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WLF Urges Supreme Court to Stop Boulder, Colorado from Subverting the Constitutional Order (*Suncor v. Boulder*)

“Men like Rufus King and Alexander Hamilton wrote the Constitution to build a national market—not hand local governments power to destroy American prosperity.”

— Zac Morgan, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Supreme Court to reverse a Colorado Supreme Court order allowing an unconstitutional state proceeding against two energy producers, Suncor and ExxonMobil, to go forward. WLF was joined on the brief by the National Federation of Independent Business Small Business Legal Center and the National Association of Wholesaler-Distributors.

The City and County of Boulder, Colorado wants to regulate greenhouse-gas emissions and “tax” the energy industry by obtaining a multi-billion-dollar verdict under Colorado tort law against the targeted companies for contributing to global climate change. And Boulder isn’t alone—thousands of local governments stand ready to bring copycat suits against the whole worldwide energy industry if this gambit succeeds.

Although the Constitution gives the power to regulate interstate and international commerce solely to Congress, the Colorado Supreme Court denied an effort by the companies to shut down the litigation on constitutional grounds. The U.S. Supreme Court agreed to review that decision earlier this year—but Boulder argues that the Court made a mistake is agreeing to hear the case before Boulder secured a verdict from a jury.

WLF’s amicus brief explains why that’s wrong. The Colorado Supreme Court decision wrongfully deprived Suncor and Exxon of a valid and correct constitutional defense to vexatious litigation. That’s sufficient injury for the Court to hear the case now and end Boulder’s unlawful regulatory ambitions. As the brief notes, doing otherwise “would have cataclysmic consequences for the Nation—indeed, the world.”

Celebrating its 49th 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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