SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

DEPARTMENT 304

COORDINATION PROCEEDING SPECIAL TITLE [RULE 3.550]	Case No. CJC-24-005310 JUDICIAL COUNCIL COORDINATION PROCEEDING NO. 5310
FUEL INDUSTRY CLIMATE CASES	ORDER ON DEFENDANTS' MOTIONS TO QUASH SUMMONSES AND DISMISS FOR LACK OF PERSONAL JURISDICTION
This Document Relates To: All Cases	

Defendants' motions to quash summonses and dismiss the State's First Amended Complaint and the Local Governments' operative complaints for lack of personal jurisdiction came on for hearing on October 7, 2024. Having considered the pleadings and papers on file in the action, and the arguments of counsel presented at the hearing, the motions are hereby denied.

INTRODUCTION

In the nine coordinated climate change actions before the Court, Plaintiffs are the People of the State of California, acting by and through the Attorney General (the "State"), and eight local

governmental entities (the "Local Governments"): the City and County of San Francisco and the Cities of Oakland, Imperial Beach, Richmond, and Santa Cruz, and the Counties of San Mateo, Marin, and Santa Cruz, individually and on behalf of the People of the State of California, by and through their respective city attorneys and county counsels, as well as the San Mateo County Flood and Sea Level Rise Resiliency District. Defendants are among the world's largest oil and gas companies and certain of their affiliates and subsidiaries. Plaintiffs allege generally that Defendant companies' production and promotion of fossil fuels is a public nuisance under California law and that their tortious conduct, including misstatements regarding the existence and cause of climate change, gives rise to other common law and statutory causes of action. They seek judicial orders compelling Defendants to establish and contribute to an abatement fund to abate the nuisance; temporary and permanent equitable relief; compensatory damages; civil penalties; and other relief.

Defendants now jointly move to quash service of the summonses and to dismiss the California Attorney General's First Amended Complaint and the Local Governments' operative complaints for lack of personal jurisdiction.[1] Defendants contend that the Court lacks specific personal jurisdiction over them because Plaintiffs' claims do not arise out of or relate to Defendants' alleged contacts with California, and because exercising jurisdiction over them would be unfair and unreasonable. The Court disagrees and, consistent with every other court in the country that has addressed similar climate change actions, concludes that Plaintiffs' claims arise out of or are related to Defendants' extensive contacts with California, including their sale and promotion of fossil fuel products in California, their allegedly deceptive statements regarding climate change, and the alleged injuries Plaintiffs suffered in California.

[1] Defendants have moved separately to dismiss the State's First Amended Complaint ("Def. State Mot.") and to dismiss the Local Governments' complaints ("Def. Local Gov. Mot."). "Defendants" as used in this Order refers to all moving Defendants, who do not include Chevron Corporation and Chevron USA, Inc., which have their principal places of business in California and therefore are subject to general jurisdiction. (Defs. State Mot., 6 fn. 1.) Plaintiffs voluntarily dismissed certain other entities that were originally named as defendants in the operative complaints. (See Def. Local Govt. Reply, 6 fn. 1.)

SUMMARY OF PLAINTIFFS' ALLEGATIONS

For purposes of these motions, the jurisdictional facts are not in dispute.[2] Plaintiffs generally allege as follows.[3]

"Each Fossil Fuel Defendant researched, developed, manufactured, designed, marketed, distributed, released, promoted, and/or otherwise sold its fossil fuel products in markets around the United States, including within California." (State FAC ¶ 24; San Mateo FAC ¶ 39 [same].)[4] Defendants have "maintained a substantial presence in California for decades, including by maintaining fossil fuel processing and distribution facilities in California and marketing and selling their products in California." (Opposition, 7.) Thus, for years, Defendants have processed, stored, and transported their products within California through oil and natural gas refineries, terminals, and storage and distribution facilities. (*Id.* at 9-10 (citations omitted).) Defendants also employ thousands of personnel in California. (*Id.* at 10 (citations omitted).)

Defendants have been "responsible for a substantial share of retail gasoline sold in California. Together, they operate over 2,000 branded stations." (*Id.* (citations omitted).) "BP's 300+ California stations alone serve more than 640,000 customers daily. The Fossil Fuel Defendants also market branded lines of engine lubricants sold at service stations and retail stores throughout California." (*Id.* (citations omitted).) In addition, the Fossil Fuel Defendants "seek customer loyalty in California through smartphone applications, branded credit cards, and interactive websites," and two Defendants "offer fuel reward cards, encouraging consumers to use their branded gas stations by providing cash rebates." (*Id.* at

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[2] Defendants explicitly accept Plaintiffs' factual allegations as true for purposes of their joint motion to quash or dismiss the Local Governments' complaints. (Defs. Local Govt. Mot., 10; see also *id.* at 14 fn. 7 [assuming *arguendo* Plaintiffs' imputation of alleged forum contacts of Defendants' direct and indirect subsidiaries and affiliates].) Defendants make a similar concession in their motion to dismiss the State's First Amended Complaint. (See Defs. State Mot., 8 [accepting as true that "Defendants conducted business or promoted products in California"].)

[3] Given the number and length of the various complaints and the undisputed nature of Plaintiffs' allegations, this Order incorporates Plaintiffs' summary of their principal allegations. Consistent with the parties' approach, where citations to specific complaints are provided, the Court cites to the State's First Amended Complaint ("State FAC"), the City of Oakland's Second Amended Complaint ("Oakland SAC"), and the County of San Mateo's First Amended Complaint ("San Mateo FAC"). (See Opposition, 9 fn. 8 [stating that allegations in each group of complaints are substantially similar].)

[4] Plaintiffs define "Fossil Fuel Defendants" as all Defendants other than American Petroleum Institute ("API"). API is not a defendant in the Local Government cases. (Opposition, 6 fn. 4; see State FAC ¶¶ 17, 18.)

11.)

Defendants "invest heavily to entice California consumers to purchase their (or, in API's case, their members') fossil fuel products through 'radio, television, online, social media, and outdoor advertisements in the California market'—in all cases without warning of the devastating climate impacts their products cause." (*Id.* at 10-11 (citations omitted).)

