IN THE SUPREME COURT OF FLORIDA

Case No. SC08-2269

RAFAEL VARGAS,

Petitioner,

v.

ENTERPRISE LEASING COMPANY,
a Florida corporation, ELIZABETH PRICE,
and JIMMY MIDDLETON,

Respondents.

Certified Question of Great Public Importance From
The District Court Of Appeal, Fourth District
Case No. 4D07-3929

BRIEF FOR AVIS BUDGET GROUP, INC. AS AMICUS CURIAE SUPPORTING RESPONDENTS

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STATEMENT OF IDENTITY AND INTEREST

Amicus curiae Avis Budget Group, Inc. operates two of the most recognized brands in the motor vehicle rental industry—Avis Rent A Car System LLC and Budget Rent A Car System, Inc. *Amicus* is one of the largest general-use vehicle rental operators in North America, and possesses the greatest market share of airport car rental revenue.

The products that *amicus* rents to its customers—motor vehicles capable of interstate travel—are at the heart of Congress's power to regulate the "instrumentalities" of interstate commerce. Since the Founding of the Republic, Congress has had the power to regulate the modes of conveyance and transportation, including vessels, trains, airplanes, and of course, motor vehicles. That history is relevant to two federal constitutional issues before the Court—*viz.*, whether Congress has the power to regulate motor vehicles as instrumentalities of interstate commerce, and whether Congress can determine the extent to which federal statutes displace state tort law. This historical perspective has frequently been employed by the Supreme Court in analyzing constitutional issues. *Amicus* believes that this perspective would assist this Court in resolving the constitutional issues raised by this case.

SUMMARY OF THE ARGUMENT

Title 49 U.S.C. § 30106, enacted as part of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. No. 109-59, 119 Stat. 1144 (2005), extinguishes the vicarious liability of motor vehicle owners, including car rental companies like *amicus*, for the negligent conduct of renters and lessees of their motor vehicles. It provides that, in general,

> [a]n owner of a motor vehicle that rents or leases the vehicle to a person . . . shall not be liable under the law of any State or political subdivision thereof, by reason of being the owner of the vehicle . . . for harm to persons or property that results or arises out of the use, operation, or possession of the vehicle during the period of the rental or lease . . . [provided that] there is no negligence or criminal wrongdoing on the part of the owner.

49 U.S.C. § 30106(a), (a)(2).

In the decision under review, the Court of Appeal held that § 30106 preempts Florida law that would otherwise impose vicarious-liability damages on lessors of motor vehicles. *Vargas v. Enterprise Leasing Co.*, 993 So. 2d 614 (Fla. 4th DCA 2008). The court further held that § 30106 was constitutional under the Commerce Clause, in accord with "the detailed analyses of the Eleventh Circuit and district court in [*Garcia v. Vanguard Car Rental USA, Inc.*, 540 F.3d 1242 (11th Cir. 2008), *aff'g* 510 F. Supp. 2d 821 (M.D. Fla. 2007)] and . . . with those courts that upheld its constitutionality." *Id.* at 623 (collecting authorities).

In *Garcia*, the Eleventh Circuit held that § 30106 is constitutional because it

regulates economic activities that "substantially affect" interstate commerce. *See* 540 F.3d at 1250-53. *Garcia* correctly explains why the statute passes constitutional muster under the "substantial effects" test. But there is a more fundamental reason why § 30106 is a proper exercise of Congress's commerce power: Congress has plenary authority to regulate the *instrumentalities* of commerce, including modes of interstate transportation and conveyance, even where they are used wholly intrastate. Motor vehicles are, unquestionably, instrumentalities of commerce; as a result, § 30106 is constitutional without further ado.

Section 30106 is also a constitutional exercise of Congress's power to preempt state laws under the Supremacy Clause. The Supreme Court has consistently affirmed that the power to preempt includes the power to determine *what* is preempted. Contrary to Petitioner's suggestion (Pet.'s Br. 3, 8), the issue of what qualifies as an exempted "financial responsibility" law under § 30106 is a question of federal law that turns on Congress's intent—not on the meaning assigned to the term by the Florida legislature or courts.

