

No. 23A\_\_\_\_\_

---

IN THE  
SUPREME COURT OF THE UNITED STATES

---

BP AMERICA PRODUCTION COMPANY; HILCORP ENERGY COMPANY;  
AND SHELL OIL COMPANY,  
*Applicants,*

v.

PARISH OF CAMERON, LOUISIANA;  
STATE OF LOUISIANA, EX REL. JEFF LANDRY, ATTORNEY GENERAL;  
STATE OF LOUISIANA, THROUGH THE NATURAL RESOURCES OFFICE OF  
COASTAL MANAGEMENT AND ITS SECRETARY THOMAS H. HARRIS;  
CHEVRON U.S.A., INC.; TEXAS PACIFIC OIL COMPANY, INC.;  
AND TEXAS PETROLEUM INVESTMENT COMPANY,  
*Respondents.*

---

**On Application for an Emergency Stay  
of the Ruling of the 38th Judicial District Court  
for the Parish of Cameron, Louisiana**

---

**APPLICATION FOR AN EMERGENCY STAY**

---

GEORGE ARCENEUX III  
LISKOW & LEWIS  
1200 Camellia Boulevard  
Suite 300  
Lafayette, LA 70508  
(337) 232-7424

*Counsel for Applicant  
BP America Production Company*

October 17, 2023

DAVID C. FREDERICK  
*Counsel of Record*  
DANIEL S. SEVERSON  
D. CHANSLOR GALLENSTEIN  
KELLOGG, HANSEN, TODD,  
FIGEL & FREDERICK, P.L.L.C.  
1615 M Street, N.W., Suite 400  
Washington, D.C. 20036  
(202) 326-7900  
(dfrederick@kellogghansen.com)  
*Counsel for Applicant  
Shell Oil Company*

*(Additional Counsel Listed On Inside Page)*

JAMES E. LAPEZE  
LISKOW & LEWIS  
701 Poydras Street  
Suite 5000  
New Orleans, LA 70139-5099  
(504) 581-7979

NANCY G. MILBURN  
JENNIFER R. KWAPISZ  
ARNOLD & PORTER KAYE  
SCHOLER LLP  
250 West 55th Street  
New York, NY 10019-9710  
(212) 836-8000

*Counsel for Applicant  
BP America Production Company*

R. KEITH JARRETT  
MARK L. MCNAMARA  
KELLY BRECHTEL BECKER  
CHERRELL S. TAPLIN  
LAURA SPRINGER BROWN  
LISKOW & LEWIS  
701 Poydras Street  
Suite 5000  
New Orleans, LA 70139  
(504) 581-7979

AMY ALLUMS LEE  
LISKOW & LEWIS  
1200 Camellia Boulevard  
Suite 300  
Lafayette, LA 70508  
(337) 232-7424

MICHAEL J. MAZZONE  
HAYNES AND BOONE, LLP  
1221 McKinney  
Suite 4000  
Houston, TX 77010  
(713) 547-2115

*Counsel for Applicant  
Shell Oil Company*

CRAIG ISENBERG  
DAVID N. LUDER  
KYLE W. SIEGEL  
ALEXANDRA L. GJERTSON  
BARRASSO USDIN KUPPERMAN  
FREEMAN & SARVER, L.L.C.  
909 Poydras Street  
Suite 2350  
New Orleans, LA 70112  
(504) 589-9700

*Counsel for Applicant  
Hilcorp Energy Company*

## **PARTIES TO THE PROCEEDINGS**

Applicants BP America Production Company, Hilcorp Energy Company, and Shell Oil Company were defendants in the district court and applicants in the court of appeals and in the Supreme Court of Louisiana.

Respondent Parish of Cameron, Louisiana was the plaintiff in the district court and a respondent in the court of appeals and in the Supreme Court of Louisiana. Respondents State of Louisiana, ex rel. Jeff Landry, Attorney General, and State of Louisiana, through the Natural Resources Office of Coastal Management and its Secretary Thomas H. Harris, were plaintiffs-intervenors in the district court and respondents in the court of appeals and in the Supreme Court of Louisiana.

Chevron U.S.A., Inc. was a defendant in the district court and participated in the court of appeals and in the Supreme Court of Louisiana; pursuant to this Court's Rule 12.6, it remains a party to the case and is considered a respondent in the proceedings before this Court.

Texas Pacific Oil Company, Inc. and Texas Petroleum Investment Company were defendants in the district court but did not participate in the court of appeals or in the Supreme Court of Louisiana; pursuant to this Court's Rule 12.6, they remain parties to the case and are considered respondents in the proceedings before this Court.

Honeywell International, Inc. and Kerr-McGee Oil and Gas Onshore LP were defendants in the district court and participated in the court of appeals and

in the Supreme Court of Louisiana. They since have reached settlements, and Kerr-McGee has been dismissed without prejudice. A motion to dismiss Honeywell without prejudice is pending.

Freeport Sulphur Company, Gulfport Energy Corporation, Taylor Energy Company, LLC, and Vernon E. Faulconer, Inc. were defendants in the district court but did not participate in the court of appeals or in the Supreme Court of Louisiana. They since have reached a settlement and/or filed a motion to dismiss that remains pending.

Auster Oil and Gas, Inc., Apache Oil Corporation, Chevron U.S.A. Holdings, Inc., Chevron Pipe Line Company, Enervest Operating, L.L.C., Exxon Mobil Corporation, Samuel Gary Jr. & Associates, Inc., Shell Offshore, Inc., SWEPI LP, and The Texas Company were defendants in the district court but did not participate in the court of appeals or in the Supreme Court of Louisiana. They since have been dismissed from the case.

Darsey Operating Corporation, Resource Securities Corporation, Star Energy Inc., and Transcontinental Oil Corporation were named defendants but did not participate in the proceedings below.

## **RULE 29.6 STATEMENTS**

Pursuant to Supreme Court Rule 29.6, applicants BP America Production Company, Hilcorp Energy Company, and Shell Oil Company state the following:

**BP America Production Company** is an indirect wholly owned subsidiary of BP p.l.c., which is the only publicly owned company in that chain of ownership. BP America Production Company does not have any other companies, subsidiaries, or affiliates that have issued shares of stock to the public.

**Hilcorp Energy Company** is a privately held company and does not have a parent corporation.

Shell USA, Inc., formerly named **Shell Oil Company**, is a wholly owned indirect subsidiary of Shell plc (f/k/a Royal Dutch Shell plc), a publicly held UK company. No other publicly traded company owns 10% or more of the stock of Shell USA, Inc.

## RELATED CASES

- *Parish of Cameron v. Auster Oil & Gas, Inc.*, No. 10-19582 (La. 38th Jud. Dist. Ct., Cameron Parish) (judgment entered May 17, 2023)
- *Parish of Cameron v. Auster Oil & Gas, Inc.*, No. CW 23-00381 (La. 3d Cir. Ct. App.) (judgment entered Aug. 25, 2023)
- *Auster Oil & Gas, Inc. v. Parish of Cameron*, No. 2023-CC-1215 (La.) (judgment entered Oct. 10, 2023)

## TABLE OF CONTENTS

	Page
PARTIES TO THE PROCEEDINGS .....	i
RULE 29.6 STATEMENTS .....	iii
RELATED CASES .....	iv
TABLE OF AUTHORITIES .....	ix
BACKGROUND .....	4
ARGUMENT .....	10
I. THE COURT IS LIKELY TO GRANT THE CERTIORARI PETITION .....	10
II. APPLICANTS ARE LIKELY TO SUCCEED ON THE MERITS .....	12
A. Subjecting A Defendant To A Trial By Biased Jurors Violates The Due Process Clause Of The Fourteenth Amendment .....	13
B. All Members Of The Venire Have An Interest In The Outcome Of The Case.....	14
C. Widespread Public Attention Has Tainted Cameron Parish As A Venue .....	19
III. THE BALANCE OF THE EQUITIES FAVORS A STAY .....	20
CONCLUSION.....	22
APPENDIX:*	
Oral Ruling of the 38th Judicial District Court for the Parish of Cameron, Louisiana Denying Motion for Change of Venue, <i>Parish of Cameron v. Auster Oil &amp; Gas, Inc.</i> , No. 10-19582 (May 17, 2023).....	Ex. 1

---

\* Exhibits 4 through 26 were reproduced in applicants' 15-volume submission as part of the proceedings before the Louisiana Court of Appeal, Third Circuit, No. CW 23-00381; they are being attached to this Application—and referenced in the contemporaneously filed certiorari petition—for the convenience of the Court.

