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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI‘I

STATE OF HAWAI‘I, ex rel. ANNE E. LOPEZ, ATTORNEY GENERAL,

Plaintiff,

v.

BP P.L.C.; BP AMERICA INC.; BP PRODUCTS NORTH AMERICA INC.; CHEVRON CORP.; CHEVRON U.S.A. INC.; EXXON MOBIL CORP.; EXXONMOBIL OIL CORPORATION; SHELL P.L.C.; SHELL USA, INC.; EQUILON ENTERPRISES LLC d/b/a SHELL OIL PRODUCTS US; SHELL TRADING (US) COMPANY; SUNOCO LP; ALOHA PETROLEUM, LTD.; ALOHA PETROLEUM LLC; CONOCOPHILLIPS; CONOCOPHILLIPS COMPANY; PHILLIPS 66; PHILLIPS 66 COMPANY; WOODSIDE ENERGY HAWAII INC. f/k/a BHP HAWAII INC.; AMERICAN PETROLEUM INSTITUTE; and DOES 1 through 100, inclusive,

Defendants.

**CIVIL NO. 1CCV-25-0000717 (JJK)**
**(Other Non-Vehicle Tort)**

**DEFENDANTS' SUPPLEMENTAL MEMORANDUM IN SUPPORT OF MOTION TO STAY PROCEEDINGS [Dkt. 24]; EXHIBITS "A"-"C"; CERTIFICATE OF SERVICE**

**FURTHER IN-PERSON HEARING:**
Date: March 18, 2026
Time: 11:00 a.m.
Judge: Honorable Jordon J. Kimura
Trial Date: None

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## INTRODUCTION

In August 2025, this Court temporarily stayed proceedings in light of the U.S. government's action in federal district court (the "Federal Action")[1] to enjoin this action on multiple grounds, including that Plaintiff the State of Hawai'i's lawsuit was precluded and preempted by the federal constitutional structure and federal law. Dkt. 406 (the "Order"). More specifically, the Court stayed this case "pending completion of the Rule 16 Scheduling Conference and disposition of the motion for judgment on the pleadings in" the Federal Action. *Id.* at 4. Neither of those things has occurred, and therefore, it would make good sense and promote judicial and party efficiency to continue the current stay of proceedings in this action.

Additionally, there have been two significant developments since the Court issued its initial stay that make continuing the stay all the more appropriate. Most important, the United States Supreme Court granted certiorari in a similar climate change case, *Suncor Energy (U.S.A.) Inc. v. County Commissioners of Boulder County*, No. 25-170 ("*Boulder*") on February 23, 2026. The merits question presented in *Boulder* is whether federal law precludes state law claims seeking relief for injuries allegedly caused by the effects of interstate and international greenhouse-gas emissions on the global climate. Here, Plaintiff does not dispute that it brings only state law claims, and *all of them* seek damages for the alleged impact of cumulative interstate and international emissions on the global climate. The Supreme Court's decision in *Boulder* thus has the potential to fully and finally determine the outcome of this action. If the Supreme Court agrees with the petitioners in *Boulder* that state law claims seeking damages for interstate and international greenhouse-gas emissions—like Plaintiff's claims here—are preempted and precluded by federal law, that will completely dispose of Plaintiff's claims and no further proceedings in this Court will

[1] Unless defined herein, capitalized terms have the meanings ascribed to them in the Order.

be necessary. Any time spent by the Court and the Parties in the interim would have been for naught. At minimum, there is a substantial probability that the Supreme Court's disposition in *Boulder* will provide this Court with guidance on how to address the federal preclusion and preemption arguments that would be front and center in this action should it proceed, including in Defendants' motions to dismiss for failure to state a claim.

Accordingly, it will promote judicial economy and the interests of justice to continue to pause proceedings here to permit the Supreme Court to provide potentially dispositive guidance regarding a core threshold issue in this case. It will also avoid the possibility of a ruling that is inconsistent with that of the Supreme Court. Notably, the New Jersey Superior Court Appellate Division recently and *sua sponte* requested that the parties submit briefings on the impact of the Supreme Court's grant of certiorari in *Boulder* and, earlier this week, stayed proceedings in an appeal from an order dismissing similar climate change-related claims after "consider[ing] the parties' positions." Sua Sponte Order, *New Jersey v. Exxon Mobil Corp.*, No. A-001641-2472, Ex. A (N.J. Super. Ct. App. Div. Mar. 2, 2026). This Court should stay all further proceedings in this case, pending the Supreme Court's decision in *Boulder*.

Another significant development is that Chevron filed a motion in the U.S. District Court for the District of Hawai‘i on January 30, 2026, to enforce a 2002 judgment involving Plaintiff. The case is *Anzai v. Chevron Corp.* (the "*Anzai* Action"). The judgment in the *Anzai* Action and the related settlement agreement it incorporated resolved claims brought by the State of Hawai‘i that alleged the deceptive manufacture, marketing, and sale of petroleum products by several of the Defendants in this case. Motion to Enforce the Judgment, *Anzai v. Chevron Corp.*, No. 98-cv-00792 (D. Haw. Jan. 30, 2026) (Dkt. 1204). Because Plaintiff asserts that *all of its claims* in this lawsuit are predicated on a supposed "campaign of deception," Compl. ¶¶ 1–2, Chevron's motion,

if successful, could dispose of this entire case as to Chevron. And, in any event, Chevron's pending motion in *Anzai*, before Judge Micah W.J. Smith, has the potential to significantly limit and reshape the scope of this case. Other Defendants in this case, including ConocoPhillips, Phillips 66, Shell, and Woodside, have notified Plaintiff that they intend to file similar motions in short order—which, if granted, could dispose of the claims against those Defendants as well.

At a minimum, this Court should continue the stay until the Federal Action is resolved. A stay remains appropriate on the same basis that this Court already accepted in granting in part Defendants' motion to stay—the ongoing Federal Action brought by the United States against the State continues to provide a separate and sufficient basis for maintaining the stay. The Federal Court remains actively engaged with that action, recently requesting supplemental briefing before ruling on the motion for judgment on the pleadings, and continuing the Rule 16 Scheduling Conference until May 2026.[2] And, similar to the U.S. Supreme Court's forthcoming decision in *Boulder*, "[r]esolution of the Federal Action may fully dispose of the lawsuit before this Court and make it clear that the state law claims advanced here are preempted and precluded by the United States Constitution and federal law." Mot. at 1. Even if the Federal Action does not fully dispose of the entirety of this suit, proceedings in the Federal Action may materially impact key issues in this case by, for example, limiting the scope of the State's claims or illuminating key issues of federal law. A stay pending the decision in the Federal Action, which will determine whether this action may proceed at all, remains prudent.

[2] Supplemental briefing is scheduled to be completed on March 12, 2026.

Defendants respectfully request that this Court continue to stay proceedings pending the United States Supreme Court's resolution of *Boulder* or, at a minimum, until a final disposition of the Federal Action, filed first by the United States government, in federal court.[3]

**BACKGROUND**

On June 17, 2025, Defendants filed their motion to stay proceedings pending resolution of the first-filed lawsuit commenced by the United States against the State of Hawai'i. Dkt. 377 (the "Motion"). Defendants argued that the Federal Action, which seeks to enjoin this suit, could "make it clear that the state law claims advanced here are preempted and precluded" and either fully resolve or significantly limit the state's claims. *Id.* at 2. Defendants explained that the federal government seeks to enjoin the present lawsuit on the grounds that Hawai'i's claims are "preempted by the Clean Air Act," "violate the Constitution's structure and principles of due process," "undermine federal objectives by increasing energy costs and disrupting the national energy market," and "impose a substantial and undue burden on interstate commerce." *Id.* at 2–3.

On August 18, 2025, this Court issued an order granting in part Defendants' Motion. *See* Order. In its Order, this Court stayed this action and continued the Motion "for 180 days from the entry of the Court's *Minute Order* filed July 31, 2025 [Dkt. 377] pending completion of the Rule 16 Scheduling Conference and disposition of the motion for judgment on the pleadings in" the Federal Action. Order at 4.

[3] *See* Docket Entry re: Order Continuing Telephonic Rule 16 Scheduling Conference from 3/17/2026 to 5/4/2026, *United States v. State of Hawai'i*, 1:25-cv-00179 (Mar. 2, 2026). Defendants are filing this Supplemental Brief without submitting to the jurisdiction of this Court and without waiver of any defense, affirmative defense, or objection, including personal jurisdiction. Defendants expressly reserve the right to file Rule 12(b)(2) motions to dismiss for lack of personal jurisdiction consistent with the parties' stipulation, Dkt. 11, and state that no arguments made in connection with this Supplemental Brief constitute consent to the jurisdiction of this Court.

Since the Court's Order, there have been several notable developments, including the following.

*First*, on September 9, 2025, Judge Lisa W. Cataldo of the Circuit Court of the First Circuit denied the State's motion to consolidate this action with the *Honolulu* action. Order Denying Mot. to Consolidate, *City and County of Honolulu v. Sunoco LP*, 1CCV-20-0000380 (LWC) (Sept. 9, 2025). This means that this action will proceed along its own timeline untethered to the *Honolulu* case.

*Second*, on February 11, 2026, the Federal Court ordered additional briefing on five topics in connection with the motion for judgment on the pleadings in the Federal Action. Order on Supplemental Briefing, *United States v. State of Hawai'i*, 1:25-cv-00179 (Feb. 11, 2026) (Dkt. 39). The supplemental briefing is scheduled to be completed on March 12, 2026. *Id.* As a result, the State's motion for judgment on the pleadings remains pending.

*Third*, on January 30, Chevron filed a motion to enforce the judgment and settlement in the *Anzai* Action by enjoining, among other things, the State's lawsuit before this Court. Motion to Enforce the Judgment, *Anzai v. Chevron*, 98-cv-00792 (D. Haw. Jan. 30, 2026) (Dkt. 1204). The motion is pending before Judge Micah W.J. Smith of the U.S. District Court for the District of Hawai'i and briefing is scheduled to be completed on May 13, 2026. Other Defendants, including ConocoPhillips, Phillips 66, Shell, and Woodside, have notified Plaintiff that they anticipate making similar motions to enforce the *Anzai* settlement agreement and judgment in the near future.

*Fourth*, on February 23, 2026, the United States Supreme Court granted certiorari in a similar climate change case, *Suncor Energy (U.S.A.) Inc. v. County Commissioners of Boulder County*, No. 25-170 ("*Boulder*"), which presents the question whether federal law precludes state law claims seeking relief for injuries allegedly caused by the effects of interstate and international

greenhouse-gas emissions on the global climate. It is likely the case will be briefed by fall 2026, oral argument will be heard during the Supreme Court's Term beginning October 2026, and a decision will be issued by June 2027 at the latest.

## LEGAL STANDARD

"The power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *City of Honolulu v. Ing*, 100 Hawai'i 182, 194 n.16 (2002) (quoting *Air Line Pilots Ass'n v. Miller*, 523 U.S. 866, 880 (1998)). In particular, "[a] stay may be appropriate where proceeding with the litigation will result in unnecessary duplication of effort, such as where the issues to be decided are inextricably intertwined with or affected by the resolution of other pending matters." *Blake v. County of Kaua'i Planning Comm'n*, 131 Hawai'i 123, 138 (2013) (citation omitted); *see also* Order at 4–5.

## ARGUMENT

This Court should exercise its inherent discretion to continue to stay proceedings until the Supreme Court issues a decision in *Boulder* or, at minimum, until there is a final disposition of the Federal Action. Judicial efficiency counsels in favor of staying this suit, which would avoid needless and duplicative litigation as well as potentially conflicting rulings, until the key threshold issues raised in *Boulder* and the Federal Action are resolved. The *Anzai* Action currently pending in federal court provides additional support for a stay of proceedings. Proceeding here, before the Supreme Court or the District of Hawai'i address the federal preclusion and preemption issues, risks duplicative briefing and inconsistent rulings on a dispositive issue.

### 1. This Case Should Be Stayed Pending the United States Supreme Court's Decision in *Boulder*.

As this Court is aware, this case is one of dozens of similar suits that have been brought by state, local, and tribal governments across the country, seeking to impose liability on Defendants and other energy companies under state law for the alleged impacts of climate change. Plaintiff's suit, though couched in the language of deception and misrepresentation, is premised on interstate and international greenhouse-gas emissions and their alleged global effects. *See* Compl. ¶ 10 (seeking damages for the "consequences of climate change in Hawai'i" allegedly caused by the "buildup of CO2 in the atmosphere that drives climate change and its physical, environmental, and socioeconomic consequences"); Opp. to Motion to Stay at 6 (noting that "this suit seeks to remedy" "climate change harms"); *id.* at 14 (noting that this suit "is intended to remedy" "sea level rise, extreme heat, and wildfires" by "recovering from Defendants the costs that the State has incurred, and will continue to incur, to adapt to and survive climate change"); *id.* at 15 (referring to "the climate harms the State seeks to remedy").

Plaintiff's claims are legally flawed for many reasons. Most fundamentally, Plaintiff's claims must be dismissed because the federal Constitution precludes and preempts the use of state law to remedy harms allegedly caused by out-of-state and worldwide emissions. A suit, such as this, "seeking to recover damages for the harms caused by global greenhouse gas emissions may [not] proceed under [state] law," as "a mostly unbroken string of [Supreme Court] cases has applied federal law to disputes involving interstate air or water pollution." *City of New York v. Chevron Corp.*, 993 F.3d 81, 91 (2d Cir. 2021). Moreover, Plaintiff's claims are preempted by the federal Clean Air Act, which "precludes a court from applying the law of an affected State against an out-of-state source." *Int'l Paper Co. v. Ouellette*, 479 U.S. 481, 494 (1987); *see also* Jt. Mot. 21–26.

*Boulder* is another one of these climate suits. *Boulder* was filed by two governments—Boulder County and the City of Boulder, Colorado—bringing state law tort claims "for injuries allegedly caused by the contribution of greenhouse-gas emissions to global climate change." Pet. for a Writ of Certiorari, *Boulder*, Ex. B, at 1, 9 (U.S. Aug. 8, 2025). In *Boulder*, the trial court (incorrectly) rejected the defendants' arguments that the plaintiffs' claims were precluded by federal law, and the Colorado Supreme Court agreed in a 5-2 decision. *See Bd. of Cnty. Comm'rs of Boulder Cnty. v. Suncor Energy USA, Inc.*, --- P.3d ----, 2025 CO 21 (Colo. 2025).

The *Boulder* Court's decision is an outlier among a "growing chorus of state and federal courts across the United States, singing from the same hymnal," that have dismissed essentially identical suits on the pleadings. *Charleston v. Brabham Oil Co., Inc.*, 2025 WL 2269770, at *2 (S.C. Ct. Com. Pl. Aug. 6, 2025) (citation omitted).[4] For example, in a well-reasoned, 43-page opinion, the *Charleston* court held that "all of Plaintiff's claims are precluded and preempted by the federal Constitution and federal law," and "also should be dismissed as a matter of state law." *Id.* at 3. Likewise, in a cogent 34-page opinion, a Maryland court held that "the Constitution's federal structure does not allow the application of state law to claims like those presented by [the plaintiff]." *Mayor & City Council of Baltimore v. BP P.L.C.*, 2024 WL 3678699, at *6 (Md. Cir. Ct. July 10, 2024).

