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Tangled Up in Procedure: The State and Local Climate Cases After *Baltimore* and *Ford*

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INTRODUCTION

Five states and more than sixteen local governments have filed lawsuits against fossil fuel companies seeking damages related to climate change.[1] A veritable avalanche of litigation, the state and local climate change lawsuits represent both a courageous attempt to use tort law to remedy the harms of climate change as well as a recognition that the democratic process—and let's be blunt, I mean the *federal* democratic process—is incapable of

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[1] *See, e.g.*, U.N. ENV'T PROGRAMME, GLOBAL CLIMATE LITIGATION REPORT: 2020 STATUS REVIEW 22 n.86 (2020), https://perma.cc/LRN7-V6FL; *see also* David Hasemyer, *Five States Have Filed Climate Change Lawsuits, Seeking Damages from Big Oil and Gas*, INSIDE CLIMATE NEWS (Sept. 15, 2020), https://perma.cc/6TAE-X2GT. The case list keeps growing. *See, e.g.*, Complaint, Anne Arundel Cnty. v. BP P.L.C., No. C-02-CV-21-000565 (D. Mass. Apr. 26, 2021).

This Essay focuses on the climate change lawsuits brought by state and local governments. It expressly does not include the climate change lawsuits brought by private citizens, including the children's lawsuits. *See, e.g.*, Juliana v. United States, 947 F.3d 1159 (9th Cir. 2020), *reh'g denied*, 986 F.3d 1295 (9th Cir. 2021).

adequately protecting Americans from climate change. Launched during the Trump years, the state and local climate change cases illustrate the aggressive and creative lawyering of state and local governments, further underscored by the backdrop of the Trump administration's inaction on—indeed, disavowal of—climate change.[2]

Launched to great fanfare, by litigative standards,[3] the state and local climate change cases have since found themselves mired in procedural questions. Save for a few notable exceptions—namely New York City's lawsuit[4]—the cases have largely been tied up on the preliminary question of whether the case should proceed in state court (as the states and localities want) or federal court (as the fossil fuel companies want).[5] There are also pending questions of

[2] *See, e.g.*, Drew Kann, *'The Lost Years': Climate Damage that Occurred on Trump's Watch Will Endure Long After He Is Gone*, CNN (Jan. 18, 2021), https://perma.cc/9BG5-KFCN.

[3] Rhode Island announced its climate change lawsuit by convening the state attorney general, governor, and the entire congressional delegation in front of a seawall. *See* Alex Kuffner, *R.I. AG Sues Fossil-Fuel Companies over Alleged Role in Climate Change*, PROVIDENCE J. (July 2, 2018), https://perma.cc/5FGU-FMY8.

[4] Only the City of New York chose to file in federal court. All other state and local climate cases were filed in state court. *See* U.N. ENV'T PROGRAMME, GLOBAL CLIMATE LITIGATION REPORT: 2020 STATUS REVIEW, *supra* note 1 at 22 n.86. In April 2021, the Second Circuit affirmed the district court's dismissal of the case, holding that the Clean Air Act displaced the City's common law claims. *See* City of New York v. Chevron Corp., 993 F.3d 81, 96 (2d Cir. 2021). Importantly, it did so with the express distinction that "the City filed suit in federal court in the first instance[,]" leaving the Second Circuit "free to consider the [defendants'] preemption defense on its own terms[.]" *Id.* at 94.

[5] *See* Dylan Bruce, *Analysis: Climate Change Litigation Plaintiffs Have Struck Oil*, BLOOMBERG L., (Nov. 16, 2020), https://perma.cc/YZ9D-RVSB; *see also* Ernest Getto, *A Threshold*

whether the chosen state courts have personal jurisdiction over certain fossil fuel companies.[6] Years after the first lawsuits were filed, the state and local climate cases still have yet to move beyond the pleadings phase into discovery. To paraphrase our Nobel laureate, the state and local climate cases are tangled up in procedure.[7]

But two recent United States Supreme Court cases may help break the logjam: *BP P.L.C. v. Mayor of Baltimore*[8] and *Ford Motor Co. v. Montana Eighth Judicial District Court*.[9] Both cases were issued in the latter portion of the Court's 2020–21 term and both have important implications for the state and local climate cases.

