

1 JAMES M. BRADEN (California State Bar # 102397)
LAW OFFICES OF JAMES M. BRADEN
2 44 MONTGOMERY STREET, SUITE 1210
SAN FRANCISCO, CA 94104
3
4 TELEPHONE: (415) 398-6865
FACSIMILE: (415) 788-5605
EMAIL: braden@sf-lawyer.com
5

6 PETER J. FERRARA
7 SENIOR FELLOW FOR LEGAL AFFAIRS
8 THE HEARTLAND INSTITUTE
9 3939 NORTH WILKE ROAD
10 ARLINGTON HEIGHTS, ILL 60004
11
12 TELEPHONE: (703) 546-6814
13 FACSIMILE: (312) 275-7942
14 EMAIL: peterjferrara@yahoo.com
15

16 Attorneys for Amici Curiae
17 The Viscount Monckton of Brenchley, et al.
18

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 SAN FRANCISCO DIVISION
22

THE PEOPLE OF THE
STATE OF CALIFORNIA

Plaintiff,

v.

BP P.L.C., et al.

Defendants.

Case Nos. C-17-06011 WHA
and C-17-06012 WHA

Date: March 21, 2018

Time: 8:00 AM

Judge: Hon. William Alsup

Location: Courtroom 8 on 19th Floor

23 **RESPONSES OF THE NINE PROPOSED AMICI CURIAE**
24 **LISTED BELOW TO THE QUESTIONS ABOUT THEIR**
25 **PARTICIPATION POSED BY THE COURT ON MARCH 19, 2018**

26

1 (1) THE VISCOUNT MONCKTON OF BRENCHLEY,
2 (2) DR WILLIE WEI-HOCK SOON, (3) PROFESSOR DAVID LEGATES,
3 (4) DR WILLIAM M. BRIGGS, (5) DIPL.-ING. MICHAEL LIMBURG,
4 (6) DR DIETRICH JESCHKE, (7) MR ALEX HENNEY,
5 (8) MR JOHN WHITFIELD, AND (9) MR JAMES MORRISON

6 **I.**

7 **INTRODUCTION**

8 The Court having ordered answers to the three questions stated below, the nine proposed
9 amici *curiae* listed above respectfully submit individual answers to the first and second questions
10 followed by a joint answer to the third question.

11 These proposed amici are happy to answer the Court's questions in detail and without
12 reservation. That is because they have nothing to hide, and are confident that their work is not
13 tainted by any alleged prejudice or vested interest.

14 However, they also state forthrightly, and of course with greatest respect for the Court,
15 that the Court's questions, and their answers, are quite irrelevant to the proposed amicus brief
16 they have submitted. That brief is not a work of advocacy, or politics, or philosophy, or religion,
17 but rather is a work of pure science (including, of course, mathematics). Its assertions and
18 conclusions stand or fall on their own merits as science that is either confirmed or refuted by
19 other scientists who are also doing nothing but pure science. The biases, prejudices, funding,
20 and other factors pertaining to these scientists are not actually part of the science and thus can be,
21 and should be, safely ignored.

22 These amici have done their best to present pure science just as it should be properly
23 presented among scientists themselves. This means that they have stated explicitly the premises
24 and sources on which they have founded their conclusions, so that the Court may, if it sees fit,
25 invite all parties to state whether or to what extent they accept that the premises are true and

1 constitute mainstream science, and whether or to what extent the parties consider that *amici's*
2 conclusions are consistent or inconsistent with those premises.

3 **II.**

4 **THE COURT'S THREE QUESTIONS**

- 5 1. The source of any funding received by *amici* in connection with the general research
6 described in their submissions. This should include a clear statement regarding whether
7 (and the extent to which) amici have received funding from individuals or entities on
8 either side of the climate change debate (*e.g.* from any environmental or industry group).
- 9 2. Whether *amici* are in any way affiliated (directly or indirectly) with any party to the
10 above-entitled actions; and
- 11 3. Why *amici* waited until shortly before the tutorial to file their proposed submissions, such
12 that the parties only have limited time to react.

13
14 **III.**

15 **INDIVIDUAL RESPONSES TO THE FIRST TWO QUESTIONS**

16 The individual responses below are given in the first-person form in which they were
17 received from the several amici.

