

1 CITY OF OAKLAND
 BARBARA J. PARKER, State Bar #069722
 2 City Attorney
 MARIA BEE, State Bar #167716
 3 Special Counsel
 ERIN BERNSTEIN, State Bar #231539
 4 Supervising Deputy City Attorney
 MALIA MCPHERSON, State Bar #313918
 5 Attorney
 One Frank H. Ogawa Plaza, 6th Floor
 6 Oakland, California 94612
 Telephone: (510) 238-3601
 7 Facsimile: (510) 238-6500
 Email: ebernstein@oaklandcityattorney.org
 8 *Attorneys for The People of the State of*
 9 *California*

CITY AND COUNTY OF SAN FRANCISCO
 DENNIS J. HERRERA, State Bar #139669
 City Attorney
 RONALD P. FLYNN, State Bar #184186
 Chief Deputy City Attorney
 YVONNE R. MERE, State Bar #173594
 Chief of Complex and Affirmative Litigation
 ROBB W. KAPLA, State Bar #238896
 Deputy City Attorney
 MATTHEW D. GOLDBERG, State Bar
 #240776
 Deputy City Attorney
 City Hall, Room 234
 1 Dr. Carlton B. Goodlett Place
 San Francisco, California 94102-4602
 Telephone: (415) 554-4748
 Facsimile: (415) 554-4715
 Email: matthew.goldberg@sfcityatty.org
Attorneys for The People of the State of
California
 [Additional Counsel Listed on Signature Page]

12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 SAN FRANCISCO DIVISION

15 THE PEOPLE OF THE STATE OF
 16 CALIFORNIA, acting by and through Oakland
 17 City Attorney BARBARA J. PARKER,

18 Plaintiff and Real Party in Interest,

19 v.

20 BP P.L.C., a public limited company of England
 and Wales, CHEVRON CORPORATION, a
 21 Delaware corporation, CONOCOPHILLIPS
 COMPANY, a Delaware corporation,
 22 EXXONMOBIL CORPORATION, a New
 Jersey corporation, ROYAL DUTCH SHELL
 23 PLC, a public limited company of England and
 Wales, and DOES 1 through 10,

24 Defendants.
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Case No.: 3:17-cv-06011-WHA

**PLAINTIFF’S RESPONSE TO
 MOTIONS TO FILE AMICUS CURIAE
 BRIEF AND TUTORIAL
 PRESENTATION, AND STATEMENT
 OF NONOPPOSITION**

Date: March 21, 2018
 Time: 8:00 AM
 Judge: Hon. William Alsup
 Location: Courtroom 8, 19th floor

1 THE PEOPLE OF THE STATE OF
2 CALIFORNIA, acting by and through the San
3 Francisco City Attorney DENNIS J. HERRERA,

4 Plaintiff and Real Party in Interest,

5 v.

6 BP P.L.C., a public limited company of England
7 and Wales, CHEVRON CORPORATION, a
8 Delaware corporation, CONOCOPHILLIPS
9 COMPANY, a Delaware corporation, EXXON
10 MOBIL CORPORATION, a New Jersey
11 corporation, ROYAL DUTCH SHELL PLC, a
12 public limited company of England and Wales,
13 and DOES 1 through 10,

14 Defendants.

Case No.: 3:17-cv-06012-WHA

**PLAINTIFF'S RESPONSE TO
MOTIONS TO FILE *AMICUS CURIAE*
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15 The People respond herein to the recent motions by certain individuals seeking leave to file
16 an amicus brief (ECF 153) and to make a presentation in response to the Court's tutorial request
17 (ECF 157). The People do not oppose either motion. But the People do wish to advise the Court that
18 publicly available information¹ indicates that (1) the principal amici and one of their attorneys are
19 affiliated with the Heartland Institute, an organization with ties to the fossil fuel industry, (2) one of
20 the amici has received large sums of money directly from defendant Exxon Mobil Corporation and
21 from the American Petroleum Institute, (3) the amici are (with one exception, who presents other
22 issues of which the Court should be aware) not climate scientists, and the principal amicus has a
23 history of misstatements on a bizarre range of topics, including Barack Obama's birth certificate and
24 his own cure for HIV, and (4) two of the individuals seeking to file a presentation in response to the
25 Court's tutorial request are current board members of the CO₂ Coalition, an organization whose
26 board of directors and board of advisors include retired employees of defendant ExxonMobil
27 Corporation ("Exxon") with backgrounds in business, communications and marketing.

28 ¹ The statements below are largely based on statements by the amici or their lawyers about themselves, or on reporting by third parties such as the *New York Times*.

