

---

**IN THE SUPREME COURT OF MARYLAND**

---

No. 11  
SEPTEMBER TERM, 2025

---

MAYOR & CITY COUNCIL OF BALTIMORE,  
APPELLANT,  
v.  
B.P. P.L.C. *ET AL.*,  
APPELLEES.

---

APPEAL FROM THE CIRCUIT COURT FOR BALTIMORE CITY  
HONORABLE VIDETTA BROWN, JUDGE

---

CITY OF ANNAPOLIS,  
APPELLANT,  
v.  
B.P. P.L.C. *ET AL.*,  
APPELLEES.

---

ANNE ARUNDEL COUNTY,  
APPELLANT,  
v.  
B.P. P.L.C. *ET AL.*,  
APPELLEES.

---

APPEALS FROM THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY  
HONORABLE STEVEN PLATT, SENIOR JUDGE

---

**APPELLANTS' OPPOSITION TO APPELLEES'  
MOTION TO STAY PROCEEDINGS**

---

Sara Gross (CPF No. 412140305)  
Chief, Affirmative Litigation Division  
BALTIMORE CITY LAW DEPT.  
100 N. Holliday Street, Suite 109  
Baltimore, MD 21202  
Tel: (410) 396-3947  
sara.gross@baltimorecity.gov

Andrew D. Levy (CPF No. 8205010187)  
Anthony J. May (CPF No. 1512160094)  
BROWN GOLDSTEIN LEVY LLP  
120 E. Baltimore Street, Suite 2500  
Baltimore, Maryland 21202  
Tel: (410) 962-1030  
Fax: (410) 385-0869  
adl@browngold.com  
amay@browngold.com

*Attorneys for Appellant  
Mayor and City Council of Baltimore*

Gregory J. Swain (CPF No. 9106200276)  
County Attorney  
Hamilton F. Tyler (CPF No. 9012190326)  
Deputy County Attorney  
ANNE ARUNDEL COUNTY  
OFFICE OF LAW  
2660 Riva Road, 4th Floor  
Annapolis, Maryland 21401  
Tel: (410) 222-7888  
Fax: (410) 222-7835  
lswai00@aacounty.org  
htyler@aacounty.org

*Attorneys for Appellant  
Anne Arundel County*

Kerry Elizabeth Berger, Esq.,  
(CPF No. 1306190022)  
Acting City Attorney  
CITY OF ANNAPOLIS OFFICE OF  
LAW  
160 Duke of Gloucester Street  
Annapolis, Maryland 21401  
Tel: (410) 263-7954  
Email: keberger@annapolis.gov

*Attorneys for Appellant  
City of Annapolis*

*(additional counsel on signature pages)*

Appellants, Mayor & City Council of Baltimore, City of Annapolis, and Anne Arundel County, oppose Appellees' Motion to Stay Proceedings ("Mot."). Baltimore is approaching the eighth anniversary of filing its complaint in this action; Annapolis's case passed its fifth anniversary in January, and Anne Arundel's will follow in April. None of the cases have advanced past the pleadings in that time, in no small part because Appellees have sought to create and prolong delay at every available opportunity. This Court should not add to the prejudice Appellants have already suffered by freezing the proceedings for another 12 to 15 months. Moreover, the issues before the U.S. Supreme Court in *Suncor Energy (U.S.A.) Inc. v. County Commissioners of Boulder County*, No. 25-170 (U.S.), could well have no impact on these appeals. First, there are significant doubts that the Court has statutory and constitutional jurisdiction over the case. Second, the *Boulder* plaintiffs assert claims and theories that are not present in any of these appeals, such that there are multiple potential outcomes that would uphold Appellants' claims or avoid ruling on the deception theories entirely. Appellees' motion should be denied.

A party seeking to stay proceedings pursuant "to the power inherent in every court" must establish "a clear case of hardship or inequity in being required to go forward, if there is even a fair possibility" the stay "will work damage to someone else," because "[o]nly in rare circumstances will a litigant in one cause be compelled to stand aside while a litigant in another settles the rule of law that will define the

rights of both.” *Moser v. Heffington*, 465 Md. 381, 398 (2019) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254–55 (1936)). This Court has thus emphasized that before granting a discretionary stay, “courts should exercise discretion by considering and weighing other factors relevant to the case.” *Id.* at 399. Those include “(1) the interest of the plaintiffs in proceeding expeditiously with this litigation or any particular aspect of it, and the potential prejudice to plaintiffs of a delay,” along with “(2) the burden which any particular aspect of the proceedings may impose on defendants; (3) the convenience of the court in the management of its cases, and the efficient use of judicial resources; (4) the interests of persons not parties to the civil litigation; and (5) the interest of the public . . . .” *Id.* at 400 (quoting *Fed. Sav. & Loan Ins. Corp. v. Molinaro*, 889 F.2d 899, 902–03 (9th Cir. 1989)). Each factor weighs against a stay here.