[4] *See City of New York*, 993 F.3d 81; *City of Oakland v. BP P.L.C.*, 325 F. Supp. 3d 1017 (N.D. Cal. 2018), *vacated on other grounds*, 960 F.3d 570 (9th Cir. 2020); *Mayor & City Council of Baltimore v. BP P.L.C.*, 2024 WL 3678699 (Md. Cir. Ct. July 10, 2024); *State ex rel. Jennings v. BP Am. Inc.*, 2024 WL 98888 (Del. Super. Ct. Jan. 9, 2024); *City of Annapolis v. BP PLC*, 2025 WL 588595 (Md. Cir. Ct. Jan. 23, 2025); *Platkin v. Exxon Mobil Corp.*, 2025 WL 604846 (N.J. Super. Ct. Feb. 5, 2025); *Bucks Cnty. v. BP P.L.C.*, 2025 WL 1484203 (Pa. Ct. Com. Pl. May 16, 2025); *Charleston*, 2025 WL 2269770; *see also Municipality of Bayamón v. Exxon Mobil Corp.*, 2025 WL 2630671 (D.P.R. Sept. 11, 2025); *Municipality of San Juan v. Exxon Mobil Corp.*, 2025 WL 2848565 (D.P.R. Sept. 30, 2025); *City of New York v. Exxon Mobil Corp.*, 226 N.Y.S.3d 863 (N.Y. Sup. Ct. 2025); *Carrboro v. Duke Energy Corp.*, 2026 WL 411466 (N.C. Super. Ct. Feb. 12, 2026).

The defendants in *Boulder* sought a writ of certiorari from the U.S. Supreme Court. On February 23, 2026, the Supreme Court granted certiorari as to the following question: "Whether federal law precludes state law claims seeking relief for injuries allegedly caused by the effects of interstate and international greenhouse-gas emissions on the global climate." Pet., Ex. B, at I; *see* Cert. Order, 607 U.S. ----, Ex. C, at 2 (U.S. Feb. 23, 2026). The Supreme Court also directed the parties to address whether it has statutory and Article III jurisdiction to hear the case. *See* Cert. Order, Ex. C, at 2. A decision in *Boulder* will likely be issued no later than June 2027.

The Supreme Court's decision in *Boulder* will bear directly on the issues in this case. If the Supreme Court holds in *Boulder* that federal law precludes state law claims seeking relief for injuries allegedly caused by the effects of interstate and international greenhouse-gas emissions, this will affirm Defendants' federal preemption and preclusion arguments, requiring this Court to dismiss this case. That is because it is undisputed that all of Plaintiff's claims are premised on, and seek damages for, the cumulative impact of interstate and international emissions going back for decades.[5] And even if the Supreme Court does not side with the petitioners in *Boulder*, its decision will still provide important guidance that will undoubtedly shape this Court's consideration of the issues in this case.

Under these circumstances, a continued stay of proceedings is appropriate. *Blake*, 131 Hawai'i at 138. If the Supreme Court's ruling in *Boulder* supports dismissal of Plaintiff's claims here, then the time and effort expended by this Court and the parties on the case in the interim will

[5] As one court explained in dismissing similar claims earlier this month: Climate change "is the result of the collective impact of acts by literally billions of unrelated emitters dispersed throughout the globe," and would necessarily "require a factfinder to make decisions based on pure conjecture divorced from any clearly articulable or objective standards, necessarily requiring rank speculation as to the internal motivations of hundreds of millions of individuals in the United States and the cumulative effect of their actions on a global phenomenon." *Carrboro v. Duke Energy Corp.*, 2026 WL 411466, at *9 (N.C. Super. Ct. Feb. 12, 2026).

have been unnecessary. Again, if the Supreme Court sides with petitioners in *Boulder*, it will dispose of Plaintiff's claims because they all seek damages for the alleged impacts of interstate and international emissions. Indeed, for these reasons, the New Jersey Superior Court Appellate Division recently stayed all proceedings in the appeal of a similar climate change-related case, involving many of the same defendants as here, pending the resolution of *Boulder*. *See* Ex. A.

A stay is likewise appropriate to avoid the risk of decisions by this Court on future motions that are inconsistent with the Supreme Court's forthcoming decision in *Boulder*. The Ninth Circuit has recognized the desirability of avoiding such inconsistent or conflicting judgments. *See, e.g.*, *United Ass'n of Journeymen & Apprentices v. Valley Engineers*, 975 F.2d 611, 615 (9th Cir. 1992) (endorsing stay following administrative agency determination because "[l]etting the suit go forward would have produced conflicting or redundant judgments, and a great deal of wasted effort and expense").

The analysis does not change because the Supreme Court also requested briefing on a question of jurisdiction, in addition to the principal question. *See* Order, Ex. C, at 2 (posing the question "[w]hether [the Supreme] Court has statutory and Article III jurisdiction to hear this case"). Instructing the parties to brief those jurisdictional questions indicates that the Supreme Court intends to carefully and thoroughly consider all issues implicated by the case. Moreover, the Court granted the petition even though the plaintiffs raised those jurisdictional objections in opposition to certiorari. Accordingly, there is a substantial probability that the Supreme Court will address the federal law preclusion question at issue here, which provides more than a sufficient basis for a continued stay.

At bottom, given the significant prospect that the Supreme Court will resolve a core issue in this case that would dispose of Plaintiff's claims, it would be sensible and promote judicial economy to permit the Supreme Court to decide *Boulder* before proceeding with this case.

**2. A Continued Stay Pending the Determination of Dispositive Threshold Issues in the Federal Action Will Promote Judicial Economy and the Interests of Justice.**

The Federal Action filed by the United States directly raises the fundamental and threshold question whether the State may advance the state law claims that it pursues in this suit, or whether those claims are precluded and preempted by federal law and the federal constitutional structure. Resolution of the Federal Action thus has the potential to wholly dispose of this suit. If the federal court grants the relief the Department of Justice is seeking, then the State—as Defendant in the Federal Action, and Plaintiff here—would be "permanently enjoin[ed]" from proceeding with its litigation in this Court. Fed. Compl. at 31 (Prayer for Relief). Simply put, if the United States prevails in the Federal Action, then this suit will be over. And even if the Federal Court does not enjoin the State from pursuing this action, the decision in the Federal Action is likely to be informative, as the Federal Court is likely to address many of the issues central to this case.

In its August 18, 2025 order, this Court, "weighing the competing interests of the Movants and the State . . . f[ound] that a limited stay of the matter is appropriate under the circumstances presented." Order at 5. Those same circumstances are present still—the Federal Court has yet to dispose of the motion for judgment on the pleadings in the Federal Action, and no trial date has been set. *Id.* at 5; *see also* Mot. at 2–11.

The Federal Court has expressed interest in the questions raised by the United States' Complaint and the pending motion for judgment on the pleadings. On February 11, the Federal Court issued a minute order requesting additional briefing to address the issues raised in the filings on the defendants' motion for judgment on the pleadings. Order on Supplemental Briefing, *United*

*States v. State of Hawai'i*, 1:25-cv-00179 (February 11, 2026) (Dkt. 39). Specifically, the court ordered briefing on five issues: (1) whether the United States is seeking leave to amend the complaint; (2) the effect of *City & County of Honolulu v. Sunoco LP*, 537 P.3d 1173 (Haw. 2023) on the action; (3) whether the United States would be able to seek equitable relief in the action in state court if intervention were permitted; (4) how the All Writs Act and Declaratory Judgment Act provide authority for a federal court to grant equitable relief; and (5) how the reasoning in *United States v. Michigan*, No. 1:25-CV-496, 2026 WL 194031 (W.D. Mich. Jan. 24, 2026), relates to the case. *Id.* Briefing on these issues is scheduled to be completed on March 12, 2026. Lifting the temporary stay at this stage would be premature. Even if the Court is not inclined to stay the case pending the Supreme Court's decision in *Boulder*, a continued stay is warranted at least until disposition of the motion for judgment on the pleadings in the Federal Action, consistent with this Court's prior order. *Blake*, 131 Hawai'i at 138.

**3. A Continued Stay Pending the Determination of Dispositive Threshold Issues in the *Anzai* Action Will Promote Judicial Economy and the Interests of Justice.**

The pending motion to enforce the judgment in the *Anzai* Action, as well as several similar motions that other Defendants will file in the coming days, may also address issues that would be dispositive in this case. On January 30, Chevron filed a motion to enforce the judgment and settlement in the *Anzai* Action, a litigation commenced in 1998 by the State against Chevron (and others) asserting claims under state and federal antitrust statutes, as well as claims for unfair and deceptive trade practices under state law. Motion to Enforce the Judgment, *Anzai v. Chevron*, 98-cv-00792 (D. Haw. Jan. 30, 2026) (Dkt. 1204). After four years of aggressive litigation, the parties settled and moved for court approval of the settlement agreement. Memorandum in Support of Motion to Enforce Judgment at 3, *Anzai v. Chevron*, 98-cv-00792 (D. Haw. Jan. 30, 2026) (Dkt.

1204-1). The court approved the settlement and issued a judgment incorporating the settlement on April 30, 2002.

As asserted in Chevron's motion in the *Anzai* Action, the State released claims that it seeks to bring here through that 2002 judgment. *Id.* *All* of the State's claims against Chevron here fall squarely within the definition of released claims in the *Anzai* Action. "The *Anzai* Settlement released Chevron from liability for 'all claims' 'of whatever nature or origin, known and unknown, that have been, could have been, or could be asserted' against the company 'that arise from any act or acts occurring prior to the date of the Settlement Agreement and that relate to' (among other things) the 'sale,' 'manufacture,' and 'marketing' of 'gasoline, diesel, jet fuel and/or any other petroleum product or products,' as long as the claims are not 'substantially unrelated to' . . . 'deceptive trade practices.'" *Id.* at 10. The release plainly applies to the State's claims against Chevron here, because the State's claims depend heavily on pre-settlement conduct and are substantially related to alleged deceptive trade practices. The same is true of the State's claims against other Defendants who were parties to (or are beneficiaries of) the settlements in the *Anzai* case and who have advised the State that they intend to file similar motions in short order. The District Court has exclusive jurisdiction to interpret and enforce the settlement agreement.

**a. Plaintiff's Claims Relate to Alleged Deceptive Trade Practices.**

All of the State's claims are substantially related to alleged "deceptive trade practices." They all depend on the overarching theory that Defendants "mounted a decades-long campaign of deception to discredit the scientific consensus on climate change," thereby "sustaining the market for fossil fuels," which in turn supposedly "accelerated global warming" by increasing worldwide carbon emissions and thereby "brought about devastating climate change impacts to Hawai'i." Compl. ¶¶ 1–2.

Plaintiff packages that overarching theory into claims for (1) negligence, (2) public nuisance, (3) private nuisance, (4) trespass, (5) harm to public trust resources, (6) civil aiding and abetting (against co-defendant API only), (7) unfair or deceptive acts or practices under HRS § 480-2, and (8) strict liability for failure to warn. Compl. ¶¶ 327–448. Although these causes of action have differing elements under state law, they all share the same common overarching theory: that Defendants' sale and marketing of fossil fuels was a deceptive trade practice causing climate change.

As to negligence, Hawai'i claims that the Defendants breached their "duty of care when they advertised, promoted, and/or sold fossil fuel products" without "warnin[g] of the risk of harm associated with fossil fuel products" and "by waging a years-long deceptive marketing and public relations campaign to discredit climate science." Compl. ¶¶ 334–35. Similarly, Hawai'i bases its claims for nuisance, trespass, and harm to public trust resources on the Defendants' alleged "campaign of deception," which allegedly "created, caused, contributed to, and assisted in creating" "Climate Related Harms." *Id.* ¶¶ 343 (public nuisance), 357 (private nuisance), 372 (trespass), 389 (public trust). Hawai'i's claim for deceptive trade practices rests on allegations of Defendants' deceptive "marketing, advertising, and promotion of fossil fuel products." *Id.* ¶ 410. And Hawai'i bases its failure-to-warn claim on allegations that "fossil fuel products" Defendants "advertised, promoted, and/or sold . . . were not reasonably safe . . . because they lacked adequate warnings and instructions" due to a "decades-long campaign of intentional deception." *Id.* ¶¶ 435, 448.

In sum, the allegations in the complaint show that all of Plaintiff's claims against Chevron and the other Defendants are substantially related to allegedly "deceptive trade practices" involving "the pricing, sale, purchase, manufacture, exchange, marketing, delivery, and/or offering

of gasoline, diesel, jet fuel and/or any other petroleum product or products." Motion to Enforce Judgment at 10, *Anzai v. Chevron*, 98-cv-00792 (D. Haw. Jan. 30, 2026) (Dkt. 1204-1).[6]

**b. The Claims Arise From Alleged Pre-Settlement Conduct.**

As argued by Chevron, by releasing claims based on alleged deception that occurred before April 2002, the *Anzai* settlement eviscerates Plaintiff's Claims. All of Plaintiff's claims rest, in substantial and essential part, on alleged deception that supposedly occurred before April 2002. The theory of Plaintiff's case is that Defendants engaged in decades of deceptive practices starting before 2002 that caused cumulative global warming. Plaintiff alleges a "decades-long campaign of deception" that "had, and continues to have, the purpose and effect of inflating and sustaining the market for fossil fuels, which drove up [greenhouse gas] emissions, accelerated global warming, and brought about devastating climate change impacts to Hawai'i." Compl. ¶¶ 1–2. As a result, it would be impossible for Plaintiff to proceed with its complaint in the current form in a manner consistent with the *Anzai* settlement's pre-2002 release.

Most notably, Plaintiffs' theory of climate-change denial relies entirely on alleged conduct from the 1980s and 1990s. *See, e.g.*, Compl. ¶¶ 104–28. The State alleges a "pivot . . . to affirmatively deceiving consumers and the public" in the period "between 1988 and 1992," citing alleged statements and conduct by the Defendants in the early 1990s. *Id.* ¶ 104. And the State admits Defendants "shifted away from denying anthropogenic warming" in the late 1990s. *Id.* ¶ 128.

As to Chevron specifically, the Complaint relies almost entirely on pre-settlement allegations, invoking advertising by Chevron "[o]ver the last several decades" and a patent

[6] The ExxonMobil and BP Defendants were not sued in *Anzai* and thus are not parties to the settlement, as they lacked meaningful contacts with Hawai'i including related to the marketing and sale of retail fossil fuel before, during, and after the Settlement, as jurisdictional discovery in the *Honolulu* case is now confirming.

Chevron obtained in 1974. Compl. ¶¶ 36, 141. And Plaintiff highlights Chevron's alleged participation in organizations engaged in purportedly deceptive conduct beginning in the 1980s, *Id.* ¶¶ 119, 123, and advertisements by Chevron in 1970 and 1996, *id.* ¶¶ 202, 237. Absent that alleged conduct stretching back decades and pre-dating the 2002 settlement, the few allegations as to Chevron's more recent speech and activity do not state coherent or actionable claims.

