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 *AMICUS CURIAE* AMERICAN TORT REFORM ASSOCIATION IN SUPPORT OF PETITIONERS AND REVERSAL

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INTEREST OF *AMICUS CURIAE*[1]

The American Tort Reform Association (ATRA) is a broad-based coalition of businesses, corporations, municipalities, associations, and professional firms that have pooled their resources to promote reform of the civil justice system with the goal of ensuring fairness, balance, and predictability in civil litigation. For more than three decades, ATRA has filed *amicus* briefs in cases involving important liability issues. ATRA is concerned with state and local government attempts to expand tort law to shift costs associated with responding to climate change. These efforts are the latest attempt to subject industries that provide lawful products to unprincipled liability for societal problems regardless of fault, the cause of the harm, whether elements of the claim are met, or even whether liability will actually address the issue.

INTRODUCTION AND SUMMARY OF ARGUMENT

A popular Netflix gameshow asked contestants, who were creative, skillful bakers, to attempt to trick celebrity judges by disguising a cake to look like an ordinary object – a sneaker, a cheeseburger, or a handbag – and then presenting the cake among the real objects. The host would then ask the judges, "Is it cake?" After their response, the host puts a knife into the selected item to find out if it is, in fact, cake.

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[1] Pursuant to Rule 37.6, counsel for *amicus curiae* affirm that this brief was not authored in whole or in part by counsel for any party and that no person or entity, other than *amicus curiae*, its members, or its counsel made a monetary contribution to the preparation or submission of the brief.

The question presented to this Court in this case is similar: "Is it a tort" governed by state law?

Here, the "bakers" are private plaintiffs' attorneys, retained by local government entities, that have artfully crafted a complaint to resemble state law claims when the lawsuit transparently seeks to set national environmental and economic policy that this Court has ruled is a matter of federal law. The government entities in this case, County Commissioners of Boulder County and City of Boulder, have affixed an assortment of tort law labels to an action that claims energy producers' production, refinement, marketing, and sale of fossil fuels increased greenhouse-gas emissions and contributed to global climate change. They allege that these changes have increased the potential for a wide range of harms, ranging from more frequent wildfires to drought.

In the Colorado Supreme Court, this tactic succeeded. A divided court found that since the complaint alleges state law claims, i.e., it looks like a tort, a state court could decide the climate change-related claims based on state law. *See County Comm'rs of Boulder County v. Suncor Energy USA, Inc.*, 586 P.3d 161 (Colo. 2025). But the Colorado Supreme Court failed to take the needed final step: it did not adequately probe whether the complaint truly alleges viable tort claims or raises issues of interstate and international concern that are inherently matters of federal law.

This case presents the Court with an issue that arises in many similar lawsuits brought by state and local governments. That issue is whether skillful lawyers can, through artful pleading, have cases with national implications decided based on state

law or whether federal law governs and bars such claims.

Amicus curiae submits this brief to provide the Court with relevant context on state and local climate change litigation. First, the brief demonstrates that these cases do not allege traditional state law claims, but represent a continuing attempt to expand tort and consumer law beyond their traditional purposes and constraints. Federal law exclusively governs such matters of national environmental policy. Second, the brief shows that state and local government climate change cases are pursued as part of a coordinated effort to impose environmental policy through the courts. With broad, nationwide regulatory goals in mind, advocacy groups and foundations financially support these cases from their inception through litigation. The means by which these cases are developed, litigated, and funded further suggests that these claims are necessarily governed by federal law.

This Court should reverse the Supreme Court of Colorado to ensure that cases attempting to impose liability for harms caused by global climate change are decided based on federal law. Novel state law claims in which cities or counties attempt to regulate emissions across the country or the world are preempted.

ARGUMENT

I. State Law Does Not Provide a Mechanism to Recover Damages for Costs Attributed to Global Climate Change

This Court should reverse the court below to indicate that in this and similar cases alleging that a

business's or industry's activities contributed to global climate change, federal law governs, even if the complaint characterizes its claims as arising under state law.

A. Climate Change is Not a Tort

Litigation over whether changes in global climate patterns, to which widespread use of fossil fuels may have contributed, caused property damage or led to other economic costs in a particular state or locality bears no resemblance to a traditional state common law "tort." Rather, claims seeking redress for costs allegedly incurred as a result of interstate pollution implicate an "overriding federal interest in the need for a uniform rule of decision" that can be determined only through federal law. *Illinois v. Milwaukee*, 406 U.S. 91, 105 n.6 (1972). "[B]orrowing the law of a particular state would be inappropriate" for resolving this national issue. *See American Elec. Power v. Connecticut*, 564 U.S. 410, 422 (2011).