ARGUMENT

The Supreme Court has explained the three categories of activity that Congress may regulate under the commerce power: "First, Congress may regulate the use of the channels of interstate commerce. . . . Second, Congress is empowered to regulate and protect the instrumentalities of interstate commerce, . . . even though

the threat may come only from intrastate activities. . . . Finally, Congress' commerce authority includes the power to regulate those activities . . . that substantially affect interstate commerce." *United States v. Lopez*, 514 U.S. 549, 558-59 (1995). As the Eleventh Circuit correctly reasoned in *Garcia*, § 30106 easily satisfies the "substantial effects" standard and is constitutional for that reason. *See* 540 F.3d at 1250-53. But the statute is also lawful for the more straightforward reason that it regulates the *instrumentalities* of interstate commerce.

Two centuries of precedent gives Congress broad "per se" authority to regulate the channels and instrumentalities of commerce, including modes of interstate transportation. The Supreme Court recently reaffirmed that authority in *Pierce County v. Guillen*, 537 U.S. 129 (2003), which involved a constitutional challenge to a federal statute that excluded from evidence in state trials information state governments collected to comply with federal statutes requiring states to identify and evaluate hazardous conditions on federally funded roads. *Id.* at 132-33. The Court upheld the federal act on the ground that it protected the "channels of interstate commerce"—"our Nation's roads." *Id.* at 147. "As such," the Court concluded without additional inquiry, the statute "fall[s] within Congress' Commerce Clause power." *Id.* Under the same analysis, § 30106 is constitutional as well.

I. CONGRESS HAS THE CONSTITUTIONAL AUTHORITY TO REGULATE THE "INSTRUMENTALITIES" AND "CHANNELS" OF COMMERCE

From the dawn of the Republic, Congress has enjoyed virtually unfettered discretion to regulate interstate commerce by removing state-imposed obstacles to the free flow of interstate transportation. This authority encompasses the vehicles capable of traveling interstate (the "instrumentalities" of commerce) as well as the roads by which they travel (the "channels" of commerce).

A. Ships and Waterways

In the Eighteenth Century, when the Constitution was drafted and ratified, the navigable waters were the principal channels of interstate commerce. The First Congress—whose laws are highly probative in determining constitutional meaning, *see, e.g.*, *Eldred v. Ashcroft*, 537 U.S. 186, 200-01 (2003)—enacted several measures that promoted interstate commerce by removing obstacles to the flow of water transportation.[1] The Supreme Court repeatedly upheld Congress's power to regulate the Nation's vessels and waterways, including in its most famous Commerce Clause opinion, *Gibbons v. Ogden*, 22 U.S. (9 Wheat.) 1 (1824). The issue in that case was whether New York state could prohibit several federally licensed steam-

[1] *See, e.g.*, Act of Sept. 1, 1789, ch. 11, 1 Stat. 55 (1789) (providing for registration or enrollment of ships belonging to U.S. citizens); Act of July 20, 1790, ch. 29, 1 Stat. 131, 131-35 (1790) (guaranteeing merchant seamen prompt payment of wages, and adequate medicine and food); Act of Mar. 2, 1819, ch. 46, 3 Stat. 488 (1819) (limiting number of passengers that could be carried on ships).

boats from crossing the Hudson River. The Court held that the federal licenses resulted from a lawful exercise of the commerce power and trumped New York's prohibition. *Id.* at 221-22. Noting that Congress had regulated water transportation "from the commencement of the government," Chief Justice Marshall said for the Court that "[c]ommerce . . . describes the commercial intercourse between nations, and parts of nations, in all its branches," and therefore included the navigation of waterways. *Id.* at 189-90. From the very beginning, then, the Court has recognized Congress's power to regulate modes of transportation.

The Supreme Court quickly made clear that the commerce power includes not simply the capacity to regulate water transportation itself directly, but also the power to remove obstacles to its free flow and exercise. In *United States v. Coombs*, 37 U.S. (12 Pet.) 72 (1838), for instance, the Court sustained the constitutionality of a federal statute that criminalized stealing goods from a shipwrecked vessel—even if the act of theft occurred on dry land. Writing for the Court, Justice Story said that Congress's commerce power permitted it to criminalize acts that "interfere[] with, obstruct[], or prevent[] such commerce and navigation, though done on land, . . . under [Congress's] general authority to make all laws necessary and proper to execute their delegated constitutional powers." *Id.* at 78. The Court did not ask whether shipwreck thievery "substantially affected" navigation or inquire whether stealing was "economic activity," but instead upheld the enactment

as a valid regulation of water transportation with no further analysis.