The first concerns Baltimore's climate change case against fossil fuel companies.[10] In May 2021, the Court sided with the fossil fuel companies, holding that the Fourth Circuit had the authority under a federal removal statute to review an entire remand order, not just the grounds on which the defendants relied.[11]

The second case—*Ford*—is less obviously pertinent to the state and local climate cases.[12] There, the Court determined the limits of specific personal jurisdiction in a

Issue: Climate Change Litigation in the United States, N.Y. L.J. (Dec. 11, 2020), https://perma.cc/CA9M-E96D.

[6] *See, e.g.*, Ellen M. Gilmer, *High Court Ruling on Jurisdiction Thaws Some Climate Cases*, BLOOMBERG L. (Mar. 25, 2021), https://perma.cc/2W7G-EXC3 (noting that the Washington, Maryland, and Rhode Island cases were stayed pending the Supreme Court's resolution of a personal jurisdiction question in *Ford Motor Co. v. Montana Eighth Judicial District Court*, 141 S. Ct. 1017 (2021)).

[7] BOB DYLAN, TANGLED UP IN BLUE (Ram's Horn Music 1975).

[8] 141 S. Ct. 1532 (2021).

[9] 141 S. Ct. 1017 (2021).

[10] *Baltimore*, 141 S. Ct. at 1536.

[11] *Id.* at 1543.

[12] *Ford Motor Co.*, 141 S. Ct. at 1017.

products liability case.[13] The Court held that a state court's assertion of specific personal jurisdiction does not require a causal link between the defendant's in-state activities and the plaintiff's claims.[14]

It would be an overstatement to declare either *Baltimore* or *Ford* a fulsome win for climate advocates. But it would similarly be folly to cabin both to their respective civil procedure subject matters.

This Essay proceeds in two parts. Part I examines *Baltimore* and *Ford*, explaining their essential holdings. Part II examines the impact of these opinions on the pending state and local climate cases and argues that climate advocates have reason for cautious optimism. First, *Baltimore* can help resolve the pending questions of removal and federal question jurisdiction in a manner that favors state court resolution of the cases. Second, *Ford* establishes a lower threshold for specific personal jurisdiction. Together, they signal a boon for advocates and an opportunity for the state and local climate cases, long tangled up in procedure, to finally move forward.

I. *BALTIMORE* AND *FORD*: THE CASES

A. *Baltimore*

Almost as soon as each state and local climate change case was filed in state court, the fossil fuel company defendants removed the case to federal court.[15] It is not

[13] *Id.* at 1023–24.

[14] *Id.* at 1026–27.

[15] *See, e.g.*, Notice of Removal, Delaware *ex rel.* Jennings v. BP America, Inc., No. 1:20-cv-01429 (D. Del. Oct. 23, 2020), ECF No. 1 (notice of removal filed less than two months after complaint); *see*

difficult to imagine why: for the plaintiffs, getting state law claims heard in state court promised the greatest chance of significant monetary damages; for the defendants, the federal judiciary is perceived as less biased, less likely to return significant monetary verdicts, and more willing to dismiss cases on preemption or other grounds.[16] For the defendants, too, there was the ability to tie up the litigation at its earliest procedural stage, a tactical delay that would work even if removal did not.

Baltimore followed this trend to a "T." In mid-July 2018, the Baltimore Mayor and City Council filed an expansive 132-page eight-count complaint against twenty-six fossil fuel companies.[17] The suit was filed in the Circuit Court for Baltimore City, a state court.[18] Similar to many of the other state and local climate lawsuits, Baltimore's complaint largely sounded in products liability claims.[19]

Not two weeks later, the Chevron defendants filed a notice of removal.[20] Although all the asserted causes of action were state law torts, the Chevron defendants maintained that the complaint actually "arises under"

also Notice of Removal, City of Annapolis v. BP P.L.C., No. 1:21-cv-00772 (D. Md. Mar. 25, 2021), ECF No. 1 (notice of removal filed approximately a month after complaint).

[16] *See* Scott Dodson, *Beyond Bias in Diversity Jurisdiction*, 69 DUKE L.J. 267, 269 (2019) (explaining the traditional understanding that there is "a risk that the state forum would be biased—or perceived to be biased—against and out-of-state litigant").

[17] *See generally* Complaint, Mayor of Baltimore v. BP P.L.C., 24-C-18-004219 (Md. Cir. Ct. July 20, 2018).

[18] *See id.*

[19] *See id.* at Counts III (strict liability failure to warn), IV (strict liability for design defect), V (negligent design defect), and VI (negligent failure to warn).

