20250341 - Filed 11-07-2025
NORTH DAKOTA SUPREME COURT

IN THE SUPREME COURT OF THE STATE OF NORTH DAKOTA

Energy Transfer LP (formerly known as Energy Transfer Partners Equity, L.P); Energy Transfer Operating, L.P. (Formerly known as Energy Transfer Partners, L.P.); and Dakota Access, LLC, Petitioners, vs. Greenpeace International (also known as "Stiching Greenpeace Council"); Greenpeace, Inc.; Greenpeace Fund, Inc.; Red Warrior Society (also known as "Red Warrior Camp"); Cody Hall; and Krystal Two Bulls, Respondents.	)	**Supreme Court Case No. 20250341** **District Court Case No. 30-2019**

BRIEF OF AMICUS CURIAE, THE AMERICAN ENERGY ASSOCIATION, IN SUPPORT OF PETITIONERS' PETITION FOR SUPERVISORY WRIT

SOUTH CENTRAL JUDICIAL DISTRICT
MORTON COUNTY DISTRICT COURT
THE HONORABLE JAMES D GION, PRESIDING

Charles B. Meyer (*pro hac forthcoming)*
Law Firm of Chuck Meyer, PLLC
2001 Timberloch Place, Suite 500
The Woodlands, TX 77380
Telephone: +1 (713) 532-9357 (o)
Telephone: +1 (713) 306-0281(c)

Charles@i2ilaw.com

Daniel Nagle (ND ID 05959)
Kelsch Ruff Kranda Nagle & Ludwig
103 Collins Ave, P.O. Box 1266
Mandan, North Dakota 58554
Telephone: 701 663-9818
Facsimile: 701 663-9810

dnagle@kelschlaw.com

COUNSEL FOR AMICUS CURIAE AMERICAN ENERGY ASSOCIATION

TABLE OF CONTENTS

Table of Authorities

Constitutional Provisions

Statues

IDENTITY AND INTEREST OF AMICUS CURIAE

[1] The American Energy Association ("AEA") is a national nonprofit organization representing producers, suppliers, and consumers of American energy. AEA's members include companies with significant operations and investment in the Bakken region, where stable and predictable legal frameworks are critical to energy production, infrastructure, and employment.

AEA's mission is to promote sound public policy supporting affordable, reliable, and secure domestic energy. It advocates before federal and state institutions on matters affecting energy infrastructure, permitting, and investment certainty. Because AEA's members invest heavily in North Dakota's energy sector, the organization has a direct interest in ensuring that the State's courts remain the final arbiters of North Dakota disputes and that verdicts rendered here are not undermined by collateral proceedings abroad.

[2] AEA files this brief to assist the Court in understanding how the district court's denial of an anti-suit injunction, if left standing, could unsettle expectations vital to the State's energy economy and the integrity of its judiciary.

INTRODUCTION

[3] The American Energy Association, as Amicus Curiae, files this brief to highlight the profound, detrimental effect the District Court's Order denying the anti-suit injunction has on the authority and integrity of North Dakota's judicial system and the ability of U.S. companies to secure and enforce property rights. This is not a dispute over a mere procedural ruling; it is a confrontation between the finality of a North Dakota jury verdict

— a finding that condemned tortious conduct (conspiracy, tortious interference, and defamation) and awarded nearly $670 million in damages — and a calculated, post-trial campaign of vexatious, extra-territorial litigation. The District Court's recent order of October 29, 2025[1] — partially reducing but reaffirming the $345 million judgment — illustrates the continued vitality of the verdict and the ongoing risk that foreign proceedings could render even a modified judgment unenforceable.

Comity, properly understood, protects the reliability of domestic judgments on which cross-border investment depends.

