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Firm Supports Colorado Communities in Case Seeking Damages from Oil Companies for Climate Change-Related Injuries

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In January 2020, Kaplan Kirsch & Rockwell represented Colorado Communities for Climate Action (CC4CA), a non-profit coalition of 32 cities, town, and counties throughout the state, as an *amicus curiae* in *Board of County Commissioners of Boulder County v. Suncor Energy (U.S.A.) Inc.* In the case, now before the United States Court of Appeals for the Tenth Circuit, plaintiffs the City of Boulder, Boulder County, and San Miguel County allege that ExxonMobil and Suncor, companies with some of the largest oil operations in Colorado, knew about the dangers of increased burning of fossil fuels and deliberately misled the public and policymakers about the risks. As a result of the companies' actions, the local communities face severe climate impacts, including increased risks of wildfire, drought, flooding, and severe heat, as well as rising costs to address these risks.

Suncor and ExxonMobil have argued that the plaintiffs cannot bring state-law claims – which include nuisance, trespass, unjust enrichment, violation of the Colorado Consumer Protection Act and civil conspiracy – against them for the alleged misleading conduct. In its *amicus brief*, CC4CA explains that the defendants' position would result in unprecedented extension of federal preemption, deprive Colorado municipalities of their inherent powers to enforce laws within their jurisdictions, and rob them of the ability to obtain redress for the many harms defendants' actions have caused in Colorado communities.

Firm attorneys Eric Pilsk, Sara Mogharabi, Samantha Caravello, and Sarah Keane prepared the *amicus brief* on behalf of CC4CA. Jacob Smith, CC4CA's executive director, noted "This is an important lawsuit about the basic rights of local communities to protect their quality of life and their economies. We are grateful for the skilled representation by our attorneys at Kaplan Kirsch Rockwell in challenging these issues head on."

Press Coverage

Mayors Tell 10th Circ. Climate Case Belongs In State Court