In The Supreme Court of the United States

WARREN HAVENS, VERDE SYSTEMS, LLC; ENVIRONMENTEL, LLC; INTELLIGENT TRANSPORTATION & MONITORING WIRELESS, LLC and TELESAURUS HOLDINGS GB, LLC,

Petitioners,

v.

MOBEX NETWORK SERVICES, LLC; MARITIME COMMUNICATIONS/LAND MOBILE, LLC and PAGING SYSTEMS, INC.,

Respondents.

On Petition For A Writ Of Certiorari To The California Court Of Appeal

PETITION FOR A WRIT OF CERTIORARI

JOHN T. HANSEN
(*Counsel of Record*)
PATRICK RICHARD

TAMIR DAMARI
NOSSAMAN, LLP
50 California Street
34th Floor
San Francisco, CA 94111
(415) 438-7278
jhansen@nossaman.com

Counsel for Petitioners

June 10, 2010

Blank Page

QUESTIONS PRESENTED

Respondents are FCC licensees operating in California regulated under the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (the "FCA") and California state law. Petitioners allege that Respondents have competed unfairly under California state law by making misrepresentations to Petitioners and others and by tortiously interfering with Petitioners' business relations. The Court of Appeal below found that all of these claims are preempted by the FCA's preemption clause 47 U.S.C. § 332(c)(3)(A), which provides that:

> no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services.

The questions presented are:

1. Under 47 U.S.C. § 332(c)(3)(A), are any or all state-law claims for damages, arising out of fraud, tortious interference with contractual relations and unfair competition, which are in some way associated with an FCC-issued license, state "regulation" of rates and market entry?

2. Assuming that under 47 U.S.C. § 332(c)(3)(A) state-law claims for damages in some way associated with an FCC-issued license may be

state "regulation" of rates and market entry, is preemption limited to only those claims that directly affect the regulation of rates and market entry?

3. Does the Federal Communications Act's savings clause for actions arising under antitrust law, 47 U.S.C. § 152 note, apply to claims under both state and federal antitrust law?

CORPORATE DISCLOSURE STATEMENT

The following are parent corporations of the Petitioners: None.

No publically-held company owns more than 10% of the stock of any of the Petitioners.

TABLE OF CONTENTS

Page

TABLE OF CONTENTS -- continued

Page

APPENDICES

TABLE OF CONTENTS -- continued

Page

TABLE OF AUTHORITIES

Page

Cases

TABLE OF AUTHORITIES -- continued

Page

TABLE OF AUTHORITIES -- continued

Page

TABLE OF AUTHORITIES -- continued

Page

Statutes

TABLE OF AUTHORITIES -- continued

Page

Other Authorities

Blank Page

INTRODUCTION

Petitioners respectfully petition this Court for a writ of certiorari to review a decision by the California Court of Appeal holding that Petitioners' state-law claims are preempted by 47 U.S.C. §332(c)(3)(A). This petition presents the question of whether all state-law claims for damages in any way associated with an FCC-issued license (including claims arising out of misrepresentations and deliberate nondisclosures) are preempted. This petition also presents the subsidiary question of whether the Federal Communications Act's savings clause for actions arising under antitrust law, 47 U.S.C. § 152 note, applies to claims under antitrust statutes.

There is an "assumption that the historic police powers of the States [are] not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress." *Altria Group, Inc. v. Good,* 129 S. Ct. 538, 543 (2008); (*quoting Rice v. Santa Fe Elevator Corp.,* 331 U.S. 218, 230 (1947)). In light of this "presumption against preemption" "Congress' intent to preempt must be clear and manifest to preempt state law in a field traditionally occupied by the states." *Wyeth v. Levine*, 129 S. Ct. 1187, 1195 (2009); *Cipollone v. Liggett Group*, 505 U.S. 504, 518, 522-23 (1992); *see also Altria Group,* 129 S. Ct. at 543; ("[W]hen the text of a pre-emption clause is susceptible of more than one plausible reading, courts ordinarily 'accept the reading that disfavors pre-emption'") (*quoting Bates v. Dow Agrosciences LLC,* 544 U.S. 431 (2005).

There is a conflict among appellate courts regarding the extent to which state-law claims against FCC licensees stemming from misrepresentations are preempted by §332(c)(3)(A). This Court should grant review to resolve the conflict.

OPINIONS BELOW

The opinion of the trial court was unreported and is reproduced in the Appendix at App. 40-83. The opinion of the Court of Appeal affirming the trial court is reported at 2009 Cal. App. Unpub. LEXIS 7694 (Cal. App. 1st Dist. Sept. 25, 2009) and is reproduced in the Appendix at App. 1-39. The decision of the California Supreme Court denying further review is unreported and is reproduced in the Appendix at App. 91.

JURISDICTION

The judgment of the Court of Appeal affirming dismissal of all of Petitioners' claims was entered on September 25, 2009. On October 13, 2009, Petitioners filed a Petition for Rehearing with the Court of Appeal. The time period in which the Court of Appeal could have granted the Petition for Rehearing expired on October 26, 2009. On November 9, 2009, Petitioners filed a Petition for Review to the California Supreme Court. On January 13, 2010, the Supreme Court of California denied review. On April 1, 2010, this Court extended the time period for Petitioners to file their Petition for Writ of Certiorari until and including June 11,

2010. This Court has jurisdiction under 28 U.S.C. §1257.

STATUTES INVOLVED

47 U.S.C. § 332(c)(3)(A), the FCA's preemption provision, provides in relevant part:

> [N]o State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services.

47 U.S.C. § 414 provides:

> Nothing in this chapter contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies.

47 U.S.C. § 152 note provides

> [N]othing in this Act [see Short Title of 1996 Amendment note set out under section 609 of this title] or the amendments made by this Act shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

STATEMENT OF THE CASE

A. Facts Giving Rise To The Dispute

Petitioner Warren Havens' principal occupation has been obtaining licenses issued by the Federal Communications Commission ("FCC") and developing wireless communications services (App. at 99). His companies include the other Petitioners in this case.[1] Together, Petitioners have obtained and used FCC licenses principally for providing advanced wireless services within the Location and Monitoring Service and Automated Maritime Telecommunications System ("AMTS") frequency spectrums (App. at 99-100. Such licenses are issued via public auctions and authorize the licensee to construct and operate wireless stations in a defined area (App. at 110).

