No. 25-170

IN THE

Supreme Court of the United States

SUNCOR ENERGY (U.S.A.) INC., *et al.*,

Petitioners,

v.

COUNTY COMMISSIONERS
OF BOULDER COUNTY, *et al.*,

Respondents.

On Writ of Certiorari
to the Supreme Court of Colorado

BRIEF OF ATLANTIC LEGAL FOUNDATION AND FEDERATION OF DEFENSE & CORPORATE COUNSEL AS *AMICI CURIAE* IN SUPPORT OF PETITIONERS

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INTEREST OF THE *AMICI CURIAE* [1]

Established in 1977, the **Atlantic Legal Foundation** (ALF) is a national, nonprofit, nonpartisan, public interest law firm. ALF's mission for the past five decades has been to advance the rule of law and civil justice by advocating for individual liberty, free enterprise, property rights, limited and responsible government, sound science in judicial and regulatory proceedings, and effective education, including parental rights and school choice. With the benefit of guidance from the distinguished legal scholars, former government officials, corporate legal officers, private practitioners, business executives, and prominent scientists who serve on its Board of Directors and Advisory Council, ALF pursues its mission by participating as *amicus curiae* in carefully selected appeals before the Supreme Court, federal courts of appeals, and state supreme courts. *See* atlanticlegal.org.

The **Federation of Defense & Corporate Counsel** (FDCC) is a not-for-profit corporation with national and international membership of 1,550 defense and corporate counsel working in private practice, as in-house counsel, and as insurance industry professionals. A significant number of FDCC members practice in the trial and appellate courts of

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[1] No counsel for a party authored this brief in whole or part, and no party, counsel for a party, or person other than the *amici curiae* and their counsel made a monetary contribution intended to fund preparation or submission of this brief.

the United States both at the federal and state level. Since 1936, FDCC's members have established a strong legacy of representing the interests of civil defendants, including publicly and privately owned businesses, public entities, and individual defendants. The FDCC seeks to assist courts in addressing issues of importance to its membership that concern the fair and predictable administration of justice. *See* thefederation.org.

* * *

ALF has participated as *amicus curiae* in several climate change-related tort suits which, like this one, seek to regulate interstate greenhouse gas ("GHG") emissions and global warming by imposing multi-million dollar, state-law damages awards and additional relief against fossil fuel energy companies. These include amicus briefs filed jointly by ALF and FDCC at the petition stage in the instant appeal and on the merits in *Mayor and City Council of Baltimore v. B.P. P.L.C.*, No. 11-2025, 2026 WL 809501 (Md. Sup. Ct. Mar. 24, 2026).

Amici believe that any form of regulation of interstate greenhouse gas emissions implicates uniquely federal environmental, economic, national security, and foreign policy interests that should be addressed by policy-makers in the political branches, not by the courts.

SUMMARY OF ARGUMENT

As Colorado Supreme Court Justice Samour emphasized in his dissenting opinion below, this case

is about "*global* climate change." App-25a. The important question presented is whether federal law precludes respondents' state-law claims (and similar claims brought by dozens of state and local governments in other pending litigation) for local harm allegedly caused by fossil fuel energy companies' supposed role in "exacerbating climate change" and "caus[ing] . . . alteration of the climate." App-2a. The consequences of allowing these proliferating state-court suits to proceed are readily foreseeable and potentially disastrous not only for the fossil fuel industry, but also for the nation's economy, critical infrastructure, and national security.

If respondents can pursue this suit for alleged local harm due to petitioners allegedly causing or exacerbating global climate change, so can *tens of thousands* of other governmental units throughout the United States. Dozens of state and local governments, many at the urging and with the backing of the plaintiffs' bar and climate activists, already are attempting to do exactly that. And if they succeed, a multitude of industries and businesses—and even individuals allegedly harmed by climate change—will be next in line to sue the same group of fossil fuel companies.

Global climate change is a multi-source, *borderless* phenomenon. Damages suits that attempt to isolate a single type of contributor to, or cause of, global climate change (e.g., the petitioner energy companies' production, marketing, and sale of fossil fuels in the United States)—and fragment their alleged liability

for the newly minted *global* tort of altering the earth's climate into myriad politically demarcated pieces (e.g., petitioners' alleged liability to the City of Boulder, Colorado for causing or exacerbating global climate change)—conflict with two key scientific facts: (i) Climate change has no boundaries, and (ii) there are countless sources of greenhouse gas emissions both in the United States and abroad. This is why a city's, county's, or other political subdivision's claims for the alleged local effects of climate change, no matter how mundanely labeled or artfully drafted, necessarily implicate uniquely federal interests that preclude state-law climate-change tort suits.

