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PROTECTING PEOPLE AND THE PLANET

October 13, 2020

Via ECF

Maria R. Hamilton
Clerk of Court
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 2500
Boston, MA 02210

Re: *State of Rhode Island v. Shell Oil Products Company, LLC, et al.*, No. 19-1818
Plaintiff-Appellee's Response to Citation of Supplemental Authorities

Dear Ms. Hamilton,

Plaintiff-Appellee State of Rhode Island (the "State") writes in response to Defendant-Appellants' letter of October 5, concerning the United States Supreme Court's grant of certiorari in *BP p.l.c. v. Mayor & City Council of Baltimore*, No. 19-1189 (U.S.) ("*Baltimore*").

Absent any extensions of time, the Petitioners' merits brief in *Baltimore* is due November 16, 2020, and the Respondent's brief is due December 16, 2020. The State understands that oral argument will likely occur on one of the four argument dates calendared in January 2021 or the one argument date in February 2021. A decision this term is likely, though not guaranteed.

The question presented on certiorari in *Baltimore* addresses only the circuit split created by the Seventh Circuit in *Lu Junhong v. Boeing Co.*, 792 F.3d 805 (7th Cir. 2015), concerning the scope of appellate jurisdiction provided by 28 U.S.C. § 1447(d) over orders granting remand to state court, which is at issue in this case. *See, e.g.*, Plaintiff-Appellee's Response Brief at 6–11. The *Baltimore* Petitioners—which include several of Defendant-Appellants here—have not asked the Supreme Court to review either the merits of the remand order in that case or the substantive standard governing any of their asserted grounds for removal jurisdiction. The only question before the Court is how to apply § 1447(d)'s exception clause when a defendant removes on multiple grounds in addition to the federal officer removal statute, 28 U.S.C. § 1442, or the civil rights removal statute, 28 U.S.C. § 1443.

This Court and the Supreme Court both denied stays pending appeal from the remand order in this case, and the scope of review under § 1447(d) is a matter of first impression in this Court. The Supreme Court would undoubtedly benefit from this Court's position and input on that question in resolving the circuit split.

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Respectfully submitted,

/s/ Victor M. Sher
Victor M. Sher
Sher Edling LLP

*Counsel for Appellee
State of Rhode Island*

cc: All Counsel of Record (via ECF)