

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

CITY OF OAKLAND, a  
Municipal Corporation, and The  
People of the State of California,  
acting by and through the  
Oakland City Attorney Barbara J.  
Parker; and CITY AND  
COUNTY OF SAN  
FRANCISCO, a Municipal  
Corporation, and The People of  
California, acting by and through  
the San Francisco City Attorney  
Dennis J. Herrera,

Plaintiffs-Appellants,

v.

B.P. P.L.C., a public limited  
company of England and Wales;  
CHEVRON CORPORATION, a  
Delaware corporation;  
CONOCOPHILLIPS, a Delaware  
corporation; EXXON MOBIL  
CORPORATION, a New Jersey  
corporation; ROYAL DUTCH  
SHELL PLC, a public limited  
company of England and Wales;  
and DOES, 1 through 10,

Defendants-Appellees.

No. 18-16663

D.C. No. 3:17-cv-06011-WHA  
D.C. No. 3:17-cv-06012-WHA  
U.S. District Court for Northern  
California, San Francisco

**PLAINTIFFS-APPELLANT CITY  
OF OAKLAND AND CITY AND  
COUNTY OF SAN FRANCISCO'S  
UNOPPOSED JOINT MOTION  
FOR EXTENSION OF TIME**

**JOINT MOTION FOR EXTENSION OF TIME**

Pursuant to Federal Rule of Appellate Procedure 26(b) and Ninth Circuit Rule 31-2, Plaintiffs-Appellants City of Oakland and City and County of San Francisco respectfully file this joint motion for a 16-day extension of time for their Opening Briefs in these appeals, up through and including March 13, 2019. As described in the attached Declaration of Michael Rubin, this joint motion is based on a showing of diligence and substantial need. Counsel for Defendants-Appellees has stated that Defendants-Appellees have no objection to this request for extension.

Dated: February 13, 2019

Respectfully submitted,

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/s/ Michael Rubin  
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**CERTIFICATE OF SERVICE**

I hereby certify that on February 13, 2019, I electronically filed the foregoing Joint Motion for Extension of Time and the accompanying Declaration of Michael Rubin with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: February 13, 2019

Respectfully submitted,

/s/ Michael Rubin  
Michael Rubin

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**DECLARATION OF  
MICHAEL RUBIN IN  
SUPPORT OF UNOPPOSED  
MOTION FOR EXTENSION  
OF TIME**

I, Michael Rubin, hereby declare as follows:

1. I am a member in good standing of the State Bar of California, a partner at the law firm of Altshuler Berzon LLP, and one of the counsel of record for Plaintiffs-Appellants City of Oakland and City and County of San Francisco in the above-captioned appeal.

2. The above-captioned appeal arises out of two California public nuisance cases, originally brought by Plaintiffs-Appellants in the California Superior Courts for the Counties of Alameda and San Francisco, and timely removed to the United States District Court for the Northern District of California (Alsup, J.). Plaintiffs-Appellants (the “Cities”) allege that the five Defendants-Appellees (“Companies”) are jointly and severally responsible under longstanding California public nuisance law for abating the damage to the Cities’ infrastructure caused by rising sea levels and other consequences of global warming that the Companies were a substantial factor in causing and that they exacerbated through their wrongful promotion of fossil-fuel products by hiding critical information in their possession about the direct links between fossil-fuel emissions and global warming.

3. After relating the two cases, the District Court (Alsup, J.) denied the Cities’ motions to remand the cases to state court. The District Court then granted the Companies’ motion to dismiss the Cities’ amended complaints and

subsequently granted the motions of four of those Companies to dismiss the amended complaints for the independent reason that the Court lacked personal jurisdiction over them.

4. The District Court entered judgment on July 27, 2018. The City of Oakland and the City and County of San Francisco separately filed timely appeals of that judgment.

5. The issues raised in the district court below were substantial, and the briefing on the issues in this appeal has been voluminous. The Companies' notices of removal are 32 pages and allege seven purported bases for federal jurisdiction. Briefing in the District Court on the removal question totaled 135 pages among the parties, excluding exhibits. Briefing on the first motion to dismiss totaled 208 pages, excluding exhibits. The personal jurisdiction briefing totaled an additional 203 pages, excluding exhibits.

6. On September 4, 2018, this Court docketed the appeals and set December 10, 2018 as the due date for Plaintiffs-Appellants to file their Opening Briefs. On December 3, 2018, this Court granted the Cities' Unopposed Motion for an Extension of Time, which extended the due date for their Opening Briefs to February 25, 2019.

7. The Cities intend to file a single, consolidated Opening Brief in this appeal. Under the supervision of the Oakland City Attorney and the San Francisco

City Attorney, I have been given principal responsibility for the preliminary research and drafting of the Cities' Opening Brief.

8. My colleagues and I have been diligently working on the Opening Brief for the Cities in this case. Unfortunately, before we were able to complete an initial draft of the brief, I was taken ill with pneumonia and was largely out of commission last week. I returned to work for a Ninth Circuit oral argument on the afternoon of Tuesday, February 12, 2019 in *Blair v. Rent-A-Center*, No. 17-17221, and now face settlement conference, class notice, and other deadlines in the district court case (3:17-cv-02335-WHA), which is currently set for trial on April 1, 2019. I also have upcoming pretrial deadlines, including a pretrial conference on March 14, 2019, in *Bayer v. Neiman Marcus Group, Inc.*, N.D. Cal. No. 3:13-cv-04487-TSH, which is set for trial on April 29, 2019.

9. The Oakland City Attorney and San Francisco City Attorney have ultimate responsibility for the content and presentation of Plaintiffs-Appellants' Opening Brief, but due to my personal circumstances I was unable to provide them with a complete draft by our internal deadline, thus substantially delaying their ability to begin any meaningful work on the draft.

10. Because of these unforeseen delays, Plaintiffs-Appellants request that the deadline for submitting their Opening Brief be continued 16 days to March 13, 2019, which will give the Cities sufficient time to work with each other and with

outside counsel to prepare the final version of the consolidated brief.

11. On February 12, 2019, Anne Campion of Gibson Dunn, counsel for the Companies, stated that the companies do not object to this request for an extension.

12. The court reporter is not in default with regard to any designated transcripts.

I declare that the foregoing is true and correct. Executed this 13th day of February, 2019 at San Francisco, California.

/s/Michael Rubin  
Michael Rubin