

**JON ERIK KINGSTAD**

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**HAND DELIVERED**

October 11, 2022

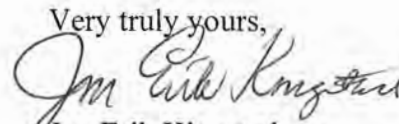
MR. JEFF SIGURDSON  
EXECUTIVE DIRECTOR  
MINNESOTA CAMPAIGN FINANCE  
AND PUBLIC DISCLOSURE BOARD  
190 CENTENNIAL OFFICE BUILDING  
658 CEDAR ST.  
ST. PAUL, MN 55155

RE: Complaint against James Schultz and the Jim Schultz for Minnesota Attorney General Campaign, et al, for Violating the Minnesota Unfair Campaign Practices Act, Minn. Stat. § 211B.15 and the Minnesota Campaign Finance Act, Minn. Stat. §§ 10A.29 and other statutes in ch. 10A..

Dear Mr. Sigurdson:

Enclosed is my Complaint against James Schultz and the Jim Schultz for Minnesota Attorney General Campaign and other persons in the caption for what I believe are violations of the Minnesota Unfair Campaign Practices Act, Minn. Stat. § 211B.15 and the Minnesota Campaign Finance Act, including "circumvention of ch. 10A" in violation of Minn. Stat. § 10A.29. The Minnesota Campaign Finance and Public Disclosure Board has jurisdiction over my Complaint pursuant to Minn. Stat. §§ 10A.022, subd. 3 and 211B.32, subd. 1 (b).

Thank you.

Very truly yours,  
  
Jon Erik Kingstad

**STATE OF MINNESOTA  
BEFORE THE  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

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Complaint against James Schultz as the Republican Party candidate for Minnesota Attorney General, the Jim Schultz for Minnesota Attorney General Campaign, Koch Industries, Inc., Flint Hills Resources Pine Bend, LLC, Koch Companies Public Sector, LLC, the Pine Bend PAC, Ron Eibensteiner, as dual agent of the Jim Schultz for Minnesota Attorney General Campaign and as agent and Chair of the Center of the American Experiment and agent and Director of the Upper Midwest Law Center, in association and acting in concert with them, for violations of the Minnesota Unfair Campaign Practices Act, Minnesota Statutes § 211B.15 and the Minnesota Campaign Finance and Public Disclosure Act, Minn. Stat. §§ 10A.12, subd. 2., 10A.121, 10A.175-10A.177 and 10A.29.

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The Complainant is Jon Erik Kingstad, residing at 3684 Garden Court North, Oakdale, Washington County, Minnesota 55128, who hereby makes this Complaint for violations of under the Minnesota Unfair Campaign Practices Act, Minn. Stat. § 211B.15, subd. 2 and 13, and violations of the Minnesota Campaign Finance and Public Disclosure Act, Minn. Stat. §§ 10A.12, subd. 2, 10A.121, 10A.175-10A.177, and 10A.29 as follows:

**COUNT I.  
UNLAWFUL POLITICAL CONTRIBUTION BY PINE BEND PAC,  
KOCH INDUSTRIES, INC. AND FLINT HILLS RESOURCES, LLC  
CONTRARY TO MINN. STAT. § 211B.15.**

For a **Complaint** under Minnesota Unfair Campaign Practices Act, Minn. Stat. § 211B.15, subd. 2 prohibiting political contributions by a corporation, and prohibiting a political party, organization, committee, or individual from accepting such a contribution, your Complainant alleges as follows:

1. James Schultz is the 2022 candidate for the Office of Minnesota Attorney General nominated and endorsed by the Republican Party of Minnesota. James Schultz resides at 3703 Plymouth Rd., Minnetonka, Hennepin County, Minnesota 55305. The Jim Schultz for Minnesota Attorney General Campaign was organized on or about December 7, 2021 by James Schultz upon his filing of an initial registration with this Board. Jim Schultz for Minnesota Attorney General Campaign is the principal campaign committee to elect James Schultz as Minnesota Attorney

General as defined in Minn. Stat. § 10A.01, subd. 34. Jim Schultz For Minnesota Attorney General Campaign has its offices at 3500 Vicksburg Lane North, Suite 400-362, Plymouth, Hennepin County, Minnesota 55447.

2. On September 20, 2022, the Jim Schultz for Minnesota Attorney General Campaign accepted the offer or agreement to make a campaign contribution from the Pine Bend PAC for \$2,500.00 which was an illegal and corrupt campaign corporation from a corporation in violation of Minn. Stat. § 211B.15, subd. 2. The \$2,500.00 was an offer to make a contribution by the Pine Bend PAC (“political action committee”) to James Schultz and the Jim Schultz for Minnesota Attorney General Campaign which corporations as defined in Minn. Stat. § 211B.15, subd. 1 (1), i.e. Koch Industries, Inc., Flint Hills Resources Pine Bend, LLC or Koch Companies Public Sector, LLC ,were prohibited from making under that statute but was made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of, James Schultz or the Jim Schultz for Minnesota Attorney General Campaign as follows:

a) The Pine Bend PAC is registered with this Board as a “political committee” with Registration No. 40821 with a Post Office Box Address P.O. Box 1061, Burnsville, Minnesota 55337. The Chair and Treasurer of the Pine Bend PAC is Matthew Lemke, who is also a registered lobbyist Reg. No. 398 and employee and agent of Koch Companies Public Sector, LLC and Flint Hills Resources Pine Bend, LLC, and acts as one of the lobbyists for Koch Industries, Inc. and Flint Hills Resources Pine Bend, LLC. Charles G. Koch is the listed as the Manager of Manager of Koch Companies Public Sector, LLC by the Minnesota Secretary of State.

b) Charles G. Koch is also the principal owner, Chief Executive Officer and Chair of Koch Industries, Inc., Flint Hills Resources Pine Bend, LLC, which are defendants in a prosecution or legal action prosecuted by the Minnesota Attorney General titled *State of Minnesota ex. rel. Keith Ellison v. American Petroleum Institute, et al*, Ramsey County District Court Case No. 62-CV-20-3837. <sup>1</sup>

c) The Pine Bend PAC has been registered with this Board since 1999 as a political committee. Pine Bend PAC has never registered or re-registered as an “independent expenditure political committees or fund” as authorized by Minn. Stat. §§ 10A.17, subd. 1a and 10A.121 nor has it filed any Reports with any “statement of independence” that its contributions “were not made with the authorization or expressed or implied consent of, or

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<sup>1</sup> A true and correct copy of the Complaint filed with the Ramsey County District Court on June 24, 2020 is attached hereto and incorporated herein as **Exhibit A**. That action has been stayed by the removal motion of the defendants to the U.S. District Court for the District of Minnesota. Judge John Tunheim granted the State’s Motion to remand in U.S. District Court (Minnesota) case No. 20-1636 (JRT/HB) on March 31, 2021 who continued the stay of the remand to state court pending an appeal of that decision to the 8<sup>th</sup> Circuit on August 20, 2022 where it has since been delayed. No decision has yet been forthcoming from that court to date.

in cooperation or in concert with, or at the request or suggestion of any candidate or any candidate's principal campaign committee or agent.”

d) Pine Bend PAC is not an “employee political fund” as defined in Minn. Stat. § 211B.15, subd. 16 even though all, or substantially all, of its contributions come from employees, officers and agents of Koch Industries, Inc., Flint Hills Resources Pine Bend, LLC, Koch Companies Public Sector, LLC, and other subsidiaries or affiliates of Koch Industries, Inc. Contributions to the Pine Bend PAC are not and never have been confidential or incapable of being known by the supervisors or managers of the employees who contribute or don't contribute as required by Minn. Stat. § 211B.15, subd. 16 so that Charles G. Koch, Manager of Koch Companies Public Sector, LLC and the Chief Executive Officer and Chair of Koch Industries, Inc., and the principal owner of Koch Industries, Inc. and Flint Hills Resources Pine Bend, LLC knows who is contributing and how much and has the authority and right as Manager and owner of Koch Companies Public Sector, LLC to direct the expenditure of funds contributed to Pine Bend PAC..<sup>2</sup>

e) The Pine Bend PAC contribution of \$2,500.00 was offered or agreed to and coordinated with James Schultz and the Jim Schultz for Minnesota Attorney General Committee on September 20, 2022 on or after James Schultz gave an interview reported in the *Minneapolis Star Tribune* published August 23, 2022, where he referenced Keith Ellison's prosecution of *State of Minnesota ex. rel. Keith Ellison v. American Petroleum Institute, et al*, Ramsey County District Court Case No. 62-CV-20-3837 and, according to the interview:

. . . described the action as "frivolous," arguing that it has "zero chance of succeeding" and is "fundamentally motivated by headlines and pleasing one side of the political aisle."

The *Minneapolis Star Tribune* article further quoted James Schultz as stating:

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<sup>2</sup> Pine Bend PAC has been accepting and making contributions for over 20 years on behalf of Koch Industries, Inc., Flint Hills Resources Pine Bend, LLC and other subsidiaries and affiliates of Koch Industries, Inc. and the owners and principal officers and directors of Koch Industries, Inc., including Charles G. Koch and the late David Koch. The Pine Bend PAC 2010 Year End Report reported a contribution on January 26, 2010 by the late David Koch in the amount of \$20,000.00. The Pine Bend PAC 2011 Year End Report reported a contribution on November 22, 2011 of \$25,000.00 from Charles G. Koch. These contributions from the corporate or personal funds of the late David Koch and Charles G. Koch account for a total of at least \$45,000.00 from these two individuals out of a total contributions to Pine Bend PAC of \$118,672.16 since January 1, 2010 which Pine Bend PAC and its agents have commingled with other contributions from members, employees, agents and officers of Koch Industries, Inc. and its subsidiaries and affiliates. Cf. Minn. Stat. § 10A.12, subd. 2.

The Attorney General's Office is not supposed to be engaging in far-left political activism, or activism of any kind," the Republican candidate said. "I will not engage in things like this that are fundamentally about business harassment."<sup>3</sup>

f) An article written by William Allison writing for "Energy in Depth" a climate change denying blog produced and funded by the "Independent Petroleum Association of America" at [eidclimate.org](http://eidclimate.org) reported on August 24, 2022 about the *Minneapolis Star Tribune* interview with James Schultz as having made the "Minnesota climate lawsuit" a campaign issue but claimed to add additional context that bolstered Schultz's statements with a quote from Schultz at a March 31, 2022 pre-Republican convention debate that, if elected, he "wouldn't allow the Bloomberg-funded attorneys to continue working in the attorney general's office."<sup>4</sup>

g) other statements by James Schultz consistent with those published in the August 23, 2022 *Minneapolis Star Tribune* interview and those in the August 24, 2022 internet article reporting his statement at the March 31, 2022 Republican Attorney General candidate debate. have been published on the Jim Schultz for Minnesota Attorney General Campaign website/Facebook page with video clips attacking Keith Ellison for hiring "Bloomberg funded attorneys" and falsely stating that the prosecution was "frivolous." Schultz has taken a public position supporting Koch Industries, Inc., Flint Hills Resources Pine Bend, LLC, Koch Companies Public Sector, LLC, and other subsidiaries or affiliates of Koch Industries, Inc. for alleged false advertising in violation of Minn. Stat. § 325F.67 and other statutes.

h) These statements by Schultz about Keith Ellison hiring "Bloomberg funded attorneys" to present and prosecute a "frivolous" action in the case of *State of Minnesota v. American Petroleum Institute, et al.* were made by Schultz as a signal to communicate (as one might do with a "wink and a nod")<sup>5</sup> that he and the Jim Schultz for Minnesota Attorney General

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<sup>3</sup> A true and correct copy of the article is attached as **Exhibit B**.

