

FILED

MAY 1, 2023

CHRISTINE M. VANEK, J.S.C.

CITY OF HOBOKEN

Plaintiff,

v.

EXXON MOBIL CORP., EXXONMOBIL OIL  
CORP., ROYAL DUTCH SHELL PLC,  
SHELL OIL COMPANY, BP P.L.C., BP  
AMERICA INC., CHEVRON CORP.,  
CHEVRON U.S.A. INC., CONOCOPHILLIPS,  
CONOCOPHILLIPS COMPANY, PHILLIPS  
66, PHILLIPS 66 COMPANY, AMERICAN  
PETROLEUM INSTITUTE,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: HUDSON COUNTY  
DOCKET NO. HUD-L-3179-20

Civil Action  
CBLP Action

**JOINT STIPULATION AND CONSENT ORDER**

**THIS MATTER** has been opened to the Court on the joint application of all parties to this action, each party represented by its undersigned counsel, and the parties having conferred and agreed that, in view of the prior proceedings in and current status of this matter recited below, the just, speedy, and inexpensive determination of this matter can best be secured by this Court's entry of this Order on Consent imposing the scheduling and case management terms set forth herein.

### **RECITALS**

**WHEREAS**, on November 15, 2022, the Parties submitted a Joint Stipulation and Consent Order whereby the Parties agreed to a schedule to brief Defendants' Motion to Stay and further agreed to "meet and confer and endeavor to provide the Court with a joint proposal for the briefing of Defendants' Motions to Dismiss within 14 days of any such expiration of a stay or denial of Defendants' Motion to Stay";

**WHEREAS**, on March 3, 2023, the Court read its decision denying Defendants' Motion to Stay into the record and memorialized the decision in a written Order, which was docketed on March 8, 2023;

**WHEREAS**, on March 17, 2023, the Parties jointly requested that their time to submit this joint proposal be extended through March 24, 2023;

**WHEREAS**, the Parties have met and conferred and now submit a joint proposal for any filing of an Amended Complaint by Plaintiff and the briefing of Defendants' Motions to Dismiss;

**WHEREAS**, based on good-faith discussions among the Parties' counsel, informed by their experience in addressing these issues in similar cases in other courts, the Parties respectfully submit that the interests of justice and efficient consideration by this Court can best be achieved by setting a briefing schedule for Defendants' forthcoming motions in accordance

with the briefing schedule set forth below and that all other deadlines shall be postponed until the motions to dismiss are fully briefed;

**WHEREAS**, a similar climate change-related case has been brought by the State of New Jersey, which is currently pending in federal court. Defendants maintain that this case is duplicative of the State's action and should be dismissed for this reason, among many others. Defendants intend to make this argument in their Motions to Dismiss. In addition, Defendants reserve the right to file a motion to consolidate these cases under Rule 4:38-1 in the most appropriate venue if the State case should return to New Jersey state court. Plaintiff reserves all rights to oppose such a motion;

**WHEREAS**, this stipulation does not operate as an admission of any factual allegation or legal conclusion and is submitted subject to and without waiver of any right, defense, affirmative defense, claim, or objection not previously waived, including lack of subject matter jurisdiction and lack of personal jurisdiction; and

**WHEREAS**, the Parties through their undersigned counsel have conferred and consented to the entry of this Order; and good cause has been shown;

**IT IS**, on this 28th day of April, 2023, **ORDERED AND AGREED THAT:**

1. Plaintiff shall file an Amended Complaint, if any, by April 21, 2023.
2. Defendants' Motions to Dismiss for Lack of Personal Jurisdiction ("Personal Jurisdiction Motions to Dismiss"), and Motions to Dismiss For Failure to State a Claim ("Merits Motions to Dismiss"), and any Motion(s) to Strike and/or Dismiss under any relevant "anti-SLAPP" laws ("anti-SLAPP Motions") (collectively "the Motions to Dismiss") shall be ~~due June 20, 2023~~ <sup>filed promptly and</sup> in no event after June 20, 2023 with the return date being scheduled by the court in accordance with the ~~20, 2023. Plaintiff's Oppositions to the Motions to Dismiss shall be due August 21, 2023.~~ Rules of Court.  
Defendants' Replies shall be due September 25, 2023