Respondents include Petitioners' competitor, Mobex Network Services, LLC ("Mobex") and its affiliates. Respondents have been granted AMTS licenses for large portions of the United States (App. at 101-107. They have interfered substantially with Petitioners' business by making specific misrepresentations regarding title to and encumbrances on FCC licenses to individuals and entities contracting with Petitioners (App. at 114-115).

---

[1] At the time of the relevant proceedings before the trial court and the Court of Appeal, Petitioner Verde Systems, LLC was known as Telesaurus VPC, LLC and Petitioner Environmentel, LLC was known as AMTS Consortium, LLC.

The FCC issues "geographic" and "site-based" licenses. The former category encompasses licenses for a large geographic area in which the licensee can locate many fixed antenna. The latter category encompasses licenses for a specific fixed antenna site, with a service area within the surrounding geographic license area. When a site-based license is revoked, terminated or canceled, it "reverts"; that is, the radio spectrum of the license automatically becomes part of the surrounding geographic license. Respondents are holders of both "site-based" and "geographic" licenses.

FCC rules mandate that when an AMTS license is issued, the associated component wireless stations must be constructed, and operations commenced, within two years of obtaining the license (App. at 118).[2] The rules also provide that if a licensee fails to construct a station within the construction period, the license for the station terminates automatically without any further FCC action (App. at 118).[3] In this event, the erstwhile licensee is required to notify the FCC of the license's termination so that the FCC can delete the license from its public license database, known as the Universal Licensing Service ("ULS") (App. at 118). This public disclosure is crucial because the ULS is the primary source relied on by parties who are considering whether to bid on licenses in spectrum auctions (App. at 118).

---

[2] 47 C.F.R. § 80.49.

[3] 47 C.F.R. §§ 1.946, § 1.955.

If a licensed station is terminated and the termination is properly disclosed in compliance with FCC rules, then the AMTS and its associated service territory automatically reverts to the geographic license covering that region (App. at 122-123). By contrast, if disclosure does not occur, "spectrum hoarding" and "warehousing" results (App. at 119-120). These terms refer to situations where entities pretend to own and operate licenses that have terminated just to prevent competitors from doing so (App. at 110).

In this case, Respondents hoarded and warehoused automatically-terminated licenses by failing to construct stations within the periods mandated by the FCC and, thereafter, by failing to surrender the licenses to the FCC for cancellation (App. at 119-124). Moreover, Respondents made specific misrepresentations to the Petitioners that their component stations had been constructed by the FCC-mandated deadline, when in fact they had not (App. at 141-153). Respondents made these misrepresentations knowing that Petitioners would rely on them and would refrain from applying to the FCC for the AMTS spectrum in such station licenses.

Similarly, Respondents falsely reported to the FCC in "activation notices" that their stations were timely constructed to forestall the FCC's cancellation of the licenses associated with these non-existent stations (App. at 143). This scheme was thwarted only when the FCC audited Respondents' licenses and determined that Respondents had failed to

construct a major percentage of the component stations within the applicable time period (App. at 145-147). As a result, prior to Petitioners' initiation of this suit, the FCC had already determined that certain of Respondents' licenses had automatically terminated by operation of law under 47 C.F.R. §§ 80.49, 1.946 and 1.955 and had identified these licenses as "cancelled" (App. at 109).

As part of a concerted effort to unfairly compete with Petitioners, Respondents also interfered with Petitioners' contractual relations, including contracts between Petitioner AMTS Consortium, LLC and (i) an individual named Thomas Kurian and (ii) a company known as Northeast Utility Service Company (App. at 114-115).[4]

These actions, among others, gave Respondents an unfair advantage over Petitioners in the wireless market and thwarted competition in this market. For example, because the ULS did not accurately reflect the cancellation of Respondents' licenses, Respondents created the false impression that they held valid site-based licenses that they did not in fact hold, thereby reducing the value of the geographic licenses upon which Petitioners intended to bid (App. at 126-127). This, in turn, restricted Petitioners' ability to raise funds to participate in

---

[4] Additionally, Respondents violated the laws of the states in which they operate by failing to register to do business (a threshold requirement for operating stations in those states) and by failing to collect and pay taxes and other fees required by those states (App. at 102).

license auctions (App. at 127). These actions formed the basis of Petitioners' lawsuit.

B. Procedural History

1. Trial Court Proceedings

On June 22, 2007, Petitioners filed a Complaint against Respondents, alleging California state law claims including fraud, negligent misrepresentation, interference with prospective economic advantage and unfair competition under California's antitrust statute, the Cartwright Act, Cal. Bus. & Prof. Code § 16720. On November 5, 2007, Petitioners voluntarily filed a First Amended Complaint ("FAC").

On December 21, 2007, Respondents filed demurrers to the FAC. On February 11, 2008, the lower court sustained the demurrers, concluding that adjudication of the FAC would have required the court to determine whether Respondents' licenses remained valid or were terminated, and thus necessarily would constitute prohibited state regulation of entry into the mobile service market. (App. at 84-90. Nonetheless, the lower court granted Petitioners leave to amend their Complaint to allege facts sufficient to show that, with regard to the licenses identified in the Complaint, the FCC "has finally determined that [Respondents] ... wrongfully retained cancelled licenses." (App. at 87).

Petitioners filed a Second Amended Complaint (the "SAC") on March 19, 2008 (App. at 97-161). The SAC distinguished factually between licenses subject

to final FCC revocation determinations ("Cancelled Licenses") and those that were still the subject of ongoing FCC proceedings ("Challenged Licenses – Ongoing") (App. at 109).[5] Petitioners' SAC did not add any new causes of action, but instead split the causes of action already existing in the FAC into two separate sets of claims, depending on the status of the underlying license at issue: (1) Causes of action related to the "Challenged Licenses – Ongoing"; and (2) Causes of action related to the "Cancelled Licenses" (App. at 130-154, 156-157).[6]

On April 16 and 18, 2008, Respondents filed Demurrers to the SAC arguing that the FCA preempts all of the claims in the SAC. In support of their preemption argument, Respondents relied upon 47 U.S.C. § 332(c)(3)(A), which states, in relevant part:

> [N]o State or local government shall have any authority to regulate the entry of or the rates

---

[5] The term "Cancelled Licenses" as used in the SAC referred to those licenses formerly held by Respondents that had automatically terminated and that were subsequently identified by the FCC as cancelled (App. at 109). "Challenged Licenses -- Ongoing" referred to those licenses that had automatically terminated by operation of law (e.g., because Respondents had failed to develop them into stations), but that were the subject of ongoing administrative proceedings before the FCC (App. at 109).