ARGUMENT

1
2 **First**, the proposed amicus brief states that some of the amici have “in the past, received
3 research grants or expenses from coal-owning interests, though most [amici] have never received
4 such grants or expenses and none has done so for some years.” Br. 6, ¶ 3. But the proposed amicus
5 brief shows several connections to the Heartland Institute, an organization tied to the fossil fuel
6 industry. One of the two attorneys on the brief identifies himself as a lawyer for Heartland, and the
7 first four proposed amici (Monckton, Soon, Legates, and Briggs) are also affiliated with Heartland;
8 three are explicitly listed by Heartland as its “policy advisors.”² And Heartland has a well-known
9 history of attacking scientific conclusions to gratify its corporate funders, including defendant Exxon
10 Mobil Corporation. Between 1997 and 2006 Heartland reportedly received at least \$676,000 directly
11 from Exxon or its predecessors or subsidiaries;³ at one time Heartland’s “Government Relations
12 Advisor” was apparently an Exxon executive.⁴ Heartland previously accepted money from Philip
13 Morris, and its solicitations for more cash boasted about its prior attacks on the science on second-
14 hand smoke and its publication of articles like “Joe Camel Is Innocent.”⁵ Heartland is a veteran anti-
15 science mercenary.

16 **Second**, Willie Soon – the amicus listed second in the proposed brief – is known to have
17 accepted more than \$1.2 million from the fossil-fuel industry, including Exxon and the American
18 Petroleum Institute (an organization supported by all Defendants directly or through their
19
20

21 ² See <https://www.heartland.org/about-us/who-we-are/lord-christopher-monckton>;
22 <https://www.heartland.org/about-us/who-we-are/willie-soon>; <https://www.heartland.org/about-us/who-we-are/william-briggs>;

23 ³ <http://climateinvestigations.org/heartland-institute/>. This website includes copies of Exxon’s
24 documentation of payments to the Heartland Institute.

25 ⁴ <https://exxonsecrets.org/html/personfactsheet.php?id=626> (describing Walter Buchholtz as
26 Exxon executive who served as Heartland lobbyist); <http://www.guidestar.org/FinDocuments/2005/363/309/2005-363309812-0295fbb2-9.pdf>, at 15
27 (Heartland tax return describing Walter Buchholtz as a “government relations advisor” and an
“officer, direct, trustee, or key employee” of Heartland); [https://www.linkedin.com/in/walt-
buchholtz-14963331](https://www.linkedin.com/in/walt-buchholtz-14963331) (LinkedIn profile published by Walt Buchholtz, describing himself as a retired
“Public and Government Affairs Executive” at Exxon).

28 ⁵ <https://www.scribd.com/document/220221575/Joe-Bast-s-bottom-line>, at 2-3.

1 predecessors and/or operating subsidiaries, *see, e.g.*, Oak. Compl. ¶ 57).⁶ As the *New York Times* has
 2 reported, Soon’s correspondence with his corporate funders “described many of his scientific papers
 3 as ‘deliverables’ that he completed in exchange for their money.” *Id.* For example, a 2008 “request
 4 for payment” from Soon to Exxon has been published, and in it Soon specifically names the climate
 5 research he performed in return for the money.⁷ Soon’s scientific papers repeatedly failed to disclose
 6 his conflict of interest, a behavior that his employer described as “inappropriate.”⁸ Simply put, Soon
 7 has received substantial sums of money for his climate “research” from Exxon, one of the parties to
 8 this action.

9 **Third**, the proposed amici are (with one exception) not climate scientists, and at least one of
 10 them has a history of public misstatements. Specifically:

- 11 • **Christopher Monckton.** Monckton, who has a master’s degree in “Classical
 12 Architecture” and not in any branch of climate science, Br. 6, ¶ 2, has as a long history of
 13 unreliability. It appears that he has falsely claimed to be a member of the House of
 14 Lords,⁹ and to have discovered an “invention” that “shows much promise” to cure HIV,
 15 malaria, and multiple sclerosis.¹⁰ He prepared a 55-paragraph affidavit to provide what
 16 he called “expert testimony” to an American court, to show that there was only a “1 in 75
 17 quadrillion” chance that President Obama’s birth certificate was genuine.¹¹ He appears to
 18 have made misleading statements about whether an article he wrote was peer-reviewed,¹²

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 20 ⁶ https://www.nytimes.com/2015/02/22/us/ties-to-corporate-cash-for-climate-change-researcher-Wei-Hock-Soon.html?_r=0.

21 ⁷ The invoice is attached as Exhibit A.

22 ⁸ https://www.nytimes.com/2015/02/22/us/ties-to-corporate-cash-for-climate-change-researcher-Wei-Hock-Soon.html?_r=0.