Instead, a uniform federal rule of decision holding that such suits are constitutionally barred, statutorily preempted, or both, is urgently needed. Allowing Colorado or any other state to adjudicate such suits would violate the principles of interstate federalism by elevating one state's judicial decisions over those of other states, or by pitting states against each other for dominance over regulation of global warming and climate change.

The Court should hold, therefore, that federal law precludes climate-change tort litigation.

ARGUMENT

The Court Should Hold That Federal Law Precludes Climate-Change Tort Suits

A. Climate-change tort suits significantly conflict with uniquely federal interests

1. Despite their lengthy diatribe against fossil fuel producers, respondents assert that their damages claims are not intended to regulate "any oil or gas operations in the State of Colorado, or elsewhere, or to enforce emissions controls of any kind." Am. Compl. ¶ 542;[2] *see also* App-4a. This disclaimer, which presumably is an attempt to plead around federal preemption, is belied by respondents' introductory statement that they "bring this lawsuit against [petitioners] for the substantial role that their production, promotion, refining, marketing and sale of fossil fuels played and continues to play in *causing, contributing to and exacerbating* alteration of the climate." Am. Compl. ¶ 2 (emphasis added).

"[W]hat matters is the crux—or, in legal-speak, the gravamen—of the plaintiff[s]' complaint, setting aside any attempts at artful pleading." *Fry ex rel. E.F. v. Napoleon Cmty. Schools*, 580 U.S. 154, 169 (2017). In his dissenting opinion here, Colorado Supreme Court Justice Samour recognized that respondents' "requested relief will inevitably impose a limitation on

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[2] Available at https://perma.cc/9PF8-DWF4.

GHG emissions. An award of damages, just like abatement, 'can effectively exert[]' regulation, no matter how the relief is framed or viewed." App-33a–34a (Samour, J., dissenting) (quoting *Kurns v. R.R. Friction Prods. Corp.*, 565 U.S. 625, 637 (2012)); *see also Riegel v. Medtronic, Inc.*, 552 U.S. 312, 324 (2008) ("[W]hile the common-law remedy is limited to damages, a liability award can be, indeed is designed to be, a potent method of governing conduct and controlling policy.") (internal quotation marks omitted).

"Make no mistake: Boulder looks to curb the energy companies' conduct by hitting them where it hurts—their wallets." App-34a (Samour, J., dissenting).

2. The true gravamen of respondents' complaint—petitioners' alleged liability under Colorado tort law for the localized physical effects of global warming and climate change due to nationwide, indeed global, use of their fossil fuel products—unavoidably implicates uniquely federal interests.

This Court recently reaffirmed that

> "a few areas, involving 'uniquely federal interests,' are so committed by the Constitution and laws of the United States to federal control that state law is pre-empted and replaced, where necessary, by federal law," fashioned by federal courts in the absence of congressional action.

Hencely v. Fluor Corp., 146 S. Ct. 1086, 1094 (2026) (quoting *Boyle v. United Techs. Corp.*, 487 U.S. 500,

504 (1988) (collecting cases)). State law, including state tort law, is preempted by uniquely federal interests where there is "'a significant conflict . . . between an identifiable federal policy or interest and the [operation] of state law.'" *Id.* at 1094-95 (quoting *Boyle*, 487 U.S. at 507). In such cases, there is no "presumption against preemption." *Id.* at 1102 (Alito, J., dissenting). "In other words, the 'fact that the area in question is one of unique federal concern changes what would otherwise be a conflict that cannot produce pre-emption into one that can.'" *Id.* (quoting *Boyle*, 487 U.S. at 508).

3. Here, respondents' climate-change tort claims unavoidably "implicate 'uniquely federal interests' . . . necessitating a 'uniform rule of decision,'" App-26a (Samour, J., dissenting) (citations omitted). Such a rule of decision—a rule that state-law climate-change tort suits are constitutionally barred or statutorily preempted—would be impossible to enforce if each of 50 states' separate court systems has free rein to address the same federal question in multiple tort suits against the same fossil fuel energy companies. As the Maryland Supreme Court explained last March in *Mayor and City Council of Baltimore v. B.P. P.L.C.*, No. 11-2025, 2026 WL 809501 (Md. Sup. Ct. Mar. 24, 2026),

> [a]llowing each of the 50 states (and the countless individual local governments located within them) to impose their own preferred policy solutions for climate change—with each state naturally focused

> on *local* rather than national or international impacts, would create a plainly "irrational system of regulation" that would lead to "chaotic confrontation between sovereign states."

