IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF WYOMING

PATRICIA A. WYATT,

Plaintiff,

VS.

CTS TRANSIT, INC.; ALBERT H. CLARK; PILOT TRAVEL CENTERS, LLC d/b/a FLYING J TRAVEL CENTER #764; C.H. ROBINSON WORLDWIDE, INC.,

Defendants.

Case No. 23-CV-219-SWS

ORDER GRANTING C.H. ROBINSON WORLDWIDE'S FIRST MOTION FOR SUMMARY JUDGMENT AND DENYING AS MOOT C.H. ROBINSON WORLDWIDE'S SECOND MOTION FOR SUMMARY JUDGMENT

This matter comes before the Court on Defendant C.H. Robinson Worldwide, Inc.'s First and Second Motions for Summary Judgment (ECF 110 & 140). Plaintiff filed responses in opposition to both motions (ECF 120, 151), and Defendant C.H. Robinson replied (ECF 128, 158). For the reasons explained below, C.H. Robinson's first Motion for Summary Judgment is GRANTED. C.H. Robinson's Second Motion for Summary Judgment (ECF 140) is denied as moot.[1]

[1] While CHR's first motion for summary judgment based on FAAAA preemption renders CHR's second motion for summary judgment moot, the Court notes that CHR's second motion for summary judgment in combination with its first exceeds the page limit set forth in Local Rule 7.1(b)(2)(B) for briefs in support of dispositive motions. CHR did not seek leave with the Court to file an additional brief which exceeded this 25-page limitation. "If [CHR's] tactic was allowed, it would essentially negate Local Rule 7.1." *Buckham v. Nuss,* 2023 WL 2182346, at *4 (D. Wyo. Jan. 23, 2023). Thus, the Court admonishes counsel against filing successive summary judgment motions which sidestep the Rule 7.1 page limitation in the future.

LEGAL STANDARD

Summary judgment is appropriate where a movant shows "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." FED. R. CIV. P. 56(a) (2016). "A dispute is genuine if there is sufficient evidence so that a rational trier of fact could resolve the issue either way. A fact is material if under the substantive law it is essential to the proper disposition of the claim." *Crowe v. ADT Sec. Servs., Inc.*, 649 F.3d 1189, 1194 (10th Cir. 2011) (internal quotations and citations omitted). For there to be a 'genuine' dispute of fact, there must be more than a mere scintilla of evidence,'" and summary judgment is properly granted "if the evidence is merely colorable or is not significantly probative." *GeoMetWatch Corp. v. Behunin*, 38 F.4th 1183, 1200 (10th Cir. 2022) (citing *Rocky Mountain Prestress, LLC v. Liberty Mut. Fire Ins. Co.*, 960 F.3d 1255, 1259 (10th Cir. 2020)). Parties may establish the existence or nonexistence of a material disputed fact through: 1) submission of "depositions, documents, electronically stored information, affidavits or declarations, stipulations . . ., admissions, interrogatory answers, or other materials; or 2) demonstration "that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact." Fed. R. Civ. P. 56(c)(1)(A)-(B).

On a motion for summary judgment, "we examine the record and all reasonable inferences that might be drawn from it in the light most favorable to the non-moving party, without making credibility determinations or weighing the evidence." *Roberts v. Jackson Hole Mountain Resort Corp.*, 884 F.3d 967, 971, n.3 (10th Cir. 2018). "And while we draw

all reasonable inferences in favor of the non-moving party, "an inference is unreasonable if it requires 'a degree of *speculation* and conjecture that renders [the factfinder's] findings *a guess or mere possibility*.'" *GeoMetWatch Corp.*, 38 F.4t at 1200 (citing *Pioneer Ctrs. Holding Co. Emp. Stock Ownership Plan & Tr. v. Alerus Fin., N.A.*, 858 F.3d 1324, 1334 (10th Cir. 2017) (alteration in original) (emphases added) (quoting *United States v. Bowen*, 527 F.3d 1065, 1076 (10th Cir. 2008))).

The moving party carries the initial "burden of establishing the nonexistence of a genuine dispute of material fact." *Tolman v. Stryker Corp.,* 108 F. Supp. 3d 1160, 1162 (D. Wyo. 2015), *aff'd* 640 F. App'x 818 (10th Cir. 2016). If the movant does so, the nonmovant may not rest upon its pleadings but "must bring forward specific facts showing a genuine issue for trial as to those dispositive matters for which it carries the burden of proof." *Kannady v. City of Kiowa*, 590 F.3d 1161, 1169 (10th Cir. 2010).

