

Expert Insights: Chubb Excess Casualty's Liability Market Analysis

Seventh Circuit Affirms that FAAAA Preempts Broker Negligent Hiring Claims

The Seventh Circuit Court of Appeals recently considered whether freight broker tort claims are preempted by the Federal Aviation Administration Authorization Act ("FAAAA"). In *Ye v. GlobalTranz Enterprises, Inc.*, 74 F.4th 453, 456 (7th Cir. 2023), the plaintiff brought a negligent hiring claim against GlobalTranz, a freight broker, under Illinois tort law. The facts revealed that GlobalTranz was contracted to provide transportation logistics services for a company seeking to transport goods from Illinois to Texas. GlobalTranz hired a motor carrier company to provide the shipping service. During the transportation of the goods, the motor carrier's driver collided with a motorcycle driven by Ye's husband, who subsequently died from the injuries sustained in the crash. Ye filed a lawsuit against GlobalTranz asserting a claim for negligent hiring (among other claims). In response to the negligent hiring claim, GlobalTranz filed a Motion

to Dismiss arguing that the negligent hiring claim was prohibited by the express preemption provision of the FAAAA. The trial court granted the Motion to Dismiss and dismissed the negligent hiring claim.

On appeal, the Seventh Circuit affirmed the trial court's ruling and closely reviewed the FAAAA's express preemption provision and exceptions which govern "Motor Carriers of Property." Based on the language of the statute and applicable case law, the Seventh Circuit found that the negligent hiring claim was expressly preempted by 49 U.S.C. § 14501(c)(1) because the relationship between the transport broker and the motor carrier is direct, and subjecting a transport broker's hiring decisions to common-law negligence standard would have a significant economic effects. The Seventh Circuit also held that the safety exception does not save the preemption because it makes no express mention of "broker services," but

instead, only applies to the operation of a motor vehicle. Because GlobalTranz acted solely as a transport broker, the safety exception did not apply.

This decision allows freight brokers to argue that the FAAAA's safety exception does not apply to negligent hiring claims against them even if the claim involves bodily injury.



For further information, please contact:

Joseph Fobert
EVP, Chubb Excess Casualty
212.703.7137
joseph.fobert@chubb.com

Alycen A Moss
Vice Chair, Global Insurance Department
Office Managing Partner
Cozen O'Connor
404.572.2052
amoss@cozen.com

CHUBB®

COZEN
O'CONNOR

Chubb is the marketing name used to refer to subsidiaries of Chubb Limited providing insurance and related services. For a list of these subsidiaries, please visit our website at www.chubb.com. Insurance provided by ACE American Insurance Company and its U.S. based Chubb underwriting company affiliates. All products may not be available in all states. Surplus lines insurance sold only through licensed surplus lines producers. Chubb, 202 Hall's Mill Road, Whitehouse Station, NJ 08889-1600.

The information contained in this document is intended for general informational purposes only and is not intended to provide legal or other expert advice. You should consult knowledgeable legal counsel or other knowledgeable experts as to any legal or technical questions you may have. Neither Chubb nor its employees or agents shall be liable for the use of any information or statements made or contained in any information provided herein. This document contains links to third-party Web sites solely for informational purposes and as a convenience to readers and not as an endorsement by Chubb of the entities referenced or the contents on such third-party Web sites. Chubb is not responsible for the content of linked third-party sites and does not make any representations regarding the content or accuracy of materials on such linked Web sites. The opinions and positions expressed in this report are the authors' own and not necessarily those of Chubb.

Cozen O'Connor

Ranked among the top 100 law firms in the country, Cozen O'Connor has more than 775 attorneys in 30 cities across two continents. We are a full-service firm with nationally recognized practices in litigation, business law, and government relations, and our attorneys have experience operating in all sectors of the economy. Our diverse client list includes global Fortune 500 companies, middle-market firms poised for growth, ambitious startups, and high-profile individuals.