* * *

Because Plaintiff's claims are barred by the settlement agreement, Chevron's motion requests that the court "[e]njoin the State Court Plaintiffs to dismiss the current State Court Complaints against Chevron . . .". Motion to Enforce Judgment at 1, *Anzai v. Chevron*, 98-cv-00792 (D. Haw. Jan. 30, 2026) (Dkt. 1204-1). Such an outcome would dispose of the claims in this action against Chevron altogether. Briefing on that motion is scheduled to be completed on May 13, 2026, and other defendants have notified the State that they intend to file similar motions prior to this deadline. The pending motion concerning these foundational issues further supports issuance of a stay here.

**4. A Stay Will Not Prejudice Plaintiff.**

A continued stay pending resolution of *Boulder* or, at a minimum, the motion for judgment on the pleadings in the Federal Action, will not prejudice Plaintiff. As the Court noted in the context of a stay pending the outcome of the Federal Action, "[t]he full extent of any prejudice to the State by a longer stay of this action is not known until the Federal Court has set a trial date in the Federal Action, and the State's pending motion for judgment on the pleadings therein before the Federal Court may be dispositive of that action." Order at 5. But Defendants do not seek "a longer stay" here. Defendants seek a limited stay until the significant, and potentially dispositive, issues presented in *Boulder* and the Federal Action are resolved.

As noted in Defendants' initial stay motion, Plaintiff's suit is principally based on purported historical conduct and seeks primarily damages or other monetary relief. Accordingly, a stay will not prevent Plaintiff from ultimately securing any compensation to which it is entitled should it prevail on the merits of its claims. Mot. at 11–12. This remains true.

As this Court is aware, the City and County of Honolulu filed its suit in March 2020—yet the state waited *more than five years* to file this action. *See* Mot. at 12. There is no urgency here such that a limited stay under these circumstances would prejudice Plaintiff.

## CONCLUSION

This Court should exercise its inherent discretion to continue to stay further proceedings in this case pending the resolution of *Boulder* or, at a minimum, adjudication of the motion for judgment on the pleadings in the Federal Action.

DATED: Honolulu, Hawai'i, March 4, 2026.

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# Exhibit “A”

MATTHEW J. PLATKIN, ATTORNEY GENERAL OF THE STATE OF NEW JERSEY; NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION; AND CARI FAIS, ACTING DIRECTOR OF THE NEW JERSEY DIVISION OF CONSUMER AFFAIRS
V.
EXXON MOBIL CORPORATION; EXXONMOBIL OIL CORPORATION; BP P.L.C.; BP AMERICA INC.; CHEVRON CORPORATION; CHEVRON U.S.A. INC., CONOCOPHILLIPS, CONOCOPHILLIPS COMPANY, PHILLIPS 66, PHILLIPS 66 COMPANY, SHELL PLC; SHELL OIL COMPANY, and AMERICAN PETROLEUM INSTITUTE

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-001641-24T2

SUA SPONTE ORDER

This matter being opened to the court on its own motion, and it appearing that plaintiffs appeal from the February 5, 2025 order of the Superior Court of New Jersey, Law Division, Mercer County, Docket No. L-001797-22, granting defendants' Motion to Dismiss for Failure to State a Claim and dismissing plaintiffs' complaint, which seeks damages for the effects of global climate change caused by greenhouse gases, on the basis that plaintiffs' claims are preempted by federal law;

It further appearing that on February 23, 2026, the United States Supreme Court granted certiorari in Cty. Comm’rs of Boulder Cnty. v. Suncor Energy USA, Inc. (In re Cty. Comm’rs of Boulder Cnty), 2025 CO 21, as to the following question: "Whether federal law precludes state-law claims seeking relief for injuries allegedly caused by the effects of interstate and international greenhouse gas emission on the global climate"; and

The court having considered the parties' positions on whether this appeal should be held in abeyance pending the Supreme Court's decision and

determined the appeal should abide the Supreme Court's decision in In re Cty. Comm'rs of Boulder Cnty; therefore

IT IS ON THIS 2nd DAY OF March, 2026, HEREBY ORDERED THAT:

1. This appeal is held in abeyance pending the United States Supreme Court's decision in In re Cty. Comm'rs of Boulder Cnty; and

2. The Clerk's Office February 20, 2026 invitation to submit supplemental briefs addressing the Environmental Protection Agency's repeal of the 2009 Endangerment Finding by March 4, 2026, is rescinded; and

3. The May 12, 2026 oral argument date is cancelled pending further notice; and

4. The parties shall notify the Clerk's Office of the Supreme Court's disposition of In re Cty. Comm'rs of Boulder Cnty within five (5) days thereof.

FOR THE COURT:

THOMAS W. SUMNERS, JR., C.J.A.D.

MER-L-1797-22 MERCER

# Exhibit “B”

No.

# In the Supreme Court of the United States

SUNCOR ENERGY (U.S.A.) INC.; SUNCOR ENERGY SALES INC.; EXXON MOBIL CORPORATION,
PETITIONERS

*v.*

COUNTY COMMISSIONERS OF BOULDER COUNTY; CITY OF BOULDER

*ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF COLORADO*

## PETITION FOR A WRIT OF CERTIORARI


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## QUESTION PRESENTED

Whether federal law precludes state-law claims seeking relief for injuries allegedly caused by the effects of interstate and international greenhouse-gas emissions on the global climate.

## CORPORATE DISCLOSURE STATEMENT

Petitioner Suncor Energy (U.S.A.) Inc. is a wholly owned indirect subsidiary of Suncor Energy Inc. Suncor Energy Inc. has no parent corporation, and no publicly traded company owns 10% or more of its stock.

Petitioner Suncor Energy Sales Inc. is a wholly owned subsidiary of Suncor Energy (U.S.A.) Inc.

Petitioner Exxon Mobil Corporation has no parent corporation, and no publicly held company owns 10% or more of its stock.

**RELATED PROCEEDINGS**

United States District Court (D. Colo.):

*Board of County Commissioners of Boulder County, et al.* v. *Suncor Energy (U.S.A.) Inc., et al.*, Civ. No. 18-1672 (Sept. 5, 2019)

United States Court of Appeals (10th Cir.):

*Board of County Commissioners of Boulder County, et al.* v. *Suncor Energy (U.S.A.) Inc., et al.*, No. 19-1330 (July 7, 2020)

*Board of County Commissioners of Boulder County, et al.* v. *Suncor Energy (U.S.A.) Inc., et al.*, No. 19-1330 (Feb. 8, 2022)

United States Supreme Court:

*Suncor Energy (U.S.A.) Inc., et al.* v. *Board of County Commissioners of Boulder County, et al.*, No. 20-783 (May 24, 2021)

*Suncor Energy (U.S.A.) Inc., et al.* v. *Board of County Commissioners of Boulder County, et al.*, No. 21-1550 (Apr. 24, 2023)

Colorado District Court (Boulder County):

*Board of County Commissioners of Boulder County, et al.* v. *Suncor Energy (U.S.A.) Inc., et al.*, No. 2018CV30349 (June 21, 2024)

Colorado Supreme Court:

*County Commissioners of Boulder County, et al.* v. *Suncor Energy USA, Inc., et al.*, No. 24SA206 (May 12, 2025)

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# In the Supreme Court of the United States

No.

SUNCOR ENERGY (U.S.A.) INC.; SUNCOR ENERGY SALES INC.; EXXON MOBIL CORPORATION,
PETITIONERS

*v.*

COUNTY COMMISSIONERS OF BOULDER COUNTY; CITY OF BOULDER

*ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF COLORADO*

## PETITION FOR A WRIT OF CERTIORARI

Suncor Energy (U.S.A.) Inc., Suncor Energy Sales Inc., and Exxon Mobil Corporation respectfully petition for a writ of certiorari to review the judgment of the Colorado Supreme Court in this case.

## OPINIONS BELOW

The opinion of the Colorado Supreme Court (App., *infra*, 1a-47a) is not yet reported but is available at 2025 WL 1363355. The opinion of the trial court (App., *infra*, 48a-139a) is unreported but is available at 2024 WL 3204275.

## JURISDICTION

The judgment of the Colorado Supreme Court was entered on May 12, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. 1257(a). See *Goodyear Atomic Corp.* v. *Miller*, 486 U.S. 174, 178-180 (1988); *Cox Broadcasting Corp.* v. *Cohn*, 420 U.S. 469, 482-483 (1975).

## CONSTITUTIONAL PROVISION INVOLVED

Article VI, clause 2, of the United States Constitution provides:

> This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

## STATEMENT

This case provides the Court with its best opportunity yet to resolve one of the most important questions currently pending in the lower courts. Energy companies that produce and sell fossil fuels are facing numerous lawsuits in state courts across the Nation seeking billions of dollars in damages for injuries allegedly caused by the contribution of greenhouse-gas emissions to global climate change. But as the Court has recognized for over a century, the structure of our constitutional system does not permit a State to provide relief under state law for injuries allegedly caused by pollution emanating from outside the State. This case presents the question whether that longstanding principle precludes the state-law claims in the nationwide climate-change litigation. The answer to that question is surely yes.

This Court has already recognized the importance of the question presented by calling for the views of the Solicitor General in *Sunoco LP* v. *City & County of Honolulu*, No. 23-947. Since the previous Administration filed its brief in that case, the new Administration has filed a brief in another climate-change case arguing that federal law precludes state-law claims seeking relief for similar climate-change claims. See U.S. Br. at 8-27, *Mayor & City Council of Baltimore* v. *BP p.l.c.*, No. 11, Sept. Term 2025 (Md.) (July 15, 2025). The Colorado Supreme Court's divided decision below deepens a clear conflict on that question. Only this Court can resolve it.

Petitioners are energy companies that produce and sell fossil fuels; respondents are the city of Boulder, Colorado, and the surrounding county. Like numerous other state and local governments nationwide, respondents filed this action against petitioners in state court, asserting claims purportedly arising under state law to recover for alleged harms caused by the effects of global climate change.

The trial court denied petitioners' motion to dismiss, and a divided Colorado Supreme Court affirmed. The majority acknowledged this Court's precedents holding that claims seeking relief for injuries allegedly caused by interstate pollution constitute an inherently federal area exclusively governed by federal law. But the court concluded that, because Congress had displaced the preexisting federal common law in this area by enacting the Clean Air Act, state tort law presumptively could regulate interstate emissions. In so holding, the court expressly declined to follow the Second Circuit's decision in *City of New York* v. *Chevron Corp.*, 993 F.3d 81 (2021), which held that it was "too strange to seriously contemplate" that

Congress's enactment of legislation in an inherently federal area would "suddenly" make state law "presumptively competent" to apply. *Id.* at 99.

The dissenting justices agreed with the Second Circuit's analysis. And in so doing, they expressed concern that the majority's decision gave Boulder and other Colorado municipalities "the green light to act as [their] own republic" by regulating on an interstate and international level. App., *infra*, 25a. That result could "interfere" with the federal government's policies and "contribute to a patchwork of inconsistent local standards that will beget regulatory chaos." *Id.* at 47a. The dissenting justices "respectfully urge[d]" this Court to "take up this issue." *Id.* at 46a.

There are few, if any, more consequential questions pending in the lower courts concerning the relationship between state and federal law. The Colorado Supreme Court's decision was incorrect, and it provides this Court with the opportunity definitively to address whether the state-law claims asserted by dozens of States and municipalities can even proceed—and to do so before the energy industry is threatened with potentially enormous judgments.

Boulder, Colorado, cannot make energy policy for the entire country. The Court should grant review and clarify that state law cannot impose the costs of global climate change on a subset of the world's energy producers chosen by a single municipality. At a minimum, the Court may wish to call for the views of the Solicitor General in order to receive the perspective of the new Administration on whether certiorari should be granted.

**A. Background**

1. As this Court has long explained, there are certain areas in which "our federal system does not permit the

controversy to be resolved under state law." *Texas Industries, Inc.* v. *Radcliff Materials, Inc.*, 451 U.S. 630, 640-641 (1981). Among those areas are ones where "the interstate or international nature of the controversy makes it inappropriate for state law to control." *Ibid.* (citation omitted). In those areas, "the Constitution implicitly forbids" States from "apply[ing] their own law," and disputes in those inherently federal areas must "turn on federal rules of law." *Franchise Tax Board* v. *Hyatt*, 587 U.S. 230, 247 (2019) (internal quotation marks and citation omitted). Put another way, "the basic scheme of the Constitution" "demands" a federal rule of decision in such inherently federal areas. *American Electric Power Co.* v. *Connecticut*, 564 U.S. 410, 421 (2011).

When Congress has not created a rule of decision for a particular question arising in an inherently federal area, federal courts have the power to prescribe a rule as a matter of federal common law. See, *e.g.*, *Texas Industries*, 451 U.S. at 640-641. Those court-created rules are subject to displacement by statute, however, because "it is primarily the office of Congress, not the federal courts, to prescribe national policy in areas of special federal interest." *American Electric Power*, 564 U.S. at 423-424.

2. One established category of claims requiring a federal rule of decision is those seeking relief for injuries allegedly caused by interstate pollution. For more than a century, "a mostly unbroken string of cases has applied federal law to disputes involving" such claims. *City of New York*, 993 F.3d at 91 (collecting cases). As this Court has stated, federal law must govern such claims because they "touch[] basic interests of federalism" and implicate the "overriding federal interest in the need for a uniform rule of decision." *Illinois* v. *City of Milwaukee* (*Milwaukee I*), 406 U.S. 91, 105 n.6 (1972).

In the absence of an applicable federal statute, courts previously applied federal common law to claims seeking relief for interstate air and water pollution. See, *e.g.*, *Milwaukee I*, 406 U.S. at 103; *Georgia* v. *Tennessee Copper Co.*, 206 U.S. 230, 237 (1907). But Congress later enacted comprehensive legislation governing interstate air and water pollution—the Clean Air Act and the Clean Water Act.

This Court addressed the effect of the Clean Water Act on the preexisting federal common law in *City of Milwaukee* v. *Illinois* (*Milwaukee II*), 451 U.S. 304 (1981). There, the Court held that the Clean Water Act precluded federal-common-law claims seeking to abate a nuisance created by water pollution commencing in another State. *Id.* at 317. Then, in *International Paper Co.* v. *Ouellette*, 479 U.S. 481 (1987), the Court addressed the role of state law in the wake of the Clean Water Act's enactment. The Court held that, in light of the Clean Water Act's "pervasive regulation" and "the fact that the control of interstate pollution is primarily a matter of federal law," the only permissible state-law actions seeking relief for interstate water pollution are "those specifically preserved by the Act." *Id.* at 492 (citation omitted). The Court then held that the Clean Water Act preserved only suits under the law of the State in which the source of pollution at issue was located. See *id.* at 487-498.

In *American Electric Power*, *supra*, the Court addressed the effect of the Clean Air Act on the federal common law governing air pollution. The Court held that the Act displaced nuisance claims under federal common law seeking the abatement of greenhouse-gas emissions from another State. See 564 U.S. at 424. The Court left open the question whether "the law of each State where the defendants operate powerplants" could be applied. *Id.* at 429.

3. Another established category of claims requiring a federal rule of decision is those that threaten to "impair the effective exercise of the Nation's foreign policy." *Zschernig* v. *Miller*, 389 U.S. 429, 440 (1968). As the Court has explained, numerous constitutional and statutory provisions "reflect[] a concern for uniformity" and "a desire to give matters of international significance to the jurisdiction of federal institutions." *Banco Nacional de Cuba* v. *Sabbatino*, 376 U.S. 398, 427 n.25 (1964). The federal government accordingly has "exclusive authority in international relations," *Fuld* v. *Palestine Liberation Organization*, 145 S. Ct. 2090, 2104 (2025) (internal quotation marks and citation omitted), and "at some point an exercise of state power that touches on foreign relations must yield to the National Government's policy," *American Insurance Association* v. *Garamendi*, 539 U.S. 396, 413 (2003) (citation omitted).