Id. at *22 (quoting *Int'l Paper Co. v. Ouellette*, 479 U.S. 481, 496 (1987)).

In *Baltimore*, the Maryland Supreme Court held that federal law displaces or preempts a state-law climate-change tort suit closely analogous to the instant case and dozens of others that state and local governments have filed around the United States. *See id.* at *20 n.18 ("Our view of the claims here aligns with the dissent in the *Boulder* case.").

The state supreme court explained in *Baltimore* that "[a]lthough the [U.S. Supreme] Court declared that there is no *general* federal common law, it has recognized that there are some limited areas in which federal common law, or a federal rule of decision is 'necessary to protect uniquely federal interests.'" *Id.* at *8 (quoting *Tex. Indus., Inc. v. Radcliff Materials, Inc.*, 451 U.S. 630, 640 (1981)).

After an extensive survey of cases, *id.* at *10-*18, the state supreme court observed that "for more than a century, the Supreme Court and lower federal courts have held that interstate pollution is an inherently federal area necessarily governed by federal law." *Id.* at *18. The court "reject[ed] the local governments' narrow reading of their complaints to suggest that they only seek redress for 'deceptive and misleading

commercial conduct' within the sphere of their local powers and authority." *Id.* at *20.

> No amount of creative pleading can masquerade the fact that the local governments are attempting to utilize state law to regulate global conduct that is purportedly causing global harm. . . . One cannot isolate these local governments' claims from the continuum of the harmful effects of global warming on the entire planet. . . . The local governments cannot escape this inescapable conclusion: they are seeking to apply Maryland law to regulate conduct that occurs outside their jurisdictional borders, as well as within the State's borders. The local governments' police powers do not extend beyond their respective borders, and certainly do not authorize the policing of global conduct.

Id. For the same reason, respondents' state-law claims are precluded here because they significantly conflict with the uniquely federal interests relating to regulation of global warming and climate change.

4. This case also raises "significant federalism concerns." *Baltimore*, 2026 WL 809501, at *21. Allowing Colorado state courts to adjudicate respondents' claims would imperil "the principles of interstate federalism embodied in the Constitution." *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S.

286, 293 (1980). "Each State's equal dignity and sovereignty under the Constitution implies certain constitutional 'limitation[s] on the sovereignty of all of its sister States.'" *Franchise Tax Bd. of Cal. v. Hyatt*, 587 U.S. 230, 245 (2019) (quoting *Volkswagen*, 444 U.S. at 293). This is "a limitation express or implicit in the original scheme of the Constitution and the Fourteenth Amendment." *Volkswagen*, 444 U.S. at 293.

Because climate change is a nationwide, indeed global, phenomenon, holding fossil fuel producers liable under Colorado's or any other state's tort law for causing or exacerbating global climate change would upset the balance of interstate federalism. Such a state (or political subdivision of a state) would be using the state's tort law to exert its coercive power over the same major fossil fuel producers—and by so doing, make itself "more equal" than other states when imposing liability on, and seeking to regulate the lawful conduct of, those companies. *See generally Goodyear Dunlop Tires Ops., S.A. v. Brown*, 564 U.S. 915, 918 (2011) ("A state court's assertion of jurisdiction exposes defendants to the State's coercive power . . . .").

As the dissenting opinion below explains, "[w]e are but one indivisible nation. Yet, the majority in this case gives Boulder, Colorado, the green light to act as its own republic." App-24a (Samour, J., dissenting). Preserving the constitutional pillar of interstate federalism thus is another compelling reason for the

Court to hold that federal law precludes climate-change tort suits.

B. Petitioners' alleged liability for causing or exacerbating global climate change cannot be fragmented into myriad state and local pieces

1. The first sentence of the Colorado Supreme Court's majority opinion acknowledges that "this case presents issues of substantial global import." App-1a; *see also City of New York v. Chevron Corp.*, 993 F.3d 81, 88 (2d Cir. 2021) ("Global warming — as its name suggests — is a global problem . . . ."). But contrary to the majority's legal analysis, the question presented by this case is anything but "narrow." App-1a. Instead, "Boulder's damages claims . . . are based on harms the State of Colorado has allegedly suffered as a result of *global* climate change." App-25a (Samour, J., dissenting). Like so many other pending climate-change tort suits, the respondent local governments "are necessarily seeking damages for harms attributed to *all interstate and international emissions combined*—plain and simple." *Baltimore*, 2026 WL 809501, at *6.