The Court also recognized that Congress's power to regulate water transportation encompasses the power to regulate wholly intrastate conduct. Thus, in *Foster v. Davenport*, 63 U.S. (22 How.) 244 (1859), the Court held that Congress could pursuant to the commerce power license a barge confined in a Mobile, Alabama harbor, but that serviced vessels engaged in interstate transportation. The barge's activities were "but the prolongation of the voyage of the vessels assisted to their port of destination." *Id.* at 246. Even though the port of Mobile was a purely intrastate creature, it was "resorted to and frequented by ships and vessels, of different size in tonnage, engaged in the trade and commerce of the United States." *Id.* at 245. In sum, the barge and bay were within Congress's Commerce Clause authority as instruments of interstate transport. *See also The Daniel Ball*, 77 U.S. 557, 565-66 (1871) (upholding inspection statute covering all ships within the navigable waters of the United States, even those operating wholly intrastate).

B. Trains and Railways

Congress's commerce power soon extended to new means of interstate transportation not known to the Founders. In the Nineteenth Century, railroads gradually replaced waterways as the principal channels of interstate commerce.

Federal regulation soon followed.[2] "These acts were passed under the power vested in Congress to regulate commerce among the several States, and were designed to remove trammels upon transportation between different States, which had previously existed, and to prevent the creation of such trammels in [the] future." *R.R. Co. v. Richmond*, 86 U.S. 584, 589 (1873). Their constitutionality did not even come under serious attack. *Cf. Pensacola Tel. Co. v. W. Union Tel. Co.*, 96 U.S. 1, 10 (1878) (because the telegraph itself was a "powerful agency of commerce and intercommunication" it "cannot for a moment be doubted" that it came "within the controlling power of Congress").

These consistent confirmations of Congress's power over instrumentalities of commerce spurred the passage of Congress's first comprehensive national commercial regulation—the Interstate Commerce Act. *See* Act of Feb. 4, 1887, ch. 104, 24 Stat. 379 (1887); Aitchison, *The Evolution of the Interstate Commerce Act*, 5 Geo. Wash. L. Rev. 289, 300-01 (1937). The general object of this statute was to prohibit railroads from discriminating among shippers; to this end, the law required railroads, for example, to publish their tariffs. Given the prior course of decisions,

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[2] *See* Act of June 15, 1866, ch. 124, 14 Stat. 66 (1866) (authorizing all steam-based railroad companies to carry passengers interstate); Act of July 25, 1866, ch. 246, 14 Stat. 244 (1866) (permitting construction of bridges over the Mississippi River).

there was no serious question that the Interstate Commerce Act was a valid exercise of Congress's power to regulate the instrumentalities of commerce. *See Fargo v. Michigan*, 121 U.S. 230, 239 (1887) (acknowledging the constitutionality of the Interstate Commerce Act).

Beginning in 1893, Congress in what became known as the Safety Appliance Act imposed safety regulations on the operation of railroads, even those that moved in intrastate traffic. *See S. Ry. Co. v. United States*, 222 U.S. 20, 25-26 (1911). Despite its intrastate reach, the Court upheld the statute. Congress's "power to regulate interstate commerce," the Court said, "is plenary and competently may be exerted to secure the safety of the persons and property transported therein and of those who are employed in such transportation, no matter what may be the source of the dangers which threaten it." *Id.* at 27. As it had with water transportation, the Supreme Court again permitted Congress to regulate intrastate conduct as an incident to regulating an instrument of commerce.

In *The Shreveport Rate Cases*, 234 U.S. 342 (1914), the Court upheld the power of the Interstate Commerce Commission, acting pursuant to the Interstate Commerce Act, to equalize intrastate and interstate rates. Once again, the Court rejected the argument that Congress's power to regulate the instrumentalities of commerce did not extend to intrastate matters. Congress's "authority, extending to these interstate carriers as instruments of interstate commerce," the Court ex-

plained, "necessarily embraces the right to control their operations in all matters having such a close and substantial relation to interstate traffic that the control is essential or appropriate to the security of that traffic . . . and to the maintenance of conditions under which interstate commerce may be conducted upon fair terms and without molestation or hindrance." *Id.* at 351.

C. Planes and Airways

In the Twentieth Century, Congress's commerce power extended to still newer means of transportation. That progression was natural; as the Court had recognized in *Pensacola Telegraph*, the commerce power was not limited to those instrumentalities in force at the time of the Founding, but rather "extend[s] from the horse with its rider to the stage-coach, from the sailing-vessel to the steamboat, from the coach and the steamboat to the railroad, and from the railroad to the telegraph." 96 U.S. at 9. So, too, with airplanes.