Is a claim alleging economic losses from global climate change a state common-law tort? Tort law, of course, is most associated with personal injury litigation. Tort claims most often stem from accidental injuries arising from automobile accidents, slip-and-falls, complications during medical treatment, or defective products. *See, e.g.*, Andreas Kuersten, *Introduction to Tort Law*, Congressional Research Service, No. IF11291 (2023). Unlike climate change litigation, negligence claims typically involve an injury to a specific person or person's property resulting from someone else's careless conduct. Traditional principles of tort law, such as duty and causation, confine the claim. As Justice Cardozo observed while sitting on the New York Court of Appeals, "Proof of negli-

gence in the air, so to speak, will not do." *Palsgraf v Long Is. R.R. Co.*, 162 N.E. 99, 99 (N.Y. 1928) (quoting Frederick Pollock, The Law of Torts, at 455 (11th ed. 1920)).

In fact, the Plaintiffs' theory of the case resembles the classic *Palsgraf* scenario, in which a man running for departing train was pushed by one railroad employee and pulled by another into the car, dropped a small package that contained fireworks onto the rails, triggering an explosion, with the resulting shock causing a scale at the opposite end of the platform to strike and injure the plaintiff. The court ruled that there was no actionable tort claim because the chain of events that led to the plaintiff's injury was too attenuated.

Here, the Plaintiffs' theory of the case is that energy producers "knowingly caused and contributed to the alteration of the climate by producing, promoting, refining, marketing and selling fossil fuels at levels that have caused and continue to cause climate change, while concealing and/or misrepresenting the dangers associated with fossil fuels' intended use." 586 P.3d at 165 (quoting amended complaint). The city and county seek to hold the select businesses named as defendants financially responsible for costs to protect its property and residents from the impacts of climate change. *Id*.

This Rube-Goldberg machine-like tort claim then demands that the Defendants pay for a slew of costs attributed to global warming such as "costs associated with wildfire response, management, and mitigation; costs to repair and replace existing flood control and drainage measures and to repair flood damage; costs of managing and responding to increased

drought conditions; and costs to repair physical damage to Boulder's buildings." *Id.* at 166. They seek damages not only for costs already incurred, but also costs they may incur in the future. *See id.* This chain of events, relying on a novel duty to the world, could not be more attenuated. These are not "traditional *state* law matters," as the majority found. *Id.* at 170-71 (emphasis in original).

The Colorado Supreme Court majority, parroting the complaint, noted that "Boulder does not, however, seek to enjoin any oil and gas operations or sales in Colorado or elsewhere. Nor does it seek to enforce emissions controls of any kind." *Id.* at 166; *cf.* Complaint and Jury Demand, *Board of County Commissioners of Boulder County v. Suncor Energy (U.S.A.), Inc.* ¶ 476 (Boulder Dist. Ct., filed Apr. 17, 2018). But, as the Second Circuit recognized in a similar case, "[a]rtful pleading cannot transform the City's complaint into anything other than a suit over global greenhouse gas emissions." *City of New York v. Chevron Corp.*, 993 F.3d 81, 91 (2d Cir. 2021).

Certainly, there are property-related torts, though they have little in common with today's climate change suits. For example, a traditional public nuisance action, which provides a means for the government to require an owner to stop an unlawful activity on its property that interferes with public health, safety, or some other public right, does not fit climate change lawsuits. *See* Restatement (Second) of Torts § 821B (1979). Public nuisance claims are often associated with the obstruction of a public highway or a navigable stream, or the effects of criminal activity at a particular location on the surrounding area. *See id.* cmt. b. This remains true today. *See,*

e.g., Colo. Rev. Stat. §§ 16-13-303, 16-13-304, 16-13-305 (codifying certain public nuisances, including using a property for prostitution, gambling, drug sales; a property in which people congregate in a manner that disturbs the peace of residents in the vicinity or passersby on the public street or highway; or maintaining an illegal business on a property). Providing a legal, needed product—fuel—is not a public nuisance.