Respondents' complaint is replete with sweeping allegations that petitioners and other fossil fuel energy companies are responsible for "alteration" of the planet's climate. Am. Compl. ¶ 2. Here is a sampling of their expansive allegations:

- "Changes to the climate were caused, and continue to be exacerbated by, unchecked fossil fuel activities," *id.* ¶ 7;

- "Defendants spent decades producing, promoting, refining, marketing and selling fossil fuels . . . at levels that have caused and contributed to alteration of the climate without disclosing the dangers that continued fossil fuel overuse posed," *id.*¶ 14;

- "Defendants' fossil fuel activities have caused, contributed to and exacerbated the impacts of human-caused climate change . . .," *id.* ¶ 15;

- "Defendants are responsible for billions of tons of excess greenhouse gas emissions in the atmosphere," *id.*;

- "Earth has a natural 'greenhouse' effect [that] has been altered and intensified by the levels of Defendants' fossil fuel activities," *id.* ¶¶ 125, 126;

- "As a result of the emissions caused and contributed to by the levels of Defendants' fossil fuel activities, atmospheric CO_2 now stands at . . . a level which is unprecedented in human history," *id.* ¶ 129;

- Defendants' "fossil fuel activities caused and contributed" to "[w]arming of the climate system," including an increase in "annual average temperatures over the contiguous United States," and warming of the "atmosphere and oceans," *id.* ¶¶ 132, 133, 134 (internal quotation marks omitted); and

- "Defendants' fossil fuel activities accelerated, aggravated and continue to accelerate and aggravate the impacts of climate change," *id.* ¶ 326.

As respondents' own allegations confirm, there is nothing "narrow" about their claims.

2. Respondents' suit purports to be limited to global climate change-related property damage and other alleged harms within their, or Colorado's, geographic and political boundaries. But this and similar climate-change tort suits that attempt to splinter fossil fuel producers' alleged liability into countless state or local pieces cannot be reconciled with at least two indisputable scientific facts:

First, global warming due to greenhouse gas emissions and resultant climate change are whole-earth phenomena that have no geographic or political boundaries. Just think about the blue-and-white marbled Earth viewed from outer space.

The U.S. Environmental Protection Agency (EPA) "serves as the Nation's 'primary regulator of greenhouse gas emissions.'" *West Virginia v. EPA*, 597 U.S. 697, 754 (2022) (Kagan, J., dissenting) (quoting *Am. Elec. Power Co. v. Connecticut* ("*AEP*"), 564 U.S. 410, 428 (2011)). EPA's website explains that climate change due to greenhouse gas emissions is a borderless, whole-earth phenomenon:

> The earth's climate is changing. Multiple lines of evidence show changes in our weather, oceans and ecosystems . . . . These changes are due to a buildup of

> greenhouse gases in our atmosphere and the warming of the planet due to the greenhouse effect. . . . "[G]reenhouse gases" . . . act like a blanket, making the earth warmer than it otherwise would be. This process, commonly known as the "greenhouse effect," is natural and necessary to support life.

EPA, Basics of Climate Change (last updated Dec. 5, 2025);[3] *see also AEP*, 564 U.S. at 416 (describing the global greenhouse effect).

"Since [g]reenhouse gases once emitted become well mixed in the atmosphere . . . [g]reenhouse gas molecules *cannot be traced to their source*, and greenhouse gases quickly diffuse and *comingle* in the atmosphere." *City of New York*, 993 F.3d at 92 (quoting *AEP*, 564 U.S. at 422) (citation modified) (emphasis added). Thus, regardless of any local or state-wide harm that respondents claim to have suffered, petitioners' alleged tortious conduct for causing or exacerbating climate change is necessarily *global* in scope. *See Baltimore*, 2026 WL 809501, at *21 ("Any actions that the Defendants take to mitigate their liability . . . will undoubtedly have a significant impact across every state and country") (citations omitted).

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[3] https://perma.cc/S59S-62D2.

Second, there are a multitude of sources of carbon dioxide (CO_2) and other greenhouse gas emissions (including non-fossil fuel sources) both in the United States and abroad.

