (a) to do work which will involve a risk of physical harm unless it is skillfully and carefully done, or (b) to perform any duty which the employer owes to third persons.

Restatement (Second) of Torts, §411 (1965); *accord* Restatement (First) of Torts, §411 (1934). The tort aims to protect the motoring public from unfit truckers—those who have a track record for unsafe driving, a prior history of safety violations, or lack the necessary qualifications—put in charge of transporting heavy commercial loads. *See, e.g.*, *Borer v. Traffix Ontario Limited*, *Mem. in Support of Pls. Mot. to Remand*, Doc. 17-1, No. 3:25-CV-1695 (N.D. Ohio Jan. 1, 2025) (motor carrier with no federal operating authority); *Gilley v. C.H. Robinson*, No. 1:18-00536, 2021 WL 3824686, *7 (S.D. W. Va. Aug. 26, 2021) (motor carrier with no experience); *Simon v. Coyote Logistics, LLC*, No. 2D2023-2775, 2025 WL 2969988, *1 (Fla. Ct. App. 2d Dist. Oct. 22, 2025) (motor carrier with unsafe equipment and inadequate drivers). The "overwhelming majority of states" have adopted a version of this

tort. *Soto v. Shealey*, 331 F.Supp.3d 879, 886 (D. Minn. 2018).

Despite widespread adoption, the negligent-selection tort, like many others, varies state to state. Maryland, for instance, allows claims for negligence in "selecting, instructing, or supervising … [an independent] contractor." *Schramm v. Foster*, 341 F.Supp.2d 536, 551 (D. Md. 2004) (quoting *Rowley v. Baltimore*, 305 Md. 456, 462 (1986)). A freight broker's role as a "third party logistics company providing 'one point of contact' service to its shipper clients is sufficient under Maryland law to require it to use reasonable care in selecting the truckers whom it maintains in its stable of carriers." *Id*. In Georgia, on the other hand, the cause of action is viable only if a motor carrier acted as an agent of the broker or shipper of goods. *Aycock v. U.S. Pipe and Foundry Co. LLC*, No. 1:13-CV-3 WLS, 2013 WL 3325495, *2 (M.D. Ga. June 28, 2013). In other words, if the motor carrier acted as an independent contractor, the broker can be held liable in the Old Line State but not in the Peach State. *Id*.

All this explains why this Court should not interpret the Act to preempt the negligent-selection tort. The Act contains no clear statement that Congress intended to preempt personal-injury claims of negligent selection against brokers. For one, the preemption clause does not reach States' road-safety laws. *See* Montgomery Br. 46–50. And the saving clause's safety exception confirms it: Congress expressly preserved "the safety regulatory authority of a State with respect to motor vehicles," §14501(c)(2)(A). *See* Montgomery Br. 18–26.

This makes sense in light of what Congress hoped to achieve through its preemption clause—*economic*

deregulation. The Act's preemption clause, §14501(c)(1), was originally titled the "Preemption of State Economic Regulation of Motor Carriers." Pub. L. No. 103-305, 108 Stat. 1569, 1606 (1994). Congress declared the clause necessary to preempt "certain aspects of the State regulatory process" because intrastate regulations had "impeded the free flow of trade, traffic, and transportation of interstate commerce." 108 Stat. 1605. This shows Congress enacted the law to remove economic barriers to commercial shipping, such as price controls, *not* to deregulate public safety. When Congress amended the Act to cover the services of brokers and freight forwarders, it did not alter the saving clause's safety exception. *See* ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, 899 (1995). All in, the Act, which is a statute aimed at *economic deregulation*, cannot substitute for state road-safety laws.

The Act's statutory evolution aligns with how the Court earlier described the safety exception. In a case about preempting Ohio's policy devolving certain safety regulations to its cities, the Court described the safety exception as "ensur[ing] that the 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 (quoting 49 U.S.C. §14501(c)(2)(A)). In holding that local safety regulations were not preempted, the Court cautioned against viewing "through a deregulatory prism 'aspects of the State regulatory process' that Congress determined should *not* be preempted." *Id*. at 440 (quoting 108 Stat. 1605).