FACTS

A. The Accident

1. Before sunrise on March 29, 2021, Plaintiff Patricia Wyatt parked her commercial vehicle in the parking area of a Flying J Travel Center ("Travel Center") owned by Defendant Pilot Travel Centers, LLC ("Pilot"). (ECF 113, Ex. B, p. 11).
2. Ms. Wyatt parked with the intention of going into the Travel Center to take a shower. (ECF 113, Ex. A, ¶ A14).
3. According to Ms. Wyatt, she "walked across the parking lot in a direct line from her truck to the travel center." (ECF 113, Ex. A, ¶ A14).

4. At the same time Ms. Wyatt was walking through the parking area, a tractor-trailer owned by CTS Transit, Inc. ("CTS") and operated by its employee, Defendant Albert H. Clark ("Clark"), was making a U-turn in the same area. (ECF 113, Ex. B, p. 11; ECF 39).

5. While making the U-turn, Clark drove the tractor-trailer onto Ms. Wyatt. (ECF 113, Ex. B, p. 11).

6. Ms. Wyatt sued Pilot, CTS, Clark, and CHR. (ECF 39).

B. Transportation of the Load

7. CHR is (and was on the date of the incident) licensed to operate as a broker by the Federal Motor Carrier Safety Administration ("FMCSA"). (ECF 112, ¶ 8).

8. CHR is not (and was not on the date of the incident) licensed to operate as a motor carrier by the FMCSA. (ECF 112, ¶ 9).

9. CHR entered into a Broker Service Agreement with Domtar Corporation on November 1, 2016, that governed the load at issue. (ECF 112, Ex. A).

10. The Broker Service Agreement referred to CHR as "BROKER" and Domtar Corporation as "SHIPPER." (ECF 112, Ex. A).

11. The Broker Service Agreement provided:

    a. "WHER[E]AS BROKER is licensed as a Property Broker by the Federal Motor Carrier Safety Administration (FMCSA) in Docket Number MC — 131029, or by appropriate state agencies, and as a licensed broker, arranges for freight transportation." (ECF 112, Ex. A, ¶ A).

    b. "WHER[E]AS SHIPPER, to satisfy some of its transportation needs, desires to utilize the services of BROKER to arrange for transportation of SHIPPER's freight." (ECF 112, Ex. A, ¶ B),

c. "**SERVICE.** Upon BROKER's acceptance of a freight tender from SHIPPER, BROKER agrees to arrange for the full truckload and intermodal (via railroad) transportation of SHIPPER's freight … BROKER's responsibility shall be limited to arranging for, but not actually performing, transportation of SHIPPER's freight." (ECF 112, Ex. A, ¶ 2).

d. "**RECEIPTS AND BILLS OF LADING**. … SHIPPER will show BROKER as the "carrier of record" on the Bill of Lading for all loads BROKER tenders to Carriers on behalf of SHIPPER. This is for SHIPPER's convenience and shall not change BROKER's status as property broker." (ECF 112, Ex. A, ¶ 4).

e. "**LIABILITY FOR LOSS AND DAMAGE.** BROKER will be liable directly to SHIPPER for loss and damage on shipments tendered per this Agreement." (ECF 112, Ex. A, ¶ 6).

f. **INDEMNIFICATION**. BROKER agrees to engage only those Carriers who are contractually required to and have agreed that they will indemnify and hold harmless SHIPPER … from all loss, damage, fines, expense, actions and claims to the extent caused by acts or omissions of Carrier … arising out of or in connection with Carrier's services or duties under this Agreement … Should the Carrier fail or refuse to fulfill its obligation of indemnification as set forth herein, then BROKER agrees to fulfill the Carrier's obligation of indemnification" (ECF 112, Ex. A, ¶ 9).

12. Michael Pawlowski, CHR's Director of Strategic Capacity Development, testified that "[a] lot of times [the shipper] doesn't know who the carrier is who's coming in," and "from Domtar's standpoint, all it knows is it's a C.H. Robinson load." (ECF 121, Ex. 7, p. 112-13).

13. CHR entered into an Agreement for Motor Contract Carrier Services (the "Carrier Services Agreement") with CTS on June 5, 2006, that governed the load at issue. (ECF 112, Ex. B).