[6] The SAC also alleged that Respondents violated the Cartwright Act by failing to meet filing, tax, and property-access requirements under the laws of the states in which they purported to operate AMTS stations.

> charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services.

On May 12, 2008, the Superior Court sustained the demurrers, holding that all of the Petitioners' claims fell "within the express preemption clause of the Federal Communications Act (FCA)" (i.e., § 332(c)(3)(A)) (App. at 40-83). According to the Superior Court, adjudication of *any* of the claims pled in the SAC necessarily implicated the regulation of entry into the mobile service market (App. at 40-83).

2. Decision Of The Court Of Appeal

The Court of Appeal affirmed. According to the Court, the "dispositive" question was whether the "license warehousing scheme allegations upon which the causes of action are based intrude upon federal regulation of 'entry' to the market" (App. at 27). The Court held that the distinction Petitioners "attempt(ed) to draw between initial licensing and renewal, revocation, or termination of licenses is illogical and inconsistent with the purpose of section 332(c)(3)(A) to ensure uniformity in the law applicable to mobile service providers with respect to market entry" (App. at 28).

The Court of Appeal likewise rejected "plaintiffs' contention that the distinction ... between 'cancelled licenses' and 'challenged license,' avoids preemption" (App. at 29-30) and held that remaining allegations

were "premised upon, and simply another variation of the licensing warehousing scheme allegations" (App. at 34). In so holding, the Court of Appeal decided that the SAC was based on licensing violations, without addressing Petitioners' allegations of fraud and tortious interference. Accordingly, the Court of Appeal found that the Petitioners' claims are preempted by § 332.

On October 13, 2009, Petitioners filed a Petition for Rehearing with the Court of Appeal (App. at 217-233). The time in which the Court of Appeal could have granted this Petition expired on October 26, 2009. *See* Cal. R. Ct. 8.268(c). Accordingly, Petitioners filed a Petition for Review to the California Supreme Court on November 4, 2009, which was denied on January 13, 2010. (App. at 91).

REASONS FOR GRANTING THE WRIT

A. Introduction

One the major purposes of telecommunications laws is to promote competition.[7] As the telecommunications industry has expanded to wireless service, some industry participants have

---

[7] *See* Conference Report, Telecommunications Act of 1996, H.R. 104-458, at p. 1 (1996) (purpose of bill was "to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced services and information technologies and services to all Americans by opening all telecommunications markets to competition....")
http://en.wikipedia.org/wiki/Telecommunications_Act_of_1996_-cite_note-1#cite_note-1

resorted to unfair business and anti-competitive practices, engendering allegations of misrepresentations and failures to disclose, and sparking lawsuits from consumers and competitors in federal and state courts. Courts have therefore had to address the preemptive scope of 47 U.S.C. § 332(c)(3)(A).

The FCC takes the position that § 332(c)(3)(A) generally does not preempt state law tort claims. For example, in *In Re Wireless Consumers Alliance, Inc.,* 15 FCC Rcd 17021, 17026-34 (2000), the FCC held that (i) although § 332 preempts actual rate-setting, it does not preempt state contract or consumer fraud laws relating to the disclosure of rates and rate practices; (ii) § 332 generally does not preempt the award of monetary damages based on state tort or contract claims; (iii) state courts are not, as a general matter, prevented by § 332 from awarding damages to customers based on violations of state contract or consumer fraud laws; and (iv) tort and contract law have the function of compensating victims, which distinguishes them from the direct forms of regulation entrusted to the FCC. Most fundamentally, the FCC held that "[i]f ... providers are to conduct business in a competitive marketplace, and not in a regulated environment, then state contract and tort law claims should generally be enforceable in state courts." *Id.* at 17034. *See also In Re: Southwestern Bell Mobile Systems, Inc.,* 14 FCC Rcd 19898 *26 (1999) ("We do not agree ... that state contract or consumer fraud laws relating to the disclosure of rates and rate

practices have generally been preempted.... Such preemption by Section 332(c)(3)(A) is not supported by its language or legislative history. [T]he legislative history of Section 332 clarifies that billing information, practices and disputes—all of which might be regulated by state contract or consumer fraud laws—fall within 'other terms and conditions' which states are allowed to regulate. Thus, state law claims stemming from state contract or consumer fraud laws governing disclosure of rates and rate practices are not generally preempted under Section 332.").

The FCC's position is entitled to significant deference. As a New Jersey appellate court has held, "a state court should not sacrifice the public policies of the State to some ephemeral view of the federal interest [under §332(c)(3)(A)] which is at variance with the considered opinions of the administrative agency charged with overseeing the subject matter field, as well as those of most of the courts which have addressed the issues." *Union Ink, Co., Inc. v. AT&T Corp,* 801 A.2d 361, 375 (N.J. Super. 2002).

Nonetheless, despite the FCC's views, the law on §332 preemption varies widely from jurisdiction to jurisdiction. As explained below, in the absence of a clear pronouncement from this Court, courts have adjudicated claims of § 332 preemption *ad hoc*, leading to a patchwork of inconsistent results, stemming from differing theories of preemption.

B. Review Should Be Granted To Establish Uniformity.

1. There Is A Split In Authority Regarding The Preemptive Scope Of § 332(c)(3)(A).

Preemption is primarily a question of statutory construction, and, thus we inquire into the objective or purpose of Congress in enacting the relevant statute. *See Allis-Chalmers Corp. v. Lueck,* 471 U.S. 202, 208 (1985); *Cipollone*, 505 U.S. at 516.

