

**UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DOCKETING STATEMENT--CIVIL/AGENCY CASES**

Directions: Counsel must make a **docketing statement (civil/agency) filed** entry in CM/ECF within 14 days of docketing of the appeal, or within the due date set by the clerk's docketing notice, whichever is later. File with the entry the (1) docketing statement form with any extended answers and (2) any transcript order form. Parties proceeding pro se are not required to file a docketing statement. Opposing counsel who finds a docketing statement inaccurate or incomplete may file any objections within 10 days of service of the docketing statement using the ECF event-**docketing statement objection/correction filed**.

Appeal No. & Caption	20-1473, Wheelabrator Baltimore, L.P. v. Mayor and City Council of Baltimore
Originating No. & Caption	1:19-cv-01264-GLR, Wheelabrator Baltimore, L.P. et al v. Mayor and City Council of Baltimore
Originating Court/Agency	United States District Court for the District of Maryland

Jurisdiction (answer any that apply)	
Statute establishing jurisdiction in Court of Appeals	28 U.S.C.A. § 1291
Time allowed for filing in Court of Appeals	30 days
Date of entry of order or judgment appealed	March 27, 2020
Date notice of appeal or petition for review filed	April 22, 2020
If cross appeal, date first appeal filed	N/A
Date of filing any post-judgment motion	N/A
Date order entered disposing of any post-judgment motion	N/A
Date of filing any motion to extend appeal period	N/A
Time for filing appeal extended to	N/A
Is appeal from final judgment or order?	<input checked="" type="radio"/> Yes <input type="radio"/> No
If appeal is not from final judgment, why is order appealable?	

Settlement (The docketing statement is used by the circuit mediator in pre-briefing review and mediation conducted under Local Rule 33. Counsel may make a confidential request for mediation by calling the Office of the Circuit Mediator at 843-731-9099.)	
Is settlement being discussed?	<input checked="" type="radio"/> Yes <input type="radio"/> No

Transcript (transcript order must be attached if transcript is needed and not yet on file)		
Is transcript needed for this appeal?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Has transcript been filed in district court?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Is transcript order attached?	<input type="radio"/> Yes	<input checked="" type="radio"/> No

Case Handling Requirements (answer any that apply)	
Case number of any prior appeal in same case	N/A
Case number of any pending appeal in same case	N/A
Identification of any case pending in this Court or Supreme Court raising similar issue	N/A
	If abeyance or consolidation is warranted, counsel must file an appropriate motion.
Is expedited disposition necessary?	<input type="radio"/> Yes <input checked="" type="radio"/> No
	If yes, motion to expedite must be filed.
Is oral argument necessary?	<input checked="" type="radio"/> Yes <input type="radio"/> No
Does case involve question of first impression?	<input checked="" type="radio"/> Yes <input type="radio"/> No
Does appeal challenge constitutionality of federal or state statute in case to which federal or state government is not a party	<input type="radio"/> Yes <input checked="" type="radio"/> No
	If yes, notice re: challenge to constitutionality of law must be filed.

Nature of Case (Nature of case and disposition below. Attach additional page if necessary.)
<p>Baltimore City enacted an ordinance that regulates emissions from commercial solid waste incinerators.</p> <p>Plaintiffs Wheelabrator and Curtis Bay are solid waste incineration facilities located in Baltimore City. Wheelabrator receives non-hazardous municipal solid waste from homes and businesses in Baltimore City and surrounding counties and converts it into energy. Curtis Bay processes medical waste generated in Baltimore City and the surrounding counties.</p> <p>Plaintiffs Energy Recovery Council and National Waste & Recycling Association are non-profit trade associations that promote the interests of the waste-to-energy industry and for-profit waste companies.</p> <p>Plaintiffs challenged the Baltimore City ordinance as being preempted by federal and state law, ultra vires, and a violation of Plaintiffs' federal and Maryland constitutional rights.</p> <p>The district court dismissed the ultra vires and constitutional claims but found the ordinance preempted by Maryland state air pollution laws.</p>

Issues (Non-binding statement of issues on appeal. Attach additional page if necessary)

Did the district court err in finding that the Baltimore City ordinance was preempted by Maryland state air pollution laws?

Adverse Parties (List adverse parties to this appeal and their attorneys; provide party's address if the party is not represented by counsel. Attach additional page if necessary.)Adverse Party: **WHEELABRATOR BALTIMORE, L.P.**

Attorney: **David M. Friedland**
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Adverse Parties (List adverse parties to this appeal and their attorneys; provide party's address if the party is not represented by counsel. Attach additional page if necessary.)