3. The page limitations for the Motions to Dismiss shall be as follows:
  - a. Personal Jurisdiction Motions to Dismiss: Defendants shall use their best efforts to file a consolidated memorandum of law in support of their joint Personal Jurisdiction Motions to Dismiss, which shall not exceed 65 pages, exclusive of exhibits and other supporting materials. If any individual Defendant believes it is necessary to file an individual Personal Jurisdiction Motion to Dismiss based on individual issues, it may do so, and its individual memorandum of law shall not exceed 20 pages, exclusive of exhibits and other supporting materials. Plaintiff's Opposition to the consolidated memorandum shall not exceed 65 pages, and any Opposition to an individual memorandum shall not exceed 20 pages. Defendants' consolidated Reply shall not exceed 25 pages, and any individual Reply shall not exceed 10 pages.
  - b. Merits Motions to Dismiss: Defendants shall use their best efforts to file a consolidated memorandum of law in support of their joint Merits Motions to Dismiss which shall not exceed 70 pages, exclusive of exhibits and other supporting materials. If any individual Defendant believes it is necessary to file an individual Merits Motion to Dismiss based on individual issues, it may do so, and its individual memorandum of law shall not exceed 20 pages, exclusive of exhibits and other supporting materials. Plaintiff's Opposition to the consolidated memorandum shall not exceed 70 pages, and any Opposition to an individual memorandum

shall not exceed 20 pages. Defendants' consolidated Reply shall not exceed 30 pages, and any individual Reply shall not exceed 10 pages.

c. Anti-SLAPP Motions: The standard page limits pursuant to Rule 1:6-5 shall apply.

4. Plaintiff agrees that it will not seek merits-related discovery until after the Motions to Dismiss have been fully briefed.<sup>\*</sup> ~~Defendants reserve the right to oppose any merits related discovery while the Motions to Dismiss are pending. Plaintiff reserves the right, after Defendants file their opening briefs in support of their Personal Jurisdiction Motions to Dismiss, to seek jurisdictional discovery, which Defendants reserve the right to oppose.~~

~~5. No Case Management Conferences will be held, and no further Case Management Orders will be entered, prior to the completion of the briefing schedule set forth in ¶ 2 above. However, the Parties are available at the Court's convenience to respond to any questions or address any issues related to this Joint Stipulation and Consent Order. The Parties will not be required to file initial disclosures until after the Court resolves the Motions to Dismiss.~~

~~6. In the event the Court denies Defendants' Motions to Dismiss, in whole or in part, Defendants' answers shall be due within 45 days of the Court's denial of the last of the Motions to Dismiss.~~

\*The modifications to this proposed consent order were made for the reasons set forth on the record on this date. To the extent that plaintiff still agrees not to seek merits-related discovery, such an agreement shall not form the basis of any discovery extension sought from the court. A case management conference shall be scheduled by the court.

*Christine M. Vanek*

Hon. Christine M. Vanek, J.S.C

**CONSENT AS TO FORM AND SUBSTANCE:**

Dated: March 22, 2023

By: /s/ Jonathan S. Abady  
Jonathan S. Abady

**EMERY CELLI BRINCKERHOFF  
ABADY WARD & MAAZEL LLP**

Jonathan S. Abady  
Matthew D. Brinckerhoff, *pro hac vice*  
Max Selver, *pro hac vice*  
Vivake Prasad  
600 Fifth Avenue, 10th Floor  
New York, New York 10020  
(212) 763-5000

**KROVATIN NAU LLC**

Gerald Krovatin  
Helen A. Nau  
60 Park Place, Suite 1100  
Newark, NJ 07102  
(973) 424-9777

