

1 BARBARA J. PARKER, State Bar #069722  
 2 City Attorney  
 3 One Frank H. Ogawa Plaza, 6th Floor  
 4 Oakland, California 94612  
 5 Tel.: (510) 238-3601  
 6 Fax: (510) 238-6500  
 7 Email: ebernstein@oaklandcityattorney.org

8 *Attorney for Plaintiffs*  
 9 CITY OF OAKLAND and  
 10 PEOPLE OF THE STATE OF CALIFORNIA,  
 11 acting by and through Oakland City  
 12 Attorney BARBARA J. PARKER  
 13 [Other Counsel Listed on Signature Page]

14 DENNIS J. HERRERA, State Bar #139669  
 15 City Attorney  
 16 City Hall, Room 234  
 17 1 Dr. Carlton B. Goodlett Place  
 18 San Francisco, California 94102-4602  
 19 Telephone: (415) 554-4748  
 20 Facsimile: (415) 554-4715  
 21 Email: matthew.goldberg@sfcityatty.org

22 *Attorney for Plaintiffs*  
 23 CITY AND COUNTY OF SAN FRANCISCO  
 24 and PEOPLE OF THE STATE OF  
 25 CALIFORNIA, acting by and through San  
 26 Francisco City Attorney  
 27 DENNIS J. HERRERA  
 28 [Other Counsel Listed on Signature Page]

Jerome C. Roth (SBN 159483)  
 Elizabeth A. Kim (SBN 295277)  
 MUNGER, TOLLES & OLSON LLP  
 560 Mission Street  
 Twenty-Seventh Floor  
 San Francisco, California 94105-2907  
 Telephone: (415) 512-4000  
 Facsimile: (415) 512-4077  
 E-mail: jerome.roth@mto.com  
 E-mail: elizabeth.kim@mto.com

Daniel P. Collins (SBN 139164)  
 MUNGER, TOLLES & OLSON LLP  
 350 South Grand Avenue  
 Fiftieth Floor  
 Los Angeles, California 90071-3426  
 Telephone: (213) 683-9100  
 Facsimile: (213) 687-3702  
 E-mail: daniel.collins@mto.com

David C. Frederick (*pro hac vice*)  
 Brendan J. Crimmins (*pro hac vice*)  
 David K. Suska (*pro hac vice*)  
 KELLOGG, HANSEN, TODD,  
 FIGEL & FREDERICK, P.L.L.C.  
 1615 M Street, N.W., Suite 400  
 Washington, D.C. 20036  
 Telephone: (202) 326-7900  
 Facsimile: (202) 326-7999  
 E-mail: dfrederick@kellogghansen.com  
 E-mail: bcrimmins@kellogghansen.com  
 E-mail: dsuska@kellogghansen.com

*Attorneys for Defendant*  
 ROYAL DUTCH SHELL PLC

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION**

CITY OF OAKLAND and THE PEOPLE OF  
 THE STATE OF CALIFORNIA, acting by  
 and through the Oakland City Attorney,

Plaintiffs,

v.

BP P.L.C., CHEVRON CORP.,  
 CONOCOPHILLIPS, EXXON MOBIL  
 CORP., ROYAL DUTCH SHELL PLC, and  
 DOES 1 through 10,

Defendants.

First Filed Case: No. 3:17-CV-6011-WHA  
 Related Case: No. 3:17-CV-6012-WHA

Case No. 3:17-cv-6011-WHA

**STIPULATION AND ~~(PROPOSED)~~ ORDER  
 REGARDING ROYAL DUTCH SHELL PLC'S  
 MOTION TO DISMISS AND  
 JURISDICTIONAL DISCOVERY**

1 CITY AND COUNTY OF SAN FRANCISCO  
2 and THE PEOPLE OF THE STATE OF  
3 CALIFORNIA, acting by and through the San  
4 Francisco City Attorney,

5 Plaintiffs,

6 v.