[20] *See* Notice of Removal, Mayor of Baltimore v. BP P.L.C., No. 1:18-cv-02357 (D. Md. July 31, 2018), ECF No. 1.

federal law because it "presents substantial federal questions as well as claims that are completely preempted by federal law."[21] Critically, the notice of removal was not premised solely on the general civil action removal statute 28 U.S.C. § 1441.[22] The Chevron defendants also removed under the federal officer removal statute, 28 U.S.C. § 1442, as well as other grounds.[23]

Unsurprisingly, the plaintiffs moved to remand the case to state court.[24] The district court agreed.[25] In a forty-six-page opinion, the district court went through each asserted ground for removal—substantial federal question and preemption,[26] the Outer Continental Shelf Lands Act,[27] federal officer removal,[28] the bankruptcy removal statute,[29] and admiralty jurisdiction[30]—and found each lacking.

On appeal, the Fourth Circuit affirmed.[31] But, crucially, the Fourth Circuit did so *only* on the grounds that the federal officer removal statute does not provide a proper basis for removal.[32] The Fourth Circuit did not consider the other grounds for removal, holding that the

[21] *See id.* at 2.

[22] *Id.* This means not all defendants had to consent. *See* 28 U.S.C. § 1442.

[23] The notice of removal listed 28 U.S.C. §§ 1441, 1442, 1446, 1452, and 43 U.S.C. § 1349(b) as possible grounds for removal.

[24] *See* Motion to Remand, Mayor of Baltimore v. BP P.L.C., No. 1:18-cv-02357 (D. Md. Sept. 11, 2018), ECF No. 111.

[25] Mayor of Baltimore v. BP P.L.C., 388 F. Supp. 3d 538, 550 (D. Md. 2019).

[26] *Id.* at 551–66.

[27] *Id.* at 566–67.

[28] *Id.* at 567–69.

[29] *Id.* at 569–72.

[30] *Id.* at 572–74

[31] Mayor of Baltimore v. BP P.L.C., 952 F.3d 452 (4th Cir. 2020).

[32] *See id.* at 461.

federal removal statute, 28 U.S.C. § 1447(d), only permitted appellate review of the federal-officer-removal-statute ground for removal.[33]

This narrow procedural issue—could the Fourth Circuit consider the other grounds for removal?—was the only issue before the U.S. Supreme Court. And the Court was quick to note the limited nature of the issue before it, explaining that the "only question" before the Court "is one of civil procedure."[34] Justice Gorsuch, writing for the seven-justice majority,[35] held that section 1447(d) permits circuit courts to review the entire district court remand order.[36] Thus, here, where the Fourth Circuit constrained its review to only the federal officer removal statute, the circuit court erred.[37]

The fossil fuel defendants also asked the Court to rule on the other grounds for removal, including substantial federal question and preemption.[38] The Court declined to do so, deeming it "the wiser course" to remand the case to the Fourth Circuit "to resolve [the other removal grounds] in the first instance."[39] The case thus now sits with the Fourth Circuit on the additional grounds for removal.

B. *Ford*

[33] *See id.*

[34] BP P.L.C. v. Mayor of Baltimore, 141 S. Ct. 1532, 1536 (2021).

[35] Justice Alito recused himself from this case. *See id.* at 1535. Justice Sotomayor dissented. *See id.* at 1543 (Sotomayor, J., dissenting).

[36] *Id.* at 1538 (majority opinion).

[37] *Id.* at 1543.

[38] *Id.* at 1543.

[39] *Id.*

Unlike *Baltimore*, *Ford* is not a climate change case. Instead, it is a products liability suit stemming from a car crash.[40] Or, rather, two products liability suits stemming from two car crashes, one in Montana and one in Minnesota.[41] In each case, the injured plaintiff sued Ford Motor Company for alleged products liability claims, including failure to warn.[42] And, in each case, Ford disclaimed the state court's exercise of personal jurisdiction.[43] In Ford's view, the company's conduct in the respective state had not given rise to the vehicle crashes because Ford had not designed, manufactured, or sold the vehicles in the state.[44] Instead, "later resales and relocations by consumers had brought the vehicles to Montana and Minnesota."[45]

The question before the Court, then, was whether a defendant's conduct in a state needs to be causally connected to the plaintiff's suit to permit specific personal jurisdiction.[46] Justice Kagan, writing for the five-justice majority,[47] noted that the Court has "never" required "proof that the plaintiff's claim came about because of the defendant's in-state conduct."[48] Instead, the relevant inquiry is whether the plaintiff's suit "relate[s] to the defendant's contacts with the forum," meaning that "some

[40] Ford Motor Co. v. Mont. Eighth Judicial Dist. Ct., 141 S. Ct. 1017, 1022 (2021).