**B. Facts And Procedural History**

1. Since 2017, state and local governments across the country have filed lawsuits against private energy companies, alleging that the companies' worldwide production, promotion, and sale of fossil fuels have contributed to global climate change and thereby caused injury. Nearly 60 state and local governments have brought such suits, and more continue to be filed.

In 2021, the Second Circuit unanimously held in *City of New York* that federal law precludes state-law claims seeking relief for injuries allegedly caused by global climate change. The claims had to be brought under federal common law, the court explained, but the Clean Air Act displaced any such claims with respect to emissions in the United States, and "foreign policy concerns foreclose[d]" such claims with respect to international emissions. 993

F.3d at 101. The court rejected the notion that the displacement of federal common law allowed state-law claims to proceed, except to the extent a plaintiff is seeking relief for injuries caused by in-state emissions. See *id.* at 99-100. But the plaintiff in *City of New York* was "not seek[ing] to take advantage of this slim reservoir of state common law." *Id.* at 100. After the Second Circuit's decision, the plaintiff did not seek this Court's review.

Following that defeat in federal court, state and local governments are now bringing these cases in state court. Each case seeks billions of dollars in damages from the defendant energy companies.

2. Petitioners in this case are leading energy companies; their primary business is the production and sale of fossil fuels around the world. Respondents are the city of Boulder, Colorado, and the surrounding county.

On April 17, 2018, respondents brought this case in Colorado state court, alleging that petitioners' worldwide conduct has contributed to global climate change, which in turn has caused a variety of harms in Colorado. Respondents allege that "unchecked production, promotion, refining, marketing, and sale of fossil fuels" throughout the world has "led to unchecked fossil fuel use," resulting in an "unprecedented rapid rise in the concentration of [greenhouse gases] in the atmosphere." Am. Compl. 2. That increasing concentration of greenhouse gases, respondents allege, results in "warming [of] the atmosphere and oceans" and "alteration of the climate," including rising "global average temperatures." *Id.* at 2, 30-33. According to respondents, the effects of climate change manifest in "increases in extreme hot summer days and increases in minimum nighttime temperatures, precipitation changes, larger and more frequent wildfires, increased concentrations of ground-level ozone, higher transmission of viruses and disease from insects, altered

streamflows, bark beetle outbreaks, ecosystem damage, forest die-off, reduced snowpack, and drought." *Id.* at 34-35.

Respondents asserted state-law claims for public nuisance; private nuisance; trespass; unjust enrichment; violation of the Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-105(1); and civil conspiracy. Am. Compl. 101-121. Each claim was premised on the same basic theory of liability: namely, that petitioners "altered the climate by selling fossil fuels at levels [it] knew would bring numerous and catastrophic injuries to Colorado." Resp. Colo. S. Ct. Br. 1. Respondents sought to recoup past and future projected climate-change costs from petitioners. Am Compl. 1-2, 121-122.*

3. Petitioners removed this case to federal court, and the district court granted a motion to remand. 405 F. Supp. 3d 947 (D. Colo. 2019). On appeal, the Tenth Circuit initially affirmed. 965 F.3d 792 (2020). After this Court's decision in *BP p.l.c.* v. *Mayor & City Council of Baltimore*, 141 S. Ct. 1532 (2021), the Court granted certiorari, vacated the Tenth Circuit's decision, and remanded for further consideration of the jurisdictional question. 141 S. Ct. 2667 (2021). The Tenth Circuit again affirmed. 25 F.4th 1238 (2022). Petitioners sought review from this Court; the Court called for the views of the Solicitor General and then denied certiorari, with Justice Kavanaugh dissenting. 143 S. Ct. 78 (2022); 143 S. Ct. 1795 (2023).

4. Petitioners then moved to dismiss the amended complaint in state court, arguing in relevant part that federal law precludes state-law claims seeking relief for inju-

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* Respondents also asserted claims against Suncor Energy Inc.; those claims were dismissed for lack of personal jurisdiction, and that entity is not a party before this Court. See App., *infra*, 75a-87a.

ries allegedly caused by the effects of interstate greenhouse-gas emissions on the global climate. The district court denied petitioners' motion, holding that federal law did not preclude respondents' claims. App., *infra*, 87a-115a.

5. Petitioner Exxon Mobil Corporation petitioned the Colorado Supreme Court for interlocutory review; the Suncor petitioners later joined in that request; and the court granted review. App., *infra*, 7a. Following briefing and oral argument, the court affirmed the district court's order by a 5-2 vote. *Id.* at 1a-47a.

a. The Colorado Supreme Court first concluded that, because the Clean Air Act displaced the federal common law that previously governed claims concerning interstate air pollution, federal common law played no role in assessing whether federal law precludes respondents' claims. App., *infra*, 9a-11a. The court acknowledged this Court's holding that federal common law governs disputes concerning "interstate and international disputes implicating the conflicting rights of states or the United States's relations with foreign nations." *Id.* at 9a (citing *American Electric Power*, 564 U.S. at 421). But it reasoned that the Clean Air Act displaced the federal common law of nuisance, and it thus "look[ed] to whether the [Clean Air Act] preempts [respondents'] claims." *Id.* at 11a. The Colorado Supreme Court thereby expressly departed from the decisions in *City of New York*, *supra*, and *Illinois* v. *City of Milwaukee*, 731 F.2d 403, 411 (7th Cir. 1984), in which federal courts of appeals held that the displacement of federal common law does not "resuscitate" state-law claims. App., *infra*, 18a-20a.

The Colorado Supreme Court further concluded that federal common law would not have applied even if it were not displaced. App., *infra*, 18a. The court reasoned that

respondents have not "brought an action against a pollution emitter to abate pollution" and instead "seek[] damages from upstream producers for harms stemming from the production and sale of fossil fuels." *Id.* at 17a. The court thus determined that respondents' claims "do not seek to regulate [greenhouse-gas] emissions." *Id.* at 21a.

After reasoning that ordinary preemption analysis applied, the Colorado Supreme Court concluded that the Clean Air Act did not alone preempt respondents' claims. App., *infra*, 11a-16a. Applying the presumption against preemption, the court concluded that respondents' claims were not subject to either field preemption or conflict preemption. *Id.* at 13a-15a.

Finally, the Colorado Supreme Court concluded that respondents' claims for injuries based on international emissions could also proceed. App., *infra*, 22a-24a. Because the court determined that respondents' claims "involve areas of traditional state responsibility" and do not seek to regulate greenhouse-gas emissions, it held that respondents' claims do not intrude on or conflict with any federal power over foreign policy and are accordingly not subject to foreign-affairs preemption. *Id.* at 24a.

b. Justice Samour, joined by Justice Boatright, dissented. App., *infra*, 25a-47a. In his view, the "majority arrive[d] at the wrong result because it applie[d] the wrong test." *Id.* at 27a. Rather than applying "ordinary statutory preemption," Justice Samour contended that "the appropriate inquiry with respect to the interstate aspect of [respondents'] claims is whether the [Clean Air Act] affirmatively authorize[d] them," which "it does not." *Id.* at 26a-27a. He rejected the majority's position that the presumption against preemption applied, explaining that "Congress's decision to displace federal common law and to take control of this area did not suddenly render

state law competent to regulate interstate and international air pollution." *Id.* at 26a. Justice Samour concluded by "urg[ing] [this Court] to take up this issue," "[g]iven the number of local municipalities throughout the country that have already brought claims like those advanced by Boulder, given that more and more municipalities are joining this trend, and given further that a number of courts have now ruled that such claims may be prosecuted." *Id.* at 46a.

6. The Colorado Supreme Court subsequently stayed its mandate in order to allow petitioners to seek review in this Court. App., *infra*, 140a-141a.

**REASONS FOR GRANTING THE PETITION**

This case presents a case-dispositive and recurring question of extraordinary importance to the energy industry, which is facing dozens of lawsuits seeking billions of dollars in damages for the alleged effects of global climate change. That question is whether federal law precludes the application of state law to claims seeking relief for injuries allegedly caused by interstate and international greenhouse-gas emissions. By allowing respondents' state-law claims to proceed, the Colorado Supreme Court's decision squarely conflicts with the Second Circuit's decision in *City of New York* v. *Chevron Corp.*, 993 F.3d 81 (2021), and is inconsistent with the decisions of two other federal courts of appeals. The Colorado Supreme Court's decision also conflicts with this Court's precedents: regulation of interstate pollution is an inherently federal area necessarily governed by federal law, and Congress has not permitted, and indeed has preempted, resort to state law except for claims seeking relief for harms caused by in-state emissions.

In these cases, state and local governments are attempting to assert control over the Nation's energy policies by holding energy companies liable for worldwide conduct in ways that starkly conflict with our constitutional structure, as well as the policies and priorities of the federal government. That flouts the Court's precedents and basic principles of federalism. The petition for a writ of certiorari should be granted. At a minimum, the Court may wish to call for the views of the Solicitor General to obtain the perspective of the new Administration.

### A. The Decision Below Deepens A Conflict On The Question Presented And Is At Odds With The Views of the United States

As the Colorado Supreme Court recognized, its decision squarely conflicts with the Second Circuit's decision in *City of New York*, which held that federal law precluded materially identical state-law claims. The decision below joins the Hawaii Supreme Court in a growing conflict, and it is also inconsistent with decisions of the Fourth and Seventh Circuits. As a result of that conflict, trial courts across the country are reaching divergent outcomes. This Court's review is warranted.

1. *City of New York* involved a suit brought by a municipal government against a group of energy companies in federal court, alleging that the defendants (including petitioner ExxonMobil) were liable for injuries allegedly caused by the contribution of interstate and international greenhouse-gas emissions to global climate change. As here, the plaintiff municipality asserted claims for public nuisance, private nuisance, and trespass, and sought relief in the form of damages. See 993 F.3d at 88. As here, the complaint alleged that the defendants had "known for decades that their fossil fuel products pose a severe risk to the planet's climate" but had "downplayed the risks and continued to sell massive quantities of fossil fuels, which

has caused and will continue to cause significant changes to the * * * climate." *Id.* at 86-87.

The question before the Second Circuit was "whether municipalities may utilize state tort law to hold multinational oil companies liable for the damages caused by global greenhouse gas emissions." 993 F.3d at 85. The court unanimously held that "the answer is 'no.'" *Id.* at 85, 91.

The Second Circuit explained that, "[f]or over a century, a mostly unbroken string of cases has applied federal law to disputes involving interstate air or water pollution." 993 F.3d at 91. "[S]uch quarrels," the court continued, "often implicate two federal interests that are incompatible with the application of state law": the "overriding need for a uniform rule of decision" on matters influencing national energy and environmental policy, and "basic interests of federalism." *Id.* at 91-92 (alterations omitted) (quoting *Illinois* v. *City of Milwaukee* (*Milwaukee I*), 406 U.S. 91, 105 n.6 (1972)).

To the Second Circuit, claims seeking to hold defendants liable for injuries arising from "the cumulative impact of conduct occurring simultaneously across just about every jurisdiction on the planet" are far too "sprawling" for state law to govern. 993 F.3d at 92. The court reasoned that application of state law to the plaintiff's claims would "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." *Id.* at 93.

The Second Circuit rejected the plaintiff's argument that displacement by the Clean Air Act of any remedy under federal common law allows state law to govern. See 993 F.3d at 98. "[That] position is difficult to square with

the fact that federal common law governed this issue in the first place," the court reasoned, because "where 'federal common law exists, it is because state law cannot be used.'" *Ibid.* (quoting *City of Milwaukee* v. *Illinois* (*Milwaukee II*), 451 U.S. 304, 313 n.7 (1981)). The court thus concluded that "state law does not suddenly become presumptively competent to address issues that demand a unified federal standard simply because Congress saw fit to displace a federal court-made standard with a legislative one." *Ibid.* Such an outcome, the Second Circuit reasoned, is "too strange to seriously contemplate." *Id.* at 98-99.

The Second Circuit understood Congress to have the power to "grant [S]tates the authority to operate in an area of national concern," but "resorting to state law on a question previously governed by federal common law is permissible only to the extent authorized by federal statute." 993 F.3d at 99 (internal quotation marks, citations, and alterations omitted). The court concluded that the Clean Air Act "does not authorize the type of state-law claims" the plaintiff was pursuing. *Ibid.* In the Second Circuit's view, the Act permitted only actions brought under "the law of the [pollution's] *source* [S]tate," and the plaintiff was not proceeding under that "slim reservoir of state common law." *Id.* at 100 (first alteration in original) (citation omitted).

The Second Circuit further explained that the Clean Air Act did not displace federal common law with respect to claims for harms caused by international emissions, because the Act "does not regulate foreign emissions." 993 F.3d at 95 n.7, 101. But the court concluded that "condoning an extraterritorial nuisance action" for global climate change "would not only risk jeopardizing our [N]ation's foreign policy goals but would also seem to circumvent Congress's own expectations and carefully balanced

scheme of international cooperation on a topic of global concern." *Id.* at 103.

2. The decision in *City of New York* squarely conflicts with the Colorado Supreme Court's decision in this case, as well as the Hawaii Supreme Court's decision in *City & County of Honolulu* v. *Sunoco LP*, 537 P.3d 1173 (2023), cert. denied, 145 S. Ct. 1111 (2025). Each of those cases involves tort claims asserted under state law seeking to hold fossil-fuel producers liable for injuries resulting from the cumulative effect of interstate and international greenhouse-gas emissions caused by the producers' worldwide production, sale, and promotion of fossil fuels. But unlike the Second Circuit, the Colorado Supreme Court and the Hawaii Supreme Court held that such claims could proceed under state law.

a. Like the Second Circuit, the Colorado Supreme Court recognized that the Clean Air Act displaced any "federal common law concerning air pollution." App., *infra*, 10a. But the court proceeded to hold that, after that displacement, state law was presumptively competent to govern such actions concerning interstate and international pollution, unless the Clean Air Act demonstrated Congress's "clear and manifest purpose" to "supersede[]" state law. *Id.* at 11a. The court acknowledged that the Second Circuit had reached a contrary result, but it expressly declined to follow the Second Circuit's decision, criticizing that court's analysis as "backwards reasoning." *Id.* at 19a (citation omitted).