7 BP P.L.C., CHEVRON CORP.,  
8 CONOCOPHILLIPS, EXXON MOBIL  
9 CORP., ROYAL DUTCH SHELL PLC, and  
10 DOES 1 through 10,  
11

12 Defendants.

Case No. 3:17-cv-6012-WHA

**STIPULATION AND ~~PROPOSED~~ ORDER  
REGARDING ROYAL DUTCH SHELL PLC'S  
MOTION TO DISMISS AND  
JURISDICTIONAL DISCOVERY**

1 WHEREAS, on April 19, 2018, Defendant Royal Dutch Shell plc (“Royal Dutch Shell”) filed  
2 a motion to dismiss Plaintiffs’ first amended complaints for lack of personal jurisdiction, insufficient  
3 service of process, and failure to state a claim under Federal Rules of Civil Procedure 12(b)(2),  
4 12(b)(5), and 12(b)(6)<sup>1</sup>;

5 WHEREAS, on May 25, 2018, “[f]or the reasons stated on the record” at the hearing on May  
6 24, 2018, the Court ordered “jurisdictional discovery” as to Royal Dutch Shell and certain other  
7 Defendants, ordered discovery as to “whether Shell Oil Company is Royal Dutch Shell’s ‘general  
8 manager’” for purposes of sufficiency of process, and ordered supplemental briefing on the relevant  
9 motions to dismiss following the conclusion of that discovery<sup>2</sup>;

10 WHEREAS, Plaintiffs and Royal Dutch Shell will effectuate a waiver of service of summons  
11 in accordance with Federal Rule of Civil Procedure 4(d) that will moot Royal Dutch Shell’s motion  
12 to dismiss for insufficient service of process under Rule 12(b)(5), thereby eliminating any need for  
13 discovery in connection with the Rule 12(b)(5) issues;

14 WHEREAS, to avoid the delay, burden, and expense of jurisdictional discovery and  
15 supplemental briefing, Royal Dutch Shell withdraws, for purposes of the above-captioned cases, the  
16 portions of its motion to dismiss that gave rise to Plaintiffs’ request for jurisdictional discovery, and  
17 Plaintiffs agree that, in light of this withdrawal, jurisdictional discovery and supplemental briefing are  
18 no longer necessary;

19 WHEREAS, specifically, Royal Dutch Shell withdraws its arguments against specific  
20 personal jurisdiction in Section I.B of its motion to dismiss other than those set forth in Section  
21 I.B.3,<sup>3</sup> and Royal Dutch Shell also withdraws the Declaration of Linda Szymanski, which was not  
22 cited or relied upon in Section I.B.3<sup>4</sup>;

23  
24 \_\_\_\_\_  
<sup>1</sup> See ECF 222, 225, 17-cv-6011; ECF 186, 188, 17-cv-6012.

25 <sup>2</sup> See ECF 259, 17-cv-6011; ECF 217, 17-cv-6012.

26 <sup>3</sup> Section I.B.3 is entitled, “Plaintiffs Cannot Show That Their Claims Arise From The  
27 Attenuated Jurisdictional Contacts Alleged In The Amended Complaints.”

28 <sup>4</sup> Royal Dutch Shell therefore preserves, and continues to assert, the argument in Section I.B.3  
(pp. 15-16) of Royal Dutch Shell’s Rule 12(b)(2) motion [ECF 222, 17-cv-6011; ECF 186, 17-cv-  
6012] and in the associated portion of Royal Dutch Shell’s reply brief, viz., Section I.B. (pp. 6-9)  
[ECF 249, 17-cv-6011; ECF 209, 17-cv-6012].