<sup>4</sup> A true and correct copy of the article is attached as **Exhibit C: *Star Tribune Says Minnesota Climate Lawsuit Has Become "An Issue in Attorney General's Race," But Leaves Out Key Context*** by William Allison, August 24, 2022, <https://eidclimate.org/star-tribune-says-minnesota-climate-lawsuit-has-become-an-issue-in-attorney-generals-race-but-leaves-out-key-context/>

<sup>5</sup> As stated by the District Court in *McConnell v. Fed. Election Comm'n*, 251 F.Supp.2d 176, 257 (D. D.C. 2003) *aff'd in part, rev'd in part* 540 U.S. 93 (2003), "the cases state that substantive requests and suggestions, or 'wink or nod' arrangements, can render subsequent expenditures to be 'coordinated,' a standard that does not equate to agreement." Minn. Stat. § 211B.15, subd. 2 prohibiting "coordinated contributions" from corporations has withstood direct constitutional challenge in *Minn. Citizens Concerned for Life, Inc. v. Swanson*, 692 F.3d 864, 877-880 (8th Cir. 2012). Regulation of *quid pro quo* "wink-and-a-nod" arrangements were

Campaign would accept contributions directly or indirectly from any of the Defendants, including Koch Industries, Inc. and Flint Hills Resources Pine Bend, LLC, as *quid pro quo* for his commitment that, if elected as Minnesota Attorney General, he would fire the attorneys assigned to the case and corruptly delay, abate or discontinue, if not effect a voluntary dismissal of, the prosecution of *State of Minnesota v. American Petroleum Institute, et al.*,<sup>6</sup>

3. Koch Industries, Inc. is a corporation organized for profit as defined in Minn. Stat. § 211B.15, subd. 1 (1). Koch Industries, Inc. does business in Minnesota in an association with its wholly owned subsidiary association and corporations, including Flint Hills Resources Pine Bend, LLC, Koch Companies Public Sector, LLC and the Pine Bend PAC. The Minnesota business office and address for Koch Industries, Inc. is 4200 Dahlberg Drive #200, Minneapolis, Hennepin County, Minnesota 55422.

4. Flint Hills Resources Pine Bend, LLC, is a Delaware limited liability company and a corporation within the meaning of Minn. Stat. § 211B.15, subd. 1 (3) doing business in an association with Koch Industries, Inc. for profit engaged in the transportation, refining, processing, distribution, marketing, sale and distribution of petroleum and Alberta tar sands and their products in Minnesota and the United States within the meaning of Minn. Stat. § 10A.01, subd. 6. with business offices at 4111 East 37th Street North, Wichita, Kansas 67220 and a Minnesota business

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distinguished from bans on “independent expenditures” and upheld in *Citizen’s United v. Federal Elections Comm’n*, 558 U.S. 310, 357-361 (2010). See *United States v. Danielczyk*, 683 F.3d 611, 617-619 (4th Cir. 2012) and *Minn. Citizens Concerned for Life, Inc. v. Swanson*, *supra*.

<sup>6</sup> The Complaint in *State of Minnesota v. American Petroleum Institute, et al*, charges violations of Minn. Stat. § 325F.67 False Advertising which is a misdemeanor crime. Schultz’s statements might be construed as a a “request or suggestion” to make a corporate contribution in violation of Minn. Stat. § 211B.15, subd. 2. The acceptance of the Pine Bend PAC campaign contribution might therefore be construed as acceptance of an offer of a “benefit, reward or consideration” which Schultz as the “acceptor” will accept and that he “will abstain from, discontinue, or delay prosecution” of the false advertising claims. See Minn. Stat. § 609.42, which provides:

**Subdivision 1. Bribery. Acts constituting.** “Whoever does any of the following is guilty of bribery and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both:

...

“(5) accepts directly or indirectly a benefit, reward or consideration upon an agreement or understanding, express or implied, that the acceptor will refrain from giving information that may lead to the prosecution of a crime or purported crime or that the acceptor will abstain from, discontinue, or delay prosecution therefor, except in a case where a compromise is allowed by law.” (underlining added).

5. Koch Companies Public Sector, LLC is a Delaware limited liability company, and an corporation within the meaning of Minn. Stat. § 211B.15, subd. 1 (3), associated with Koch Industries, Inc. and Flint Hills Resources Pine Bend, LLC, with business offices at 4111 East 37th Street North, Wichita, Kansas 67220 and Minnesota business office at 3120 117th St. Inver Grove Heights, Minnesota 55077.

6. Your Complainant requests that the Board determine that Count I of this Complaint states a prima facie case under Minn. Stat. §§ 10A.022, subd. 3 and 211B.32, subd. 1 (b) against James Schultz and the Jim Schultz for Minnesota Attorney General Campaign, Koch Industries, Inc. Flint Hills Resources Pine Bend, LLC, Koch Companies Public Sector, LLC, Pine Bend PAC and any other committees, associations or individuals who may have aided, abetted or advised this violation under Minn. Stat. § 211B.15, subd. 2 and undertake an investigation.

**COUNT II.**  
**UNLAWFUL POLITICAL CONTRIBUTIONS**  
**BY THE CENTER OF THE AMERICAN EXPERIMENT**  
**AND THE UPPER MIDWEST LAW CENTER**  
**ADVISED, AIDED, ABETTED AND COORDINATED**  
**BY RON EIBENSTEINER IN VIOLATION OF MINN. STAT. § 211B.15.**

7. The allegations of ¶¶ 1-6 are realleged as fully stated herein to allege another Complaint for violations of the Unfair Campaign Practices Act, the Minn. Stat. § 211B.15, subd. 2 and subd. 13 prohibiting political contributions by a corporation, prohibiting a political party, organization, committee, or individual from accepting such a contribution, and prohibiting any person from advising, aiding and abetting these violations as follows:

8. Upon information and belief, Ron Eibensteiner was the Chair of the Jim Schultz for Minnesota Attorney General Campaign from December 7, 2021, when James Schultz filed his initial registration with this Board for the Jim Schultz for Minnesota Attorney General Campaign until on or about December 31, 2021. Ron Eibensteiner's address, as listed on the December 7, 2021 Registration Statement for the Jim Schultz for Minnesota Attorney General Campaign is 706 2<sup>nd</sup> Avenue South, Suite 900, Minneapolis, Minnesota 55402-3009.

9. Upon information and belief, at the time he appointed and named Ron Eibensteiner as Chair of the Jim Schultz for Minnesota Attorney General Campaign, James Schultz knew that Ron Eibensteiner was the former Chair of the Minnesota Republican Party and was also the current Chair of the Board of Directors of the Center of the American Experiment (hereinafter "CAE"), a member of the Board of Directors of the Upper Midwest Law Center (hereinafter "UMWLC") which are nonprofit corporations subject to Minn. Stat. § 211B.15, subd. 2 (a) and (b).

a) The CAE is a nonprofit corporation organized under Minn. Stat. ch. 317A with its corporate and business offices located at 8421 Wayzata Blvd, Suite 110, Golden Valley, Hennepin County, Minnesota 55426. It is subject to Minn. Stat. § 211B.15, subd. 2 (a) and

(b) because it has never adopted a policy against accepting significant contributions from business corporations which forecloses it from relying upon and claiming an exemption from Minn. Stat. § 211B.15, subd. 2 (a) under subd. 15 thereof simply because it is a “nonprofit corporation.”

b) The UMWLC is a nonprofit corporation organized under Minn. Stat. ch. 317A with its corporate and business offices located at 8421 Wayzata Blvd, Suite 105, Golden Valley, Hennepin County, Minnesota 55426. For the same or similar reasons as the CAE, the UMWLC is not exempt from Minn. Stat. § 211B.15, subd. 2 (a) as a “nonprofit corporation” because:

i) the UMWLC was organized and is operated for the principal purpose of conducting a business, namely the practice of law.

ii) the UMWLC was incorporated and organized by a business corporation, Seaton, Peters & Revnew, P.A. now known as Peters, Revnew, Kappenman & Anderson, P.A. which, upon information and belief has continuously been organized as a “professional firm” pursuant to Minn. Stat. ch. § 319B and a “business corporation” pursuant to Minn. Stat. ch. 302A. The Minnesota Secretary of State has listed the firm as a “business corporation” since its incorporation on December 27, 1996 and continues to list the firm as such.

iii) the UMWLC has no policy against accepting significant contributions from business corporations so for the same reasons CAE is not exempt from Minn. Stat. § 211B.15, subd. 2 because it is a “nonprofit corporation”, UMWLC is not exempt either.

c) both CAE and UMWLC have employed and paid lobbyists, including the Presidents of CAE and UMWLC, and paid lobbyist disbursements to CAE’s lobbyists to carry on lobbying campaigns against legislative action and administrative action in Minnesota to address climate change which are consistent and in concert with having received funding from business corporations who have been charged with conducting the false advertising campaign in of *State of Minnesota v. American Petroleum Institute, et al*, as alleged in ¶¶ 98-124 of the attached Complaint.

d) CAE, as a lobbyist principal, Reg. No. 3876, has never reported the direct payments to its lobbyists in this state as required by Minn. Stat. § 10A.04, subd. 6 (b) and (c)(1) and has failed or refused to make available to its lobbyists the “original sources of money” or funds as required by subd. 3 of that section so that its lobbyists can report such information as required by subd. 4 (d) of that section thereby concealing whether it does or does not receive significant contributions from funding from business corporations.

10. On or about December 7, 2021 and from time to time since then, Ron Eibensteiner acted



as a dual agent <sup>7</sup> for the Jim Schultz for Minnesota Attorney General Campaign providing free services as campaign consultant and strategist as Chair and agent of the CAE, a nonprofit corporation, and a member of the Board and agent of the UMWLC, a nonprofit corporation, in violation of Minn. Stat. § 211B.15, subd. 2 and subd. 13. Eibensteiner agreed to provide free political consulting services and related information services not publicly available regarding campaign planning, strategy, needs planning, and messaging free of charge on behalf of and for the benefit of CAE and UMWLC and as their agent in consideration and as *quid pro quo* James Schultz conducting the Jim Schultz for Minnesota Attorney General Campaign as it has been conducted since January 1, 2022 as follows:

a) that James Schultz would make the action of ***State of Minnesota v. American Petroleum Institute, et al***, an issue of his campaign and make it known publicly his intention that if elected Minnesota Attorney General, he would “abstain from, discontinue, delay, abate, or dismiss” the prosecution of the action and fire the attorneys working on the action part of his campaign message using appropriate language to convey that message at appropriate times and to the appropriate audiences.

b) that James Schultz and the Jim Schultz for Minnesota Attorney General Campaign would characterize the State’s prosecution for false advertising against Koch Industries, Inc. and Flint Hills Resources Pine Bend, LLC. with a message that it was a politically motivated, “left wing”, frivolous and harassing lawsuit against Minnesota businesses.

