

LAW ALERT

U.S. SUPREME COURT HOLDS FAAAA DOES NOT PREEMPT NEGLIGENT HIRING CLAIMS AGAINST FREIGHT BROKERS

May 15, 2026

By: Daniel Santaniello, Esq., Daniel Weinger, Esq., Jeffrey Benson, Esq., and Matthew Fox, Esq.

Summary

On May 14, 2026, the United States Supreme Court issued a landmark unanimous decision in *Montgomery v. Caribe Transport II*, holding that negligent hiring claims against freight brokers are not preempted by the Federal Aviation Administration Authorization Act (“FAAAA”) in cases involving interstate transportation.

For years, freight brokers relied upon federal preemption defenses to defeat state law tort claims alleging negligent hiring, negligent selection, or negligent retention of motor carriers. Brokers argued that because the FAAAA preempts state laws “related to a price, route, or service” of the trucking industry, state tort claims interfered with federally regulated transportation services under 49 U.S.C. §14501(c)(1).

Courts across the country had reached inconsistent conclusions on this issue. The Supreme Court has now definitively resolved the dispute.

The Impact

The *Montgomery* decision significantly expands potential liability exposure for freight brokers arising from catastrophic trucking accidents involving independent contractor motor carriers.

Prior to this ruling, many jurisdictions dismissed negligent hiring and selection claims against brokers at the pleading stage based upon federal preemption. Those early dismissals will now become far more difficult in interstate transportation cases.

The practical consequences are substantial and may include:

- Increased negligent hiring and negligent selection litigation against brokers;
- Expanded discovery into broker safety practices and carrier vetting procedures;
- Increased indemnity and additional insured disputes;
- Greater defense costs and litigation spend;
- Increased bad faith exposure in catastrophic loss cases involving limited policy towers; and
- Heightened scrutiny of broker compliance and documentation practices.

Common law duties requiring the exercise of reasonable care in selecting independent contractor motor carriers are now likely to proceed in many jurisdictions that recognize such claims.

The Supreme Court’s Ruling

Justice Barrett’s opinion focused heavily on the FAAAA’s “safety exception” contained in 49 U.S.C. §14501(c)(2) (A), which provides that the statute’s preemption provisions “shall not restrict the safety regulatory authority of a State with respect to motor vehicles.”

Relying upon *City of Columbus v. Ours Garage & Wrecker Service, Inc.*, 536 U.S. 424 (2002), the Court explained that Congress intended the safety exception to preserve traditional state police powers concerning motor vehicle safety, even while broadly preempting economic regulation of motor carriers.

Accordingly, the Court held that negligent hiring claims involving unsafe motor carriers fall squarely within the safety exception and therefore survive federal preemption.

Importantly, the Court noted in a footnote that its decision rested entirely upon the safety exception.

Intrastate Transportation May Present a Different Result

The Court's opinion suggests that claims involving purely intrastate transportation may still be subject to federal preemption.

Unlike §14501(c), the statutory provisions governing certain intrastate transportation issues under §14501(b) do not contain a comparable safety exception. As a result, the Court acknowledged that negligent hiring claims involving solely intrastate transportation may still face preemption arguments.

Justice Barrett observed:

"It is not obvious why Congress included a safety exception in (c) but not in (b). But it would be even odder to say that the alleged tort—the negligent hiring of an unsafe motor carrier whose truck caused injury—is not an exercise of 'the safety with respect to motor vehicles.'"

This distinction may create unique strategic considerations for brokers and motor carriers operating exclusively in intrastate commerce.

Recommendations

Freight Brokers and Shippers

Freight brokers and shippers should immediately review and strengthen their carrier selection and documentation procedures. Best practices include:

- Verifying carrier operating authority;
- Reviewing safety ratings and FMCSA history;
- Confirming insurance coverage and limits;
- Maintaining written records of all vetting procedures;
- Consider the liability risks by utilizing intrastate motor carriers;
- Preserving screenshots and safety documentation; and
- Implementing standardized carrier selection protocols.

