

A scenic landscape featuring a mountain peak, a forest, and a lake with reflections. The sky is blue with some clouds, and the water is clear, reflecting the surrounding greenery and rocks.

ROPES & GRAY

# Greenwashing Litigation Trends Update

## Greenwashing Litigation Update – U.S.

The following is a summary of significant greenwashing litigation developments in the United States during the first part of 2026. It covers actions by federal and state governmental actors, private plaintiffs, and shareholder activists.

This year has seen key judicial rulings — including a Supreme Court certiorari grant in the [Boulder climate case](#) — that will shape the trajectory of greenwashing litigation for the remainder of 2026 and beyond. At the state level, a recent [Arizona AG’s settlement](#) demonstrated continued willingness to use consumer protection laws to target product-level greenwashing claims, and the [California Supreme Court’s acceptance of \*Environmental Democracy Project v. Rael\*](#) could expand the reach of organic labeling laws to new product categories. At the same time, the federal regulatory posture has continued to shift toward deregulation, creating a patchwork enforcement environment in which state attorneys general, private plaintiffs, and shareholder activists are driving the bulk of greenwashing accountability.

### Government Action

Federal enforcement of greenwashing claims remained limited during the early months of 2026, consistent with the broader pullback on climate- and ESG-related initiatives under the current administration. Meanwhile, state-level enforcement continued to be an active area of greenwashing scrutiny.

#### ARIZONA AG SETTLES GREENWASHING CASE OVER “RECYCLING” BAGS

The Arizona Attorney General filed suit<sup>1</sup> in August 2025 against a consumer products company, alleging violations of the Arizona Consumer Fraud Act for marketing “Recycling” bags as recyclable when they are not accepted by Arizona municipal recycling programs. The [complaint](#) alleged that the packaging — which prominently featured the word “RECYCLING” and images of bags filled with recyclable items such as cans and bottles — constituted “greenwashing” that induced environmentally conscious consumers to pay a premium for products that were actually non-recyclable in Arizona, and could cause mechanical shutdowns at recycling facilities if they became entangled in sorting equipment. On February 23, 2026, the AG [announced a \\$212,000 settlement](#) resolving the lawsuit. Under the consent judgment, the company must pay \$30,000 in consumer restitution, implement a nationwide packaging redesign (estimated to cost at least \$80,000), remove images of recyclable materials, and add a front-of-box statement that “These Bags Are Not Recyclable.” It is also prohibited from selling “recycling” bags under the brand in Arizona unless the bags are accepted at a substantial majority of municipal recycling facilities.

#### NEW YORK CITY OIL INDUSTRY GREENWASHING APPEAL

New York City sued<sup>2</sup> several large oil companies and an industry group in April 2021 under the New York City Consumer Protection Law, alleging that the defendants engaged in both “product greenwashing” (touting the environmental benefits of specific fuel products while failing to disclose their role in causing climate change) and “corporate greenwashing” (overstating investments in clean energy and alternative energy sources). The trial court [dismissed the case](#) in January 2025, finding that because the link between fossil fuels and climate change is public knowledge, a reasonable consumer could not have been misled, and that the companies’ corporate statements about clean energy were not made “in connection with” the sale of consumer goods as required by the statute. The City filed a notice of appeal, and the case was [fully briefed](#) before the Appellate Division. Oral argument [occurred on April 15, 2026](#). The appeal presents a significant test of whether New York City’s consumer protection law can be used to challenge corporate greenwashing claims that are not directly tied to the sale of a specific product, and the outcome may be further shaped by the U.S. Supreme Court’s forthcoming decision in *Suncor v. Boulder County* on the preemption of state law climate claims by federal law.

#### MARYLAND SUPREME COURT DISMISSES THREE LOCAL CLIMATE LAWSUITS

In a potentially significant [decision](#) issued on March 24, 2026, the Supreme Court of Maryland affirmed the dismissal of three consolidated climate change lawsuits<sup>3</sup> brought by Baltimore (filed July 2018), Anne Arundel County, and the City of Annapolis (both filed February 2021) against 26 multinational oil and

<sup>1</sup> *State of Arizona ex rel. Kris Mayes, Attorney General v. Reynolds Consumer Products Inc. et al.* (Maricopa County Superior Court, No. CV2025-029649).

<sup>2</sup> *City of New York v. Exxon Mobil Corp. et al.* (New York Supreme Court, Appellate Division, First Department, No. 2025-01687).