Further disagreeing with the Second Circuit, the Colorado Supreme Court rejected the contention that claims like respondents' represent a de facto attempt to regulate greenhouse-gas emissions. App., *infra*, 20a-21a. The court instead distinguished between "claims against the pollution emitters themselves," which "implicat[e] the regulation of interstate pollution," and claims "seek[ing]

damages from upstream producers for harms stemming from the production and sale of fossil fuels." *Id.* at 17a. The Second Circuit had rejected that distinction, explaining that "[a]rtful pleading cannot transform the [plaintiff's] complaint into anything other than a suit over global greenhouse gas emissions." 993 F.3d at 91. In the Second Circuit's view, the plaintiff was seeking relief "precisely *because* fossil fuels emit greenhouse gases" and thereby exacerbate climate change, and it thus declined to allow the plaintiff to "disavow[] any intent to address emissions" while "identifying such emissions" as the source of its harm. *Ibid.*

Because the Colorado Supreme Court determined that respondents' claims do not implicate a federal interest but instead "involve areas of traditional state responsibility," it concluded that they do not conflict with any express foreign policy of the federal government or intrude on any power over foreign policy reserved to the federal government. App., *infra*, 23a-24a. By contrast, the Second Circuit had concluded that condoning materially similar claims "would not only risk jeopardizing our [N]ation's foreign policy goals but would also seem to circumvent Congress's own expectations and carefully balanced scheme of international cooperation on a topic of global concern." 993 F.3d at 103.

b. Like the Colorado Supreme Court, the Hawaii Supreme Court held that state law was presumptively competent to govern actions concerning interstate and international pollution. See *City & County of Honolulu*, 537 P.3d at 1195-1202. The court reasoned that, because federal common law "no longer exists," the fact that it once governed could "play[] no part in th[e] court's preemption analysis." *Id.* at 1199 (citation omitted). Instead, the court concluded that the "correct preemption analysis requires an examination *only* of the [Clean Air Act]'s

preemptive effect." *Id.* at 1200. The court acknowledged that its decision conflicted with the Second Circuit's, which it said "rel[ied] on flawed reasoning." *Id.* at 1196, 1200.

The Hawaii Supreme Court additionally concluded that the plaintiffs' claims did not arise in an inherently federal area. See 537 F.3d at 1201. In the court's view, the inherently federal area of interstate pollution covers only claims where "the source of the injury * * * is pollution traveling from one state to another." *Ibid.* But the claims before it, the court continued, concerned only "allegedly tortious marketing conduct." *Ibid.* The court did not attempt to reconcile that characterization with its earlier recognition that the plaintiffs' theory of liability depended upon the defendant energy companies' conduct allegedly "dr[iving] consumption [of fossil fuels], and thus greenhouse gas pollution, and thus climate change," resulting in alleged physical and economic effects in Honolulu. *Id.* at 1187 (citation omitted). The court also drew no distinction between interstate and international emissions, holding that the plaintiffs' state-law claims could proceed as to both. See *id.* at 1195-1202. The Hawaii Supreme Court's decision, like the Colorado Supreme Court's decision in this case, is thus hopelessly irreconcilable with the Second Circuit's decision in *City of New York*.

3. The decision below is also inconsistent with the decisions of two other federal courts of appeals that have held that the law of one State cannot govern claims seeking relief for injuries emanating from pollution emitted in another state.

a. In *Illinois* v. *City of Milwaukee* (*Milwaukee III*), 731 F.2d 403 (7th Cir. 1984), cert. denied, 469 U.S. 1196 (1985), the State of Illinois filed nuisance claims under federal and state common law against a municipality for

allegedly polluting Lake Michigan. While the action was pending, Congress enacted comprehensive amendments to the Clean Water Act, and this Court held that those amendments had displaced the remedy previously available under federal common law. See *Milwaukee II*, 451 U.S. at 317-319.

On remand, the Seventh Circuit addressed whether Illinois's state-law claims could proceed in light of the displacement of federal common law. The Seventh Circuit held that they could not. See 731 F.2d at 406. As the Seventh Circuit explained, this Court's precedents provide that "the basic interests of federalism and the federal interest in a uniform rule of decision in interstate pollution disputes required the application of federal law." *Id.* at 407. Although Congress had displaced the federal common law, the court reasoned that the displacement "did nothing to undermine" the "reasons why the [S]tate claiming injury cannot apply its own state law to out-of-state discharges." *Id.* at 410. The court thus held that "federal law must govern * * * except to the extent that the [Clean Water Act] authorizes resort to state law." *Id.* at 411. Because Congress had not preserved state-law claims related to out-of-state sources, the Seventh Circuit determined that federal law precluded Illinois's claims. See *id.* at 413.

b. The Fourth Circuit reached a similar result in *North Carolina ex rel. Cooper* v. *Tennessee Valley Authority*, 615 F.3d 291 (2010). There, the State of North Carolina sued the Tennessee Valley Authority (TVA) over emissions from TVA plants in Alabama and Tennessee. See *id.* at 296. The district court found that the emissions created a public nuisance under North Carolina law and entered an injunction in the State's favor. See *ibid.*

The Fourth Circuit reversed. It reasoned that the "comprehensive" system of federal statutes and regulations governing air pollution left little room for nuisance actions under state law, and it concluded that North Carolina was improperly seeking to "appl[y] home state law extraterritorially." 615 F.3d at 296, 298. Applying this Court's decision in *International Paper Co.* v. *Ouellette*, 479 U.S. 481 (1987), the Fourth Circuit concluded that the claims could proceed only under the law of the States in which the TVA plants were located. See 615 F.3d at 308-309; see also *Merrick* v. *Diageo Americas Supply, Inc.*, 805 F.3d 685, 692 (6th Cir. 2015) (agreeing that *Ouellette*'s interpretation of the Clean Water Act's saving clauses applies to the Clean Air Act's saving clauses); *Bell* v. *Cheswick Generating Station*, 734 F.3d 188, 196-197 (3d Cir. 2013) (same), cert. denied, 572 U.S. 1149 (2014); *Freeman* v. *Grain Processing Corp.*, 848 N.W.2d 58, 80 (Iowa) (same), cert. denied, 574 U.S. 1026 (2014); *Brown-Forman Corp.* v. *Miller*, 528 S.W.3d 886, 892-893 (Ky. 2017) (same).

c. Both *Milwaukee III* and *Cooper* reflect the broader principle that state law can govern claims seeking relief for interstate pollution only to the extent permitted by federal statute. Notably, the Colorado Supreme Court explicitly rejected petitioners' reliance on *Milwaukee III*, concluding instead that, when federal common law is displaced by statute, a court should look only to whether the statute affirmatively preempts state-law claims. App., *infra*, 20a.

4. The Colorado Supreme Court's decision is also contrary to the views of the United States. In an amicus brief recently submitted to the Maryland Supreme Court, the United States expressed the view that, "[u]nder our constitutional system, regulation of interstate pollution has always been primarily 'a matter of federal, not state

law.'" U.S. Br. at 1, *Mayor & City Council of Baltimore* v. *BP p.l.c.*, No. 11, Sept. Term 2025 (Md.) (citation omitted). The United States thus argued that "[S]tates lack authority to decide how much greenhouse gas emissions in a neighboring state or foreign country are too much," and that "[a]ny attempt to do so would be preempted by federal law." *Ibid.*

The Administration has elsewhere made clear its view that claims seeking relief from energy companies for the effects of global climate change cannot proceed under state law. In an executive order, the President has criticized these lawsuits for attempting to "regulate energy beyond [the plaintiffs'] constitutional or statutory authorities," which "undermine[s] [f]ederalism by projecting the regulatory preferences of a few States into all States." Exec. Order No. 14,260 (Apr. 8, 2025). The United States has gone so far as to sue the States of Hawaii and Michigan to prevent additional climate-change actions from being filed. See *United States* v. *Michigan*, Civ. No. 25-496 (W.D. Mich. Apr. 30, 2025); *United States* v. *Hawaii*, Civ. No. 25-179 (D. Haw. Apr. 30, 2025).

This Administration may be more vocal than its predecessors, but the federal government's disquiet with the climate-change litigation is nothing new. In December 2024, the Biden Administration told the Court that the defendants in these suits "may ultimately prevail on their contention that respondents' claims are barred by the Constitution." U.S. Br. at 12, *Sunoco LP* v. *City & County of Honolulu*, 145 S. Ct. 1111 (2025) (No. 23-947). And the first Trump Administration argued that "[i]nterstate pollution claims" fall within "an inherently federal area in which state law does not apply." U.S. En Banc Br. at 4, *City of Oakland* v. *BP p.l.c.*, 969 F.3d 895 (9th Cir. 2020) (No. 18-16663).

The Colorado Supreme Court's decision thus not only deepens an existing conflict, but is contrary to the position of the United States. This Court's review is badly needed to resolve the conflict and to prevent dozens of climate-change cases from improperly barreling ahead in state court.

**B. The Decision Below Is Incorrect**

Respondents seek to impose damages on petitioners for injuries allegedly caused by the effect of interstate and international greenhouse-gas emissions on global climate change. As a result, respondents' claims fall squarely within the inherently federal areas of interstate pollution and foreign affairs. The Constitution precludes those claims from proceeding under state law. The Colorado Supreme Court's contrary holding was incorrect and conflicts with this Court's precedents.

1. Although state law is presumptively competent to govern a wide variety of issues in our federal system, there are certain areas in which "our federal system does not permit the controversy to be resolved under state law." *Texas Industries, Inc.* v. *Radcliff Materials, Inc.*, 451 U.S. 630, 641 (1981). In such areas, "there is no beginning assumption that concurrent regulation by the State is a valid exercise of its police powers." *United States* v. *Locke*, 529 U.S. 89, 108 (2000); see *Buckman Co.* v. *Plaintiffs' Legal Committee*, 531 U.S. 341, 348 (2001).

For over a century, this Court has held that interstate pollution is an inherently federal area necessarily governed by federal law. For example, in *Ouellette*, the Court stated that "the regulation of interstate water pollution is a matter of federal, not state, law." 479 U.S. at 488 (citation omitted); see *id.* at 492. And in *American Electric Power Co.* v. *Connecticut*, 564 U.S. 410 (2011), the Court

reiterated that "air and water in their ambient or interstate aspects" are "meet for federal law governance." *Id.* at 421, 422; see *City of New York*, 993 F.3d at 91 (citing additional cases).

That rule emanates from "the Constitution's structure and the principles of sovereignty and comity it embraces." *National Pork Producers Council* v. *Ross*, 143 S. Ct. 1142, 1156 (2023) (internal quotation marks and citation omitted). As this Court has explained, each State's "equal dignity and sovereignty" under the Constitution implies "certain constitutional limitations on the sovereignty of all of its sister States." *Franchise Tax Board* v. *Hyatt*, 587 U.S. 230, 245 (2019) (internal quotation marks, alterations, and citation omitted); see *Fuld* v. *Palestine Liberation Organization*, 145 S. Ct. 2090, 2104 (2025). One such limitation is that "[s]tate sovereign authority is bounded by the States' respective borders." *Fuld*, 145 S. Ct. at 2104; see *Bonaparte* v. *Tax Court*, 104 U.S. 592, 594 (1882); *United States* v. *Bevans*, 16 U.S. (3 Wheat.) 336, 387 (1818). The equality of the States "implicitly forbids" States from applying their own laws to resolve "disputes implicating their conflicting rights." *Hyatt*, 587 U.S. at 246 (alteration and citations omitted).

Allowing the law of one State to govern disputes regarding pollution emanating from another would violate the "cardinal" principle that "[e]ach [S]tate stands on the same level with all the rest," by permitting one State to impose its law on another State and its citizens. *Kansas* v. *Colorado*, 206 U.S. 46, 97 (1907). Federal law must govern such controversies because they "touch[] basic interests of federalism" and implicate the "overriding federal interest in the need for a uniform rule of decision." *Milwaukee I*, 406 U.S. at 105 n.6. And because "borrowing the law of a particular State would be inappropriate" to

resolve such interstate disputes, federal law must govern. *American Electric Power*, 564 U.S. at 422.

2. In the absence of federal legislation governing issues of interstate pollution, this Court held that rules developed by the federal courts—federal common law—would govern lawsuits seeking relief for injuries allegedly caused by interstate pollution. See, *e.g.*, *American Electric Power*, 564 U.S. at 420-423; *Milwaukee I*, 406 U.S. at 103. But in the wake of the enactment of the Clean Air Act and Clean Water Act, this Court held that Congress has displaced any previously available causes of action under federal common law. See *American Electric Power*, 564 U.S. at 424; *Milwaukee II*, 451 U.S. at 313-314.

This Court's decision in *Ouellette* explains the limited role of state law after the displacement of federal common law by a comprehensive statutory scheme in an inherently federal area of regulation. There, the Court held that, in light of the "pervasive regulation" of the Clean Water Act and "the fact that the control of interstate pollution is primarily a matter of federal law," the only permissible state-law actions seeking relief for interstate water pollution are "those specifically preserved by the Act." 479 U.S. at 492 (citation omitted). The Court proceeded to conclude that the Clean Water Act preempts claims under any State's law other than the law of the State in which the source of the pollution was located. See *id.* at 487-498.

3. The foregoing precedents lead to a straightforward result here: federal law, including our constitutional structure and the Clean Air Act, precludes respondents' state-law claims seeking relief for interstate emissions.

Respondents' theory of liability is that petitioners have "caused billions of tons of excess $CO_2$ emissions" throughout the world by "producing, promoting, refining, marketing and selling fossil fuels at levels that have caused and continue to cause climate change." Am.

Compl. 2, 87. Respondents are seeking "monetary relief to compensate" for "past and future damages and costs to mitigate the impacts of climate change," including wildfires, pests, droughts, extreme heat, and flooding. *Id.* at 104, 121-122. The "gravamen" of respondents' complaint, see *Kurns* v. *Railroad Friction Products Corp.*, 565 U.S. 625, 635 (2012) (citation omitted), is thus that petitioners' conduct increased the global use of fossil fuels, resulting in increased global greenhouse-gas emissions, which contributed to global climate change and resulted in localized physical effects in Boulder, Colorado. See *City of New York*, 993 F.3d at 91.

Those claims fall squarely within the principle that federal law governs claims seeking relief for interstate air and water pollution. Respondents allege that their injuries are caused by the interstate and international emissions of greenhouse gases over many decades. See Am. Compl. 2. Respondents' requested relief—including damages, see, *e.g.*, *Kurns*, 565 U.S. at 637—would have the effect of remedying injuries allegedly caused by emissions outside Colorado. Respondents are simply attempting to recover by moving up one step in the causal chain and suing the fuel producers rather than the emitters themselves.

The congressional displacement of federal common law does not open the door to state-law claims unless the Clean Air Act permits them. And the Clean Air Act does not permit state-law claims based on emissions emanating from another State. Instead, the Act provides the Environmental Protection Agency with authority to regulate greenhouse-gas emissions from stationary sources, see *American Electric Power*, 564 U.S. at 424-425; 42 U.S.C. 7411(b), (d), and to set greenhouse-gas emissions standards for cars, trains, airplanes, and other equipment. See 42 U.S.C. 7521(a)(1)-(2), (a)(3)(E), 7547(a)(1), (a)(5), 7571

(a)(2)(A). Accordingly, in light of the breadth of the Clean Air Act's governance of greenhouse-gas emissions, respondents' state-law claims would be foreclosed even if a presumption against preemption applied. Contra App., *infra*, 11a-16a.

4. Respondents' claims based on international emissions cannot proceed under state law either. The federal government has "exclusive authority in international relations." *Fuld*, 145 S. Ct. at 2104 (internal quotation marks, alterations, and citation omitted). There is "no question" that "at some point an exercise of state power that touches on foreign relations must yield to the National Government's policy." *American Insurance Association* v. *Garamendi*, 539 U.S. 396, 413 (2003). State laws must therefore "give way if they impair the effective exercise of the Nation's foreign policy." *Zschernig* v. *Miller*, 389 U.S. 429, 440 (1968).

