

No. \_\_\_\_\_

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In the  
**Supreme Court of the United States**

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GENERAL MOTORS LLC,

*Petitioner,*

v.

MICHAEL BAVLSIK; KATHLEEN SKELLY,

*Respondents.*

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**On Petition for Writ of Certiorari to the  
United States Court of Appeals  
for the Eighth Circuit**

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**PETITION FOR WRIT OF CERTIORARI**

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## QUESTION PRESENTED

In *Gasoline Products Co. v. Champlin Refining Co.*, 283 U.S. 494, 500 (1931), this Court held that partial retrials comport with the Seventh Amendment only if “it clearly appears that the issue to be retried is so distinct and separable from the others that a trial of it alone may be had without injustice.” Applying that constitutional presumption against partial retrials, several circuits have properly held that a court may not grant a damages-only retrial if the evidence suggests that the jury may have rendered a “compromise verdict”—that is, awarded low damages to resolve non-unanimity over liability. In the decision below, by contrast, the Eighth Circuit agreed that “a strong case” had been made that the jury rendered a compromise verdict, but nevertheless concluded that a damages-only retrial was acceptable. In doing so, the court joined a minority of circuits in applying a legal test that improperly inverts the *Gasoline Products* presumption, treating a damages-only retrial as presumptively *permissible* and requiring the party that opposes a partial retrial to “clearly demonstrate” that the jury verdict *was* the result of compromise. That legal test is wrong, and the Eighth Circuit’s decision employing it exacerbates a division among the lower courts that this Court should resolve.

The question presented is:

Whether the constitutional presumption against damages-only retrials that this Court recognized in *Gasoline Products* permits a damages-only retrial in the face of a finding that “a strong case” has been made that the jury issued an impermissible compromise verdict.

**PARTIES TO THE PROCEEDING**

Petitioner General Motors LLC was defendant in the district court and defendant-appellee/cross-appellant in the court of appeals.

Respondents Michael Bavlsik and Kathleen Skelly were plaintiffs in the district court and plaintiffs-appellants/cross-appellees in the court of appeals.

**CORPORATE DISCLOSURE STATEMENT**

General Motors LLC is a Delaware limited liability company whose only member is General Motors Holdings LLC. General Motors Holdings LLC's only member is General Motors Company, a Delaware corporation with its principal place of business in Wayne County, Michigan. General Motors Company owns 100% of General Motors Holdings LLC.

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