Preemptive intent may be expressly stated in the language of the statute or it "may be inferred if the scope of the statute indicates that Congress intended federal law to occupy the legislative field, or if there is an actual conflict between state and federal law." *Altria Group,* 129 S. Ct. at 543. However, even if "a federal law contains an express pre-emption clause, it does not immediately end the inquiry because the question of the substance and scope of Congress' displacement of state law still remains." *Id.*

Several doctrines place limits on preemption. First, there is an "assumption that the historic police powers of the States [are] not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress." *Id.,* (*quoting Rice v. Santa Fe Elevator Corp.,* 331 U.S. 218, 230 (1947)).

Second, because of this "presumption against preemption," *Cipollone*, 505 U.S. at 516, Congress' intent to preempt must be "clear and manifest" to preempt state law in a field traditionally occupied by

the states. *Wyeth v. Levine*, 129 S. Ct. 1187, 1195 (2009)(emphasis added); *see also Altria Group,* 129 S. Ct. at 543 ("[w]hen the text of a pre-emption clause is susceptible of more than one plausible reading, courts ordinarily 'accept the reading that disfavors pre-emption'"), (*quoting Bates v. Dow Agrosciences LLC,* 544 U.S. 431, 449 (2005)).

Third, courts are required to assess complaints on a claim-by-claim basis to determine whether preemption applies. *See Beckett v. Mellon Investor Servs. LLC*, 329 Fed. Appx. 721, 723 (9th Cir. 2009); *Ball v. GTE Mobilnet of California*, 81 Cal. App. 4th 529 (2000).

Finally, violation of a federal statute may give rise to a state law cause of action without running afoul of preemption, where state law simply supplies a remedy not available under federal law. *See Riegel v. Medtronic, Inc.*, 552 U.S. 312, 330 (2008) ("Thus [the Medical Device Amendments Act] does not prevent a State from providing a damages remedy for claims premised on a violation of FDA regulations; the state duties in such a case 'parallel,' rather than add to, federal requirements.").

Section 332 of the FCA poses particular challenges with respect to the preemption doctrine "because it leaves its key terms undefined. It never states what constitutes rate and entry regulation or what comprises other terms and conditions of wireless service." *Cellular Telecom Indus. v. FCC,* 168 F.3d 1332, 1336 (D.C. Cir. 1999). As a result, courts are split regarding § 332(c)(3)(A)'s preemptive

scope. This split has manifested itself with respect to the question of which preemption rubric is applicable to state-law claims asserted against FCC licensees (*i.e.*, complete preemption, conflict preemption, or implied field preemption) and with respect to the types of substantive state-law claims that are preempted.

a. Courts Are Split On Which Preemption Rubric Is Applicable

At one end of the scope-of-preemption continuum, the Seventh Circuit has held that § 332(c)(3)(A) has completely preemptive effect. *See Bastien v. AT&T Wireless Services*, 205 F.3d 983, 986-87 (7th Cir. 2000) (holding that "Congress intended *complete preemption*" by passing § 332(c)(3)(A)) (emphasis added). Under this line of authority, virtually any putative state law claim having any nexus to an FCC licensee's business activities is "federalized," and, therefore, federal courts have exclusive federal question jurisdiction over such claims. *Id.*[8] In other words, the Seventh Circuit holds not only that § 332(c)(3)(A) broadly preempts state law claims, but

---

[8] *See also*, *Chandler v. AT&T Wireless Services*, 2004 U.S. Dist. LEXIS 14884 (S.D. Ill. July 21, 2004) (Customer claim arising out of early cancellation fee deemed preempted under complete preemption principles); *Redfern v. AT&T Wireless Services*, 2003 U.S. Dist. LEXIS 25745 (S.D. Ill. June 16, 2003) (complete preemption bars customer claim based on early termination fee); *Phillips v. AT&T Wireless*, 2004 U.S. Dist. LEXIS 14544 *14-15 (S.D. Iowa July 29, 2004).

also that federal courts are the only tribunals empowered with the authority to assess the preemption issue.

Other courts have rejected a complete preemption approach while nevertheless finding particular state-law claims preempted under either "implied" or "conflict" preemption principles. *See e.g.*, *Cello Partnership v. Hatch*, 431 F.3d 1077 (8th Cir. 2005) (Minnesota statute prohibiting an increase in rates without first disclosing changes in contractual terms to customers expressly preempted under § 332); *Murray v. Motorola, Inc.*, 982 A.2d 764 (D.C. 2009) (customers' suit against service providers alleging injury through cell phone use was preempted under the doctrine of implied preemption to the extent these customers sought to hold the defendants liable for injuries caused by cell phones that met FCC radio frequency radiation standards); *Farina v. Nokia*, 578 F.Supp.2d. 740 (E.D. Pa. 2008) (cell phone users' claims against providers alleging that the providers suppressed knowledge about adverse health risks of cell phone usage impliedly preempted).

In contrast, the Second, Eleventh, Fourth, and Sixth Circuits have expressly rejected the position that § 332(c)(3)(A) embodies "complete preemption." *See, e.g.*, *Pinney v. Nokia*, 402 F.3d 430, 450 (4th Cir. 2005) ("there is simply no evidence that Congress intended ... to preempt completely state law claims that are based on a wireless service provider's sale and promotion of wireless telephones."); *GTE*

Mobilnet Ohio v. Johnson, 111 F.3d 469, 479 (6th Cir. 1997) (The language of § 332(c)(3)(A) "does not compel the conclusion that ... the states may no longer adjudicate individual cases involving specific allegations of anti-competitive or discriminatory conduct."); *Smith v., GTE*, 236 F.3d 1292 (11th Cir. 2001) (customer claims stemming from allegedly exorbitant telephone leasing charges not completely preempted); *Marcus v. AT&T Corp.*, 138 F.3d 46, 53-55 (2d Cir. 1998) (claims alleging fraudulent billing practices not completely preempted).[9]

The state appellate courts of last resort in Ohio and Washington and the District of Columbia Court of Appeals have similarly rejected a "complete preemption" framework. *See, e.g., Tenore v. AT&T Wireless Services*, 962 P.2d 104 (Wash. 1998) (cellular customers' claim that providers committed fraud by not disclosing a billing practice of rounding up calls to the next minute not completely preempted under § 332(c)(3)(A)); *New-Par v. PUC of*

---

[9] *See also Lewis v. Nextel Communications, Inc.*, 281 F.Supp.2d. 1302 (N.D. Ala. 2003) (Customer claims against provider not completely preempted); *Whitney v. Alltel Communications, Inc.*, 2003 U.S. Dist. LEXIS 26066 *12-13 (W.D. Mo. Oct. 16, 2003) (Customer claims against provider for assessing a surcharge for a regulatory cost recovery fee not completely preempted); *Brown v. Washington/Baltimore Cellular, Inc.*, 109 F.Supp.2d. 421, 423 (D. Md. 2000) (subscriber suit to recover unlawful late fees is not completely preempted, since "late fees are not included in 'rates' of service, but rather are part of the 'other terms and conditions' of service ... Congress did not preempt all claims that would influence rates, but only those that involve the reasonableness or lawfulness of the rates themselves.").