**A. These Cases Have Already Been Delayed Multiple Years, and Another Year or More Awaiting the Supreme Court Will Worsen Prejudice to Appellants and to The Public.**

First, Appellants have a substantial “interest . . . in proceeding expeditiously,” *id.*, because of the ongoing delay they have already endured. Despite years of litigation, no discovery has taken place in any of these cases and no defendant has answered any of the complaints. Especially because Appellants allege unlawful conduct in the 1980s, 1990s, and 2000s, and some dating as far back as the 1960s, each additional day of delay increases the risk that aging critical witnesses or

relevant documents may become unavailable. *Cf. ACandS, Inc. v. Godwin*, 340 Md. 334, 422 (1995) (despite changes to court procedure and improved efficiency over time, “the maxim has remained constant that, ordinarily, DELAY FAVORS THE DEFENDANT.” (emphasis in original)).

Appellees assert that delay will cause no prejudice because Appellants seek monetary relief, but that misses the point. Even assuming the prejudice Appellants would suffer from delayed relief were tolerable, Appellants’ ability to proceed on their claims at all is prejudiced as discovery grows more stale and witnesses’ memories fade. Second, and conversely, the burden on Appellees from allowing these appeals to proceed would be zero. The cases were dismissed below, and briefing and argument in this Court are complete, so there is no ongoing discovery, motion practice, or other proceedings concurrent with these appeals.

The interests of non-parties and the public also weigh against a stay for the same reason. Appellees appear to suggest that Appellants and their residents should weather a stay because “[t]he urgency of the threat of climate change writ large” will still loom no matter what, and Appellants’ “interest in a speedy determination” is therefore reduced. *See* Mot. at 5 (quoting *City of Annapolis v. BP P.L.C.*, 2021 WL 2000469, at \*4 (D. Md. May 19, 2021)). The decision they cite for that proposition issued almost five years ago, and granted a stay to await the results of a federal appeal *in Baltimore’s own case*, not a separate litigation that may not influence the

issues before this Court here. *See id.* Appellants’ cases have not advanced beyond the pleadings in the interim. The threat posed by climate change to Appellants, their residents, and the Maryland public at large grows ever worse as time goes on, and necessitates a resolution of these claims on the merits.

**B. The U.S. Supreme Court May Not Even Reach The Merits in *Boulder* Because Its Statutory and Constitutional Jurisdiction Over The Proceeding Is in Doubt.**

The “convenience of the court” and “efficient use of judicial resources” also weigh against a stay, *Moser*, 465 Md. at 400, because of the significant possibility that *Boulder* will not resolve any issue relevant to these appeals. In granting the certiorari petition there, the U.S. Supreme Court directed the parties to brief and argue “[w]hether this Court has statutory and Article III jurisdiction to hear this case,” “[i]n addition to the question presented by the petition.” *Suncor Energy, Inc. v. Comm’rs Boulder Cnty.*, No. 25-170, 2026 WL 490537, at \*1 (U.S. Feb. 23, 2026). The U.S. Supreme Court’s statutory jurisdiction in *Boulder* is doubtful because the Colorado Supreme Court merely affirmed the denial of motions to dismiss and allowed the case to proceed. The U.S. Supreme Court has jurisdiction to review only “[f]inal judgments or decrees rendered by the highest court of a State” that present certain federal issues, 28 U.S.C. § 1257(a), and “a state-court decision is not final” within the meaning of the statute “unless and until it has effectively determined the entire litigation,” *Jefferson v. City of Tarrant*, 522 U.S. 75, 84 (1997) (dismissing

writ of certiorari as improvidently granted in petition arising from reversal of summary judgment). Section 1257(a) thus generally “preclude[s] reviewability where anything further remains to be determined by a State court, no matter how dissociated from the only federal issue that has finally been adjudicated” in the state proceeding. *Flynt v. Ohio*, 451 U.S. 619, 620 (1981) (cleaned up). The *Boulder* parties sharply dispute whether the Colorado Supreme Court’s decision is a final reviewable judgment under Section 1257(a), and separately whether any exception to Section 1257(a) applies. *See* Br. in Opposition, *Boulder*, No. 25-170, 2025 WL 3189616, at \*6–13 (U.S. Nov. 10, 2025); Reply Br. for the Petitioners, *Boulder*, No. 25-170, 2025 WL 3472359, at \*3–5 (U.S. Nov. 25, 2025); *see generally* *Atl. Richfield Co. v. Christian*, 590 U.S. 1, 12 (2020); *Cox Broad. Corp. v. Cohn*, 420 U.S. 469, 476–87 (1975).

Jurisdiction under Article III of the Constitution is also in serious dispute—the Court was evenly divided in *American Electric Power Co. v. Connecticut*, 564 U.S. 410, 420 (2011), on whether the plaintiffs there had Article III standing to pursue federal common law nuisance claims arising from climate change-related injuries, and the issue is no clearer in *Boulder*. Unless the Court resolves both jurisdictional issues in the petitioners’ favor, it cannot proceed to the merits.