EPA's website explains that greenhouse gas emissions are not limited to fossil fuels: "Greenhouse gases come from a variety of human activities, including burning fossil fuels for heat and energy, clearing forests, fertilizing crops, storing waste in landfills, raising livestock, and producing some kinds of industrial products." EPA, Basics of Climate Change, *supra*. "Anthropogenic emissions of *non-CO_2 greenhouse gases*, such as methane, nitrous oxide and ozone-depleting substances (largely from sources *other than fossil fuels*), also contribute significantly to warming." S. A. Montzka et al., *Non-CO2 greenhouse gases and climate change*, Nature 476, 43-50 (2011) (Abstract) (emphasis added); *see also* Daniel E. Walters, *Animal Agriculture Liability for Climatic Nuisance: A Path Forward for Climate Change Litigation?*, 44 Colum. J. Env. L. 300, 303 (2019) ("The agriculture industry is responsible for a surprising amount of greenhouse gas emissions. . . . In the United States, the numbers are . . . stunning.").

Fossil fuels, therefore, are by no means the sole cause of respondents' alleged harm.

3. Given the borderless, multi-source nature of greenhouse gas emissions, global warming, and climate change, petitioners' alleged liability for causing or exacerbating global climate change cannot

be divided into potentially tens of thousands of local bits and pieces of liability, each subject to the vagaries of one of 50 states' differing judicial systems and tort law standards. As Justice Samour's dissenting opinion cautioned, this would lead to "regulatory chaos." App-28a.

The worldwide, scope of atmospheric greenhouse gas "pollution" cannot be reduced to a parochial dispute merely by pointing to the alleged damages that a local government claims to have suffered due to global climate change. *See generally Anza v. Ideal Steel Supply Corp.*, 547 U.S. 451, 466 (2006) (Thomas, J., concurring in part and dissenting in part) ("Proximate cause and certainty of damages, while both related to the plaintiff's responsibility to prove that the amount of damages he seeks is fairly attributable to the defendant, are distinct requirements for recovery in tort.").

The utter impracticality of climate-change tort litigation by state and local governments also is underscored, as discussed above, by the multiplicity of industrial, agricultural, and other human and natural sources of greenhouse gas emissions throughout the nation and world. Liability for the impacts of global climate change in Boulder, Colorado or any other locale cannot be attributed to any industry, corporation, individual, or other source of greenhouse emissions. Insofar as any greenhouse gas emitter can be held liable for causing global climate change, then *every* greenhouse gas emitter would have to be held liable.

"Such a sprawling case is simply beyond the limits of state law." *City of New York*, 993 F.3d at 92. "[I]t is painfully obvious that, even though climate public nuisance cases are repeatedly filed around the country and courts in some states are allowing them to play out for years, climate change is not a liability question for state courts, but a complex global problem requiring a global, public policy-based solution." Am. Tort Reform Ass'n (ATRA), *The Plaintiffs' Lawyer Quest for the Holy Grail: The Public Nuisance "Super Tort"* (Mar. 2025) 11.

C. The consequences of allowing climate-change tort suits to proliferate are staggering

Like global climate change, respondents' allegations that the petitioner energy companies are liable for "causing, contributing to and exacerbating alteration of the climate," App-2a, have no geographic or political boundaries. If the County and City of Boulder, bolstered by the plaintiffs' bar and climate activists, can cash-in on the "climate crisis" by proceeding with this state-court tort suit, there is nothing to prevent Colorado's other 61 counties and 271 municipalities from doing exactly the same.[4] As Justice Samour warned in his dissenting opinion, "alarmingly, the majority's decision isn't cabined to

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[4] U.S. Census Bureau, 2022 Census of Government, Organization Tables, Table 3, General-Purpose Local Governments By State, https://perma.cc/SHE8-34J9.

Boulder—all other Colorado municipalities may bring such claims." App-25a.

And why stop there?

> In the most recent Census of Governments . . . the Census Bureau counted 90,837 governments in the U.S. In addition to the federal government, the 50 state governments and the government of Washington, D.C., there were 3,031 county governments, 35,705 township and municipal governments, 12,546 independent school districts and 39,555 other special-purpose local governments.[5]

The decision below not only invites crushing burdens and crippling litigation costs on the fossil fuel industry, but also nationwide judicial havoc. Unless this Court holds that federal law precludes climate-change tort litigation, each and every state, county, municipal, and special local government will be free to pursue its own multi-million dollar state-court damages suit against the nation's largest fossil fuel energy companies for alleged local harm supposedly attributable to global warming and climate change.

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[5] Amy Smaldone & Mark L.J. Wright, Local Governments in the U.S.: A Breakdown by Number and Type, Fed. Res. Bank of St. Louis (Mar. 14, 2024), https://perma.cc/6S62-NSVB.