[4] The Respondent, having failed to convince a North Dakota jury that its actions were permissible, has explicitly turned to a foreign jurisdiction (The Netherlands, leveraging the EU's anti-SLAPP policy) with the singular goal of obtaining a "global veto" over this state's judgment, effectively asking the Dutch court to declare the U.S. case "manifestly unfounded and abusive." This action directly threatens the stability of transatlantic legal cooperation, which is essential to the $750 billion U.S.–EU energy pact and Europe's strategic energy security. The failure to issue the injunction represents an

---

[1] *Order on Post-Trial Motions, Energy Transfer LP v. Greenpeace*, No. 09-2019-CV-02911 (N.D. Dist. Ct. Morton Cnty. Oct. 28, 2025) (Gion, J.) (reducing punitive and duplicative defamation damages, vacating trespass and conversion counts, but reaffirming interference and nuisance awards totaling roughly $345 million); *See also* Mary Steurer, **Judge Slashes Jury Damages in Greenpeace Case to $345 Million**, *North Dakota Monitor* (Oct. 29, 2025), https://northdakotamonitor.com/2025/10/29/judge-slashes-jury-damages-in-greenpeace-case-to-345-million (reporting that the district court reduced, but left intact, approximately $345 million in damages).

unprecedented abdication of North Dakota's sovereign authority to determine the rights of parties within its borders and demands the immediate corrective intervention of this Court via a Supervisory Writ.

STATEMENT OF THE ISSUE

[5] The Issue Presented by Petitioners is whether the district court's refusal to enjoin Greenpeace from pursuing its Dutch action — which collaterally attacks the jury verdict, and seeks to block enforcement of the judgment, in this case — affects fundamental interests and requires a supervisory writ to prevent injustice.

[6] The Amicus Curiae supports an affirmative answer, arguing that the District Court committed a fundamental error of law and an abuse of discretion by prioritizing generalized notions of international comity over the North Dakota court's supreme interest in protecting the finality and integrity of its own judgment against a clearly vexatious collateral attack filed for the express purpose of evading domestic liability.

STANDARD FOR SUPERVISORY JURISDICTION AND REVIEW

[7] This Court has repeatedly exercised its supervisory jurisdiction to review orders granting or denying interim injunction relief when the order affects private litigants' fundamental interests or concerns a matter of important public interest. *Black Gold OilField Servs., LLC v. City of Williston*, 2016 ND 30, ¶¶ 9-10, 875 N.W.2d 515 (exercising supervisory jurisdiction over district court's order denying preliminary injunction); see also N.D. Const. art. VI, § 2.

[8] This Court reviews an order denying injunctive relief for an abuse of discretion, which occurs when a court misinterprets or misapplies the law, or acts in an arbitrary,

unreasonable, or unconscionable manner. *Black Gold*, 2016 ND 30, ¶ 12.

SUMMARY OF THE ARGUMENT

[9] The district court's refusal to enjoin Greenpeace's foreign proceeding warrants supervisory review. The Dutch action is not a "parallel" lawsuit; it is a collateral attack on a North Dakota verdict that remains pending in this Court's appellate process. By asking a foreign tribunal to declare Energy Transfer's claims "manifestly unfounded" and to impose damages that offset or nullify the jury's award, Greenpeace seeks to undermine the authority of North Dakota's courts and the integrity of their judgments.

[10] Supervisory review is appropriate when an order affects fundamental private rights or raises issues of significant public importance. Both are present here. Energy Transfer faces the loss of its lawfully obtained verdict, and the State's judiciary faces a challenge to its sovereignty from abroad. The decision below misapplied comity and overlooked the State courts' inherent authority to prevent harassment and preserve their judgments.

[11] The requested anti-suit injunction is fully consistent with precedent, comity, and equity. It would protect the verdict and ongoing appellate process, ensure respect for North Dakota's judicial determinations, and reaffirm that foreign courts may not interfere with a State's ability to administer justice within its own borders.

STATEMENT OF THE CASE

[12] Energy Transfer LP filed this action in North Dakota state court in 2017, alleging that Greenpeace's campaign against the Dakota Access Pipeline crossed from advocacy into tortious interference, conspiracy, and defamation. After extensive discovery and motion practice, the case proceeded to trial in early 2025. A Morton County jury returned a

unanimous verdict in Energy Transfer's favor, finding Greenpeace liable for multiple torts and awarding substantial compensatory and punitive damages.

[13] Seven months before trial, Greenpeace initiated a separate action in Amsterdam under the Netherlands' "anti-SLAPP" directive. That suit seeks a declaration that Energy Transfer's claims are "manifestly unfounded," an award of damages including any amounts owed under the North Dakota verdict, and an order barring enforcement of that verdict within the European Union. The district court denied Energy Transfer's request to enjoin that foreign action, reasoning that the Dutch proceeding involved distinct issues and that comity counseled restraint. This petition for supervisory review followed. As one federal court observed, "one needed only turn on a television set or read any newspaper" to see protestors chaining themselves to equipment, vandalizing machinery, trespassing on private land, obstructing work, and taunting law enforcement. *Dakota Access, LLC v. Archambault*, 2016 WL 5107005, at *2 (D.N.D. Sept. 16, 2016).