*Attorneys for Plaintiff  
City of Hoboken*

By: /s/ Herbert J. Stern  
Herbert J. Stern

**STERN, KILCULLEN & RUFOLO, LLC**

Herbert J. Stern  
hstern@sgklaw.com  
Joel M. Silverstein  
jsilverstein@sgklaw.com  
325 Columbia Turnpike, Suite 110  
Florham Park, New Jersey 07932-0992  
Telephone: 973.535.1900  
Facsimile: 973.535.9664

**GIBSON, DUNN & CRUTCHER LLP**

Theodore J. Boutrous, Jr., *pro hac vice*  
*forthcoming*  
tboutrous@gibsondunn.com  
333 South Grand Avenue  
Los Angeles, CA 90071  
Telephone: 213.229.7000  
Facsimile: 213.229.7520

*Attorneys for Defendants  
Chevron Corp. and Chevron U.S.A. Inc.*

By: /s/ Loly G. Tor  
Loly G. Tor

**K&L GATES LLP**

One Newark Center, 10th Fl.  
Newark, NJ 07102  
Phone: (973) 848-4026  
loly.tor@klgates.com

**KELLOGG, HANSEN, TODD,  
FIGEL & FREDERICK, P.L.L.C.**

David C. Frederick (*pro hac vice*)  
James M. Webster, III (*pro hac vice*)  
Daniel S. Severson (*pro hac vice*)  
1615 M Street, N.W., Suite 400  
Washington, D.C. 20036 Phone:  
(202) 326-7900  
dfrederick@kellogghansen.com  
jwebster@kellogghansen.com  
dseverson@kellogghansen.com

*Attorneys for Defendants Shell plc (f/k/a Royal Dutch Shell plc) and Shell USA, Inc. (f/k/a Shell Oil Company)*

By: /s/ Paul J. Fishman

Paul J. Fishman

**ARNOLD & PORTER KAYE  
SCHOLER LLP**

Paul J. Fishman (No. 036611983)  
One Gateway Center, Ste. 1025  
Newark, NJ 07102-5310  
Telephone: (973) 776-1901  
Facsimile: (973) 776-1919  
paul.fishman@arnoldporter.com

Samuel N. Lonergan (No. 031972001)  
Nancy G. Milburn (*pro hac vice*)  
Diana E. Reiter (*pro hac vice*)  
250 West 55th Street  
New York, NY 10019-9710  
Telephone: (212) 836-8000  
Facsimile: (212) 836-8689  
samuel.lonergan@arnoldporter.com  
nancy.milburn@arnoldporter.com  
diana.reiter@arnoldporter.com

John D. Lombardo (*pro hac vice*)  
777 South Figueroa Street, 44th Floor  
Los Angeles, CA 90017-5844  
Telephone: (213) 243-4000  
Facsimile: (213) 243-4199  
john.lombardo@arnoldporter.com

Jonathan W. Hughes (*pro hac vice*)  
Three Embarcadero Center, 10th Floor  
San Francisco, CA 94111-4024  
Telephone: (415) 471-3100  
Facsimile: (415) 471-3400  
jonathan.hughes@arnoldporter.com

**WALSH PIZZI O'REILLY FALANGA LLP**

Liza M. Walsh (No. 013621985)  
Tricia B. O'Reilly (No. 051251992)  
Francis W. Yook (No. 135182015)  
Three Gateway Center, 15th Floor  
Newark, NJ 07102-4056  
Telephone: (973) 757-1100

Facsimile: (973) 757-1090  
lwalsh@walsh.law  
toreilly@walsh.law  
fyook@walsh.law

*Attorneys for Defendants  
BP P.L.C. and BP AMERICA INC.*

By: /s/ Kevin H. Marino  
Kevin H. Marino

**MARINO, TORTORELLA &  
BOYLE, P.C.**

Kevin H. Marino  
John D. Tortorella  
437 Southern Boulevard  
Chatham, NJ 07928  
Tel: (973) 824-9300  
Fax: (973) 824-8425  
Email: kmarino@khmarino.com  
Email: jtortorella@khmarino.com