18 **Christopher Monckton of Brenchley**

- 19 1. I publicly endorsed the official position on climate until I began to research the issue in
20 2006. Our *amicus* brief draws two research results to the Court's attention. Professor
21 Legates instigated the research leading to point 1 of our *amicus curiae* brief late in 2012.

1 A paper by four of the *amici* was published in *Science and Education* in 2013 and was,
2 therefore, available to all parties from September that year. I instigated the research in
3 support of point 2 some 18 months ago. All nine *amici* submitted a paper to a
4 climatological journal three days before the Court issued its tutorial questions. Both
5 research projects began long before the original filing of the present action.

6 I have received no fee from anyone for this or any scientific research into climate change.
7 In June 2017 the climate-skeptical Heartland Institute met my return airfares and
8 accommodation to report our research at a Washington DC conference. I did not accept
9 the \$1000 fee that was offered. In late summer 2017 the Moscow (Russia) City
10 Government, which promotes the official position on climate change, paid for my return
11 airfares and accommodation to outline our research in front of members of the Russian
12 Academy of Sciences. No fee was sought, offered or received. In September 2017 the
13 Red Pill Expo, which then took no stance on the climate question, paid for my return
14 airfares and accommodation to present our results at a Bozemon, Montana, conference.
15 No fee was sought, offered or received. In December 2017 the skeptical Europäisches
16 Institut für Klima und Energie paid accommodation but not travel expenses for me to
17 report our research progress at a Düsseldorf (Germany) conference. No fee was sought,
18 offered or received. In February 2018 a private group of climate skeptics in Norway
19 invited me to report our results at a Mölndal conference and offered accommodation but
20 not travel expenses, but I was too ill to attend. During our research I have broadcast in
21 various media on climate change, but have received no fees or expenses other than
22 occasional cab fares.

1 2. In submitting the *amicus curiae* brief, I act solely *ex proprio motu*, hold no shares or
2 other proprietary interests in any of the Parties’ or their competitors’ corporations or
3 undertakings, and have at no time received any fees or expenses from any of them,
4 whether for the conduct of our research, for the preparation and submission of the *amicus*
5 *curiae* brief, or for any other purpose. I do not have and have never had any direct or
6 indirect affiliation with any of the parties or with any of their competitors.

7 **Dr Willie Wei-Hock Soon**

8 1. I have not received any funding for the climate-sensitivity research led by Christopher
9 Monckton of Brenchley. In the past, I have received scientific research grants from
10 Exxon-Mobil Foundation, Southern Company and the Charles G. Koch Foundation for
11 my work on various topics, including scientific research on the Sun-climate connection.
12 All such grants were properly declared, negotiated and processed by the Contract and
13 Grant Office of the Smithsonian (Harvard) Astrophysical Observatory, which negotiated
14 all of the contracts, received the funds and paid me a share of them so that I could
15 conduct my research. The Observatory pays me a salary for those contracted works.

16 2. No.

17 **Professor David Legates**

18 1. I have not received any funding for climate change research since 2002. In fact, I
19 have been notified (unofficially) that I am on a federal “do-not-fund” list simply because I have
20 been critical of the official position on anthropogenic global warming and have written papers
21 critical of that position. I have been denied a hearing on proposals sent to the Department of
22 Agriculture, NASA, and NOAA for research unconnected with climate change. My last funding

1 for climate change research was a grant for \$50,000 from NOAA and DoE's Climate and Global
2 Change Program, which ended in 2001.

3 2. I have no affiliation, either formal or indirect, with any of the parties to the actions
4 associated with this case.

5 **Dr William M. Briggs**

6 1. I have never received funding for work from either side in the climatology debate, except
7 tuition reimbursement as a graduate student in the 1990s and honoraria for three speeches
8 to conferences of the Heartland Institute, not exceeding \$3,000 in total for all three
9 speeches.

10 2. No.

11 **Dipl.-Ing. Michael Limburg**

12 1. I am elected by the members of the Europäisches Institut für Klima und Energie, which is
13 scientifically skeptical on the climate-change question, which pays me no salary but
14 occasionally meets expenses. I have received occasional fees and expenses to give
15 speeches on climate change. I have received no funding for the research project on
16 climate sensitivity, in which I have participated for the past year.

17 2. I have no direct or indirect connection with any of the parties to the case.