23 ⁹ <http://www.parliament.uk/business/news/2011/july/letter-to-viscount-monckton/>.

24 ¹⁰ <https://vimeo.com/45097141>, at 0:30 forward.

25 ¹¹ <http://www.wnd.com/2012/11/win-or-lose-obama-was-not-and-is-not-the-president/>;
http://www.wnd.com/files/2012/11/monckton_affidavit.pdf, ¶¶ 2, 47.

26 ¹² <https://wattsupwiththat.com/2012/01/11/monckton-responds-to-potholer54/> (Monckton
 27 defending his claim to peer review: “The review editor reviewed it in the usual way and it was
 28 published in the July 2008 edition” and “Peer-review takes various forms”);
<http://www.aps.org/units/fps/newsletters/200807/monckton.cfm> (editor: article in question was not
 peer reviewed).

1 and also claimed to be an “appointed expert reviewer” for the Intergovernmental Panel on
 2 Climate Change, even though he was not “appointed” by anyone, and merely signed up
 3 on the IPCC’s website to submit a review of the IPCC’s report.¹³ He is a policy advisor
 4 at the Heartland Institute.¹⁴

- 5 • **Willie Soon.** Soon is an astrophysicist, not a climate scientist, and, as noted above, for
 6 years Soon took money from Exxon and the American Petroleum Institute to write about
 7 climate change. He has co-authored articles with Monckton, Legates, and Briggs,¹⁵ and is
 8 currently a policy advisor at the Heartland Institute.¹⁶
- 9 • **David Legates.** In the amicus brief, Legates identifies himself as a “former State
 10 Climatologist” for Delaware, Br. 6, ¶ 2, but he does not mention that the Delaware
 11 governor ordered him not to use that title in connection with any statement on climate
 12 change, or that he was eventually asked to resign that position by officials at the
 13 University of Delaware.¹⁷ He is a research fellow at the Independent Institute (which
 14 previously received funding from Exxon and other fossil fuel interests), has previously
 15 been affiliated with the George C. Marshall Institute (another denialist group funded in
 16 the past by Exxon), and has given talks at the Heartland Institute.¹⁸ He also frequently
 17 co-authors papers with Monckton, Soon and/or Briggs.

18
 19 ¹³ <https://www.desmogblog.com/2012/11/01/climate-science-denialist-lord-monckton-s-ipcc-appointment-wasn-t>; <http://www.wnd.com/2012/10/global-warming-did-not-cause-sandy/>.

20 ¹⁴ <https://www.heartland.org/about-us/who-we-are/lord-christopher-monckton>.

21 ¹⁵ See, e.g., <https://www.theguardian.com/environment/climate-consensus-97-per-cent/2015/jun/03/research-downplaying-impending-global-warming-is-overturned>.

22 ¹⁶ <https://www.heartland.org/about-us/who-we-are/willie-soon>.

23 ¹⁷ <https://www.usatoday.com/story/news/2015/02/26/uds-david-legates-caught-climate-change-controversy/24090273/>; see also <https://www.desmogblog.com/david-legates-asked-step-down-delaware-state-climatologist>.

24
 25 ¹⁸ http://www.independent.org/aboutus/person_detail.asp?id=949 (Legates website with
 26 Independent Institute); <https://www.desmogblog.com/independent-institute> (Exxon funding of
 27 Independent Institute); <https://web.archive.org/web/20110808025719/http://www.marshall.org/pdf/materials/207.pdf>;
 28 (Marshall Institute talk by Legates); <https://web.archive.org/web/20161125020736/http://marshall.org/events/shattered-consensus-four-authors-discuss-their-new-book-on-climate-science/> (Marshall Institute book co-authored by Legates); <https://www.desmogblog.com/george-c-marshall-institute> (Exxon’s funding of Marshall

- 1 • **William Briggs.** Briggs is a former adjunct professor of statistics at Cornell’s medical
2 school, who describes his specialty as “uncertainty analysis of all kinds”; his published
3 work on climate change is almost entirely pieces co-authored with Monckton and/or
4 Soon.¹⁹ He is a “policy advisor” on climate change at the Heartland Institute.²⁰
- 5 • **The others.** The remaining five amici (many of whom appear to be Monckton’s frequent
6 collaborators) are “electronics engineer[s],” a “specialist in the electricity supply
7 industry,” a lecturer in “applied control theory,” and a college student. Br. 6, ¶ 2.

