



## Christopher J. Merrick

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**Christopher J. Merrick** is a shareholder in Flaster Greenberg's Litigation Department and a national leader in the area of commercial transportation law. Mr. Merrick handles all stages of litigation, including appellate litigation and alternative dispute resolution, and represents corporate clients acting as both plaintiffs and defendants. He also assists clients with preparation and revision of their commercial contracts, as well as navigating challenging regulatory issues impacting their operations.

Mr. Merrick's litigation practice is diverse but focuses exclusively on representing the interests of rail carriers, motor carriers (including household goods carriers), freight forwarders, intermediaries, warehouses, and ocean carriers in a wide variety of commercial transportation contexts. This has included notable matters involving more than \$100 million in alleged damages, including defending two carrier clients against a nationwide antitrust class action and prosecuting a carrier client's right to recover from a former vendor under the Racketeer Influenced and Corrupt Organizations (RICO) Act. Mr. Merrick also assist clients with an array of other commercial litigation matters, which can range from simple disputes with customers and vendors (often arising under the terms of a tariff, warehousing agreement, exempt contract, or federal statute/regulation), to major appellate and Surface Transportation Board matters with industry-wide implications. This has given him the opportunity to secure significant victories for clients in an array of high-value freight loss and damage lawsuits throughout the country.

In addition to his litigation work, Mr. Merrick provides ongoing advice on emerging technologies and strategies for minimizing risk exposure. This includes acting as strategic counsel to help clients navigate the complex and often-changing regulatory landscape governing the transportation and logistics sectors. Chris also works with regulatory agencies throughout the country to help clients secure and maintain necessary licensure. And he assists with preparation and analysis of carrier tariffs, broker and carrier contracts (including contracts under 49 U.S.C. § 14101 and § 10709), intermodal transportation agreements, as well as warehousing agreements.

### Practice Areas

Transportation

Litigation

Alternative Dispute  
Resolution: Litigation

Business and Corporate Law

### Admissions

New Jersey

Pennsylvania

Supreme Court of  
Pennsylvania

Supreme Court of New  
Jersey

U.S. Court of Appeals,  
Second Circuit

U.S. Court of Appeals,  
Fourth Circuit

U.S. Court of Appeals, Sixth  
Circuit

U.S. Court of Appeals,  
Seventh Circuit S. Court of  
Federal Claims

U.S. District Court for the  
Eastern District of  
Pennsylvania

U.S. District Court for the  
District of New Jersey

U.S. District Court for the  
Northern District of Indiana

U.S. District Court for the  
Eastern District of Michigan

U.S. District Court for the  
District of Colorado

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Chris is a longtime member of the National Conference of Freight Counsel and the Villanova Law School J. Willard O'Brien American Inn of Court. He also holds membership in the Transportation Lawyers Association, a nonprofit bar association comprised of in-house, government and private practice attorneys at the forefront of the transportation industry, and he is a participant in the annual Transportation Law Institute. He previously served as law clerk to the Honorable Lynne A. Sitarski of the United States District Court for the Eastern District of Pennsylvania, and also served as a Special Deputy Attorney General in the Civil Litigation Section of the New Jersey Attorney General's office.

### REPRESENTATIVE MATTERS

- *Norfolk S. Ry. Co. v. Jefferson Iron & Metal Brokerage, Inc.*, 2012 WL 12951918 (N.D. Ala. Mar. 16, 2012), *aff'd*, 490 F. App'x 297 (11th Cir. 2012), successful in persuading trial and appellate courts that constructive notice for purposes of assessing demurrage can be established through electronic data available on carrier's website
- *CNA Ins. Co. v. Hyundai Merch. Marine Co., Ltd.*, 747 F.3d 339 (6th Cir. 2014), in a matter of first impression on the circuit-court level, successfully argued that the Carmack Amendment does not apply to export intermodal shipments transported under a through bill of lading, resulting in reversal of trial-court judgment against rail clients and their dismissal from case
- *CSX Transp., Inc. v. Emjay Env'tl. Recycling, Ltd.*, 2014 WL 4175798 (E.D.N.Y. Aug. 20, 2014), *aff'd*, 629 F. App'x 147 (2d Cir. 2015), successfully obtained summary judgment for client, and affirmance in appellate court, in complex contractual dispute involving more than \$1 million in unpaid carrier freight charges and counterclaim seeking more than \$1 million in damages
- *Home Assur. v. A.P. Moller-Maersk*, 13 F. Supp. 3d 277, 287 (S.D.N.Y. 2014), *aff'd sub nom. Am. Home Assurance Co. v. A.P. MollerMaersk A/S*, 609 F. App'x 662 (2d Cir. 2015), successfully obtained summary judgment for rail carrier and ocean carrier clients, as well as affirmance in appellate court, in complex international shipping dispute involving commercial construction equipment
- *Norfolk S. Ry. Co. v. Baltimore & Annapolis R.R. Co.*, 2016 WL 11606622 (D.S.C. Apr. 25, 2016), *aff'd in relevant part*, 715 F. App'x 244 (4th Cir. 2017), successfully obtained summary judgment on client affirmative claim, as well as preliminary injunction, fee-shifting, and affirmance in appellate court, in dispute involving conversion of client property
- *Herod's Stone Design v. Mediterranean Shipping Co. S.A.*, 434 F. Supp. 3d 142 (S.D.N.Y. 2020), *aff'd*, 2021 WL 562344 (2d Cir. Feb. 16, 2021), successfully secured dismissal of carrier client at pleadings stage, and affirmance in appellate court, in complex maritime dispute involving \$864,000 in alleged damage to an intermodal shipment of marble