14. The Carrier Services Agreement refers to CTS as "Carrier." (ECF 112, Ex. B).

15. The Carrier Services Agreement provided:

a. "WHEREAS, Carrier performs motor carrier transportation services…" (ECF 112, Ex. B, p. 2).

b. "WHEREAS, [CHR] arranges transportation of property by motor carriers for its customers and is duly registered as a Property Broker with the FMCSA in Docket No. MC 131029" (ECF 112, Ex. B, p. 2).

c. "WHEREAS, [CHR] desires to use the services of Carrier to transport property for or on behalf of its customers and Carrier desires to provide transportation services to [CHR]'s customers" (ECF 112, Ex. B, p. 2).

d. "**SHIPMENTS TO BE TENDERED BY [CHR].** [CHR] hereby agrees to tender shipments to Carrier as its needs require for transportation …, and Carrier hereby agrees to transport such shipments in accordance with the terms and conditions stated in this Contract." (ECF 112, Ex. B, ¶ 2).

e. "Compensation shall be paid to Carrier solely and exclusively by [CHR], and not by [CHR]'s customers." (ECF 112, Ex. B, ¶ 3).

f. "In its sole discretion, [CHR] may withhold compensation owed to Carrier" (ECF 112, Ex. B, ¶ 4).

g. **INDEPENDENT CONTRACTOR.** Carrier is an independent contractor and shall exercise exclusive control, supervision, and direction over (i) the manner in which transportation services are provided, (ii) the persons engaged in providing transportation services; and, (iii) the equipment selected and used to provide transportation services" (ECF 112, Ex. B, ¶ 11).

16. CHR and CTS entered into two separate Contract Addenda and Load Confirmation Sheets ("Load Agreements") in addition to the Carrier Services Agreement. (ECF 120, Ex. 10).

17. The Load Agreements set forth several conditions required of CTS, including:

a. "Trailer must be less than 10 yrs old, dry, clean, completely empty, with smooth floors, swing doors, and no holes." (ECF 120, Ex. 10, p. 2, 5, 8).

b. CTS' "motor vehicle equipment shall be dedicated to [CHR]'s exclusive use while transporting the cargo subject to this booking." (ECF 120, Ex. 10, p. 4, 7, 10).

c. "This rate is contingent upon successful and on-time completion of all load requirements." (ECF 120, Ex. 10, p. 4, 7, 10).

d. "Accessorial charges (including but not limited to labor, detention, and/or layover charges) must be authorized and approved." (ECF 120, Ex. 10, p. 4, 7, 10).

e. "the following electronic shipment status updates [via approved technology] … Arrival and departure from Shipper(s) within thirty (30) minutes of occurrence; - A minimum of one check call per day, prior to 10:00am, each day that Carrier is in possession of this shipment; and – Arrival at and departure from Receiver(s) within thirty (30) minutes of occurrence." (ECF 120, Ex. 10, p. 4, 7, 10).

18. CHR received "in-transit updates" and "tracks the tractor as its moving along and making its way towards delivery." (ECF 120, Ex. 7, p. 68).

19. CHR paid CTS by the load, and Clark was paid from this amount. (ECF 120, Ex. 8, p. 25-26).

20. Clark understood that it was important to do what CHR required for any given load. (ECF 120, Ex. 8, p. 19-20).

21. The Bill of Lading for the load CTS was transporting at the time of the incident identified CHR as the "Carrier" for the load. (ECF 112, Ex. C).

22. CTS does not appear anywhere on the Bill of Lading. (ECF 112, Ex. C).

23. Neither CHR nor CTS drafted the Bill of Lading. (ECF 112, ¶ 5) (ECF 120, Ex. 3, p. 20-21).

24. CHR never had physical possession of the cargo at issue in this case. (ECF 112, ¶ 7).

DISCUSSION

1. Claims Against CHR

Plaintiff alleged the following causes of action against CHR: (1) Vicarious Liability, (2) Negligence, and (3) Joint Enterprise. (ECF 39). CHR argues that Plaintiff's claims against it are preempted by the Federal Aviation Administration Authorization Act of 1994 ("FAAAA") as it was the broker, rather than the carrier, for the load at issue. This Court previously declined to dismiss Plaintiff's claims against CHR based on FAAAA preemption because the Court could not determine, based on the facts alleged in the complaint, whether CHR acted as carrier or broker for the load at issue. (ECF 73). However, at this stage, the undisputed material facts show that CHR acted as broker for the load at issue, and, thus, FAAAA preemption applies to Plaintiff's claims against CHR, and the safety exception does not.

a. FAAAA Preemption

The FAAAA prohibits states, political subdivisions, or political authorities from enacting or enforcing any "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. § 14501(c)(1). However, the FAAAA includes a safety exception which states that the preemption provision "shall not restrict the safety regulatory authority of a State with respect to motor vehicles." *Id.* § 14501(c)(2). Courts have routinely found that the FAAAA does not preempt claims against motor carriers for personal injury, but whether state law claims raised against brokers are preempted by the FAAA is less clear. *See generally*

