

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

STATE OF MINNESOTA, by its
Attorney General, Keith Ellison,

Plaintiff,

v.

AMERICAN PETROLEUM
INSTITUTE, EXXON MOBIL
CORPORATION, EXXONMOBIL OIL
CORPORATION, KOCH INDUSTRIES,
INC., FLINT HILLS RESOURCES LP,
FLINT HILLS PINE BEND,

Defendants.

Case No. 20-cv-1636-JRT-HB

NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiff the State of Minnesota (“the State”) hereby notifies the Court of supplemental authority with respect to Defendants’ Motion to Stay (Dkt. 88).

On June 14, 2021, the U.S. Supreme Court denied a petition for writ of certiorari in *Chevron Corporation v. Oakland*, No. 20-1089, 2021 WL 2405350 (U.S. June 14, 2021), attached hereto as **Exhibit A** (hereinafter, “Order”). As in the case at bar, the plaintiffs in *Oakland* allege state-law claims targeting the fossil-fuel industry’s decades-long campaign to conceal and misrepresent the dangers of their consumer products. And as in the case at bar, the defendants in *Oakland* removed to federal court, insisting that the state-law claims actually arose under federal law for jurisdictional purposes because they (1) were governed

by federal common law, and (2) satisfied the requirements of *Grable & Sons Metal Prods., Inc. v. Darue Eng'g & Mfg.*, 545 U.S. 308 (2005).

The Ninth Circuit rejected those grounds for removal. *See City of Oakland v. BP PLC*, 969 F.3d 895, 906–08 (9th Cir. 2020). The defendants then filed a cert petition, inviting the Supreme Court to take up the case and hold that a complaint pleaded exclusively under state law is removable if the asserted claims were formerly governed by a body of federal common law that has since been displaced by an act of Congress. The Supreme Court declined the invitation.

The Supreme Court's decision further undermines Defendants' Motion to Stay and the contention that their pending appeal to the Eighth Circuit will present "compelling grounds" for federal jurisdiction under federal common law and *Grable*. Dkt. 88 at 8–11. The Ninth Circuit squarely rejected these same arguments, and the Supreme Court has now declined to disturb that decision.

Dated: June 15, 2021

Respectfully Submitted,

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By: /s/ Leigh Currie

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