Because respondents seek relief for climate-change-related harms, international emissions—which dwarf domestic emissions—are the primary causal mechanism underlying their alleged injuries. Foreign-policy principles thus preclude the application of state law to regulate international emissions. As the Second Circuit explained in *City of New York*, holding fuel producers such as petitioners liable for such emissions would "affect the price and production of fossil fuels abroad"; "bypass the various diplomatic channels that the United States uses to address this issue"; override "the United States' longstanding position" of "oppos[ing] the establishment of liability and compensation schemes at the international level"; and "sow confusion and needlessly complicate the nation's foreign policy, while clearly infringing on the prerogatives of the political branches." 993 F.3d at 103 & n.11. Accordingly, respondents can no more seek relief under state law

for injuries allegedly caused by international emissions than for those allegedly caused by interstate emissions.

5. In the decision below, the Colorado Supreme Court fundamentally misunderstood both the ability of state law to operate in inherently federal areas and the nature of respondents' theory of liability.

The central premise of the decision below is that, when Congress enacts a statute that displaces federal common law, state law presumptively governs the issues previously governed by federal common law. See App., *infra*, 20a. But that logic ignores the reason why federal common law governed in the first place. In cases that involve "interstate and international disputes implicating the conflicting rights of States or our relations with foreign nations," only federal law can apply, because "our federal system does not permit the controversy to be resolved under state law" at all. *Texas Industries*, 451 U.S. at 641. In other words, where federal common law applies, it is precisely because "state law cannot be used." *Milwaukee II*, 451 U.S. at 313 n.7.

The displacement of federal common law by federal statutory law does "nothing to undermine" the "reasons why the [S]tate claiming injury cannot apply its own state law to out-of-state discharges." *Milwaukee III*, 731 F.2d at 410. State law could not govern interstate and international emissions before Congress acted, and the application of state law to such claims remains inconsistent with our constitutional structure after statutory displacement, even if federal law provides no remedy for the particular claim alleged. Were it otherwise, Congress's decision to address an inherently federal issue directly by statute, so as to displace *federal* common-law remedies, would result in *state* common-law remedies suddenly becoming available. As the Second Circuit put it, that result is "too

strange to seriously contemplate." *City of New York*, 993 F.3d at 98-99.

The Colorado Supreme Court concluded that this Court's instructions for the remand in *American Electric Power* supported its analysis. See App., *infra*, 10a-11a. That is exactly backwards. After holding that the Clean Air Act displaced any federal common-law claim seeking abatement of defendants' greenhouse-gas emissions, the Court remanded for the lower courts to consider the plaintiffs' parallel claims brought under the law of the state in which each defendant power plant was located. *American Electric Power*, 564 U.S. at 429. In so doing, the Court directed that, "[i]n light of [its] holding that the Clean Air Act displaces federal common law, the availability *vel non* of a state lawsuit depends, *inter alia*, on the preemptive effect of the federal Act." *Ibid.* The Court cited *Ouellette* for the proposition that "the Clean Water Act does not preclude aggrieved individuals from bringing a nuisance claim pursuant to the law of the *source* State." *Ibid.* (citation omitted).

Those instructions support petitioners' position, not respondents'. As explained above, see p. 24, this Court held in *Ouellette* that, because the Clean Water Act is comprehensive in nature and "control of interstate pollution is primarily a matter of federal law," "the only state suits that remain available are those specifically preserved by the Act": namely, suits under the law of the source State. 479 U.S. at 492. In *American Electric Power*, the Court was thus directing the lower courts to apply the same analysis as in *Ouellette*—the same analysis petitioners are advancing here.

The Colorado Supreme Court separately concluded that respondents' claims did not fall within the inherently federal area of interstate pollution because respondents have "not brought an action against a pollution emitter to

abate pollution" but instead "seek[] damages from upstream producers for harms stemming from the production and sale of fossil fuels." App., *infra*, 17a. According to the court, therefore, respondents' claims "do not seek to regulate [greenhouse-gas] emissions." *Id.* at 21a. That is a false dichotomy. While respondents' theory of tort liability may attack upstream conduct, the source of injury is most certainly interstate and international emissions. As one judge has put it, "there is no hiding the obvious" that climate-change claims such as respondents' present "a clash over regulating worldwide greenhouse gas emissions and slowing global climate change." *Minnesota* v. *American Petroleum Institute*, 63 F.4th 703, 717 (8th Cir. 2023) (Stras, J., concurring) (citation omitted), cert. denied, 144 S. Ct. 620 (2024).

The complaint is candid on this point. Respondents repeatedly allege that defendants' conduct led to increased greenhouse-gas emissions worldwide, which caused or exacerbated global climate change and thereby caused localized harms in Colorado. See Am. Compl. 1-4, 30. Respondents nowhere allege harm from petitioners' conduct other than through the mechanisms of increased emissions and global climate change. When faced with the same argument, the Second Circuit rightly held that a plaintiff cannot "have it both ways" by "disavowing any intent to address emissions" while simultaneously "identifying such emissions as the singular source of the [alleged] harm." *City of New York*, 993 F.3d at 91.

The Colorado Supreme Court also erred by concluding that respondents' claims based on international emissions could proceed. The federal government has "exclusive authority in international relations and with respect to foreign intercourse and trade." *Fuld*, 145 S. Ct. at 2104 (internal quotation marks, alterations, and citation omitted). The court disregarded that principle and, in so doing,

"risk[ed] impeding our federal government's judgment as to how to approach air pollution in the international sphere." App., *infra*, 45a (Samour, J., dissenting). The Colorado Supreme Court erred by holding that respondents' claims, seeking relief for interstate and international greenhouse-gas emissions, could proceed under Colorado law.

The decision below paves the way for "all other Colorado municipalities" to bring such claims. App., *infra*, 25a (Samour, J., dissenting). Allowing those claims to proceed under state law will result in a "patchwork of standards formulated by local governments throughout the country" that is "not capable of effectively addressing interstate air pollution." *Id.* at 45a.

### C. The Question Presented Is Important And Warrants The Court's Review In This Case

This case presents a question of enormous legal and practical importance. The decision below perpetuates an unsustainable and chaotic patchwork of regulation of interstate and international emissions. And in doing so, it threatens one of this Nation's most critical industries. This case is an excellent vehicle to review the question presented in this case. The Court should therefore grant review.

1. The stakes in this case could not be higher. The Colorado Supreme Court itself explained that "this case presents substantial issues of global import." App., *infra*, 1a. And this is just one of over two dozen pending climate-tort cases brought by States and municipalities across the country seeking to impose untold damages on energy companies for the physical and economic effects of climate change. As more time passes, more governments are filing cases of their own. See, *e.g.*, *Hawaii* v. *BP p.l.c.*, No. 1CCV-25-717 (Haw. Cir. Ct. May 1, 2025); *Maine* v. *BP*

*p.l.c.*, No. PORSC-CV-24-442 (Me. Super. Ct. Nov. 26, 2024). Individuals are now bringing their own cases. See *Leon* v. *Exxon Mobil Corp.*, No. 25-2-15986-8 (Wash. Super. Ct. May 29, 2025). And state legislatures are passing laws to create so-called "climate superfunds" based on the same theory of liability as the tort cases. See *United States* v. *New York*, Civ. No. 25-3656 (S.D.N.Y. May 1, 2025) (challenging New York's Climate Change Superfund Act); *Chamber of Commerce* v. *Moore*, Civ. No. 24-1513 (D. Vt. Dec. 30, 2024) (challenging Vermont's Climate Superfund Act).

This is complete chaos. And without this Court's intervention, the Nation will be left with a "patchwork of standards formulated by local governments throughout the country to regulate [greenhouse-gas] emissions," which will invite further disorder and will "not [be] capable of effectively addressing interstate air pollution." App., *infra*, 45a (Samour, J., dissenting). As the federal government explained in its brief in *American Electric Power*, "virtually every person, organization, company, or government across the globe * * * emits greenhouse gases, and virtually everyone will also sustain climate-change-related injuries," giving rise to claims from "almost unimaginably broad categories of both potential plaintiffs and potential defendants." TVA Br. at 11, 15 (No. 10-174).

The use of state law to address global climate change represents a serious threat to one of our Nation's most critical sectors. The current Administration has made clear that "American energy dominance is threatened when State and local governments seek to regulate energy beyond their constitutional and statutory authorities," and that the climate-change litigation in particular "weaken[s] our national security and devastate[s] Americans by driving up energy costs for families." Exec. Order

No. 14,260. The Administration has even gone so far as to sue States contemplating filing additional actions. See *United States* v. *Michigan*, *supra*; *United States* v. *Hawaii*, *supra*; *United States* v. *New York*, *supra*. Indeed, as the federal government previously stated in another climate-change case, "federal law and policy has long declared that fossil fuels are strategically important domestic resources that should be developed to reduce the growing dependence of the United States on politically and economically unstable sources of foreign oil imports." U.S. En Banc Br. at 10, *City of Oakland*, *supra* (internal quotation marks and citation omitted).

2. This case is a suitable vehicle for reviewing the question presented. The question was fully briefed in, and passed on by, the Colorado Supreme Court. And respondents' claims are representative of the claims being brought in parallel suits across the country, meaning that resolution of the question presented here will have immediate impact elsewhere.

Although this petition arises from a decision affirming the denial of a motion to dismiss in State court, this Court's jurisdiction over the decision is firmly established under 28 U.S.C. 1257(a) and the fourth category recognized in *Cox Broadcasting Corp.* v. *Cohn*, 420 U.S. 469 (1975). The question presented has been finally decided by the Colorado Supreme Court; this Court's review of the question would be prevented if petitioners prevail on the merits on nonfederal grounds; reversal of the decision below would terminate the litigation; and declining review now would seriously erode significant federal policies, as evidenced by the current Administration's stance on the climate litigation. See *Cox Broadcasting*, 420 U.S. at 482-483. This Court has routinely granted certiorari in a similar posture in cases presenting questions of federal preemption. See, *e.g.*, *Coventry Health Care of Missouri,*

*Inc.* v. *Nevils*, 581 U.S. 87, 92-94 (2017); *Dan's City Used Cars, Inc.* v. *Pelkey*, 569 U.S. 251, 259 (2013); *Mississippi Power & Light Co.* v. *Mississippi ex rel. Moore*, 487 U.S. 354, 370 n.11 (1988).

This Court's guidance is urgently needed. The arguments on both sides of the question presented have been fully ventilated in lower-court opinions, including the dueling opinions below. Meanwhile, state courts and parties are devoting enormous resources to the litigation of these cases, and the energy industry is facing the threat of damages awards that could run into the billions of dollars. The Court should grant certiorari here and resolve whether climate-change claims are viable and may proceed on the merits in state courts across the country. At a minimum, in light of the substantial federal interest in the question presented and the change in Administration since the Court last considered the question presented, the Court may wish to call for the views of the Solicitor General.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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*Counsel for Petitioner*
*Exxon Mobil Corporation*

AUGUST 2025

# Exhibit “C”

**(ORDER LIST: 607 U.S.)**

**MONDAY, FEBRUARY 23, 2026**

**ORDERS IN PENDING CASES**

25M53 SAUD, YASIR Q. V. UNITED STATES

25M54 QIAN, HAOCHENG V. YOUTUBE, LLC, ET AL.

The motions to direct the Clerk to file petitions for writs of certiorari out of time are denied.

25M55 HUTCHINSON, GEORGE B. V. 81ST READINESS DIV., ET AL.

The motion for leave to proceed as a veteran is denied.

25M56 MARTINEZ, ARMANDO V. MARTINEZ, RICHARD, ET AL.

The motion to direct the Clerk to file a petition for a writ of certiorari out of time is denied.

25M57 SAN DIEGO FAMILY HOUSING, ET AL. V. CHILDS, LENA, ET AL.

The motion for leave to file a petition for a writ of certiorari with the supplemental appendix under seal is granted.

25M58 KIMES, LARRY W. V. UNITED STATES

25M59 STINSON, MARK T. V. MOODY, JUDGE, USDC AR

The motions for leave to proceed as a veteran are denied.

25M61 KELLY, HARLAN, L. V. UNITED STATES

The motion for leave to file a petition for a writ of certiorari with the supplemental appendix under seal is granted.

25-6 KEATHLEY, THOMAS V. BUDDY AYERS CONSTR., INC.

The motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument is granted.

25-466 SRIPETCH, ONGKARUCK V. SEC

The motion of petitioner to dispense with printing the joint appendix is granted.

25-5473 RIAZ, SAMREEN V. COURT OF APPEAL OF CA, ET AL.

25-6024 OCHAR, WILSON V. RUBENFIELD, ROY S.

The motions of petitioners for reconsideration of orders denying leave to proceed *in forma pauperis* are denied.

25-6289 SMALLS, FREEMAN A. V. MEDLINE INDUS.

25-6291 PARISI, GEORGIANNA V. ESTATE OF JACKIE JONES, ET AL.

25-6372 BELOUS, ANDRE V. BATTLE CREEK, MI

25-6383 OCHAR, WILSON V. LENTEGRITY, ET AL.

25-6492 FAYNE, ARTHUR V. UNITED STATES

25-6634 REAVES, JOSEPH D. V. PENNSYLVANIA

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until March 16, 2026, within which to pay the docketing fees required by Rule 38(a) and to submit petitions in compliance with Rule 33.1 of the Rules of this Court.

**CERTIORARI GRANTED**

25-170 SUNCOR ENERGY, INC., ET AL. V. COMM'RS BOULDER CTY., ET AL.

The petition for a writ of certiorari is granted. In addition to the question presented by the petition, the parties are directed to brief and argue the following question: Whether this Court has statutory and Article III jurisdiction to hear this case.

**CERTIORARI DENIED**

24-7489 MINOR, MARK T. V. FLORIDA

25-325 FOOKS, ROBERT L. V. MARYLAND

25-337 HUNTINGTON BEACH, CA, ET AL. V. NEWSOM, GOV. OF CA, ET AL.

25-356 MANCUSO, STEVEN P. V. NEW YORK

25-378 OLSEN, DONALD V. SALTER, AARON

25-438 PG&E, ET AL. V. FERC

25-446 DOSTER, HUNTER, ET AL. V. MEINK, SEC. AIR FORCE, ET AL.

25-448 POFFENBARGER, MICHAEL V. MEINK, SEC. AIR FORCE, ET AL.

25-464 POTTER, PHILIP G. V. OCEAN BEACH, NY, ET AL.

25-479 NRA V. VULLO, MARIA T.

25-487 HATHON, LYNETTE, ET AL. V. MICHIGAN

25-492 EVERGLADES COLLEGE, INC. V. McMAHON, SEC. OF ED., ET AL.

25-495 THE BOEING CO. V. SOUTHWEST AIRLINE PILOTS ASSN.

25-516 OVERTON, THOMAS M. V. DIXON, SEC., FL DOC

25-532 SNOW, DIANA, ET AL. V. WIERTELLA, DENNIS

25-534 ) HARRINGTON, ANDREW, ET AL. V. CRACKER BARREL OLD COUNTRY STORE
)
25-559 ) CRACKER BARREL OLD COUNTRY STORE V. HARRINGTON, ANDREW, ET AL.