ARGUMENT

[14] I. THIS COURT'S SUPERVISORY REVIEW IS WARRANTED BECAUSE THIS CASE IMPLICATES FUNDAMENTAL PRIVATE INTERESTS AND IMPORTANT PUBLIC INTERESTS.

[15] This Court exercises supervisory jurisdiction when an order "affects fundamental interests of the litigants" or presents "matters of important public interest." *Black Gold*, 2016 ND 30 ¶ 10; see *ND Indoor RV Park, LLC v. State ex rel. N.D. Dep't of Health*, 2025 ND 92 ¶ 14, 20 N.W.3d 686. Both conditions are satisfied here: Greenpeace's Dutch action directly (A) threatens Energy Transfer's ability to preserve its $131 million verdict against

Greenpeace, and (B) undermines the authority of North Dakota courts to render final, binding decisions.

II. GREENPEACE'S DUTCH ACTION THREATENS ENERGY TRANSFER'S MOST FUNDAMENTAL PRIVATE INTERESTS.

[16] The district court's refusal to enjoin Greenpeace's Dutch action imperils Energy Transfer's ability to preserve and ultimately enforce the $131,889,740 verdict it lawfully obtained against that entity after a three-week trial. Final judgment hasn't even been entered yet, and appellate review remains outstanding. Greenpeace nevertheless seeks to preempt that process by asking a Dutch court to brand the case "manifestly unfounded" and to impose damages designed to erase the verdict. If allowed to proceed, the Dutch action would cast immediate doubt on the enforceability of any North Dakota judgment before it's even rendered. Even after the district court's October 29 Order reducing but confirming the jury's award, final judgment remains subject to appellate review.

[17] That isn't a routine litigation burden — it's an existential threat to Energy Transfer's right to secure "the full and complete administration of justice" and to "carry into effect" the jury's verdict. *Matrix Props. Corp. v. 1AG Invs.*, 2002 ND 86 ¶ 19, 644 N.W.2d 601 (quoting N.D.C.C. § 27-05-06(3)).

[18] North Dakota law also protects a litigant's right to be free from harassing, vexatious, repeat litigation. *Fed. Land Bank of St. Paul v. Ziebarth*, 520 N.W.2d 51, 56–58 (N.D. 1994). The Dutch action is just that: an effort to force Energy Transfer into a second round of litigation on issues already tried and decided. Litigating the same dispute in Amsterdam and Bismarck simultaneously wastes enormous resources, imposes duplicative

costs, and risks inconsistent rulings. Those burdens are precisely the sort of burdens this Court has long granted injunctive relief to prevent. See, e.g., id. (enjoining "attempts to relitigate issues" already decided).

The inefficiency is underscored by the European Union's own anti-SLAPP directive, which contemplates that parties may seek protection in their home courts after foreign proceedings conclude. (E9:12:art. 17(2)). There's no legitimate reason to ask a Dutch court now to declare this case "manifestly unfounded" while it's still being litigated on the merits in North Dakota and subject to appellate review in this Court.

[19] III. GREENPEACE'S DUTCH ACTION ALSO THREATENS IMPORTANT PUBLIC INTERESTS AND FALLS SQUARELY WITHIN NORTH DAKOTA COURTS' AUTHORITY TO PREVENT COLLATERAL ATTACKS.

[20] North Dakota has a sovereign interest in ensuring that its courts — not foreign tribunals — decide the validity of North Dakota lawsuits. The District Court's denial of the injunction directly violates North Dakota's **constitutional mandate** to protect the integrity of its judiciary. The Constitution guarantees that the right to trial by jury shall "remain inviolate," and it empowers courts to issue writs "necessary to the proper exercise of their jurisdiction." N.D. Const. art. I, § 13; N.D. Const. art. VI, § 8. Those guarantees mean little if a foreign court can relitigate the merits of a pending case and declare a unanimous jury verdict "unfounded."

