

Supreme Court of Illinois to Address Whether the FAAAA Preempts Negligent Hiring/Selection Claims Against Freight Brokers

Article

Amundsen Davis Transportation Alert

December 4, 2025

On November 26, 2025, the Supreme Court of Illinois agreed to address whether state common law claims for negligent hiring/selection are preempted by the Federal Aviation Administration Authorization Act of 1994 (FAAAA). This decision will determine whether or not plaintiffs in Illinois are permitted to assert claims for negligent hiring/selection against freight brokers.

In *Kaipust v. Echo Global Logistics Inc.*, the First District Appellate Court of Illinois agreed with the circuit court that, while the plaintiff's negligent hiring/selection claims were preempted by the FAAAA, the "safety exception" applied. As a result, the negligence claims against Echo could proceed. The Supreme Court of Illinois will, therefore, address whether the negligent hiring/selection claims against brokers, such as Echo, are preempted by the FAAAA and whether the "safety exception" indeed applies.

This review is surprising given the Supreme Court of the United States is also addressing these same issues in *Montgomery v. Caribe Transport II, LLC*. The Supreme Court's decision will ultimately take precedence over any other court decision. If the Court rules that negligent hiring claims are preempted by the FAAAA, this will resolve the current circuit split and take precedence over any other court's decision, but challenges defeating straight agency claims will continue to exist for freight brokers.

We will continue to monitor both the *Montgomery* and *Kaipust* cases as they progress through the respective courts and will provide timely updates.

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