UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

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

PLAINTIFF DISTRICT OF COLUMBIA'S
NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiff District of Columbia hereby notifies the Court of supplemental authority with respect to its Motion to Remand (Dkt. 46). *See State of Rhode Island v. Shell Oil Products L.L.C., et al*, No. 19-1818 (1st Cir. May 23, 2022) (**Ex. A**) ("Order"). Joining the Fourth, Ninth, and Tenth Circuits, the First Circuit affirmed remand of analogous state-law claims. In doing so, it rejected many of the same removal arguments advanced by Defendants here:

Federal common law. *See* Order at 14 ("[T]he [defendants] cannot premise removal on a federal common law that no longer exists."); *id.* at 16 ("[T]he [defendants] (despite being the burden-bearer on the removal issue) never adequately describe how any significant conflict exists between these federal interests and the state-law claims, which (again) seek to hold them liable for the climate change-related harms they caused by deliberately misrepresenting the dangers they knew would arise from their deceptive hyping of fossil fuels." (cleaned up)); *id.* at 17 ("*City of New York*, after all, is distinguishable in at least one key respect. There, unlike here, the government 'filed suit in *federal court* in the *first instance*' (relying on diversity jurisdiction)—so

the court considered the fossil-fuel producers' 'preemption defense on its own terms, not under the heightened standard unique to the removability inquiry.'"); *id.* at 18 ("[T]he federal common law they bring up does not address the type of acts Rhode Island seeks judicial redress for."); *id.* at 19 ("So we cannot rule that any federal common law controls Rhode Island's claims.").

***Grable* jurisdiction.** *See* Order at 19–22 (holding that "[n]one of Rhode Island's claims has as an element a violation of federal law; the [defendants] pinpoint no specific federal issue that must necessarily be decided for Rhode Island to win its case; and their speaking about federal law or federal concerns in the most generalized way is not enough for *Grable* purposes," *id.* at 21–22).

Federal-enclave jurisdiction. *See* Order at 25–26 (rejecting jurisdiction because "some of the pertinent events—*e.g.*, the [defendants'] deceptive marketing and Rhode Island's injuries—occurred *outside* federal enclaves," *id.* at 25).

Outer Continental Shelf Lands Act ("OCSLA") jurisdiction. *See* Order at 26–30 (rejecting jurisdiction because a contrary conclusion would imply that "*any* suit against fossil-fuel companies regarding *any* adverse impact linked to their products would trigger OCSLA federal jurisdiction," which is "a consequence too absurd to be attributed to Congress," *id.* at 29).

Federal-officer removal. *See* Order at 12 n.6 (holding that the defendants failed the "for or relating to" prong of federal-officer jurisdiction because the federal government did not "mandate[]" any of the tortious "activities" alleged in the complaint).

Respectfully Submitted,

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KARL A. RACINE
Attorney General for the District of Columbia

By: */s/ Kathleen Konopka*
KATHLEEN KONOPKA [5531538]
Deputy Attorney General

Public Advocacy Division
DAVID S. HOFFMANN [983129]
Assistant Attorney General
441 4th St., N.W.
Washington, DC 20001
(202) 741-5226
kathleen.konopka@dc.gov
david.hoffmann@dc.gov

By: */s/ Quentin C. Karpilow*

VICTOR M. SHER (*pro hac vice*)
MATTHEW K. EDLING [1020217]
KATIE H. JONES (*pro hac vice*)
QUENTIN C. KARPILOW [1659323]
SHER EDLING LLP
100 Montgomery St., Ste. 1410
San Francisco, CA 94104
(628) 231-2500
vic@sheredling.com
matt@sheredling.com
katie@sheredling.com
quentin@sheredling.com

HASSAN A. ZAVAREEI [456161]
ANNA C. HAAC [979449]
KRISTEN G. SIMPLICIO [977556]
TYCKO & ZAVAREEI, LLP
1828 L Street NW, Suite 1000
Washington, DC 20036
(202) 973-0900
hzavareei@tzlegal.com
ahaac@tzlegal.com
ksimplicio@tzlegal.com

Attorneys for the District of Columbia