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May 12, 2025

VIA MDEC

Supreme Court of Maryland
361 Rowe Boulevard
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Re: *Mayor & City Council of Baltimore v. B.P. P.L.C., et al.*; *Anne Arundel County v. B.P. P.L.C., et al.*; *City of Annapolis v. B.P. P.L.C., et al.*; Case No. 11, September Term, 2025 (SCM-REG-0011-2025)

Dear Chief Justice Fader:

We write on behalf of all Parties in regard to the Court's Order dated April 24, 2025 in the above-captioned matter. The Parties have reviewed the Court's Order, have met and conferred regarding its contents, and now seek clarification from the Court as to two aspects of the Order.

As the Court is aware, the three Plaintiffs-Appellants (Mayor and City Council of Baltimore, Anne Arundel County, and City of Annapolis) appealed the dismissal orders from the Circuit Court for Baltimore City and the Circuit Court for Anne Arundel County¹ to the Appellate Court of Maryland. Defendants-Appellees did not appeal any orders of the trial courts, so there are no cross-appeals.

While the appeals were pending before the Appellate Court, Defendants-Appellees filed an Unopposed Petition for Writ of Certiorari (Bypass). Plaintiffs-Appellants filed an Answer to Defendants-Appellees' Unopposed Petition and a Cross-Petition for Certiorari. Defendants-Appellees then filed their Answer to the Cross-Petition. The Parties understand that the Court granted both the Petition and the Cross-Petition, and that the three appellate cases (Nos. 1290, 2308, and 2309, Sept. Term 2024) have all been transferred to a single case in this Court.

The Order sets forth certain deadlines by which "appellees/cross-appellants" and "cross-appellees" must file their briefs. But because there are no cross-appeals, the Parties respectfully request that the Court amend these party designations such that the three Plaintiffs are designated as the "Appellants" and the Defendants are designated as the "Appellees." Regarding the briefing

¹ The three cases are *Mayor & City Council of Baltimore v. B.P. P.L.C., et al.*, Cir. Ct. No. 24-C-18-004219; *Anne Arundel County, Maryland v. B.P. P.L.C., et al.*, Cir. Ct. No. C-02-CV-21-000250; and *City of Annapolis v. B.P. P.L.C., et al.*, Cir. Ct. No. C-02-CV-21-000565.

schedule, as set forth in the Order, Appellants will file a single opening brief and record extract on or before June 3, 2025, Appellees will file their response brief on or before July 3, 2025, and Appellants will file their reply brief on or before August 4, 2025.²

Additionally, the Parties are unclear as to how to frame the “Questions Presented” in the briefs and seek the Court’s guidance in this regard. While the Petition and Cross-Petition addressed the same four issues, they framed the “Questions Presented” differently. The Order granted review of (1) all four Questions Presented in the Petition, and (2) the second, third, and fourth Questions Presented in the Cross-Petition. The Parties therefore understand that they will address the first Question Presented from the Petition (“*Do the Federal Constitution and federal law preempt and preclude state law claims seeking redress for injuries allegedly caused by the effects of out-of-state and international greenhouse gas emissions on the global climate?*”), but they respectfully request guidance from the Court on how to formulate the second, third, and fourth Questions Presented. While covering the same ultimate substance of whether Plaintiffs-Appellants failed to state claims under Maryland law, the Parties’ versions of those questions are listed below:

QUESTION PRESENTED	PLAINTIFFS-APPELLANTS	DEFENDANTS-APPELLEES
QUESTION 2	Whether Respondents’ complaints state claims for public and private nuisance.	Does Maryland law preclude nuisance claims based on injuries allegedly caused by the worldwide production, promotion, and sale of a lawful consumer product?
QUESTION 3	Whether Respondents’ complaints state claims for strict liability and negligent failure to warn.	Does Maryland law preclude failure-to-warn claims premised on a duty to warn every person in the world whose use of a product may have contributed to a global phenomenon with effects that allegedly harmed the plaintiff?
QUESTION 4	Whether Respondents’ complaints state claims for trespass.	Does Maryland law preclude trespass claims based on harms allegedly caused by global climate changes arising from the use of a product by billions of third parties around the world outside of the producer’s control?

² The Order refers to appellees/cross-appellants and cross-appellees, but given that there are no cross-appeals, the Parties are unclear as to their meaning and, therefore, use the designations “Appellees” and “Appellants” in this correspondence.

Thank you in advance for your consideration, and we look forward to the Court's guidance.

Respectfully submitted,

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I HEREBY CERTIFY that on May 12, 2025, a copy of the foregoing was filed and served on all counsel of record via the MDEC system.

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