c) that James Schultz would coordinate and cooperate with CAE and UMWLC by repeating CAE’s messages which Eibensteiner and other employees, lobbyists, officers and agents had crafted and been making on the CAE website AmericanExperiment.org and its publication, ***Thinking Minnesota***, and the UMWLC website umlc.org. CAE’s messaging and campaign strategy advice was a free service that was in concert with and cooperated CAE’s ongoing public relations campaign criticizing “climate change” as being a “hoax”, an invention or “political weapon” invented by the Democratic Party “Left” which included Ellison and other Democratic Attorneys General who were beginning to bring lawsuits against the oil and fossil fuels industries for alleged fraud and false advertising and suppression of their own research and evidence supporting human cause climate change. Schultz’s campaign is in cooperation and in concert with CAE’s and UMWLC’s public relations campaign which goes back for several years evidenced by the following:

i) Ron Eibensteiner wrote in one of his regular ***Thinking Minnesota*** columns that while he was not “arguing against the merits of climate change”, he claimed it was being deployed as a “political weapon” by the “New Left” to gain political power and

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<sup>7</sup> Minn. Stat. § 10A.175, subd. 2 governing “coordinated expenditures” and “noncoordinated expenditures” defines “agent” as “a person serving during an election segment as a candidate's chairperson, deputy chairperson, treasurer, deputy treasurer, or any other person whose actions are coordinated.”

insinuated it was inspired by Communist Vladimir Lenin.<sup>8</sup>

ii) Attorney Douglas Seaton, President of the UMWLC and Eibensteiner's co-director for that organization, accused Keith Ellison as Minnesota Attorney General of having "politicized the office" of Minnesota Attorney General by hiring alleged "plants" or attorneys who were allegedly "subsidized" by billionaire and former New York City mayor Michael Bloomberg as part of an "unethical and illegal scheme" to pursue his "political agenda."<sup>9</sup>

iii) John Hinderaker, President of the Center of the American Experiment, and a CAE registered lobbyist, writing an article which appeared on the Center of the American Experiment website, - [www.AmericanExperiment.org](http://www.AmericanExperiment.org)- falsely accused Minnesota Attorney General Keith Ellison and former New York City mayor Michael Bloomberg with corruption stating:

"It came to light last year that a handful of rich left-wing donors led by Michael Bloomberg have collaborated with New York University Law School to recruit, place and pay for lawyers in attorney generals' offices around the United States. These lawyers, compensated outside the executive structure of state government, are embedded in state governments to pursue lawsuits that fit Bloomberg's liberal agenda. In particular, they are directed to bring lawsuits against oil companies and others based on "climate change." Bloomberg's scheme is corrupt, poses inevitable conflicts of interest, and in some states is flatly illegal."<sup>10</sup>

iv) CAE's public relations campaign continued into 2021 with additional articles on the CAE website promoting the message that the attorneys assigned to been assigned

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<sup>8</sup> Ron Eibensteiner, *Note from the Chairman: Politics By Any Means*, **Thinking Minnesota**, Fall, 2019, pp. 3-4. Attached as **Exhibit D**.

<sup>9</sup> Katie Fulkerson, *Weeding Out the "Plants"*, **Thinking Minnesota**, Fall, 2019 p. 18 attached hereto as **Exhibit E**. Seaton's quoted comments parroted comments of 2018 Republican Attorney General candidate Douglas Wardlow, who was reported to have campaigned to supporters in 2018 that he planned to "fire 42 Democratic attorneys right off the bat and get Republican attorneys in there", that he intended to use the same campaign message in his 2022 election campaign against Keith Ellison that the threat of "climate change" is a "hoax" and that Ellison had "politicized" the Office of the Minnesota Attorney General by promoting this "hoax" as a political agenda. Wardlow claimed that by "firing Democratic attorneys" he will only be "de-politicizing" the Office of the Minnesota Attorney General and ending the alleged "climate change hoax." Wardlow is a member of the UMWLC "expert legal team" that vets lawsuits by UMWLC.

<sup>10</sup> A true and correct copy of Hinderaker's piece is attached hereto as **Exhibit F**.

to prosecute the action of *State of Minnesota v. American Petroleum Institute, et al*, were Bloomberg plants” or were “embedded” by connivance between Ellison and Michael Bloomberg and that Ellison was attempting to hide something by asserting attorney-client privilege and other privileges protecting confidentiality.<sup>11</sup>

d) that the the Jim Schultz for Minnesota Attorney General Campaign would combine and synthesize this message and others to coordinate with CAE’s message on the CAE website AmericanExperiment.org and its publication, *Thinking Minnesota*, since Summer of 2020, blaming elected Democratic Party officials, including Ellison, for being anti-police, responsible for rising crime and for the violence and damage which occurred after the murder of George Floyd by a policeman in May, 2020.

e) that the Jim Schultz for Minnesota Attorney General Campaign Schultz would not disclose or make public anything that implied these free services or information were from CAE, UMWLC or Ron Eibensteiner.

11. James Schultz and the Jim Schultz for Minnesota Attorney General Campaign agreed to Ron Eibensteiner acting as a dual agent for himself and CAE and UMWLC and to accept the free campaign advice and services of Ron Eibensteiner on behalf of CAE and UMWLC, and participated in putting the advice into the Jim Schultz for Minnesota Attorney General Campaign using his own words and judgment about the language and timing of his delivery of this information, the audience to which it would be directed and when and how it would be focused, all of which have been evidenced by his campaign actions, as described and alleged in ¶¶ 2 and 10 above.

12. The free campaign advice, consulting services and information offered by Ron Eibensteiner as dual agent on behalf of CAE and UMWLC and accepted by James Schultz and the Jim Schultz for Minnesota Attorney General Campaign were *quid pro quo* to and for the benefit to CAE and the UMWLC because the Complaint in *State of Minnesota v. American Petroleum Institute, et al*, ¶ 117, alleges CAE was “part of the conspiracy to deceive the public about climate change”, having allegedly accepted secret funding from Charles G. Koch and David Koch, the billionaire owners of Koch Industries, Inc. or the Charles G. Koch Foundation or others affiliated with them to aid and abet their alleged false and deceptive advertising campaign. See Complaint, Exhibit A, ¶¶ 98 -124. Dismissal of the action by James Schultz, if elected Minnesota Attorney General, would be a benefit to James Schultz as well as to CAE and UMWLC to avoid the possibility of having any significant funding or other contributions from business corporations being revealed and made public.

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<sup>11</sup> True and correct copies of such articles are attached hereto and incorporated by reference herein as **Exhibit G**: *Ellison Loses in Court Again*, dated June 3, 2021 on CAE website written by CAE registered lobbyist Bill Walsh; and **Exhibit H**: *Case Could Force Ellison to Reveal Talks with Lawyers on Bloomberg’s Payroll on Climate Lawsuits*, dated July 13, 2021 Written by Tom Steward, CAE “Government Accountability Reporter” on CAE website.

13. Besides acting as dual agent for CAE and UMWLC and James Schultz and the Jim Schultz for Minnesota Attorney General Campaign and acting as its Chair, and providing free campaign consulting services to James Schultz and the Jim Schultz for Minnesota Attorney General Campaign, Ron Eibensteiner made a \$2,500.00 contribution to James Schultz and the Jim Schultz for Minnesota Attorney General Campaign on behalf of CAE and UMWLC disguised as a personal “independent expenditure” which was accepted by the Jim Schultz for Minnesota Attorney General Campaign and James Schultz as *quid pro quo* for Eibensteiner’s free campaign advice and other services in exchange for the agreement from James Schultz that, if elected as Minnesota Attorney General, he would fire all of the attorneys assigned to *State of Minnesota v. American Petroleum Institute, et al* and discontinue, delay, abate or dismiss that action..

14. Based upon the foregoing, there is reason to believe that other contributions received and accepted by James Schultz and the Jim Schultz for Minnesota Attorney General Campaign since December 28, 2021 from members or former members of the CAE Board of Directors have not been “independent expenditures” but in reality *quid pro quo* contributions coordinated by Ron Eibensteiner as agent for CAE and the UMWLC and agent of the Jim Schultz for Minnesota Attorney General Campaign for the reciprocal benefit and advantage of the Jim Schultz for Minnesota Attorney General Campaign and CAE and UMWLC. Eibensteiner’s contribution of \$2,500.00 on December 28, 2021 has been added followed and followed by others from directors and agents of CAE and UMWLC, including one on March 31, 2022 for \$500.00 and another for \$2,000.00 on May 31, 2022, from Douglas Seaton, President of UMWLC. These were coordinated contributions by individuals which CAE and UMMWLC, as corporations, were prohibited from making in violation of Minn. Stat. § 211B.15, subd. 2 (a) and were not “independent expenditures” as defined by Minn. Stat. §§ 211B.15, subd. 3 or 10A.01, subd. 18.

15. Each of the contributions coordinated by Ron Eibensteiner as dual agent for James Schultz or Jim Schultz for Minnesota Attorney General Campaign and as agent for CAE and UMWLC was offered or made as *quid pro quo* for the agreement or understanding, express or implied from James Schultz that if elected to become Minnesota Attorney General, James Schultz would fire all of the attorneys abstain from, discontinue, or delay prosecution of *State of Minnesota v. American Petroleum Institute, et al*, Ramsey County District Court Case No. 62-CV-20-3837 and effect a dismissal of the same and were offers or making of coordinated contributions by individuals which corporations whom they represented were prohibited from making in violation of Minn. Stat. § 211B.15, subd. 2 (a), (b) and (c) but were accepted by the Jim Schultz for Minnesota Attorney General Campaign.

16. Your Complainant requests that the Board determine that Count II of this Complaint states a prima facie case for a violation of Minn. Stat. § 211B.15 under Minn. Stat. §§ 10A.022, subd. 3, and 211B.32, subd. 1 (b) and undertake an investigation.

**COUNT III.**  
**CIRCUMVENTION OF MINN. STAT. CH. 10A**  
**IN VIOLATION OF MINN. STAT. § 10A.29.**

17. The allegations of ¶¶ 1-16 are realleged herein as fully stated herein for a Third Complaint under Minnesota Campaign Finance and Public Disclosure Act, Minn. Stat. §§ 10A.12, subd. 2, 10A.121, 10A.175-10A.177, and 10A.29.

18. Your Complainant further requests the Board to investigate whether the actions and omissions alleged in ¶¶ 1-16 constituted “circumvention” in violation of Minn. Stat. § 10A.29.<sup>12</sup>

WHEREFORE, your Complainant requests the following relief:

1. That the Board investigate this Complaint pursuant to its authority under Minn. Stat. §§ 10A.022, subd. 3 and 211B.32, subd. 1 (b).
2. That the Board promptly make a determination that the Complaint states a prima facie violation of the Minnesota Unfair Campaign Practices Act, Minn. Stat. § 211B.15, subd. 2 and subs. 13 and the Minnesota Campaign Finance and Public Disclosure Act, Minn. Stat. §§ 10A.12, subd. 2, 10A.121, 10A.175-10A.177, and 10A.29 by James Schultz and the Jim Schultz for Minnesota Attorney General Campaign and the Pine Bend PAC, the CAE, the UMWLC, Koch Industries, Inc., Flint Hills Resources Pine Bend, LLC and their officers, directors agents and employees.
3. That the Board make a probable cause determination as soon as possible and refer the Complaint for prosecution to the Hennepin County Attorney or such other County Attorney where the violations are determined to have occurred
4. That the Board investigate other possible violations of the Minnesota Unfair Campaign Practices Act or Campaign Finance and Public Disclosure Act by other individuals and associations for violations which are not alleged in the Complaint.
5. That the Board take such other actions under its authority as provided by law.

Dated this 11<sup>th</sup> day of October, 2022.