Several state supreme courts have rejected attempts to transform public nuisance law into an all-encompassing tort. *See, e.g.*, *Express Scripts, Inc. v. Anne Arundel County*, -- A.3d --, 2026 WL 797872, at *17-42 (Md. Mar. 23, 2026); *State ex rel. Hunter v. Johnson & Johnson*, 499 P.3d 719, 724-25 (Okla. 2021); *In re Lead Paint Litig.*, 924 A.2d 484, 501 (N.J. 2007). They have generally found that public nuisance law, which is rooted in land use, is not the means to address alleged external costs associated with the lawful manufacturing and selling of products. *See* Victor E. Schwartz & Phil Goldberg, *The Law of Public Nuisance: Maintaining Rational Boundaries on a Rational Tort*, 45 Wash. L.J. 541, 552-61 (2006); *see also* Am. Tort Reform Ass'n, The Plaintiffs' Lawyer Quest for the Holy Grail: The Public Nuisance "Super Tort" (Mar. 2025) (discussing the history of failed attempts to expand public nuisance law as a means of addressing broad societal problems and the more recent use of such claims to target climate change and other areas).

Another example is trespass, which typically involves a person intentionally entering the property of another. *See* Restatement (Second) of Torts § 158 (1965). A trespass claim may also arise when a per-

son places an object in the air, water, or ground "with knowledge that it will to a substantial certainty" enter the property of another. *See id.*, Reporter's Notes, cmt. i. Applying this principle, there are some circumstances in which trespass claims may provide a remedy for environmental harms, such as when toxic chemicals migrate from one property to invade the property of another. *See, e.g., Hoery v. United States*, 64 P.3d 214, 222 (Colo. 2003). That type of intentional invasion, traceable to the act of a specific person or business, however, is not present here.

Colorado courts do not appear to have diluted the tort to allow a trespass claim where neither a person nor a substance released by that person has entered a property. *See id.* at 218 ("The elements for the tort of trespass are a physical intrusion upon the property of another without the proper permission from the person legally entitled to possession of that property."); *see also Public Service Co. of Colorado v. Van Wyk*, 27 P.3d 377, 390-91 (Colo. 2001) (holding a claim alleging that noise, radiation, and electromagnetic fields from electrical lines did not constitute a trespass on adjacent properties because the plaintiffs failed to allege tangible intrusions on their property or specific physical damage to their property resulting from the intangible, intentional intrusions).

The Colorado Supreme Court's decision does not assess the viability of any of the alleged state law claims. It simply lists them and observes that these torts are matters of state law that implicate state law interests. *See* 586 P.3d at 165-66, 170-71. That is true in the abstract, but it does not mean they are viable claims for addressing global climate change. In fact, when the Colorado government pursued a

similarly novel action against an e-cigarette manufacturer, the trial court dismissed the public nuisance claim and the Colorado Supreme Court found that its courts lacked personal jurisdiction over the company because the complaint described only nationwide marketing, not intentional actions aimed at Colorado. *See State ex rel. Weiser v. JUUL Labs, Inc.*, 517 P.3d 682, 686, 695 (Colo. 2022).

Even if some of the Plaintiffs' asserted tort claims are viable under state law, this Court has held that actions alleging claims involving "air and water in their ambient or interstate aspects," including global climate change, are governed by federal law. *American Elec. Power*, 564 U.S. at 421 (quoting *Milwaukee*, 406 U.S. at 103). The alternative, as the dissenting Colorado Supreme Court justices observed, is "regulatory chaos" in which numerous local governments impose a "patchwork of standards" that are "not capable of effectively addressing interstate air pollution." 586 P.3d at 176, 183 (Samour, J., joined by Boatright, J., dissenting).

The Maryland Supreme Court recently issued a decision consistent with this analysis. After holding that federal law displaces local efforts to regulate air emissions beyond their boundaries, the court found that, even if such claims could proceed, they fail to state claims under Maryland law for public or private nuisance, trespass, or failure to warn. *See Mayor & City Council of Baltimore v. B.P. P.L.C.*, -- A.3d --, 2026 WL 809501, at *29 (Md. Mar. 24, 2026). The court considered the required elements of each of these claims, dispatching them with ease. For example, the court found the local governments' public nuisance theory that sought relief to abate injuries