<sup>3</sup> *Mayor & City Council of Baltimore v. B.P. P.L.C., et al.; Anne Arundel County v. B.P. P.L.C., et al.; City of Annapolis v. B.P. P.L.C., et al.* (Supreme Court of Maryland, No. SCM-REG-0011-2025, September Term 2025).

gas companies. The local governments asserted five Maryland common law causes of action (public nuisance, private nuisance, trespass, negligent failure to warn, and strict liability failure to warn) alleging that the defendants extracted, produced, promoted, and marketed fossil fuel products whose intended use caused greenhouse gas emissions and climate change injuries (including sea-level rise, flooding, and property damage), while deceiving consumers and the public about the dangers. The Supreme Court of Maryland held that the local governments' state law claims are displaced and preempted by federal law, reasoning that the claims effectively sought to regulate interstate and international air emissions, which is a matter governed by federal common law and, ultimately, by the Clean Air Act. The court wrote: "No amount of creative pleading can masquerade the fact that the local governments are attempting to utilize state law to regulate global conduct that is purportedly causing global harm." The decision is at least arguably in contrast with decisions from the supreme courts of Hawaii and Colorado, which allowed similar suits to proceed in state court, and sharpens the split that the U.S. Supreme Court may address in *Suncor v. Boulder County* (discussed below).

## Private Action

Private greenwashing litigation saw substantial activity in the opening months of 2026, including several dispositive rulings and a Supreme Court grant of certiorari that could result in a potentially significant decision in early-to-mid-2027.

### SUPREME COURT TAKES UP LANDMARK CLIMATE PREEMPTION QUESTION

On February 23, 2026, the U.S. Supreme Court [granted certiorari](#) in *Suncor Energy (U.S.A.) Inc. v. Board of County Commissioners of Boulder County*,<sup>4</sup> agreeing to consider whether federal law precludes state law tort claims seeking relief for injuries allegedly caused by interstate and international greenhouse gas emissions and their effects on the global climate. Boulder's underlying suit, filed in 2018, alleges that Suncor and another oil company knowingly caused climate change while concealing the dangers of fossil fuels, and asserts claims for [public nuisance, private nuisance, trespass, and unjust enrichment](#). The Court also asked the parties to brief whether it has statutory and Article III jurisdiction to hear the case. On February 18, 2026, the EPA [rescinded its](#) 2009 Greenhouse Gas Endangerment Finding (in which the EPA had determined that six key greenhouse gases threaten public health and welfare), concluding that it lacks

statutory authority to regulate greenhouse gas emissions under the Clean Air Act. The rescission may complicate the federal government's preemption argument, as plaintiffs could contend that the absence of federal regulatory authority weakens the case for displacing state law claims. This is a potentially decisive case for the future of state law climate and greenwashing litigation nationwide.

### AMERICAN TECHNOLOGY COMPANY "CARBON NEUTRAL" CLASS ACTION DISMISSED

On February 20, 2026, a U.S. District Court Judge granted an American multinational technology company's [motion to dismiss](#) a proposed class action challenging the company's "carbon neutral" claims for its smartwatch. The court found that "every layer of Plaintiffs' allegations about the company's sales of its smartwatches are based on unsubstantiated assumptions" and that plaintiffs failed to adequately substantiate their technical critiques of the company's carbon offset projects. The plaintiffs [challenged](#) the company's reliance on carbon credits from projects certified under the Verified Carbon Standard, contending that forestry and plantation initiatives in Kenya, China, and Paraguay failed to deliver real emissions reductions.

### CALIFORNIA SUPREME COURT TO REVIEW ORGANIC LABELING LAW'S SCOPE

The Environmental Democracy Project (EDP), a California organization and frequent plaintiff in environmental litigation, sued<sup>5</sup> a manufacturer of feminine hygiene products, seeking to enjoin it from marketing certain products as "organic" or "made with organic" materials in alleged violation of the California Organic Food and Farming Act (COFFA). EDP alleged that the products contained far less than the minimum required percentage (70% or 95%) of certified organic materials and included several synthetic or non-organic components not permitted under state and federal organic standards. The Superior Court of Alameda County granted judgment on the pleadings for the defendant company, holding that COFFA did not apply to personal care products. On November 26, 2025, the California Court of Appeal [reversed](#), holding that COFFA applies broadly to all products sold as "organic" or containing "organic" materials in California, including feminine hygiene products, unless specifically exempted. The case was [accepted for review by the California Supreme Court](#) during the week of March 16, 2026. The case presents a potentially significant question

<sup>4</sup> *Suncor Energy (U.S.A.) Inc. v. Board of County Commissioners of Boulder County* (U.S. Supreme Court, No. 25-170).

