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June 17, 2019

## Via ECF

Molly C. Dwyer  
Clerk of Court  
U.S. Court of Appeals for the Ninth Circuit  
95 Seventh Street  
San Francisco, CA 94103-1526

**Re:** *County of San Mateo v. Chevron Corp., No. 18-15499*, consolidated with *City of Imperial Beach v. Chevron Corp., No. 18-15502*; *County of Marin v. Chevron Corp., No. 18-15503*; *County of Santa Cruz v. Chevron Corp., No. 18-16376*

Dear Ms. Dwyer,

Appellees write pursuant to Fed. R. App. P. 28(j) to notify the Court of the recent opinion in *Mayor and City Council of Baltimore v. BP P.L.C. et al.*, No. ELH-18-2357, 2019 WL 2436848 (D. Md. June 10, 2019) (“*Baltimore*”) (Ex. A, attached). The decision is relevant to each of the purported bases for removal asserted by Appellants.

In its thorough opinion, the *Baltimore* court granted the City’s motion to remand state law claims against fossil-fuel industry defendants, including many of the Appellants, rejecting the same eight bases for federal jurisdiction raised by Appellants here. The plaintiff City filed state law causes of action in Maryland Circuit Court for injuries caused by the defendants’ “extracting, producing, promoting, refining, distributing, and selling fossil fuel products” and “deceiving consumers and the public about the dangers associated with those products.” *Id.* at \*1. The defendants removed, and the City moved to remand. *Id.* at \*1–2.

The court held:

1. “Defendants’ assertion that the City’s public nuisance claim under Maryland law is in fact ‘governed by federal common law’ is a cleverly veiled preemption argument,” and not a valid basis for removal. *Id.* at \*6; *see also id.* at \*7–9.
2. There was no jurisdiction under *Grable & Sons Metal Prods., Inc. v. Darue Eng’g & Mfg.*, 545 U.S. 308 (2005) because no federal issue was a necessary element of the City’s claims. *Id.* at \*9–11.
3. The City’s claims were not completely preempted by the Clean Air Act. *Id.* at \*11–13.
4. Removal was improper under the federal enclave doctrine, the Outer Continental Shelf Lands Act, federal officer removal, bankruptcy removal, and admiralty jurisdiction. *Id.* at \*14–23.

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The court discussed the opinion below that is the subject of these appeals, *id.* at \*7–8, 13, 15, 16, 18, 20, and rejected the District Court’s denial of remand based on “controlling” federal common law in *California v. BP P.L.C.*, Civ. No. WHA-16-6011, 2018 WL 1064293 (N.D. Cal. Feb. 27, 2018). *See Baltimore*, 2019 WL 2436848 at \*7–8.

The *Baltimore* decision is relevant to whether the District Court correctly granted Appellees’ motion to remand.

Respectfully submitted,

/s/ Matthew K. Edling  
Matthew K. Edling  
Sher Edling LLP  
Counsel for Appellees  
in Nos. 18-15499, 18-15502, 18-15503,  
and 18-16376

cc: All Counsel of Record (via ECF)