  
Jon Erik Kingstad  
3684 Garden Court North  
Oakdale, Minnesota 55128  
Tel. (651)-773-2197  
E-mail: kingstadlaw1@gmail.com

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<sup>12</sup> Minn. Stat. § 10A.29 is a law prohibiting circumvention which is a “valid theory of corruption.” *Minn. Citizens Concerned for Life v. Kelley*, 427 F.3d 1106, 1113 (8<sup>th</sup> Cir. 2012). Preventing corruption or the appearance of corruption by regulating the circumvention of campaign laws is a sufficiently strong and compelling state interest to override any corporation’s First Amendment rights to political free speech. *Minn. Citizens Concerned for Life v. Kelley*, 427 F.3d at 1112-1113.

# **EXHIBIT A**

STATE OF MINNESOTA

COUNTY OF RAMSEY

DISTRICT COURT

SECOND JUDICIAL DISTRICT

Case Type: Civil (Consumer Protection)

Court File No. \_\_\_\_\_

State of Minnesota, by its Attorney General,  
Keith Ellison,

Plaintiff,

vs.

American Petroleum Institute, Exxon Mobil  
Corporation, ExxonMobil Oil Corporation,  
Koch Industries, Inc., Flint Hills Resources  
LP, Flint Hills Resources Pine Bend,

Defendants.

**COMPLAINT**

\$775 billion in profits during this period.<sup>1</sup> And by 2017, while the foundations they funded were denying legitimate climate science, Charles and David Koch of Koch Industries, Inc., were worth a combined \$84 billion.<sup>2</sup> The six largest oil and gas companies reported an excess of \$55 billion in combined profits in 2019 alone. Just these six companies have generated \$2.4 trillion in profits since 1990.<sup>3</sup>

5. And during the same period, Minnesota and Minnesotans suffered the devastating effects of climate change. Minnesota has already experienced billions of dollars of economic harm due to climate change since Defendants began their deceptive campaign, and, without serious mitigation, will continue to suffer billions of dollars of damage through midcentury.

6. If Defendants had not misled the public to pad their own pockets, Minnesota would not have already incurred such large costs because of climate change and would not be facing such dramatic future costs.

7. The State seeks to ensure that the parties who have profited from avoiding the consequences and costs of dealing with global warming and its physical, environmental, social, and economic consequences, bear the costs of those impacts, rather than Minnesota taxpayers, residents, or broader segments of the public.

8. This action seeks to hold Defendants accountable for deliberately undermining the

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<sup>1</sup> Matthew Tyler & Jillian Ambrose, *Revealed: big oil's profits since 1990 total nearly \$2tn: BP, Shell, Chevron and Exxon accused of making huge profits while "passing the buck" on climate change*, *The Guardian* (Feb. 12, 2020), <https://www.theguardian.com/business/2020/feb/12/revealed-big-oil-profits-since-1990-total-nearly-2tn-bp-shell-chevron-exxon> [<https://perma.cc/GML4-AME4>].

<sup>2</sup> Christopher Leonard, *Kochland: The secret history of Koch Industries and corporate power in America*, Simon & Schuster (2019).

<sup>3</sup> *Padding Big Oil's Profits: Companies bank trillions, taxpayers get the bill*, Taxpayers for Common Sense (Feb. 2019), <https://www.taxpayer.net/energy-natural-resources/padding-big-oils-profits/> [<https://perma.cc/2UTW-JH4B>].



*parens patriae* authority, to bring this action to enforce Minnesota's laws, to vindicate the State's sovereign and quasi-sovereign interests, and to remediate all harm arising out of—and provide full relief for—violations of Minnesota's laws.

## DEFENDANTS

### AMERICAN PETROLEUM INSTITUTE

13. **Defendant American Petroleum Institute (API)** is a nonprofit corporation registered to do business in Minnesota. The American Petroleum Institute was created in 1919 to represent the American petroleum industry as a whole. With more than 600 members, API is the country's largest oil trade association. API asserts that it "speak[s] for the oil and gas industry to the public, Congress and the Executive Branch, state governments and the media."<sup>5</sup> It claims that it "negotiate[s] with regulatory agencies, represent[s] the industry in legal proceedings, participate[s] in coalitions and work[s] in partnership with other associations to achieve [its] members' public policy goals."<sup>6</sup> API's purpose is to advance the individual members' collective business interests, which includes increasing consumers' consumption of oil and gas to Defendants' financial benefit. Among other functions, API coordinates among members of the petroleum industry and gathers information of interest to the industry and disseminates that information to its members.

14. Member companies participate in API strategy, governance, and operation through membership dues and by contributing company officers and other personnel to API boards, committees, and task forces. ExxonMobil and/or its predecessors-in-interest is, or has been, a core API member at times relevant to this litigation and has had executives serving on the

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<sup>5</sup> *About API*, American Petroleum Institute, <https://www.api.org/about> [<https://perma.cc/XS58-GKUY>].

<sup>6</sup> *Id.*

directed nationally and in Minnesota, targeting Minnesota consumers. API continues to participate and/or direct misleading campaigns about the dangers of fossil fuels intended to reach consumers, policy makers, and others, including in Minnesota.

#### **EXXON ENTITIES – EXXON MOBIL CORPORATION AND EXXONMOBIL OIL CORPORATION**

17. **Defendant Exxon Mobil Corporation** is a multinational, vertically integrated energy and chemicals company incorporated in the State of New Jersey with a principal place of business at 5959 Las Colinas Boulevard, Irving, Texas, 75039. In 2018, ExxonMobil reported nearly \$21 billion in profits.<sup>7</sup>

18. Exxon Mobil Corporation is the ultimate parent company for numerous subsidiaries, and is liable for the unlawful actions of those subsidiaries. Exxon Mobil Corporation is the corporation formed on November 30, 1999 by the merger of Exxon (formerly the Standard Oil Company of New Jersey) and Mobil (formerly the Standard Oil Company of New York). Exxon Mobil Corporation was formerly known as, did or does business as, and/or is the successor in liability to ExxonMobil Refining and Supply Company, Exxon Chemical U.S.A., ExxonMobil Chemical Corporation, ExxonMobil Chemical U.S.A., ExxonMobil Refining & Supply Corporation, Exxon Company, U.S.A., Exxon Corporation, and Mobil Corporation.

19. **Defendant ExxonMobil Oil Corporation** is a wholly owned subsidiary of Exxon Mobil Corporation, acts on Exxon Mobil Corporation's behalf, and is subject to Exxon Mobil Corporation's control. ExxonMobil Oil Corporation is incorporated in the state of New York with its principal place of business at 5959 Las Colinas Boulevard, Irving, Texas, 75039.

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<sup>7</sup> 2018 *Financial & Operating Review*, ExxonMobil at 89 (hereinafter Exxon Annual Report).

emissions and the risks of climate change on an ongoing basis. Exxon Mobil Corporation requires its subsidiaries to provide an estimate of greenhouse-gas-related emissions costs in their economic projections when seeking funding for capital investments.

23. Exxon Mobil Corporation and ExxonMobil Oil Corporation (a wholly-owned subsidiary of Exxon Mobil Corporation) are registered to do business in Minnesota as foreign business corporations and maintain a registered agent for service of process at 2345 Rice Street, Suite 230, Roseville, Minnesota, 55113. ExxonMobil Oil Corporation is a licensed distributor of petroleum products in Minnesota.<sup>9</sup>

24. Exxon Mobil Corporation, ExxonMobil Oil Corporation and their subsidiaries explore, develop, and produce oil and gas worldwide. Exxon Mobil Corporation is one of the largest integrated refiners and marketers of fuels and lube basestocks, as well as the leading manufacturer of petroleum products and finished lubricants.<sup>10</sup>

25. As used in this Complaint, “Exxon” or “ExxonMobil” collectively refers to Defendants Exxon Mobil Corporation and ExxonMobil Oil Corporation and their predecessors, successors, parents, subsidiaries, affiliates, and divisions.

26. ExxonMobil has and continues to tortiously market, advertise, promote, and supply its fossil-fuel products in Minnesota, with knowledge that those products have caused and will continue to cause climate-crisis-related injuries in Minnesota, including the State’s injuries. Exxon’s statements in and outside of Minnesota made in furtherance of its campaign of deception and denial, and its chronic failure to warn consumers of global-warming-related

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<sup>9</sup> Minn. Dept. of Revenue, *Petroleum Licensed Distributors*, <http://www.revenue.state.mn.us/petroleum-licensed-distributors-information> (follow “licensed distributors”) (hereinafter Minnesota Petroleum Distributors).

<sup>10</sup> Exxon Annual Report at 27.

promotes its products in Minnesota by regularly updating and actively promoting its mobile device application, “Exxon Mobil Rewards+,” throughout the state of Minnesota, encouraging Minnesota users to consume fuel at its stations in Minnesota in exchange for rewards on every fuel purchase.

**KOCH ENTITIES - KOCH INDUSTRIES, INC., FLINT HILLS RESOURCES LP, AND FLINT HILLS RESOURCES PINE BEND, LLC**

28. **Defendant Koch Industries, Inc.** (Koch) is an American multinational corporation based in Wichita, Kansas. Koch is the second largest private company in the United States and earned more than \$113 billion in revenue in 2019.<sup>11</sup>

29. Koch is the ultimate parent company for numerous subsidiaries involved in the manufacturing, refining, and distribution of petroleum products. Koch is liable for the unlawful actions of those subsidiaries.

30. Koch also supports numerous foundations including the Charles G. Koch Charitable Foundation, the David H. Koch Charitable Foundation, the Koch Institute, and the Claude R. Lambe Charitable Foundation. Koch expects the foundations that it supports to fund groups that further its financial interests. Koch constructively controls how the foundations that it supports direct their philanthropic activities.

31. Koch, along with many of its subsidiaries and affiliates, is registered to do business in Minnesota. **Defendants Flint Hills Resources LP and Flint Hills Resources Pine Bend, LLC** (both subsidiaries of Koch) are licensed distributors of petroleum products in Minnesota.<sup>12</sup>

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<sup>11</sup> *America’s Largest Private Companies, 2019 Ranking*, Forbes, <https://www.forbes.com/largest-private-companies/list/#tab:rank> [<https://perma.cc/4PXZ-L7N4>].

<sup>12</sup> Minnesota Petroleum Distributors.

centers of the Midwest, the Gulf of Mexico, and the eastern coasts of the United States and Canada, has greatly magnified the role it plays in meeting America's demand for petroleum products.<sup>15</sup>

37. Flint Hills Resources' Pine Bend Refinery refines the majority of the motor gasoline consumed in Minnesota. Koch earns significant profits from the Pine Bend refinery.

38. Approximately 85% of the crude oil processed by the Pine Bend Refinery originates in Alberta, Canada from the Alberta tar sands. The rest originates in North Dakota.

39. The Alberta tar sands resource is being developed, in part, by ExxonMobil and Koch. ExxonMobil and Koch earn a portion of their substantial profits from the development of Canadian oil that is eventually refined and consumed in Minnesota. In 2014, Koch was reported to be the largest non-Canadian leaseholder of Canada's oil sands.<sup>16</sup>

40. The North Dakota Bakken oil resource is being developed, in part, by ExxonMobil. ExxonMobil earns a portion of its substantial profits from the development of North Dakota oil that is eventually refined and consumed in Minnesota.

41. Koch owns and operates portions of the pipeline system in Minnesota delivering crude oil to the Pine Bend Refinery. A portion of Koch's profits are from the ownership and operation of this pipeline system.

#### AGENCY

42. At all times herein mentioned, each of the Defendants was the agent, servant, partner, aider and abettor, co-conspirator, and/or joint venturer of each of the remaining Defendants herein and was at all times operating and acting within the purpose and scope of said agency, service, employment, partnership, conspiracy, and joint venture and rendered substantial

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<sup>15</sup> *Id.*

<sup>16</sup> Steven Mufson & Juliet Eilperin, *The biggest foreign lease holder in Canada's oil sands isn't Exxon Mobil or Chevron. It's the Koch brothers*, Washington Post (Mar. 20, 2014).

