Nos. 23-947 & 23-952

In The Supreme Court of the United States

SUNOCO LP, ET AL.,

Petitioners,

v.

CITY AND COUNTY OF HONOLULU, HAWAII, ET AL.,

Respondents.

SHELL PLC, ET AL.,

Petitioners,

v.

CITY AND COUNTY OF HONOLULU, HAWAII, ET AL.,

Respondents.

On Petitions For Writ Of Certiorari To The Supreme Court Of Hawaii

BRIEF OF ATLANTIC LEGAL FOUNDATION AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

LAWRENCE S. EBNER
Counsel of Record
ATLANTIC LEGAL FOUNDATION
1701 Pennsylvania Ave., NW
Washington, DC 20006
(202) 729-6337
lawrence.ebner@atlanticlegal.org

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

INTEREST OF THE *AMICUS CURIAE* [1]

Established in 1977, the Atlantic Legal Foundation ("ALF") is a national, nonprofit, nonpartisan, public interest law firm. ALF's mission is 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, 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 question presented by these appeals is whether federal law precludes the dozens of global climate change damages suits that state and local governments, with the assistance of the plaintiffs' bar, have been filing against the fossil fuel industry. The potentially disastrous national and international

---

[1] This amicus brief supports the Petitioners in Nos. 23-947 & 23-952. Petitioners' and Respondents' counsel were provided timely notice in accordance with Supreme Court Rule 37.2. No counsel for a party authored this brief in whole or part, and no party or counsel other than the *amicus curiae* and its counsel made a monetary contribution intended to fund preparation or submission of this brief.

ramifications of allowing these proliferating state-court suits to proceed are enormously important—not only for the defendant fossil fuel energy companies, but also for the nation's economy, critical infrastructure, and national defense. The everyday lives of virtually every American will be adversely affected in numerous ways if these suits succeed in crippling the fossil fuel industry.

Climate change tort suits pending in state courts around the United States collectively seek billions of dollars in compensatory and punitive damages from fossil fuel producers for the alleged local effects of global warming and climate change—a politically charged, multi-source, scientific phenomenon that is both borderless and indivisible. The urgent question of whether these state-law suits are precluded by federal law due to the inherently interstate (indeed global) nature of greenhouse gas air pollution and/or by the preemptive effect of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7401 *et seq.*, aligns with two of ALF's most prominent advocacy missions: defending free enterprise and advancing sound science in the nation's courtrooms. The Court should grant certiorari and hold that federal law precludes the efforts of state and local governments to shut down the fossil fuel industry and cash-in on the so-called "climate crisis."

SUMMARY OF ARGUMENT

In addition to the 50 States, there are approximately 40,000 county and sub-county general-purpose local governments in the United States.[2] If each and every State, county, city, or town were free to pursue, in the friendly surroundings of its own courts, multi-million dollar damages and abatement litigation against the fossil fuel industry for the novel and opportunistic tort of "causing global climate change and dire effects on the planet," Am. Compl. at 60, there would be judicial chaos. At the very least, there would be an enormous potential for inconsistent or conflicting findings of fact, conclusions of law, and imposition of astronomical damages awards and onerous abatement measures against the same "major corporate members of the fossil fuel industry," *id.* at 1, for engaging in heavily regulated commercial activities that are *vital* to the survival of our nation.

Although this suit, like many others around the United States, masquerades as a traditional tort suit for nuisance, trespass, and failure to warn, its unique subject—atmospheric greenhouse gas pollution that Respondents contend causes global warming and climate change—is indisputably interstate—and certainly not local—in nature. The advent of these

---

[2] Amy Smaldone & Mark L.J. Wright, Local Governments in the U.S.: A Breakdown by Number and Type, Fed. Res. Bank of St. Louis (March 14, 2024), https://tinyurl.com/cv4yhzpc.

suits begs for a uniform rule of decision, which only federal law can supply. The Clean Air Act accomplishes this by establishing, for greenhouse gas emissions, a comprehensive federal-state regulatory scheme that impliedly preempts state tort suits seeking to impose liability for causing or contributing to global warming and climate change. If successful, these state-law suits would seriously undermine national uniformity of regulation by imposing their own conflicting or inconsistent requirements for avoiding liability. The Hawaii Supreme Court's opinion errs by failing to recognize the true nature of Respondents' claims, and instead, pretends that this is just a traditional tort suit that would have no effect on the manner in which greenhouse gas emissions are regulated.

