UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA Plaintiff, v. EXXON MOBIL CORP., *et al.* Defendants.	Civil Action No. 20-1932 (TKJ)

NOTICE OF MOTION AND MOTION TO REMAND TO STATE COURT

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD, PLEASE TAKE NOTICE that, pursuant to the stipulation of the parties (Dkt. No. 19) and the Court's July 23, 2020 Minute Order, Plaintiff District of Columbia ("District") hereby respectfully moves the Court for an Order pursuant to 28 U.S.C. § 1447(c) to remand this matter to the District of Columbia Superior Court.

As grounds for this motion, the District states that removal was improper because the District's Complaint does not raise any federal claims, and the Superior Court is the appropriate forum for adjudicating the exclusively District law claims brought pursuant to the Attorney General's authority under the Consumer Protection Procedures Act, D.C. Code § 28-3901 *et seq*. ("CPPA"). Defendants have not satisfied their burden to establish this Court's jurisdiction under any of the bases cited in Defendant ExxonMobil's Notice of Removal (Dkt. No. 1): 28 U.S.C. § 1441, 28 U.S.C. § 1442, 43 U.S.C. § 1349(b), 28 U.S.C. § 1332(d), or 13 U.S.C. § 1332(a).

- **28 U.S.C. § 1441.** This Court lacks jurisdiction over the subject matter of this case, because the District's claims are solely for violations of District law under the CPPA. The Complaint asserts no federal law claims, nor does any claim in the District's well-pleaded complaint arise under the Constitution, laws, or treaties of the United States under 28 U.S.C. § 1331, as required for removal under 28 U.S.C. §§ 1441(a). Nor does the Complaint raise disputed, substantial questions of federal law sufficient to create federal question jurisdiction. *See Grable & Sons Metal Prods., Inc. v. Darue Eng'g & Mfg.*, 545 U.S. 308 (2005).
- **U.S. Const., art. I, § 8, cl. 17.** Nor is the case removable on the ground that some of the alleged injuries arose, or alleged conduct occurred, on "federal enclaves." The District's CPPA claims did not arise within the federal enclave.
- **43 U.S.C. § 1349(b).** The case is not removable pursuant to the Outer Continental Shelf Lands Act because it does not "aris[e] out of, or in connection with . . . any operation conducted on the Outer Continental Shelf which involves exploration, development, or production of the minerals, of the subsoil and seabed of the Outer Continental Shelf, or which involves rights to such minerals," within the meaning of that provision.
- **28 U.S.C. § 1442.** The case is not removable pursuant to 28 U.S.C. § 1442, because in carrying out the acts that are the subject of the District's Complaint, Defendants are not federal officers or persons acting under federal officers under color of such office.
- **28 U.S.C. § 1332(d).** The Class Action Fairness Act ("CAFA") does not provide jurisdiction because this is not a "class action," and CAFA does not apply to

enforcement actions like this one, brought by the District under its own consumer protection laws.

- **13 U.S.C. § 1332(a).** This case was brought by the District, the real party in interest, and thus is not removable based on diversity because "suits between a state and citizens of another state are not cognizable in diversity." *D.C. ex rel. Am. Combustion, Inc. v. Transamerica Ins. Co.*, 797 F.2d 1041, 1047 (D.C. Cir. 1986).

Briefing and hearing on these matters will follow pursuant to the schedule set forth in the stipulation and the Court's minute order previously referenced.

Respectfully Submitted,

Dated: August 17, 2020

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