Going forward, brokers should assume that their internal safety reviews, communications, contracts, and selection procedures will become discoverable and heavily scrutinized in litigation.

These claims remain highly defensible when reasonable procedures and documentation practices are consistently followed.

It is also noteworthy that the SCOTUS decision suggests state law claims are still preempted when brokers hire solely intrastate motor carriers. It will be interesting to see how this plays out in the courts.

Motor Carriers and Owner Operators

Motor carriers and owner operators should carefully review indemnity agreements with brokers and shippers. In many cases, carriers may now face increased demands for contractual indemnity and additional insured obligations arising from broker liability claims.

Special attention should be paid to:

- Anti-indemnity statutes;
- Additional insured requirements;
- Primary and non-contributory endorsements; and
- Contractual defense obligations.

For example, Florida Statute §316.302(13)(a) invalidates indemnification provisions requiring a motor carrier to indemnify another party for that party's own negligence.

Carriers should work closely with coverage counsel and insurance professionals to ensure contractual obligations align with actual policy language and endorsements.

Insurers for Motor Carriers and Owner Operators

Insurers should carefully evaluate policy language, endorsements, and tender obligations involving brokers and shippers.

These claims may substantially increase defense costs because separate counsel may be required for brokers and shippers seeking defense and indemnity under motor carrier policies.

Single-limit policies without excess coverage may present particularly significant exposure concerns where the insurer owes obligations to both its named insured and additional insureds.

Careful strategic analysis is essential when evaluating:

- Policy limit tenders;
- Interpleader options;
- Global settlement strategies;
- Arbitration alternatives;
- Exhaustion issues; and
- Potential bad faith exposure.

In jurisdictions such as Florida, failure to properly navigate competing insured interests may create significant extra-contractual exposure.

Insurers for Brokers and Shippers

Insurers for brokers and shippers should proactively review both direct coverage and contractual risk transfer mechanisms.

Recommended steps include:

- Requiring proof of additional insured status;
- Confirming actual endorsement language rather than relying solely upon certificates of insurance;
- Reviewing contractual indemnity provisions; and
- Ensuring insureds maintain robust carrier screening documentation.

The ability to demonstrate reasonable selection practices will become increasingly important in defending these claims.

Conclusion

The era of routine early dismissal of negligent hiring claims against freight brokers in interstate transportation cases is likely over.

Future outcomes will depend heavily upon the evidence developed during discovery and the quality of the broker's safety and carrier selection procedures.

However, this decision does not eliminate viable defenses. Many jurisdictions still require proof that the broker exercised sufficient control over the motor carrier or otherwise breached a recognized duty of care.

Brokers, shippers, carriers, and insurers that implement sound documentation practices and strong compliance protocols will remain well-positioned to defend these claims.

Luks & Santaniello, LLC has extensive experience defending brokers, shippers, motor carriers, and insurers in complex transportation and negligent hiring litigation. We have a dedicated FMCSA Compliance Attorney, MCS-90 coverage partner, and a tender of policy limits team to navigate insurers on these issues.

Questions regarding this decision or trucking liability exposure may be directed to Dan Santaniello at DJS@InsuranceDefense.net.

The whole opinion may be found here [Montgomery v. Caribe](#).



Daniel Santaniello
 Managing Partner
 (561) 226- 2525
 DJS@insurancedefense.net



Daniel Weinger
 Managing Attorney Appellate &
 Trial Support
 (954) 847-2924
 DWeinger@InsuranceDefense.net