ARGUMENT

The Court Should Grant Review To Decide Whether State & Local Governments' Damages Suits Seeking To Hold The Fossil Fuel Industry Liable For Global Climate Change Are Precluded By Federal Law

A. Global climate change is beyond the bounds of traditional state tort litigation

According to the Hawaii Supreme Court, "this is a traditional tort case alleging Defendants misled

consumers and should have warned them about the dangers of using their products." App. 19a. Based on the erroneous premise that "Plaintiffs' claims do not seek to regulate emissions," but instead "challenge the promotion and sale of fossil-fuel products without warning," *id.* 38a, the court held that the Clean Air Act does not preempt Respondents' claims.

Despite the complaint's mundanely labeled causes of action for nuisance, trespass, and failure to warn, this extraordinary litigation bears no resemblance to a garden-variety product liability suit. In its effort to circumvent the Clean Air Act's preemptive sweep, the Hawaii Supreme Court has elevated artful pleading over the true nature of Respondents' allegations that Petitioners should be held liable for their alleged alteration of the global climate.

As the Second Circuit explained in *City of New York v. Chevron Corp.*, 993 F.3d 81, 91 (2d Cir. 2021), a climate-change damages suit with substantively identical allegations,

> [a]rtful pleading cannot transform the City's complaint into anything other than a suit over global greenhouse gas emissions. It is precisely because fossil fuels emit greenhouse gases – which collectively "exacerbate global warming" – that the City is seeking damages.

See generally Fry ex rel. E.F. v. Napoleon Cmty. Schools, 137 S. Ct. 743, 755 (2017) ("What matters is the crux—or, in legal speak, the gravamen—of the plaintiff's complaint, setting aside any attempts at artful pleading."); *Chic. & N.W. Transp. Co. v. Kalo Brick & Tile Co.*, 450 U.S. 311, 324 (1981) ("[C]ompliance with the intent of Congress cannot be avoided by mere artful pleading.").

According to the Hawaii Supreme Court, "Plaintiffs' references to emissions in [their] Complaint only serve to tell a broader story about how the unrestrained production and use of Defendants' fossil-fuel products contribute to greenhouse gas pollution." App. 38a (internal quotation marks omitted). In reality, Respondents' "broader story" is the gravamen of their complaint. Even a cursory review makes it clear that Respondents' causes of action for nuisance, trespass, and failure-to-warn are a thinly disguised attempt to hold Petitioners liable for nothing less than global climate change—for the "greenhouse gas pollution that warms the planet and changes climate"; for "exacerbation of global warming" and "climate disruption." Am. Compl. at 1, 30, 34.

Although Respondents' alleged harms are locally focused, they are expressly predicated on "a wide range of dire climate-related effects" allegedly resulting from "anthropogenic global warming"—"global greenhouse gas pollution" that Respondents

contend is primarily attributable to the fossil fuel industry's "contributions to the buildup of greenhouse gases via their fossil fuel products in the Earth's environment." *Id.* at 1, 4, 34; *see also* App. 7a ("Plaintiffs allege that human activity is causing the atmosphere and oceans to warm, sea levels to rise, snow cover to diminish, oceans to acidify, and hydrologic systems to change.").