Ohio, 98 Ohio St. 3d. 277 (2002) (price discrimination claim by a reseller against a wholesale cellular service provider not completely preempted); *Murray, supra* (suit by cellular customers against service providers, alleging injury through cell phone use, not completely preempted). These cases hold that § 332 preempts only those claims that "second guess" an FCC decision regarding "state regulation of rates or market entry into telecommunications." *TPS Utilicom Servs., Inc. v. AT&T Corp.*, 223 F.Supp.2d 1089, 1108 (C.D. Cal. 2002).

b. Courts Are Split Regarding Which Types Of State-Law Claims Are Preempted Under § 332(c)(3)(A).

Given these conflicting preemption theories, it is not surprising that courts assessing the same or similar claims have reached divergent conclusions as to whether such claims are preempted by § 332(c)(3)(A).

This split in authority is particularly pronounced with respect to state-law misrepresentation claims such as those asserted by Petitioners here. Some appellate courts have held that such claims are preempted. In *Bastien,* for example, a wireless consumer alleged that AT&T had committed consumer fraud by misleading the plaintiff about the nature of service. The Seventh Circuit held that the

claims were preempted by § 332. *Bastien,* 205 F.3d at 989-90.[10]

Likewise, in *Cello Partnership,* the Eighth Circuit adopted a preemption framework limiting a state's ability to regulate deceptive conduct by an FCC licensee. At issue in *Cello Partnership* was a Minnesota statute stating that wireless carriers had to "notify the customer in writing of any proposed substantive change in the contract between the provider and the customer 60 days before the change is proposed to take effect." 431 F.3d at 1081-82. The Eighth Circuit found that this statute "constitutes impermissible rate regulation preempted by federal law," and that it was preempted by § 332(c)(3)(A). *Id.*, at 1082.

In *Pinney,* however, the Fourth Circuit reached a conclusion diametrically opposed to *Bastien* and *Cello Partnership.* The *Pinney* plaintiffs' claims were likewise based on misrepresentations and failures to disclose (regarding the level of radio frequency radiation emitted by cell phones without the use of headsets). The Court squarely rejected the defendants' express preemption claim and the *Bastien* approach:

---

[10] Several District Courts have followed the *Bastien* rationale. *In re: Comcast Cellular Telecoms Lit.*, 949 F. Supp. 1193 (E.D. Pa. 1996) (claims for consumer fraud, arising from the defendant's practice of charging for non-communication time and rounding up minutes for billing purposes, preempted by §332(c)(3)(A)).

> Nokia argues that ... plaintiffs seek to use state law to regulate technical specifications for wireless telephones; this, Nokia says, would hinder entry into the commercial mobile service market because the FCC requires that wireless service providers certify that they are using only FCC-authorized equipment ... While § 332(c)(3)(A) is unclear as to what precisely constitutes a barrier to entry into the PCS market, we conclude that the relief sought by the Naquin plaintiffs (a headset requirement) is not such a barrier ... A headset requirement for wireless telephones would not constitute a barrier to entry into the PCS market because wireless telephones are only used to access a wireless service provider's network of coverage; the telephones themselves do not provide the actual coverage ... Because the relief sought by the Naquin plaintiffs would not be a barrier for wireless service providers seeking to enter the PCS market, § 332(c)(3)(A) does not expressly preempt the claims of the Naquin plaintiffs.

Id. at 455-56.

The Fourth Circuit likewise rejected the argument that the plaintiffs' claims were barred by conflict or field preemption:

> [T]he FCA provides no evidence of such an objective. Congress enacted § 332 to ensure the availability of a nationwide network of wireless service coverage, more specifically, to develop

> the infrastructure necessary to provide wireless services ... [I]n pursuing its objective of ensuring the availability of a nationwide network of wireless service coverage, Congress has been very careful to preempt expressly only certain areas of state law, preserving the remainder for state regulation.

Id. at 457-58.[11]

At least two appellate courts of last resort have likewise expressly determined that the scope of § 332 preemption does not extend to state-law misrepresentation claims. In *Tenore,* the Washington Supreme Court held that a claim by cellular customers that wireless providers had committed fraud by not disclosing a billing practice of rounding up calls to the next minute was not

---

[11] Furthermore, a number of district courts have held, in the course of rejecting claims of complete preemption, that adjudicating an allegation of fraud is not tantamount to state regulation over rates or market entry. *See Sanderson, Thompson, Ratledge & Zimny v. AWACS, Inc.*, 958 F. Supp. 947, 956 (D. Del. 1997) (claims alleging failure to disclose improper billing practice of rounding up all calls to the highest minute "do not challenge the reasonableness of a billing practice"); *DeCastro v. AWACS, Inc.*, 935 F. Supp. 541, 550 (D.N.J. 1996) (claims alleging a provider's fraudulent failure to disclose a practice of billing customers when a call is initiated, rather than when a connection is made, "do not challenge the billing practice as unreasonable or contrary to law, nor does their resolution require a court to assess the reasonableness of the defendant's billing practice").

preempted under § 332(c)(3)(A) of the FCA. 962 P.2d at 345. Most recently, in *Murray*, the District of Columbia Court of Appeals found that the plaintiffs' claims against phone manufacturers and retailers under the D.C. Consumer Protection Act (for failing to disclose health risks associated with cell phone use) were not preempted under express, conflict, or implied preemption. *Murray*, 982 A.2d at 782-84, 789.