Jeffrey Benson
 Senior Partner
 (813) 514-4365
 JBenson@InsuranceDefense.net

About Luks, Santaniello, Petrillo, Cohen & Peterfriend



Our verdicts tell the story.[™] Luks, Santaniello, Petrillo, Cohen & Peterfriend is a Massachusetts, Rhode Island and Florida Corporate & Insurance Defense Litigation firm. The firm defends professionals, corporations and their insurance companies from both Liability and Workers' Compensation claims. From our fourteen offices in Boston, Massachusetts, Providence, Rhode Island and Florida in Key West, Miami, Fort Lauderdale East, Fort Lauderdale West, Boca Raton, Stuart, Fort Myers, Tampa, Orlando, Gainesville, Jacksonville, Tallahassee and Pensacola, the firm's 210+ attorneys deliver counsel and legal services in over 33 practice areas. The firm has several strategic and innovative practice areas including a dedicated ***AI Litigation Intelligence Strategies and Solutions, Expert Witnesses & Daubert Strategies, Reptile and Edge Deposition & Trial Strategies, Time and Policy Limit Demands and Tenders Practice Group*** and ***Surgical LOP Abuse Practice*** that handle a number of specialized issues. Members have tried over 200 cases in Florida State and Federal Courts.

Our mission is to provide our clients with legal services that help them manage risk and reduce exposure. Our goal is to ensure that our clients obtain equal justice in the courtroom. The Law Firm is Peer Review Rated by Martindale-Hubbell and is a member of The Gavel.net LLC., Nationwide Claims Defense Network. The firm's Partners are members of the Trucking Industry Defense Association (TIDA), the Florida Defense Lawyers Association (FDLA), the Defense Research Institute (DRI) and the Claims and Litigation Management Alliance (CLM).

Firm-Wide Managing Partner Dan Santaniello, Esq., Partners Anthony Petrillo, Esq. (Tampa), Luis Menendez-Aponte, Esq. (Miami), Jack Frost (Boca Raton), Juan Ruiz, Esq. (Orlando) are **Florida Bar Board Certified Civil Trial Experts**. Construction Law Partners Ashley Graham, Esq. (Fort Myers), Hayley Newman, Esq. (Boca Raton), Valerie Edwards, Esq. (Boca Raton), Christopher Burrows, Esq. (Boca Raton), David Rosinsky, Esq. (Fort Lauderdale), C. Eric Bearden, Esq. (Jacksonville), Patrick Hinchey, Esq. (Jacksonville) and David Harrigan, Esq. (Orlando) are **Florida Bar Board Certified Construction Law Experts**. The firm has a full service Appellate team in South, Central and Northern Florida to assist with summary judgments, motions in limine, discovery objectives, trial strategy and post trial positions.

The Daily Business Review selected Luks & Santaniello as finalists for the Most Effective Lawyers for its innovation in filing a Declaratory Judgment Action in a multiple Wrongful Death claim. These times present extraordinary challenges to businesses and their insurers. Let us help even the playing field. [View Contact Directory now.](#)

Request a screen share meeting (email LS@insurancedefense.net) to discuss our claims portfolio management strategy, how we use artificial intelligence in litigation strategy and how we leverage claims analytics and technology to work efficiently and mitigate legal spend. [Request a Screen Share Meeting.](#)

Contact:

Luks, Santaniello, Petrillo, Cohen & Peterfriend

[Daniel Santaniello, Managing Partner](#)

T: (561) 226-2525

E: DJS@insurancedefense.net

Luks, Santaniello, Petrillo, Cohen & Peterfriend

[Maria Donnelly, Client Relations Director](#)

T: 954.847.2936

E: MDonnelly@insurancedefense.net

This Law Alert is for informational purposes only and does not constitute legal advice. Reviewing this information does not create an attorney-client relationship. Sending an e-mail to Luks, Santaniello et al does not establish an attorney-client relationship unless the firm has in fact acknowledged and agreed to the same.

“AV®, BV®, AV Preeminent® and BV Distinguished® are registered certification marks of Reed Elsevier Properties Inc., used under license. They are to be used in accordance with the Martindale-Hubbell® certification procedures, standards and policies. For a further explanation of Martindale–Hubbell’s Peer Review Ratings, please visit [Martindale Hubbell.](#)



Follow us to stay informed on the latest firm updates!

Copyright 2003-2026 Luks, Santaniello, Petrillo, Cohen & Peterfriend

[Unsubscribe](#) | [Update Profile](#) | [Constant Contact](#)
[Data Notice](#)

Luks, Santaniello, Petrillo, Cohen & Peterfriend |
110 SE 6th Street - STE 1401 | Fort Lauderdale,
FL 33301 US