Gauthier v. Hard to Stop LLC, 2024 WL 3338944 (11th Cir. July 9, 2024) (negligent selection claim against broker was preempted by FAAAA); *Aspen Am. Ins. Co. v. Landstar Ranger, Inc.,* 65 F.4th 1261 (11th Cir. 2023) (negligent selection claims against broker were preempted by the FAAAA); *Ye v. GlobalTranz Enters.*, 74 F.4th 453 (7th Cir. 2023) (negligent hiring claim against broker was preempted by the FAAAA); *Miller v. C.H. Robinson Worldwide, Inc*., 976 F.3d 1016 (9th Cir. 2020) (negligence claims against brokers that arise out of motor vehicle accidents are not preempted by the FAAAA because the safety exception applies).

There is no dispute that Plaintiff's state-law claims seek to enforce a "provision having the force and effect of law" subject to FAAAA preemption. However, the parties dispute whether CHR is a carrier or broker, whether Plaintiff's claims are "related to" a broker's service, and whether the safety exception applies. The Court will address each preemption element in turn.

i. Motor Carrier v. Broker

A broker is a person that "sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation." 49 U.S.C. § 13102(2). A motor carrier is a person "providing motor vehicle transportation for compensation." 49 U.S.C. § 13102(14). "Motor carriers … are not brokers … when they arrange or offer to arrange the transportation of shipments which they are authorized to transport and which they have accepted and legally bound themselves to transport." 49 C.F.R. § 371.2(a). This is a case-specific, fact-intensive analysis which may make summary judgment inappropriate in some

cases, "[b]ut the question need not always be difficult." *Essex Ins. Co. v. Barrett Moving & Storage, Inc.*, 885 F.3d 1291, 1302 (11th Cir. 2018).

CHR argues the undisputed material facts show that it was only acting as a broker for the load at issue, and thus preemption applies; whereas Plaintiff argues that whether CHR acted as a broker or carrier is a disputed issue of fact. As previously discussed by this Court, "the question will depend on how the party held itself out to the world, the nature of the party's communications and prior dealings with the shipper, and the parties understanding as to who would assume responsibility for the delivery of the shipment in question." *Chillz Vending, LLC v. Greenwood Motor Lines, LLC*, No. 4:23-cv-00065, 2023 WL 7135152, at *3 (D. Utah, Oct. 30, 2023) (quoting *Essex Ins. Co. v. Barret Moving & Storage, Inc.*, 885 F.3d 1292, 1302 (11th Cir. 2018)). "Numerous courts have found that 'the key distinction' between a carrier and a broker is 'whether the disputed party accepted legal responsibility to transport the shipment,' in which case the party is a carrier." *Swenson v. Alliance Moving & Storage LLC*, No. 21-cv-01968, 2022 WL 1508506, at *7 (D. Colo. April 26, 2022) (citing *Essex Ins. Co. v. Barret Moving & Storage, Inc.*, 885 F.3d 1292, 1301 n. 4 (11th Cir. 2018)) (collecting cases); *see Tryg Ins. v. C.H. Robinson Worldwide, Inc.*, 767 F. App'x 284, 286-87 (3d Cir. 2019).

The vast majority of the undisputed material facts support a finding that CHR was the broker, rather than carrier, for the load at issue. Primarily, CHR's agreements with both Domtar and CTS explicitly distinguish CHR as the broker for the load and show that CHR held itself out as broker to the parties involved. The Broker Service Agreement referred to CHR as "BROKER" and the Carrier Services Agreement refers to CTS as

"Carrier." (ECF 112, Ex. A, B). While there can be more than one carrier for any single load, CHR was not named as "Carrier" for the load in any contract. Both the Broker Service Agreement and the Carrier Services Agreement stated that CHR would "arrange the transportation" of the load with a carrier—mimicking the statutory definition of broker. 49 U.S.C. § 13102(2) (a broker "arrang[es] for, transportation by motor carrier for compensation."). Further, the Broker Services Agreement stated CHR's "responsibility shall be limited to arranging for, but not actually performing, transportation of [Domtar's] freight"—thus excluding the statutorily defined responsibilities of carriers. (ECF 112, Ex. A, ¶ 2); 49 U.S.C. § 13102(14). "[I]f [a party] makes clear in writing that it is merely acting as a go-between to connect the shipper with a suitable third-party carrier," like CHR did in both agreements, it will be considered a broker. *Essex*, 885 F.3d at 1302; *Gutierrez v. Uni Trans. LLC,* 2023 WL 5099694, at *6 (D.N.M. Aug. 9, 2023); *Swenson*, 2022 WL 1508506, at *7. Yet, Plaintiff argues the writings and other circumstances still create a dispute as to what role CHR was playing for the load. They do not.