**PAUL, WEISS, RIFKIND,  
WHARTON & GARRISON LLP**

Theodore V. Wells, Jr.  
Daniel J. Toal (*pro hac vice*)  
Yahonnes Cleary (*pro hac vice*)  
1285 Avenue of the Americas  
New York, NY 10019  
Tel: (212) 373-3000  
Fax: (212) 757-3990  
Email: twells@paulweiss.com  
Email: dtoal@paulweiss.com  
Email: ycleary@paulweiss.com

*Attorneys for Defendants Exxon Mobil  
Corp. and ExxonMobil Oil Corp.*

By: /s/ Jeffrey S. Chiesa  
Jeffrey S. Chiesa

**CHIESA SHAHINIAN &  
GIANTOMASI PC**

Jeffrey S. Chiesa  
jchiesa@csglaw.com



Dennis M. Toft  
dtoft@csglaw.com  
Michael K. Plumb  
mplumb@csglaw.com  
One Boland Drive  
West Orange, New Jersey 07052  
Telephone: (973) 325-1500  
Facsimile: (973) 325-1501

**BARTLIT BECK LLP**

Jameson R. Jones, *pro hac vice*  
jameson.jones@bartlitbeck.com  
Daniel R. Brody, *pro hac vice*  
dan.brody@bartlitbeck.com  
1801 Wewatta Street  
Suite 1200  
Denver, CO 80202  
Telephone: (303) 592-3100  
Facsimile: (303) 592-3140

**LATHAM & WATKINS LLP**

Steven M. Bauer, Esq.  
(*pro hac vice*)  
Margaret A. Tough, Esq.  
(*pro hac vice*)  
Katherine A. Rouse, Esq.  
(*pro hac vice*)  
505 Montgomery Street, Suite 2000 San  
Francisco, CA 94111-6538  
Tel: (415) 391-0600  
Fax: (415) 395-8095  
Steven.Bauer@lw.com  
Margaret.Tough@lw.com  
Katherine.Rouse@lw.com  
*Attorneys for Defendants*  
*ConocoPhillips and ConocoPhillips*  
*Company*

By: /s/ Anthony J. Zarillo, Jr.  
Anthony J. Zarillo, Jr.  
**RIKER DANZIG LLP**  
Anthony J. Zarillo, Jr.  
azarillo@riker.com

Jeffrey M. Beyer  
jbeyer@riker.com  
One Speedwell Avenue  
Morristown, NJ 07962-1981  
Telephone: 973.538.0800  
Facsimile: 973.451.3708

**MCGUIREWOODS LLP**

Brian D. Schmalzbach, *pro hac vice*  
bschmalzbach@mcguirewoods.com  
Jeremiah J. Anderson, *pro hac vice pending*  
jjanderson@mcguirewoods.com  
Kathryn M. Barber, *pro hac vice*  
kbarber@mcguirewoods.com  
800 East Canal Street  
Richmond, VA 23219  
Telephone: 804.775.4746  
Facsimile: 804.698.2304

*Attorneys for Defendant American  
Petroleum Institute*

By: /s/ Anthony P. Callaghan  
Anthony P. Callaghan

**GIBBONS P.C.**

Anthony P. Callaghan, Esq.  
Thomas R. Valen, Esq.  
Sylvia-Rebecca Gutiérrez, Esq.  
One Gateway Center  
Newark, NJ 07102  
Tel: (973) 596-4500  
Fax: (973) 596-0545  
acallaghan@gibbonslaw.com  
tvalen@gibbonslaw.com  
sgutierrez@gibbonslaw.com

**LATHAM & WATKINS LLP**

Steven M. Bauer, Esq.  
(*pro hac vice*)  
Margaret A. Tough, Esq.  
(*pro hac vice*)  
Katherine A. Rouse, Esq.  
(*pro hac vice*)  
505 Montgomery Street, Suite 2000 San  
Francisco, CA 94111-6538  
Tel: (415) 391-0600

Fax: (415) 395-8095

Steven.Bauer@lw.com

Margaret.Tough@lw.com

Katherine.Rouse@lw.com

*Attorneys for Defendants Phillips 66 and  
Phillips 66 Company*