18 **Dr Dietrich Jeschke**

19 1. I have never received any research funding in connection with climate research. My
20 participation is based purely on academic interest.

21 2. I have no direct or indirect affiliation with any of the stated parties.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

Mr Alex Henney

1. I have never received any fees or expenses for any work I have done on climate issues, including this brief and the underlying scientific paper.
2. I have no direct or indirect affiliation with any of the parties and have received no money from them.

Mr John Whitfield

1. I have received no funding from any source at any time.
2. I have no affiliation whatsoever and have never had any association with any of the parties involved in this action.

Mr James Morrison

1. I have received student loans as an undergraduate in the Environmental Sciences Department at the University of East Anglia, which strongly supports the official position on climate change, as did I myself until I saw the results of our research. I have never received any funding towards the paper on climate sensitivity, or towards the preparation or submission of the *amicus curiae* brief.
2. I have no association with any party involved with the legal proceedings, and no vested interest in any of them.

IV.

Joint Response to the Court’s Third Question

1 Christopher Monckton, the amicus who has taken the labouring oar to assemble the
2 scientific coalition that produced our brief, has recently undergone major surgery to both eyes,
3 leaving him temporarily in great pain and not easily able to read or write. He did the best he
4 could and as rapidly as he could even burdened by this handicap.

5 In co-ordinating the project to prepare the brief, to find lawyers in a jurisdiction other
6 than his own and to gain the consent of all co-authors, amicus Monckton moved as rapidly as his
7 frail health permitted. The brief was inevitably more than usually complex and required
8 considerable scrutiny and emendation from the co-authors. Filing in a foreign country
9 (Monckton is an Englishman) also took time.

10 There was no intent to surprise or sandbag any parties. Monckton believed from the
11 beginning, and continues to believe, that the Court's study and investigation of the relevant
12 science is not a one-time project that will end at the hearing on March 21, but rather is an
13 ongoing project, as indeed good science itself must be, that will continue for however many
14 months this case may remain pending. Monckton believes, therefore, that any parties who wish
15 to submit a response to the amicus brief he has organized should have ample opportunity to do
16 so, even if they could not be expected to have accomplished that by March 21.

17 Here is a chronology of relevant events that explain why Monckton and the other were
18 not able to present their proposed amicus brief until ten days after the Court issued its list of
19 questions for the tutorial.

20 **6 March 2018** The Court issues its list of questions.

1 **7 March 2018:** Monckton became aware of the Court’s tutorial questions in the afternoon of 7
2 March 2018. He immediately wrote to a contact in the United States to request information on
3 how to file an *amicus curiae* brief.

4 **9 March 2018:** A reply was received saying that Monckton’s USA contact was unable to help.

5 **9 March 2018:** Monckton circulated a first draft of the *amicus* brief to his co-authors.

6 **11 March 2018:** Monckton received detailed comments on the draft brief. Monckton’s USA
7 contact finally was able to provide him with the name of an American lawyer who might be able
8 to assist.

9 **12 March 2018:** Monckton sent the first draft of the brief to the lawyer, who said that indeed he
10 might be able to help.

11 **13 March 2018:** After comments from most co-authors, Monckton sent a second draft of the
12 brief to the lawyer, who had by then identified a lawyer in California who would be able to assist
13 in filing the brief. Monckton wrote: “It would be excellent if we could get this brief safely filed
14 today – or tomorrow at the latest. That will give the judge time to read the notice of application
15 and grasp the main points before the hearing on the 21st.” It was not, however, possible to file at
16 that time because some substantive points in the brief remained outstanding.

17 **15 March 2018:** Monckton sent the final draft of the brief, now approved by all co-authors, to
18 the lawyer in California, which indeed is the undersigned lawyer James Braden. It reached
19 Braden at approximately 4.15 pm Pacific time. Braden was thus unable to file the brief that day.

20 **16 March 2018:** Braden filed with the Court the Motion for leave to file the brief, with the brief
21 itself as an exhibit. All parties were served electronically with Braden’s filing.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

DATED: March 20, 2018

Respectfully submitted,

LAW OFFICES OF JAMES BRADEN

By: /s/ James Braden

James Braden

PETER FERRARA

By: /s/ Peter Ferrara

Peter Ferrara

Attorneys for Amici Curiae
The Viscount Monckton, et al.