Plaintiff first asserts a statement made by CHR that, from Domtar's standpoint, "all it knows is it's a CHR load," reflects the parties' understanding that CHR was the carrier for the load. (ECF 121, Ex. 7, p. 112-13). However, the load being a "CHR load" does not distinguish between whether CHR was the broker or carrier on the load and does not create a genuine dispute as to CHR's role. Referring to the load as a "CHR load" could just as easily be referring to the load as CHR's as broker. Plaintiff also argues that CHR's name being listed as the carrier on the Bill of Lading also demonstrates CHR held itself out as carrier for the load. However, the Broker Service Agreement states "SHIPPER will show

BROKER as the "carrier of record" on the Bill of Lading for all loads BROKER tenders to Carriers on behalf of SHIPPER. This is for SHIPPER's convenience and shall not change BROKER's status as property broker." (ECF 112, Ex. A, ¶ 4). The Broker Services Agreement makes clear that the Bill of Lading does not change CHR's status as a broker. *See Gutierrez*, 2023 WL 5099694, at *6 (holding that, despite the Bill of Lading listing the broker as carrier, because the parties' agreement addressed such conflict, the agreement naming the party as broker governs).

Plaintiff next argues the terms of the Carrier Services Agreement demonstrated that CHR held itself out as the party responsible for the load. Plaintiff primarily relies on the Carrier Services Agreement and Load Agreement terms that dictated what equipment would be used and gave CHR control over how much and when CTS would be paid. (ECF 112, Ex. B). Plaintiff additionally argues that several provisions in the Broker Service Agreement additionally demonstrate that CHR held itself out as responsible for the load, including (1) CHR being the sole contact point for the carrier, (2) CHR being liable for loss and damage on shipments, and (3) CHR agreeing to only hire carriers who will indemnify Domtar or indemnify Domtar itself if a carrier refuses. (ECF 112, Ex. A). Plaintiff argues these provisions create a dispute as to how CHR held itself out to parties and whether CHR took responsibility for the load.

The Court disagrees that these provisions create a genuine dispute as to how CTS or Domtar perceived CHR. The Broker Service Agreement makes clear to Domtar that CHR is the broker. The Carrier Services Agreement makes clear that CTS is the carrier. Further, Plaintiff offers no evidence that any party ever perceived CHR as the carrier for

this load. The Court also disagrees that these provisions demonstrate the type of "legal responsibility" that is necessary to create a dispute as to whether CHR was a carrier for the load. A party is considered a motor carrier rather than a broker if they "accepted legal responsibility to *transport* the shipment" or have "legally bound themselves to *transport*." *Swenson*, 2022 WL 1508506, at *7 (citing *Essex*, 885 F.3d at 1301 n. 4); 49 C.F.R. § 371.2(a) (emphasis added). Like in the statutory definitions, the important distinction between carriers and brokers is that carriers are responsible for *providing* the *transportation*. While CHR may have assumed legal responsibility for any loss or damage to the shipment product,[2] it never accepted legal responsibility or bound itself to the physical transportation of the load. Rather, CHR explicitly stated its role would be limited to arranging for but *not* providing transportation. (ECF 112, Ex. A, ¶ 2). Further, CHR's control over the condition of equipment or even tracking the shipment are merely an aspect of "arranging the transportation." If every broker who dictated minimum requirements for a carrier's transportation of a load became a carrier, then only careless brokers would maintain their title.

None of the facts set forth by Plaintiff raise a genuine issue of material fact. Given the clarity of CHR's role in the load at issue in the written agreements and no evidence that any party ever perceived CHR as the carrier for the load, Plaintiff fails to set forth any facts

[2] The Carrier Services Agreement also noted that CHR would indemnify Domtar in the event that the carrier fails or refuses to indemnify Domtar. (ECF 112, Ex. A, ¶ 9). However, Plaintiff set forth no evidence that CTS failed or refused to indemnify Domtar and thus fails to set forth facts to show CHR was actually responsible for indemnifying Domtar.

from which a reasonable jury could conclude that CHR did not act as broker for the load at issue. *Schultz v. Thorne*, 415 F.3d 1128, 1132 (10th Cir. 2005).