Order of the Louisiana Court of Appeal, Third Circuit, Denying Application for a Supervisory Writ, *Parish of Cameron v. Auster Oil & Gas, Inc.*, No. CW 23-00381 (Aug. 25, 2023)..... Ex. 2

Order of the Supreme Court of Louisiana Denying Review, *Parish of Cameron v. Auster Oil & Gas, Inc.*, No. 2023-CC-01215 (Oct. 10, 2023) ..... Ex. 3

Steve Hardy, *How This Louisiana Parish Is Leveraging New-found Funds To Finance Coastal Protection*, Advocate (July 6, 2018), [https://www.theadvocate.com/baton\\_rouge/news/environment/how-this-louisiana-parish-is-leveraging-new-found-funds-to-finance-coastal-protection/article\\_80fba19c-7ee1-11e8-b475-ff4947aa66a1.html](https://www.theadvocate.com/baton_rouge/news/environment/how-this-louisiana-parish-is-leveraging-new-found-funds-to-finance-coastal-protection/article_80fba19c-7ee1-11e8-b475-ff4947aa66a1.html) ..... Ex. 4

Coastal Prot. & Restoration Auth., *2017 Coastal Master Plan – Attachment A9: Parish Fact Sheets* (Sept. 2017), [http://coastal.la.gov/wp-content/uploads/2017/04/Attachment-A9\\_FINAL\\_10.02.2017.pdf](http://coastal.la.gov/wp-content/uploads/2017/04/Attachment-A9_FINAL_10.02.2017.pdf) ..... Ex. 5

Mike Smith, *Hurricane-hit Southwest Louisiana’s Population Drop Among Steepest In Nation*, Advocate (Mar. 25, 2022), [https://www.theadvocate.com/lake\\_charles/hurricane-hit-southwest-louisiana-s-population-drop-among-steepest-in-nation/article\\_44d67698-abb4-11ec-9763-a70b7b6adfc4.html](https://www.theadvocate.com/lake_charles/hurricane-hit-southwest-louisiana-s-population-drop-among-steepest-in-nation/article_44d67698-abb4-11ec-9763-a70b7b6adfc4.html)..... Ex. 6

Nomaan Merchant, *Hurricane Rita Flooded His Home in 2005. It Survived Ike in 2008. Laura Took Everything*, USA Today (Aug. 31, 2020), <https://www.usatoday.com/story/news/nation/2020/08/31/hurricane-laura-damage-includes-cameron-parish-louisiana-homes/5678941002/> ..... Ex. 7

Claire Taylor, *We Went To Cameron To See Laura’s Damage: 10 Feet of Water Crushed Homes and Washed-Up Caskets*, Acadiana Advocate (Aug. 31, 2020), [https://www.theadvocate.com/acadiana/news/we-went-to-cameron-to-see-lauras-damage-10-feet-of-water-crushed-homes-and/article\\_5bec7246-ebc7-11ea-a0b7-77caf120fdda.html](https://www.theadvocate.com/acadiana/news/we-went-to-cameron-to-see-lauras-damage-10-feet-of-water-crushed-homes-and/article_5bec7246-ebc7-11ea-a0b7-77caf120fdda.html)..... Ex. 8

Erika Ferrando, *‘Rita & Ike Had Nothing On This — Nothing’; Catastrophic Damage in Cameron Parish; Residents Prepare to Rebuild Again*, WWLTV.com (Sept. 3, 2020), <https://www.wwltv.com/article/weather/hurricane/catastrophic-damage-in-cameron-parish-residents-prepare-to-rebuild-again/289-a24253ea-2555-46ce-b832-abc931e025a5> ..... Ex. 9

Ashley Cusick, *Residents Get First Look at Cameron, La., Nearly Obliterated in Hurricane Laura*, Wash. Post (Aug. 30, 2020), [https://www.washingtonpost.com/national/hurricane-laura-cameron-damage/2020/08/30/c7c81cea-eafa-11ea-ab4e-581edb849379\\_story.html](https://www.washingtonpost.com/national/hurricane-laura-cameron-damage/2020/08/30/c7c81cea-eafa-11ea-ab4e-581edb849379_story.html) ..... Ex. 10



Tegan Wendland, *To Fight Coastal Damage, Louisiana Parishes Pushed To Sue Energy Industry*, KUNC.org (Jan. 23, 2017), <https://www.kunc.org/2017-01-23/to-fight-coastal-damage-louisiana-parishes-pushed-to-sue-energy-industry> ..... Ex. 11

Cyndi Sellers, “*Time for Cameron Parish To control Its Own destiny,*” Cameron Par. Pilot, Feb. 18, 2016 ..... Ex. 12

Transcript of Louisiana Senate Natural Resources Committee Hearing (May 7, 2020) (excerpts) ..... Ex. 13

John Maginnis, *Local lawsuits are more to Gov. Jindal’s liking,* Cameron Par. Pilot, Nov. 21, 2013 ..... Ex. 14

Mark Schleifstein, *Bellwether Plaquemines Lawsuit Against Oil, Gas Companies Again Returned To State Court*, NOLA.com (Dec. 13, 2022), [https://www.nola.com/news/environment/plaquemines-oil-gas-damage-suit-again-back-in-state-court/article\\_52fb1154-7a6a-11ed-b902-b3f5510f3b33.html](https://www.nola.com/news/environment/plaquemines-oil-gas-damage-suit-again-back-in-state-court/article_52fb1154-7a6a-11ed-b902-b3f5510f3b33.html) ..... Ex. 15

Cameron Parish Police Jury, Annual Financial Report and Independent Auditors’ Reports – Year Ended December 31, 2021 (June 29, 2022), [https://app.lla.la.gov/publicreports.nsf/0/89d2270ab46db9428625887e00641c8e/\\$file/000275cb.pdf](https://app.lla.la.gov/publicreports.nsf/0/89d2270ab46db9428625887e00641c8e/$file/000275cb.pdf) ..... Ex. 16

Jason Saul, ‘*Overlooked and Forgotten’ But Resolute, 10 Years After Hurricane Rita*, WWNO New Orleans Pub. Radio (Aug. 28, 2015), <https://www.wwno.org/show/all-things-new-orleans/2015-08-28/overlooked-and-forgotten-but-resolute-10-years-after-hurricane-rita>..... Ex. 17

*SWLA and SETX to Work Together on Chenier Plain*, Cameron Par. Pilot (Dec. 2, 2014) ..... Ex. 18

Shannon Sims, *Climate Change Will Likely Wreck Their Livelihoods— But They Still Don’t Buy The Science*, Guardian (Aug. 28, 2017), <https://www.theguardian.com/us-news/2017/aug/18/louisiana-climate-change-skeptics-donald-trump-support> ..... Ex. 19

Theresa Schmidt, *Grasses Are Planted To Stop Erosion*, Cameron Par. Pilot, May 16, 2010 ..... Ex. 20

Tyler Bridges, ‘*We Ran Out of Time’: Bill To Nullify Louisiana Parish Lawsuits vs. Oil and Gas Companies Is Dead*, Advocate (May 29, 2020), [https://www.theadvocate.com/baton\\_rouge/news/environment/we-ran-out-of-time-bill-to-nullify-louisiana-parish-lawsuits-vs-oil-and-gas/article\\_994e1e00-a13a-11ea-b3b3-c7f7bd15897a.html](https://www.theadvocate.com/baton_rouge/news/environment/we-ran-out-of-time-bill-to-nullify-louisiana-parish-lawsuits-vs-oil-and-gas/article_994e1e00-a13a-11ea-b3b3-c7f7bd15897a.html) ..... Ex. 21

Coot McInnis, *Letter to the Editor*, Cameron Par. Pilot, July 7, 2011..... Ex. 22

Letter from Gov. John Bel Edwards to Chris John, Louisiana Mid-Continent Oil & Gas Ass’n, and Don Briggs, Louisiana Oil & Gas Ass’n (May 19, 2016)..... Ex. 23

Transcript of Venue Motion Hearing, *Parish of Plaquemines v. Rozel Operating Co., et al.*, Nos. 60-892 *et al.* (25th Jud. Dist. Ct. Feb. 8, 2018) (excerpt) ..... Ex. 24

Cyndi Sellers, *America’s Energy Coast Said To Be Under Threat*, Cameron Par. Pilot, June 11, 2019 ..... Ex. 25

Rob Masson, *Cameron Parish Residents Ponder The Future of Hurricane Laura’s “War Zone,”* Fox8Live.com (Sept. 2, 2020) ..... Ex. 26

Application for Writ of Certiorari of Applicants / Defendants Shell Oil Company, BP America Production Company, Hilcorp Energy Company, Chevron U.S.A. Inc., Chevron Pipe Line Company, Honeywell International, Inc., and Kerr-McGee Oil and Gas Onshore LP (La. Sup. Ct. Sept. 5, 2023)..... Ex. 27