North Dakota law already provides a clear and orderly avenue for challenging a judgment-post-trial motions and appellate review. Greenpeace's retaliatory Dutch suit seeks to end-run that process, depriving North Dakota courts of their constitutional role and stripping

the State of its ability to provide meaningful relief.

[21] This Court's precedent confirms that regular channels for appellate review are the proper means of challenging a judgment-not collateral lawsuits in foreign courts. In *Federal Land Bank*, this Court upheld an injunction against a party who repeatedly tried to reopen settled matters, emphasizing courts' inherent power to "protect their jurisdiction and judgments, the integrity of the court, and the orderly and expeditious administration of justice." 520 N.W.2d at 58. Likewise, in *State ex rel. Employees of State Penitentiary v. Jensen*, the Court approved injunctive relief to halt harassing lien filings that threatened irreparable harm and undermined the judicial process. 331 N.W.2d 42, 47-48 (N.D. 1983). And in *Holkesvig v. Welte*, the Court affirmed an injunction barring a litigant from filing new lawsuits that were "simply attempting to relitigate the same claims and issues" already decided. 2012 ND 142 ¶ 10, 818 N.W.2d 760. The principle is consistent: when judgments are under assault — whether by repetitive filings or other collateral tactics — North Dakota courts act to stop it.

[22] State courts, like their federal counterparts, possess inherent equitable authority to enjoin parties within their jurisdiction from prosecuting foreign proceedings that threaten the integrity of domestic judgments. See, e.g., *Lee v. Grimblat*, 234 A.D.3d 491 (N.Y. App. Div. 2025) (granting anti-suit injunction to protect New York judgment from duplicative French action); *First State Ins. Co. v. 3M*, 535 N.W.2d 684 (Minn. Ct. App. 1995) (affirming anti-suit injunction restraining parallel Texas action).

[23] That logic applies with equal force to collateral attacks launched in foreign jurisdictions. Courts nationwide-from state supreme courts to federal appellate courts-have

long recognized that anti-suit injunctions are essential to protect an American court's authority and preserve the integrity of its judgments. See, e.g., *Laker Airways*, 731 F.2d at 927–29 (courts must protect "their legitimately conferred jurisdiction to the extent necessary to provide full justice to litigants"). See also *Lee v. Grimblat*, 234 A.D.3d 491, 491 (N.Y. App. Div. 2025) (reversing denial of anti-suit injunction, because "the courts of this state are entitled to protect their judgments by enjoining plaintiff against pursuing a foreign proceeding"); *First State Ins. Co. v. Minn. Mining & Mfg. Co.*, 535 N.W.2d 684, 687 (Minn. Ct. App. 1995) ("It has long been the law in Minnesota that a court may enjoin a party over whom it has in personam jurisdiction from pursuing similar litigation in another court.").

[24] This Court has articulated the same principle: "One of the recognized grounds for granting an injunction is the prevention of multiplicity of suits." *Shark Bros., Inc. v. Cass Cnty.*, 256 N.W.2d 701, 704-05 (N.D. 1977); accord *Wade v. Major*, 162 N.W. 399, 401 (N.D. 1917) (Christianson, J., dissenting). And the need for such injunctions is at its pinnacle when a litigant institutes a foreign action "in a blatant attempt to evade the rightful authority of the forum court." *Quaak v. Klynveld Peat Marwick Goerdeler Bednjfsrevisoren*, 361 F.3d 11, 20 (1st Cir. 2004).

The procedural posture here makes an injunction particularly compelling. This case was filed first, has been litigated for six years, and a unanimous jury rendered its verdict (among the largest jury verdicts in North Dakota history). Greenpeace's Dutch action on the other was filed seven months ago — and less than two weeks before trial began in Morton County.

[25] As a Texas appellate court explained in granting similar relief: "We are aware of

no authority that would have a court, after rendering final judgment, defer to a foreign court for some in futuro action. If anything, we would expect the foreign jurisdiction to invoke comity in the domestic court's favor." *Bridas Corp. v. Unocal Corp.*, 16 S.W.3d 887, 892 (Tex. App.-Houston 14th Dist. 2000, pet. dism'd w.o.j.); accord *London Mkt. Insurers v. Am. Home Assur. Co.*, 95 S.W.3d 702, 706 (Tex. App.-Corpus Christi 2003, no pet.).