49. Prior to World War II, most anthropogenic CO<sub>2</sub> emissions were caused by land-use practices, such as forestry and agriculture, which altered the ability of the land and global biosphere to absorb CO<sub>2</sub> from the atmosphere; the impacts of such activities on Earth's climate were relatively minor. Since that time, however, both the annual rate and total volume of anthropogenic CO<sub>2</sub> emissions have increased enormously following the advent of major uses of oil, gas, and coal.

50. Defendants sell—or are in the business of promoting and protecting the sales of—fossil-fuel products, including in Minnesota.

51. Fossil-fuel products release greenhouse gases when consumed. More than half of all industrial emissions of CO<sub>2</sub> have occurred since 1988.<sup>18</sup>

52. Because of the increased burning of fossil-fuel products, concentrations of greenhouse gases in the atmosphere are now at a level unprecedented in at least 3 million years.<sup>19</sup>

53. As greenhouse gases accumulate in the atmosphere, the Earth radiates less energy back to space. This accumulation and associated disruption of the Earth's energy balance have myriad environmental and physical consequences.

54. Without Defendants' exacerbation of global warming caused by their conduct as alleged herein, the current physical and environmental changes caused by global warming would

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<sup>18</sup> Peter C. Frumhoff et al., *The climate responsibilities of industrial carbon producers*, *Climatic Change* 132:157-171 (2015) (hereinafter Frumhoff 2015).

<sup>19</sup> *More CO<sub>2</sub> than ever before in 3 million years, shows unprecedented computer simulation*, *Science Daily* (Apr. 3, 2019); see also *Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, 4 (2014) (hereinafter IPCC 5<sup>th</sup> Assessment).

measured an increase in atmospheric CO<sub>2</sub>, and communicated this information to API. Brannon published his results in the scientific literature, which was available to Defendants and/or their predecessors-in-interest.<sup>22</sup>

57. In 1959, physicist Edward Teller warned petroleum industry leaders, including high-level representatives of Defendants, of the potential for global temperature increases and resultant sea level rise at an event organized by API.<sup>23</sup>

58. This awareness that began in the 1950s continued into the 1960s. For example, in 1965, President Lyndon Johnson's Science Advisory Committee (SAC) issued a 110-page report entitled *Restoring the Quality of our Environment* that included an Appendix on "Atmospheric Carbon Dioxide" explaining, in part, how fossil-fuel combustion could lead to changes in the CO<sub>2</sub> concentration of the atmosphere. This report noted that burning of fossil fuels "may be sufficient to produce measurable and perhaps marked changes in climate" by the year 2000.<sup>24</sup>

59. The contents of the SAC report were not widely reported to the general public. Only a limited number of scientists and government officials at this time were familiar with the contents of the report. But API members heard about the SAC report. At their 1965 annual meeting, then-API-president Frank Ikard gave the following address:

This report unquestionably will fan emotions, raise fears, and bring demands for action. The substance of the report is that there is still time to save the world's peoples from the catastrophic consequence of pollution, but time is running out.

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<sup>22</sup> H. R. Brannon, Jr., et al., *Radiocarbon evidence on the dilution of atmospheric and oceanic carbon by carbon from fossil fuels*, American Geophysical Union Transactions 38, 643-50 (1957).

<sup>23</sup> See Franta 2018 (citing E. Teller, *Energy patterns of the future*, Energy and Man: A Symposium 53-72 (1960)).

<sup>24</sup> Environmental Pollution Panel of the President's Science Advisory Committee, *Restoring the Quality of Our Environment*, at 126-27 (1965).

2000<sup>28</sup>—almost exactly what it turned out to be (369 ppm).<sup>29</sup> The report explicitly connected the rise in CO<sub>2</sub> levels to the combustion of fossil fuels, finding it “unlikely that the observed rise in atmospheric CO<sub>2</sub> has been due to changes in the biosphere.”

63. By virtue of their membership and participation in API at that time, ExxonMobil received or should have received the SRI reports and was on notice of their conclusions.

64. Recently uncovered internal documents from ExxonMobil and other fossil-fuel companies show that industry scientists became instrumental in researching the greenhouse effect on the heels of this early science. For example, in 1969, a research project that involved the Esso Production Research Company (now ExxonMobil) acknowledged the possible connection between hurricane intensity and a warming climate.<sup>30</sup>

65. In 1972, API members received a status report on all environmental research projects funded by API. The report summarized the 1968 SRI report describing the impact of fossil-fuel products, including Defendants’, on the environment, including global warming and attendant consequences. ExxonMobil’s predecessors-in-interest that received this report include, but were not limited to: Esso Research, Ethyl (formerly affiliated with Esso, which was subsumed by ExxonMobil), Getty, Humble Standard of New Jersey, Mobil, Skelly, and Colonial Pipeline.<sup>31</sup>

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<sup>28</sup> Elmer Robinson & R.C. Robbins, *Sources, Abundance, and Fate of Gaseous Atmospheric Pollutants Supplement*, Stanford Research Institute (June 1969).

<sup>29</sup> NASA Goddard Institute for Space Studies, *Global Mean CO<sub>2</sub> Mixing Ratios (ppm): Observations*, <https://data.giss.nasa.gov/modelforce/ghgases/fig1A.ext.txt>.

<sup>30</sup> Center for International Environmental Law, *Smoke and Fumes: The Legal and Evidentiary Basis for Holding Big Oil Accountable for the Climate Crisis*, 2017 at 10 (hereinafter *Smoke and Fumes*) (citing M.M. Patterson (Shell Development Co.), *An Ocean Data Gathering Program for the Gulf of Mexico*, Society of Petroleum Engineers (1969)).

<sup>31</sup> American Petroleum Institute, *Environmental Research, A Status Report*, Committee for Air and Water Conservation (Jan. 1972).



be the primary limiting factor on energy production from fossil fuels over the next few centuries.”<sup>35</sup> In a 1979 memorandum to Weinberg, Shaw wrote: “It behooves us to start a very aggressive defensive program in the indicated areas of atmospheric science and climate because there is a good probability that legislation affecting our business will be passed.”<sup>36</sup> And a 1979 letter from Exxon’s director of research, Edward David, to senior vice president George T. Piercy states that Exxon’s ongoing research “could well influence Exxon’s view about the long-term attractiveness of coal and synthetics relative to nuclear and solar energy.”<sup>37</sup>

69. An Exxon internal document from 1979 summarizes the state of the science at that time, reaching the damning conclusion that the present trend of fossil-fuel consumption would cause dramatic effects before 2050.<sup>38</sup>

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<sup>35</sup> Henry Shaw, *Interoffice Correspondence to John W. Harrison: Environmental Effects of Carbon Dioxide* (Oct. 31, 1977), <http://www.climatefiles.com/exxonmobil/1977-exxon-memo-about-doe-environmental-advisory-committee-subgroup-studying-co2-effects>.

<sup>36</sup> Henry Shaw, *Interoffice Correspondence to H.N. Weinberg: Research in Atmospheric Science* (Nov. 19, 1979), <http://www.climatefiles.com/exxonmobil/1979-exxon-memo-on-atmospheric-science-research-to-influence-legislation>.

<sup>37</sup> Edward David, *Proprietary Memorandum to George Piercy* (Nov. 9, 1979), <https://insideclimatenews.org/documents/letters-senior-vps-1980>.

<sup>38</sup> R.L. Mastracchio & L.E. Hill, *Proprietary Memorandum to R. L. Hirsch: Controlling Atmospheric CO<sub>2</sub>* (Oct. 16, 1979), <http://www.climatefiles.com/exxonmobil/1979-exxon-memo-on-potential-impact-of-fossil-fuel-combustion>.

approximately the year 2000, because, the API believed, its effects were being temporarily masked by a natural cooling trend. However, this cooling trend, the API warned its members, would reverse around 1990, adding to the warming caused by CO<sub>2</sub>.

72. In 1980, the API CO<sub>2</sub> Task Force invited Dr. John Laurmann, “a recognized expert in the field of CO<sub>2</sub> and climate,” to present to its members.<sup>39</sup> The meeting lasted for seven hours and included a “complete technical discussion” of global warming caused by fossil fuels, including “the scientific basis and technical evidence of CO<sub>2</sub> buildup, impact on society, methods of modeling and their consequences, uncertainties, policy implications, and conclusions that can be drawn from present knowledge.” Representatives from Exxon and API were present, and the minutes of the meeting were distributed to the entire API CO<sub>2</sub> Task Force. Laurmann informed the Task Force of the “scientific consensus on the potential for large future climatic response to increased CO<sub>2</sub> levels” and that there was “strong empirical evidence that [the carbon dioxide] rise [was] caused by anthropogenic release of CO<sub>2</sub>, mainly from fossil fuel burning.” Unless fossil-fuel production and use were controlled, atmospheric CO<sub>2</sub> would be twice preindustrial levels by 2038, with “likely impacts” along the following trajectory:

**· LIKELY IMPACTS:**

**1° C RISE (2005): BARELY NOTICEABLE**

**2.5° C RISE (2038): MAJOR ECONOMIC CONSEQUENCES, STRONG REGIONAL DEPENDENCE**

**5° C RISE (2067): GLOBALLY CATASTROPHIC EFFECTS**

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<sup>39</sup> Jimmie J. Nelson, American Petroleum Institute, *The CO<sub>2</sub> Problem; Addressing Research Agenda Development* (Mar. 18, 1980), <https://www.industrydocuments.ucsf.edu/docs/gffl0228>.

impact. For example, in 1981, Roger Cohen, an Exxon researcher, circulated a memorandum in which he disagreed that climate change would be “well short of catastrophic”:<sup>43</sup>

GENERAL - 1984-1-10  
INTER-OFFICE CORRESPONDENCE

DATE August 18, 1981

TO	REFERENCE
W. Glass	
FROM	SUBJECT
R. W. Cohen	

I have looked over the draft of the EED reply to the request from O'Loughlin. The only real problem I have is with the second clause of the last sentence in the first paragraph: "but changes of a magnitude well short of catastrophic..." I think that this statement may be too reassuring. Whereas I can agree with the statement that our best guess is that observable effects in the year 2030 are likely to be "well short of catastrophic", it is distinctly possible that the CPD scenario will later produce effects which will indeed be catastrophic (at least for a substantial fraction of the earth's population). This is because the global ecosystem in 2030 might still be in a transient, headed for much more significant effects after time lags perhaps of the order of decades. If this indeed turns out to be case, it is very likely that we will unambiguously recognize the threat by the year 2000 because of advances in climate modeling and the beginning of real experimental confirmation of the CO<sub>2</sub> effect. The effects of such a recognition on subsequent fossil fuel combustion are unpredictable, but one can say that predictions based only on our knowledge of availability and economics become hazardous.

I would feel more comfortable if the first paragraph concluded with a statement to the effect that future developments in global data gathering and analysis, along with advances in climate modeling, may provide strong evidence for a delayed CO<sub>2</sub> effect of a truly substantial magnitude, a possibility which increases the uncertainty surrounding the post-2000 CPD scenario.

