

FILED

No. A25-0419

March 18, 2025

STATE OF MINNESOTA
IN COURT OF APPEALS

OFFICE OF
APPELLATE COURTS

STATE OF MINNESOTA, by its Attorney General, Keith Ellison,

Respondent,

v.

AMERICAN PETROLEUM INSTITUTE, *et al.*,

Defendants,

KOCH INDUSTRIES, INC., *et al.*,

Petitioners.

On Petition for Discretionary Review
from the District Court, Second Judicial District for the County of Ramsey,
No. 62-cv-20-3837 (Hon. Reynaldo Aligada, Jr.)

**MOTION FOR LEAVE TO PARTICIPATE AS *AMICUS CURIAE*
IN SUPPORT OF PETITIONERS BY THE CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA**

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March 18, 2025

Pursuant to Minnesota Rule of Civil Appellate Procedure 129.01, the Chamber of Commerce of the United States of America (“Chamber”) respectfully moves this Court for leave to file a brief as *amicus curiae* in support of Petitioners’ petition for review filed March 14.

The Chamber is the world’s largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than 3 million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files *amicus curiae* briefs in cases, like this one, that raise issues of concern to the nation’s business community.

The Chamber has a strong public interest in the legal and policy issues that underlie this case, including issues relating to climate change. The global climate is changing, and human activities contribute to those changes. There is much common ground on which all sides could come together to address climate change with policies that are practical, flexible, predictable, and durable. The Chamber believes that durable climate change policy must be made by Congress, which should both encourage innovation and investment to ensure significant emissions reductions and avoid economic harm for businesses, consumers, and disadvantaged communities. *See, e.g.,* Press Release, Sen. Sheldon Whitehouse, *New Bipartisan, Bicameral Proposal Targets Industrial Emissions for Reduction*

(July 25, 2019), <https://tinyurl.com/y49xfg3a> (reporting the Chamber's support for the bipartisan Clean Industrial Technology Act). U.S. climate policy should recognize the urgent need for action, while maintaining the national and international competitiveness of U.S. industry and ensuring consistency with free enterprise and free trade principles. See U.S. Chamber of Commerce, *Our Approach to Climate Change* (Apr. 19, 2020), <https://tinyurl.com/2rt944pw>. Governmental policies aimed at achieving these goals should not be made by the courts, much less by a patchwork of actions under state law.

Climate change, by its very nature, is an interstate and international problem, and so should be resolved by federal common law. The cross-border nature of climate change implicates uniquely federal interests for which a uniform federal policy and the application of federal common law are essential.

In the limited range of circumstances where uniquely federal interests arise, the relevant legal questions often intersect with the interests of many of the Chamber's members, as they rely on the predictability and uniformity of federal policy. This case falls within that limited range: the Chamber and its members have a strong interest in ensuring that claims for which a uniform federal standard is necessary are governed by federal law, and not by a patchwork of state laws applied in piecemeal fashion.

The Chamber's *amicus* brief will aid this Court's consideration of the present petition. The brief, which will support Petitioners and argue in favor of an immediate appeal, will address why claims relating to interstate and international

pollution are governed by federal common law, which means there is no state law to apply. The Chamber's brief will also explain the interplay between the application of federal common law and the federal Clean Air Act. A number of other appellate courts, including the U.S. Supreme Court, have accepted submissions by the Chamber on exactly these issues.¹

Finally, precisely because of its broad membership, the Chamber is well suited to aid the Court by giving its perspective on the nationwide importance of this litigation and of immediate appellate review. This is the rare context in which a single state court's determination could well have national—indeed, global—legal and policy ramifications. Before the trial court plunges ahead under state law, this Court should decide whether this suit can proceed at all.

For these reasons, this Court should grant the Chamber leave to file the above-described *amicus* brief in support of Petitioners.

¹ Although the Chamber's brief will focus exclusively on the point that federal law displaces state-law claims for climate change, the Chamber agrees with Petitioners that the First Amendment issues raised in their petition also warrant this Court's immediate review.

Dated: March 18, 2025

Respectfully submitted,

/s/ Sylvia Ewald

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CERTIFICATE OF COMPLIANCE

This motion complies with the type volume limitations of Minnesota Rule of Civil Appellate Procedure 129.01(c) because it contains 683 words, excluding the parts exempted by that rule.

This motion complies with the formatting requirements of Minnesota Rule of Civil Appellate Procedure 132.02 because it is 8-1/2 by 11 inches in size with typewritten matter not exceeding 6-1/2 by 9-1/2 inches, is doubled spaced, and uses 13-point type.

Dated: March 18, 2025

Respectfully submitted,

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