Similar conclusions have also been reached by intermediate state appellate courts. *See Union Ink Co., Inc.*, 801 A.2d at 369-78 ("We are called upon to determine ... the extent to which the statutory language expressly pre-empts a state court from awarding damages against providers of cellular telephone service based upon state statutes dealing with consumer fraud or under the state's common law regarding fraud or negligent misrepresentation ... [the trial court] erred in holding that plaintiffs' state law ... fraud ... claims are pre-empted by federal law ... the motion judge seemed unaffected by this State's public policies affording broad protection to consumers against deceptive commercial practices ... we conclude that plaintiffs' State law claims ... are not barred by federal law.") *See also Bryceland v. AT&T*, 114 S.W.3d 552 (Tex. App. 2002).

The analytical inconsistency embodied by these divergent authorities has also manifested itself in a conflict among the California state appellate courts created by the decision below. For example, in *Spielholz v. Superior Court*, 86 Cal. App. 4th 1366

(2001), the Court of Appeal held that customer claims for monetary relief based upon a provider's failure to disclose "dead zones" were not preempted. The Court concluded that:

> [Section 332] does not disclose a congressional intent to preempt state court monetary awards that may require a determination of the value of services provided but do not *directly* regulate rates. We presume that if Congress had intended to preempt such state law remedies, it would have expressly so stated ... a claim that does not ***directly*** challenge the rate but directly challenges some other activity, such a false advertising, and ... seeks damages arising from the activity is not an attempt to regulate rates and is not expressly preempted under Section 332(c)(3)(A).

Id. at 1374-75 (emphasis added).

Spielholz further held that "A judicial act constitutes rate regulation only if its *principal purpose and direct effect* are to control rates." *Id.* at 1374 (emphasis added).

Likewise, in *Ball,* wireless consumers sued providers of wireless services, alleging that the providers' billing practice of charging for non-communication time (non-talking time, including "rounding-up" to the next full minute), violated California's consumer protection statute, Cal. Bus. & Prof. Code § 17200, *et seq*. The Court of Appeal reversed in part. Although the Court held that the

plaintiffs' claims were preempted to the extent they sought to challenge the practice of charging for non-communication time, it further held that these claims were not preempted to the extent they were premised on the providers' *failure to disclose* this billing practice. *Ball*, 81 Cal. App. 4th at 543; *see also Pacific Bell Wireless, LLC v. PUC*, 140 Cal. App. 4th 718, 734 (2006) (holding that a public utility commission's fine against a wireless phone company was not preempted by § 332, noting that "[t]he principal purpose and direct effect of the penalties imposed by the Commission are to prevent misrepresentations by Cingular and to compensate ... wireless customers ... The effect of these penalties on Cingular's rates is incidental, and the Commission's decisions are therefore not preempted.")

By contrast, the Court of Appeal below took a very different approach. It determined that all of the Petitioners' claims are barred by § 332 simply because they related obliquely to licensing and involved torts committed during the time in which Respondents held FCC licenses. This approach overlooked that Petitioners' specific allegations and causes of action did not *directly* relate to (or seek to affect) FCC rates or market entry. By using this approach, the Court of Appeal stretched the definition of § 332 "market entry" beyond its common sense meaning.

2. The Cases Taking A Narrow View Of § 332(c)(3)(A) Preemption Are Better-Reasoned.

The cases taking a narrow view of § 332(c)(3)(A) preemption - rejecting complete preemption and holding that only claims that *directly* challenge rates or market entry are barred under ordinary preemption principles - represent the better-reasoned line of authority.

First, under the plain language of § 332, state governments are only denied "authority to *regulate* the entry of or the rates charged by any commercial mobile service or any private mobile service." By using the term "regulate," Congress preempted only the positive statutory and regulatory enactments of those governments, and not state-law claims for damages. This Court has made clear that where a federal statute prohibits state "regulation," it "most naturally refers to positive enactments by those [legislative or regulatory] bodies, not to common-law damages actions." *Cipollone*, 505 U.S. at 519. This Court made the same point in *Sprietsma v. Mercury Marine*, 537 U.S. 51, 62-63 (2002), where it held that the express preemption clause of the Federal Boat Safety Act pre-empted only positive enactments. If "law," the Court noted "were read broadly so as to include the common law, it might also be interpreted to include regulations, which would render the express reference to 'regulation' in the pre-emption clause superfluous." *Id.* at 63. The Court further explained that limiting the preemption clause to

positive law "does not produce anomalous results. It would have been perfectly rational for Congress not to pre-empt common-law claims, which-unlike most administrative and legislative regulations-*necessarily perform an important remedial role in compensating ... victims*." *Id.* at 64. (emphasis added).

Under this definition of "regulation," Petitioners' California state-law claims for damages clearly were not preempted, since they did not involve a positive statutory or regulatory enactment by the State of California. Moreover, the specific nature of Petitioners' claims for tortious interference with contract, fraud and unfair competition renders them even one step further removed from "regulation," because these claims would have been fully viable as a matter of state law even if the respondents held no FCC issued license whatsoever. Simply put, a myriad of circumstances exist where these types of claims can be brought in the absence of *any* licensing scheme.

In this respect, § 332 stands in marked contrast to other preemption clauses contained in federal statutes. For example, the express preemption clause in the Airline Deregulation Act, 49 U.S.C. § 41713(b)(1), contains statutory language of "unusual breadth" because it prohibits states from enacting or enforcing any law "*relating to* rates, routes or services of any air carrier." *Altria Group,* 129 S. Ct. at 548 (emphasis added). Unlike the

Airline Deregulation Act, § 332 does not use the broad language of preemption of "any law relating to" commercial or private mobile carriers. Instead, this section preempts only those claims that "regulate the entry of or the rates charged by" any commercial or private mobile service. Indeed, as if to underscore this narrow approach, states are expressly authorized to regulate "*the other terms and conditions* of commercial mobile services." *See also Tenore* (citing to the § 332 terms and conditions clause as grounds for rejecting preemption); *Murray,* 982 A.2d at 774 (same, noting that the trial court's "conclusion cannot be reconciled with the second clause of section 332 (c)(3)(A), which expressly permits states to restrict 'the other terms and conditions of commercial mobile services' without regard to whether such terms and conditions may create hurdles or burdens attendant to participating in the market.").