Plaintiffs allege that "Defendants have misled the California public about the effects of their products and businesses on climate change for decades." (*Id.* at 11.) Although Defendants were well aware by the 1950s and 1960s that fossil fuels had caused increases in atmospheric CO_2, which in turn would cause significant temperature increases and environmental damage, "Defendants acted to protect their profits, embarking on a widespread campaign of denial and disinformation focused on concealing, discrediting, and misrepresenting the existence of climate change and their products' role in causing it—and later, sowing doubt about the scientific consensus on climate change and its anthropogenic origins." (*Id.* (citations omitted).) These deceptive messages were conveyed through various media, including reports and advertisements published in national newspapers with substantial circulation in California. (*Id.* (citations omitted).) "In the 21st century—once climate change, its devastating impacts, and fossil fuels' role in bringing it about could no longer be denied—Defendants pivoted to a 'greenwashing' campaign designed to delay the transition to a lower-carbon future." (*Id.* at 12 (citations omitted).) Defendants' messages "have been specifically directed to California, not only through national channels that reach California, but through California media outlets." (*Id.* (citations omitted).)

Plaintiffs allege that Defendants' conduct, including their alleged deception and misinformation regarding the effects of their products, has caused substantial injuries in California. Thus, the State alleges that it "has suffered and will suffer injuries from Defendants' wrongful conduct, including but not limited to the following: extreme heat, severe droughts, water shortages, catastrophic wildfires, public health injuries, massive storms, flooding, damage to agriculture, sea level rise, coastal erosion, damage to ecosystems and habitat, biodiversity disruption, and other social and economic consequences of these environmental changes." (State FAC ¶ 25(c); see also, e.g., San Mateo FAC ¶ 40(c) [similar allegations of injury to County and its residents].)

In short, as the Ninth Circuit succinctly observed at an earlier stage of this litigation, "the substance of the claims" by Plaintiffs in these actions is that "tortious conduct by the Energy Companies in the course of producing, selling, and promoting the use of fossil fuels contributed to global warming and sea-level rise, which led to property damage and other injuries to [Plaintiffs]." (*County of San Mateo v. Chevron Corp.* (9th Cir. 2022) 32 F.4th 733, 747-748.)

PLAINTIFFS' CLAIMS

The Local Governments seek to state the following causes of action: public nuisance (both on behalf of the People of the State of California and their own behalf); strict liability – failure to warn; private nuisance; negligence; negligence – failure to warn; and trespass. The State brings causes of action for public nuisance; equitable relief for the protection of the natural resources of the state from pollution, impairment, or destruction, pursuant to Government Code section 12607; untrue or misleading advertising in violation of Bus. & Prof. Code § 17500; misleading environmental marketing in violation of Bus. & Prof. Code § 17580.5; unlawful, unfair, or fraudulent business practices in violation of the Unfair Competition Law, Bus. & Prof. Code § 17200 *et seq.*; strict products liability – failure to warn; and negligent products liability – failure to warn. Defendants jointly move to quash and dismiss the Local Governments' and the State's complaints for lack of personal jurisdiction. Plaintiffs oppose the motions in an omnibus response.

LEGAL STANDARD

California courts may exercise jurisdiction on any basis consistent with the Constitutions of California and the United States. (Code Civ. Proc. § 410.10.) Jurisdiction is proper if a defendant has minimum contacts with California such that a suit here does not offend traditional notions of fair play and substantial justice. (*Internat. Shoe Co. v. Washington* (1945) 326 U.S. 310, 316.)

"'Minimum contacts' may support either general (also called 'all-purpose') jurisdiction or specific (also called 'case-linked') jurisdiction." (*SK Trading International Co. Ltd. v. Superior Court* (2022) 77 Cal.App.5th 378, 386 ("*SK Trading*"); see *Bristol-Myers Squibb Co. v. Superior Court* (2017) 582 U.S.

225, 262 ("*Bristol-Myers*").) The paradigm of general jurisdiction for an individual is his or her domicile, and for a corporation its state of incorporation or principal place of business. (*Daimler AG v. Bauman* (2014) 571 U.S. 117, 137.) If general jurisdiction exists, the defendant may be sued in California whether or not its contacts with the state are related to the controversy alleged in the litigation. (See *id.*) On the other hand, a court "may exercise specific jurisdiction over a nonresident defendant only if: (1) the defendant has purposefully availed himself or herself of forum benefits; (2) the controversy is related to or arises out of the defendant's contacts with the forum; and (3) the assertion of personal jurisdiction would comport with fair play and substantial justice." (*Pavlovich v. Superior Court* (2002) 29 Cal.4th 262, 269 (cleaned up); *Vons Companies, Inc. v. Seabest Foods, Inc.* (1996) 14 Cal.4th 434, 445-447.)

When a defendant moves to quash service for lack of personal jurisdiction, the plaintiff bears the burden of proving facts supporting the exercise of jurisdiction by a preponderance of the evidence. (*Farina v. SAVWCL III, LLC* (2020) 50 Cal.App.5th 286, 293.) "The plaintiff asking the forum state to exert jurisdiction over the out-of-state defendant bears the initial burden of establishing the first two elements by a preponderance of the evidence, and if the plaintiff does so, the out-of-state defendant then bears the burden of convincing the court why the exertion of personal jurisdiction would *not* comport with fair play and substantial justice." (*Jacqueline B. v. Rawls Law Group, PC* (2021) 68 Cal.App.5th 243, 253.) When the jurisdictional facts are not in dispute, the question of whether the defendant is subject to personal jurisdiction is one of law. (*Vons*, 14 Cal.4th at 449; *SK Trading*, 77 Cal.App.5th at 387.)

DISCUSSION

I. Defendants Are Subject To Specific Jurisdiction In California.

Plaintiffs do not contend that Defendants are subject to general personal jurisdiction in California. Thus, the issue presented by both motions is whether Defendants are subject to specific jurisdiction as to the claims asserted by Plaintiffs. Defendants do not dispute that the first factor of the three-part test for specific jurisdiction is met: *i.e.*, that they purposefully availed themselves of the privilege of doing business in California. (See Defs. Local Govt. Mot., 18 fn. 12.)[5] Rather, they focus their arguments

[5] Certain Defendants who have filed their own individual motions to quash and dismiss following the

solely on the second and third factors, contending first that Plaintiffs' claims do not arise out of or relate to Defendants' California conduct; and second, that exercising personal jurisdiction over Defendants would be constitutionally unreasonable. (*Id.* at 18-29.) Plaintiffs disagree. (Opposition, 17-28.) The Court addresses each factor in turn.

