

# SHER EDLING LLP

PROTECTING PEOPLE AND THE PLANET

April 12, 2022

**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; Plaintiffs-Appellees' Citation of Supplemental Authorities

Dear Ms. Dwyer,

Plaintiffs-Appellees submit *Mayor & City Council of Baltimore v. BP P.L.C.*, No. 19-1644, 2022 WL 1039685 (4th Cir. Apr. 7, 2022) (**Ex. A**), as supplemental authority. In this 93-page opinion, the Fourth Circuit affirmed remand of Baltimore's state-law claims for climate deception, rejecting the same removal arguments advanced by Defendants-Appellees here.

*First*, the Fourth Circuit dismissed the defendants' "speculative and policy-laden arguments" for OCSLA jurisdiction. *Id.* 61. The "plain meaning[]" of "§ 1349(b)(1) require[d] a but-for connection" between Baltimore's claims and an OCS operation. *Id.* 57-58. That connection was missing because Baltimore's injuries would exist "irrespective of Defendants' activities on the OCS." *Id.* 59.

*Second*, the Fourth Circuit "decline[d] to endorse Defendants' overreaching approach" to federal-enclave jurisdiction, *id.* 53, explaining that removal basis applies only when the alleged "injuries are sustained *within* an enclave's boundaries," *id.* 54. Because Baltimore only sought "relief for harms sustained on non-federal land," federal-enclave jurisdiction did not exist. *Id.* 55.

*Third*, the Fourth Circuit held that "Baltimore's suit [was] too remote for bankruptcy removal to lie." *Id.* 63. The defendants "failed to show that Baltimore's suit ha[d] a 'close nexus' or [was] 'related' to any bankruptcy plan." *Id.* 65. Regardless, Baltimore's claims were statutorily exempted from bankruptcy removal because they represented "a valid exercise of Baltimore's police power." *Id.* 66.

*Fourth*, the panel "reject[ed] Defendants' far-reaching view of admiralty jurisdiction." *Id.* 67. The defendants failed the "location test" because "Baltimore never allege[d] that any vessel on navigable waters caused any of its land-based injuries." *Id.* 71-72. Indeed, the question of admiralty jurisdiction was "easily resolved under the well-pleaded complaint rule." *Id.* 72.

*Finally*, the panel followed this Court's arising-under analysis in *City of Oakland v. BP PLC*, 969 F.3d 895 (9th Cir. 2020). The Fourth Circuit "resoundingly" rebuffed the defendants'

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federal-common-law theory of removal. *Id.* 17. It rejected *Grable* jurisdiction because Baltimore’s claims were “a far cry from what the [Supreme] Court has deemed sufficient to satisfy the ‘necessarily raised’ prong.” *Id.* 41. And it dispensed with the defendants’ complete-preemption arguments, all of which “rest[ed] on a fundamental confusion of Baltimore’s claims.” *Id.* 51.

Respectfully submitted,

*/s/ Victor M. Sher*

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Victor M. Sher

**Sher Edling LLP**

*Counsel for Plaintiffs-Appellees*

in Nos. 18-15499, 18-15502, 18-15503,  
and 18-16376

cc: All Counsel of Record (via ECF)