8 **Fourth**, at least two of the individuals who have proposed filing a presentation in response to
9 the Court’s tutorial request – William Happer and Richard S. Lindzen – are affiliated with an
10 organization called the “CO₂ Coalition.” Both Mr. Happer and Mr. Lindzen are currently members
11 of the CO₂ Coalition’s board of directors.²¹ Other members of the Coalition’s board include retired
12 Exxon employees with backgrounds in business, communications and marketing.²² Another board of
13 directors member, Norman Rogers, is a “policy advisor” to the Heartland Institute, the organization
14 discussed above.²³

CONCLUSION

16 The People wish to make the Court aware that the amici are, with a single exception, not
17 climate scientists, and that some of them have been paid directly or indirectly by the Defendants.
18 But the People do not oppose the filing of the amicus brief or the proposed presentation.

19 Dated: March 20, 2018

Respectfully submitted,

20 *** /s/ Erin Bernstein*

21 BARBARA J. PARKER (State Bar #069722)
City Attorney

22 Institute); <http://www.nytimes.com/2003/05/28/business/exxon-backs-groups-that-question-global-warming.html> (same); <https://www.heartland.org/multimedia/videos/david-legates-iccc1> (Legates
23 talk at Heartland Institute); <https://www.youtube.com/watch?v=JmX8BjKILc> (same).

24 ¹⁹ http://wmbriggs.com/public/briggs_cv.pdf; <http://wmbriggs.com/contact/>.

25 ²⁰ <https://www.heartland.org/about-us/who-we-are/william-briggs>.

26 ²¹ <http://co2coalition.org/about/>.

27 ²² <http://co2coalition.org/members/bruce-everett-phd/>; <http://co2coalition.org/members/lorraine-yapps-cohen/>; <https://web.archive.org/web/20170215232924/http://co2coalition.org/about/members-of-the-co2-coalition/#1463142183603-4fb55d6d-de33>.

28 ²³ <http://co2coalition.org/members/norman-rogers/>.

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MARIA BEE (State Bar #167716)
Special Counsel
ERIN BERNSTEIN (State Bar #231539)
Supervising Deputy City Attorney
MALIA MCPHERSON (State Bar #313918)
Attorney
One Frank H. Ogawa Plaza, 6th Floor
Oakland, California 94612
Telephone: (510) 238-3601
Facsimile: (510) 238-6500
Email: ebernstein@oaklandcityattorney.org

Attorneys for The People

** Pursuant to Civ. L.R. 5-1(i)(3), the electronic
filer has obtained approval from this signatory.

** /s/ Matthew D. Goldberg

DENNIS J. HERRERA, State Bar #139669
City Attorney
RONALD P. FLYNN, State Bar #184186
Chief Deputy City Attorney
YVONNE R. MERÉ, State Bar #173594
Chief of Complex and Affirmative Litigation
ROBB W. KAPLA, State Bar #238896
Deputy City Attorney
MATTHEW D. GOLDBERG, State Bar #240776
Deputy City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4602
Telephone: (415) 554-4748
Facsimile: (415) 554-4715
Email: matthew.goldberg@sfcityatty.org

Attorneys for The People

** Pursuant to Civ. L.R. 5-1(i)(3), the electronic
filer has obtained approval from this signatory.

/s/ Steve W. Berman

STEVE W. BERMAN (*pro hac vice*)
steve@hbsslaw.com
HAGENS BERMAN SOBOL SHAPIRO LLP
1918 Eighth Ave. Suite 3300
Seattle, Washington 98101
Telephone: (206) 623-7292
Facsimile: (206) 623-0594

SHANA E. SCARLETT (State Bar #217895)
HAGENS BERMAN SOBOL SHAPIRO LLP
715 Hearst Avenue, Suite 202
Berkeley, California 94710
Telephone: (510) 725-3000

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24
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26
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28

Facsimile: (510) 725-3001

MATTHEW F. PAWA (*pro hac vice*)
mattp@hbsslw.com

BENJAMIN A. KRASS (*pro hac vice*)
benk@hbsslw.com

HAGENS BERMAN SOBOL SHAPIRO LLP
1280 Centre Street, Suite 230
Newton Centre, Massachusetts 02459
Telephone: (617) 641-9550
Facsimile: (617) 641-9551

Of Counsel Attorneys for The People

CERTIFICATE OF SERVICE

I hereby certify that on March 20, 2018, I electronically filed the foregoing document using the CM/ECF system which will send notification of such filing to the e-mail addresses registered in the CM/ECF system, as denoted on the Electronic Mail Notice List, and I hereby certify that I have caused to be mailed a paper copy of the foregoing document via the United States Postal Service to the non-CM/ECF participants indicated on the Manual Notice List generated by the CM/ECF system.

s/ Steve W. Berman
STEVE W. BERMAN

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