A. Plaintiffs' Claims Arise Out Of Or Relate To Defendants' Extensive Contacts With California.

"In order for a state court to exercise specific jurisdiction, the suit must arise out of or relate to the defendant's contacts with the forum." (*Bristol-Myers*, 582 U.S. at 262 (cleaned up).) "In other words, there must be an affiliation between the forum and the underlying controversy, principally, an activity or occurrence that takes place in the forum State and is therefore subject to the State's regulation." (*Id.* (cleaned up).) "For this reason, specific jurisdiction is confined to adjudication of issues derived from, or connected with, the very controversy that establishes jurisdiction." (*Id.* (cleaned up).) "When there is no such connection, specific jurisdiction is lacking regardless of the extent of a defendant's unconnected activities in the State." (*Id.* at 264.)

In *Bristol-Myers*, the Court disapproved the California courts' prior "sliding scale approach" to specific jurisdiction, under which "the strength of the requisite connection between the forum and the specific claims at issue is relaxed if the defendant has extensive forum contacts that are unrelated to those claims." (*Id.*) The Court explained that this approach "resembles a loose and spurious form of general jurisdiction" and that for specific jurisdiction, "a defendant's general connections with the forum are not enough." (*Id.*)[6] On the facts before it, the Court held that a California state court lacked specific jurisdiction over a prescription drug manufacturer for products liability claims brought against it by

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completion of jurisdictional discovery reserve the right to contest this factor in those motions, which are set for hearing on November 21, 2024.

[6] Plaintiffs advocate a modified version of the sliding scale approach, arguing that a "stronger showing of purposeful contacts with the forum state will permit a lesser showing of relatedness to the litigation because a defendant who has continuously and deliberately exploited the forum state's market can reasonably anticipate being subject to personal jurisdiction from causes of action that do not directly arise from those contacts, but that nonetheless 'relate to' them." (Opposition, 13, quoting *Impossible Foods Inc. v. Impossible X LLC* (9th Cir. 2023) 80 F.4th 1079, 1091 (cleaned up).) Defendants assert that proposed standard is foreclosed by *Bristol-Myers*. (Def. Local Govt. Reply, 12-13 & fn. 6.) The Court need not address the viability of that standard, which has not been adopted or endorsed by California courts.

nonresidents, who were not prescribed the drug in California, did not ingest it in California, and were not injured by it in California. (*Id.*) "What is needed—and what is missing here—is a connection between the forum and the specific claims at issue." (*Id.* at 265.)

Here, in contrast, the Court concludes that Plaintiffs' claims arise out of or relate to Defendants' extensive contacts with California because (1) Plaintiffs are California residents; (2) the alleged conduct giving rise to their claims occurred in substantial part within California; and (3) Plaintiffs claim to have suffered resulting harm in California.

Thus, unlike the plaintiffs in *Bristol-Myers*, who were nonresidents of California, Plaintiffs here are the People of the State of California, acting by and through their State, county, and local representatives, as well as those various governmental entities themselves. To be sure, the "plaintiff's residence in the forum State is not a separate requirement" for specific jurisdiction, and "lack of residence will not defeat jurisdiction established on the basis of defendant's contacts." (*Keeton v. Hustler Magazine, Inc.* (1984) 465 U.S. 770, 780.) Nevertheless, that the lawsuit arises from an injury which occurred in the forum state is a relevant part of the relatedness prong of the analysis. (*Ford Motor Company v. Montana Eighth Judicial District Court* (2021) 592 U.S. 351, 365 ("*Ford Motor*") ["Each plaintiff's suit, of course, arises from a car accident in one of those States."]; cf. *Bristol-Myers*, 582 U.S. at 265 [holding that the connection between the nonresidents' claims and the forum was weak because the "relevant plaintiffs are not California residents and do not claim to have suffered harm in that State"].)[7]

Further, Plaintiffs' claims arise out of conduct that occurred, in substantial part, in California. Those claims are based on the processing, storage, distribution, sale and use of Defendants' fossil fuel products in California, as well as Defendants' alleged misstatements regarding their products and their effects. Each is undoubtedly "an activity or occurrence that [took] place in the forum State." That Defendants may have engaged in the same or similar conduct in *other* states is immaterial to the inquiry

[7] The Court rejects Defendants' repeated contention that *Bristol-Myers*' and *Ford Motor*'s holdings are limited to cases in which the plaintiff's claims arise from a product "malfunction[ing]" in the forum state. (E.g., Def. Local Govt. Mot., 20-21 & fn. 13; Def. Local Govt. Reply, 8-12.) While *Bristol-Myers*, *Ford Motor*, and other seminal cases happened to involve products liability claims, their jurisdictional holdings apply equally to a wide range of other types of claims. (See, e.g., Opposition, 22 [citing cases].)

here.[8] Nothing in the jurisdictional test mandates that a non-resident defendant's claim-related contacts must be *exclusively* with the forum state. As discussed below, if that were the test, defendants that advertise, market, and sell their products nationally, or make misstatements regarding those products, would be effectively immune from suit in *any* state other than their state of incorporation or principal place of business. That is plainly not the law, and would be an absurd result.[9]

Finally, the injuries Plaintiffs assert occurred in substantial part within California, where Plaintiffs allege that Defendants' products and alleged tortious conduct have contributed to or accelerated climate change. Defendants assert that Plaintiffs "do not and cannot allege that use of the marketed products in California (or use of any of Defendants' products in California) injured Plaintiffs in California" because "Plaintiffs' alleged injuries all expressly stem from global climate change" (Def. Local Govt. Mot., 12),[10] but that assertion is demonstrably inaccurate. Over and over again, Plaintiffs *do*, in fact, allege in great detail that Defendants' products and alleged misstatements injured Plaintiffs *in California*. (See, e.g., State FAC ¶ 25(c) ["the State has suffered and will suffer injuries from Defendants' wrongful conduct"]; *id.* ¶¶ 177-179 ["Defendants' individual and collective conduct is a substantial factor in causing harms to California"; "As an actual and proximate result of Defendants' conduct, which was a substantial factor in bringing about the aforementioned environmental changes, the State has suffered and will continue to

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[8] For example, Defendants highlight Plaintiffs' allegations that their marketing and advertising statements were made on national media. (Def. Local Govt. Mot., 23.) As Defendants concede, however, the State identifies a number of specific statements in California media outlets, in addition to "radio, television, online, social media, and outdoor advertisements in the California market," that it contends are deceptive in violation of California law. (Def. State Mot., 9 and Def. State Mot., 14, citing State FAC ¶¶ 12(i), 13(i), 16(h), 18(d) [API], 145-146, 148-149, 159, 162.)

