

Bond Case Briefs

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PUBLIC UTILITIES - HAWAII

City and County of Honolulu v. Sunoco LP

Supreme Court of Hawai'i - October 31, 2023 - P.3d - 2023 WL 7151875

City and county brought action against oil and gas companies alleging nuisance, trespass, strict liability failure to warn, and negligent failure to warn arising from companies' alleged deceptive marketing campaign and misleading of the public about dangers and environmental impact of using fossil fuel products.

The Circuit Court denied companies' motions to dismiss for lack of personal jurisdiction and for failure to state a claim. Companies sought leave to file an interlocutory appeal, which was granted.

The Supreme Court held that:

- Companies' in-state activity fell under long-arm statute;
- Companies had the due process minimum contacts required for specific personal jurisdiction;
- Exercising specific jurisdiction was reasonable under Due Process Clause;
- Clear notice was not a requirement in addition to due process minimum contacts;
- Federal common law governing interstate air pollution suits did not retain its preemptive effective after Clean Air Act (CAA) displaced it;
- CAA did not expressly preempt state-law tort claims;
- CAA did not preempt state claims via field preemption; and
- CAA did not preempt state claims via conflict preemption.