At the very least, there would be an enormous potential for conflicting or inconsistent findings of fact, conclusions of law, judgments, imposition of damages awards, and additional remedies. *See, e.g.*, Am. Compl. ¶¶ 532, 534 (asserting that respondents are "entitled to . . . [m]onetary relief to compensate . . . for their **past** and **future** damages and costs to mitigate the impact of climate change" and "remediation and/or abatement of the hazards discussed" in the complaint) (bold text in original); *see* App-28a (Samour, J., dissenting) (noting that "there are numerous other local governments within the United States doing just what Boulder has done (and yet others that will undoubtedly follow suit in the future)").

Nationwide proliferation of climate-change tort litigation is far from theoretical. It already is happening. *See* Pet. For a Writ of Certiorari at 6 ("Nearly 60 state and local governments have brought such suits, and more continue to be filed.").[6]

If these suits are allowed to proceed, the next wave of opportunistic climate-change litigation could be

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[6] The website for the San Francisco law firm prosecuting many climate-change tort suits on behalf of state and local governments boasts 27 such cases, and that firm apparently is looking for more. *See* Sher Edling LLP, Climate Damage and Deception (listing the firm's climate cases), https://perma.cc/YUK4-HAWK; *see also* Columbia Law School/Columbia Climate School, Center for Climate Change Law, the Climate Litigation Database, https://perma.cc/KBS6-7VLU.

brought by the plaintiffs' bar and climate activists on behalf of a multitude of individual, mass-action, or class-action plaintiffs (e.g., commercial, institutional, and residential property owners) claiming to have been harmed by the fossil fuel industry's alleged climate change-related tortious conduct. The global tort of "exacerbating climate change" and "*knowingly* caus[ing] and contribut[ing] to the alteration of the climate," App-2a—masquerading here as public and private nuisance, trespass, and other garden-variety state-law causes of action—could become the plaintiff bar's next "Super Tort." *See* ATRA, *supra* at 1 ("[T]oday's public nuisance litigation . . . attempt[s] to subject businesses to liability over societal and political issues—regardless of fault, how the harm developed or was caused, whether the elements of the tort are met, or even if the liability will actually address the issue. Their mantra is, 'Let's make 'Big' [insert business] pay.'").

Indeed, if left unrestrained, climate-change tort litigation could expand into the personal injury arena. *See, e.g.*, Rachel Riley, *Exxon Can't Halt Heat Death Suit Ahead Of Climate Tort Ruling*, Law360 (Apr. 13, 2026) (Washington state court judge refuses to stay wrongful death suit pending this Court's disposition of the instant case).

Despite respondents' disclaimer that they "**do not** seek to enjoin any oil or gas operations and sales," Am. Compl. ¶ 542 (bold text in original), this and every other climate-change tort suit has a transparent political, as well as pecuniary, purpose: destroying the

highly regulated oil and gas industry, or at least severely curtailing entirely legal production, sale, and use of fossil fuels in the United States and globally. The 124-page, 544-paragraph Amended Complaint, filed by EarthRights International, like the complaints in numerous similar suits, reads like a climate activist's manifesto against the fossil fuel industry. *See* EarthRights Int'l, *Colorado communities sue fossil fuel companies to make them pay their fair share of climate costs*.[7] If climate-change tort litigation succeeds in crippling the fossil fuel energy industry, the national and worldwide economic and societal ramifications would be almost unimaginable.

ATRA's recently updated "Super Tort" white paper describes the political, as well as financial, objectives of climate-change tort litigation as follows:

> The money trail and dynamics in these cases underscore the political nature of the litigation. By-and-large, the climate lawsuits are developed, funded and waged by environmental foundations who leverage them to exert political pressure on the oil and gas industry. Since 2004, these groups have provided grant money to lawyers and activists to circle the country recruiting governments to file lawsuits. (Of course, that hasn't stopped the lawyers from seeking 20-25%

[7] https://perma.cc/4MNE-T8ET.

> contingency fees from the governments in case they win.) The foundations hope the companies will agree to the funding and public policies they want imposed if the litigation appears viable and media around the litigation damages their reputations.

ATRA, *supra*, at 8.

The Court should hold that federal law precludes state-law climate-change tort suits and put an end to the growing wave of tort litigation against the fossil fuel energy industry.

CONCLUSION

The Colorado Supreme Court's decision should be reversed.

Respectfully submitted,

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