[9] For the first time in their reply, Defendants raise a separate argument as to API, which they mentioned only in passing in footnotes in their opening brief. (See Def. State Reply, 5-7; compare Def. State Mot., 9 fn. 4, 11 fn. 7, 12 fn. 8.) Even if Defendants had properly preserved this argument, the Court finds it unpersuasive. While API is a trade association that does not sell, transport, or refine fossil fuels, the State alleges that in its role as a "marketing arm" for the Fossil Fuel Defendants, it has "spent millions of dollars on television, newspaper, radio, social media, and internet advertisements in the California market," including California media outlets, that comprise "a long-term advertising and communications campaign centered in climate change denialism," and that it has targeted California consumers directly by "creating and disseminating misleading advertisements that distinctly promote consumption of fossil fuel products in California." (State FAC ¶ 18(d)-(f).) Those allegations are sufficient for present purposes. (See *SK Trading*, 77 Cal.App.5th at 390 [although defendant did not trade on the California gasoline market, its involvement in activity directed at that market "reasonably suggests that it may be linked to the alleged illegal conspiracy"].)

[10] See also Def. State Mot., 8.

suffer severe harms and losses"]; *id.* ¶¶ 180-252 [detailing alleged harms suffered by California as a result of Defendants' wrongful conduct, including extreme heat, drought and water shortages, extreme wildfire, public health injuries, extreme storms and flooding, damage to agriculture, sea level rise, coastal flooding and coastal erosion, and ecosystem, habitat, and biodiversity disruption]; see also, e.g., San Mateo FAC ¶¶ 40(c), 179-235 [similar: "San Mateo County Has Suffered, Is Suffering, and Will Suffer Injuries From Defendants' Tortious Conduct"].)

It bears emphasis that whether or not Plaintiffs can *prove* their allegations is not currently at issue: "The People need not prove the merits of its case during this jurisdictional stage of the proceedings." (*SK Trading*, 77 Cal.App.5th at 390; see also *Bader v. Avon Products, Inc.* (2020) 55 Cal.App.5th 186, 197-198 [a plaintiff suing over injury caused by an allegedly defective product need not prove the product defect at the jurisdictional phase].) Nor is it germane to the Court's inquiry that Defendants may have engaged in the same alleged conduct in other states, or that residents of other jurisdictions may be suffering the same injuries.

In short, the Court concludes that Plaintiffs' claims arise out of or relate to Defendants' contacts with California. (See, e.g., *Snowney v. Harrah's Entertainment, Inc.* (2005) 35 Cal.4th 1054, 1068-1069, abrogated on another ground in *Bristol-Meyers*, 582 U.S. at 264-265 [plaintiff's causes of action for unfair competition, breach of contract, unjust enrichment, and false advertisement alleging that defendant Nevada hotels failed to provide notice of an energy surcharge during the reservation process and in their advertising were premised on alleged omissions during hotels' consummation of transactions with California residents and in their California advertisements to solicit business in the state]; *SK Trading*, 77 Cal.App.5th at 390 [People's antitrust and unfair competition claims against defendant South Korean oil and gas firm alleging participation in a multiyear conspiracy to manipulate the California gasoline market to the detriment of California consumers arose out of defendant's involvement in decision-making that was directed towards the California market, including the involvement of defendants' officers in the formulation of the policies that allegedly constituted an anticompetitive scheme]; *Bader*, 55 Cal.App.5th at 199-200 [claims by estate of consumer who used products that allegedly contained asbestos arose out of or related to defendant's contacts with California, where plaintiff lived and worked and developed cancer

in California and defendant used sales representatives to market and sell the products directly to her in California].)[11]

The Hawaii Supreme Court reached the same conclusion in a closely similar action. In *City and County of Honolulu v. Sunoco LP* (Haw. 2023) 537 P.3d 1173, pets. for cert. filed sub nom. *Sunoco LP v. City and County of Honolulu, Hawaii*, No. 23-947 (filed Feb. 28, 2024) and *Shell PLC, fka Royal Dutch Shell PLC v. City and County of Honolulu, Hawaii*, No. 23-952 (filed Feb. 28, 2024),[12] the City and County of Honolulu and the Honolulu Board of Water Supply brought suit against a number of oil and gas producers alleging five counts: public nuisance, private nuisance, strict liability failure to warn, negligent failure to warn, and trespass. There, just as here, plaintiffs alleged that defendants "knew of the dangers of using their fossil fuel products, 'knowingly concealed and misrepresented the climate impacts of their fossil fuel products,' and engaged in 'sophisticated disinformation campaigns to cast doubt on the science, causes, and effects of global warming,' causing increasing fossil fuel consumption and greenhouse gas emissions, which then caused property and infrastructure damage in Honolulu. Simply, Plaintiffs say the issue is whether Defendants misled the public about fossil fuels' dangers and environmental impact." (*Id.* at 1181.) Defendants, in contrast, characterized the lawsuit as "seeking to regulate interstate and international greenhouse gas emissions," and argued—utilizing language closely similar to Defendants' arguments here—that greenhouse gas emissions and global warming "are caused by 'billions of daily choices, over more than a century, by governments, companies, and individuals.'" (*Id.*) Defendants argued that plaintiffs "'seek to recover from a handful of Defendants for the cumulative

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[11] Defendants misplace their reliance on *Aquila, Inc. v. Superior Court* (2007) 148 Cal.App.4th 556. (Def. Local Govt. Mot., 11.) That case held that the court lacked specific jurisdiction over a public regulated utility operating in the Midwest that allegedly entered into a conspiracy to manipulate prices in the California retail natural gas market because the evidence did not show that the utility had purposefully availed itself of the benefits of contacts in California. (*Aquila*, 148 Cal.App.4th at 572-576.) Here, in contrast, Defendants do not contest purposeful availment for purposes of these motions.