Moreover, this approach best effectuates the well-settled "assumption that the historic police powers of the States [are] not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress." *Altria Group,* 129 S. Ct. at 543; *see also Pinney*, 402 F.3d at n.4 (presumption against preemption applicable to telecommunications-related claims because "[s]tates continue to have considerable authority in the wireless telecommunications area," and because "[t]he presumption against preemption is even stronger against preemption of state remedies, like tort recoveries, when no federal remedy exists.").

When construing § 332, it is also important to define exactly what is meant by the term "entry." In *Fedor v. Cingular Wireless,* 355 F.3d 1069 (7th Cir. 2004), the plaintiff alleged that delayed charges by Cingular appeared on his bills during improper months, making his monthly charges inaccurate. *Id.* at 1070-1071. Cingular argued that the plaintiffs' complaint was barred by Section 332's preclusion of claims concerning market entry because, if successful, the plaintiff's claims would "necessarily require" Cingular to alter its infrastructure by building cellular towers in areas that it did not already have them. *Id.* at 1074. According to Cingular, this kind of fundamental change in Cingular's infrastructure would have affected Cingular's actual, physical entry into the telecommunications market. *Id.* The Seventh Circuit disagreed, however, holding that this stretched the allegations in the complaint "beyond recognition." *Id.* According to the Court, this was "an accounting problem, not an infrastructure problem," and, if the plaintiff succeeded, Cingular would be required only to adjust its accounting practices. *Id.* Put differently, the Seventh Circuit determined that the plaintiff's claim did "not relate to the construction or placement of towers at all." *Id.*

Analogously, Petitioners are not seeking to regulate market entry in this case. They have not, at any point in this case, attempted to challenge the criteria under which FCC licenses were issued to Respondents in the first instance, nor have they

second-guessed the FCC's initial grant of such licenses to Respondents. Furthermore, none of Petitioners' claims sought to regulate the competitive auction bidding process. Likewise, none of these claims sought to challenge eligibility requirements for obtaining FCC licenses or frequencies. That is, Petitioners did not contend that Respondents were ineligible to obtain FCC licenses or that Respondents somehow did not qualify to obtain frequencies or licenses in the first place. Petitioners simply sought redress for damages they sustained due to Respondents' common-law torts. These torts happened to be associated with Petitioners' use of FCC-issued licenses (many of which had already been deemed cancelled by the FCC at the time Petitioners' suit was initiated), but this use was not the *sine qua non* of Petitioners' claims.

Finally, the approach proposed by Petitioners best effectuates the intent of the § 414 savings clause, which states that "[n]othing in this chapter contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies." Courts have recognized the important interplay between § 414 and § 332, and have held that it "preserves causes of action for breaches of duties distinguishable from those created under the [FCA]." *Cooperative Commc'ns, Inc. v. AT&T Corp.*, 867 F. Supp. 1511, 1516 (D. Utah

1994).[12] In *Pinney,* the Fourth Circuit held that the "savings clauses counsel against any broad construction of the goals of § 332 and § 332(c)(7) that would create an implicit conflict with state tort law." *Pinney*, 402 F.3d at 450. And in *Tenore,* the Washington Supreme Court held that the existence of the § 414 savings clause precluded a finding that preemption barred claims by customers against

---

[12] The nature of the duty at issue is the focus of preemption inquiries generally, not just those arising under the FCA. For example, in *Altria Group,* this Court, in order to "determine whether a particular common-law claim" was "pre-empted, ... inquired" in part "whether the legal duty that is the predicate of the common-law damages action constitutes" the same kind of legal duty as that encompassed by the act at issue. *Altria Group,* 129 S. Ct. at 545. This Court held that the Appellees' claims, which concerned unfair trade practices and fraud, were not preempted by the Federal Cigarette Labeling and Advertising Act, in part because the claim at issue, fraud, alleged a breach of the duty not to deceive, not one based on "smoking and health." *Altria Group,* 129 S. Ct. at 545, 546 and 546 n.9. *See also Cipollone, supra* at 518-530; *Bates, supra*, at 443-454.

providers alleging that providers committed fraud by not disclosing a practice of "rounding up").[13]

For each of these reasons, the conflict of authority with respect to the scope of FCA preemption should be resolved in favor of a narrow view of preemption.

C. The Court Should Grant Review To Settle An Important Question Of Law.

The question whether § 332(c)(3)(A) preempts all claims in any way associated with an FCC-issued license is an important one, because it potentially affects many FCC licensees and because it has been and will continue to be extensively litigated. If, as the Court of Appeal suggested, § 332 preempts all such claims, any holder of an FCC license would be able to engage in unlawful and anti-competitive

---

[13] *See also Cooperative Commc'ns,* 867 F. Supp. at 1516 ("AT&T's contention that these claims are preempted ignores the purpose underlying Section 414. ... [I]nclusion of the savings clause clearly indicates Congress' intent that independent state law causes of action, such as interference with contract or unfair competition, not be subsumed by the Act, but remain as separate causes of action."); *Iberia Credit Bureau, Inc. v. Cingular Wireless*, 668 F.Supp.2d. 831, 839-840 (W.D. La. 2009) (*quoting Geier v. Honda Mtr. co., Inc.,* 529 U.S. 861, 868 (2000)(breach of contract claims brought by consumers against a wireless company alleging a failure to disclose billing practices are not preempted, in light of, *inter alia*, the § 414 savings clause, because "Congress could have easily chosen to preempt all state law claims," but chose not to, and because the savings clause "assumes that there are ... cases to save."); *Lewis v. Nextel Communications, Inc.*, 281 F.Supp.2d. 1302 (N.D. Ala. 2003)(customer claims against provider not completely preempted in light of § 414 savings clause).

practices against competitors with impunity. This result would frustrate the states' established right to regulate business activities within their jurisdictions. An FCC-issued license should not be a *carte blanche* to commit state law torts.