[41] *Id.* at 1023.

[42] *Id.*

[43] *Id.*

[44] *Id.*

[45] *Id.*

[46] *Id.* at 1026.

[47] Justices Alito, Gorsuch, and Thomas concurred in the judgment only. Justice Barrett did not participate in the case. *See id.* at 1032.

[48] *Id.* at 1026.

relationships will support jurisdiction without a causal showing."[49]

In this instance, where Ford had regularly conducted business in both Montana and Minnesota—advertising, selling, and servicing its vehicles—Ford had sufficient relationships with the forum states to support jurisdiction.[50] There was no question that Ford had "clear notice" of suits in both states.[51] And, critically, both states "have significant interests at stake—'providing [their] residents with a convenient forum for redressing injuries inflicted by out-of-state actors.'"[52] Thus, the state courts' assertion of personal jurisdiction over Ford was proper.[53]

II. *BALTIMORE* AND *FORD*: THE IMPACTS

So far, both cases seem to be routine statutory and jurisprudential interpretations of narrow procedural issues. But *Baltimore* and *Ford* merit closer scrutiny. Together, the cases have important implications for the state and local climate cases.

A. *Getting Past Removal*

First, *Baltimore* can help resolve outstanding removal questions. Importantly, *Baltimore* did not provide the defendants a total win. The Court declined to entertain the defendants' request to consider the additional grounds for removal—including, importantly, a substantial federal

[49] *Id.*

[50] *Id.* at 1028.

[51] *Id.* at 1030.

[52] *Id.* (alteration in original) (quoting Burger King Corp. v. Rudzewicz, 471 U. S. 462, 473 (1985)).

[53] *Id.* at 1032.

question and preemption—instead remanding the case back to the Fourth Circuit.[54]

At least one local government's climate case has been stayed pending the Fourth Circuit's determination of *Baltimore*'s remand.[55] But even for those state and local climate cases not expressly stayed, the Fourth Circuit's decision on the *Baltimore* defendants' other grounds for removal will be persuasive. And, when the Fourth Circuit does so, it will likely be the first case to determine removal grounds in a state or local climate case post-*Baltimore*.

For state and local climate advocates, this is good news. The Fourth Circuit is a welcome venue for a plaintiff who framed their complaint around state law to avoid federal question jurisdiction. Though by no means an outlier, the Fourth Circuit has robust jurisprudence on whether a state law-pled complaint nonetheless raises a substantial federal question such that it "arises under" federal law (and thus can remain in federal court).[56] In a series of recent cases, the Fourth Circuit has steadfastly held that "a preemption defense 'that raises a federal question is inadequate to confer federal jurisdiction.'"[57] Indeed, "'a lurking question

[54] BP P.L.C. v. Mayor of Baltimore, 141 S. Ct. 1532, 1543 (2021).

[55] *See* Memorandum at 8, City of Annapolis v. BP P.L.C., No. 1:21-cv-00772 (D. Md. May 19, 2021) (granting defendants' motion to stay the proceedings pending the Fourth Circuit's resolution of *Baltimore*). The district court judge reasoned that "[t]he Fourth Circuit will surely provide guidance in the *Baltimore Case* that will aid resolution of the Remand Motion. That is worth the wait." *Id.*

[56] *See, e.g.*, Mulcahey v. Columbia Organic Chem. Co., Inc., 29 F.3d 148, 154 (4th Cir. 1994) (holding that reference to federal statutes in a state common law action was insufficient to support federal question subject matter jurisdiction).