[12] The questions raised in the pending petitions for certiorari in *Sunoco* relate to subject matter jurisdiction (preemption or displacement of state law by federal common law and the Clean Air Act) rather than personal jurisdiction. (See Pet. for Cert., No. 23-947 ["Whether federal law precludes state-law claims seeking redress for injuries allegedly caused by the effects of interstate and international greenhouse-gas emissions on the global climate."]; Pet. for Cert., No. 23-952 ["1. Whether claims seeking damages for the effects of interstate and international emissions on the global climate are beyond the limits of state law and thus preempted under the federal Constitution. 2. Whether the Clean Air Act preempts state-law claims predicated on damaging interstate emissions."].)

effect of worldwide emissions leading to global climate change and Plaintiffs' alleged injuries.'" (*Id.*) The court disagreed:

> This suit does not seek to regulate emissions and does not seek damages for interstate emissions. Rather, Plaintiffs' complaint "clearly seeks to challenge the promotion and sale of fossil-fuel products without warning and abetted by a sophisticated disinformation campaign." This case concerns torts committed in Hawai'i that caused alleged injuries in Hawai'i.

(*Id.* (cleaned up).)

The court held that defendants were subject to specific jurisdiction in Hawai'i, concluding that plaintiffs' claims arose out of or related to defendants' in-state conduct. (*Id.* at 342-345.) The court rejected defendants' contrary arguments as based on "a single, fatally flawed premise . . . that they can only be subject to personal jurisdiction if the climate change injuries Plaintiffs allege were caused by Defendants' fossil fuels being burned in Hawai'i," viewing that argument as analogous to the causation argument rejected in *Ford Motor*. (*Id.* at 343.) Rather, the court explained, specific jurisdiction stemmed from defendants having purposefully availed themselves of the privilege of conducting business in Hawai'i which resulted in "extensive injuries" within the state:

> Each defendant is alleged to have transported, traded, distributed, promoted, marketed, refined, manufactured, sold, and/or consumed oil and gas in Hawai'i. Plaintiffs also allege that Defendants failed to warn consumers in Hawai'i about the dangers of using the oil and gas Defendants sold in the state and that Defendants engaged in a deceptive marketing campaign to conceal, deny, and discredit efforts to make those dangers known to the public. Plaintiffs further allege that Defendants' tortious failure to warn and deceptive promotion caused extensive injuries in Hawai'i . . . .

(*Id.* at 344.) Thus, the court found a strong relationship among the defendant, the forum, and the litigation: "Defendants sold and marketed oil and gas in Hawai'i, availed themselves of Hawai'i markets and laws, and the at-issue complaint alleges tortious acts and damages in Hawai'i that 'arise out of' or 'relate to' Defendants' Hawai'i contacts, i.e., oil and gas business conducted in the state." (*Id.*)[13]

Every other court to have considered the same issues in climate change cases brought against oil and gas companies has reached the same conclusion. (See *State v. Exxon Mobil Corporation* (Conn.

[13] Having determined that defendants were subject to specific jurisdiction under the traditional minimum contacts test, the court found it unnecessary to address plaintiffs' separate argument for jurisdiction under the effects test. (*Id.* at 344-345, citing *Calder v. Jones* (1984) 465 U.S. 783.)

Super. Ct. July 23, 2024) 2024 WL 3580377, *19 [finding that defendant's marketing and sale of its fossil fuel products in the forum state is "directly linked to the plaintiff's claim that the state and its residents were harmed by the deceptive nature of its advertising"]; *Bd. of County Comm'rs of Boulder County v. Suncor Energy (U.S.A.), Inc.* (Colo. Dist. Ct. June 21, 2024) 2024 WL 3204275, *11 [concluding that "ExxonMobil's extensive forum contacts relate to the harms alleged in the Amended Complaint," which alleges that activities such as "the company's sales and advertisements have contributed to 'occurrences' such as fires, droughts, and beetle infestations"];[14] *State ex rel. Jennings v. BP America Inc.* (Del. Super. Ct. Jan. 9, 2024) 2024 WL 98888, *20-21, apps. for cert. of interlocutory appeal denied (Del. Super. Feb. 14, 2024) 2024 WL 621438 ["Advertising, selling products, operating gas stations, and/or operating a refinery in [forum state] are connections sufficient to survive dismissal" for lack of personal jurisdiction]; *Commonwealth v. Exxon Mobil Corporation* (Mass. Super. Ct. June 22, 2021) 2021 WL 3493456, *7-8 [claims regarding consumer deception arose from defendant's allegedly misleading advertising of its fossil fuel products to forum consumers].) The Court finds this body of authority persuasive here.

Defendants' central argument is that Plaintiffs' claims are based on "worldwide conduct and worldwide harm" which are too attenuated from injuries allegedly connected with the use of their fossil fuel products in California to give rise to specific jurisdiction. (Def. Local Govt. Mot., 12, 20-22.) Thus, Defendants contend that "no Defendant's in-state activities alone could possibly have been a substantial factor in injuring Plaintiffs," whose injuries "necessarily arise from the global activities of countless actors." (*Id.* at 22.) Likewise, Defendants repeatedly characterize climate change as a global problem, and contend that the State "alleges an attenuated (and implausible) causal chain between Defendants' alleged tortious acts . . . and its purported injuries from global climate change." (Def. State Mot., 7; see also *id.* [asserting that State's "alleged causal chain is global in scope"].)[15] Although Defendants purport

[14] The Colorado Supreme Court granted an order to show cause as to another issue addressed in this ruling, but denied the petition with respect to the district court's personal jurisdiction ruling. (552 P.3d 539 (Colo. July 29, 2024).)

