

IN THE  
**Supreme Court of the United States**

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CHEVRON CORP., *ET AL.*,

*APPLICANTS,*

v.

STATE OF RHODE ISLAND,

*RESPONDENT.*

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**RESPONDENT'S OPPOSITION TO APPLICANTS' APPLICATION FOR  
AN EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF  
CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE FIRST CIRCUIT**

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TO THE HONORABLE JOHN ROBERTS, CHIEF JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE FIRST CIRCUIT:

Pursuant to Rules 13.5, 22, and 30.2 of this Court, Respondent The State of Rhode Island opposes the 60-day extension of time requested by Applicants within which to petition for a writ of certiorari. Applicants have not shown that good cause exists to extend the time in which to file their petition, which will present issues identical to those in one petition already before the Court in a case involving one of the same defendants who is an Applicant here, arising out of the U.S. Court of Appeals for the Tenth Circuit. *See Suncor Energy (U.S.A.) Inc., et al. v. Bd. of Cty. Comm'rs of Boulder Cty., et al.*, No. 21-1550, *pet. filed* (June 8, 2022). Justice Gorsuch granted an application to extend the time to file that petition by 30 days, and denied a second request to extend the time an additional 30 days. *See Suncor Energy (U.S.A.) Inc., et al. v. Bd. of Cty. Comm'rs of Boulder Cty. et al.*, No. 21A-662 (June 6, 2022). That petition has been distributed for the Court's Conference of September 28, 2022.<sup>1</sup>

Applicants intend to petition for a writ of certiorari from the First Circuit's ruling in this case affirming an order granting Respondent's motion to remand to state court. Respondent filed its complaint in Rhode Island Superior Court beginning in July 2018, but the case has not proceeded past the pleadings in that time. Applicants removed to the District Court for the District of Rhode Island on July 13, 2018, and the district court granted Respondent's motion to remand on July 22, 2019. Applicants appealed, and the First Circuit affirmed on October 29, 2020. *See Rhode Island v. Shell Oil Prods. Co.*, 979 F.3d 50 (1st Cir. 2020). This Court granted Applicants' petition for a writ of certiorari from that decision on May 24, 2021,

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<sup>1</sup> Justice Kagan granted a similar application for a 60-day extension of time to file a petition for a writ of certiorari in another similar case, *Chevron Corp., et al. v. San Mateo Cty., et al.*, No. 22A196 (Aug. 31, 2022). The respondents there submitted a letter opposing the request on the same day, for the same reasons expressed here, but the Justice had apparently already granted the application before the opposition was docketed.

see *Shell Oil Prods. Co. v. Rhode Island*, 210 L. Ed. 2d 830 (May 24, 2021), and vacated and remanded for consideration of additional issues in light of the Court’s decision in *BP P.L.C. v. Mayor & City Council of Baltimore*, 141 S. Ct. 1532 (2021). The First Circuit affirmed the remand order a second time on May 23, 2022, see *Rhode Island v. Shell Oil Prods. Co.*, 35 F.4th 44 (1st Cir. 2022), and unanimously denied Applicants’ petition for rehearing *en banc* on July 7.

Because the remand order was not stayed pending appeal, the case returned to state court in 2019. In the intervening three years, however, dispositive motions have not been resolved and no discovery has been conducted, in substantial part because Applicants successfully argued that the matter should be stayed pending the outcome of activity in this Court. No Defendant–Applicant has answered the State’s complaint.

Courts of appeal are unanimous on the issues Applicants intend to present in their petition for certiorari, as Respondent will explain further in response to Applicants’ petition. In addition to the First Circuit in this case, in 2022, the Courts of Appeals for the Third, Fourth, Ninth, and Tenth Circuits have all affirmed remand orders in similar cases brought by States and municipalities against major oil and gas companies, including many Applicants here.<sup>2</sup> Each of those courts held there was no federal subject-matter jurisdiction over complaints alleging similar state-law causes of action based on similar factual theories, which were originally filed in state court and removed by the defendants. Applicants assert there is a conflict between

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<sup>2</sup> See *City of Hoboken v. Chevron Corp.*, No. 21-2728, 2022 WL 3440653 (3d Cir. Aug. 17, 2022); *Mayor & City Council of Baltimore v. BP P.L.C.*, 31 F.4th 178 (4th Cir. 2022); *City & Cty. of Honolulu v. Sunoco LP*, 39 F.4th 1101 (9th Cir. 2022); *Cty. of San Mateo v. Chevron Corp.*, 32 F.4th 733 (9th Cir. 2022); *Bd. of Cty. Comm’rs of Boulder Cty. v. Suncor Energy (U.S.A.) Inc.*, 25 F.4th 1238, 1249 (10th Cir. 2022); see also *Minnesota v. Am. Petroleum Inst.*, No. CV 20-1636 (JRT/HB), 2021 WL 1215656 (D. Minn. Mar. 31, 2021), *appeal filed*, No. 21-1752 (8th Cir. Apr. 5, 2021); *Connecticut v. Exxon Mobil Corp.*, No. 3:20-CV-1555 (JCH), 2021 WL 2389739 (D. Conn. June 2, 2021), *appeal filed*, No. 21-1446 (2d Cir. June 9, 2021).

those decisions and the Second Circuit’s opinion in *City of New York v. Chevron Corp.*, 993 F.3d 81 (2d Cir. 2021), but that case affirmed an order dismissing claims originally filed in federal court for failure to state a claim under Fed. R. Civ. P. 12(b)(6), and expressly held that it was not in conflict with decisions considering removal jurisdiction in analogous circumstances. No court has held that similar claims are properly removable from state court. Moreover, this Court denied certiorari in another case presenting an identical issue, after the Second Circuit had already issued its *City of New York* opinion. See *Chevron Corp. v. City of Oakland*, 141 S. Ct. 2776 (2021).

Applicants’ petition here will address arguments for review that are already before the Court, that numerous Applicants have briefed and argued in six circuit courts including twice in the First Circuit, while this case has had not moved beyond the pleadings in more than four years. Applicants nonetheless request a 60-day extension. Respondent respectfully submits that Applicants have not shown good cause for such an extension and that it should be denied so the matter may proceed in timely accordance with the normal rules of this Court and the courts of appeal.

Respectfully Submitted,

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