## TABLE OF AUTHORITIES

	Page
<b>CASES</b>	
<i>Aetna Life Ins. Co. v. Lavoie</i> , 475 U.S. 813 (1986).....	11, 16
<i>Apple, Inc., In re</i> , 602 F.3d 909 (8th Cir. 2010) .....	21
<i>Bob Jones Univ. v. Simon</i> , 416 U.S. 725 (1974) .....	20
<i>Caperton v. A.T. Massey Coal Co.</i> , 556 U.S. 868 (2009).....	2, 13-14
<i>Elrod v. Burns</i> , 427 U.S. 347 (1976) .....	20
<i>FTC v. Standard Oil Co. of California</i> , 449 U.S. 232 (1980) .....	9
<i>Gentile v. State Bar of Nevada</i> , 501 U.S. 1030 (1991).....	11
<i>Gibson v. Berryhill</i> , 411 U.S. 564 (1973).....	17
<i>Gordon v. Holder</i> , 721 F.3d 638 (D.C. Cir. 2013) .....	20
<i>Groppi v. Wisconsin</i> , 400 U.S. 505 (1971).....	20
<i>Herlitz Constr. Co. v. Hotel Invs. of New Iberia, Inc.</i> , 396 So. 2d 878 (La. 1981).....	21
<i>Irvin v. Dowd</i> , 366 U.S. 717 (1961) .....	14
<i>Land v. Vidrine</i> , 62 So. 3d 36 (La. 2011) .....	9, 21
<i>Lassiter v. Department of Soc. Servs.</i> , 452 U.S. 18 (1981) .....	13
<i>Marshall v. Jerrico, Inc.</i> , 446 U.S. 238 (1980) .....	11, 13
<i>Merrill v. Milligan</i> , 142 S. Ct. 879 (2022).....	10, 12
<i>Monsanto Co., Ex parte</i> , 794 So. 2d 350 (Ala. 2001) .....	14, 15
<i>Murchison, In re</i> , 349 U.S. 133 (1955) .....	10
<i>National Presto Indus., Inc., In re</i> , 347 F.3d 662 (7th Cir. 2003) .....	21
<i>Obama for Am. v. Husted</i> , 697 F.3d 423 (6th Cir. 2012).....	20
<i>Peters v. Kiff</i> , 407 U.S. 493 (1972).....	14
<i>Rideau v. Louisiana</i> , 373 U.S. 723 (1963) .....	11, 19

<i>Roman Cath. Diocese of Brooklyn v. Cuomo</i> , 141 S. Ct. 63 (2020).....	20
<i>Russo v. Byrne</i> , 409 U.S. 1219 (1972) .....	2
<i>Sheppard v. Maxwell</i> , 384 U.S. 333 (1966).....	19
<i>Times-Picayune Publ'g Corp. v. Schulingkamp</i> , 419 U.S. 1301 (1974) .....	2
<i>Toerner v. Cameron Par. Police Jury</i> , 2011 WL 3584786 (W.D. La. Aug. 15, 2011).....	6
<i>Tumey v. Ohio</i> , 273 U.S. 510 (1927).....	14, 16, 17
<i>United States, In re</i> , 139 S. Ct. 16 (2018) .....	3
<i>United States v. Polichemi</i> , 219 F.3d 698 (7th Cir. 2000) .....	16-17
<i>Volkswagen of Am., Inc., In re</i> , 545 F.3d 304 (5th Cir. 2008) .....	21
<i>Withrow v. Larkin</i> , 421 U.S. 35 (1975) .....	10, 11, 13

## CONSTITUTION, STATUTES, AND RULES

U.S. Const. amend. XIV.....	11, 13
Due Process Clause.....	11, 12, 13, 19, 22
State and Local Coastal Resources Management Act of 1978, La. Stat. Ann. §§ 49:214.21-49:214.42 .....	6
§ 49:214.36(J)(1)(b).....	8
§ 49:214.36(O)(2) .....	8, 18
All Writs Act, 28 U.S.C. § 1651 .....	2
Sup. Ct. R.:	
Rule 23.....	2
Rule 23.3.....	4
La. Sup. Ct. R. X.....	3

LEGISLATIVE MATERIALS

Tr. of Louisiana Senate Nat. Res. Comm. Hr’g (May 7, 2020)..... 7, 8, 18

ADMINISTRATIVE MATERIALS

Cameron Parish Police Jury, Annual Financial Report and Independent Auditors’ Reports – Year Ended December 31, 2021 (June 29, 2022), [https://app.lla.la.gov/publicreports.nsf/0/89d2270ab46db9428625887e00641c8e/\\$file/000275cb.pdf](https://app.lla.la.gov/publicreports.nsf/0/89d2270ab46db9428625887e00641c8e/$file/000275cb.pdf)..... 15

Coastal Prot. & Restoration Auth., *2017 Coastal Master Plan – Attachment A9: Parish Fact Sheets* (Sept. 2017), [http://coastal.la.gov/wp-content/uploads/2017/04/Attachment-A9\\_FINAL\\_10.02.2017.pdf](http://coastal.la.gov/wp-content/uploads/2017/04/Attachment-A9_FINAL_10.02.2017.pdf)..... 5

Letter from Gov. John Bel Edwards to Chris John, Louisiana Mid-Continent Oil & Gas Ass’n, and Don Briggs, Louisiana Oil & Gas Ass’n (May 19, 2016)..... 19

U.S. Census Bureau, *QuickFacts Cameron Parish, Louisiana; United States – Population Estimates* (July 1, 2021), <https://www.census.gov/quickfacts/fact/table/cameronparishlouisiana,US/PST045221> ..... 5

OTHER MATERIALS

3 William Blackstone, *Commentaries* ..... 13

Tyler Bridges, *‘We Ran Out of Time’: Bill To Nullify Louisiana Parish Lawsuits vs. Oil and Gas Companies Is Dead*, Advocate (May 29, 2020), [https://www.theadvocate.com/baton\\_rouge/news/environment/we-ran-out-of-time-bill-to-nullify-louisiana-parish-lawsuits-vs-oil-and-gas/article\\_994e1e00-a13a-11ea-b3b3-c7f7bd15897a.html](https://www.theadvocate.com/baton_rouge/news/environment/we-ran-out-of-time-bill-to-nullify-louisiana-parish-lawsuits-vs-oil-and-gas/article_994e1e00-a13a-11ea-b3b3-c7f7bd15897a.html)..... 17

David M. Burley, *Losing Ground* (2013)..... 16

Ashley Cusick, *Residents Get First Look at Cameron, La., Nearly Obliterated in Hurricane Laura*, Wash. Post (Aug. 30, 2020), [https://www.washingtonpost.com/national/hurricane-laura-cameron-damage/2020/08/30/c7c81cea-eafa-11ea-ab4e-581edb849379\\_story.html](https://www.washingtonpost.com/national/hurricane-laura-cameron-damage/2020/08/30/c7c81cea-eafa-11ea-ab4e-581edb849379_story.html)..... 6

Erika Ferrando, <i>‘Rita &amp; Ike Had Nothing On This — Nothing’; Catastrophic Damage in Cameron Parish; Residents Prepare to Rebuild Again</i> , WWLTV.com (Sept. 3, 2020), <a href="https://www.wwltv.com/article/weather/hurricane/catastrophic-damage-in-cameron-parish-residents-prepare-to-rebuild-again/289-a24253ea-2555-46ce-b832-abc931e025a5">https://www.wwltv.com/article/weather/hurricane/catastrophic-damage-in-cameron-parish-residents-prepare-to-rebuild-again/289-a24253ea-2555-46ce-b832-abc931e025a5</a> .....	6
Steve Hardy, <i>How This Louisiana Parish Is Leveraging New-found Funds To Finance Coastal Protection</i> , Advocate (July 6, 2018), <a href="https://www.theadvocate.com/baton_rouge/news/environment/how-this-louisiana-parish-is-leveraging-new-found-funds-to-finance-coastal-protection/article_80fba19c-7ee1-11e8-b475-ff4947aa66a1.html">https://www.theadvocate.com/baton_rouge/news/environment/how-this-louisiana-parish-is-leveraging-new-found-funds-to-finance-coastal-protection/article_80fba19c-7ee1-11e8-b475-ff4947aa66a1.html</a> .....	5
John Maginnis, <i>Local lawsuits are more to Gov. Jindal’s liking</i> , Cameron Par. Pilot, Nov. 21, 2013 .....	8
Rob Masson, <i>Cameron Parish Residents Ponder The Future of Hurricane Laura’s “War Zone,”</i> Fox8Live.com (Sept. 2, 2020).....	5
Coot McInnis, <i>Letter to the Editor</i> , Cameron Par. Pilot, July 7, 2011.....	18
Nomaan Merchant, <i>Hurricane Rita Flooded His Home in 2005. It Survived Ike in 2008. Laura Took Everything</i> , USA Today (Aug. 31, 2020), <a href="https://www.usatoday.com/story/news/nation/2020/08/31/hurricane-laura-damage-includes-cameron-parish-louisiana-homes/5678941002/">https://www.usatoday.com/story/news/nation/2020/08/31/hurricane-laura-damage-includes-cameron-parish-louisiana-homes/5678941002/</a> .....	6
Jason Saul, <i>‘Overlooked and Forgotten’ But Resolute, 10 Years After Hurricane Rita</i> , WWNO New Orleans Pub. Radio (Aug. 28, 2015), <a href="https://www.wwno.org/show/all-things-new-orleans/2015-08-28/overlooked-and-forgotten-but-resolute-10-years-after-hurricane-rita">https://www.wwno.org/show/all-things-new-orleans/2015-08-28/overlooked-and-forgotten-but-resolute-10-years-after-hurricane-rita</a> .....	15
Mark Schleifstein, <i>Bellwether Plaquemines Lawsuit Against Oil, Gas Companies Again Returned To State Court</i> , NOLA.com (Dec. 13, 2022), <a href="https://www.nola.com/news/environment/plaquemines-oil-gas-damage-suit-again-back-in-state-court/article_52fb1154-7a6a-11ed-b902-b3f5510f3b33.html">https://www.nola.com/news/environment/plaquemines-oil-gas-damage-suit-again-back-in-state-court/article_52fb1154-7a6a-11ed-b902-b3f5510f3b33.html</a> .....	8
Theresa Schmidt, <i>Grasses Are Planted To Stop Erosion</i> , Cameron Par. Pilot, May 16, 2010 .....	15