Respondents' 115-page complaint—which refers to "global warming" more than 80 times—reads like a climate activist's handbook. Its 70-page "Factual Background" section asserts, for example;

- that "[h]uman-caused warming of the Earth is unequivocal";

- that "ocean and atmospheric warming is overwhelmingly caused by anthropogenic greenhouse gas emissions";

- that "[g]reenhouse gases are largely byproducts of humans combusting fossil fuels to produce energy and using fossil fuels to create petrochemical products";

- that "[b]ecause of the increased burning of fossil fuel products, concentrations of greenhouse gases in the atmosphere are now at a level unprecedented in at least 3 million years";

- that "[t]his accumulation and associated disruption of the Earth's energy balance have myriad environmental and physical consequences, including but not limited to . . . [c]hanges to the global climate";

- that Petitioners' "conduct caused a substantial portion of global atmospheric greenhouse gas concentrations, and the attendant . . . disruptions to the environment"; and

- that "[w]ithout [Petitioners'] exacerbation of global warming . . . the current physical and environmental changes caused by global warming would have been far less than those observed to date."

Am. Compl. at 30, 31, 32, 34, 35.

These and similar allegations demonstrate that this litigation is "a clash over regulating worldwide greenhouse gas emissions and slowing global climate change," not "a more modest litigation akin to a product liability suit." *City of New York*, 993 F.3d at 91.

> [T]he City intends to hold the Producers liable, under [Hawaiian] law, for the effects of emissions made around the globe over the past several hundred years. In other words, the City requests damages for the cumulative impact of conduct

> occurring simultaneously across just about every jurisdiction on the planet.

Id. at 92. Respondents' attempt through this litigation to hold virtually the entire fossil fuel industry liable under Hawaiian law for "causing global climate change and dire effects on the planet," Am. Compl. at 60, is reason enough for this Court to grant review.

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

Damages suits that target fossil fuel producers for causing global climate change—and that attempt to fragment their alleged liability into countless state and/or local pieces—ignore the scientific facts that global warming and climate change have no geographic or political boundaries, and that 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.

The U.S. Environmental Protection Agency (EPA) "serves as the Nation's 'primary regulator of greenhouse gas emissions.'" *West Virginia v. EPA*, 142 S. Ct. 2587, 2627 (2022) (Kagan, J., dissenting) (quoting *American Elec. Power Co. v. Connecticut* ("*AEP*"), 564 U.S. 410, 428 (2011)). EPA's website

emphasizes that climate change 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. However, the recent buildup of greenhouse gases in the atmosphere from human activities has changed the earth's climate and resulted in dangerous effects to human health and welfare and to ecosystems.

EPA, Basics of Climate Change (Nov. 1, 2023);[3] *see also AEP*, 564 U.S. at 416 (describing the greenhouse effect); *Massachusetts v. EPA*, 549 U.S. 497, 504-05 (2007) (same).

---

[3] https://tinyurl.com/mwpwznx9.

"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) (cleaned up). Thus, regardless of any local harm that Respondents contend global warming and climate change have caused, Petitioners' alleged contribution to what Respondents call "climate disruption," *see* Am. Compl. at 30-35, is necessarily global in scope.

In other words, "global warming — as the name suggests — is a global problem." *City of New York*, 993 F.3d at 88; *see West Virginia*, 142 S. Ct. at 2626-27 (Kagan, J., dissenting) (discussing the potential worldwide effects of global warming). For example, "[i]n 2019, China's emissions not only eclipsed that of the US—the world's second-largest emitter at 11% of the global total—but also, for the first time, surpassed the emissions of all developed countries combined." Kate Larsen et al., *China's Greenhouse Gas Emissions Exceeded the Developed World for the First Time in 2019* (Rhodium Group Mar. 6, 2021);[4] *see also* Climate Watch, Historical GHG Emissions (chart indicating that since 2005 China has far

[4] https://tinyurl.com/59923sz6.

surpassed the United States in greenhouse gas emissions).[5]

EPA's website also 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*; *see also* Climate Watch, *supra* (listing energy and heat generation, transportation, manufacturing, agriculture, and other sources of global greenhouse gas emissions).[6]

"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-CO_2 greenhouse gases and climate change*, Nature 476, 43-50 (2011) (Abstract) (emphasis added); *see, e.g.*, 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. . . .

