

# SCOTUS Clears Road to Negligent Hiring, Selection Against Freight Brokers

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## The Decision

On May 14, 2026, the US Supreme Court unanimously held in *Montgomery v. Caribe Transport II, LLC*, No. 24-1238, that the FAAAA (Federal Aviation Administration Authorization Act of 1994) does not preempt state-law negligent-hiring claims against freight brokers where those claims relate to motor vehicle safety because these fall under an exception to FAAAA.

The decision resolves a longstanding circuit split and permits injured plaintiffs nationwide to pursue negligence claims against brokers who breach the duty of care in selecting motor carriers. Before *Montgomery*, in some circuits and many states, brokers successfully argued that federal law preempted negligent selection claims.

For the freight brokerage industry—more than 28,000 federally licensed brokers who arrange roughly one-third of all US freight—the ruling fundamentally changes the litigation, regulatory, and insurance landscape by removing the preemption defense escape hatch.

## Early Industry Perspectives

### Market and Economics

- The ruling is expected to impose significant compliance burdens on smaller brokers, which may result in migration to larger carriers and industry consolidation.
- Litigation and compliance costs are likely to cascade through the freight network to shippers, manufacturers, retailers, and consumers. Legislative action or enhanced federal oversight may follow.

### Insurance

- Insurers are expected to sharpen underwriting—probing whether brokers appoint conditionally rated carriers, maintain double-broking controls, and verify insurance.
- The primary product at stake is the freight broker auto liability policy. Premiums are already rising, retentions may increase, and the resulting cost pressure could accelerate industry consolidation.

## Litigation Outlook

- **Brokers do not face automatic liability, and *Montgomery* does not create new duties.** The central unresolved question is what “reasonable care” requires in selecting a carrier—a standard that is now expected to be actively litigated across all 50 states.
- Negligent-hiring claims may be alleged more frequently with broader discovery expected into carrier screening, safety data, and internal policies, despite uncertainties on the contours of the legal duty. Plaintiffs can plead and pursue these claims in state courts with more confidence, increasingly survive the dispositive motion stage, and seek greater remedies for insured losses, especially in catastrophic injury cases.

## Case Background

The petitioner was severely injured when his parked tractor-trailer was struck on an Illinois highway by a truck operated by Caribe Transport II, LLC—a carrier with a “conditional” Federal Motor Carrier Safety Administration (FMCSA) safety rating and documented deficiencies in driver qualification, hours of service, and crash rate.

The shipment had been arranged by C.H. Robinson Worldwide, Inc. The District Court and the Seventh Circuit held the claim preempted; the US Supreme Court reversed.

## The Holding

Writing for a unanimous court, Justice Barrett held that the petitioner’s claim falls within the FAAAA’s safety exception, which preserves state “safety regulatory authority . . . with respect to motor vehicles.” The court gave “with respect to” its ordinary meaning—“concerns” or “regards”—and concluded that requiring a broker to exercise ordinary care in selecting a carrier plainly concerns motor vehicles.

The court rejected each of C.H. Robinson’s counterarguments, including that the reading would swallow the preemption clause or create an anomaly within the statute.

## The Concurrence

Justice Kavanaugh, joined by Justice Alito, concurred but noted the case was “closer than the Court’s opinion perhaps might suggest.” He emphasized that the FAAAA pursued economic—not safety—deregulation, and observed that absent meaningful federal safety regulation of brokers’ carrier selection, it would be “doubtful that Congress would allow brokers to operate in a black hole.”

The concurrence cautioned that the decision should not be read to impose routine tort liability and acknowledged that litigation costs “will cascade through the economy” to consumers.

## Subsequent Development

On May 26, 2026, the court denied certiorari in *Total Quality Logistics LLC v. Robert Cox*, No. 25-145, a Sixth Circuit case presenting the same FAAAA preemption question, leaving intact the lower court’s ruling permitting negligent-hiring claims against the broker.

The denial confirms that *Montgomery*’s holding applies across all circuits and forecloses further challenge to the availability of state-law tort liability for negligent carrier selection.

## Practical Steps for Freight Brokers to Manage and Mitigate Exposure

- **Create and maintain a written carrier-selection program** with clear criteria, documented decisions, and regular audits that can demonstrate reasonable care in litigation or underwriting reviews.
- **Check each carrier’s FMCSA safety rating**, inspection history, hours-of-service violations, and crash records before assigning a load.
- **For carriers that lack a formal FMCSA safety rating**—approximately 90 percent of all motor carriers—develop supplemental screening criteria using publicly available inspection data, out-of-service rates, and crash history to fill the gap left by the absence of a rating.
- **Screen for carriers** that have closed and reopened under a new name or entity to avoid prior safety violations, and carriers whose driver logs or team-driver records show patterns inconsistent with hours-of-service requirements.
- **Check individual driver records** for qualifications, including traffic violations and criminal background, before approving a carrier for load assignment.
- **Invest in technology and internal controls** that automate carrier screening and prevent unauthorized re-brokering of loads.
- **Train personnel to recognize carrier safety concerns** and subject those findings to management scrutiny before a carrier is selected or a load is assigned.
- **Promptly preserve all carrier-screening records**, communications, files, and documents after any accident or claim.
- **Review and update broker-carrier contracts, indemnity provisions, and insurance agreements**—including policy limits and retention levels—to account for the expanded liability risk.
- **Engage outside counsel to evaluate state-specific tort standards**—including comparative fault frameworks and proximate cause requirements—in the jurisdictions where the broker operates, so that carrier-selection practices are calibrated to the applicable standard of care in each state. Track new legislation, federal

regulations, and court decisions that may further define what constitutes reasonable care in carrier selection.

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