[15] While the Court does not decide the issue here, Defendants' causation argument is open to dispute. The Ninth Circuit has held that "[c]ausation can be established even if there are multiple links in the chain, as long as the chain is not hypothetical or tenuous." (*Juliana v. United States* (9th Cir. 2020) 947 F.3d 1159, 1169 [concluding that causal chain was sufficiently established for purposes of summary judgment where plaintiffs' alleged injuries were "caused by carbon emissions from fossil fuel production, extraction, and transportation," a significant portion of those emissions occur in the United States, and plaintiffs'

to disavow any argument based on but-for causation,[16] their centerpiece argument effectively amounts to just that: the contention that unless Defendants' conduct in California caused Plaintiffs' alleged injuries, there is an insufficient connection as a matter of due process between Plaintiffs' claims and Defendants' contacts with California. Defendants' argument is irreconcilable with the Supreme Court's decision in *Ford Motor*, which squarely held that the "arising out of or related to" standard is not a "but for" causation standard.[17]

In *Ford Motor*, in each of two cases, a state court held that it had jurisdiction over Ford in a products-liability suit stemming from a car accident where the accident happened in the state where suit was brought, the victim was one of the state's residents, and Ford did substantial business in the state—"among other things, advertising, selling, and servicing the model of vehicle the suit claims is defective." (592 U.S. at 354-355.) Ford conceded that it did substantial business in the two states at issue, and thus purposefully availed itself of their markets. (*Id.* at 361, 365.) In particular, Ford engaged in extensive advertising of its vehicles in the two states; made them available for sale at dealerships; maintained and repaired them; and distributed replacement parts to its own dealers and to independent auto shops. (*Id.* at 365.)

Ford argued that those activities did not sufficiently connect to the suit, and that jurisdiction attaches "only if the defendant's forum conduct gave rise to the plaintiff's claims," such as where Ford sold the car, or where it designed and manufactured it. (*Id.* at 361.) The Court rejected the argument, holding that when a company like Ford "serves a market for a product in a State and that product causes injury in the State to one of its residents, the State's courts may entertain the resulting suit." (*Id.* at 355.)

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evidence raised at least a genuine factual dispute as to whether federal policies were a substantial factor in causing the plaintiffs' injuries].)

[16] See Def. Local Govt. Mot., 26 fn. 15 [asserting that Defendants do not argue that "personal jurisdiction is lacking solely on the ground that their alleged in-state activities were not the but-for *cause* of Plaintiffs' alleged in-state injuries"].)

[17] Ironically, earlier in this litigation, Defendants relied on *Ford Motor* in arguing, unsuccessfully, that the claims against them arise under federal law for purposes of removal. The Ninth Circuit found that reliance unpersuasive. (See *County of San Mateo v. Chevron Corp.* (9th Cir. 2022) 32 F.4th 733, 754 ["While we are skeptical that *Ford Motor Co.*'s interpretation of judicial rules delineating the scope of a court's specific personal jurisdiction is pertinent in this different statutory context, we agree that the language of § 1349(b), 'aris[e] out of, or in connection with,' does not necessarily require but-for causation." (cleaned up) [affirming order remanding complaints to state court].)

The Court stated that Ford's "causation-only approach finds no support in this Court's requirement of a 'connection' between a plaintiff's suit and a defendant's activities." (*Id.* at 361.) As the Court explained, "None of our precedents has suggested that only a strict causal relationship between the defendant's in-state activity and the litigation will do." (*Id.* at 362.)

> As just noted, our most common formulation of the rule demands that the suit "arise out of *or relate to* the defendant's contacts with the forum." The first half of that standard asks about causation; but the back half, after the "or," contemplates that some relationships will support jurisdiction without a causal showing. That does not mean anything goes. In the sphere of specific jurisdiction, the phrase "relate to" incorporates real limits, as it must to adequately protect defendants foreign to a forum. But again, we have never framed the specific jurisdiction inquiry as always requiring proof of causation—*i.e.*, proof that the plaintiff's claim came about because of the defendant's in-state conduct.

(*Id.* (cleaned up).) Thus, the Court concluded, "the case is not over even if, as Ford argues, a causal test would put jurisdiction in only the States of first sale, manufacture, and design. A different State's courts may yet have jurisdiction, because of another 'activity [or] occurrence' involving the defendant that takes place in the State." (*Id.*; see also *id.* at 373 (Alito, J., concurring) [the Court properly rejects Ford's proposed "unprecedented rule under which a defendant's contacts with the forum State must be proven to have been a but-for cause of the tort plaintiff's injury"].)[18]

That Defendants' position is inconsistent with *Ford Motor*'s rejection of a causation test is apparent from their continued heavy reliance on the district court opinion in *City of Oakland v. BP PLC* (N.D. Cal. July 27, 2018) 2018 WL 3609055, vacated (N.D. Cal. Oct. 24, 2022) 2022 WL 14151421. (See Def. Local Govt. Mot., 21-23; Def. State Mot., 7, 11, 12-13; Def. Local Govt. Reply, 9-10, 14-15.) Not only was that opinion later vacated,[19] it was squarely based on the key premise—later shown to be erroneous by *Ford Motor*—that "but for" causation is the proper test for whether Plaintiffs' claims arise out of Defendants' contacts with California. (See, e.g., 2018 WL 3609055, *3 ["With respect to the

[18] Similarly, the California Supreme Court had previously "declined to apply a proximate cause test or a 'but for' test" to determine relatedness, but instead "adopted a 'substantial connection' test and held that the relatedness requirement is satisfied if there is a substantial nexus or connection between the defendant's forum activities and the plaintiff's claim." (*Snowney,* 35 Cal.4th at 1068 (cleaned up).)

[19] While the district court stated that vacatur of its earlier order should not be considered as "changing this Court's view of the personal jurisdiction issue," it made that brief comment without any analysis or discussion of *Ford Motor*. (*City of Oakland v. BP P.L.C.* (N.D. Cal. Oct. 24, 2022) 2022 WL 14151421, *8.)

second prong of the jurisdictional test, the required causal analysis is met if 'but for' the contacts between the defendant and the forum state, the plaintiff's injury would not have occurred."]; *id.* ["although plaintiffs list significant fossil-fuel-related activities that defendants have allegedly conducted in California—plaintiffs fail to sufficiently explain how these 'slices' of global-warming-inducing conduct causally relate to the worldwide activities alleged in the amended complaints."]; *id.* ["plaintiffs have failed to show that defendants' conduct is a 'but for' cause of their harm, as required by the second prong of the jurisdictional analysis"]; *id.* ["Lacking, however, is a causal chain sufficiently connecting plaintiffs' harm and defendants' California activities."]; *id.* at *4 ["Even taking plaintiffs' allegations as true, they have failed to show that BP or Royal Dutch Shell's national conduct was a 'but for' cause of their harm."].)[20] Again, causation is not the test for specific jurisdiction, nor is the question at this stage whether Plaintiffs can *prove* causation. (See also *SK Trading*, 77 Cal.App.5th at 391 [concluding that federal district court "applied an inapt 'but for' standard," which is not required to establish specific personal jurisdiction].)