Cyndi Sellers:

Cyndi Sellers, <i>America’s Energy Coast Said To Be Under Threat</i> , Cameron Par. Pilot, June 11, 2019.....	5
“ <i>Time for Cameron Parish To control Its Own destiny</i> ,” Cameron Par. Pilot, Feb. 18, 2016.....	7, 16, 18
Shannon Sims, <i>Climate Change Will Likely Wreck Their Livelihoods— But They Still Don’t Buy The Science</i> , Guardian (Aug. 28, 2017), <a href="https://www.theguardian.com/us-news/2017/aug/18/louisiana-climate-change-skeptics-donald-trump-support">https://www.theguardian.com/us-news/2017/aug/18/louisiana-climate-change-skeptics-donald-trump-support</a> .....	15
Mike Smith, <i>Hurricane-hit Southwest Louisiana’s Population Drop Among Steepest In Nation</i> , Advocate (Mar. 25, 2022), <a href="https://www.theadvocate.com/lake_charles/hurricane-hit-southwest-louisiana-s-population-drop-among-steepest-in-nation/article_44d67698-abb4-11ec-9763-a70b7b6adfc4.html">https://www.theadvocate.com/lake_charles/hurricane-hit-southwest-louisiana-s-population-drop-among-steepest-in-nation/article_44d67698-abb4-11ec-9763-a70b7b6adfc4.html</a> .....	5-6
<i>SWLA and SETX to Work Together on Chenier Plain</i> , Cameron Par. Pilot (Dec. 2, 2014) .....	15
Claire Taylor, <i>We Went To Cameron To See Laura’s Damage: 10 Feet of Water Crushed Homes and Washed-Up Caskets</i> , Acadiana Advocate (Aug. 31, 2020), <a href="https://www.theadvocate.com/acadiana/news/we-went-to-cameron-to-see-lauras-damage-10-feet-of-water-crushed-homes-and/article_5bec7246-ebc7-11ea-a0b7-77caf120fdda.html">https://www.theadvocate.com/acadiana/news/we-went-to-cameron-to-see-lauras-damage-10-feet-of-water-crushed-homes-and/article_5bec7246-ebc7-11ea-a0b7-77caf120fdda.html</a> .....	6
Transcript of Venue Motion Hearing, <i>Parish of Plaquemines v. Rozel Operating Co., et al.</i> , Nos. 60-892 <i>et al.</i> (25th Jud. Dist. Ct. Feb. 8, 2018) .....	19
Tegan Wendland, <i>To Fight Coastal Damage, Louisiana Parishes Pushed To Sue Energy Industry</i> , KUNC.org (Jan. 23, 2017), <a href="https://www.kunc.org/2017-01-23/to-fight-coastal-damage-louisiana-parishes-pushed-to-sue-energy-industry">https://www.kunc.org/2017-01-23/to-fight-coastal-damage-louisiana-parishes-pushed-to-sue-energy-industry</a> .....	7

IN THE  
SUPREME COURT OF THE UNITED STATES

---

No. 23A\_\_\_\_\_

BP AMERICA PRODUCTION COMPANY; HILCORP ENERGY COMPANY;  
AND SHELL OIL COMPANY,  
*Applicants,*

v.

PARISH OF CAMERON, LOUISIANA;  
STATE OF LOUISIANA, EX REL. JEFF LANDRY, ATTORNEY GENERAL;  
STATE OF LOUISIANA, THROUGH THE NATURAL RESOURCES OFFICE OF  
COASTAL MANAGEMENT AND ITS SECRETARY THOMAS H. HARRIS;  
CHEVRON U.S.A., INC.; TEXAS PACIFIC OIL COMPANY, INC.;;  
AND TEXAS PETROLEUM INVESTMENT COMPANY,  
*Respondents.*

---

**On Application for an Emergency Stay  
of the Ruling of the 38th Judicial District Court  
for the Parish of Cameron, Louisiana**

---

**APPLICATION FOR AN EMERGENCY STAY**

---

To the Honorable Samuel A. Alito, Jr., Associate Justice of the Supreme  
Court of the United States and Circuit Justice for the Fifth Circuit:

Applicants seek emergency relief for a change of venue for a trial to  
commence on November 27, 2023. On that date, the three out-of-state energy  
companies that are applicants here will be forced to defend a trial in a case brought  
by Cameron Parish, Louisiana, that seeks more than \$7 billion in front of a venire  
of 4,000 residents of the very same Parish, every one of whom has a substantial  
personal and financial interest in rendering a verdict for their home parish. The



Louisiana courts have denied motions to transfer venue from Cameron Parish—which has annual tax revenues of only \$20 million—culminating in the Louisiana Supreme Court’s denial of a supervisory writ on October 10, 2023.

This unprecedented situation threatens the clearly established federal due-process rights of these defendants to have their case adjudicated by a neutral, disinterested decisionmaker. Indeed, this Court long has held that “the Due Process Clause has been implemented by objective standards that do not require proof of actual bias.” *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 883 (2009). This Court’s emergency relief is therefore fully warranted.

Pursuant to Rule 23 of the Rules of this Court and the All Writs Act, 28 U.S.C. § 1651, BP America Production Company, Hilcorp Energy Company, and Shell Oil Company respectfully request that this Court stay the commencement of trial, pending the consideration and disposition of the concurrently filed petition for a writ of certiorari and any further proceedings in this Court. *E.g.*, *Russo v. Byrne*, 409 U.S. 1219, 1221 (1972) (Douglas, J., in chambers) (ordering stay of trial pending filing and disposition of certiorari petition to preserve “basic constitutional rights”); *Times-Picayune Publ’g Corp. v. Schulingkamp*, 419 U.S. 1301, 1309 (1974) (Powell, J., in chambers) (issuing stay of order restricting media coverage at trial pending filing and disposition of certiorari petition). In light of the potentially irreparable consequences of proceeding to trial without changing venue to a neutral forum, applicants also request that this Court enter a temporary emergency stay of the commencement of trial until the Court decides whether to grant this application.

*E.g., In re United States*, 139 S. Ct. 16 (2018) (Roberts, C.J., in chambers) (issuing stay pending a response by respondent and further order of the Court). In the alternative of a stay, applicants request expedited briefing and consideration of the petition for a writ of certiorari, requiring the state respondents to respond to the petition within seven days so that the petition may be conferenced before trial begins on November 27, 2023.

On September 5, 2023, applicants sought an extraordinary writ with priority treatment in the Louisiana Supreme Court to review the trial court’s decision denying transfer.<sup>1</sup> Under Louisiana law, that application had the purpose and effect of seeking the Louisiana Supreme Court’s emergency review of the location of trial before its commencement in Cameron Parish. Under Rule X of the Rules of the Louisiana Supreme Court, requests seeking priority treatment and a stay are governed by the same principles. At the Louisiana Supreme Court, applicants sought priority treatment “so that the court ha[d] sufficient time to consider th[e] application prior to th[e] date” trial is set to begin on November 27, 2023.<sup>2</sup> On the civil priority filing sheet required by the Louisiana Supreme Court, an applicant certifies that it is “requesting PRIORITY consideration of this application or a STAY pending consideration of this application.”<sup>3</sup> Applicants sought priority

---

<sup>1</sup> See Application for Writ of Certiorari of Applicants/Defendants Shell Oil Company, BP America Production Company, Hilcorp Energy Company, Chevron U.S.A., Inc., Chevron Pipe Line Company, Honeywell International, Inc., and Kerr-McGee Oil and Gas Onshore LP (attached as Ex. 27).

<sup>2</sup> See *id.* at 3.

<sup>3</sup> See *id.* (“Certification”).

treatment because a stay would have stayed *all* pretrial proceedings, whereas applicants sought a review of the denial of the motion to transfer venue before trial commences—that is, the relief related only to determining where the trial would take place before trial begins. Because the Louisiana Supreme Court disposed of the writ application on October 10, 2023, any stay would have expired at that time. Applicants thus sought the requested relief (an emergency request to change venue before the commencement of trial) in the appropriate lower court. *See* Sup. Ct. R. 23.3. In any event, extraordinary circumstances are present here. The Louisiana appellate courts’ refusal to grant the emergency relief requested means there is no reasonable prospect they will entertain additional motions for relief on this issue, however styled, and trial begins on November 27, 2023.