Congress began pervasively regulating the airways with the passage of the Air Commerce Act of 1926, which delegated to the Secretary of Commerce the authority to register aircraft, establish rules for navigating the airways and qualifications for registered airplanes and pilots, and established the Bureau of Air Commerce. Pub. L. No. 69-254, 44 Stat. 568 (1926). In 1938, Congress created the Civil Aeronautics Authority, which regulated both air traffic and airfares, and which was later reorganized into the Federal Aviation Agency. *See* Civil Aeronau-

tics Act of 1938, Pub. L. No. 75-706, 52 Stat. 973 (1938); Federal Aviation Act of 1958, Pub. L. No. 85-726, 72 Stat. 731 (1958).

Federal regulation of the airways has always been considered to be a constitutional exercise of Congress's power to regulate the instrumentalities of commerce. As Justice Jackson noted, "[a]ir as an element in which to navigate is even more inevitably federalized by the commerce clause than is navigable water." *Nw. Airlines, Inc. v. Minnesota*, 322 U.S. 292, 303 (1944) (concurring opinion). "Congress has recognized the national responsibility for regulating air commerce," and "[f]ederal control is intensive and exclusive." *Id.*; *see also*, *e.g.*, *Perez v. United States*, 402 U.S. 146, 150 (1971) (noting that Congress lawfully may criminalize the destruction of aircraft); *Ickes v. FAA*, 299 F.3d 260, 263 (3d Cir. 2002) (per curiam) ("airplanes constitute instrumentalities of interstate commerce"); *United States v. Ballinger*, 395 F.3d 1218, 1226 (11th Cir. 2005) (en banc) (same). Congress's power to regulate airplanes because they are instrumentalities of interstate commerce is therefore not in serious question.

D. Cars and Roadways

Today, motor vehicles are the principal means of interstate transportation. Section 30106 is constitutional because it regulates motor vehicles, just as the statutes regulating ships, trains, and airplanes are constitutional. The analysis is that simple.

The Eleventh Circuit in *Garcia*, although ultimately concluding that § 30106 was constitutional because it regulated activities that "substantially affect" interstate commerce, expressed doubt that motor vehicles were "per se" instrumentalities of commerce, and could be regulated even when not *used* in interstate commerce. *See* 540 F.3d at 1249-50. The Court was concerned that such a holding would allow Congress to regulate "such quintessentially state law matters as traffic rules and licensing drivers, under the banner of protecting the instrumentalities of commerce." *Id.* at 1250.

The Eleventh Circuit's doubts, however, were unfounded. The Supreme Court has consistently held that motor vehicles—the Twentieth Century successors to boats and trains—are instrumentalities of interstate commerce. In *Buck v. Kuykendall*, 267 U.S. 307 (1925), and *George W. Bush & Sons Co. v. Maloy*, 267 U.S. 317 (1925), for example, the Court made clear that Congress may regulate motor vehicles under the Commerce Clause. Those cases invalidated state laws that required operators of common carriers conducting business in interstate commerce to obtain a special license to operate within the state. The Court held that this legislation was a "regulation . . . of interstate commerce," *Buck*, 267 U.S. at 316, because it was intended to impede competition among common carriers, and thus hindered interstate commerce. The legislation therefore not only conflicted with the Commerce Clause of its own force, but also with the Federal Highway Act, through

which Congress had intended "that state highways shall be open to interstate commerce." *Bush*, 267 U.S. at 324.

Then, the Motor Carrier Act of 1935 inaugurated direct congressional regulation of motor vehicles. It required motor carriers to maintain continuous and adequate service and keep sufficient records; established maximum hours-of-service requirements; and regulated rates. *See* Aitchison, *supra*, at 394-99. Despite the restrictions that this new federal law placed on operators of motor vehicles, the constitutionality of Congress's power to regulate motor vehicles directly was not in serious question. *See United States v. Capital Transit Co.*, 325 U.S. 357, 360 (1945) (upholding an application of the Motor Carrier Act). By contrast, the concerns raised in *Garcia* over displacement of state law would call into question the constitutionality of statutes such as the Motor Vehicle Act, and longstanding precedents like *Buck*, *Bush*, and *Capital Transit*.

