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The Supreme Court Has Spoken: What the *Montgomery* Decision Means (and Doesn't) for Transportation Brokers and the Top Ten Critical Next Steps

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The U.S. Supreme Court has unanimously held that the Federal Aviation Administration Authorization Act (FAAAA) does *not* preempt state law claims against transportation brokers for negligent hiring of motor carriers in personal injury cases because such claims concern motor vehicle safety. *Montgomery v. Caribe Transport II, LLC* (608 U.S. ___ (2026)) (the Decision). The Court grounded its decision in the Act's "safety exception," which preserves a state's authority to regulate safety "with respect to motor vehicles." Finding that a transportation broker's duty to exercise reasonable care when hiring a motor carrier concerns motor vehicles, the Court concluded that state law negligence claims are not preempted by the FAAAA and, thus, may proceed.

The Decision does not, however, change the nature or scope of the duty to exercise reasonable care when hiring carriers that existed before the Court's decision. It does not create strict liability for brokers. Indeed, brokers had a duty to exercise reasonable care or, in other words, to not be negligent, when hiring carriers before the Decision. It also does not affect the standard for vicarious liability when a broker exercises too much control over the manner and method by which the motor carrier performs its work. Likewise, the Decision does not convert brokers into motor carriers or change Carmack rules for cargo loss and damage.

Notwithstanding, the Decision will undoubtedly be perceived by plaintiff's attorneys as a license to file negligent-hiring claims and target carrier-selection decisions even when there is no apparent evidence of any wrongdoing with respect to carrier selection. Brokers will undoubtedly be faced with significant increased defense costs and business disruption and potential risk that a jury or judge may assign liability based on carrier selection when the evidence does not support such a conclusion. Further, because of the increased scrutiny of carrier vetting, carrier management will undoubtedly also be subject to greater scrutiny, creating additional risk of a finding of vicarious liability. The best protections are consistent and robust vetting, documentation, contracts, and training and making sure your insurance policies align with your practices.

Top Ten Critical Next Steps

1. **Review your carrier-vetting policies closely**, and identify the criteria on which you are going to rely to demonstrate you are exercising reasonable care and commit it to writing. Among other criteria, determine if you will use motor carriers with conditional ratings.
2. **Document the selection decision.** If you deviate from criteria for some reason (e.g., urgent loads), document the business reason and added controls.
3. **Review carrier management policies closely**, and identify required steps and commit to writing. For example, confirm MC/USDOT against email domains, phone numbers, W-9/EIN, bank account changes, and obtain COIs directly from insurers or trusted portals.
4. **Require and verify insurance that fits the load risk.** For example, adequate auto liability, cargo coverage appropriate to commodity/exclusions, reefer/temperature endorsements where applicable, additional insured, permitted use of conditional carriers.
5. **Use contract safeguards.** Where applicable, require indemnity (tailored to state anti-indemnity statutes), immediate incident notice/cooperation, no unauthorized subcontracting, seal/temperature/SOP compliance, GPS/ELD use on high-risk loads, and forum/choice-of-law consistent with state law.
6. **Align standard operating procedures with safety and product risks.** For example, ensure proper temperature-controls (pre-cool, set-point verification, dataloggers, doors-closed policy), require secure parking, and “no stop” windows.
7. **Train and audit your team.** Teach fraud red flags, vetting steps, exception documentation, claims triage, and to act fast when there is an incident.
8. **Require preservation of evidence for defense.** For example, require bill of lading of proof of delivery with exceptions noted, photos, seal numbers, temperature logs, and incident reports.
9. **Review and update insurance strategy.** Consider broker liability/errors & omissions, contingent auto liability, cyber/fraud endorsements, and confirm claim-handling expectations.
10. **Reach out to your transportation lawyer** regarding the review of your existing policies and practices and other transportation and logistics legal questions.