### **BACKGROUND**

The question presented involves a denial of a motion to change venue from a Louisiana parish where every resident (and thus every member of the jury pool) has an interest in the outcome of the litigation. In this lawsuit, jurors will be asked to award more than \$7 billion from applicants for coastal land loss. Cameron Parish (“the Parish”) has only 4,000 potential jurors. And every single one of them has a personal and financial interest in a verdict for the Parish because any award will go to restore land loss in the Parish and—according to the Parish itself—will be used to create jobs, economic opportunities, and higher property values for residents. Thus, applicants cannot obtain a fair and impartial trial without a change of venue, and this Court’s immediate action is needed to ensure a civil trial of this magnitude

comports with due process. Without action by this Court, applicants face imminent irreparable harm. The Louisiana appellate courts already have denied discretionary review.

Cameron Parish faces an existential threat from coastal land loss.<sup>4</sup> More than 80% of the Parish is coastal marshland. The State of Louisiana’s 2017 Master Plan reported that Cameron Parish may lose up to 40% of its land area over the next 50 years.<sup>5</sup> Three devastating hurricanes—Rita in 2005, Ike in 2008, and Laura in 2020—have caused “mind-numbing losses” to the Parish and its people.<sup>6</sup> Between 2000 and 2021, Cameron Parish lost nearly half of its already small population, dropping from 9,991 to 5,080 residents.<sup>7</sup> The State and the Parish

---

<sup>4</sup> Steve Hardy, *How This Louisiana Parish Is Leveraging New-found Funds To Finance Coastal Protection*, Advocate (July 6, 2018) (Former Parish Administrator Bourriaque has warned prospective jurors in grave terms that, “[w]ith no projects constructed and with 300 linear feet of erosion a year, in 10 years the Gulf of Mexico would be at the Grand Chenier Ridge south of Highway 82. I say this not to cause pandemonium. Rather, this is an attempt for us to wake up and realize what is happening around us.”) (attached as Ex. 4), [https://www.theadvocate.com/baton\\_rouge/news/environment/how-this-louisiana-parish-is-leveraging-new-found-funds-to-finance-coastal-protection/article\\_80fba19c-7ee1-11e8-b475-ff4947aa66a1.html](https://www.theadvocate.com/baton_rouge/news/environment/how-this-louisiana-parish-is-leveraging-new-found-funds-to-finance-coastal-protection/article_80fba19c-7ee1-11e8-b475-ff4947aa66a1.html).

<sup>5</sup> See Coastal Prot. & Restoration Auth., *2017 Coastal Master Plan – Attachment A9: Parish Fact Sheets* at 11 (Sept. 2017) (attached as Ex. 5), [http://coastal.la.gov/wp-content/uploads/2017/04/Attachment-A9\\_FINAL\\_10.02.2017.pdf](http://coastal.la.gov/wp-content/uploads/2017/04/Attachment-A9_FINAL_10.02.2017.pdf).

<sup>6</sup> Cyndi Sellers, *America’s Energy Coast Said To Be Under Threat*, Cameron Par. Pilot, June 11, 2019 (attached as Ex. 25); see also Rob Masson, *Cameron Parish Residents Ponder The Future of Hurricane Laura’s “War Zone,”* Fox8Live.com (Sept. 2, 2020) (“There isn’t much between the Gulf of Mexico and Cameron[,] Louisiana to take away the power of a category 4 hurricane and the devastation from Laura is overwhelming.”) (attached as Ex. 26), <https://www.fox8live.com/2020/09/02/cameron-residents-ponder-future-lauras-war-zone/>.

<sup>7</sup> See U.S. Census Bureau, *QuickFacts Cameron Parish, Louisiana; United States – Population Estimates* (July 1, 2021), <https://www.census.gov/quickfacts/fact/table/cameronparishlouisiana,US/PST045221>; Mike Smith, *Hurricane-hit Southwest Louisiana’s Population Drop Among Steepest In Nation*, Advocate (Mar. 25, 2022) (“Cameron, meanwhile, continued a precipitous decline that began in the years after 2005’s Hurricane

attribute this dramatic population drop to adverse storm impacts. Media reports echo the belief that the Parish is losing residents because of land loss and storm damage.<sup>8</sup>

Cameron Parish says this lawsuit is the way to save itself and its residents. Cameron Parish filed this lawsuit alleging the novel claim that 18 companies violated the State and Local Coastal Resources Management Act of 1978, a permitting law that took effect in 1980, challenging operations that preceded the law's enactment for many decades in an area that covers more than 11,000 acres. The Parish alleged that the violations caused land loss throughout Cameron Parish.

---

Rita. The new figures show the population for the remote, coastal parish south of Calcasieu and bordering Texas down another 9.6% to 5,080. The 2020 decennial census showed an 18% decline from 2010.”) (attached as Ex. 6), [https://www.theadvocate.com/lake\\_charles/hurricane-hit-southwest-louisiana-s-population-drop-among-steepest-in-nation/article\\_44d67698-abb4-11ec-9763-a70b7b6adfc4.html](https://www.theadvocate.com/lake_charles/hurricane-hit-southwest-louisiana-s-population-drop-among-steepest-in-nation/article_44d67698-abb4-11ec-9763-a70b7b6adfc4.html); *Toerner v. Cameron Par. Police Jury*, 2011 WL 3584786, at \*3 (W.D. La. Aug. 15, 2011) (“Since 2003, . . . Cameron Parish has experienced a significant demographic shift, due in large part to Hurricanes Rita and Ike.”).

<sup>8</sup> See Nomaan Merchant, *Hurricane Rita Flooded His Home in 2005. It Survived Ike in 2008. Laura Took Everything*, USA Today (Aug. 31, 2020) (explaining that damage from Laura reminded many residents of Rita, saying: “I don’t know how many times you can restart from scratch.”) (attached as Ex. 7), <https://www.usatoday.com/story/news/nation/2020/08/31/hurricane-laura-damage-includes-cameron-parish-louisiana-homes/5678941002/>; Claire Taylor, *We Went To Cameron To See Laura’s Damage: 10 Feet of Water Crushed Homes and Washed-Up Caskets*, Acadiana Advocate (Aug. 31, 2020) (“About 1,965 people called Cameron home in 2000, according to the census. Ten years and two hurricanes later, the 2010 census showed only 406 residents remained in the parish seat.”) (attached as Ex. 8), [https://www.theadvocate.com/acadiana/news/we-went-to-cameron-to-see-lauras-damage-10-feet-of-water-crushed-homes-and/article\\_5bec7246-ebc7-11ea-a0b7-77caf120fdda.html](https://www.theadvocate.com/acadiana/news/we-went-to-cameron-to-see-lauras-damage-10-feet-of-water-crushed-homes-and/article_5bec7246-ebc7-11ea-a0b7-77caf120fdda.html); Erika Ferrando, *‘Rita & Ike Had Nothing On This — Nothing’; Catastrophic Damage in Cameron Parish; Residents Prepare to Rebuild Again*, WWLTV.com (Sept. 3, 2020) (“I’m afraid a lot of people are going to leave and I don’t blame them.”) (attached as Ex. 9), <https://www.wwltv.com/article/weather/hurricane/catastrophic-damage-in-cameron-parish-residents-prepare-to-rebuild-again/289-a24253ea-2555-46ce-b832-abc931e025a5>; Ashley Cusick, *Residents Get First Look at Cameron, La., Nearly Obliterated in Hurricane Laura*, Wash. Post (Aug. 30, 2020) (“This is our third time with this. I don’t know about coming back.”) (attached as Ex. 10), [https://www.washingtonpost.com/national/hurricane-laura-cameron-damage/2020/08/30/c7c81cea-eafa-11ea-ab4e-581edb849379\\_story.html](https://www.washingtonpost.com/national/hurricane-laura-cameron-damage/2020/08/30/c7c81cea-eafa-11ea-ab4e-581edb849379_story.html).

And it seeks a judgment mandating that the oil and gas companies that operated in the Parish over many decades take on the enormous expense of combating this coastal erosion. At an eight-week trial set to begin November 27, 2023, residents therefore will be asked to award billions of dollars to the Parish for land restoration and storm protection that directly will benefit them.

Prospective jurors know all of this. They have been told repeatedly in public filings and news stories in recent years that, through this case, they will determine their Parish's very existence. And that publicity amplifies existing concerns about coastal land loss that affects all Parish residents.

Governor John Bel Edwards described these lawsuits as a solution to the dual problems of land loss and the need for funding for coastal restoration: "Before we can ever have any hope of asking taxpayers around the country to come to Louisiana and help restore our coast, we have to be able to show them that we did everything that we could" to address land loss.<sup>9</sup> Similarly, the *Cameron Parish Pilot*, the local newspaper, has reported that, "[w]ith Cameron Parish pursuing the claims, every dollar goes to the parish for coastal restoration."<sup>10</sup> In May 2020, the Parish told the State Legislature: "We're about to come to a monumental time where these cases are coming to an end and bringing hundreds and billions of dollars to the [S]tate and thousands and thousands of jobs *and local contractors get*

---

<sup>9</sup> Tegan Wendland, *To Fight Coastal Damage, Louisiana Parishes Pushed To Sue Energy Industry*, KUNC.org (Jan. 23, 2017) (attached as Ex. 11), <https://www.kunc.org/2017-01-23/to-fight-coastal-damage-louisiana-parishes-pushed-to-sue-energy-industry>.