ii. "Related to" a broker's services with respect to the transportation of property

FAAAA preemption only applies to laws "related to" the "services" provided by brokers "with respect to the transportation of property." 49 U.S.C. § 14501(c)(1). The Supreme Court has held the phrase "related to" under the FAAAA includes "state laws 'having a connection with or reference to' … 'rates, routes, or services,' whether directly or indirectly." *Dan's City Used Cars, Inc. v. Pelkey*, 569 U.S. 251, 260 (2013). Yet, "'related to' does not mean the sky is the limit," and preemption does not apply to state laws affecting prices, routes, and services "in only a 'tenuous, remote, or peripheral ... manner.'" *Id.* at 260-61 (citations omitted).

Plaintiff alleges three claims against CHR: (1) vicarious liability for the actions of the motor carrier because CHR had the right to control the means and manner of work performed, (2) negligent hiring, and (3) engaging in a joint enterprise with CTS and the driver. (ECF 39). Plaintiff argues the state law personal injury claims are not preempted because FAAAA only preempts economic regulations. More specifically, Plaintiff argues the general common law of negligence does not expressly refer to brokers' services nor does it significantly impact the FAAAA's deregulatory and preemption-based objectives, and so are not preempted. CHR argues that Plaintiff's personal injury claims relate to CHR's selection of a motor carrier—the heart of a broker's services—and, thus, this Court

should find the claims are related to broker services, as have the three circuit courts who have addressed the issue.

Three circuit courts—the Seventh, Ninth, and Eleventh—have considered whether common law claims against brokers are "related to" the services provided by such brokers. *See generally Ye*, 74 F.4th 453; *Aspen*, 65 F.4th 1261; *Miller*, 976 F.3d 1016; *Gauthier*, 2024 WL 3338944 (adopting the same reading of the FAAAA as *Aspen*); *Montgomery v. Caribe Transport II, LLC*, 124 F.4th 1053 (7th Cir. 2025) (declining to overrule *Ye*). All three courts concluded that "selection of motor carriers is one of the core services of brokers" and, thus, negligent hiring claims are "related to" broker services. *Miller*, 976 F.3d at 1023-24; *see Ye*, 74 F.4th at 459; *Aspen*, 65 F.4th at 1267. The Ninth Circuit emphasized that claims are "related to" a broker's service when they "seek[] to hold [the broker] liable at the point at which it provides a 'service' to its customers." *Miller*, 976 F.3d at 1023-24. To be clear, "the FAAAA does not preempt 'general' state laws (like 'a prohibition on smoking in certain public places') that regulate brokers 'only in their capacity as members of the public.'" *Aspen,* 65 F.4th at 1268 (quoting *Rowe,* 552 U.S. at 375). But Plaintiff's claims do no such thing. The negligent hiring claim is directed at CHR's selection of a motor carrier—a core broker service. And the vicarious liability and joint enterprise claims are similarly directed at CHR's arrangement of transportation for the shipment by a carrier—a core broker service. Neither claim regulates CHR in its capacity as members of the public. All three claims alleged against CHR "seek[] to interfere at the point at which C.H. Robinson 'arrang[es] for' transportation by motor carrier," thus the claims are "related to" CHR's services as a broker. *Id.* at 1024.

Finally, the FAAAA's preemption provision does "not bar state-law claims that relate to a broker's services 'in any capacity'—only those services that are 'with respect to the transportation of property." *Aspen*, 65 F.4th at 1267. The FAAAA's definition of "transportation" includes "services related to [the movement of property], including arranging for …interchange of passengers and property." Plaintiff's claims arise directly out of CHR's services provided with respect to arranging for movement of property. *See Aspen,* 65 F.4th at 1270-71 (stating the Supreme Court has previously interpreted "with respect to" to require a "direct relation"). Therefore, because Plaintiff's claims relate to CHR's broker services with respect to the transportation of property, the claims fall within the preemptive scope of the FAAAA unless one of the FAAAA's preemption exceptions apply.

iii. Safety Exception

While the Seventh, Ninth, and Eleventh Circuit agree that claims directed at a broker's hiring of a motor carrier are "related to" broker services, the circuits are split as to whether the safety exception saves such claims. The FAAAA's safety exception provides that laws within a state's "safety regulatory authority … with respect to motor vehicles" are not preempted. § 14501(c)(2)(A). Many courts agree that a state's tort law is part of its "safety regulatory authority." *Miller,* 976 F.3d at 1026-29; *Aspen,* 65 F.4th at 1268-70. However, this Court's focus is on whether Plaintiff's claims against CHR are laws "with respect to motor vehicles"—"language the Supreme Court has determined 'massively limits the scope' of the safety exception." *Ye*, 74 F.4th at 460 (quoting *Dan's City Used Cars*, 569 U.S. at 261).

