

The End of the Federal Shield

What the Supreme Court's Freight Broker Ruling in *Montgomery v. Caribe Transport II, LLC* Means for the Industry and Five Essential Solutions for Brokers

May 14, 2026

Introduction

On May 14, 2026, the United States Supreme Court delivered a unanimous 9-0 decision in *Montgomery v. Caribe Transport II, LLC*, 608 U.S. ____ (2026), that will fundamentally reshape liability across the American freight brokerage industry. In a ruling authored by Justice Amy Coney Barrett, the Court held that the Federal Aviation Administration Authorization Act of 1994 (FAAAA) does not shield freight brokers from state-law negligent hiring claims when those claims concern motor vehicle safety. The decision resolves a long-running split among the federal circuits and establishes that brokers who select unsafe carriers can be sued in state courts across the country.

For decades, freight brokers operated under the assumption that federal preemption protected them from personal injury lawsuits arising from accidents caused by carriers they hired. That assumption no longer holds. The practical implications are significant: the roughly 780,000 motor carriers operating in the United States are matched to loads by freight brokers, and those brokers must now reckon with the reality that their carrier selection decisions carry direct legal consequences.

The Case: *Montgomery v. Caribe Transport II, LLC*

The Facts

In December 2017, Shawn Montgomery, a truck driver, was parked on the shoulder of an Illinois highway when a tractor-trailer operated by driver Yosniel Varela-Mojena and owned by Caribe Transport II rear-ended his vehicle at highway speed. The impact was catastrophic. Montgomery's leg was amputated, and he suffered severe, permanent disfigurement.

The shipment that put Caribe Transport on that road had been brokered by C.H. Robinson Worldwide, Inc., one of the largest freight brokerage firms in the United States. Montgomery alleged that C.H. Robinson should never have hired Caribe Transport in the first place. The carrier had a "conditional" safety rating from the Federal Motor Carrier Safety Administration (FMCSA) and a documented history of deficiencies in driver qualification, hours-of-service compliance, vehicle maintenance, and crash frequency. The red flags were public, objective, and available to anyone who reviewed the record.

Montgomery filed suit in federal district court against the driver, the carrier, and the broker. Among his claims was a state-law negligent hiring theory against C.H. Robinson: the argument that a broker who selects a carrier with known safety deficiencies and puts that carrier on the road should be liable when the foreseeable result occurs.

The Legal Battlefield: FAAAA Preemption

C.H. Robinson moved to dismiss, arguing that the FAAAA preempted Montgomery's negligent hiring claim entirely. The FAAAA prohibits states from "enact[ing] or enforc[ing] a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier ... or any motor private carrier, broker, or freight forwarder with respect to the transportation of property." 49 U.S.C. Section 14501(c)(1).

For years, brokers successfully used this provision in courtrooms across the country, arguing that any state-law claim touching their business, including claims about which carrier they chose to hire, was a regulation of broker "services" and therefore preempted by federal law. In many jurisdictions, negligent hiring claims against brokers were dismissed at the motion-to-dismiss stage, before a jury ever heard a single fact.

The FAAAA contains a critical carve-out: Section 14501(c)(2)(A), the "safety exception," provides that the preemption provision "shall not restrict the safety regulatory authority of a State with respect to motor vehicles." This exception became the central issue in the case.

The district court sided with C.H. Robinson, holding that Montgomery's negligent hiring claim was preempted and did not fall within the safety exception. The Seventh Circuit affirmed, relying on its precedent in *Ye v. GlobalTranz Enterprises, Inc.* (2023), which held that negligent hiring claims against brokers lacked the "direct link" to motor vehicles required by the safety exception. The Seventh and Eleventh Circuits had adopted this narrow reading, while the Ninth and Sixth Circuits took a broader view, allowing such claims to proceed. The result was an unworkable patchwork: whether a broker could be sued depended entirely on which part of the country the accident occurred in.

The Supreme Court granted certiorari to resolve the split.

The Decision

Justice Barrett's opinion was direct and decisive. The Court held that Montgomery's negligent hiring claim falls squarely within the FAAAA's safety exception and is therefore not preempted.

The analysis turned on the meaning of the phrase "with respect to motor vehicles" in the safety exception. Barrett wrote that the phrase means "concerns," and that a negligent hiring claim against a broker plainly concerns motor vehicles because the entire theory of liability is rooted in the safety of the trucks that carry goods on public highways.

"Montgomery alleges that C.H. Robinson failed to exercise reasonable care when it hired Caribe Transport, which had a subpar safety rating from federal regulators, to transport goods via truck. Requiring C.H. Robinson to exercise ordinary care in selecting a carrier therefore 'concerns' motor vehicles, most obviously, the trucks that will transport the goods."

Justice Amy Coney Barrett

The Court rejected C.H. Robinson's counterarguments. The broker argued that reading the safety exception broadly would swallow the FAAAA's preemption provision entirely. Barrett disagreed, explaining that the safety exception saves only a subset of preempted claims, those involving motor vehicle safety. State regulations of broker prices, routes, and services with no relationship to safety remain preempted.