<sup>10</sup> Cyndi Sellers, "*Time for Cameron Parish To control Its Own destiny*," *Cameron Par. Pilot*, Feb. 18, 2016 (attached as Ex. 12).

preference.”<sup>11</sup> The *Cameron Parish Pilot* reported that a global settlement in this and other land-loss cases brought by the Parish “could go a long way toward the [S]tate’s master plan for the coast, projected to cost \$50 billion over 50 years.”<sup>12</sup> Additional reports claim that the potential awards in these cases are “likely to result in new jobs or infrastructure improvements, such as flood protection, ‘without making Louisiana taxpayers pay for damages they did not cause.’”<sup>13</sup>

Plaintiffs, too, have framed this lawsuit as the answer to these concerns. The Parish’s counsel has unabashedly stated this lawsuit is the way for Parish residents—the prospective jurors—to take matters into their own hands. After telling Parish residents that this lawsuit empowers them to take control of their own destiny, the Parish’s counsel will ask those same residents, now sitting as jurors, to award damages on what they have publicly called “judgment day.”<sup>14</sup> Any money awarded to Cameron Parish here may be used for the restoration of property across Cameron Parish, not just the property implicated in this case.<sup>15</sup> Thus, a

---

<sup>11</sup> Tr. of Louisiana Senate Nat. Res. Comm. Hr’g 62:18-23 (May 7, 2020) (“Hr’g Tr.”) (attached as Ex. 13) (emphasis added). The Parish testified before the Legislature through its counsel, John Carmouche.

<sup>12</sup> John Maginnis, *Local lawsuits are more to Gov. Jindal’s liking*, *Cameron Par. Pilot*, Nov. 21, 2013 (attached as Ex. 14).

<sup>13</sup> Mark Schleifstein, *Bellwether Plaquemines Lawsuit Against Oil, Gas Companies Again Returned To State Court*, NOLA.com (Dec. 13, 2022) (attached as Ex. 15), [https://www.nola.com/news/environment/plaquemines-oil-gas-damage-suit-again-back-in-state-court/article\\_52fb1154-7a6a-11ed-b902-b3f5510f3b33.html](https://www.nola.com/news/environment/plaquemines-oil-gas-damage-suit-again-back-in-state-court/article_52fb1154-7a6a-11ed-b902-b3f5510f3b33.html).

<sup>14</sup> Hr’g Tr. 56:3 (attached as Ex. 13).

<sup>15</sup> See La. Stat. Ann. § 49:214.36(J)(1)(b) (“These funds [collected by the State under the provisions of this Section] shall be used only for projects consistent with Paragraph (O)(2) of this Section within or for the benefit of areas within the geographic borders of that parish.”); *id.* § 49:214.36(O)(2) (“Any monies received by any state or local governmental

Cameron Parish juror living miles away from that property has just as much at stake in the outcome as a juror residing near that property. Every potential juror in Cameron Parish has an interest in the outcome of the claims asserted here.

Absent action by this Court, applicants face potentially irreparable harm. This is the last opportunity under state law for applicants to challenge the denial of their change of venue request. Applicants moved for a transfer of venue in the trial court. The trial court denied the motion, concluding that a trial in Cameron Parish would not violate applicants' due-process rights because voir dire sufficiently would weed out biased jurors. They sought appellate review in the Louisiana Court of Appeal. That court denied discretionary review. Ex. 2. On October 10, 2023, the Louisiana Supreme Court likewise denied discretionary review. Ex. 3. This emergency application, therefore, is made promptly following the exhaustion of review in the Louisiana state court system.

The Louisiana Supreme Court has held that an erroneous denial of a change of venue must be challenged pretrial. *See Land v. Vidrine*, 62 So. 3d 36, 37 (La. 2011) (“the only mechanism by which to challenge an adverse venue ruling is a supervisory writ”). Applicants have done so. And the Louisiana Supreme Court already has denied discretionary review. This case thus differs from cases where a determination that automatically is subject to post-trial appellate review vitiates irreparable harm. *Cf. FTC v. Standard Oil Co. of California*, 449 U.S. 232, 244 (1980) (no irreparable harm where agency determination was not “insulated from

---

entity arising from or related to a state or federal permit . . . shall be used for integrated coastal protection, including coastal restoration, hurricane protection, and improving the resiliency of the coastal area.”).



any review”). Unless this Court acts, applicants will suffer the irreparable injury of a patently tainted jury venire and a trial before an inherently partial decisionmaker.

## **ARGUMENT**

An applicant for a stay pending a petition for a writ of certiorari must establish (1) “a reasonable probability that this Court would eventually grant review,” (2) “a fair prospect that the Court would reverse,” and (3) “that the applicant would likely suffer irreparable harm absent the stay” and “the equities” otherwise support relief. *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring). Those requirements are satisfied. In the alternative, the Court should expedite briefing and consideration of the concurrently filed petition for a writ of certiorari.

### **I. THE COURT IS LIKELY TO GRANT THE CERTIORARI PETITION**

In denying review, the Louisiana Supreme Court sanctioned trial proceedings before a jury pool where every member stands to gain from a verdict. That decision below conflicts with due-process precedents of this Court. It also arises in the midst of a conflict among several state supreme courts on whether due-process guarantees require a transfer of venue when every member of the jury pool has an interest in the outcome of the litigation. For decades, this Court has recognized that “a ‘fair trial in a fair tribunal is a basic requirement of due process.’” *Withrow v. Larkin*, 421 U.S. 35, 46 (1975) (quoting *In re Murchison*, 349 U.S. 133, 136 (1955)). As described in the concurrently filed certiorari petition, this case raises a profoundly important question of federal law on which lower courts are divided: whether a civil

jury suffused with personal and financial stakes in the outcome of the litigation violates the right to an impartial decisionmaker under the Due Process Clause of the Fourteenth Amendment.

This Court long has recognized that “[t]he Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases,” *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980), and has charged that “[f]ew, if any, interests under the Constitution are more fundamental than the right to a fair trial by ‘impartial’ jurors,” *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1075 (1991). When a State tries a case by civil jury, due process requires that the jury be impartial. *See Withrow*, 421 U.S. at 46; *Marshall*, 446 U.S. at 242. The decision below cannot be squared with this Court’s precedent. As explained in the accompanying petition for a writ of certiorari (at 11-17), the decision below conflicts with the long line of this Court’s precedent holding that a decisionmaker cannot have a pecuniary interest in the outcome of the case under decision. *E.g., Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813 (1986). The petition explains (at 17-20) that the decision below is also in tension with another line of this Court’s precedent holding that, in criminal trials, due process does not allow for a trial in a venue that has been tainted by extensive, negative pretrial publicity. *E.g., Rideau v. Louisiana*, 373 U.S. 723 (1963).

The trial court held that, “[u]nder . . . the due process clause of the United States . . . Constitution[], the defendants have not shown that they . . . cannot obtain a fair and impartial trial because of the undue influence of an adverse party,

prejudice existing in the public mind, or some other sufficient clause.” Ex. 1, at 3. Both the Louisiana Court of Appeal and the Louisiana Supreme Court denied review without analysis. As described in the petition (at 21-26), that judgment implicates a significant conflict between the highest courts of several States. High courts of several States have held that due process requires transfer when the jury pool has a pecuniary interest in rendering a verdict for one party. Other States (and now the decision below in Louisiana) have held that due process does not require transfer in these circumstances. This Court likely will grant review to clarify the contours of when due process requires a pretrial change of venue to ensure a fair trial.

By refusing to transfer venue to a neutral forum, the decision below flouts basic principles of federal constitutional law. As explained in the petition (at 26-30), the civil jury trial has a profoundly important place in our constitutional history, and the Court is likely to grant the petition to clarify the due-process requirements of a civil jury.

## **II. APPLICANTS ARE LIKELY TO SUCCEED ON THE MERITS**

There also is more than a “fair prospect that the Court would reverse” upon granting review. *Merrill*, 142 S. Ct. at 880 (Kavanaugh, J., concurring). Under this Court’s precedent, a biased decisionmaker—be it judge or jury—violates the Due Process Clause. Every member of the small Cameron Parish venire has a personal and financial interest in the outcome of this case. And publicity from the media and state and local officials only heightens that problem. Basic due-process principles

forbid that result. The Parish suffers no prejudice from conducting a trial in a nearby parish untainted by financial and press biases.

**A. Subjecting A Defendant To A Trial By Biased Jurors Violates The Due Process Clause Of The Fourteenth Amendment**

The Due Process Clause of the Fourteenth Amendment “imposes on the States the standards necessary to ensure that judicial proceedings are fundamentally fair.” *Lassiter v. Department of Soc. Servs.*, 452 U.S. 18, 33 (1981). This Court long has recognized that “[t]he Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases.” *Marshall*, 446 U.S. at 242. These due-process principles apply to juries. *See, e.g., Withrow*, 421 U.S. at 47 (judicial recusal is required when “the probability of actual bias on the part of the judge or *decisionmaker* is too high to be constitutionally tolerable”) (emphasis added).

