

August 26, 2025

Via ECF

Gregory Hilton
Clerk of Court
Supreme Court of Maryland
361 Rowe Boulevard
Annapolis, MD 21401

**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.*;
SCM-REG-0011-2025**

**Plaintiffs-Appellants' Response to Defendants-Appellees' Citation of
Supplemental Authority re: *City of Charleston v. Brabham Oil Co.*,
No. 2020-CP-10-03975 (S.C. Ct. Com. Pl. Aug. 6, 2025)**

Dear Mr. Hilton:

Pursuant to Rule 8-502(e), Plaintiffs-Appellants submit this response to Defendants-Appellees' citation of supplemental authorities concerning the recent order dismissing *City of Charleston v. Brabham Oil Co.*, No. 2020-CP-10-03975 (S.C. Ct. Com. Pl. Aug. 6, 2025). For reasons already stated in Plaintiffs-Appellants' Opening and Reply briefs, this Court should give the decision little weight. First, the South Carolina court adopted the same mischaracterizations of Charleston's complaint that Defendants-Appellants rely on here, holding that "although Charleston's claims purport[ed] to be about deception," Order at 2, they were in fact "seek[ing] limits on [greenhouse gas] emissions," *id.* at 25 (quotation omitted). The claims here seek recovery for harms caused by Defendants-Appellees' deception and will not regulate the production or use of fossil fuels, as each federal court reviewing Plaintiffs-Appellants' complaints has recognized. *See* Appellants' Opening Br. at 14–19; Appellants' Reply at 2–6. Drawing contrary inferences in Defendants-Appellees' favor at the pleadings stage is impermissible.

Second, the *Charleston* court, like Defendants-Appellees here, did not apply any recognized preemption test and did not identify any textual basis for its conclusion that the Constitution and the Clean Air Act both preempted Charleston's claims in full. That analysis is woefully deficient—preemption cannot arise from "some brooding federal interest" or "a judicial policy preference," and "litigant[s] must point specifically to a constitutional text or a federal statute that does the displacing or conflicts with state law." *Va. Uranium, Inc. v. Warren*, 587 U.S. 761, 767 (2019) (lead opinion). Under the recognized tests that actually control federal preemption analysis, Plaintiffs-Appellants' claims are not preempted. *See* Appellants' Opening Br. at 13–14, 27–35; Appellants' Reply at 6–19.

Third, Defendants-Appellants contend that "many" of the *Charleston* court's state-law rulings are "applicable" here, but offer no explanation. But the opinion is not informative; it rubber-stamps Defendants' arguments on every issue of South Carolina law, while adding nothing

of substance. To the extent Defendants have raised similar arguments here with respect to Maryland law, they are meritless for the reasons discussed at length in Plaintiffs-Appellants' briefing. *See* Appellants' Opening Br. at 35–53; Appellants' Reply at 19–27.

Best Regards,

/s/ Victor M. Sher

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City of Baltimore, Anne Arundel County, and
City of Annapolis*

CERTIFICATE OF SERVICE

I HERBY CERTIFY that on this 26th day of August 2025, a copy of the foregoing, was served upon all counsel of record via MDEC.

/s/ Martin D. Quiñones

Martin D. Quiñones (Atty # 2001220102)