The Seventh and Eleventh Circuits held that the safety exception requires a direct link between the state law claims against brokers and motor vehicle safety, which they found did not exist. *Ye*, 74 F.4th at 460-61; *Aspen*, 65 F.4th at 1271-72; *Gauthier,* 2024 WL 3338944, at *2 (following *Aspen*); *Montgomery,* 124 F.4th at 1058 (declining to overrule *Ye*). The Ninth Circuit is the only circuit court to hold that the safety exception saves such claims. In a decision predating *Ye* and *Aspen*, the Ninth Circuit held that "with respect to motor vehicles" is synonymous to "relating to" and thus requires only an indirect connection, which was found to exist between negligence claims against brokers and motor vehicles. *Miller*, 976 F.3d at 1030. The Court finds the Seventh and Eleventh Circuits' interpretations of "with respect to motor vehicles" more persuasive.

The Court in *Miller* primarily focused on Ninth Circuit precedent which held that "with respect to" is synonymous with "relating to" in the FAAAA, and only requires a connection (direct or indirect). 976 F.3d at 1030 (citing *Cal. Tow Truck Ass'n v. City and Cnty. of San Francisco*, 807 F.3d 1008, 1021-22 (9th Cir. 2015). This Court is not bound by Ninth Circuit precedent. And, considering that Congress included both "with respect to" and "relating to" in § 14501(c)(2)(A), this Court finds, rather, the phrases were not intended to be synonymous in the FAAAA. Notably, the Ninth Court has since acknowledged its decision in *Miller* relied on a presumption of preemption which conflicted with the Supreme Court's instruction to focus on "the plain wording of the clause." *R.J. Reynolds Tobacco Co. v. Cnty. of Los Angeles,* 29 F.4th 542, 553 n.6 (9th Cir. 2022).

The courts in *Ye* and *Aspen*, rather, drew their interpretations of "with respect to motor vehicles" from a previous Supreme Court interpretation of the phrase. *Ye*, 74 F.4th at 460-61 (citing *Dan's City Used Cars*, 569 U.S at 261).; *Aspen*, 65 F.4th at 1270-71 (citing *Dan's City Used Cars*, 569 U.S at 261). The Supreme Court in *Dan's City Used Cars* "determined that the phrase 'with respect to the transportation of property' in the statute's immediately preceding subsection 'massively limits' the scope of that provision." *Aspen*, 65 F.4th at 1271. "Just as the phrase 'with respect to the transportation of property' 'massively limits' the preemption provision, we read the phrase 'with respect to motor vehicles' to impose a meaningful limit on the exception to the preemption provision." *Id.*

As the courts in *Ye* and *Aspen* discussed, beyond the safety exception, the FAAAA preserves "the authority of a State to impose highway route controls or limitations based the size or weight of a motor vehicle or the hazardous nature of the cargo" and regulate "insurance requirements." § 14501(c)(2)(A). "If an *indirect* connection to motor vehicles made a state law 'with respect to motor vehicles' for the purposes of the safety exception, then Congress' inclusion of a separate exception to allow states to impose highway route controls and cargo limits would almost certainly be redundant as such controls and limits are indirectly related to motor vehicle safety." *Aspen*, 65 F.4th at 1272.

An indirect connection would also render the phrase "with respect to" meaningless. The preemption provision to which the safety exception applies only covers state laws "related to a price, route, or service of any motor carrier …, broker, or freight forwarder with respect to the transportation of property." § 14501(c)(1). "[E]very state law that relates to the prices, routes, or services of a motor carrier, broker who contracts with a motor

carrier, or freight forwarder who uses a motor carrier will have at least an *indirect* relationship to motor vehicles—motor vehicles are how motor carriers move property from one place to another." *Aspen*, 65 F.4th at 1271. Thus, "with respect to" would have no meaningful effect and would violate the fundamental canon of statutory interpretation that courts should not "construe a statute in a way that renders words or phrases meaningless, redundant or superfluous." *Bridger Coal Co./Pac. Minerals, Inc. v. Dir., Office of Workers' Comp. Programs, U.S. Dep't of Labor*, 927 F.2d 1150, 1153 (10th Cir. 1991). Otherwise, the exception would swallow the rule.

