

# **Bond Case Briefs**

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## **PREEMPTION - COLORADO**

### **County Commissioners of Boulder County v. Suncor Energy USA, Inc.**

**Supreme Court of Colorado - May 12, 2025 - P.3d - 2025 WL 1363355 - 2025 CO 21**

City and county brought state court action against oil and gas producers, alleging injuries to plaintiffs' property and to their citizens arising from defendants' role in exacerbating climate change, and asserting claims for public and private nuisance, trespass, civil conspiracy, and unjust enrichment. Action was removed.

The United States District Court for the District of Colorado remanded action, and then denied defendants' motion to stay remand order pending appeal. Defendants appealed. The Court of Appeals affirmed in part and reversed in part.

Plaintiffs sought writ of certiorari. The United States Supreme Court granted writ, vacated judgment, and remanded action. On remand, the Court of Appeals affirmed the District Court's order remanding the action to state court. On remand, the District Court denied defendants' motion to dismiss for failure to state a claim. Defendants petitioned for order to show cause, which the Supreme Court granted.

The Supreme Court held that:

- Supreme Court would exercise its discretion to hear defendants' appeal since the questions presented had important implications for Colorado and its citizens;
- Federal common law concerning air pollution had been displaced by the Clean Air Act (CAA) and did not preempt plaintiffs' state law tort claims;
- The Clean Air Act (CAA) did not preempt plaintiffs' state law tort claims;
- Federal common law regarding claims brought against pollution emitters, even if not abrogated by the Clean Air Act (CAA), did not apply to preempt plaintiffs' state law tort claims; and
- Federal government's foreign affairs power did not preempt plaintiffs' state law tort claims.