The right to an impartial civil jury has been recognized since the Founding. In explaining the need for “a fair, impartial, and satisfactory trial,” Blackstone noted: “A jury coming from the neighborhood . . . is often liable to strong objections[,] especially in small jurisdictions . . . or where the question in dispute has an extensive local tendency . . . . It is true that, if a whole county is interested in the question to be tried, the trial by the rule of law must be in some adjoining county.” 3 William Blackstone, *Commentaries* \*383-84.

As this Court long has held, due process forbids a trial where objective facts show “the probability of actual bias on the part of the . . . decisionmaker is too high to be constitutionally tolerable.” *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868,

872 (2009). The Court has confirmed that, “even if there is no showing of actual bias in the tribunal, . . . due process is denied by circumstances that create the likelihood or the appearance of bias.” *Peters v. Kiff*, 407 U.S. 493, 502 (1972). Those circumstances include when the decisionmaker has a pecuniary interest in the outcome, *see Tumey v. Ohio*, 273 U.S. 510, 523 (1927), or when widespread media attention has tainted the venire, *see Irvin v. Dowd*, 366 U.S. 717, 725 (1961). Both circumstances are present here.

**B. All Members Of The Venire Have An Interest In The Outcome Of The Case**

Every potential juror in the venire has an interest in the outcome of this litigation, both personal and financial. Jurors from the Parish have a personal stake in awarding damages against applicants to remedy the Parish’s land loss, and they stand to gain financially from the \$7 billion for land restoration and storm protection they will be asked to award to the Parish.

1. When a lawsuit seeks to remedy a danger that threatens an entire community, and where potential jurors will benefit personally from the outcome, the likelihood of juror bias is unacceptable as a matter of due process. For instance, in *Ex parte Monsanto Co.*, the Supreme Court of Alabama considered whether a change of venue was warranted because the plaintiffs claimed that Monsanto had dispersed toxic chemicals into a county’s “air, soil, surface, and groundwater.” 794 So. 2d 350, 352 (Ala. 2001). Monsanto argued it could not receive a fair trial in the county because the plaintiffs’ claims invited “any member of the jury [to] see himself or herself as a potential plaintiff.” *Id.* at 354. The Alabama Supreme Court

agreed, expressing concern that “Calhoun County citizens, while serving as jurors, could come to consider themselves to be in harm’s way because of the alleged wrongdoing by Monsanto.” *Id.* at 355.

Cameron Parish residents—those who will be asked to award more than \$7 billion—more than 350 times the Parish’s annual revenues<sup>16</sup>—have been told that they have a personal interest in the outcome of this case. According to Parish officials, “our residents are tied to their family land and the freedom and history that come with it. Coastal erosion and land loss has (sic) threatened this culture and way of life.”<sup>17</sup> The Police Jury—the Parish’s legislative and executive body—has concluded:

There is no greater issue facing our state than the urgent need to curb our coast’s massive land loss. If we take no action, Cameron Parish could lose 40 percent of its entire land area in the next 50 years. Cameron could have the unenviable position of having the highest total amount of land loss of any coastal parish in the state. That could put every community in the parish at risk . . .<sup>18</sup>

---

<sup>16</sup> See Cameron Parish Police Jury, Annual Financial Report and Independent Auditors’ Reports – Year Ended December 31, 2021, at 11 (June 29, 2022) (attached as Ex. 16), [https://app.lla.la.gov/publicreports.nsf/0/89d2270ab46db9428625887e00641c8e/\\$file/000275cb.pdf](https://app.lla.la.gov/publicreports.nsf/0/89d2270ab46db9428625887e00641c8e/$file/000275cb.pdf).

<sup>17</sup> Jason Saul, ‘Overlooked and Forgotten’ But Resolute, 10 Years After Hurricane Rita, WWNO New Orleans Pub. Radio (Aug. 28, 2015) (attached as Ex. 17) (quoting Cameron Parish Administrator Ryan Bourriaque), <https://www.wwno.org/show/all-things-new-orleans/2015-08-28/overlooked-and-forgotten-but-resolute-10-years-after-hurricane-rita>.

<sup>18</sup> See *SWLA and SETX to Work Together on Chenier Plain*, Cameron Par. Pilot (Dec. 2, 2014) (noting that Cameron Parish has more wetland acreage than any Gulf Coast state, county, or parish, and the second highest rate of net wetland decrease) (attached as Ex. 18); Shannon Sims, *Climate Change Will Likely Wreck Their Livelihoods—But They Still Don’t Buy The Science*, Guardian (Aug. 28, 2017) (quoting a Cameron Parish resident as saying the state mapping agency indicates his home will be submerged within 50 years because of land loss) (attached as Ex. 19), <https://www.theguardian.com/us-news/2017/aug/18/louisiana-climate-change-skeptics-donald-trump-support>; Theresa Schmidt, *Grasses Are Planted To Stop Erosion*, Cameron Par. Pilot, May 16, 2010 (quoting Cameron Parish

The Parish has reinforced the message that coastal restoration is essential to the continued survival of the Parish and its communities.<sup>19</sup>

This lawsuit by the Parish invites residents—the prospective jurors—to exercise self-help. For example, the Parish has stated: “With Cameron Parish pursuing the claims, every dollar goes to the parish for coastal restoration.”<sup>20</sup> Thus, where any potential recovery in this lawsuit will be used to combat land loss—an issue central to Cameron Parish—all potential jurors have an interest in the outcome of this lawsuit.

2. Cameron Parish residents also have a financial interest in the outcome. As the Court noted in *Aetna*, even an outside chance that a decisionmaker would be swayed by a pecuniary interest in the outcome of a case is constitutionally unacceptable. *See* 475 U.S. at 825 (judicial recusal is required when an interest “would offer a possible temptation to the average . . . judge to . . . lead him to not . . . hold the balance nice, clear and true”) (third ellipsis added). For nearly a century, this Court has upheld the principle that a decisionmaker cannot have an interest in the outcome of a case. *See Tumey*, 273 U.S. at 532.

The constitutional guarantee of an impartial jury requires a court to excuse a juror for cause “if the juror has even a tiny financial interest in the case.” *United*

---

teenager: “I’m excited because this means our homes aren’t going to get eaten in 50 years, so there’ll still be a Cameron Parish.” (attached as Ex. 20).

<sup>19</sup> State and Parish officials have repeated this message to Cameron residents, who are reminded of the “slow, incessant, and foreboding” loss of land. David M. Burley, *Losing Ground* 57 (2013).

<sup>20</sup> Cyndi Sellers, “*Time for Cameron Parish To Control Its Own Destiny*,” *Cameron Par. Pilot*, Feb. 18, 2016 (attached as Ex. 12).

*States v. Polichemi*, 219 F.3d 698, 704 (7th Cir. 2000). The financial incentives “need not be . . . direct or positive,” *Gibson v. Berryhill*, 411 U.S. 564, 579 (1973), but need only “offer a possible temptation . . . not to hold the balance nice, clear and true,” *Tumey*, 273 U.S. at 532.

Viewed objectively, prospective jurors in Cameron Parish must understand that a verdict for the Parish will benefit them financially—and that a verdict for the defense will hurt them financially. For example, the Parish has said that, without the lawsuits, coastal residents will be forced to shoulder the costs of restoration through higher taxes—indeed, the Parish’s counsel has stated: “The taxpayers of Louisiana had a huge victory today because they’re not going to have to pay to restore the coast of Louisiana . . . . Big Oil, which damaged the coast, will have to pay.”<sup>21</sup> The large decline in Cameron Parish’s population exacerbates concerns about the ability of the Parish to receive funding for coastal restoration and, correspondingly, the ability of the remaining residents to assess the allegations dispassionately. Indeed, given Cameron Parish’s small population, each resident bears a much larger share of the overall cost of storm protection and resiliency costs than do residents in other parishes. Residents have shared the same sentiment: “Once again it seems that with less people living in the parish, it is required for

---

<sup>21</sup> Tyler Bridges, ‘We Ran Out of Time’: *Bill To Nullify Louisiana Parish Lawsuits vs. Oil and Gas Companies Is Dead*, Advocate (May 29, 2020) (attached as Ex. 21), [https://www.theadvocate.com/baton\\_rouge/news/environment/we-ran-out-of-time-bill-to-nullify-louisiana-parish-lawsuits-vs-oil-and-gas/article\\_994e1e00-a13a-11ea-b3b3-c7f7bd15897a.html](https://www.theadvocate.com/baton_rouge/news/environment/we-ran-out-of-time-bill-to-nullify-louisiana-parish-lawsuits-vs-oil-and-gas/article_994e1e00-a13a-11ea-b3b3-c7f7bd15897a.html).



some reason they all pay more.”<sup>22</sup> Acknowledging these frustrations, the Parish has told residents that these lawsuits will provide the funding needed for coastal restoration.<sup>23</sup>

If a Cameron Parish jury awards the \$7 billion that the Parish’s private counsel is seeking, or even a small fraction of that, then Parish residents will receive significant financial benefits. A \$7 billion award would equate to more than \$1.4 million per resident of the parish. The Parish has publicly stated that it expects a judgment in this and similar cases to bring “hundreds and billions of dollars to the [S]tate and thousands and thousands of jobs [for which] *local contractors get preference*.”<sup>24</sup> Parish residents thus have a financial interest in both offsetting the costs of land loss and ensuring a massive influx of money in the Cameron Parish economy.