[26] Greenpeace's Dutch suit is a textbook example of the kind of collateral attack courts routinely enjoin. It repackages defenses that the jury rejected, seeks to relitigate issues under foreign law, and demands damages designed to offset the verdict.

[27] Worse still, Greenpeace is attempting to bypass the ordinary North Dakota appellate process, instead inviting a foreign court to sit in judgment of — and ultimately to nullify a unanimous jury verdict in — North Dakota's judiciary, all before this Court has the opportunity to exercise appellate review in the ordinary course.

[28] Greenpeace's Dutch suit isn't a legitimate parallel proceeding — it's a strategic end-run around North Dakota's judiciary. Just as in *Federal Land Bank* and *Holkesvig*, where this Court acted to protect judgments from duplicative or harassing litigation, it should act here to prevent Greenpeace from undermining a North Dakota verdict through a foreign collateral attack.

IV. GREENPEACE'S DUTCH ACTION IS EXACTLY THE TYPE OF COLLATERAL LITIGATION THAT ANTI-SUIT INJUNCTIONS EXIST TO PREVENT.

[29] An anti-suit injunction is warranted here. The Dutch action isn't a legitimate parallel proceeding; it's a collateral attack designed to nullify a North Dakota jury verdict.

The district court's failure to grant relief is attributable to one simple but fundamental error: it elevated form over substance by focusing on the label attached to Greenpeace's Dutch cause of action (an "anti-SLAPP" action) rather than the substance of what that claim requires Greenpeace to prove and the consequences of prevailing. See N.D.C.C. § 31-11-05(19) ("An intent to deceive is presumed... as to any one who attempts to evade the law, or the jurisdiction of the court."). By asking a foreign court to declare Energy Transfer's claims "manifestly unfounded and abusive," Greenpeace is effectively attempting to evade the finality of the North Dakota jury's verdict and the jurisdiction of this Court to conduct appellate review.

[30] The Dutch action does not merely present a risk of inconsistent findings; it is a direct attempt to enforce a foreign public policy (anti-SLAPP) upon the judicial policies and established judgments of the State of North Dakota. Such a maneuver is a clear abuse of process. North Dakota courts have an inherent power, recognized by this Court, to protect themselves from attempts to relitigate issues or impose duplicative burdens. See *Fed. Land Bank*, 520 N.W.2d at 58 (enjoining "attempts to relitigate issues" to protect the orderly administration of justice).

[31] The only distinguishing feature of the Dutch action is its timing and target: a post-judgment attack on a North Dakota jury verdict. This only strengthens the case for an anti-suit injunction. The Dutch claim seeks to achieve through foreign means what Greenpeace failed to achieve domestically: the dismissal of Energy Transfer's claims and the nullification of the jury's verdict. Granting the injunction is necessary to prevent this vexatious conduct from disrupting the orderly administration of justice in this state.

V. COMITY DOES NOT REQUIRE DEFERENCE TO A VEXATIOUS

COLLATERAL ATTACK; IT REQUIRES THE INJUNCTION TO PROTECT THE FINALITY OF THE PRIOR DOMESTIC JUDGMENT.

[32] The District Court erred in allowing generalized international comity concerns to override the specific need to protect the **finality and integrity** of its own judgment.

A. North Dakota Was the Court of Prior, Comprehensive Jurisdiction.

[33] The doctrine of comity dictates that a court should show respect for the judicial proceedings of a foreign sovereign. However, where one court has already obtained comprehensive jurisdiction over a case, litigated it fully through a jury trial, and reached a verdict, comity demands deference *to* that court's judgment, not deference *away* from it.

[34] The North Dakota action was filed first, progressed over six years, and culminated in a three-week jury trial resolving all underlying tort claims on the merits. Greenpeace's Dutch action, filed seven months ago and only weeks before trial, constitutes a **belated, collateral attack** designed solely to circumvent the domestic process.

[35] As noted in the Texas jurisprudence, "If anything, we would expect the foreign jurisdiction to invoke comity in the domestic court's favor." *Bridas Corp. v. Unocal Corp.*, 16 S.W.3d 887, 892 (Tex. App.-Houston 14th Dist. 2000, pet. dism'd w.o.j.). By refusing the injunction, the District Court inverted this principle, forcing the prevailing domestic party to now defend the legitimacy of the North Dakota legal system in a foreign forum.

