

No. 20-783

IN THE
Supreme Court of the United States

SUNCOR ENERGY (U.S.A.), ET AL.,
Petitioners,
v.

BOARD OF COUNTY COMMISSIONERS OF BOULDER COUNTY, ET AL.,
Respondent.

*On Petition for Writ of Certiorari to the
United States Court of Appeals for the Tenth Circuit*

BRIEF IN OPPOSITION

KEVIN S. HANNON
THE HANNON LAW
FIRM, LLC
*1641 Downing Street
Denver, CO 80218*

DAVID BOOKBINDER
NISKANEN CENTER
*820 First Street NE,
Ste. 675
Washington, DC 20002*

MARCO B. SIMONS
Counsel of Record
RICHARD L. HERZ
MICHELLE C. HARRISON
SEAN POWERS
NAOMI GLASSMAN-MAJARA
LINDSAY BAILEY
EARTHRIGHTS INTERNATIONAL
*1612 K St. NW, Ste. 800
Washington, DC 20006
(202) 466-5188
marco@earthrights.org*

Counsel for Respondents

QUESTION PRESENTED

The text of 28 U.S.C. § 1447(d) allows appellate review of district court orders remanding cases to state courts only where removal was premised either on the federal-officer removal statute, 28 U.S.C. § 1442, or the civil-rights removal statute, 28 U.S.C. § 1443. In *Board of County Commissioners of Boulder County v. Suncor Energy (U.S.A.) Inc.*, 965 F.3d 792 (10th Cir. 2020), the Tenth Circuit ruled that this language “does not expressly contemplate the situation in which remand is granted regarding . . . mixed grounds for removal,” *i.e.*, an appeal from *both* a Section 1442 or 1443 ground *and* another, non-enumerated ground. *Id.* at 805. Since the statute does not expressly address such appeals, the question presented is:

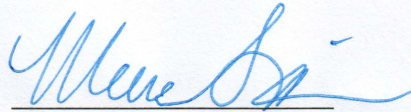
Does a party’s mere assertion of 28 U.S.C. § 1442 or 1443 in a Notice of Removal entitle that party to appellate review of all asserted grounds for removal?

ARGUMENT

Petitioners argue that this case presents the same question as in *BP p.l.c. v. Mayor and City Council of Baltimore*, No. 19-1189. Respondents agree that the same question is presented. Accordingly, Respondents do not object to the specific relief requested in the Petition: that the Petition should be held pending the decision in *Baltimore* and then disposed of according to that decision.

If, for any reason, the Court does not dispose of the issue presented in *Baltimore*, Respondents believe that *certiorari* is not warranted in this case and will file a supplemental Brief in Opposition at that time.

Respectfully submitted,



Kevin S. Hannon
THE HANNON LAW FIRM, LLC
1641 Downing Street
Denver, CO 80218

David Bookbinder
NISKANEN CENTER
820 First Street NE, Ste. 675
Washington, DC 20002

Marco B. Simons
Counsel of Record
Richard L. Herz
Michelle C. Harrison
Sean Powers
Naomi Glassman-Majara
Lindsay Bailey
EARTHRIGHTS INTERNATIONAL
1612 K St. NW, Ste. 800
Washington, DC 20006
(202) 466-5188
marco@earthrights.org

March 5, 2021