

Preemption of Negligent Hiring Claims Against a Freight Broker Upheld by 7th Circuit

Article

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In an important decision for freight brokers, the Seventh Circuit Court of Appeals recently issued a ruling in *Ye v. GlobalTranz Enterprises, Inc.*, No. 22-1805 (7th Cir. July 18, 2023), which held that a plaintiff's claim for negligent hiring against a freight broker was preempted by the Federal Aviation Administration Authorization Act (FAAAA), and was not saved by the "safety exception" of the Act.

This ruling expanded on a prior decision by Judge Ronald Guzman in 2018, in which he held that the negligent hiring claims of the plaintiff against a broker were in fact preempted by the FAAAA. This was the first such decision accepting the preemption argument in a personal injury action to determine that the plaintiff's negligent hiring claims were preempted.

In *Ye v. GlobalTranz*, the plaintiff, Ye sued GlobalTranz Enterprises, a freight broker, after her husband had been killed in a highway accident. Ye claimed that GlobalTranz, as a broker, negligently hired the motor carrier that employed the driver of the truck that caused the accident. Ye filed a diversity suit in the Northern District of Illinois that involved two Illinois common law tort claims against GlobalTranz – negligent hiring and vicarious liability. GlobalTranz filed a motion to dismiss the plaintiff's claims after a default judgment had been entered against the motor carrier. The district court granted GlobalTranz's motion as to the negligent hiring claim, finding that it was preempted by the FAAAA and was not saved by any of the Act's exceptions, including the safety exception in § 14501(c)(2)(A). The vicarious liability claim remained pending, but summary judgment was eventually entered in GlobalTranz's favor. The plaintiff appealed.

To establish preemption, a party must show both that (1) a state enacted or attempted to enforce a law; and (2) the state law relates to broker rates, routes, or services, or having a significant economic effect on them. Here the court found that the plaintiff's negligent hiring claim pursuant to Illinois's common law of negligence was clearly within the first prong of preemption. Looking to the second, the court found that nothing in Illinois's common law of negligence

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referred to broker services, but found that enforcing Illinois's common law of negligence on a freight broker would have a significant economic effect on broker services.

Thus the plaintiff's claims met both prongs for preemption before consideration of whether an exception applied. The court noted that this reasoning was consistent with 9th and 11th Circuits' decisions on this issue. (*Miller v. C.H. Robinson Worldwide, Inc.*, 976 F.3d 1016, 1024 (9th Cir. 2020); and *Aspen Am. Ins. Co. v. Landstar Ranger, Inc.*, 65 F.4th 1261, 1267 (11th Cir. 2023)).

The court then turned to look at whether the Act's safety exception changed the analysis. The court was not persuaded by the plaintiff to conclude that a state's tort law is part of its safety regulatory authority within the exception *as there are no references to brokers or broker services in exception*. The Seventh Circuit found this argument to be unsupported and that while the 9th Circuit agreed with the plaintiff's reasoning (e.g. *Miller*), the court did not reach this issue because the plaintiff's claims failed to satisfy the second half of the safety exception's test. The connection between a freight broker hiring standard and motor vehicles was too attenuated to be saved by the safety exception.

Just as Judge Guzman respectfully disagreed with other cases throughout the country in his 2018 opinion, the Seventh Circuit in its opinion disagreed with the analysis of the 9th Circuit in *Miller v. C.H. Robinson*.

Ultimately, this decision bodes well for freight brokers to defend common law state tort claims in the Seventh Circuit as it fully cements that negligent hiring claims are preempted by the FAAAA in this Circuit, but the challenges of defeating a straight agency claim continue to exist.

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