At the hearing, Defendants took a somewhat different tack. They all but conceded that the operative complaints contain sufficient allegations regarding Defendants' in-forum conduct to support personal jurisdiction over them in California. However, they complained that those allegations only represent a "small part" of Plaintiffs' complaints regarding Defendants' alleged tortious conduct and its effects, pointing for example to allegations that Defendants have engaged in such conduct in California "and elsewhere." (E.g., State FAC ¶ 7 ["Defendants' knowing concealment and misrepresentation of fossil fuels' dangers—together with the affirmative promotion of unrestrained fossil fuel use—drove fossil fuel consumption and delayed the transition to a lower-carbon future, resulting in greater greenhouse gas pollution, accelerated global warming, and more direct impacts from the climate crisis *in*

[20] The district court based its adoption of the "but for" test on *Doe v. American National Red Cross* (9th Cir. 1997) 112 F.3d 1048. Notably, even before *Ford Motor* was decided, at least one other circuit was unpersuaded by this approach. (See, e.g., *uBID, Inc. v. GoDaddy Group, Inc.* (7th Cir. 2010) 623 F.3d 421, 430 [finding that neither but-for nor proximate cause is a "satisfactory guide" to whether a defendant's contacts are sufficiently related to a plaintiff's claims]; see also *James Lee Construction, Inc. v. Government Employees Ins. Co.* (D. Mont. Mar. 25, 2021) 2021 WL 1139876, *2 [recognizing that *Ford Motor* overruled Ninth Circuit's "but for" test].)

California and elsewhere." (emphasis added).)[21] Defendants suggested that the Court should grant the motions with leave to amend for Plaintiffs to limit their allegations narrowly to California-specific conduct. However, the inquiry before the Court is whether there is specific jurisdiction over Plaintiffs' *claims*, not over specific *allegations* in the operative complaints. (See, e.g., *Ford Motor*, 592 U.S. at 371 [concluding that "the connection between the plaintiff's claims and Ford's activities in those [forum] States . . . is close enough to support specific jurisdiction"]; *Bristol-Myers*, 582 U.S. at 264 ["In order for a court to exercise specific jurisdiction over a claim, there must be an affiliation between the forum and the underlying controversy, principally, an activity or an occurrence that takes place in the forum State" (cleaned up); *Snowney*, 35 Cal.4th at 1068 ["we find that plaintiff's claims have a substantial connection with defendants' contacts with California"].) Defendants were unable to identify any federal or California case that would require the Court to parse Plaintiffs' complaints for jurisdictional purposes on a paragraph-by-paragraph basis, nor is the Court aware of any such authority.

Finally, the Court notes that Defendants' theory, if accepted, would effectively shield them from suit anywhere other than their states of incorporation or principal places of business. As Plaintiffs observe,

> [Defendants'] remarkable theory would grant them immunity from suit in any jurisdiction outside their respective home states, as they are global companies whose deceptive marketing and other tortious conduct has caused global harms. That same theory, if accepted, would presumably also apply to *any* national (or global) company whose wrongful conduct was directed at markets throughout the United States and had foreseeably adverse effects throughout the country. That theory not only runs afoul of *Ford Motor*, but it would create a special immunity from personal jurisdiction for the largest, most egregious tortfeasors.

(Opposition, 8.) The Court agrees. As *Ford Motor* itself makes clear, that a national (or multinational) company sells and promotes its products in other states does not impair plaintiffs' ability to sue in the forum in which they were allegedly injured and with which the company has minimum contacts.

[21] See also State FAC ¶¶ 13(g) ("The State's claims against Shell arise out of and are related to the acts and omissions of Shell in California and elsewhere that caused and will cause injuries in California"], 13(h) [referring to "Shell's statements in California and elsewhere"], 15(h) & (i) [same as to ConocoPhillips), 16(f) & (g) [same as to BP], 18(f) & (i) [similar as to API], 25(c) [similar as to all Fossil Fuel Defendants].)

B. California's Exercise Of Jurisdiction Over Defendants Would Comport With Fair Play And Substantial Justice.

In evaluating whether the exercise of specific jurisdiction would comport with fair play and substantial justice, "the court must consider the burden on the defendant, the interests of the forum State, and the plaintiff's interest in obtaining relief. It must also weigh in its determination the interstate judicial system's interest in obtaining the most efficient resolution of controversies; and the shared interest of the several States in furthering fundamental substantive social policies." (*Snowney,* 35 Cal.4th at 1070 (cleaned up); see also *Ford Motor*, 592 U.S. at 368 [fair to allow jurisdiction over a defendant that conducts extensive business in states, thereby enjoying the benefit and protection of their laws, and where the states have significant interests in providing their residents with a convenient forum for redressing injuries inflicted by out-of-state factors, as well as enforcing their own safety regulations].) "Where, as here, a defendant who purposefully has directed its activities at forum residents seeks to defeat jurisdiction, it must present a compelling case that the presence of some other considerations would render jurisdiction unreasonable." (*Id.* (cleaned up).) Defendants do not present such a compelling case.