1. Review Is Necessary To Preserve The States' Ability To Thwart Anticompetitive Business Practices

The Court of Appeal's opinion undermines antitrust policies designed to protect competitors from unfair business practices, such as those committed by Respondents in this case. As a matter of policy, Congress has expressly provided that antitrust laws "coexist" with FCC regulation of rates and market entry and that the Sherman Act and FCA were intended to be used in tandem to accomplish the goal of stimulating competition. *Covad Communications Co. v. Bell South Corp.,* 299 F.3d 1272-1280, 1282 (11th Cir. 2002) *vacated,* 540 U.S. 1147 (2004)(in light of *Verizon Communications v. Trinko,* 540 U.S. 398 (2004).[14] Indeed, this Court has cited to the antitrust savings provision of the FCA, which states that "nothing [in the FCA] shall be construed to modify, impair, or supersede the

---

[14] *See also United States v. AT&T,* 498 F. Supp. 353, 364 (D.D.C. 1980) ("Although technically the [FCA] focuses on public necessity and convenience and the Sherman Act on competition, in a very real sense both the FCC, in its enforcement of the [FCA], and the courts, in their application of the antitrust laws, guard against unfair competition and attempt to protect the public interest.")

applicability of *any* of the antitrust laws." *Verizon Communications, Inc. v. Trinko,* 540 U.S. 398, 406 (2004) *citing* 110 Stat. 56, 143 (1996)(emphasis added) codified at 47 U.S.C. § 152 note (1996). The rationale underlying this principle is that "the legislative history surrounding the 1996 Act, reflect[s] that the President, the Congress, the Department of Justice and the FCC have emphasized the critical need for the antitrust laws to work in conjunction with the 1996 Act in order to spur competition in the telecommunications industry." *Covad,* 299 F. 3d at 1281.

In this respect, the FCA is consistent with this Court's long-standing admonition against implied statutory limitations that might result in antitrust immunity. *Cantor v. Detroit Edison Co.*, 428 U.S. 579, 597 (1976); *U.S. v. Philadelphia National Bank,* 374 U.S. 321, 350-51 (1963) ("Repeals of the antitrust laws by implication from a regulatory statute are strongly disfavored and have only been found in cases of plain repugnancy between the antitrust and regulatory provisions.").

This Court has yet to decide whether the antitrust savings provision contained in Section 152 of the FCA applies with equal force to *state* antitrust statutes designed to curb anti-competitive activity such as California's Cartwright Act. The Court of Appeal erroneously "set aside" the question whether the statute's reference to "antitrust laws" includes state antitrust laws (App. at 38). That question cannot properly be avoided because if, as Petitioners

contend, "antitrust laws" include state antitrust laws, the savings clause *mandates* the preservation of Petitioners' Cartwright Act claims. This is an important issue that this Court should resolve.

Although § 152 does not define "antitrust laws," the rationale underlying the preservation of federal antitrust laws applies with equal force to state antitrust laws. Such an interpretation of §152 would be consistent with the settled principle that the federal and state antitrust frameworks are designed to co-exist. *See California v. ARC America Corp.,* 490 U.S. 93, 101 (1989) ("Congress has not pre-empted the field of antitrust law. Congress intended the federal antitrust laws to supplement, not displace, state antitrust remedies.")(citations omitted). *See also* 21 Cong. Rec. 2457 (1890) (remarks of Sen. Sherman); *Cantor* at 632-35 (Stewart, J. dissenting).

The "Cartwright Act declares as its ultimate purpose 'to promote free competition in commerce and all classes of business." *State of California ex rel. Van De Kamp v. Texaco, Inc.,* 46 Cal.3d 1147, 1184 (1988) (citing Cal. Stats. 1907, ch. 530, tit., p. 984), (emphasis omitted) *superseded by statute on other grounds,* Cal. Bus. Prof. Code, § 17200. In this respect, the Cartwright Act mirrors federal antitrust laws, the purpose of which "is to protect competition." *Gordon v. New York Stock Exchange, Inc.* 422 U.S. 659, 689 (1975); *Covad, supra.* Stated another way, the Cartwright Act (and antitrust laws generally) complement FCC licensing laws. *Covad,*

299 F. 3d at 1281 (antitrust laws work "in conjunction with the 1996 Act" to "spur competition"). As such, the FCA should not be construed in a manner that abrogates the Cartwright Act.

2. Review Is Necessary To Uphold Fundamental Principles Of Federalism

Review is also necessary to uphold fundamental principles of federalism. As noted above, Congress' intent to preempt must be clear and manifest to preempt state law in a field traditionally occupied by the states. *Wyeth,* 129 S. Ct. at 1195 & n.3 (2009). Thus, in *Altria Group,* this Court held that when the text of an express preemption clause is susceptible of more than one plausible reading, courts should ordinarily accept the reading that disfavors preemption. In other words, where "federal law is said to bar state action in [fields] of traditional state regulation," courts work "on the assumption that the historic police powers of the State [were] not to be superseded by the Federal Act unless that [was] the clear and manifest purpose of Congress." 129 S. Ct. at 543; *see also Wyeth,* 129 S. Ct. at 1195 and n.3.

Congress, in the FCA, far from manifesting an intent to preempt traditional state-law claims, evinced its intent to preserve such claims. *See, e.g.*, *Marcus*, 138 F.3d at 54 ("The FCA not only does not manifest a clear Congressional intent to preempt state law actions prohibiting deceptive business practices, false advertisement, or common law fraud,

it evidences Congress's intent to allow such claims to proceed under state law.")

Indeed, the § 414 savings clause itself expressly recognizes the importance of preserving state-law claims. *Marcus*, 138 F.3d at 54; *see also Pinney, supra,* and *Tenore*, *supra*. Moreover, this policy applies with particular force to Petitioners' claims. States have traditionally regulated in the area of business torts, and neither § 332, nor any other provision of the FCA, expresses a clear intent to abrogate this area of law. As the court in *Pinney* recognized, "[s]tates continue to have considerable authority in the wireless telecommunications area." *Pinney*, 402 F.3d at 454 n.4. Continued state regulation in this area is essential because the FCA does not provide any redress equivalent to state-law claims of deceit. *Marcus*, 138 F.3d at 54.

The Court of Appeal was unfaithful to principles of federalism embodied in the presumption against preemption. Its decision failed to recognize that "preemption diminishes the state sphere that federalism teaches us to protect." Kenneth Starr, American Bar Association, The Law of Preemption, A Report of the Appellate Judges Conference 47 (1991).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

John T. Hansen
Counsel of Record
Patrick Richard
Tamir Damari
Nossaman, LLP
50 California Street
34th Floor
San Francisco, CA 94111
(415) 438-7278
jhansen@nossaman.com
Counsel for Petitioners