25-612 VAN OUDENHOVEN, SCOT V. WI DEPT. OF JUSTICE

25-618 WARNER, CRAIG J. V. TEXAS

25-620 CA HERBAL REMEDIES, INC. V. SUPERIOR COURT OF CA, ET AL.

25-623 SMITH, RONALD V. BEXAR COUNTY, TX, ET AL.

25-630 MOTON, RUTH V. SCHMIDT, SEC. OF PA, ET AL.

25-631 NAH, JAE S. V. JABLON, ANDREW V., ET AL.

25-635 ARNOLD, EDWARD R. V. MOORE AND SMITH TREE CARE LLC

25-636 CHATURVEDI, RAHUL V. SIDDHARTH, SIDDHARTH

25-643 UZOIGWE, ONWY V. CHARTER COMMUNICATIONS, LLC

25-644 GERHART, ALBERT G. V. LINCH, CHARITY

25-645 HILL, MARY E. V. JONES, CONSANDRA

25-646 HILL, MARY E. V. SPRATLEY, MALCOLM S.

25-647 FRYMIER, KEVIN V. CURVEY, JUDGE, ET AL.

25-657 RUDNIKAS, BENZO E. V. FLORIDA, ET AL.

25-662 MABES, ERIKA, ET AL. V. THOMPSON, SHANNON, ET AL.

25-663 HEADMAN, ALAN V. FBI, ET AL.

25-672 ADAMS, KATE V. SACRAMENTO COUNTY, CA, ET AL.

25-673 HERBST, BRADLEY A. V. CHICAGO, IL, ET AL.

25-674 SACHS, GEORGE V. RICARDO INC., ET AL.

25-678 ANTONACCI, LOUIS B. V. BRENNAN, RENU, ET AL.

25-679 MORGAN, GLEN V. X CORP.

25-681 WU, ZHI, ET AL. V. SUPERIOR COURT OF CA, ET AL.

25-683 ROSHAN, PEYMAN V. McCAULEY, DOUGLAS R.

25-686 BROWN, GARY S. V. FBI

25-687 BRYANT, RICHARD E. V. BRAUNLICH, MARK, ET AL.

25-688 OGUNSULA, VERONICA W. V. WARRENFELTZ, MICHAEL

25-692 GIRLEY, BROOKE, L., ET AL. V. FLORIDA BAR, ET AL.

25-694 HILL, JEFFREY L. V. JOHNSON, LEANDRA G., ET AL.

25-697 LAS VEGAS SUN, INC. V. ADELSON, SHELDON, ET AL.

25-698 BABB, NORIS V. COLLINS, SEC. OF VA

25-700 BAYLEY, JOAN, V., ET AL. V. UNITED STATES

25-702 CO2 COMMITTEE, INC. V. MONTEZUMA CTY., CO, ET AL.

25-706 VINKOV, SERGEI V. BROTHERHOOD MUTUAL INS. CO.

25-707 GIRARD, MARISSA V. GIRARD, KENTON, ET AL.

25-708 BAPTISTE, RUPERT V. JALLOW, FATOU

25-710 UCIECHOWSKI, ERIN V. DEA PRODUCTS, INC.

25-711 COONEY, DEBORAH V. SAN DIEGO GAS & ELEC., ET AL.

25-713 HAWKINS, GEORGE B. V. SPANBERGER, GOV. OF VA, ET AL.

25-714 PAREDES, RAFAEL V. UNITED AIRLINES, INC., ET AL.

25-715 KANAYAMA, MASAHIDE V. KOWAL, SCOTT, ET AL.

25-716 ENI S.P.A V. GULF LNG ENERGY, LLC, ET AL.

25-718 MO, EX REL. PRIDE V. COURT OF APPEALS OF MISSOURI

25-720 CROMITY, LOUEMMA V. ORLANDO, FL

25-721 LANDSMAN, JENNIE V. AVILES-RAMOS, MELISSA, ET AL.

25-722 PPSA, INC. V. DEPT. OF JUSTICE, ET AL.

25-723 ANDRADE, ROWLAND M., ET AL. V. IRS

25-725 WEINHAUS, EDWARD V. SCANNICCHIO, JUDGE, ET AL.

25-727 FOLTS, DOUGLAS M. V. UNITED STATES

25-730 DOMINGUEZ-GARCIA, JENNESIS V. V. UNITED STATES

25-731 YELLOW TURTLE DESIGN, ET AL. V. SLOTT, SONYA S., ET AL.

25-733 SOARIS, JOSEPH V. AIKHIONBARE, TONY

25-734 SIBLEY, MONTGOMERY B. V. STAVISKY, KRISTEN Z.

25-736 WORLD CHAMP TECH, LLC V. PELOTON INTERACTIVE, INC.

25-737 MORTER, JOHN S. V. HEGSETH, SEC. OF DEFENSE

25-740 HEATH, SUSAN I. V. ECOHEALTH ALLIANCE, INC.

25-741 KIEFER, KEITH A. V. ISANTI COUNTY, MN, ET AL.

25-743 PISNER, GARY V. ATT'Y GRIEVANCE COMM. OF MD

25-745 GREEN, BOBBY M. V. MAY, MICHAEL J., ET AL.

25-747 CLINE, MATTHEW V. UNITED STATES

25-752 SWANSON, HEATHER, ET AL. V. HILGERS, MICHAEL, ET AL.

25-755 SOC. OF APOSTOLIC CHURCH V. UNITED STATES

25-762 FREEMAN, IAN V. UNITED STATES

25-763 PACEM SOLUTIONS INT'L, LLC V. SMALL BUSINESS ADMIN., ET AL.

25-764 FLINTCO, LLC V. CHOCTAW NATION OF OK

25-766 JENSEN, JUSTYNA V. MD CANNABIS ADMIN., ET AL.

25-772 DERMEN, LEV A. V. UNITED STATES

25-773 SLACK, JOSEPH J. V. McHUGH, ROBERT, ET AL.

25-778 BARDAKOVA, NATALIA M. V. UNITED STATES

25-779 BRIGHT DATA LTD. V. CODE200, UAB, ET AL.

25-780 LEDA HEALTH CORP. V. FERGUSON, GOV. OF WA, ET AL.

25-782 WILLIAMSON, GARLAND V. COLLINS, SEC. OF VA

25-792 BINDER, NEIL V. COLDWELL BANKER REAL ESTATE LLC

25-793 ALONSO CANO, CARLOS A. V. 245 C&C, LLC, ET AL.

25-794 SPATZ, JORDAN V. REGENTS OF UNIV. OF CA

25-795 SIBLEY, MONTGOMERY B. V. WATCHES, JUDGE, ET AL.

25-796 DURU, PRINCEWILL A. V. UNITED STATES

25-797 HECKE, STEVEN J. V. UNITED STATES

25-800 ROCCO, MATTHEW S. V. UNITED STATES

25-801 SCHRAMM, THOMAS V. UNITED STEEL WKRS.

25-805 KRUSKAL, KERRY V. MAESTAS, ALAN, ET AL.

25-806 SINGH, TARLOCHAN V. BONDI, ATT'Y GEN.

25-807 McRANEY, WILL V. N. AM. MISSION BD., INC.

25-811 SEPULVEDA, MATTHEW L. V. UNITED STATES

25-812 GREINER, JAMES V. TESLA, INC.

25-814 HACKMAN, ASSATA A. V. INDUCTEV

25-816 SPIRITO, KENNETH R. V. UNITED STATES

25-817 CHRISTOPHER, CHARLES W. V. UNITED STATES

25-820 COMCAST CABLE COMMUNICATIONS V. WHEREVERTV, INC.

25-822 DeCOLA, THOMAS V. INDIANA

25-825 MEIER, KATHARINA K. I. V. ASPEN ACADEMY, ET AL.

25-829 MARTORELLO, MATT V. WILLIAMS, LULA, ET AL.

25-837 HOSSEINIPOUR, FARADAY V. UNITED STATES

25-839 FUGEDI, NICHOLAS V. INITRAM, INC., ET AL.

25-846 CHRISTENSEN, REED V. DEPT. OF JUSTICE, ET AL.

25-855 THE VISIONARY, BOOKS + CAFE, LLC V. BANK OZK

25-861 MN CH. ASSOC. BUILDERS, ET AL. V. ELLISON, ATT'Y GEN., MN, ET AL.

25-863 BUTLER, G'ANTE V. UNITED STATES

25-869 WEISS, JAMES T. V. UNITED STATES

25-876 GIURCA, DAN V. MONTEFIORE HEALTH SYSTEM, ET AL.

25-5298 MALLONEE, MICHAEL V. DEPT. OF INTERIOR

25-5608 JORDAN, GARY V. UNITED STATES

25-5740 TUCKER, GREGORY V. NAGY, WARDEN

25-5750 GREEN, GARY D. V. TEXAS

25-5776 PERKINS, THOMAS S. V. UNITED STATES

25-5787 BYRD, JAMES T. V. UNITED STATES

25-5798 LERMAN, MIKHAEL Y. V. LERMAN, CELINE E.

25-5804 HSIEH, KEVIN K. C. V. BONDI, ATT'Y GEN.

25-5895 JOHNSON, RICKEY V. UNITED STATES

25-5914 INALEGWU, MARTINS V. UNITED STATES

25-6035 GIVEY, RYAN P. V. GIVEY, ALICIA A.

25-6253 JOHNSON, SHARON V. DANON, DAVID

25-6256 GREISER, FRANCIS T. V. GREISER, MARIAN K., ET AL.

25-6258 JULIAN, PAMELA S. V. AMETAJ, DHURATA, ET AL.

25-6262 WYRE, STEVIE V. TEXAS, ET AL.

25-6263 RICHARDSON, SHERRI V. IRONGATE MUTUAL HOMES, INC.

25-6272 TAYLOR, JAMES V. FREEDOM MORTGAGE CORP., ET AL.

25-6283 CAIN, SAMUEL P. V. BRIDGES, WARDEN

25-6287 FIELDS, MARCUS B. V. PFIZER INC., ET AL.

25-6292 BENSON, RICKEY V. FIELDS, KIRK

25-6296 FOLLY, EMMANUEL V. PHILADELPHIA, PA, ET AL.

25-6301 DORSEY, LEROY V. NEW YORK

25-6304 CLEMONS, JOHN H. V. GUERRERO, DIR., TX DCJ, ET AL.

25-6305 HEATH, ANTHONY D. V. BRITTAIN, SUPT., ET AL.

25-6320 SPENCER, DEAN V. UTAH

25-6322 FRIEDAY, JEREMY I. V. WASHINGTON

25-6328 COMBS, TALITHA L. V. URBAN RESTAURANT GROUP, ET AL.

25-6331 ROLAND, ANTHONY V. NBC SUBSIDIARY (WMAQ-TV) LLC

25-6333 KEMP, CAMERON V. POWERS, MICHAEL, ET AL.

25-6336 LEWANDOWSKI, JOSHUA J. V. PERKINS, SUPT., COYOTE RIDGE

25-6339 KELLER, JEFFREY V. JJ. OF THE APP. CT. OF IL

25-6340 KNICKERBOCKER, ROBERT V. MICHIGAN

25-6351 MERRICK, ANTHONY J. V. HERMAN, KENNETH

25-6352 COOPER, MARCUS A. V. VIRGINIA

25-6355 DIAL, DERRICK F. V. UNITED STATES

25-6356 BRISCOE, ELVERT S. V. OHIO

25-6358 WEBSTER, LARRY E. V. DAVULURI, BALA

25-6360 TOUIJER, FATIMA V. PROVIDENCE HOUS. AUTH., ET AL.

25-6361 JOHNSON, RONALD V. ZMUDA, SEC., KS DOC, ET AL.

25-6363 AMARAN, ARTURO V. FLORIDA

25-6365 PROVO, TIMOTHY R. V. TENNEY, GEOFFREY W., ET AL.

25-6370 COURTNEY, EVELYN V. MSPB

25-6377 WOLTERS, RONALD V. SMITH, WARDEN

25-6378 PRICE, KRISTON V. OHIO

25-6379 OGDEN, KEVIN V. STEPHENSON, WARDEN, ET AL.

25-6380 MERRICK, ANTHONY J. V. THORNELL, DIR, AZ DOC, ET AL.

25-6381 PETTUS, JAMES V. MAZZOLA, BRYAN, ET AL.

25-6388 VANDIVNER, JAMES W. V. HARRY, SEC., PA DOC, ET AL.

25-6391 BLAIR, DELFON V. OHIO, ET AL.

25-6392 BRAY, CHRISTOPHER T. V. TEXAS

25-6393 PORTER, CORTEZ D. V. UNITED STATES

25-6394 ABRAMS, JOSHUA V. ISOLDA, RICHARD

25-6396 FRANCO, JAVIER R. V. TEXAS

25-6397 DYER, MARK V. UNITED STATES

25-6398 GRANGER, LONI N., ET AL. V. KING, JUDGE, USDC, ET AL.

25-6399 MACK, JOHN W. V. BARNETTE, BARRY, J., ET AL.

25-6400 MONTEMAYOR, ISRAEL V. BISIGNANO, COMM'R, SOCIAL SEC.

25-6401 CENTENO, FRANKIE V. UNITED STATES

25-6402 MITHAVAYANI, ANWAR V. UNITED STATES

25-6403 ABREU, MIGUEL V. UNITED STATES

25-6404 MYORE, JT V. UNITED STATES

25-6406 FLORENTINE, LAWRENCE J. V. UNITED STATES

25-6407 PITTMAN, BRYAN E. V. UNITED STATES

25-6408 COOPER, LYNETTE V. BALTIMORE, MD, ET AL.

25-6410 HALL, HUNTER M. V. UNITED STATES

25-6412 NAVARRO, ISRAEL V. NEW YORK

25-6413 DIXON, MARCUS T. V. UNITED STATES

25-6414 DAVIS, MATTHEW R. V. MAINE

25-6415 VIANA-HERNANDEZ, JUAN V. UNITED STATES

25-6416 QUINTERO-ARIAS, OMAR A. V. UNITED STATES

25-6417 GILES, PHILLIP M. V. DOTSON, DIR., VA DOC

25-6418 HAVINS, JOSHUA D. V. UNITED STATES

25-6419 NEALY, TONNIE V. SAWYER, DONALD, ET AL.

25-6421 O'BRIEN, WILLIAM J. V. UNITED STATES

25-6422 O'BRIEN, KENNETH J. V. USDC ND FL

25-6423 aL BALUCHI, AMMAR V. HEGSETH, SEC. OF DEFENSE

25-6425 THOMPSON, TYSHON V. ILLINOIS

25-6427 SMITH, DEVIN J. V. UNITED STATES

25-6430 HOLLIDAY, JESSE M. V. CALIFORNIA

25-6431 SOLIS-RODRIGUEZ, EDIN A. V. UNITED STATES

25-6432 KERSTETTER, DYLAN G. V. UNITED STATES

25-6433 COWARD, AVIS V. UNITED STATES

25-6435 REYES, LENNY V. UNITED STATES

25-6436 LOUIS, FRANCISCO J. V. UNITED STATES

25-6438 ACOSTA, FRANKIE V. UNITED STATES

25-6439 MELTON, MARQUIS V. UNITED STATES

25-6440 GUAJARDO-MARTINEZ, JUAN V. UNITED STATES

25-6442 HINDS, MICHAEL V. UNITED STATES

25-6445 BULLOCK, CHARLIE V. VIRGINIA

25-6447 BELCHER, TORRENCE V. WALLEN, JOSHUA, ET AL.