76. In 1982, Exxon's Environmental Affairs Manager distributed a primer on climate change to a "wide circulation [of] Exxon management . . . intended to familiarize Exxon

<sup>43</sup> Roger Cohen, *Interoffice Correspondence to W. Glass* (Aug. 18, 1981) <http://www.climatefiles.com/exxonmobil/1981-exxon-memo-on-possible-emission-consequences-of-fossil-fuel-consumption>.

and requirements for introducing them into widespread use, and which recommended that “vigorous development of non-fossil energy sources be initiated as soon as possible.”<sup>46</sup> The primer also noted that other greenhouse gases related to fossil-fuel production, such as methane, could contribute significantly to global warming, and that concerns over CO<sub>2</sub> could be reduced if fossil-fuel use were decreased due to “high price, scarcity, [or] unavailability.” “Mitigation of the ‘greenhouse effect’ would require major reductions in fossil fuel combustion,” the primer stated. The primer was widely distributed to Exxon leadership.

77. Professor Martin Hoffert, a former New York University physicist who researched climate change as an Exxon consultant in the 1980s, later stated the following in sworn testimony before Congress:

[O]ur research [at Exxon] was consistent with findings of the United Nations Intergovernmental Panel on Climate Change on human impacts of fossil fuel burning, which is that they are increasingly having a perceptible influence on Earth’s climate. . . . If anything, adverse climate change from elevated CO<sub>2</sub> is proceeding faster than the average of the prior IPCC [Intergovernmental Panel on Climate Change] mild projections and fully consistent with what we knew back in the early 1980s at Exxon. . . . I was greatly distressed by the climate science denial program campaign that Exxon’s front office launched around the time I stopped working as a consultant—but not collaborator—for Exxon. The advertisements that Exxon ran in major newspapers raising doubt about climate change were contradicted by the scientific work we had done and continue to do. Exxon was publicly promoting views that its own scientists knew were wrong, and we knew that because we were the major group working on this.<sup>47</sup>

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<sup>46</sup> Glaser Memo 1982.

<sup>47</sup> Statement of Martin Hoffert, *Examining the Oil Industry’s Efforts to Suppress the Truth About Climate Change*, Hearing Before the Committee on Oversight and Reform, U.S. House of Representatives (Oct. 23, 2019), <https://oversight.house.gov/legislation/hearings/examining-the-oil-industry-s-efforts-to-suppress-the-truth-about-climate-change>.

pace and degree of atmospheric warming . . . to protect the global environment.”<sup>52</sup> In 1992, the United Nations held its Earth Summit in Rio de Janeiro and adopted the United Nations Framework Convention on Climate Change (UNFCCC), which is an international treaty with the aim of stabilizing the concentration of greenhouse gases to avoid the most catastrophic impacts of climate change. By 1997, the UNFCCC had adopted the Kyoto Protocol, which put the obligation to reduce greenhouse-gas emissions on developed countries on the basis that they are historically responsible for the rising levels of greenhouse gases in the atmosphere.

82. Between 1990 and 2013, the IPCC expressed increasing confidence about the link between human activity and climate change.<sup>53</sup> Yet during this time, Defendants worked to undermine the public’s perception of the growing scientific consensus around climate change:

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<sup>52</sup> Frumhoff 2015.

<sup>53</sup> Lisa Song et al., *Exxon Confirmed Global Warming Consensus in 1982 with In-House Climate Models*, Inside Climate News (Sept. 22, 2015), <https://insideclimatenews.org/news/18092015/exxon-confirmed-global-warming-consensus-in-1982-with-in-house-climate-models> [<https://perma.cc/93KF-SG3J>].

approach. This campaign was intended to and did reach and influence Minnesota consumers, along with consumers elsewhere.

**DEFENDANTS MADE MISLEADING STATEMENTS ABOUT CLIMATE CHANGE SCIENCE,  
WITHHELD THEIR SUPERIOR KNOWLEDGE, AND FAILED TO WARN THE PUBLIC OF THE  
CONSEQUENCES OF CONTINUING TO CONSUME DEFENDANTS' PRODUCTS**

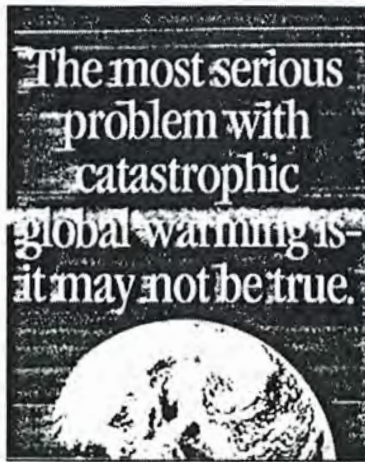
84. Despite their superior understanding of climate change science, the potentially catastrophic impacts of climate change, and the need to act swiftly, Defendants did not disseminate this information to the public or consumers. Instead, they engaged in a conspiracy to misrepresent the scientific understanding of climate change, the role of Defendants' products in causing climate change, the potential harmful consequences of climate change, and the urgency of action required to mitigate climate change. This conspiracy was intended to, and did, target and influence the public and consumers, including in Minnesota.

85. Defendants had a duty to disclose their superior information to the public because it was not otherwise known or available to the general public.

86. In addition, once Defendants chose to speak on the subject of climate change, they had a duty to do so in a way that was not misleading.

87. Instead, they engaged in a campaign of deception.

88. The campaign involved Defendants making misleading statements in advertising and other public materials directed at consumers and the general public, paying outside organizations to make misleading statements in advertising and other public materials directed at consumers and the general public, and paying scientists to produce misleading materials that were then cited and promoted by Defendants and outside organizations to lend credibility to their misleading statements. They did this all while failing to inform consumers, including those in Minnesota, and the general public of their superior knowledge to the contrary.



- A 1998 internal strategy document written by a team convened by API describes the plan to defeat the UNFCCC's Kyoto protocol by emphasizing that "it is not known for sure whether (a) climate change actually is occurring, or (b) if it is, whether humans really have any influence on it."<sup>58</sup> The memo states that "victory" would be achieved when average citizens and the media were convinced that uncertainties existed in climate

<sup>58</sup> Joe Walker, *Global Climate Science Communications Plan* (Apr. 3, 1998), <http://www.climatefiles.com/trade-group/american-petroleum-institute/1998-global-climate-science-communications-team-action-plan/>.

multinational effort, under the auspices of the United Nations, is underway to cut the use of fossil fuels, based on the unproven theory that they affect the earth's climate."<sup>62</sup> He did not warn of Exxon's contrary scientific findings, such as those documented in the 1982 Cohen/Levine Memo.

- In another article in the same internal publication, Exxon misleadingly failed to acknowledge the potentially catastrophic consequences of climate change, instead insisting that the greenhouse effect is "definitely a good thing." Exxon misleadingly stated that "the indications are that a warmer world would be far more benign than many imagine . . . moderate warming would reduce mortality rates in the US, so a slightly warmer climate would be more healthful."<sup>63</sup> The article did not warn of Exxon's earlier conclusion that significant sea level rise would cause catastrophic flooding.
- API published an extensive report in 1996 warning against concern over CO<sub>2</sub> buildup and any need to curb consumption or regulate the fossil-fuel industry. The introduction stated that "there is no persuasive basis for forcing Americans to dramatically change their lifestyles to use less oil." The authors discouraged the further development of certain alternative energy sources, writing that "government agencies have advocated the increased use of ethanol and the electric car, without the facts to support the assertion that either is superior to existing fuels and technologies" and that "policies that mandate replacing oil with specific alternative fuel technologies freeze progress at the current level of technology, and reduce the chance that innovation will develop better solutions." The paper also denied the human connection to climate change, by falsely stating that no "scientific evidence exists that human activities are significantly affecting sea levels, rainfall, surface temperatures or the intensity and frequency of storms." The report's message was false but clear: "Facts don't support the arguments for restraining oil use."<sup>64</sup>
- At a 1997 gathering of energy executives at the World Petroleum Congress in Beijing, Raymond falsely claimed that the impact of climate change was uncertain, and misleadingly asserted that the problem was not urgent: "It is highly unlikely that the temperature in the middle of the next century will be affected whether policies are enacted now or 20 years from now." He stated, "Many people—politicians and the public alike—believe that global warming is a rock-solid certainty, but it's not." He also falsely stated that "[t]he earth is cooler today than it was 20 years ago."<sup>65</sup> He did not warn of the

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<sup>62</sup> Lee Raymond, *Climate change: don't ignore the facts* (Fall 1996), <http://www.climatefiles.com/exxonmobil/global-warming-who-is-right-1996>.

<sup>63</sup> Johnathan H. Adler, *Global warming: What to think? What to do?* (Fall 1996), <http://www.climatefiles.com/exxonmobil/global-warming-who-is-right-1996>.

<sup>64</sup> Sally Brain Gentile et al., *Reinventing Energy: Making the Right Choices*, American Petroleum Institute (1996), <http://www.climatefiles.com/trade-group/american-petroleum-institute/1996-reinventing-energy>.

<sup>65</sup> Lee Raymond, *Energy—key to growth and a better environment for Asia-Pacific nations* (Oct. 13, 1997), <http://www.climatefiles.com/exxonmobil/1997-exxon-lee-raymond-speech-at-world-petroleum-congress/>.



- In 1999, Mobil misleadingly implied that unabated climate change might not be harmful: “We don’t know whether [climate] stabilization is necessary and, if so, at what level.”<sup>69</sup> This statement did not warn of its findings to the contrary.
- In 1999, Raymond misleadingly suggested at an annual meeting that future climate “projections are based on completely unproven climate models, or, more often, on sheer speculation.”<sup>70</sup> The “unproven” models were the same ones that ExxonMobil was using internally to study how climate change would affect its business. Using these models, in fact, ExxonMobil had accurately predicted (before 1992) that the Beaufort Sea’s open water season—when drilling and exploration occurred—would lengthen from two months to three or possibly five months.<sup>71</sup> Raymond did not disclose his company’s use of those same internal models when he made this statement at the annual meeting.
- In 2000, an ExxonMobil advertisement in the *Washington Post* misleadingly implied that climate models (such as those it relied on internally) were unreliable: “Today’s global models simply don’t work at a regional level.” It went on to claim that the National Assessment Synthesis Report (on climate change) “is written as a political document, not an objective summary of the underlying science.”<sup>72</sup> The advertisement failed to disclose what ExxonMobil’s own internal documents had already confirmed: that burning fossil fuels would result in catastrophic climate change.
- In 2000, an ExxonMobil advertorial in the *New York Times* misleadingly declared that consequences of climate change could be beneficial: “Just as changeable as your local weather forecast, views on the climate change debate range from seeing the issue as serious or trivial, and from seeing the possible future impacts as harmful or beneficial.” The advertorial went on to state that while climate-change science remained uncertain, the negative impacts of climate policies were fully understood: “[T]here is not enough information to justify harming economies and forcing the world’s population to endure unwarranted lifestyle changes by dramatically reducing the use of energy now,” but “we know with certainty that climate change policies, unless properly formulated, will restrict life itself.”<sup>73</sup> This advertorial did not disclose that Exxon’s own internal documents had already determined that climate change leading to a rise in sea level of five meters could cause catastrophic flooding.
- In 2004, an ExxonMobil newspaper advertisement continued to blatantly and falsely exaggerate the uncertainty of climate science: “Scientific uncertainties continue to limit our ability to make objective, quantitative determinations regarding the human role in

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<sup>69</sup> Mobil, *Scenarios for Stabilization*, *New York Times* (Aug. 12, 1999).

<sup>70</sup> Sara Jerving et al., *What Exxon knew about the Earth’s melting Arctic*, *Los Angeles Times* (Oct. 9, 2015) (hereinafter Jerving 2015).