---

[5] https://tinyurl.com/5eh9jnb7 (last visited Mar. 17, 2024).

[6] https://tinyurl.com/yrdp2x85 (last visited Mar. 17, 2024).

In the United States, the numbers are . . . stunning.").

Further, since 2004, coal—*not oil or gas*—has been the world's largest emitter of carbon dioxide. Climate Watch, *supra* (chart); *see also West Virginia*, 142 S. Ct. at 2627 (Kagan, J., dissenting) ("[F]ossil-fuel-fired (mainly coal - and natural-gas-fired) power plants . . . are responsible for about one quarter of the Nation's greenhouse gas emissions. . . .").

Given the borderless, multi-source nature of greenhouse gas emissions, global warming, and climate change, Petitioners' alleged liability for "climate disruption"—for "causing global climate change and dire effects on the planet"— Am. Compl. at 30, 60, 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. The interstate, in fact worldwide, scope of atmospheric greenhouse gas pollution cannot be transformed into a parochial dispute merely by pointing to the damages that a local government claims it has suffered due to global climate change. "Proximate cause and certainty of damages . . . are distinct requirements for recovery in tort." *Anza v. Ideal Steel Supply Corp.*, 547 U.S. 451, 466 (2006) (Thomas, J., concurring in part and dissenting in part).

The utter impracticality of climate change damages litigation is underscored 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 Honolulu or any other locale cannot be attributed to any particular 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 must be held liable. "Such a sprawling case is simply beyond the limits of state law." *City of New York*, 993 F.3d at 92.

C. Regulation of greenhouse gas emissions through state tort regulation would undermine the comprehensive federal-state regulatory scheme

1. EPA has been regulating greenhouse gas emissions under the Clean Air Act ever since the Court held in *Massachusetts v. EPA*, 549 U.S. at 532, that "greenhouse gases fit well within the Clean Air Act's capacious definition of 'air pollutant.'" (referring to 42 U.S.C. § 7602(g)); *see AEP*, 564 U.S. at 424 ("*Massachusetts* made plain that emissions of carbon dioxide qualify as air pollution subject to regulation under the Act."). "Responding to [the Court's] decision in *Massachusetts*, EPA undertook greenhouse gas regulation." *Id.* at 415. More

specifically, EPA initiated rulemakings to control greenhouse gas emissions from motor vehicles and stationary sources. *See id.* at 417; *Util. Air Regul. Grp. v. EPA*, 573 U.S. 302, 310-13 (2011) (discussing "EPA's Greenhouse-Gas Regulations"); *City of New York*, 993 F.3d at 87-88; *see generally* Cong. Rsch. Serv., Clean Air Act: A Summary of the Act and Its Major Requirements 10, 13 n.13, 19 (updated Sept. 13, 2022) (summarizing or citing certain greenhouse gas-related provisions and programs).[7]

The Court explained in *AEP* "[i]t is altogether fitting that Congress designated an expert agency, here, EPA, as best suited to serve as primary regulator of greenhouse gas emissions." 564 U.S. at 428. "The expert agency is surely better equipped to do the job than individual . . . judges [who] lack the scientific, economic, and technological resources an agency can utilize in coping with issues of this order." *Id.*

Although "[t]he Clean Air Act is a comprehensive statutory scheme that anoints EPA as the 'primary regulator' of [domestic] greenhouse gas emissions . . . [t]his does not mean that states are excluded from the process." *City of New York*, 993 F.3d at 99. Instead, the Clean Air Act embodies a "cooperative federalist approach" which vests state and local governments with "primary responsibility for enforcement." *Id.* (internal quotation marks

[7] https://tinyurl.com/46dcmpba.

omitted). "The Act envisions extensive cooperation between federal and state authorities, see [42 U.S.C.] § 7401(a), (b), generally permitting each State to take the first cut at determining how best to achieve EPA emissions standards within its domain, see § 7411(c)(1), (d)(1)-(2)." *AEP*, 564 U.S. at 428.