arising from global greenhouse effects arising from worldwide conduct "so far afield from any area of traditional state or local responsibility that it cannot be seriously contemplated." *Id.* at *29. Likewise, the local governments' "sweeping trespass claim" was unsupported by Maryland law, which requires a defendant to exercise "some measure of control over the matter invading a plaintiff's property," not simply attribute rainfalls and flooding to a company's marketing and use of products "in every part of the world." *Id.* at *30. The alleged failure to warn claims departed from a core principle of duty, which "requires a close or direct effect of the tortfeasor's conduct on the injured party." *Id.* at *31. There is no general "duty to the world," nor is there a "duty to warn the entire human race of the effects of climate change." *Id.* at *32 (citing *Gourdine v. Crews*, 955 A.2d 769, 786 (Md. 2008)). Finding otherwise, the court concluded, "would stretch tort law beyond any manageable bounds." *Id.*

B. State Consumer Protection Statutes Do Not Offer a Viable Alternative Theory

Some state and local climate change litigation, including the complaint in this case, invoke state unfair or deceptive trade practices statutes as an additional, alternative basis for a claim targeting emissions stemming from a company's lawful products. These claims seek to achieve the same end—regulation of emissions—but through the threat of civil penalties rather than ordinary damages. These related claims should not be overlooked by the Court, even when properly dismissed here by the court below. The outcome should be the same, regardless of whether creative lawyers present their federal regu-

latory action in the form of a common law tort claim or statutory consumer protection action.

While some state consumer protection statutes prohibit a list of specific practices in the sale of goods or services (which obviously do not include representations or omissions related to climate change), they typically include a catch-all provision prohibiting "unfair" or "deceptive" acts. *See* Cary Silverman & Jonathan L. Wilson, *State Attorneys General Enforcement of Unfair or Deceptive Acs and Practices Laws: Emerging Concerns and Solutions*, 65 Kan. L. Rev. 209, 211-12 (2016). While these laws provide state officials with flexibility to protect consumer rights, the vagueness of their terms opens the door to misuse. *Id*. at 212.

These laws were intended to address false advertising, bait-and-switch practices, and mischaracterizations or tactics that have misled or, if not stopped, are likely to mislead the state's consumers into purchasing a product or service and, by doing so, experience a financial loss. They were not enacted as a tool to shift costs attributed to climate change, in the past, present, or future, to one industry. But that is what these claims will achieve through the threat of unpredictable and potentially massive civil penalties. *See id.* at 240-43 (examining the aggregation of civil penalties); *see also* Colo. Rev. Stat. § 6-1-112(1)(a) (authorizing civil penalties of $20,000 per violation). How a court would calculate "per violation" civil penalties in this context is a complete mystery.

Here, Boulder alleged that energy companies violated the Colorado Consumer Protection Act by falsely representing or omitting material information about the impact of their products on climate change.

The Colorado trial court dismissed this claim, finding the local governments failed to sufficiently indicate when the targeted statements were made, the audience to which these statements were directed, where the statements were published, and which, if any of these statements, were directed to Colorado residents. *See Board of County Commissioners of Boulder County v. Suncor Energy (U.S.A.), Inc.*, No. 2018CV30349, at 76-77 (Colo. Dist. Ct. Boulder County, June 21, 2024) (Order Re Defendants' Motion to Dismiss). Similarly, regarding the company's purported omissions, the trial court found that the local governments did not sufficiently indicate what information should have been disclosed, why that information needed to be disclosed, who should have disclosed it, and how and when the information should have been communicated. *See id.* at 78. Without this information, energy companies could not respond to these vague allegations and the court would be unable to determine whether the statute of limitations to file these claims had expired. *See id*.

The trial court's decision on this claim, as well as similar decisions reached by other courts, demonstrates that claims based on cherry-picked statements, general environmental aspirations, or a purported failure to share information about climate change—anytime, anywhere—is not a state unfair or deceptive trade practice—just as it is not a tort. Several courts have similarly dismissed such claims, finding them both preempted and substantively flawed. *See, e.g., City of New York v. Exxon Mobil Corp.,* 226 N.Y.S.3d 863, 879-80 (N.Y. Sup. Ct. 2025) (dismissing claim under New York City's Consumer Protection Law in light of widespread public knowledge of climate change and because no reason-