**C. If The U.S. Supreme Court Does Reach The Merits, There Are Multiple Potential Results That Could Have No Relevance to These Appeals.**

Even if the Court does reach the merits in *Boulder*, a likely outcome is that the Court affirms. And even assuming it reverses, it still may not resolve or clarify any issue before this Court. The *Boulder* plaintiffs point out that their case includes “multiple liability theories”—not just the “deceptive-marketing claims” that mirror the Appellants’ claims here, but also an additional theory alleging the defendants “*knowingly* caused and contributed to” climate change. Br. in Opposition, at \*3, \*20–21 (quotations omitted). Only the latter theory—not presented in Appellants’ cases—implicates a split of appellate authority, and if the Supreme Court limits its focus to “[r]esolving that conflict,” a decision would not “meaningfully impact the larger body of climate tort litigation,” including Appellants’ cases, that “involve[] *only* deception claims.” *Id.* at \*20–21.

The Court should, at long last, move these cases forward. Yet another stay would benefit only Appellees and is unwarranted. The motion should be denied.

Date: March 13, 2026

Respectfully submitted,

[SIGNATURE PAGES FOLLOW]

/s/ Sara Gross

Sara Gross (CPF No. 412140305)  
Chief, Affirmative Litigation Division  
BALTIMORE CITY LAW DEPT.  
100 N. Holliday Street, Suite 109  
Baltimore, MD 21202  
Tel: (410) 396-3947  
Email: sara.gross@baltimorecity.gov

Victor M. Sher (pro hac vice)  
Matthew K. Edling (pro hac vice)  
Katie H. Jones (pro hac vice)  
Martin D. Quiñones (pro hac vice)  
Quentin C. Karpilow (pro hac vice)  
SHER EDLING LLP  
100 Montgomery St., Ste. 1410  
San Francisco, CA 94104  
Tel: (628) 231-2500  
Fax: (628) 231-2929  
Email: vic@sheredling.com  
matt@sheredling.com  
katie@sheredling.com  
marty@sheredling.com  
quentin@sheredling.com

Andrew D. Levy (Atty ID 8205010187)  
Anthony J. May (Atty ID 1512160094)  
BROWN GOLDSTEIN LEVY LLP  
120 E. Baltimore Street, Suite 2500  
Baltimore, Maryland 21202  
Tel: (410) 962-1030  
Fax: (410) 385-0869  
adl@browngold.com  
amay@browngold.com

*Attorneys for Appellant Mayor and  
City Council of Baltimore*

/s/ Gregory J. Swain

Gregory J. Swain (CPF # 9106200276)  
Hamilton F. Tyler (AIS# 9012190326)  
ANNE ARUNDEL COUNTY OFFICE  
OF LAW  
2660 Riva Road, 4th Floor  
Annapolis, Maryland 21401  
Tel: (410) 222-7888  
Fax: (410) 222-7835  
Email: lswswai00@aacounty.org

Victor M. Sher (pro hac vice)  
Matthew K. Edling (pro hac vice)  
Katie H. Jones (pro hac vice)  
Martin D. Quiñones (pro hac vice)  
Quentin C. Karpilow (pro hac vice)  
SHER EDLING LLP  
100 Montgomery St., Ste. 1410  
San Francisco, CA 94104  
Tel: (628) 231-2500  
Fax: (628) 231-2929  
Email: vic@sheredling.com  
matt@sheredling.com  
katie@sheredling.com  
marty@sheredling.com  
quentin@sheredling.com

*Attorneys for Appellant Anne Arundel  
County*

/s/ Kerry Elizabeth Berger

Kerry Elizabeth Berger, Esq.

(AIS #1306190022)

Acting City Attorney

CITY OF ANNAPOLIS OFFICE OF  
LAW

160 Duke of Gloucester Street

Annapolis, Maryland 21401

Tel: (410) 263-7954

Email: keberger@annapolis.gov

Victor M. Sher (pro hac vice)

Matthew K. Edling (pro hac vice)

Katie H. Jones (pro hac vice)

Martin D. Quiñones (pro hac vice)

Quentin C. Karpilow (pro hac vice)

SHER EDLING LLP

100 Montgomery St., Ste. 1410

San Francisco, CA 94104

Tel: (628) 231-2500

Fax: (628) 231-2929

Email: vic@sheredling.com

matt@sheredling.com

katie@sheredling.com

marty@sheredling.com

quentin@sheredling.com

*Attorneys for Appellant City of  
Annapolis*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 13<sup>th</sup> day of March, 2026, a copy of the foregoing document was filed and served electronically via the Court's MDEC system, on all counsel of record.

/s/ Martin Quiñones  
Martin Quiñones (pro hac vice)