2. The Court held in *AEP* that "the Clean Air Act and the EPA actions it authorizes displace any federal common law right to seek abatement of carbon-dioxide emissions from fossil-fuel fired power plants." 564 U.S. at 424; *see City of New York*, 993 F.3d at 95-96 ("In the wake of *AEP*, it is beyond cavil that the Clean Air Act displaced federal common law nuisance suits seeking to abate domestic transboundary emissions of greenhouse gases."). "That Congress chose to preempt the federal common law of nuisance with a well-defined and robust statutory and regulatory scheme of environmental law is by no means surprising." *Id.* at 97. Nor is it surprising that the Second Circuit, building upon *AEP* and agreeing with the Ninth Circuit's opinion in *Native Village of Kivalina v. ExxonMobil Corp.*, 696 F.3d 849 (9th Cir. 2012), held in *City of New York* that "the City's claims are clearly barred by the Clean Air Act," and "if successful, would act as a *de facto* regulation on greenhouse gases." 993 F.3d at 96. "Congress has already spoken directly to th[at] issue by empower[ing] the EPA to regulate [those very] emissions." *Id.* (internal quotation marks omitted).

This Court long has recognized that "[state] regulation can be . . . effectively asserted through an award of damages . . . . The obligation to pay compensation can be, indeed is designed to be, a potent method of governing conduct and controlling policy." *Cipollone v. Liggett Group, Inc.*, 505 U.S. 504, 521 (1992) (internal quotation marks omitted). As the Second Circuit recognized in *City of New York*, if state-law climate change damages suits are allowed to proceed, substantial damages awards against fossil fuel producers "would effectively regulate [their] behavior." 993 F.3d at 92.

Rather than supplementing federal regulation and state enforcement of greenhouse gas emissions in a beneficial manner, multiple locally imposed damages awards (and abatement measures) against the same group of major fossil fuel companies would compete with, indeed seriously undermine, the federal-state regulatory scheme, especially as climate change damages suits continue to proliferate. Such suits would reflect the vagaries of individual States' tort regimes and the whims of local courts and individual juries. They likely would impose conflicting or inconsistent tort duties, damages awards, and remedial measures that would destroy the national uniformity the Clean Air Act is intended to achieve.

The Court explained in *AEP* that

> [t]he appropriate amount of regulation in any particular greenhouse gas-producing sector cannot be prescribed in a vacuum: as with other questions of national or international policy, informed assessment of competing interests is required. Along with the environmental benefit potentially achievable, our Nation's energy needs and the possibility of economic disruption must weigh in the balance.
>
> *The Clean Air Act entrusts such complex balancing to EPA in the first instance, in combination with state regulators*.

AEP, 564 U.S. at 427 (emphasis added); *cf. North Carolina ex rel. Cooper v. TVA*, 615 F.3d 291, 298 (4th Cir. 2010) ("To say [the Clean Air Act's] regulatory and permitting regime is comprehensive would be an understatement. To say it embodies carefully wrought compromises states the obvious.").

Thus, "[t]o permit this suit to proceed under state law would further risk upsetting the careful balance that has been struck between the prevention of global warming, a project that necessarily requires national standards and global participation, on the one hand, and energy production, economic growth, foreign

policy, and national security, on the other." *City of New York*, 993 F.3d at 93.

