

1 JAMES M. BRADEN (California State Bar # 102397)
LAW OFFICES OF JAMES M. BRADEN
2 44 MONTGOMERY STREET, SUITE 1210
SAN FRANCISCO, CA 94104
3
4 TELEPHONE: (415) 398-6865
FACSIMILE: (415) 788-5605
EMAIL: braden@sf-lawyer.com
5

6 PETER J. FERRARA
7 SENIOR FELLOW FOR LEGAL AFFAIRS
8 THE HEARTLAND INSTITUTE
9 3939 NORTH WILKE ROAD
10 ARLINGTON HEIGHTS, ILL 60004
11
12 TELEPHONE: (703) 546-6814
13 FACSIMILE: (312) 275-7942
14 EMAIL: peterjferrara@yahoo.com
15

16 Attorneys for Amici Curiae
17 The Viscount Monckton of Brenchley, et al.
18

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 SAN FRANCISCO DIVISION
22

THE PEOPLE OF THE
STATE OF CALIFORNIA

Plaintiff,

v.

BP P.L.C., et al.

Defendants.

Case Nos. C-17-06011 WHA
and C-17-06012 WHA

Date: March 21, 2018
Time: 8:00 AM
Judge: Hon. William Alsup
Location: Courtroom 8 on 19th Floor

23 **NOTICE OF MOTION AND MOTION OF THE**
24 **FOLLOWING PERSONS TO FILE AN AMICI CURIAE BRIEF**
25 **IN SUPPORT OF DEFENDANTS:**

1
2 (1) THE VISCOUNT MONCKTON OF BRENCHLEY,
3 (2) DR WILLIE WEI-HOCK SOON, (3) PROFESSOR DAVID LEGATES,
4 (4) DR WILLIAM M. BRIGGS, (5) DIPL.-ING. MICHAEL LIMBURG,
5 (6) DR DIETRICH JESCHKE, (7) MR ALEX HENNEY,
6 (8) MR JOHN WHITFIELD, AND (9) MR JAMES MORRISON

7 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

8 PLEASE TAKE NOTICE that the above-named individuals hereby move the Court for
9 leave to file a brief amici curiae in support of Defendants in the above-titled case. A copy of the
10 proposed amici curiae brief is appended as an exhibit to this Motion.

11
12 1. THE COURT IS INVITED TO TAKE NOTICE that the *amici curiae*, an international team of
13 scientific researchers concerned that scientific questions should be answered scientifically,
14 rationally, dispassionately and logically, who have been investigating climate change for up to
15 12 years, and have intensively studied the question how much global warming we may cause (the
16 “climate sensitivity” question), hereby move the Court for leave to file a brief as *amici curiae* in
17 the present case, not to support any of the parties but to answer the eighth question posed by the
18 Court to the parties in an Order of March 6, 2018 for a tutorial hearing on climate science to be
19 held on March 21, 2018. Movants beg leave answer the question by providing and justifying two
20 material scientific results not contained in the parties’ briefs. The Court’s eighth question was:

21 What are the main sources of heat that account for the incremental rise in
22 temperature on Earth?

23
24 **DISTRICT COURTS’ POWER TO ACCEPT *AMICUS* BRIEFS**

25 2. Federal District Courts have discretion to permit third parties to participate in a case as *amici*
26 *curiae*: *Woodfin Suite Hotels LLC v. City of Emeryville*, C 06-1254 SBA, 2007 U.S. Dist. LEXIS
27 4467, at *7 (N.D. Cal. Jan 9, 2007). Such discretion is generally exercised liberally, since there
28 are no strict prerequisites for participation as *amici curiae*: *Ibid.*, at *8. Movants must, however,
29 demonstrate that their “participation is useful or otherwise desirable to the Court”: *Ibid.* (citing *In*
30 *re Roxford Foods Litig.*, 790 F. Supp. 987, 997 (E.D. Cal. 1991)). District courts often accept

1 *amicus* briefs from non-parties where the legal issues “have potential ramifications beyond the
 2 parties directly involved”: *Sonoma Falls Devs. LLKC v. Nevada Gold & Casinos, Inc.*, 272 F.
 3 Supp. 2d 919, 925 (N.D. Cal. 2003, citing *Cobell v. Norton*, 246 F. Supp. 2d 59, 62 (D.D.C.
 4 2003)). In this case, there is a wider public interest in the question whether unmitigated global
 5 warming will prove as dangerous as parties aver. These and suchlike authorities support the
 6 Court’s discretion to accept the attached brief. The consent of the parties not having been sought
 7 owing to time constraints, the decision whether to accept the brief rests with the Court.