B. The Dutch Action Directly Eviscerates North Dakota's Judicial Integrity.

[36] The core of the Dutch action — a declaration that the North Dakota case is "manifestly unfounded and abusive" — directly challenges the verdict finding Greenpeace liable for conspiracy, defamation, and tortious interference. The jury's finding of liability and its award of $131 million definitively renders Energy Transfer's claims *not*

"unfounded" under North Dakota law. For the Dutch court to rule otherwise requires it to undertake a de facto appellate review of the facts and evidence presented to the North Dakota jury.

[37] This is precisely the type of outcome U.S. courts enjoin to protect **res judicata**. An anti-suit injunction is necessary to "protect or effectuate" the North Dakota judgment, as the foreign suit seeks to nullify the legal effect of the jury's findings by rebranding the U.S. litigation as a tort. *Laker Airways*, 731 F.2d at 927.

[38] Amicus recognizes that principles of international comity ordinarily counsel restraint when parallel proceedings are pending in another sovereign's courts. Comity, however, presupposes mutual respect between judicial systems, not blind deference. Where, as here, the foreign action functions as a collateral attack on a domestic verdict and seeks to nullify findings rendered by a North Dakota jury, comity instead supports injunctive relief to protect the integrity of this State's judgment. Comity is not a suicide pact for a state's judicial authority. It does not require North Dakota to accept the imposition of a foreign jurisdiction's public policy (the EU anti-SLAPP directive) on the final resolution of a dispute that occurred entirely within North Dakota's borders and involved torts governed by North Dakota law. To permit the foreign action to proceed is to allow a foreign court to nullify the sovereign authority of this Court to interpret its own laws and render final judgments.

N.D.R.App.P 29(D) STATEMENT

[39] Pursuant to N.D.R.App.P 29(D), this brief was authoried in whole by the undersigned. No party has contributed moneys for the submission of this brief outside the American Energy Association.

CONCLUSION

[40] The District Court's denial of the anti-suit injunction constitutes a fundamental legal error and an abuse of discretion that directly jeopardizes the finality and enforceability of a unanimous jury verdict. The October 29 Order underscores that the North Dakota courts have already engaged in careful post-trial review. Allowing a foreign tribunal to revisit those same issues would not honor comity—it would erase the very supervisory safeguards North Dakota has just exercised.

[41] Greenpeace's Dutch action is a vexatious collateral attack filed for the express purpose of evading the consequences of its unlawful conduct and circumventing the North Dakota appellate process. If allowed to proceed, the foreign litigation will undermine North Dakota's judicial sovereignty, impose irreparable injury on the Petitioners, and cast a shadow of uncertainty over billions in domestic infrastructure investment and thousands of North Dakota jobs.

For the foregoing reasons, Amicus Curiae, The American Energy Association, respectfully requests that this Honorable Court exercise its supervisory jurisdiction, issue a Supervisory Writ, and direct the District Court to immediately issue the anti-suit injunction preventing Greenpeace from prosecuting its collateral action in the Netherlands — and reaffirm that this Court’s judgments command respect beyond North Dakota’s borders.

CERTIFICATE OF COMPLIANCE

[42] We, Daniel Nagle and Charles B. Meyer hereby certify that this Amicus Curiae brief complies with the page limitation in Rule 32 and Rule 29, N.D.R.App.P., as it is a total of 19 pages, including the cover and final page.

Dated: November 7, 2025

Respectfully Submitted,

/s/ Charles B. Meyer

Charles B. Meyer (*Pro Hac* P03056)

Law Firm of Chuck Meyer, PLLC
2001 Timberloch Place, Suite 500
The Woodlands, TX 77380
Telephone: +1 (713) 532-9357 (o)
Telephone: +1 (713) 306-0281(c)
Charles@i2ilaw.com

/s/ Daniel Nagle

Daniel Nagle (ND ID 05959)

Kelsch Ruff, Kranda Nagle & Ludwig
103 Collins Ave, P.O. Box 1266
Mandan, North Dakota 58554
Telephone: 701 663-9818
Facsimile: 701 663-9810
dnagle@kelschlaw.com

COUNSEL FOR AMICUS CURIAE AMERICAN ENERGY ASSOCIATION