This lawsuit seeks to address the concerns of Cameron Parish residents—that, without new funding, either coastal restoration projects will not be completed or the few remaining residents will be forced to shoulder the cost of restoration through higher taxes. In these circumstances, there is a serious risk that Parish residents will be unable to sit with the required “indifference” given that they have an interest in seeking to fund coastal restoration through these lawsuits. These

---

<sup>22</sup> Coot McInnis, *Letter to the Editor*, Cameron Par. Pilot, July 7, 2011 (attached as Ex. 22).

<sup>23</sup> See Cyndi Sellers, “*Time for Cameron Parish To Control Its Own Destiny*,” Cameron Par. Pilot, Feb. 18, 2016 (attached as Ex. 12); *cf.* La. Stat. Ann. § 49:214.36(O)(2) (“Any monies received by any state or local governmental entity arising from or related to a state or federal permit . . . shall be used for integrated coastal protection, including coastal restoration, hurricane protection, and improving the resiliency of the coastal area.”).

<sup>24</sup> Hr’g Tr. 62:18-23 (attached as Ex. 13) (emphasis added).

community-wide interests render Parish residents incapable of serving as impartial decisionmakers as required by the Due Process Clause.

**C. Widespread Public Attention Has Tainted Cameron Parish As A Venue**

Not only is the venire financially interested in the outcome, but the media and public officials also have told potential jurors for years that this case is a way for them to save their homes. In *Rideau* and *Sheppard v. Maxwell*, 384 U.S. 333 (1966), this Court held that trials tainted by significant media participation in communities that are orders of magnitude larger than Cameron Parish were impermissible under the Due Process Clause. The same result should occur here. Cameron Parish, now with fewer than 5,000 residents, has for years been bombarded with statements from the media and public officials that highlight their interest in the outcome. State and Parish officials have made several comments that illustrate the problem:

The State defended the lawsuit, noting “[s]ome communities are literally in danger of being washed away. Some could disappear with the next severe storm or hurricane. Meanwhile, we are struggling to pay for our state’s Master Plan to restore the coast and protect our citizens.”<sup>25</sup>

Counsel for the Parish conceded that “[i]t’s [the issue of coastal erosion] on the news every day.”<sup>26</sup>

---

<sup>25</sup> Letter from Gov. John Bel Edwards to Chris John, Louisiana Mid-Continent Oil & Gas Ass’n, and Don Briggs, Louisiana Oil & Gas Ass’n, at 1 (May 19, 2016) (attached as Ex. 23).

<sup>26</sup> Tr. of Venue Mot. Hr’g 58:31 (Feb. 8, 2018) (attached as Ex. 24).

Such widespread media attention in a small community can taint the jury venire in a manner that violates due process. Indeed, this Court has recognized that “[*Rideau*’s] message echoes more than 200 years of human experience in the endless quest for the fair administration of . . . justice.” *Groppi v. Wisconsin*, 400 U.S. 505, 511 (1971).

### III. THE BALANCE OF THE EQUITIES FAVORS A STAY

Applicants will suffer irreparable harm absent a stay from this Court. An eight-week jury trial begins on November 27, 2023. Without review by this Court, applicants will be forced to defend a case in front of a jury incentivized to rule against them, in clear violation of their constitutional rights. As this Court regularly has held, “[t]he loss of . . . freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976); *see also Roman Cath. Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 67 (2020) (per curiam) (same; granting an injunction); *Bob Jones Univ. v. Simon*, 416 U.S. 725, 746 (1974) (denial of due process constitutes irreparable injury when the aggrieved party has no access to judicial review); *cf. Gordon v. Holder*, 721 F.3d 638, 653 (D.C. Cir. 2013) (“a prospective violation of a constitutional right constitutes irreparable injury”); *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012) (“When constitutional rights are threatened or impaired, irreparable injury is presumed.”).

The Louisiana Supreme Court has held that an erroneous denial of a change of venue must be challenged pretrial. That court has held that a failure to transfer

venue constitutes irreparable harm because after a trial “an appellate court has no practical means of correcting the error on appeal.” *Herlitz Constr. Co. v. Hotel Invs. of New Iberia, Inc.*, 396 So. 2d 878, 878 n.1 (La. 1981) (per curiam). Indeed, the Louisiana Supreme Court has held that “the only mechanism by which to challenge an adverse venue ruling is a supervisory writ.” *Land v. Vidrine*, 62 So. 3d 36, 37 (La. 2011). Federal courts agree. See *In re National Presto Indus., Inc.*, 347 F.3d 662, 663 (7th Cir. 2003) (no “adequate remedy for an improper failure to transfer the case by way of an appeal from an adverse final judgment”); *In re Apple, Inc.*, 602 F.3d 909, 912 (8th Cir. 2010) (per curiam) (“The usual post-judgment appeal process is not an adequate remedy for an improper failure to transfer.”); *In re Volkswagen of Am., Inc.*, 545 F.3d 304, 318-19 (5th Cir. 2008) (“[T]he harm . . . will already have been done by the time the case is tried and appealed, and the prejudice suffered cannot be put back in the bottle. . . . [A]n appeal will provide no remedy for a patently erroneous failure to transfer venue.”). Without action by this Court, the trial will proceed against the energy companies with an objectively biased jury panel.

A stay would not prejudice the Parish’s ability to seek relief or meaningfully exacerbate its alleged injuries. Trial will be delayed as the case is transferred to another parish, but the Parish still will be able to present its case at trial. Nor can the Parish reasonably claim prejudice by having to present their trial evidence to an impartial jury. By contrast, applicants will suffer irreparable injury by being required to defend a case in which every single member of the jury in Cameron

Parish has a personal and financial interest in holding applicants liable. The Due Process Clause does not countenance such a result.

### **CONCLUSION**

Applicants respectfully request that this Court stay the commencement of trial pending the consideration and disposition of the concurrently filed petition for a writ of certiorari and any further proceedings in this Court. Applicants also request that this Court enter a temporary emergency stay of the commencement of trial until the Court decides whether to grant this application. In the alternative, applicants request expedited briefing and consideration of the petition, requiring the state respondents to respond to the petition within seven days so that the Court may resolve the petition in advance of November 27, 2023.

Respectfully submitted,



GEORGE ARCENEUX III  
LISKOW & LEWIS  
1200 Camellia Boulevard  
Suite 300  
Lafayette, LA 70508  
(337) 232-7424

JAMES E. LAPEZE  
LISKOW & LEWIS  
701 Poydras Street  
Suite 5000  
New Orleans, LA 70139-5099  
(504) 581-7979

NANCY G. MILBURN  
JENNIFER R. KWAPISZ  
ARNOLD & PORTER KAYE  
SCHOLER LLP  
250 West 55th Street  
New York, NY 10019-9710  
(212) 836-8000

*Counsel for Applicant  
BP America Production Company*

CRAIG ISENBERG  
DAVID N. LUDER  
KYLE W. SIEGEL  
ALEXANDRA L. GJERTSON  
BARRASSO USDIN KUPPERMAN  
FREEMAN & SARVER, L.L.C.  
909 Poydras Street  
Suite 2350  
New Orleans, LA 70112  
(504) 589-9700

*Counsel for Applicant  
Hilcorp Energy Company*

DAVID C. FREDERICK  
*Counsel of Record*  
DANIEL S. SEVERSON  
D. CHANSLOR GALLENSTEIN  
KELLOGG, HANSEN, TODD,  
FIGEL & FREDERICK, P.L.L.C.  
1615 M Street, N.W.  
Suite 400  
Washington, D.C. 20036  
(202) 326-7900  
(dfrederick@kellogghansen.com)

R. KEITH JARRETT  
MARK L. MCNAMARA  
KELLY BRECHTEL BECKER  
CHERRELL S. TAPLIN  
LAURA SPRINGER BROWN  
LISKOW & LEWIS  
701 Poydras Street  
Suite 5000  
New Orleans, LA 70139  
(504) 581-7979

AMY ALLUMS LEE  
LISKOW & LEWIS  
1200 Camellia Boulevard  
Suite 300  
Lafayette, LA 70508  
(337) 232-7424

MICHAEL J. MAZZONE  
HAYNES AND BOONE, LLP  
1221 McKinney, Suite 4000  
Houston, TX 77010  
(713) 547-2115

*Counsel for Applicant  
Shell Oil Company*

October 17, 2023