What early litigation there was over motor-vehicle regulation reaffirmed the conclusion that Congress's commerce power gives it plenary legislative power over motor vehicles, even though the states retain some power to regulate motor vehicles in the absence of conflicting federal legislation. In the early part of the Twentieth Century, much litigation trained on whether the "negative implications" of the Commerce Clause of its own force preempted state regulation of motor vehicles and other instrumentalities. *Compare, e.g.*, *Hendrick v. Maryland*, 235 U.S.

610, 622-23 (1915) (upholding a state's power to license motor vehicles), *and Nw. Airlines*, 322 U.S. at 300 (upholding a state's power to levy personal property taxes on airplanes), *with, e.g.*, *Bibb v. Navajo Freight Lines, Inc.*, 359 U.S. 520, 529-30 (1959) (striking down under the negative Commerce Clause a state law that required trucks and trailers to have mudflaps with two-inch-thick lips). But there was no question that state regulation of motor vehicles "is likewise subordinate to the will of Congress" and could stand only "[i]n the absence of national legislation covering the subject." *Hendrick*, 235 U.S. at 622-23.

Federal motor vehicle regulation has become even pervasive since then. In 1966, Congress enacted the National Traffic and Motor Vehicle Safety Act of 1966 and the Highway Safety Act of 1966, Pub. L. No. 89-563, 80 Stat. 718 (1966); Pub. L. No. 89-564, 80 Stat. 731 (1966), which created the predecessor entities to the National Highway Traffic Safety Administration. Those enactments established, among other things, extensive federal regulation of safety standards for motor vehicles and highways; today, their successor statutes permit the federal government to dictate such criteria as, for example, length and width limits for vehicles. *See, e.g.*, 49 U.S.C. § 31111. If § 30106 were ruled unconstitutional, the decision would call into question not only such technical details, but also the general standards for vehicle occupant safety and fuel efficiency, which have gone unquestioned for years.

Contemporary case law confirms that motor vehicles are "per se" instrumentalities of commerce. "Undoubtedly, if planes and trains qualify as instrumentalities of interstate commerce, so too do automobiles." *United States v. Cobb*, 144 F.3d 319, 322 (4th Cir. 1998); *see also Ballinger*, 395 F.3d at 1226 ("[i]nstrumentalities of interstate commerce . . . include[] automobiles"). Therefore, because § 30106 regulates motor vehicles, it is constitutional without more. *Guillen*, 537 U.S. at 147 ("Congress is empowered to 'regulate and protect the instrumentalities of interstate commerce'") (quoting *Lopez*, 514 U.S. at 558).

As the Supreme Court explained more than a century ago, "[t]he power to regulate [commerce] embraces all the instruments by which such commerce may be conducted." *Welton v. Missouri*, 91 U.S. 275, 280 (1876). The reasons for that are clear. "Instrumentalities differ from other objects that affect interstate commerce because they are used as a means of transporting goods and people across state lines." *Bishop*, 66 F.3d at 588. They "retain the *inherent potential* to affect commerce, unlike other objects of regulation." *United States v. McHenry*, 97 F.3d 125, 127 (6th Cir. 1996) (emphasis in original).

In accordance with those reasons, the Supreme Court has repeatedly confirmed that regulations of the instrumentalities of commerce are "per se" within the commerce power, without asking whether the regulated activity "substantially affected" interstate commerce. *See, e.g.*, *Coombs*, 37 U.S. (12 Pet.) at 78 (permitting

Congress to criminalize "[a]ny offence which thus interferes with, obstructs, or prevents such commerce and navigation"); *The Daniel Ball*, 77 U.S. at 565 (upholding inspection statute because it was applied to an "instrument of commerce"); *Second Employers' Liab. Cases*, 223 U.S. 1, 51 (1912) (Congress's commerce power "competently may be exerted to secure the safety of interstate transportation . . . no matter what the source of the dangers which threaten it"). Section 30106 is constitutional for the same reason.

II. CONGRESS'S AUTHORITY INCLUDES SPECIFICATION OF WHICH STATE LAWS ARE DISPLACED.

It is also within Congress's power to determine the precise extent to which federal law should displace state law concerning motor vehicles. As Enterprise notes in its brief (at 6 n.1), that power derives from the Supremacy Clause of the U.S. Constitution, which states 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. Although Petitioner argues that *state* law should govern the meaning of a term in a *federal* statute, and consequently, the scope of *federal* preemption, this novel view conflicts with the purpose and history of the Supremacy Clause, and longstanding principles governing preemption and statutory interpretation.