3. The Hawaii Supreme Court's conclusion that Respondents' state common-law damages claims are not impliedly preempted or otherwise precluded by federal law is predicated upon the fiction that Petitioners' "alleged tortious conduct is *not production of emissions*." App. 63a. Taking Respondents' artfully pleaded complaint at face value, the court's preemption analysis is based on the mantra (repeated throughout the court's opinion) that Respondents' "claims do not seek to regulate emissions," *id.* 38a, but instead, are for Petitioners' "alleged deceptive marketing and failure to warn about the dangers of using their products." *Id.* 63a. According to the court, "the City's claims do not seek to regulate emissions, and so a claim of field preemption in the field of emissions regulation is inapposite." *Id.* 58a. The court similarly asserted that Petitioners' "state tort law claims do not seek to regulate emissions, and there is thus no 'actual conflict' between Hawai'i tort law and the CAA." *Id.* 61a. For essentially the same reason, the court rejected Petitioners' contention that due to the inherently interstate nature of atmospheric greenhouse gas pollution, federal law precludes the application of state tort law. *See id.* 50a-52a.

The court's opinion concedes that the Clean Air Act *does* preempt state-law tort claims that seek to regulate out-of-state greenhouse gas emissions. For

example, the court acknowledged that in *International Paper Co. v. Ouellette*, 479 U.S. 481 (1987), involving the analogous Clean Water Act ("CWA") regulatory scheme, the Supreme Court held that "affected-state common law claims arising from polluting activity located *outside* the affected-state are preempted by the CWA because '[t]he application of affected-state laws would be incompatible with the [CWA's] delegation of authority and its comprehensive regulation of water pollution.'" App. 62a (quoting *Ouellette*, 479 U.S. at 500); *see also id.* 61a (acknowledging Petitioners are correct that "the CAA does not permit States to use their state tort law to address harms caused by emissions occurring in other States"). "Applying affected-state common law could potentially subject a defendant-polluter to 'an indeterminate number of potential regulations' depending on how far the emission traveled." *Id.* (quoting *Ouellette*, 479 U.S. at 499).

The state supreme court asserted, however, that "the rationale motivating the *Ouellette* court in preempting affected-state common law claims does not apply to [Respondents'] state tort claims [because] the source of [their] alleged injury is not emissions but the additional alleged torts" of deceptive marketing and failure to warn. *Id.* 63a.

This analysis is wrong because it fails to recognize the true nature and regulatory effect of Respondents' claims. As discussed above, this suit, like many

others pending in state courts around the United States, is a blatant attempt to hold Petitioners liable for causing, or at least contributing to, global warming and worldwide climate change. The "affected-state common-law claims," *i.e.*, Respondents' Hawaiian common-law claims, are preempted because they necessarily "aris[e] from polluting activity located *outside* the affected-state." App. 62a. Indeed, Respondents' complaint repeatedly alleges that Petitioners' alleged "polluting activity" is global. *See, e.g.*, Am. Compl. at 34 (referring to Petitioners' "exacerbation of global warming caused by their conduct as alleged herein"); *id.* (alleging that Petitioners' "contributions to the buildup of greenhouse gases via their fossil fuel products in the Earth's environment are quantifiable both individually and in the aggregate"); *id.* at 35 (alleging that Petitioners' "conduct caused a substantial portion of global atmospheric greenhouse gas concentrations . . . and consequent injuries to [Respondents]"); *id.* at 89 (alleging that Petitioners' "individual and collective conduct . . . is [a] substantial factor causing global warming").

Respondents' additional allegations concerning the fossil fuel industry's supposedly deceptive promotion and marketing do not change the fact that this litigation is about local environmental harm allegedly caused by global greenhouse gas pollution, global warming, and global climate change. Nor does Respondents' attempt to frame their claims as run-

of-the-mill causes of action alter their indisputably global nature. At the very least, this case presents federal preclusion-of-state-law questions whose immediate resolution is vital to the fossil fuel industry, and in turn, to the entire nation.

CONCLUSION

The petitions for a writ of certiorari should be granted.

Respectfully submitted,

LAWRENCE S. EBNER
Counsel of Record
ATLANTIC LEGAL FOUNDATION
1701 Pennsylvania Ave., NW
Washington, D.C. 20006
(202) 729-6337
lawrence.ebner@atlanticlegal.org

March 2024