<sup>71</sup> *Id.*

<sup>72</sup> ExxonMobil, *Political cart before a scientific horse*, *Washington Post* (2000).

<sup>73</sup> ExxonMobil, *Do No Harm*, *Washington Post* (Mar. 16, 2000).

scientists' academic publications—but promoted doubt about it in advertorials. Given this discrepancy, [they] conclude that ExxonMobil misled the public.”<sup>78</sup>

92. Defendants have spent millions of dollars on advertising and public relations campaigns, including in Minnesota, in order to mislead consumers and the general public about scientists' certainty regarding climate change, the role of fossil fuels in creating the problem, the potential consequences of climate change, and the urgency of the need to take action.<sup>79</sup> Defendants spent millions on advertising and public relations because they understood that an accurate understanding of climate change would affect their ability to continue to earn profits by conducting business as usual.

93. Defendants' misleading statements were part of a conspiracy to defraud consumers and the general public, including consumers and the public in Minnesota, about climate change and the role of fossil-fuel products in climate change.

94. Defendants' websites contain misleading statements about climate science, the role of fossil-fuel products in contributing to climate change, the consequences of climate change and/or the need to take swift action to mitigate climate change, and the harms that it would bring. These websites are and were accessible to Minnesotans, and were intended to reach and influence Minnesotans, at times relevant to this Complaint.

95. The misleading statements chronicled here were directed at consumers, including in Minnesota. Defendants intended that consumers would rely on their statements in justifying decisions to not change their fossil-fuel consumption habits.

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<sup>78</sup> *Id.*

<sup>79</sup> See, e.g., Kate Yoder, *Big Oil spent \$3.6 billion to clean up its image, and it's working*, Grist (Dec. 24, 2019), <https://grist.org/energy/big-oil-spent-3-6-billion-on-climate-ads-and-its-working/> [<https://perma.cc/2HM4-8HB6>] (hereinafter Yoder 2019).

funding organizations that misrepresented the scientific consensus that Defendants' fossil-fuel products were causing climate change.<sup>80</sup> These organizations were intended to, and did, target and influence the public and consumers, including in Minnesota. Although ExxonMobil publicly declared that it would stop funding climate-denial organizations in 2008, more than \$13 million of this funding was transmitted to "denial organizations" between 2008 and 2017.<sup>81</sup> In fact, in 2017 alone, ExxonMobil still contributed more than \$1.5 million to climate-change denial organizations.<sup>82</sup> Similarly, between 1997 and 2017, Koch-controlled foundations gave more than \$127 million to groups that obfuscated climate science.<sup>83</sup>

99. The web of "front groups" and denial organizations supported exclusively or in part by Defendants is vast. Network analysis published in *Nature Climate Change* in 2015 identified at least 4,556 individuals and 164 organizations in the global web of climate-change denial.<sup>84</sup> These organizations engaged in a conspiracy with Defendants to discredit the science of climate change in order to protect fossil-fuel sales, including in Minnesota, and Defendants' ability to continue to profit from their business-as-usual model. A small sample of these seemingly independent groups and their misleading or false statements are highlighted in paragraphs 100-117.

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<sup>80</sup> Union of Concerned Scientists, *ExxonMobil Foundation & Corporate Giving to Climate Denier & Obstructionist Organizations*, [https://www.ucsusa.org/sites/default/files/attach/2019/ExxonMobil-Worldwide-Giving-1998-2017.pdf?\\_ga=2.84739161.1384563456.1548170682-1610477837.1510330963](https://www.ucsusa.org/sites/default/files/attach/2019/ExxonMobil-Worldwide-Giving-1998-2017.pdf?_ga=2.84739161.1384563456.1548170682-1610477837.1510330963) [<https://perma.cc/TG98-G3CJ>].

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> Greenpeace, *Koch Industries: Secretly Funding the Climate Denial Machine*, <https://www.greenpeace.org/usa/global-warming/climate-deniers/koch-industries/> [<https://perma.cc/J8FJ-88PX>].

<sup>84</sup> Justin Farrell, *Corporate funding and ideological polarization about climate change*, Proc. Nat'l Acad. Sci. U.S.A. 1, 113 (Jan. 5, 2016).

been proven,” and “[c]onsequently, there is no basis for the design of effective policy action that would eliminate the potential for climate change.”<sup>86</sup>

103. In 1995, the GCC created an internal climate-change primer that included the statements that “the scientific basis for the greenhouse effect and the potential impact of human emissions of greenhouse gases such as CO<sub>2</sub> on the climate is well-established and cannot be denied” and that “contrarian theories” about climate change do not “offer convincing arguments against the conventional model of greenhouse gas emission-induced climate change.” But the GCC removed this second statement from a more widely circulated version of its primer in an effort to mislead readers. The excised section also dismissed the claims of contrarian research on the role of solar radiation as an explanation for global warming.<sup>87</sup> The GCC also misleadingly implied that scientists disputed the likelihood of sea-level rise as a result of climate change: “There has been a great deal of speculation about a potential sea level rise, [but] most scientists question the predictions of dangerous melting of Greenland or Antarctic ice caps.”<sup>88</sup>

104. Also in 1995, the GCC published a booklet called “Climate Change: Your Passport to the Facts,” which stated, “While many warnings have reached the popular press about the consequences of a potential man-made warming of the Earth’s atmosphere during the

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<sup>86</sup> GCC, *Issues and Options: Potential Global Climate Change* (1994), <http://www.climatefiles.com/denial-groups/global-climate-coalition-collection/1994-potential-global-climate-change-issues>.

<sup>87</sup> Union of Concerned Scientists, *Climate Deception Dossier #7: The Global Climate Coalition’s 1995 Primer on Climate Change Science*, at 25-28 (July 2015), <https://www.ucsusa.org/sites/default/files/attach/2015/07/The-Climate-Deception-Dossiers.pdf> [<https://perma.cc/JL2V-XYGL>] & [https://www.ucsusa.org/sites/default/files/attach/2015/07/Climate-Deception-Dossier-7\\_GCC-Climate-Primer.pdf](https://www.ucsusa.org/sites/default/files/attach/2015/07/Climate-Deception-Dossier-7_GCC-Climate-Primer.pdf) (hereinafter *Dossier #7—GCC Primer*).

<sup>88</sup> Lieberman & Rust 2015.

109. A similar pattern of activities was undertaken in the 1990s by a group known as the “Greening Earth Society” (GES), which was funded by a consortium of U.S. coal corporations, rural electric cooperatives, and municipal electric utilities. GES was headed by Fred Palmer, who now has a position with the Heartland Institute.<sup>91</sup> In 1998, GES produced a video, *The Greening of Planet Earth Continues*, which is a sequel to *The Greening of Planet Earth* released by the Western Fuels Association, and that is still being promoted today by the Center for the Study of CO<sub>2</sub> and Global Change. The description of the video misleadingly states that CO<sub>2</sub> emissions are beneficial: “expert scientists assert that CO<sub>2</sub> is not a pollutant, but a nutrient to life on earth.” The video is claimed to have been distributed to more than 30,000 people worldwide.<sup>92</sup> In 1999, GES published the “State of the Climate Report” with essays from notable climate change deniers, such as Patrick Michaels, who has ties to Koch.<sup>93</sup>

110. Defendants and their foundations have given and continue to give the American Enterprise Institute (AEI) millions of dollars to further their campaign of deception. AEI has made and continues to make misleading statements about climate change. For example, on January 21, 2020, AEI published an online article entitled “Six facts about the non-problem of global warming.” The six “facts” listed are:

- (1) The earth’s temperature has been rising at a microscopically slow pace. . . .
- (2) A warmer earth saves lives. . . .
- (3) While the earth’s temperature has risen, the number of natural disaster deaths has been sharply declining. . . .
- (4) The global air pollution death rate has fallen by almost 50% since 1990. . . .
- (5) Any impact on the economy is likely to be minimal. . . .
- (6) Restricting carbon

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<sup>91</sup> Desmog: Clearing the PR Pollution that clouds climate science, *Greening Earth Society*, <https://www.desmogblog.com/greening-earth-society> [<https://perma.cc/J3ES-ADF4>].

<sup>92</sup> *Id.*

<sup>93</sup> New Hope Environmental Services, *State of the Climate Report: Essays on Global Climate Change* (1999), <http://www.climatefiles.com/deniers/patrick-michaels-collection/1999-greening-earth-society-climate-report-2>.

the atmosphere will be beneficial.<sup>96</sup> In addition, the Center's website offers a book for sale entitled "The Many Benefits of Atmospheric CO<sub>2</sub> Enrichment: How humanity and the rest of the biosphere will prosper from this amazing trace gas that so many have wrongfully characterized as a dangerous pollutant!"<sup>97</sup> The book misleadingly "describes a host of real-world benefits that the controversial atmospheric trace gas [CO<sub>2</sub>] provides, first to earth's plants and then to the people and animals that depend upon them for their sustenance."<sup>98</sup> Defendants have funded the activities of the Center in order to advance misleading and false ideas. The Center received \$85,000 from ExxonMobil between 1998 and 2003. The Center also received \$85,000 from the Claude R. Lambe Charitable Foundation between 2004 and 2007.

113. The George C. Marshall Institute (GMI) has been funded by Defendants and affiliated foundations to perpetuate, *inter alia*, the false claim that there is no scientific consensus about the science of climate change. In 1997, for example, GMI orchestrated a sham petition that claimed to have 17,000 signatories arguing against man-made climate change. The "petition" included a cover letter from Fred Seitz, a tobacco scientist and climate denier, and a fake "research paper" entitled: *Environmental Effects of Increased Atmospheric Carbon Dioxide*. The National Academy of Science issued a statement that "[t]he Petition project was a deliberate attempt to mislead scientists and rally them in an attempt to undermine support for the Kyoto Protocol. The petition was not based on a review of the science of global climate change, nor

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<sup>96</sup> See, e.g., Center for the Study of Carbon Dioxide and Global Change, *Volume 23: February 2020*, <http://www.co2science.org/index.php> [<https://perma.cc/QJL4-GNTD>].

<sup>97</sup> Craig D. Idso & Sherwood B. Idso, *The Many Benefits of Atmospheric CO<sub>2</sub> Enrichment: How humanity and the rest of the biosphere will prosper from this amazing trace gas that so many have wrongfully characterized as a dangerous pollutant!* (2011).

<sup>98</sup> *Id.*

On December 3, 2019, at a presentation at UNFCCC's 25<sup>th</sup> Conference of the Parties climate summit in Madrid, at an event titled "Rebutting the United Nation's Climate Delusion," and in collaboration with the Heartland Institute, the Committee for a Constructive Tomorrow, and the European Institute for Climate and Energy, the director of the CO<sub>2</sub> Coalition (William Happer) referred to climate change as a phony and bizarre "environmental cult":

We are here, though, on false pretenses, wasting our time talking about a non-existent climate emergency. And it's hard to understand how much further the shrillness can go, as this started out as global warming, then it was climate change or global weirding, climate crisis, climate emergency . . . what next? But stick around, it will happen. I hope sooner or later enough people will recognize the phoniness of this bizarre environmental cult and bring it to an end.<sup>104</sup>

Happer's talk also included the following deceptive image:<sup>105</sup>

## CO<sub>2</sub> is not a pollutant!



### Power plant's breath:

70% N<sub>2</sub>  
5% O<sub>2</sub>  
5% H<sub>2</sub>O  
20% CO<sub>2</sub>



### Alice's breath:

75% N<sub>2</sub>  
15% O<sub>2</sub>  
6% H<sub>2</sub>O  
4% CO<sub>2</sub>



<sup>104</sup> *Trump Adviser William Happer Talks Climate Alarmism During COP25 in Madrid*, The Heartland Institute (Dec. 3, 2019), <https://www.youtube.com/watch?v=j8KxVQFoyT0>.