And this Court's description of the saving clause accords with recent state-court decisions. In the past six months, two state courts have disagreed with their

respective federal circuits on the scope of the Act's preemption of claims against freight brokers. *See Kaipust v. Echo Global Logistics, Inc.*, No. 1-24-0530, 2025 WL 1721661 (Ill. Ct. App. June 20, 2025), leave to appeal granted by *Kaipust v. Echo Global Logistics, Inc.*, No. 132268, 2025 WL 3301665 (Ill. Nov. 26, 2025); *Simon v. Coyote Logistics, LLC*, No. 2D2023-2775, 2025 WL 2969988 (Fla. Ct. App. 2d Dist. Oct. 22, 2025). Those state courts did not hesitate to part ways from their own federal circuits, despite the recency of federal precedent. And as state courts routinely handle negligence claims, those courts' conclusions that negligent-selection claims against freight brokers fall within the "safety regulatory authority of a State with respect to motor vehicles," §14501(c)(2)(A), deserves significant weight.

Despite the strong connection between freight brokers' conduct and motor-vehicle safety, the lower court's conclusion—that the Act "preempts state law claims that a freight broker negligently hired a motor carrier," Pet. App. 9a—rested on wrongly decided precedent "requir[ing] a direct link between a state's law and motor vehicle safety," *Ye v. GlobalTranz Enterprises, Inc.*, 74 F.4th 453, 460 (7th Cir. 2023). But the saving clause does not use the word "direct." And even if the exception did require a direct link to motor vehicles, these tort claims possess that connection. *See, e.g.*, *Cox v. Total Quality Logistics, Inc.*, 142 F.4th 847, 857-858 (6th Cir. 2025). Indeed, it is impossible to "disentangle" the claim from vehicle safety concerns. *Id.* at 856.

A case from Ohio illustrates this point. In *Creagan v. Wal-Mart Transportation, LLC*, a freight broker hired a motor carrier called the Natex Group to transport a load for Wal-Mart. 354 F.Supp.3d 808,

811 (N.D. Ohio 2018). The broker did not investigate Natex's safety practices, even though Natex had not received a safety audit, had a history of many out-of-service violations, and was eight months past due for the compliance review that would have provided a safety rating. *Opp. to Wal-Mart's Mot. for Summ. J.*, Doc. 204, PageID#1460, No. 3:16-cv-02788 (N. D. Ohio June 18, 2018). What is more, Natex assigned the load to a driver with twenty prior convictions for driving-related offenses. *Id.* at PageID#1453. In other words, anyone hiring Natex would have seen several red flags about how trucks it commissioned were operated on the road. Tragically, the driver of that load—fatigued and distracted on his phone—barreled into a line of traffic, causing a ten-car pileup. *Id.* at 1453 and 1459. The collision killed a 14-year-old girl and caused brain damage to her brothers. *Id.* at 1453. Despite substantial evidence in the plaintiff's favor, the negligent-selection claim never reached a jury because the district court interposed preemption under the Act. 354 F.Supp.3d at 814.

Such tragic cases illustrate why tort liability for freight brokers under state law is an important tool to hold motor carriers to safety standards. When freight brokers are held liable for disregarding poor safety records, they have a strong incentive to do business only with safe and reliable motor carriers. *See, e.g.*, *Milne v. Move Freight Trucking, LLC*, No. 7:23-cv-432, 2024 WL 762373, *8 (W.D. Va. Feb. 20, 2024). Trucking companies, in turn, will have even more reason to run their businesses safely. Tort liability for brokers also allows each State to compensate victims of road accidents in accord with that State's policies.

CONCLUSION

For these reasons, the Court should reverse.

Respectfully submitted,

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