1           WHEREAS, with the aforementioned withdrawal, there is no remaining portion of Royal  
2 Dutch Shell's motion to dismiss under Rule 12(b)(2) as to which Royal Dutch Shell is relying on any  
3 declaration or other factual submission or as to which Plaintiffs are seeking discovery;

4           WHEREAS, Royal Dutch Shell's remaining argument concerning specific personal  
5 jurisdiction in Section I.B.3 is substantially analogous to the specific personal jurisdiction argument  
6 advanced by Exxon Mobil Corporation, as to which discovery has not been ordered;

7           WHEREAS, Plaintiffs and Royal Dutch Shell agree that Royal Dutch Shell's withdrawal of  
8 certain of its arguments concerning specific personal jurisdiction in these cases shall have the same  
9 effect as if Royal Dutch Shell had not made those arguments in its motion to dismiss, and that this  
10 withdrawal is without prejudice to Royal Dutch Shell's right to contest any issue concerning the  
11 merits of Plaintiffs' claims or Royal Dutch Shell's right to contest personal jurisdiction in other cases.

12           NOW THEREFORE, Plaintiffs and Royal Dutch Shell HEREBY STIPULATE AND  
13 AGREE, subject to the approval and order of the Court, as follows:

14           1.       For purposes of the above-captioned cases, Royal Dutch Shell withdraws its  
15 arguments against specific personal jurisdiction in Section I.B of its motion to dismiss other than  
16 those set forth in Section I.B.3, and Royal Dutch Shell also withdraws the Declaration of Linda  
17 Szymanski, with the same effect as if those arguments had not been made and that evidence had not  
18 been presented.

19           2.       The only arguments Royal Dutch Shell continues to assert concerning specific  
20 personal jurisdiction in the above-captioned cases are those in Section I.B.3 (pp. 15-16) of Royal  
21 Dutch Shell's Rule 12(b)(2) motion [ECF 222, 17-cv-6011; ECF 186, 17-cv-6012] and the associated  
22 portion of Royal Dutch Shell's reply brief, *viz.*, Section I.B (pp. 6-9) [ECF 249, 17-cv-6011; ECF  
23 209, 17-cv-6012].

24           3.       Because of this withdrawal, and because of Plaintiffs' and Royal Dutch Shell's  
25 intention to effectuate a waiver of service of process through Rule 4(d) in the above-captioned cases,  
26 Plaintiffs agree that their requests for discovery in connection with Royal Dutch Shell's motion to  
27 dismiss are moot, and Plaintiffs will not serve jurisdictional discovery on Royal Dutch Shell. Royal  
28 Dutch Shell likewise will not serve jurisdictional discovery on Plaintiffs.

1 4. Because of this stipulation, there is no need for jurisdictional discovery as to Royal  
2 Dutch Shell or discovery as to “whether Shell Oil Company is Royal Dutch Shell’s ‘general  
3 manager,’” and there is likewise no need for further supplemental briefing on Royal Dutch Shell’s  
4 motion to dismiss.

5  
6 **IT IS SO STIPULATED.**

7  
8 Dated: June 5, 2018

Respectfully submitted,

9 \*\*/s/ Erin Bernstein

/s/ David C. Frederick

10 BARBARA J. PARKER, State Bar #069722

Jerome C. Roth (SBN 159483)

11 City Attorney

Elizabeth A. Kim (SBN 295277)

12 MARIA BEE, State Bar #167716

MUNGER, TOLLES & OLSON LLP

13 Special Counsel

560 Mission Street

14 ERIN BERNSTEIN, State Bar #231539

Twenty-Seventh Floor

15 Supervising Deputy City Attorney

San Francisco, California 94105-2907

16 MALIA MCPHERSON, State Bar #313918

Telephone: (415) 512-4000

17 Attorney

Facsimile: (415) 512-4077

18 One Frank H. Ogawa Plaza, 6th Floor

E-mail: jerome.roth@mto.com

19 Oakland, California 94612

E-mail: elizabeth.kim@mto.com

20 Tel.: (510) 238-3601

Daniel P. Collins (SBN 139164)