Justice Brett Kavanaugh, joined by Justice Samuel Alito, filed a concurrence agreeing fully with the opinion but adding important context. Kavanaugh emphasized that Congress passed the FAAAA to deregulate the economics of the trucking industry, not to create a situation where brokers face zero safety accountability while motor carriers remain answerable under state tort law. He stressed that the ruling should not be read to mean brokers will routinely face tort liability after truck accidents.

"The negligent hiring tort against brokers, like the negligence tort against trucking companies, exists to keep unsafe trucks and unsafe drivers off America's highways."

Justice Brett Kavanaugh

The Court reversed the Seventh Circuit's decision and remanded the case for further proceedings.

What the Court Did Not Hold

Precision matters here. *Montgomery* is not a broad invitation to sue freight brokers for every business decision they make. Economic regulations of broker prices, routes, and services with no safety connection remain preempted by the FAAAA. The ruling is specifically about negligent hiring and negligent selection claims, cases where a broker chose a carrier with known or discoverable safety deficiencies and that choice resulted in an accident.

Plaintiffs still must prove the traditional elements of negligence under applicable state law, including proximate cause. A broker is not automatically liable because a carrier it hired was involved in an accident. The question will be whether the broker exercised reasonable care in making the selection and whether the safety information available should have prevented that selection from being made.

Industry Impact

The *Montgomery* ruling drew immediate reaction across the freight brokerage industry. The Transportation Intermediaries Association (TIA) expressed disappointment, characterizing the decision as one that "imposes an impossible task on brokers, effectively asking them to evaluate the safety of a given motor carrier despite having been deemed safe to operate on public roads by the federal government."

Trucksafe President Brandon Wiseman offered a more measured assessment: "If a broker hires a carrier with obvious safety red flags, it will not get a free pass under FAAAA. It does mean their carrier selection practices are going to matter even more in litigation."

Insurance industry leaders signaled that market adjustments are coming. Janelle Griffith, managing director of Marsh Risk, noted that "insurers are likely to respond by adjusting capacity, attachment points, and underwriting requirements, placing greater emphasis on continuous and demonstrable carrier risk management."

Legal analysts expect an uptick in litigation as plaintiffs' attorneys revisit cases previously dismissed on preemption grounds and bring fresh claims with the clarity *Montgomery* provides.

Five Essential Solutions for Freight Brokers

The Court's ruling demands action. Brokers who delay will face exposure to lawsuits that disciplined preparation could have prevented. The five solutions below represent the standard of care every freight broker should implement immediately.

1 Implement a Rigorous, Documented Carrier Vetting Program

The single most important step a broker can take is to formalize its carrier selection process into a documented, repeatable, and auditable program. A defensible vetting program should include, at a minimum:

FMCSA Safety Rating Review: Every carrier considered for a load must have its FMCSA safety rating pulled and reviewed. Carriers with "conditional" or "unsatisfactory" ratings should be categorically excluded. Caribe Transport had a conditional rating, the most basic red flag available.

CSA Score Analysis: Review each carrier's BASIC scores across all categories: unsafe driving, crash indicator, hours-of-service compliance, vehicle maintenance, controlled substances, hazardous materials, and driver fitness. Elevated scores should trigger enhanced scrutiny or disqualification.

Inspection and Out-of-Service Rate Review: Evaluate vehicle and driver OOS rates against national averages. Carriers with significantly elevated OOS rates are statistically more likely to be involved in an incident.

Crash History Review: Use FMCSA's Safety Measurement System (SMS) data. Patterns of repeated crashes are predictive and should be treated as disqualifying.

Insurance Verification: Confirm active liability insurance at or above federally mandated minimums and consider whether coverage is adequate for the loads being tendered.

Operating Authority Verification: Confirm the carrier's USDOT number and MC authority are active and in good standing.

Every step must be documented and stored in a retrievable format. If a lawsuit comes three years from now, the broker needs to produce records showing exactly what it reviewed, when, and what decision it made based on that review.

2 Establish Ongoing Carrier Monitoring and Re-Qualification Protocols

A one-time vetting check is insufficient. Carrier safety profiles change. A carrier that was satisfactory six months ago may have accumulated violations, new crashes, or a downgraded safety rating. *Montgomery* places the duty of reasonable care on the broker at the time of selection, which means brokers need the carrier's current safety posture, not a stale snapshot.

Continuous Monitoring Systems: Third-party platforms such as Highway, RMIS, Carrier411, and MyCarrierPackets offer automated monitoring that flags changes to safety data, authority status, insurance coverage, and CSA scores in real time. These should become standard infrastructure.

Re-Qualification Intervals: Establish formal re-qualification periods, such as every 90 or 180 days, during which a carrier's full safety profile is reviewed and documented.

Escalation Protocols for Red Flags: If monitoring surfaces a safety concern such as a new crash, a spike in OOS rates, or a downgraded rating, the broker should have a clear, documented protocol for escalating, evaluating, and recording the decision. The worst possible outcome in litigation is evidence that the broker received a red-flag alert and ignored it.