U.S. District Court for the Eastern District of Wisconsin

U.S. District Court for the Southern District of Indiana

U.S. District Court for the Central District of Illinois

U.S. District Court for the Southern District of Texas

### Education

- Villanova University School of Law, J.D., 2008
- Appalachian State University, B.S., 2003

### Clerkships

Law Clerk, Honorable Lynne A. Sitarski of the United States District Court for the Eastern District of Pennsylvania

Special Deputy Attorney General, Civil Litigation Section of the New Jersey Attorney General's office

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- *Curtis Markson, et al, v. CRST International, Inc. et al*, Markson v. Crst Int'l, 2022 U.S. Dist. LEXIS 47768 (C.D. Cal. Feb. 24, 2022), lead counsel for two carrier clients in nationwide putative class action involving Sherman Act antitrust claims against multiple carriers where plaintiffs' motion for class certification was successfully defeated
- *Norfolk S. Ry. Co. v. Boatright R.R. Prod., Inc.*, 2021 WL 1264237 (N.D. Ala. April 06, 2021), represented railroad client in prosecution of contract, RICO, and fraud action related to alleged fraudulent treatment of more than 4.5 million rail ties leading to more than \$190,000,000 in damages
- *Nipponkoa Ins. Co., Ltd. v. Norfolk S. Ry. Co.*, 794 F. Supp. 2d 838 (S.D. Ohio 2011), successfully persuaded court to extend covenant not to sue clause appearing in ocean carrier's bill of lading to downstream rail carrier, resulting in client's dismissal
- *Phoenix Ins. Co., Ltd. v. Norfolk S. R.R. Corp.*, 2014 WL 2008958 (D.N.J. May 16, 2014), successfully persuaded Court to enforce \$25,000 limitation of liability in seven-figure freight damage claim against client involving electric transformer
- *Alfamodess Logistics, LLC v. Catalent Pharma Sols., LLC*, 2014 WL 4545763 (E.D. Pa. Sept. 12, 2014), assisted with obtaining successful ruling for client at bench trial in matter involving attempts to defraud client by insider in client shipping department and brokerage company
- *Daniluk v. Norfolk S. Ry. Co.*, 2015 WL 148560 (D. Colo. Jan. 12, 2015), successfully obtained summary judgment in international shipping dispute involving tortious interference claims against client
- *CSX Transportation, Inc. v. PSL N. Am., LLC*, 2015 WL 9181107 (N.D. Ala. Dec. 17, 2015), obtained 100% recovery for client at trial in commercial dispute arising out of damages incurred by client due to shipper's improper loading of pipe for transportation
- *CSX Transportation, Inc. v. Five Star Enter. of Illinois, Inc.*, 2018 WL 6735705 (N.D. Ill. Dec. 24, 2018), successfully defeated claim for more than \$30 million in damages against client and additionally obtained judgment against shipper and its owner personally in conjunction with their perpetration of fraud scheme against client

#### PROFESSIONAL AFFILIATIONS

- Transportation Lawyers Association
- Transportation Law Institute
- Conference of Freight Counsel
- Villanova University School of Law Inn of Court

#### ARTICLES & ALERTS

To Hire or Not to Hire: A Difficult Question Made Easier to Answer Courtesy of the Eighth Circuit's Ruling in CRST v. Swift

*The Transportation Lawyer* (February 2022)

Another Trucking Co. Settles Out Of No-Poach Suit  
*Law360* (August 25, 2021)

Flaster Greenberg Adds Transportation Practice With New Hire  
*Law360* (July 20, 2021)

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Norfolk Southern Railroaded by Tie Supplier, Suit Says  
*Westlaw Journal Product Liability* (November 20, 2017)

2nd Circ. Affirms Railroads' Win In Wreck Coverage Suit  
*Law360* (August 6, 2014)

The Continuing Role of Carrier Tariffs in the Aftermath of *ABB, Inc. v. CSX Transportation, Inc.*  
*The Transportation Lawyer* (October 2013)

A New Take on Locomotive Video: A Troubling New Trend in the Discoverability of Locomotive Viewer Software  
*Rail Law Reconnaissance* (October 2013)

East Coast Coal Shippers: The Walking Dead?  
*Rail Law Reconnaissance* (February 2013)