

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

CITY OF HOBOKEN,

*Plaintiff,*

v.

EXXON MOBIL CORP., ET AL.,

*Defendants.*

Civil Action No. 20-cv-14243

**ORDER**

**John Michael Vazquez, U.S.D.J.**

On September 8, 2021, the Court granted Plaintiff's motion to remand. D.E. 121, 122. Accordingly, this matter was terminated and the Clerk's Office initiated the process of remanding the case to the Superior Court of New Jersey, Hudson County, Law Division, D.E. 123; and it

**APPEARING** that after the Court issued its remand Opinion and Order, Defendants filed a letter requesting that the Court temporarily stay execution of its remand Order to allow time for Defendants to file a formal motion to stay remand pending appeal. D.E. 124. Plaintiff filed a letter opposing Defendants' request, D.E. 125, to which Defendants replied, D.E. 126; and it further

**APPEARING** that Defendants removed this matter, in part, under the federal officer removal statute, 28 U.S.C. § 1442, and the Class Action Fairness Act, 28 U.S.C. § 1453. Although an order remanding a case is generally not reviewable, both of these statutes provide a statutory right to appeal a remand order that addresses these bases for removal. 28 U.S.C. § 1447(d); 28 U.S.C. § 1453(c); and it further

**APPEARING** that because the remand order here is reviewable, this Court is not divested of jurisdiction. *See* 28 U.S.C. § 1447(d) (stating that "an order remanding a case to the State Court . . . pursuant to section 1442 . . . shall be reviewable by appeal *or otherwise*"); *see also Hammer*

*v. U.S. Dept. of Health & Human Servs.*, 905 F.3d 517, 525 (7th Cir. 2018) (“Because the remand order in this case is reviewable, the certification of the remand order imposes no independent bar on either our jurisdiction or the district court’s jurisdiction”); *In re Digicon Marine, Inc.*, 966 F.2d 158, 160-61 (5th Cir. 1992) (“[W]here remand is reviewable on appeal a district court has jurisdiction to review its own order, and vacate or reinstate that order.”) (internal quotation omitted). As a result, this Court has jurisdiction to entertain Defendants’ request; and it further

**APPEARING** that in their letter, Defendants indicate that they will appeal the remand Order to the Third Circuit. D.E. 124 at 1. Moreover, Defendants maintain that although many other circuits have addressed Defendants’ arguments in related climate change cases, the Third Circuit has not.<sup>1</sup> *Id.* at 2. As a result, granting Defendants’ request is prudent to preserve resources and in light of considerations of judicial economy. Specifically, the Third Circuit will be presented with matters of first impression that could potentially impact this Court’s remand Order;

Therefore, it is on this 9th day of September 2021,

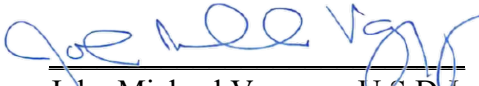
**ORDERED** that Defendants’ request for a temporary stay of execution of this Court’s remand Order, D.E. 122, is **GRANTED**; and it is further

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<sup>1</sup> To support their “emergency request”, Defendants argue that in the other climate change cases, the district courts provided the defendants with a short period of time to file a motion to stay remand pending their appeals. D.E. 124 at 2-3. The Court notes that in some of these cases, the defendants sought a stay prior to the district court issuing the remand order. *See Mayor & City Council of Balt. v. BP P.L.C.*, No. 18-2357, ECF No. 182 at 3 (D. Md. June 20, 2019) (indicating that the defendants filed a conditional motion to stay the execution of any remand order before the court decided the plaintiff’s motion to remand); *County of San Mateo v. Chevron*, No. 17-4929, D.E. 223 at 5-6 (N.D. Cal. Mar. 16, 2018) (noting that during the hearing on the motion to remand, the defendants requested a stay of any remand order). As discussed at length in the remand Opinion, the weight of authority from the other climate change cases demonstrates a lack of subject-matter jurisdiction. As a result, Defendants clearly should have requested in their opposition papers that the Court stay any resulting order if the Court were to disagree with their arguments. Instead, Defendants needlessly turned a straightforward request into an emergency. While Defendants argue that issuing the stay is necessary to preserve resources, their delay in seeking the stay unnecessarily wasted the Court’s time and resources.

**ORDERED** that Defendants shall file a formal motion to stay remand pending appeal by September 22, 2021; and it is further

**ORDERED** that the Clerk's Office shall temporarily refrain from sending the transmittal letter remanding this matter to the Superior Court of New Jersey, Hudson County, Law Division until this Court decides Defendants' forthcoming formal motion to stay.

  
John Michael Vazquez, U.S.D.J.