

September 28, 2018

Mr. Stephen K. Benjamin
Mayor of Columbia and President,
The United States Conference of Mayors
1737 Main Street
Columbia, SC 29201

Mr. Tom Cochran
CEO and Executive Director
The United States Conference of Mayors
1620 I Street NW
Washington D.C. 20006

Dear Messrs. Benjamin and Cochran,

As you gather in Columbia this week to address issues affecting cities across the country, we write to you to follow up on the trend of public nuisance litigation that continues to threaten communities across the country. To date, fifteen municipalities have filed this type of lawsuit against energy manufacturers. Despite none having been successful to date, mayors and other local public officials continue to file these suits that are motivated by politics and financial gain rather than improving the environment. It is our hope that by again bringing this issue to your attention, we can work together on productive ways to reverse this concerning trend and focus on meaningful solutions.

The National Association of Manufacturers has been leading the response to this threat through the Manufacturers' Accountability Project (MAP), a national effort aimed at pushing back against baseless legal attacks on manufacturers in America.¹ Since launching last November, the MAP has worked to educate stakeholders about the efforts of plaintiffs' attorneys and public officials who are filing these lawsuits.

While many different manufacturing sectors are being targeted by litigation based on expanded interpretations of public nuisance tort law theory, energy manufacturers have been a primary focus of these suits over the past year. Fourteen cities and counties and one state have filed public nuisance lawsuits against several energy manufacturers, alleging that they should be held liable for the impacts of global climate change.² Unfortunately, these lawsuits do nothing to improve the environment. Yet, as *Bloomberg* reported earlier this year, the five biggest oil and natural gas companies reduced their emissions by an average of 13 percent between 2010 and 2015, outpacing the United States' 4.9 percent reduction over the same period.^{3,4}

Over the past several months, our position has been reinforced by the rulings of two federal judges in California and New York. In his dismissal of two complaints brought by San Francisco and Oakland, U.S. District Judge William Alsup stated,

"The scope of plaintiffs' theory is breathtaking. It would reach the sale of fossil fuels anywhere in the world, including all past and otherwise lawful sales, where the seller knew that the combustion of fossil fuels contributed to the phenomenon of global warming...Their theory rests on the sweeping proposition that otherwise lawful and everyday sales of fossil fuels, combined with an

¹ <http://mfqaccountabilityproject.org/2017/11/13/manufacturers-accountability-project-exposing-and-counteracting-network-to-denigrate-manufacturing-in-america/>

² <https://www.sheredling.com/wp-content/uploads/2018/01/1.22.18-NEWS-RELEASE-City-Sues-Fossil-Fuel-Companies-for-Climate-Change-Damages.pdf>

³ <https://www.bloomberg.com/news/articles/2017-09-18/big-oil-becomes-greener-with-cuts-to-greenhouse-gas-pollution>

⁴ <https://www3.epa.gov/climatechange/ghgemissions/inventoryexplorer/#allsectors/allgas/gas/all>



awareness that greenhouse gas emissions lead to increased global temperatures, constitute a public nuisance.”⁵

Further, U.S. District Judge John Keenan emphasized that the core issue underlying these cases is a policy decision that only the legislative and executive branches, not the judiciary, can address:

“Climate change is a fact of life, as is not contested by Defendants. But the serious problems caused thereby are not for the judiciary to ameliorate. Global warming and solutions thereto must be addressed by the two other branches of government.”⁶

Despite these dismissals, mayors and other public officials continue to file this type of litigation, ignoring the fact that undermining the manufacturing sector through baseless litigation is counterproductive. Manufacturers are an integral part of our nation’s framework, contributing \$2.33 trillion to the country’s economy. Manufacturers also make up over 8 percent of the workforce, with nearly 12.75 million workers in the United States.⁷

We look forward to working with the U.S. Conference of Mayors to help address this growing trend of public nuisance litigation that stands to harm all manufacturers in America. We ask you today to consider how these lawsuits have affected or may impact your courtrooms and constituents, and we seek to partner with the U.S. Conference of Mayors and its members to work toward putting an end to these lawsuits and focus on real solutions.

Respectfully,

National Association of Manufacturers

Alaska Chamber
Arizona Manufacturers Council
California Manufacturers & Technology Association
Colorado Chamber of Commerce
Connecticut Business & Industry Association
Delaware Manufacturing Association
Associated Industries of Florida
Chamber of Commerce of Hawai'i
Indiana Manufacturers Association
Iowa Association of Business & Industry
Kansas Chamber of Commerce
Maryland Chamber of Commerce
Associated Industries of Missouri
Montana Manufacturers Association
Nebraska Chamber of Commerce & Industry
Nevada Manufacturers Association
New Jersey Business & Industry Association
New Mexico Business Coalition

⁵ <http://mfgaccountabilityproject.org/wp-content/uploads/2018/06/Alsup-dismissal-of-SF-Oakland-lawsuits.pdf>

⁶ <https://www.reuters.com/article/us-new-york-climatechange-lawsuit/oil-majors-win-dismissal-of-new-york-city-climate-lawsuit-idUSKBN1K931T>

⁷ <http://www.nam.org/Newsroom/Facts-About-Manufacturing/>



The Business Council of New York State, Inc.
North Carolina Chamber
Great North Dakota Chamber
North Dakota Manufacturing Council
The Ohio Manufacturers' Association
Pennsylvania Manufacturers' Association
South Carolina Chamber of Commerce
Texas Association of Business
West Virginia Manufacturers Association
Wisconsin Manufacturers & Commerce
Alliance of Wyoming Manufacturers

CC: Lindsey de la Torre, Manufacturers' Accountability Project