<p>Adverse Party: WHEELABRATOR BALTIMORE, L.P.</p> <p>Attorney: Joshua H. Van Eaton Address: BEVERIDGE & DIAMOND, PC Suite 700 1350 I Street, NW Washington, DC 20005-3311</p> <p>E-mail: jvaneaton@bdlaw.com</p> <p>Phone: 202-789-6000</p>	<p>Adverse Party: CURTIS BAY ENERGY, L.P.</p> <p>Attorney: Michael Calvin Powell Address: GORDON FEINBLATT LLC Garrett Building 233 East Redwood Street Baltimore, MD 21202</p> <p>E-mail: mpowell@gfrlaw.com</p> <p>Phone: 410-576-4175</p>
<p>Adverse Parties (continued)</p>	
<p>Adverse Party: CURTIS BAY ENERGY, L.P.</p> <p>Attorney: George Faulkner Ritchie, IV Address: GORDON FEINBLATT LLC Garrett Building 233 East Redwood Street Baltimore, MD 21202</p> <p>E-mail: gritchie@gfrlaw.com</p> <p>Phone: 410-576-4131</p>	<p>Adverse Party: CURTIS BAY ENERGY, L.P.</p> <p>Attorney: Michael Trent Zivkovich Address: WHITEFORD, TAYLOR & PRESTON, LLP Suite 1500 7 St. Paul Street Baltimore, MD 21202-1626</p> <p>E-mail: tzivkovich@wtplaw.com</p> <p>Phone: 410-347-8778</p>

Adverse Parties (List adverse parties to this appeal and their attorneys; provide party's address if the party is not represented by counsel. Attach additional page if necessary.)

<p>Adverse Party: ENERGY RECOVERY COUNCIL</p> <p>Attorney: David M. Friedland Address: BEVERIDGE & DIAMOND, PC Suite 700 1350 I Street, NW Washington, DC 20005-3311</p> <p>E-mail: dfriedland@bdlaw.com</p> <p>Phone: 202-789-6047</p>	<p>Adverse Party: ENERGY RECOVERY COUNCIL</p> <p>Attorney: Meghan L. Morgan Address: BEVERIDGE & DIAMOND, PC Suite 700 1350 I Street, NW Washington, DC 20005-3311</p> <p>E-mail: meghan.morgan@bdlaw.com</p> <p>Phone: 202-789-6000</p>
<p>Adverse Parties (continued)</p>	
<p>Adverse Party: ENERGY RECOVERY COUNCIL</p> <p>Attorney: Roy D. Prather, III Address: BEVERIDGE & DIAMOND, PC Suite 2210 201 North Charles Street Baltimore, MD 21201</p> <p>E-mail: rprather@bdlaw.com</p> <p>Phone: 410-230-1305</p>	<p>Adverse Party: ENERGY RECOVERY COUNCIL</p> <p>Attorney: James Bruce Slaughter Address: BEVERIDGE & DIAMOND, PC Suite 700 1350 I Street, NW Washington, DC 20005-3311</p> <p>E-mail: JSlaughter@bdlaw.com</p> <p>Phone: 202-789-6040</p>

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<p>Adverse Parties (continued)</p>	
<p>Adverse Party: NATIONAL WASTE & RECYCLING ASSOCIATION</p> <p>Attorney: Meghan L. Morgan Address: BEVERIDGE & DIAMOND, PC Suite 700 1350 I Street, NW Washington, DC 20005-3311</p> <p>E-mail: meghan.morgan@bdlaw.com</p> <p>Phone: 202-789-6000</p>	<p>Adverse Party: NATIONAL WASTE & RECYCLING ASSOCIATION</p> <p>Attorney: Roy D. Prather, III Address: BEVERIDGE & DIAMOND, PC Suite 2210 201 North Charles Street Baltimore, MD 21201</p> <p>E-mail: rprather@bdlaw.com</p> <p>Phone: 410-230-1305</p>

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Adverse Party: **NATIONAL WASTE &
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Adverse Parties (continued)

Adverse Party:

Attorney:
Address:

E-mail:

Phone:

Adverse Party:

Attorney:
Address:

E-mail:

Phone:

Appellant (Attach additional page if necessary.)Name: **MAYOR AND CITY COUNCIL OF BALTIMORE**Attorney: **Rachel Simmons**Address: **BALTIMORE CITY LAW DEPARTMENT
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