21 Fax: (510) 238-6500

MUNGER, TOLLES & OLSON LLP

22 Email: ebernstein@oaklandcityattorney.org

350 South Grand Avenue

Fiftieth Floor

23 *Attorneys for Plaintiffs*

Los Angeles, California 90071-3426

24 CITY OF OAKLAND and

Telephone: (213) 683-9100

25 PEOPLE OF THE STATE OF CALIFORNIA,

Facsimile: (213) 687-3702

26 acting by and through Oakland City

E-mail: daniel.collins@mto.com

27 Attorney BARBARA J. PARKER

David C. Frederick (*pro hac vice*)

Brendan J. Crimmins (*pro hac vice*)

David K. Suska (*pro hac vice*)

28 \*\* Pursuant to Civ. L.R. 5-1(i)(3), the  
electronic filer has obtained approval from  
this signatory.

KELLOGG, HANSEN, TODD,

FIGEL & FREDERICK, P.L.L.C.

1615 M Street, N.W., Suite 400

Washington, D.C. 20036

Telephone: (202) 326-7900

Facsimile: (202) 326-7999

E-mail: dfrederick@kellogghansen.com

E-mail: bcrimmins@kellogghansen.com

E-mail: dsuska@kellogghansen.com

*Attorneys for Defendant Royal Dutch Shell plc*

1 \*\*/s/ Matthew D. Goldberg

2 DENNIS J. HERRERA, State Bar #139669

3 City Attorney

4 RONALD P. FLYNN, State Bar #184186

5 Chief Deputy City Attorney

6 YVONNE R. MERÉ, State Bar #173594

7 Chief of Complex and Affirmative Litigation

8 ROBB W. KAPLA, State Bar #238896

9 Deputy City Attorney

10 MATTHEW D. GOLDBERG, State Bar

11 #240776

12 Deputy City Attorney

13 City Hall, Room 234

14 1 Dr. Carlton B. Goodlett Place

15 San Francisco, California 94102-4602

16 Telephone: (415) 554-4748

17 Facsimile: (415) 554-4715

18 Email: matthew.goldberg@sfcityatty.org

19 Attorneys for Plaintiffs

20 CITY AND COUNTY OF SAN FRANCISCO

21 and PEOPLE OF THE STATE OF

22 CALIFORNIA, acting by and through San

23 Francisco City Attorney

24 DENNIS J. HERRERA

25  
26 \*\* Pursuant to Civ. L.R. 5-1(i)(3), the  
27 electronic filer has obtained approval from  
28 this signatory.

19 \*\*/s/ Steve W. Berman

20 STEVE W. BERMAN (pro hac vice)

21 steve@hbsslaw.com

22 HAGENS BERMAN SOBOL SHAPIRO LLP

23 1918 Eighth Ave. Suite 3300

24 Seattle, Washington 98101

25 Tel.: (206) 623-7292

26 Fax: (206) 623-0594

27 SHANA E. SCARLETT (State Bar #217895)

28 HAGENS BERMAN SOBOL SHAPIRO LLP

715 Hearst Avenue, Suite 202

Berkeley, California 94710

Tel.: (510) 725-3000

Fax: (510) 725-3001

1 MATTHEW F. PAWA (pro hac vice)  
mattp@hbsslaw.com  
2 BENJAMIN A. KRASS (pro hac vice)  
benk@hbsslaw.com  
3 HAGENS BERMAN SOBOL SHAPIRO LLP  
1280 Centre Street, Suite 230  
4 Newton Centre, Massachusetts 02459  
Tel.: (617) 641-9550  
5 Fax: (617) 641-9551

6 *Of Counsel Attorneys for Plaintiffs*

7 \*\* Pursuant to Civ. L.R. 5-1(i)(3), the  
8 electronic filer has obtained approval from  
this signatory.  
9  
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~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: June 6, 2018.



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THE HONORABLE WILLIAM ALSUP  
UNITED STATES DISTRICT COURT JUDGE

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