Notably, the safety exception also fails to expressly mention brokers or broker services. While the preemption provision references broker services, "Congress declined to expressly mention brokers again in reference to states' safety authority." *Ye*, 74 F.4th at 461. As both the preemption provision and safety exception reside in the section governing "Motor Carriers of Property" rather than brokers, "Congress' inclusion of brokers in one subsection and exclusion in another suggests that the omission was intentional." *Id.* (citing *Rotkiske v. Klemm*, 598 U.S. 8, 14 (2019)).

"[T]he general trend of authority among district courts overwhelmingly follows the *Ye/Aspen* line of cases, deeming negligent hiring claims asserted against brokers to be preempted by the FAAAA and not salvaged by the application of the safety exception." *Trujillo v. Nucor Corp.*, 2025 WL 1251192, at *4 (D. Colo. Jan. 2, 2025) (citing *Fueling v. S&J Logistics*, No. 7:22-cv-00905-JDA, 2024 WL 4802709, at *3-6, n.4 (D.S.C. Nov. 15, 2024) (and cases cited therein); *McElroy Truck Lines, Inc. v. Moultry*, No. 3:23-cv-01056, 2024 WL 4593852, at *6-11 (M.D. Tenn. Oct. 28, 2024); *Cox v. Total Quality*

Logistics, Inc., No. 1:22-cv-00026, 2024 WL 2962783, at *2-8 (S.D. Ohio June 12, 2024); *Bailey v. Progressive Cnty. Mut. Ins. Co.,* No. 22-5161, 2024 WL 3845966, at *2-4 (E.D. La. Aug. 16, 2024); *Schriner v. Gerard,* No. CIV-23-206-D, 2024 WL 3824800, at *4-7 (W.D. Okla. Aug. 14, 2024); *Farfan v. Old Dominion Freight Line, Inc*., No. 4:23-cv-3470, 2024 WL 3958424, at *3-6 (S.D. Tex. Aug. 12, 2024); *PCS Wireless, LLC v. RXO Capacity Sols., LLC,* No. 3:23-cv-00572-KDB-SCR, 2024 WL 2981188, at *2-3 (W.D. N.C. June 13, 2024); *Morales v. Ok Transp., Inc*., No. 2:19-cv-00094, 2024 WL 3223675, at *2-5 (S.D. Tex. May 29, 2024); *Hamby v. Wilson*, No. 6:23-cv-249-JDK, 2024 WL 2303850, at *3-5 (E.D. Tex. May 21, 2024)). For all these reasons and consistent with the Seventh and Eleventh Circuits, this Court finds the plain text of § 14501(c)(2)(A) indicates more than an indirect connection with motor vehicles is required for the safety exception to apply.

"Absent unusual circumstances, the relationship between brokers and motor vehicle safety will be indirect, at most." *Ye*, 74 F.4th at 461. Plaintiff's claims against CHR exemplify this indirect connection between brokers and motor vehicles. All three of Plaintiff's claims against CHR are directed at CHR's selection and arrangement of a motor carrier who would transport the shipment. As discussed above, it is undisputed that CHR only arranged for the transportation and did not itself transport the shipment. Plaintiff did not set forth facts showing that CHR controlled the motor vehicle in any meaningful way outside the bounds of routine broker-management. CHR acted as a broker, not a carrier. Thus, the claims against CHR as a broker are "one step removed from a 'motor vehicle'" and only an indirect connection exists between the claims and motor vehicles. *Aspen*, 65

F.4th at 1272. Plaintiff's claims against CHR are not "with respect to motor vehicles" under the FAAAA's safety exception and are thus barred by its preemption provision.[3]

CONCLUSION AND ORDER

IT IS THEREFORE ORDERED that Defendant C.H. Robinson Worldwide's first Motion for Summary Judgment (ECF 110) is **GRANTED.**

IT IS FURTHER ORDERED that Defendant C.H. Robinson Worldwide's Second Motion for Summary Judgment (ECF 140) is denied as moot.

Dated this 24th day of June, 2025.

Scott W. Skavdahl
United States District Judge

[3] Other courts within the Tenth Circuit have also concluded that negligent brokering claims are preempted by the FAAAA and not saved by the safety exception. *See Loyd v. Salazar*, 416 F.Supp.3d 1290 (W.D. Okla. 2019); *Schriner v. Gerard,* 2024 WL 3824800 (W.D. Okla. Aug. 14, 2024); *Gobble v. Land Jet Trans. Inc.*, 2025 WL 1568100 (D. Colo. Feb. 12, 2025); *Trujillo v. Moore Brothers, Inc.*, 2025 WL 1250928 (D. Colo. Mar. 24, 2025).