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Second Circuit Rejects New York City's Climate-Change Lawsuit

(*City of New York v. Chevron Corporation*)

“The courts are ill equipped to make public policy; that function is constitutionally reserved for Congress.”

—Cory Andrews, WLF General Counsel and Vice President of Litigation

WASHINGTON, DC—Earlier today the Second Circuit affirmed a district court ruling that wisely rejected the City of New York’s campaign to move the task of addressing climate change into the federal courts. The decision was a victory for Washington Legal Foundation, which filed an *amicus* brief urging affirmance in *City of New York v. Chevron Corp.*

The appeal arose from the City’s lawsuit against five companies that produce and sell oil and natural gas. The suit essentially sought funding for sea-wall construction and other climate-change programs. The district court dismissed the City’s claims because (1) they are displaced by federal common law, (2) the Clean Air Act displaces any federal common-law claim directed at domestic fossil-fuel emissions, and (3) any federal common-law claim directed at foreign emissions interferes with the separation of powers and the nation’s foreign policy. The Second Circuit affirmed each of these holdings.

The City’s lawsuit faced a number of insurmountable obstacles. In its brief, WLF showed that the causal chain from the production and sale of fossil fuels to the harm raised by the City is too long, too winding, and too tangled to support liability. WLF’s brief discouraged the Second Circuit from deviating from the traditional proximate-cause rule—the requirement that a direct connection exist between the conduct of the defendant and the harm to the plaintiff. Requiring proximate cause properly constrains the judicial role. If a court may impose liability on a party only remotely connected to a social harm, avenues open for making sweeping choices from the bench about who should have to spend how much on what problems. A court is neither equipped nor authorized to engage in such central planning.

Celebrating its 44th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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