As the Supreme Court has repeatedly observed, "in the absence of a plain indication to the contrary, . . . Congress when it enacts a statute is not making the

application of the federal act dependent on state law." *Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 43 (1989) (quoting *Jerome v. United States*, 318 U.S. 101, 104 (1943)).[3] The rule that the interpretation of a *federal* statute is a question of *federal* law "is based on the fact that the application of federal legislation is nationwide and [] on the fact that the federal program would be impaired if state law were to control." *Jerome*, 318 U.S. at 104 (internal citations omitted).

It is particularly important to have uniform interpretation of federal laws in preemption cases, as the purpose of preemption is to replace a multiplicity of state laws with a uniform, regulatory regime. *See, e.g.*, *Cmty. for Creative Non-Violence v. Reid*, 490 U.S. 730, 740 (1989) (noting, in case interpreting the Copyright Act, that the "[e]stablishment of a federal rule of agency, rather than reliance on state agency law, is particularly appropriate . . . given the Act's express objective of creating national, uniform copyright law by broadly pre-empting state statutory and common-law copyright regulation"). And in order to ensure federal uniformity, Congress must have the power to determine *what* is preempted: Implicit in the power to preempt is the power to define what is displaced. For this reason, "[t]he *purpose of Congress* is the ultimate touch-stone" in a preemption case. *Re-*

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[3] *See also Gonzales v. Oregon*, 546 U.S. 243, 279 (2006) (applying the rule); *NLRB v. Natural Gas Util. Dist.*, 402 U.S. 600, 602 (1971) (same); *Dickerson v. New Banner Inst.*, 460 U.S. 103, 119-20 (1983) (same).

tail Clerks Int'l Ass'n v. Schermerhorn, 375 U.S. 96, 103 (1963) (emphasis added).[4]

History confirms that Congress, when exercising the commerce power, has the authority to preempt state law and determine the scope of preemption. *Gibbons v. Ogden*, for example, upheld as constitutional federal licenses that permitted steamboats to navigate the waters of the United States free of contrary state law. *See* 22 U.S. (9 Wheat.) at 214-15. In reaching its conclusion, the Court noted that "Congress may control the State laws, *so far as it may be necessary* to control them, for the regulation of commerce." *Id.* at 206 (emphasis added). Similarly, in *Pensacola Telegraph*, the Supreme Court upheld the constitutionality of a federal law licensing the construction of telegraphs on post roads, which stated that "no State legislation shall prevent the occupation of post-roads for telegraph purposes by such corporations as are willing to avail themselves of its privileges." 96 U.S.

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[4] Contrary to a suggestion by one of the dissenting judges below (*see* 993 So. 2d at 629 (opinion of Farmer, J.)), no "presumption against preemption" can be applied where Congress has unambiguously expressed its intent to preempt state law—as it did in § 30106. The Supreme Court has repeatedly found state law displaced, pursuant to express preemption provisions, without invoking any anti-preemption canon of construction. *See, e.g.*, *Riegel v. Medtronic, Inc.*, 128 S. Ct. 999 (2008); *Watters v. Wachovia Bank, N. A.*, 127 S. Ct. 1559 (2007). And since preemption is ultimately a federal question, state courts should not rely on any interpretive devices that could interfere with the plainly expressed intent of Congress to oust state law in a particular context, such as vicarious liability for automobile lessors.

at 11. The Court interpreted the statute broadly based on the language chosen by Congress, finding "[t]here is nothing to indicate an intention of limiting the effect of the words employed, and they are, therefore, to be given their natural and ordinary signification." *Id.* at 12.

Any other rule would lead to the absurd result that states could avoid preemption merely by defining terms in their statutes in such a way as to exempt them from preemptive federal laws. That absurd result is precisely what Petitioner argues Florida did here, by characterizing its law limiting damages for vicarious liability as a "financial responsibility law." *See* Pet.'s Br. 3, 8. Petitioner's argument would disrupt Congress's efforts at creating national, uniform regulation, and would conflict with basic principles of statutory interpretation. Therefore, this Court should reject it. The Supremacy Clause undoubtedly gives Congress the power to determine the meaning of its own laws and to specify which state laws should be displaced.

CONCLUSION

The court should answer the certified question in the affirmative, and affirm the judgment of the court below.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief is written in 14-point (proportionately spaced) Times New Roman font, in compliance with Rule 9.210(a)(2) of the Florida Rules of Appellate Procedure.

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