[57] Pinney v. Nokia, Inc., 402 F.3d 430, 446 (4th Cir. 2005) (quoting Merrell Dow Pharms., Inc. v. Thompson, 478 U.S. 804, 808, (1986)).

of federal law' in the form of 'the affirmative defense of preemption . . . does not make the claims into ones arising under federal law.'"[58] The Fourth Circuit maintains a strict interpretation of the well-pleaded complaint rule; if a plaintiff has chosen to file a lawsuit under state law, the Fourth Circuit is "bound to respect the state court lawsuit as such."[59]

This jurisprudence is advantageous for the state and local climate plaintiffs, particularly in light of *Baltimore*'s framing of Baltimore's climate lawsuit. Like many of the other state and local climate cases, Baltimore framed its suit on state common law grounds as, primarily, a products liability case.[60] The impact of this framing of Baltimore's case can be seen during *Baltimore*'s oral argument. Justice Kavanaugh—arguably the current Court's swing justice, particularly on environmental issues[61]—asked both parties

[58] Burrell v. Bayer Corp., 918 F.3d 372, 382 (4th Cir. 2019) (alteration in original) (quoting *Pinney*, 402 F.3d at 446); *see also* Virginia *ex rel.* Hunter Lab'ys, L.L.C. v. Virginia, 828 F.3d 281, 287 (4th Cir. 2016) (strictly applying the well-pleaded complaint rule).

[59] Flying Pigs, L.L.C. v. RRAJ Franchising, L.L.C., 757 F.3d 177, 183 (4th Cir. 2014); *see also* Pressl v. Appalachian Power Co., 842 F.3d 299, 304–05 (4th Cir. 2016) (holding that the lawsuit did not raise federal questions where the plaintiffs chose to frame the complaint to "present[] solely a dispute as to state property law"); *Burrell*, 918 at 382 (holding that the lawsuit did not raise federal questions where plaintiffs pled claims whose elements raised "purely state-law questions").

[60] *See* Complaint at Counts III (strict liability failure to warn), IV (strict liability for design defect), V (negligent design defect), and VI (negligent failure to warn), Mayor of Baltimore v. BP P.L.C., No. 24-C-18-004219 (Md. Cir. Ct. July 20, 2018).

[61] *See* Jeremy P. Jacobs & Pamela King, *What a Kavanaugh Court Means for Environmental Law*, E&E NEWS (Sept. 22, 2020), https://perma.cc/5TXK-8JDE ("Kavanaugh, 55, is viewed by many as the would-be new swing voter.").

why the case belonged in either federal court (as asserted by the defendants) or state court (as asserted by Baltimore).[62] Attorney Kannon Shanmugam, arguing for the petitioner defendants, answered that the "claims here arise under federal law."[63] Justice Kavanaugh did not substantively respond. Attorney Victor Sher, arguing for the respondent Baltimore, answered that the claims are tort claims of "fraud, deception, denial, and disinformation" which are "traditional state foci and [have] traditional state remedies."[64] To this, Justice Kavanaugh immediately responded, nearly cutting off Attorney Sher, "I get that[,]" "Right. Okay[,]" and "That's fine."[65] Justice Kavanaugh's rapid acknowledgment of Baltimore's position suggests that he anticipated—if not agreed with—Attorney Sher's answer.

These colloquies attain increased importance in light of the Court's opinion, which essentially affirms Baltimore's view of the case. The Court characterizes Baltimore's case as centering on "the defendants' alleged failure to warn about the dangers of their products."[66] The Court also describes the case as about defendants "promoting their fossil fuels while allegedly concealing their environmental impacts."[67] These summations of Baltimore's complaint cement the case as one based on state law products liability.

To be sure, the fossil fuel defendants may insist that the Court was expressly not ruling on the merits of the

[62] Oral Argument at 16:52, 1:01:27, BP P.L.C. v. Mayor of Baltimore, 141 S. Ct. 1532 (2021) (No. 19-1189), https://perma.cc/7PWU-GF8K.

[63] *Id.*

[64] *Id.* at 1:01:27.

[65] *Id.*

[66] *Id.*

[67] *Baltimore*, 141 S. Ct. at 1535–36.

dispute, thus diluting the significance of the Court's characterization of the substance of the case. But, dicta or not, the Court's description of the case sets the stage for the rest of the litigation. And, critically, it puts the fossil fuel defendants in the unenviable position of deciding whether to disagree with the Supreme Court.

Now, before the Fourth Circuit, Baltimore can rely on that language from the Court's opinion as well as the Fourth Circuit's jurisprudence on the well-pleaded complaint rule. We know from the remand arguments before the district court that the fossil fuel defendants will rely heavily on the position that the state law claims are preempted by federal law and thus the case arises under federal law.[68] But under Fourth Circuit jurisprudence, and after *Baltimore*, it seems likely that such an argument is insufficient against a carefully crafted state products liability lawsuit.