Defendants argue that exercising specific jurisdiction over them would be unfair for several related reasons. First, they argue it would "expand the jurisdiction of this Court well beyond the limits of due process, burdening Defendants and interfering with the power of their home jurisdictions over their corporate citizens." (Def. Local Govt. Mot., 27.) They assert that such an exercise of jurisdiction would "enable States to interfere with commercial conduct that occurred outside their own borders in violation of the limits of interstate federalism." (*Id.*) Second, Defendants assert that "allowing this litigation to proceed in California would offend the principles underlying the interstate judicial system because Plaintiffs seek to use California law to penalize and regulate Defendants' nationwide (indeed, worldwide) activities—including fossil fuel production, distribution, promotion, and sale—which are heavily regulated, and often encouraged, by the federal government, all 50 states, and every other country in the world in which these companies operate." (*Id.* at 28.)[22] Thus, Defendants object to being required "to litigate identical climate change actions simultaneously under different legal rules, especially given the

[22] Plaintiffs explicitly disclaim any intent to regulate fossil fuel production. (Opposition, 27.) Likewise, at the hearing, they explicitly disclaimed any intent to seek relief on behalf of any non-California resident.

substantial risk of inconsistent decisions." (*Id.*) Third, Defendants argue that the policies that Plaintiffs seek to advance by their lawsuits "are not shared uniformly across all the various States and nations," and allowing Plaintiffs' lawsuits to go forward therefore would interfere with principles of interstate federalism. (*Id.* at 28-29.)

Defendants' argument appears to conflate personal jurisdiction with subject-matter jurisdiction. Thus, Defendants look for support to a case involving whether state tort law is displaced by federal common law or the Clean Air Act. (Def. Local Govt. Mot., 27-28, citing *City of New York v. Chevron Corporation* (2d Cir. 2021) 993 F.3d 81.)[23] Further, none of Defendants' cited cases found that it would be unfair for a court to exercise personal jurisdiction over a nonresident that had purposefully availed itself of forum benefits. (See, e.g., *Asahi Metal Industry Co., Ltd. v. Superior Court* (1987) 480 U.S. 102, 112 [no personal jurisdiction over Japanese parts manufacturer where plaintiffs "have not demonstrated any action by [defendant] to purposefully avail itself of the California market"]; *F. Hoffman-La Roche, Ltd. v. Superior Court* (2005) 130 Cal.App.4th 782, 799-800 [no substantial evidence that Swiss defendants including holding company had direct minimum contacts or purposeful availment of the forum].)

In *Sunoco*, the Hawai'i Supreme Court rejected the same objection Defendants repeat here: that "permitting specific jurisdiction in this context would subject companies to climate change suits in every court in the country." (*Sunoco*, 537 P.3d at 1193.) The court found, among other things, that: (1) defendants had purposefully interjected themselves into the forum state's affairs by engaging in "repeated, purposeful business" in Hawai'i; (2) the burden on defendants, "multi-national oil and gas corporations with billions in annual revenues," of defending the suit in a state where they conduct extensive oil and gas business would be "slight"; (3) the lawsuit would not conflict with the sovereignty of defendants' home states because it "does not seek to regulate emissions or curb energy production"; and (4) Hawai'i "has a strong interest in remedying local harms related to corporate misconduct." (*Id.* at 1193-1194.) Finally, "given that Defendants purposefully availed themselves of [forum] markets, Defendants have failed to

[23] Defendants also refer to an *amicus curiae* brief filed in support of the pending petitions for certiorari in *Sunoco*. (Def. Local Govt. Mot., 29.) As previously noted, however, those petitions do not raise any issue of personal jurisdiction.

overcome the presumption that the exercise of specific jurisdiction is reasonable." (*Id.* at 1194; accord, *Bd. of County Comm'rs of Boulder County,* 2024 WL 3204275 at *12 ["The federalism concerns animating the Due Process Clause do not require the . . . Local Governments to pursue ExxonMobil in New Jersey or Texas state courts. Rather, *Ford Motor* and due process jurisprudence establishes that the Local Governments may bring their claims in the forum in which they reside and in which harm has occurred. [The forum state] has an interest in providing a convenient forum and remedying local harms relating to alleged misconduct."]; *Commonwealth v. Exxon Mobil Corporation,* 2021 WL 3493456 at *8.) The same conclusion follows here.

C. There Is Specific Jurisdiction Over All Claims.

Finally, Defendants insist the Court must undertake a claim-by-claim analysis of Plaintiffs' causes of action in order to determine whether there is specific jurisdiction over each claim. (Def. Local Govt. Mot., 17; Def. State Mot., 15.) Defendants concede that the Court has personal jurisdiction over the State's statutory claims against them under the UCL, the False Advertising Law, and Business & Professions Code section 17580.5. (Def. State Mot., 15-16; Def. State Reply, 4, 10.) Their sole argument for distinguishing among Plaintiffs' claims is based on the same causation approach that the Court has already rejected: e.g., that Plaintiffs' theories of liability based on "Defendants' alleged contributions to global climate change via the production, distribution, marketing, promotion, and sale of fossil fuels (including Defendants' supposed 'climate deception campaign')" constitute claims that "are not substantially connected to Defendants' alleged California conduct." (Def. State Mot., 14, 16.)

In any event, where, as here, all claims arise from the same forum contacts and the same alleged acts, a court need not undertake a detailed claim-by-claim inquiry. (See, e.g., *Sunoco*, 537 P.3d at 1189 ["Plaintiffs' claims all arise from the same alleged forum contacts for all Defendants—here, Defendants' products were transported, traded, distributed, promoted, marketed, refined, manufactured, sold, and/or consumed in Hawai'i. Plaintiffs' claims also all arise from the same alleged acts—here, Defendants' deceptive promotion of and failure to warn about the dangers of using oil and gas. Accordingly, we examine all claims against all Defendants together." (cleaned up)].)

CONCLUSION

For the foregoing reasons, Defendants' motions to quash summonses and dismiss for lack of personal jurisdiction are denied. The Court grants Defendants' unopposed request to extend by 20 days Defendants' deadlines to file responsive pleadings to the operative complaints and to file a petition for writ of mandate seeking review of this Order. (Code Civ. Proc. §§ 418.10(b), (c).)

IT IS SO ORDERED.

Dated: October 8, 2024

Ethan P. Schulman
Judge of the Superior Court

CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.260(g))

I, Edward Santos, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On October 8, 2024, I electronically served:

ORDER ON DEFENDANTS' MOTIONS TO QUASH SUMMONSES AND DISMISS FOR LACK OF PERSONAL JURISDICTION

via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: OCT 0 8 2024

Brandon E. Riley, Court Executive Officer

By: Edward S. Santos
Edward Santos, Deputy Clerk