

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

CONSERVATION LAW FOUNDATION,
INC.,

Plaintiff,

v.

SHELL OIL COMPANY, EQUILON
ENTERPRISES LLC D/B/A SHELL OIL
PRODUCTS US, SHELL PETROLEUM,
INC., SHELL TRADING (US) COMPANY,
TRITON TERMINALING LLC, and
MOTIVA ENTERPRISES LLC,

Defendants.

Case No: 3:21-cv-00933-SALM

(Related to Case No: 3:21-cv-00932-SVN)

FEBRUARY 16, 2022

**DEFENDANTS' REPLY TO OPPOSITION TO MOTION TO TRANSFER [46]
UNDER LOCAL RULE 40(b)(2)**

In accordance with D. Conn. L. Civ. R. 7(d), Defendants Shell Oil Company, Equilon Enterprises LLC d/b/a Shell Oil Products US, Shell Petroleum Inc., Shell Trading (US) Co., Triton Terminaling LLC, and Motiva Enterprises LLC respectfully reply to Plaintiff's opposition to Defendants' Local Rule 40(b)(2) motion to transfer this case. Specifically, Defendants respond to Plaintiff's arguments seeking to distinguish this case from its related case (Opp. To Mot. To Transfer [Doc. Entry # 46] "Opp." pp. 2-4) and its invitation to apply another district's related case guidelines (Opp. pp. 1-2).

First, Plaintiff's current attempts to try to distinguish the claims in these two cases is a stretch at best. A simple comparison of the complaints and the Joint Rule 26f reports in both

cases belies its arguments.¹ Notably, even looking past the complaints that contain many verbatim paragraphs for factual allegations regarding the alleged climate change risk to the Port of New Haven, the 26f Reports the parties submitted seek nearly identical categories of discovery. *Compare* Doc. Entry # 40 p.11-13 *with Conservation Law Foundation Inc. v. Gulf Oil Limited Partnership*, Case No: 3:21-cv-00932-SVN, Doc. Entry # 35 at p.11-13.

Second, CLF asks the Court to look at the guidelines of another court, but applying that guidance here as CLF proposes runs counter to this Court's practice applying its own rule. A recent example of how this District has sensibly applied the concept of relatedness is apparent in *Wausau Underwriters Ins Co et al v. Professional Electrical Contractors of Connecticut, Inc. et al*, 20-cv-00649-RNC. In that case, Judge Bryant *sua sponte* raised the issue of relatedness during a scheduling conference, requested the parties address the issue, and the matter was subsequently properly transferred, over objection, even though both the parties and the claims were different. *See e.g., Wausau Underwriters Ins Co et al v. Professional Electrical Contractors of Connecticut, Inc. et al* 20-cv-00649, Doc. Entries #44 (Notice of Related Case), #45 (Objection to Transfer), and #49 (Order of Transfer). Conversely, under Plaintiff CLF's restricted view of relatedness, that case could not have been transferred, and even a multi-vehicle car accident case would not be subject to this District's relatedness rules because the cases would have different parties (drivers/passengers) and involve different facts (speeds of the different vehicles).

Moreover, even if the out of jurisdiction guidance advanced by CLF were applied, this case still easily satisfies that standard. CLF ignores the massive factual overlap between the two cases that is the alleged storm risks to the Port. The Rule 26f descriptions of the two cases

¹Plaintiff's February 11, 2022 Amended Complaint [Doc. Entry # 47] also demonstrates the relatedness of the two cases.

demonstrate this substantial overlap. It is also inescapable that both cases are uniquely premised on alleged stormwater permit violations allegedly arising under the same General Permit issued by the Connecticut Department of Energy and Environmental Protection, which is not specific to either entity. Indeed, CLF's own public statements about these cases describe common factual allegations (issued a single combined press release). *See* CLF, July 7, 2021, Gulf and Shell Sued for Climate Inaction, [Press release]: <https://www.clf.org/newsroom/gulf-and-shell-sued-for-climate-inaction/>

Given the nearly identical claims in these two cases that involve the same general permit, a theory that relies on the same future alleged weather events, in the same Port of New Haven, with nearly identical Rule 26f reports seeking similar categories of discovery, there is a likelihood that transfer will provide substantial judicial efficiencies, as well as mitigate the potential for inconsistent rulings in cases that are simultaneously pending in this District.

Wherefore, Defendants Shell Oil Company, Equilon Enterprises LLC d/b/a Shell Oil Products US, Shell Petroleum Inc., Shell Trading (US) Co., Triton Terminating LLC, and Motiva Enterprises LLC respectfully submit that transfer of this action is therefore appropriate.

Respectfully submitted,

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