able consumer would be misled by subjective and aspirational statements to believe fuel products do not contribute to climate change); *Mayor & City Council of Baltimore v. BP P.L.C.*, No. 24-C-18-004219, 2024 WL 3678699, at *5, *15 (Md. Cir. Ct. July 10, 2024) (characterizing Baltimore's consumer protection claim as "simply a way to get in the back door what they cannot get in the front door," which does not alter the preemption analysis, and finding Baltimore was well aware of the conduct at issue long before the statute of limitations expired, making it unnecessary to decide whether Baltimore adequately alleged that it relied on any statement made by the defendants about their products); *State ex rel. Jennings v. BP Am. Inc.*, No. N20C-09-097 MMJ CCLD, 2024 WL 98888, at *19 (Del. Super. Ct. Jan. 9, 2024) (dismissing Delaware Consumer Fraud Act claims because the state knew of climate change for decades prior to the expiration of the statute of limitations).

These claims, like the common law claims, are premised not on activity that occurred in the state, "but on activity that took place outside its borders, all over the world." *Charleston v. Brabham Oil. Co.*, No. 2020-CP-10-03975, 2025 WL 2269770, at *9 (S.C. Ct. Com. Pl. Aug. 6, 2025); *Platkin v. Exxon Mobil Corp.*, No. MER-L-001797-22, 2025 WL 604846, at *4 (N.J. Super. Ct. Feb 5, 2025) (finding "despite the artful pleading . . . even under the most indulgent reading" the Consumer Fraud Act and other claims are "entirely about addressing the injuries of global climate change" and therefore preempted). They typically target representations or omissions concerning climate change generally rather than specific statements made about the defendants' products sold in

that state. *See Charleston,* 2025 WL 2269770, at *18-19.

This Court should recognize that federal law governs all claims seeking damages attributed to climate change, whether they are creatively shaped as a tort claim, deceptive trade practices action, or other civil action. If the Court leaves the state statutory door open, then its decision could lead to another decade of litigation in which state and local governments pivot from tort claims to statutory actions to seek the same result. Indeed, since this Court granted certiorari, state and local governments in pending climate litigation have argued that courts should allow consumer protection claims to proceed rather than stay such claims.[2]

In sum, claims alleging property damage or financial losses from changes in global weather patterns are not traditional matters of state tort or consumer law. These lawsuits attempt to set national public policy and environmental regulation through state law claims – regulation through litigation.[3] The

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[2] *See, e.g.*, Plaintiff's Opposition to Defendants' Motion to Stay Proceedings, at 8-9, *Delaware v. BP Am. Inc.*, C.A. No. N20C-09-097-EMD-CCLD (Del. Super. Ct. filed Apr. 3, 2026) (distinguishing "climate-deception lawsuits" seeking civil penalties through a statutory consumer protection claims from state common law claims (which had already been dismissed as preempted) and indicating that other state courts have declined to stay statutory claims during this Court's consideration of this case.

[3] The United States would not be alone in rejecting climate change tort litigation. New Zealand, a nation whose tort law, like the United States, evolved from English common law, recently precluded climate-change related tort claims, finding that "[t]he courts are not the right place to resolve claims of

Court should ensure that such actions are governed by federal law, even if the claims are artfully pled in state law terms.

II. The Development, Funding, and Litigation of Climate Change Lawsuits Brought by State and Local Governments Further Demonstrates Their Interstate Nature

The method by which these state and local government climate change lawsuits are developed, filed, and litigated also indicates that they are not ordinary state law claims. These lawsuits are supported by organizations that have as their objective advancing a national agenda and they are litigated by lawyers who are subsidized by foundations with similar goals.

After this Court's decision in *American Electric Power Co. v. Connecticut*, lawyers, activists, and funders joined in La Jolla, California in 2012 to brainstorm new litigation strategies. *See generally* Seth Shulman, Establishing Accountability for Climate Change Damages: Lessons from Tobacco Control, Summary of the Workshop on Climate Accountability, Public Opinion, and Legal Strategies 11 (Union of Concerned Scientist and Climate Accountability Inst., Oct. 2012). The "ultimate goal" of at least some participants was to "shut down" the coal, gas, and oil industries. *Id.* at 13. To the extent participants iden-

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harm from climate change, and tort law is not well-suited to respond to a problem like climate change which involves a range of complex environmental, economic and social factors." Hon. Paul Goldsmith, New Zealand Justice Minister, News Release, *Government Brings Certainty to Climate Change Tort Law*, May 12, 2026.

tified a role for Congress, it was to aid their state-based litigation efforts. Participants suggested using Congress's subpoena power to obtain internal documents from companies that could be used in litigation and employing committee hearings to turn public opinion against the defendants. *See id.* at 11, 21, 28.