<sup>5</sup> *Environmental Democracy Project v. Rael, Inc.* (California Supreme Court, No. [S294668](#); originally Cal. Ct. App., First Dist., Div. Two, No. A170385).

for greenwashing litigation involving organic product labeling: whether California’s organic law applies only to specifically enumerated product categories (agricultural products, cosmetics, and pet food) or to any product marketed as “organic” in the state.

## NET-ZERO GREENWASHING SUIT REMANDED TO D.C. SUPERIOR COURT

Mighty Earth filed a lawsuit<sup>6</sup> on September 29, 2025, alleging that the U.S. subsidiary of a global meat processor is deceiving Washington, D.C. consumers with false and misleading representations that it will achieve “Net Zero by 2040,” in violation of the D.C. Consumer Protection Procedures Act (CPPA). The complaint alleges that the U.S. defendant’s net-zero commitment covers only Scope 1 and 2 (operational) emissions (representing just 3% of the global group’s total emissions) while excluding Scope 3 supply chain emissions (97% of total emissions), which include methane from livestock and CO2 from deforestation. The complaint further alleges that the parent raised \$3 billion from investors through “Sustainability-Linked Bonds” that were tied to these misleading net-zero commitments. The company removed the case to federal court in November 2025, but on March 16, 2026, the U.S. District Court for the District of Columbia [granted Mighty Earth’s motion to remand](#) the case to D.C. Superior Court and denied the company’s motion to dismiss. The case involves net-zero claims similar to those that resulted in a November 2025 settlement between the New York Attorney General and the U.S. subsidiary for \$1.1 million.

## SHRIMP PRODUCER SUED OVER FALSE SUSTAINABILITY MARKETING

On March 11, 2026, organizations [Corporate Accountability Lab](#) and GMO/Toxin Free USA (both recurring plaintiffs in consumer claims) [filed a consumer protection complaint](#)<sup>7</sup> alleging that a seafood producer falsely markets its farmed shrimp products as “pure,” “sustainable,” and “responsibly sourced” under its “Seafood Forever” program, in violation of the D.C. Consumer Protection Procedures Act. The complaint alleges that the seafood

producer’s supply chain is “riddled with unsustainable and harmful practices,” including that its shrimp suppliers in India, Indonesia, and Vietnam are linked to forced labor, debt bondage, hazardous working conditions, groundwater contamination, and destruction of coastal ecosystems. Additionally, the complaint cites five FDA recalls of the seafood producer’s shrimp products between August and October 2025 for possible Cesium-137 (radioactive) contamination traced to an Indonesian supplier, and repeated FDA import refusals for banned antibiotic residues. The plaintiffs seek only injunctive relief (not monetary damages) to halt the seafood producer’s allegedly deceptive marketing. The case represents a novel application of greenwashing theories to both environmental sustainability and human rights claims in seafood supply chains.

## GREENWASHING RISK AUDIT SHAREHOLDER PROPOSAL

The National Center for Public Policy Research’s Free Enterprise Project submitted a “Greenwashing Risk Audit” proposal to be voted on at a public company’s annual meeting, requesting that the board issue a report assessing financial risks and costs associated with the company’s climate commitments, including its Climate Action Plan targets of a 39% emissions reduction by 2030 and 100% clean energy by 2035. The proposal received only approximately 1.43% of votes in favor and was [rejected by shareholders](#) at the January 15, 2026 Annual Meeting. Despite its failure, the proposal reflects increasing attention on corporate environmental claims and the associated litigation risk from both pro- and anti-ESG perspectives.

For more information on any of these issues, or if you would like to speak with someone with particular experience in any of these areas, please email Alexander Simkin ([Alexander.Simkin@ropesgray.com](mailto:Alexander.Simkin@ropesgray.com)), Michael Littenberg ([Michael.Littenberg@ropesgray.com](mailto:Michael.Littenberg@ropesgray.com)), Eileen Falk ([Eileen.Falk@ropesgray.com](mailto:Eileen.Falk@ropesgray.com)), or Matt Luchinsky ([Matthew.Luchinsky@ropesgray.com](mailto:Matthew.Luchinsky@ropesgray.com)).

<sup>6</sup> *Mighty Earth v. JBS USA Food Company* (D.C. Superior Court, originally No. 2025-CAB-006549; removed to U.S. District Court, D.C., No. [1:2025-cv-04138](#); remanded to D.C. Superior Court, March 16, 2026).

<sup>7</sup> *Corporate Accountability Lab & GMO/Toxin Free USA v. Aqua Star (USA) Corp.* (D.C. Superior Court, No. 2026-CAB-001574).