25-6448 BELCHER, TORRENCE V. HALE, TERRI, ET AL.

25-6449 POLLICK, CYNTHIA L. V. PENNSYLVANIA

25-6452 MONROY-VEGA, JUAN M. V. UNITED STATES

25-6453 MARTINEZ, RAI V. UNITED STATES

25-6454 CAPOZZI, DEREK V. UNITED STATES

25-6455 BOLLING, MARK V. UNITED STATES

25-6456 ASEMOTA, NOSOREGBE V. UNITED STATES

25-6457 BEHRINGER, ELIJAH V. CA POLYTECHNIC UNIV., ET AL.

25-6458 CHILDERS, MATTHEW D. V. UNITED STATES

25-6459 DILLON, OSCAR V. UNITED STATES

25-6460 LEE, BRAD O. V. UNITED STATES

25-6461 COCHREN, MICHAEL A. C. V. WHITE CASTLE SYS., INC., ET AL.

25-6462 LEWIS, JAMAUR V. UNITED STATES

25-6463 TALAMANTES-ROMERO, LUIS A. V. UNITED STATES

25-6466 RIVAS GOMEZ, ISRAEL A. V. UNITED STATES

25-6468 HAHN, DERRICK V. UNITED STATES

25-6469 RUDOLPH, CHARLES G. V. UNITED STATES

25-6470 ) FERRER-SOSA, JOSE V. UNITED STATES
)
25-6471 ) VAZQUEZ RIJOS, MARCIA V. UNITED STATES

25-6472 LOPEZ-ORTIZ, ROBERTO V. MASSACHUSETTS

25-6473 McGREGOR, CLOVER V. UNITED STATES

25-6477 BROWN, WARREN H. V. UNITED STATES

25-6478 JOHNSON, JEREMY E. V. UNITED STATES

25-6479 CORNELIUS, LEONTIS V. UNITED STATES

25-6480 HUERTAS-MERCADO, JAIRO V. UNITED STATES

25-6485 MORTON, MICHELLE R. V. IOWA

25-6487 LEWIS, DERRICK S. V. UNITED STATES

25-6489 DOBBS, JASON W. V. NEVADA

25-6490 CRAWFORD, GARY V. UNITED STATES

25-6491 WILKINS, BILLY J. V. UNITED STATES

25-6493 BARKSDALE, PAUL K. V. WEHKING, WARDEN

25-6494 SMITH, RIVER W. V. UNITED STATES

25-6497 CRUZ-TRUJILLO, CANDELARIO V. INDIANA

25-6499 ROSARIO SANCHEZ, NYCOLE A. V. UNITED STATES

25-6501 HARRIS, EDGAR V. BISIGNANO, COMM'R, SOCIAL SEC.

25-6502 BARKSDALE, DONALD W. V. VIRGINIA

25-6503 ORTEGA, CARLOS A. V. SANTA CLARA COUNTY, CA, ET AL.

25-6504 NEGRON, ANTONIO J. V. GUERRERO, DIR., TX DCJ

25-6505 POINTER, KENNETH C. V. UNITED STATES

25-6506 PATTON, JOHN W. V. WESTCOTT, SEC., LA DPSC, ET AL.

25-6509 BOCOCK, CHARLES V. ILLINOIS

25-6511 FRANCO-CRUZ, ERIC M. V. BONDI, ATT'Y GEN.

25-6513 OGILVIE, ALEXANDER J. V. UNITED STATES

25-6514 LEOS-MORALES, EPIFANIO V. UNITED STATES

25-6518 SMITH, DEANDRE M. V. MLODZIK, WARDEN

25-6519 DAVIS, CORNELIUS V. SOUTHEAST QSR LLC

25-6521 SANCHEZ, ROMEO V. V. UNITED STATES

25-6522 MACIAS-FUENTES, MIGUEL A. V. UNITED STATES

25-6523 MARTIN, DENNIS V. UNITED STATES

25-6524 AMADO, ADERITO P. V. UNITED STATES

25-6525 CALLOWAY, BRYANT V. UNITED STATES

25-6528 SHELTON, VICTOR V. DEPT. OF JUSTICE

25-6529 EADDY, JAQUAN V. UNITED STATES

25-6530 GAMMAGE, TERRY L. V. UNITED STATES

25-6532 ARMENDARIS, ROBERT V. ARIZONA

25-6534 RAY, ROBERT K. V. COLORADO

25-6539 BULLS, DEWAYNE V. FBI, ET AL.

25-6540 POTTER, JASON M. V. UNITED STATES

25-6546 BOCARDO, MIGUEL, ET AL. V. UNITED STATES

25-6548 COOPER, NATHAN V. RHODE ISLAND

25-6550 KITCHEN, GEORGE M. V. UNITED STATES

25-6551 BURGOS, ESTEBAN V. FLORIDA

25-6556 JONES, DARRELL V. REYNOLDS, ACTING WARDEN

25-6557 CALHOUN, DAVID V. UNITED STATES

25-6559 KAFEITI, CHARLES V. UNITED STATES

25-6564 WASHINGTON, AMBREIA V. TENNESSEE

25-6565 COLEMAN, JAISON L. V. UNITED STATES

25-6567 CURRY, RAJERI V. UNITED STATES

25-6568 DORELUS, JAMES V. UNITED STATES

25-6569 JACKSON, JAMARCUS G. V. UNITED STATES

25-6570 SLOAN, ORLANDA T. V. UNITED STATES

25-6571 CASSEUS, MAXO V. FLORIDA

25-6572 BATISTE, DAYVEON V. UNITED STATES

25-6573 BREELAND, BERNARD K. V. UNITED STATES

25-6574 ARREDONDO, CHRISTOPHER M. V. UNITED STATES

25-6577 MILBRY, CHARLES D. V. FLORIDA

25-6579 KEATON, ROBERT V. DIXON, SEC., FL DOC, ET AL.

25-6581 DUNN, MICHAEL D. V. DIXON, SEC., FL DOC, ET AL.

25-6582 SWARN, DEMONYA M. V. UNITED STATES

25-6583 HOTALING, JOHN V. UNITED STATES

25-6585 KILLEN, PATRICK V. UNITED STATES

25-6587 ADAMS, JETT G. V. SHANNON, DIR., WY DOC, ET AL.

25-6589 SWARTZ, JESSE F. V. UNITED STATES

25-6590 FIELDS, HURON V. UNITED STATES

25-6594 ) FORBIS, WILLIAM J. V. UNITED STATES
) 
25-6597 ) SMITH, DANIEL D. V. UNITED STATES

25-6595 MACIAS-ORDONEZ, HUGO I. V. UNITED STATES

25-6598 MOORE, ASHLEY V. UNITED STATES

25-6600 SHIKE, NAVEED R. V. UNITED STATES

25-6601 ADAMS, MELVON V. UNITED STATES

25-6606 ROSELL, ROBERT P. V. UNITED STATES

25-6607 ROJAS, KEVIN E. P. V. FLORIDA

25-6611 FRANTZ, JAMES E. V. STANCIL, DIR., CO DOC, ET AL.

25-6612 HAN, QING V. JOSEPH AUTO SERVICE INC.

25-6616 AMADI, OKECHUKWU D. V. UNITED STATES

25-6624 JOHNSON, RYAN A. V. UNITED STATES

25-6633 SULLIVAN, LEIHINAHINA V. UNITED STATES

25-6637 HUGHES, ELIZABETH A. V. PENNSYLVANIA

25-6640 BEJAR-GUIZAR, JUAN C. V. UNITED STATES

25-6641 THORNTON, ERVIN V. UNITED STATES

25-6643 RHODEN, LAWRENCE V. GREENE, WARDEN

25-6648 BERMEA, NATHAN V. UNITED STATES

25-6649 GREEN, LESLEY C. V. UNITED STATES

25-6650 LEE, MICHAEL L. V. UNITED STATES

25-6651 RAMBO, MARCUS A. V. UNITED STATES

25-6652 THORNTON, JARMARL V. UNITED STATES

25-6653 CAMPOS, RANDY V. UNITED STATES

25-6660 FRANKLIN, DEMETRIUS V. MADDEN, WARDEN

25-6663 JOHNSON, RICHARD K. V. UNITED STATES

25-6678 RODRIGUEZ, ISAAC R. V. VIRGINIA

The petitions for writs of certiorari are denied.

25-709 WEST VIRGINIA V. ALLMAN, MICHAEL K.

The motion of respondent for leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is denied.

25-841 WADE, HENRY T. V. UNITED STATES

The petition for a writ of certiorari before judgment is denied.

25-6338 SMITH, SAMUEL L. V. GAYLES, JUDGE, USDC SDFL, ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin* v. *District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

25-6384 PARKS, EDWARD F. V. THORNELL, DIR., AZ DOC, ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly

abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin* v. *District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*). Justice Jackson, dissenting: I respectfully dissent from the order barring this incarcerated petitioner from filing future *in forma pauperis* petitions in noncriminal matters. See *Howell* v. *Circuit Court of Indiana*, 607 U. S. ___ (2026) (Jackson, J., dissenting).

25-6516 CALLOWAY, AUBURN V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Kagan took no part in the consideration or decision of this petition. See 28 U. S. C. §455(b)(3) and Code of Conduct for Justices of the Supreme Court of the United States, Canon 3B(2)(e) (prior government employment).

25-6527 SCHUMAKER, BRIAN W. V. UNITED STATES

25-6584 SULLIVAN, LEIHINAHINA V. UNITED STATES

The motions of petitioners for leave to proceed *in forma pauperis* are denied, and the petitions for writs of certiorari are dismissed. See Rule 39.8.

**HABEAS CORPUS DENIED**

25-870 IN RE DELMART VREELAND

25-6542 IN RE TODD McDONALD

25-6614 IN RE JOEY L. BRUNSON

25-6630 IN RE ANTHONY T. CAMPBELL

25-6638 IN RE MICHAEL K. CARTER

The petitions for writs of habeas corpus are denied.

25-6602 IN RE DERRICK L. JOHNSON

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of habeas corpus is dismissed. See Rule 39.8.

25-6661 IN RE TERRANCE SYKES

The petition for a writ of habeas corpus is denied. Justice Kagan took no part in the consideration or decision of this petition. See 28 U. S. C. §455(b)(3) and Code of Conduct for Justices of the Supreme Court of the United States, Canon 3B(2)(e) (prior government employment).

**MANDAMUS DENIED**

25-671 IN RE MARK C. TRACY

25-676 IN RE JOHN A. SHEPARDSON

25-6274 IN RE RICHARD B. JENNINGS

25-6290 IN RE JERRY E. ROBERTSON

25-6349 IN RE ASHLEY BLACK

25-6376 IN RE EVELYN THOMAS

25-6395 IN RE WILFREDO FELICIANO-RODRIGUEZ

25-6420 IN RE RYAN D. MUMME

25-6426 IN RE TAMAS HAMPEL

The petitions for writs of mandamus are denied.

**REHEARINGS DENIED**

24-7495 LOPEZ CARRILLO, JOSE M. V. ARNOLD, SUPT., STAFFORD, ET AL.

25-62 PUCKETT, CARL E., ET UX. V. AIN JEEM, INC.

25-206 ROJAS, EDWIN L. V. CONNECTICUT, ET AL.

25-316 JILLA, KERLEE V. LUCAS-JILLA, LUZABELLE

25-324 KLEINHAMMER, RICHARD W. V. CALIFORNIA

25-409 MILLER, SHERRY L. V. CAMPBELL SOUP RETIREMENT COMM.

25-420 RUED, JOSEPH D., ET AL. V. JAYSWAL, JAYKUMAR, ET AL.

25-434 GOVE, TIMOTHY R. V. SARGENTO FOODS, INC.

25-496 LAWYERS FOR FAIR RECIPROCAL V. UNITED STATES, ET AL.

25-5202 MILLS, JACOB M. V. BISIGNANO, COMM'R, SOCIAL SEC.

25-5398 MILLER, RICKY L. V. McGINLEY, SUPT., ET AL.

25-5456 GAYNOR, ELBERT V. EXTENDED STAY AMERICA

25-5489 FOWLER, PETER V. BOHNERT, LUCAS, ET AL.

25-5521 IN RE DWIGHT CAMPBELL

25-5596 MERRITT, ARDY V. HUD, ET AL.

25-5663 BOUMAKH, BRAHIM V. REID, MICHELLE, ET AL.

25-5679 ANDERSON, LEWIS V. CALIFORNIA

25-5753 SCOTT, EDDIE V. USDC MD FL

25-5756 IN RE JODY M. JOHNSON

25-5809 VAN DURMEN, ANTHONY L. V. MORRISON, WARDEN

25-5810 SINGH, MANISHA V. MEMORIAL SLOAN KETTERING, ET AL.

25-5842 RODRIGUEZ, JORGE A. V. GUERRERO, DIR., TX DCJ

25-5965 ORUSA, SAMSON K. V. UNITED STATES

The petitions for rehearing are denied.

24-6550 BROWN, PAUL A. V. McGINLEY, SUPT., ET AL.

24-7345 BRYANT, ANITA S. V. ESTATE OF LAURA J. BRYANT

The motions for leave to file petitions for rehearing are denied.

**ATTORNEY DISCIPLINE**

D-3158 IN THE MATTER OF DISBARMENT OF JOSEPH MICHAEL OWENS

Joseph Michael Owens, of Baltimore, Maryland, having been suspended from the practice of law in this Court by order of November 10, 2025; and a rule having been issued and served upon

him requiring him to show cause why he should not be disbarred; and a response having been filed;

It is ordered that Joseph Michael Owens is disbarred from the practice of law in this Court.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI‘I

| | |
|---|---|
| STATE OF HAWAI‘I, ex rel. ANNE E. LOPEZ, ATTORNEY GENERAL,<br><br>Plaintiffs,<br><br>vs.<br><br>BP P.L.C.; BP AMERICA INC.; BP PRODUCTS NORTH AMERICA INC.; CHEVRON CORP.; CHEVRON USA INC.; EXXON MOBIL CORP.; EXXONMOBIL OIL CORPORATION; SHELL P.L.C.; SHELL USA, INC.; EQUILON ENTERPRISES LLC d/b/a SHELL OIL PRODUCTS US; SHELL TRADING (US) COMPANY; SUNOCO LP; ALOHA PETROLEUM, LTD.; ALOHA PETROLEUM LLC; CONOCOPHILLIPS; CONOCOPHILLIPS COMPANY; PHILLIPS 66; PHILLIPS 66 COMPANY; WOODSIDE ENERGY HAWAII INC. f/k/a BHP HAWAII INC.; AMERICAN PETROLEUM INSTITUTE; AND DOES 1 through 100, inclusive,<br><br>Defendants. | CIVIL NO. 1CCV-25-0000717 (JJK)<br>(Other Non-Vehicle Tort)<br><br>**CERTIFICATE OF SERVICE** |

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this date a copy of the foregoing document was duly served electronically through JIMS/JEFS and a copy sent via email to the following parties at their last known addresses:

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DATED: Honolulu, Hawai‘i, March 4, 2026.

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