8 9 MOVANTS’ INTEREST

10 **3. Christopher Monckton of Brenchley**, author of some two dozen peer-reviewed papers and
 11 book chapters on climate sensitivity and mitigation economics, is a Master in Classical
 12 Architecture in the University of Cambridge, where *inter alia* he studied the philosophy of
 13 science, logic and applied mathematics; **Dr Willie Soon** is an award-winning astrophysicist of a
 14 quarter of a century’s standing at the Harvard-Smithsonian Center for Astrophysics (here
 15 speaking for himself only), who has written numerous peer-reviewed papers on the Sun’s
 16 influence on terrestrial climate; **Dr David Legates** is Professor of Climatology in the University
 17 of Delaware and a former Delaware State Climatologist; **Dr William M. Briggs** is a statistician
 18 and emeritus professor in the Weill Cornell School of Medicine at Cornell University; **Dipl.-Ing.**
 19 **Michael Limburg** is an electronics engineer with practical knowledge of control theory, the
 20 study of feedback in dynamical systems; **Dr Dietrich Jeschke** is a lecturer in applied control
 21 theory in the University of Applied Sciences, Flensburg, Germany; **Mr Alex Henney** is a
 22 specialist in the electricity supply industry who has advised on electricity markets and regulation
 23 in the United States and other countries; **Mr John Whitfield** is an electronics engineer who built
 24 a test circuit to verify the present result, on the basis of which a new circuit was designed and a
 25 government laboratory was commissioned to build and run it; and **Mr James Morrison** is an
 26 undergraduate in Environmental Sciences at the University of East Anglia.

27 4. Movants act solely *ex proprio motu*, hold no shares or other proprietary interests in any of the
 28 Parties’ or their competitors’ corporations or undertakings, and have neither received nor offered
 29 nor been offered any payment for preparing or submitting their brief. Some have, in the past,

1 received research grants or expenses from coal-owning interests, though most have never
2 received such grants or expenses and none have done so for some years.

3 5. The court's eighth question asks what caused recent global warming. Movants' brief addresses
4 this question, known in climatology as the "attribution" question, by demonstrating two results.
5 **First**, there is no agreement among climatologists as to the relative contributions of Man and
6 Nature to the global warming of 0.8 K (equivalent to 1.2 K/century) that has occurred in the two-
7 thirds of a century since we first began to influence climate in 1950, and the brief shows that, of
8 11,944 peer-reviewed papers on climate and related topics published in the learned journals in
9 the 21 years 1991-2011 only 41, or 0.3%, stated their authors' assent to the "consensus"
10 proposition to the effect that the global warming of recent decades was chiefly anthropogenic.
11 Furthermore, the "consensus" proposition says nothing about whether anthropogenic global
12 warming was, is or will be catastrophic. **Secondly**, Movants have recently discovered and
13 corrected a long-standing error of physics in the climate models. After correction, even if all of
14 the warming of recent decades were attributed to anthropogenic influence (which will be
15 assumed *ad argumentum* but without warranty) the warming to be expected in the 21st century
16 will not be 3.3 ± 1.2 K, the currently estimated official interval, still less the 4.5 to 11 K
17 extreme predictions made by some authorities, but only 1.2 ± 0.15 K, in which event global
18 warming will be too small and slow to be harmful and will prove beneficial. Movants first
19 derived their revised global-warming estimate by a theoretical method based on pre-industrial
20 climate. They verified it by obtaining near-identical results via two empirical methods, and
21 compared these results with the centennial-equivalent global warming rates measured from
22 1950-2017 and from 2001-2017. These results, too, cohered with the original result.

23 6. Since all five methods cohere in finding equilibrium sensitivity to doubled CO₂ concentration
24 (or, equivalently, 21st-century warming) to be 1.2-1.3 K, three days before the Court's list of
25 questions was issued Movants submitted a scientific paper announcing this result to a leading
26 climatological journal. Though the argument described in more detail in the brief has not yet
27 passed peer review, it is simple enough to allow the Court, which has earned a unique reputation
28 for rapid mastery of scientific questions, to understand it completely and to verify that Movants'
29 result is correct. In the brief, Movants demonstrate, with citations, that the premises in their

1 argument are currently regarded as mainstream climate science; they explain the nature of the
2 error hitherto universal in climate-sensitivity studies, which arose when feedback mathematics
3 was imported from control theory in electronic circuit design; and they conclude that, after
4 correction, concern about warming is unnecessary. Plaintiff’s case should be dismissed.

5
6 **MOVANTS’ BRIEF IS TIMELY, USEFUL AND RELEVANT**

7 7. Movants’ brief, annexed hereto, is intended to address the Court’s eighth pre-tutorial question
8 and is submitted as soon as practicable after the Court’s order raising that question.

9
10 **CONCLUSION**

11 8. Movants respectfully request the Court to grant the present motion, to permit them to
12 participate as amici curiae, and to accept for filing the brief that they have submitted herewith.

13
14 DATED: March 16, 2018

Respectfully submitted,

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16 LAW OFFICES OF JAMES BRADEN

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18
19 By: /s/ James Braden

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21 James Braden

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23 PETER FERRARA

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26 By: /s/ Peter Ferrara

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28 Peter Ferrara

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30 Attorneys for Amici Curiae
31 The Viscount Monckton, et al.
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