Since that time, activists and attorneys have given private briefings to government officials, urging them to initiate climate change-related investigations of energy producers. *See, e.g.*, Terry Wade, *U.S. Prosecutors Met with Climate Groups as Exxon Probes Expanded*, Reuters, Apr. 15, 2016. There are now more than two dozen pending climate change lawsuits filed by states and political subdivisions. *See* Karen Zraick, *Supreme Court Clears a Path for Climate Lawsuits to Proceed*, N.Y. Times, Jan. 13, 2025. The lawsuits generally seek to make the energy industry cover costs that governments have spent on climate-resiliency projects in response to rising sea levels and more frequent and intense storms. *See id.* They single out a select group of businesses and ignore the collective contributions to climate change by the rest of the world.

The coordinated, national nature of many of these lawsuits continues as most are litigated by private law firms, rather than by a government's publicly funded attorneys. One firm, for example, advertises that it represents nine states, the District of Columbia, fifteen cities and counties, and two tribes in climate change litigation. *See* Sher Edling LLP, Climate Damage and Deception, https://www.sheredling.com/cases/climate-cases/ (last visited May 12, 2026). In fact, government attorneys in

one state unsuccessfully sued their own attorney general, alleging he illegally retained this law firm and another outside firm, rather than use civil service attorneys, to pursue climate change litigation. *See* Leslie Clark, *California AG is Sued by His Office's Lawyers for Outsourcing Climate Case*, E&E News by Politico, June 20, 2025; *see also* Leslie Clark, *California AG Beats His Own Lawyers in Suit Related to Climate Case*, E&E News by Politico, July 11, 2025.

State and local governments often retain the outside attorneys that bring these suits on a contingency-fee basis, adding a profit motive to the litigation. With eyes on a massive settlement, these law firms could receive tens or hundreds of millions of dollars. In another instance, the outside attorneys are paid hourly at rates as high as $1,241 per hour. *See* Clark, *supra* (discussing California's contracts with two law firms).

Advocacy groups have subsidized state and local climate change litigation. For example, the New Venture Fund's Collective Action Fund for Accountability, Resilience and Adaptation (CAF) has long funded climate litigation. *See* MacArthur Found., New Venture Fund, https://web.archive.org/web/20241208085444/https:// www.macfound.org/grantee/new-venture-fund-43535/ (last visited Apr. 22, 2026) (archived website indicating two $3 million grants to CAF in 2020 and 2023 to support climate change lawsuits by states, counties, and cities against major fossil fuel corporations).

Some have raised concern with arrangements in which tax-exempt groups funded through charitable donations back a private law firm, removing some

risk involved in pursuing the litigation, when the law firm stands to later profit from a contingency fee should there be a settlement or judgment. *See* Thomas Catenacci, *Leonardo DiCaprio Funneled Grants Through Dark Money Group to Fund Climate Nuisance Lawsuits, Emails Show*, Fox News, Aug. 15, 2022.

In this instance, the city and county are pursuing the litigation through attorneys associated with nonprofit organizations including EarthRights International "who are working on a *pro bono* basis . . . assisted by private law firms" that stand to recover one fifth of any award. *See* Boulder County, Climate Lawsuit, Communities File Lawsuit Against Oil Giants for Climate Change Costs, https://bouldercounty.gov/climate/impacts/climate-lawsuit/#1523979824052-ce8d917c-eb3a (last visited May 12, 2026).

In sum, the development, funding, and litigation of the climate change lawsuits is a further reason to be skeptical that these claims are matters of traditional state law, rather than part of a coordinated attempt to set national environmental policy. This Court should soundly reject efforts to trespass on the functions of Congress and the Executive Branch by bringing climate change lawsuits under false state tort law labels.

CONCLUSION

The claims alleged in this and similar lawsuits raise unique issues of environmental, energy, and economic policy that impact all Americans. Ultimately, efforts to address climate change require national and global solutions, developed through legitimate

democratic means, rather than faux state law-based litigation.

For these reasons, *amicus curiae* respectfully requests that this Court reverse the Supreme Court of Colorado.

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