

Republican AGs Seek Intervention of U.S. Supreme Court to Block Climate Change Lawsuits filed by Blue States Against Fossil Fuel Industry

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A coalition of Republican state attorneys-general representing nineteen states (Alabama, Alaska, Florida, Georgia, Idaho, Iowa, Kansas, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Oklahoma, South Carolina, South Dakota, Utah, West Virginia, and Wyoming) has petitioned the U.S. Supreme Court under a theory of original jurisdiction (i.e., disputes between states) to block the lawsuits filed by five liberal states (California, Connecticut, Minnesota, New Jersey, and Rhode Island) against fossil fuel companies. The premise of the lawsuit, as stated in the petition, is that the defendant states are “dictat[ing] the future of the American energy industry . . . by imposing ruinous liability and coercive remedies on energy companies through state tort actions governed by state law in state court.”

This is a highly unusual lawsuit, to say the least. Original jurisdiction is a rarely invoked basis for a lawsuit, and often features boundary disputes or a controversy over water rights between states. To use it in this context--to disrupt civil enforcement lawsuits against private parties--appears virtually unprecedented. (While the plaintiff states have asserted various rationales to justify their actions--including core constitutional issues such as the separation of powers, federalism, and extraterritoriality--those doctrines have not yet been applied to circumstances similar to those here.)

Further, this Supreme Court petition demonstrates even more clearly how issues surrounding climate change and a transition from fossil fuels to sustainable energy have become a partisan division in the United States. In the simplest terms, this lawsuit is a request by one group of states--identifying with one of two political parties--that the federal government intervene and block the law enforcement activities of another group of states--identifying with the other political party. This partisan divide complicates the development of a coherent and comprehensive energy policy in the United States, and creates uncertainty for companies operating (or attempting to operate) in this area.

A coalition of states has asked the U.S. Supreme Court to declare unconstitutional a series of climate change lawsuits that another group of states has brought against oil companies.

Invoking the court’s original jurisdiction to hear disputes between states, the motion asks the court to hear a lawsuit against California, Connecticut, Minnesota, New Jersey and Rhode

Island over suits those states have filed against oil companies.

<https://www.law.com/nationallawjournal/2024/05/24/as-states-clash-over-climate-litigation-sc>

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