

No. 22A528

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

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CHEVRON CORP., *et al.*,  
*Applicants,*

v.

CITY OF HOBOKEN, *et al.*,  
*Respondents.*

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

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TO THE HONORABLE SONIA M. SOTOMAYOR, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES:

Pursuant to Rules 13.5, 22, and 30.2 of this Court, Respondent the State of Delaware opposes the 60-day extension of time requested by Applicants within which to petition for a writ of certiorari from the decision of the Third Circuit Court of Appeals in this matter. Applicants have not shown that good cause exists to extend the time in which to file their petition. The petition will present issues identical to those in multiple petitions already before the Court in cases in which one or more Applicants here are petitioners, arising out of the First, Fourth, Ninth, and Tenth Circuits. *See; Shell Oil Prods. Co., L.L.C. v. Rhode Island*, No. 22-524, *pet. filed* (Dec. 2, 2022); *Chevron Corp. v. San Mateo Cty., California*, No. 22-495, *pet. filed* (Nov. 22, 2022); *BP p.l.c. v. Mayor & City Council of Baltimore*, No. 22-361, *pet. filed* (Oct. 14, 2022); *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). The petition in the *Suncor* case was distributed for the Court's Conference of September 28, 2022, and the Court requested the views of the Solicitor General on that petition on October 3, 2022.

Applicants intend to petition for a writ of certiorari from the Third Circuit's ruling in this case affirming an order granting motions to remand two removed cases to state court. Respondent filed its complaint in Delaware Superior Court in September 2020—over two years ago—and the case has made no progress on the merits in that time, due to the delay tactics of Applicants. The pleadings remain unsettled, no dispositive motions or answers to the complaint have been filed, and no discovery has gone forward. Indeed, Applicants' conduct to date is consistent with a litigation strategy that prioritizes delaying consideration of the case on the merits for as long as possible. Applicants removed to the District Court for the District of Delaware, and the district court granted Respondent's motion to remand on January 5, 2022. Applicants appealed, and the Third Circuit affirmed on August 17, 2022. *See*

*City of Hoboken v. Chevron Corp.*, 45 F.4th 699 (3d Cir. 2022). The Third Circuit denied Applicants' petition for *en banc* review on September 30, and denied Applicants' request to stay the mandate on October 12, issuing the mandate that day. Almost 120 days has thus *already* passed since August 17 when the Third Circuit issued its decision, and Applicants have provided no good cause why the current deadline is insufficient for sophisticated counsel to prepare a petition expected to substantively mirror the *Suncor*, *San Mateo*, *Baltimore*, and *Rhode Island* petitions all of which involve one or more Applicants as parties.

The courts of appeals are unanimous on the issues Applicants intend to present in their petition for certiorari, and have raised in five other petitions within the last two terms, as Respondent will explain further in response to Applicants' petition. In addition to the Third Circuit in this case, in 2022 alone, the Courts of Appeals for the First, Fourth, Ninth, and Tenth Circuits have all affirmed remand orders in similar cases brought by States and municipalities against private corporate defendants, including many Applicants here.<sup>1</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 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

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<sup>1</sup> *Rhode Island v. Shell Oil Prod. Co.*, 35 F.4th 44 (1st Cir. 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).

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 the Third Circuit, while this case has not moved beyond the pleadings in more than two years. Applicants’ stay request here lacks merit because the petitioners in those cases, which include many of the Applicants, raise the same issues Applicants intend to raise here, relying on the same arguments and the same authorities. The “significant and complex issues” to which Applicants refer, Appl. at 4, are already well-developed, and are in fact already pending before the Court. Applicants make no effort to explain why a 60-day extension of a 90-day period “is necessary to . . . prepare a petition addressing these important issues,” *id.*, which have already been briefed by many of the same parties more than a dozen times—including in petitions for certiorari. Applicants nonetheless request a 60-day extension that would only further delay—and prejudice—Respondent. 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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