It is, of course, too early to forecast what the Fourth Circuit will do, not to mention what the other district and circuit courts in the other state and local climate cases will do. And, even if the Fourth Circuit affirms the remand to state court, the fossil fuel defendants' arguments on preemption may prevail in that forum. But *Baltimore* gives reason for cautious optimism. By framing the case as a state law products liability case and by sending the case back to the jurisprudentially favorable Fourth Circuit, the Supreme Court has provided an opportunity for *Baltimore* to finally move past the removal phase. For the other state and local climate cases—many of which are also pled as state law products liability cases—we can expect a similar result: a likelihood that the state and local climate cases remain in state court. For the plaintiffs, that's a win.

[68] *See* Mayor of Baltimore v. BP P.L.C., 388 F. Supp. 3d 538 (D. Md. 2019).

B. *Getting Past Personal Jurisdiction*

Second, *Baltimore* and *Ford* clear up the questions of personal jurisdiction. As *Ford* was briefed and argued, three of the state and local climate cases were stayed with pending motions to dismiss for lack of personal jurisdiction.[69] And the remaining cases no doubt raise similar, if not identical, questions of whether a state court has specific personal jurisdiction over a diverse group of out of state fossil fuel company defendants.

Baltimore and *Ford* help answer those questions. *Baltimore*, as discussed above, establishes that Baltimore's climate case—and, by extension, many other state and local climate cases similarly pled—is a state law products liability action.[70] *Ford*, by coincidence, also involved state law products liability actions.[71] And *Ford* held that those state law products liability actions with an out of state defendant did *not* require a causal link between the defendant's in-state conduct and the plaintiffs' respective claims.[72] Instead, the relevant inquiry is whether the

[69] *See* State v. Chevron Corp., No. PC-2018-4716 (R.I. Super. Aug. 13, 2020); *see also* Order Continuing Stay, King Cnty. v. BP P.L.C., No. C18-758RSL (W.D. Wash. Sept. 10, 2020), ECF 158; Text Order, Mayor of Baltimore v. BP P.L.C., No. 24-C-18-004219 (Md. Cir. Ct. Aug. 6, 2020) ("[A] hearing on Defendants' Joint Motion for Protective Order (#91) is DEFERRED pending the decision on the pending petition for writ of certiorari by the United States Supreme Court and pending the decision in the cases captioned Ford Motor Co. v. Montana Eighth Dist. Ct., No. 19-368 and Ford Motor Co. v. Bandemer, No. 19-369 by the United States Supreme Court.").

[70] *See supra* Part I.A.

[71] *See supra* Part I.B.

[72] Ford Motor Co. v. Mont. Eighth Judicial Dist. Ct., 141 S. Ct. 1017, 1026 (2021).

plaintiff's suit "relate[s] to the defendant's contacts with the forum," meaning that "some relationships will support jurisdiction without a causal showing."[73]

Ford's holding contradicts many of the arguments made by the fossil fuel defendants in their motions to dismiss for lack of personal jurisdiction. For example, in the Rhode Island climate suit, the fossil fuel defendants filed a joint motion to dismiss for lack of personal jurisdiction, arguing, among other things, that "Plaintiff has not even alleged but-for causation with respect to Defendants' Rhode Island contacts."[74]

But, after *Ford*, Rhode Island does not have to. It only must show that there is some relation between the state's suit and the defendants' contacts with the state.[75] And it stands to reason that this lower threshold showing will be much easier for Rhode Island—and, by extension, all the other state and local governments—to establish. *Baltimore* and *Ford* thus clear the way for the state and local climate cases to prevail on their assertions of state court specific personal jurisdiction over the out of state fossil fuel defendants. Again, for the state and local climate plaintiffs, this is good news.

CONCLUSION

Although seemingly arcane and circumscribed, *Baltimore* and *Ford* will have impacts on the state and local climate cases. Their holdings will help break the procedural gridlock that has so far characterized these

[73] *Id.*

[74] *See* Motion to Dismiss at 11, 13, State v. Chevron Corp., No. PC-2018-4716 (R.I. Super. Jan. 13, 2020) ("Plaintiff has not articulated any theory by which these particular contacts with Rhode Island could be a but-for cause of Plaintiff's alleged injuries.").

[75] *See Ford Motor Co.*, 141 S. Ct. at 1026.

cases: removal and personal jurisdiction. Although neither case is a total victory for the state and local climate plaintiffs, each provides grounds for advocates' cautious optimism. What's more, the two cases present an opportunity to finally get the state and local climate cases untangled from procedure. What happens from there is what all parties should want—a determination on the merits of the cases.