Carrier Scorecard System: Develop an internal scoring or tiering system that ranks carriers based on objective safety metrics. Carriers falling below threshold scores should be automatically flagged for review or removed from active rotation.

3 Strengthen Contractual Protections and Indemnification Provisions

While contracts cannot eliminate tort liability, they can allocate risk, create contribution rights, and establish clear expectations. In the post-Montgomery landscape, contractual language matters more than ever.

Broker-Carrier Agreements: Ensure every agreement includes robust indemnification clauses requiring the carrier to indemnify the broker for claims arising from negligent operation. Include representations and warranties regarding safety record, insurance, authority, driver qualifications, and regulatory compliance.

Hold-Harmless and Defense Obligations: Require the carrier to defend and hold the broker harmless against third-party personal injury claims arising from the carrier's operations.

Insurance Requirements: Contractually require carriers to maintain insurance at levels sufficient to cover foreseeable claims and require the broker to be named as an additional insured on the carrier's commercial auto liability policy.

Data-Sharing and Cooperation Clauses: Require carriers to promptly notify the broker of material changes to their safety profile, authority status, or insurance coverage, and to cooperate fully in the event of litigation.

Boilerplate language that was adequate under the prior preemption regime may be dangerously insufficient today. Engage experienced transportation counsel to audit and update existing agreements.

4 Increase Insurance Coverage and Explore Contingent Liability Policies

The current federal minimum for broker surety bonds and trust funds is \$75,000, a figure never designed to cover personal injury exposure of the kind *Montgomery* now permits. Brokers who rely on minimum coverage carry substantial uninsured risk.

General Liability and Excess/Umbrella Coverage: Review general liability limits and consider purchasing or expanding excess or umbrella liability policies. Defense costs alone in complex trucking litigation can reach six or seven figures, and indemnity exposure can be substantially higher.

Contingent Auto Liability (CAL) Insurance: CAL policies cover brokers for third-party bodily injury and property damage claims arising from accidents involving carriers the broker hired. Historically underutilized, CAL coverage is now essential.

Errors and Omissions / Professional Liability Coverage: E&O policies can cover claims arising from the broker's professional services, including alleged negligence in carrier selection. Confirm your E&O policy addresses the specific exposure created by Montgomery.

Underwriting Preparedness: Insurers are already signaling they will adjust underwriting requirements. Brokers with strong, documented vetting programs will be better positioned to secure favorable terms. Brokers without such programs may face coverage restrictions, higher premiums, or denial of coverage entirely.

5 Build a Compliance Culture and Train Your Team

Policies are only as good as the people executing them. A solid carrier vetting protocol that exists in a binder on a shelf and is not consistently followed is worse than useless in litigation. It becomes evidence that the broker knew what it should have done and chose not to do it.

Mandatory Training Programs: Every employee involved in carrier selection, load tendering, or operations should receive formal training on vetting and monitoring requirements. Training should be documented with records of attendance, content, and certification.

Standard Operating Procedures (SOPs): Develop clear, written SOPs for every stage of the carrier selection process, from onboarding through ongoing monitoring and dequalification. SOPs should be accessible, regularly updated, and consistently enforced.

Internal Auditing: Conduct periodic internal audits of carrier selection files to verify documented procedures are being followed. Identify gaps, correct them, and document the corrective action taken.

Leadership Accountability: Senior management must champion the compliance culture. Carrier selection is now a core business risk that demands executive attention and resources.

Legal Readiness: Develop a litigation response plan in advance. Know which records need to be preserved, how to manage document holds, and how to coordinate with carriers and insurers when a claim is filed. The time to prepare for litigation is before it happens, not after.

Conclusion

Montgomery v. Caribe Transport II, LLC is a significant development for the American freight industry. The Supreme Court's unanimous ruling removes the federal preemption defense brokers relied on for decades and places their carrier selection practices under direct legal scrutiny. The message from the Court is straightforward: if you put an unsafe carrier on the road and someone gets hurt, you will answer for it in state court.

The ruling is not a death sentence for freight brokerage. Justice Kavanaugh's concurrence provides a practical roadmap: brokers who act reasonably, hire reputable carriers, and maintain documented, defensible vetting processes should be able to successfully defend against the lawsuits that will follow. The brokers who will suffer are those who cut corners, ignore available safety data, and treat carrier selection as a formality rather than a professional obligation.

The freight brokerage industry moves approximately \$940 billion worth of goods across the United States annually. That role carries responsibility and, after today, it carries accountability. The brokers who accept that reality and adapt will not only survive but earn a competitive advantage in a market that will increasingly reward safety, diligence, and professionalism over cost-cutting and complacency.

The question is no longer whether brokers can be sued. They can. The question is whether they have done enough to defend the choices they made. For every broker in America, the time to answer that question is now.

This article is for informational purposes only and does not constitute legal advice. Freight brokers should consult with qualified transportation attorneys regarding compliance with the Montgomery decision and applicable state and federal laws.