<sup>105</sup> *Id.*

including Craig Idso. The first “Key Finding” of the book is: “The most important fact about climate science, often overlooked, is that scientists disagree about the environmental impacts of the combustion of fossil fuels on the global climate.” Most of the “findings” of the book are repeated from other Heartland Institute publications by the so-called “Nongovernmental International Panel on Climate Change,” which consists of the same well-worn climate change deniers such as Idso.<sup>110</sup>

117. Other groups that have received funding from Defendants as part of the conspiracy to deceive the public about climate change include, but are not limited to: Americans for Prosperity, Cato Institute, Competitive Enterprise Institute, Center of the American Experiment, Hoover Institute, Institute for Energy Research, Heritage Foundation, Manhattan Institute, Reason Foundation, and U.S. Chamber of Commerce.

118. The scope and extent of Defendants’ support for these climate denial groups is not fully understood. One or more Defendants directed funds to outside organizations engaged in the campaign of deception conspiracy by funneling money through one or more intermediate organizations such as DonorsTrust and Donors Capital Fund. Between 1998 and 2017, DonorsTrust gave more than \$150 million to climate denial groups and Donors Capital Fund gave nearly \$200 million to these groups during the same time frame.

119. Defendants paid for, expected, and then used the misleading materials produced by these outside organizations in furtherance of their strategy to exaggerate scientific uncertainty and avoid a clear understanding of the need to address greenhouse-gas emissions and climate change.

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<sup>110</sup> *Lead Authors*, Nongovernmental International Panel on Climate Change, <http://climatechangereconsidered.org/lead-authors/> [https://perma.cc/XD8Y-9NT6].



believed there was a lot of disagreement among scientists over whether global warming was occurring.<sup>111</sup>

**DEFENDANTS FUNDED FRAUDULENT SCIENTIFIC RESEARCH WITH THE INTENT THAT IT WOULD CREATE UNCERTAINTY WHERE THERE WAS NONE AND LEND FALSE CREDIBILITY TO THE MISLEADING STATEMENTS THEY AND OUTSIDE ORGANIZATIONS WERE MAKING**

125. In furtherance of their goals to exaggerate scientific uncertainty and avoid a clear understanding of the need to address greenhouse-gas emissions and climate change and as part of a conspiracy, Defendants secretly paid scientists to produce research that supported their campaign of deception.

126. For example, one purportedly independent research scientist, Wei-Hock “Willie” Soon, received more than \$1.2 million in research funding between 2001 and 2012 from fossil-fuel interests including ExxonMobil, API, and the Charles Koch Foundation. The source of Soon’s funding was discovered in 2015 pursuant to a Freedom of Information Act request. The documents received from that request revealed a disturbing relationship between Soon’s research and the fossil-fuel industry. These documents showed that the fossil-fuel industry paid for Soon’s *entire* salary and research budget. Contracts between Soon and his funders demonstrated that the industry paying him had the right to review his research before it was published, and the Smithsonian, that housed Soon, agreed not to disclose the funding arrangement without the permission of the fossil-fuel funders.<sup>112</sup> Defendants and their proxies intended Soon to produce exactly the sort of “research” that he did—the arrangement and its outcome is not a coincidence.

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<sup>111</sup> *American Opinions on Global Warming: A Yale/Gallup/Clearvision Poll*, Yale Program on Climate Change Communication (July 31, 2007), <http://climatecommunication.yale.edu/publications/american-opinions-on-global-warming>.

<sup>112</sup> Union of Concerned Scientists, *Climate Deception Dossier #1: Dr. Wei-Hock Soon's Smithsonian Contracts*, (July 2015), <https://www.ucsusa.org/sites/default/files/attach/2015/07/The-Climate-Deception-Dossiers.pdf> [<https://perma.cc/JL2V-XYGL>] & <https://s3.amazonaws.com/ucs-documents/global->

128. These examples are part of a pattern of using manufactured or questionable science to further business goals. Additional examples include Koch Industries-owned Georgia Pacific generating misleading scientific research as a result of liability for asbestos injuries.<sup>116</sup>

129. Defendants misleadingly cite and have cited to research by these scientists as if it were independent research, without revealing that they paid for it to be produced, and without revealing that their own science runs contrary to its conclusions.

130. The payments from Defendants to these scientists (either directly or through various front organizations) were part of a conspiracy to defraud consumers and the public about climate change and the role of Defendants' products in causing climate change. Defendants intended for these scientists to use the funding provided to them to publish misleading research about climate change, which is what the scientists did.

131. Defendants intended for the research of scientists they funded to be distributed to and relied on by consumers when buying Defendants' products, including by consumers in Minnesota.

#### **DEFENDANTS' FRAUD ONLY RECENTLY BECAME DISCOVERABLE**

132. To determine whether Defendants engaged in consumer fraud and failure to warn by giving a misleading impression and failing to disclose material information about climate change, it is necessary to know what Defendants knew about that topic and in what timeframe. We only now know that the information that Defendants and their proxies provided to the public was known to be incomplete and untrue at the times those statements were made.

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<sup>116</sup> See, e.g., Union of Concerned Scientists, *The Disinformation Playbook, How Business Interests Deceive, Misinform, and Buy Influence at the Expense of Public Health & Safety* (May 18, 2018), <https://ucsusa.org/resources/disinformation-playbook> [<https://perma.cc/HGW7-2Z5B>].

far back as the 1970s.<sup>119</sup> These journalists uncovered ExxonMobil's superior knowledge through an exhaustive investigation of archived documents, through interviews with former ExxonMobil employees, and through a review of scientific journals.

137. In 2017, the Center for International Environmental Law issued a report that revealed that Defendants, including API, had superior knowledge of the causes and potential consequences of climate change and the role their products played in causing climate change.<sup>120</sup>

138. These reports revealed, for the first time, that Defendants had superior knowledge of climate-change science, the role their products played in climate change, the consequences of climate change, and the need for urgent action at times when they were making or perpetrating misleading statements about the same.

#### **MINNESOTA HAS SUFFERED HARM DUE TO CLIMATE CHANGE**

##### ***Rising Temperatures***

139. Minnesota is warming rapidly. In Minneapolis and St. Paul, Minnesota's largest cities, annual average temperatures increased by 3.2° F from 1951 to 2012, which was faster than both national and global rates of increase.<sup>121</sup> Statewide, temperatures have increased 1° to 3° F.<sup>122</sup> Winter temperatures have been warming 13 times faster than summer temperatures.<sup>123</sup> The graph below shows that temperatures in recent decades have been rising even more quickly.

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<sup>119</sup> The *Los Angeles Times* published a series of three articles between October and December 2015: Katie Jennings et al., *How Exxon went from leader to skeptic on climate change research*, *Los Angeles Times* (Oct. 23, 2015); Jerving 2015; Lieberman & Rust 2015.

<sup>120</sup> Smoke and Fumes.

<sup>121</sup> Minn. Pollution Control Agency, *Effects of climate change in Minnesota*, <https://www.pca.state.mn.us/air/effects-climate-change-minnesota> [<https://perma.cc/Q4LY-4UT6>] (hereinafter MPCA climate effects).

<sup>122</sup> *Id.*

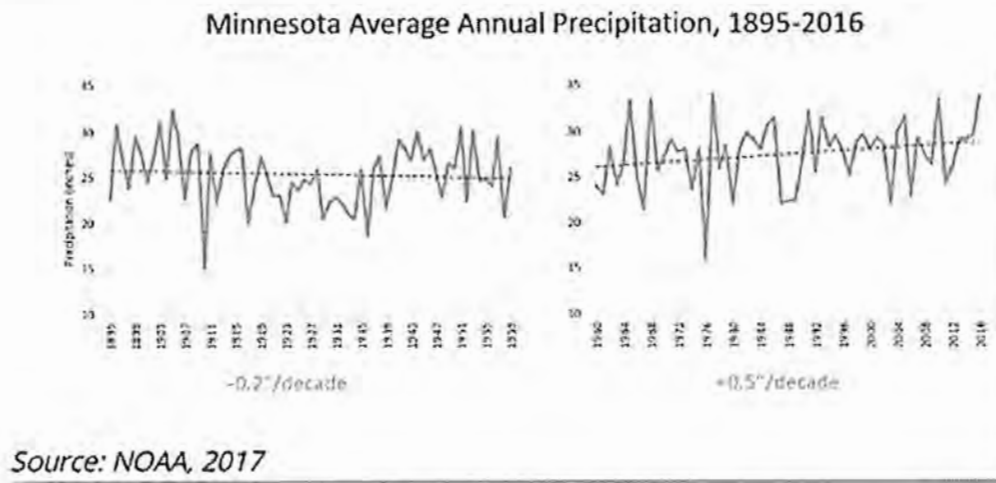
<sup>123</sup> Minn. Dept. of Nat. Res., *Climate trends: Cold weather warming*, [https://www.dnr.state.mn.us/climate/climate\\_change\\_info/climate-trends.html](https://www.dnr.state.mn.us/climate/climate_change_info/climate-trends.html) [<https://perma.cc/TH43-26JT>].

stillborn, and African-American mothers and babies are harmed at a much higher rate than the population at large[.]”<sup>128</sup>

141. High temperatures can also lead to crop damage. Corn, in particular, is the number one crop grown in Minnesota (by acreage) and accounts for an estimated \$4.6 billion in production value alone.<sup>129</sup> Yet corn can be irreparably damaged when temperatures are at or above 95° F for one or more days.<sup>130</sup>

### *Precipitation and Flooding*

142. Dew points have also risen due to climate change, which contributes to increased humidity and average annual precipitation.<sup>131</sup> The graph below shows that precipitation in recent decades has been rising even more quickly.



<sup>128</sup> Christopher Flavelle, *Climate Change Tied to Pregnancy Risks, Affecting Black Mothers Most*, New York Times (June 18, 2020).

<sup>129</sup> U.S. Dept. of Agriculture, *2019 State Agriculture Overview: Minnesota*, [https://www.nass.usda.gov/Quick\\_Stats/Ag\\_Overview/stateOverview.php?state=MINNESOTA](https://www.nass.usda.gov/Quick_Stats/Ag_Overview/stateOverview.php?state=MINNESOTA) [<https://perma.cc/8R9Z-WJEM>].

<sup>130</sup> MPCA climate effects.

<sup>131</sup> Minn. Dept. of Health, *Climate & Health in Minnesota*, <https://www.health.state.mn.us/communities/environment/climate/climate101.html> [<https://perma.cc/Y7C8-AJRU>].

146. In 2007, Minnesota provided \$165 million in disaster relief due to flooding; in 2010 the State paid \$80 million, in 2012, \$160 million, and in 2013, another \$4.5 million.<sup>139</sup> In 2014, the legislature created a disaster contingency account to more quickly provide disaster relief funding.<sup>140</sup> The legislature has appropriated \$82 million into the fund since its creation, but “[b]etween 2018 and 2019 the state received three federal disaster declarations and had 16 gubernatorial disaster declarations,” and the fund now has a projected deficit.<sup>141</sup>

147. In addition to money spent in response to flooding, since 1987, the Minnesota Flood Hazard Mitigation Grant Assistance Program has appropriated \$510 million of state funds to help local governments implement 365 flood-risk reduction programs.<sup>142</sup> Local governments also contribute to the costs of these projects. The funds have greatly increased since 1997:

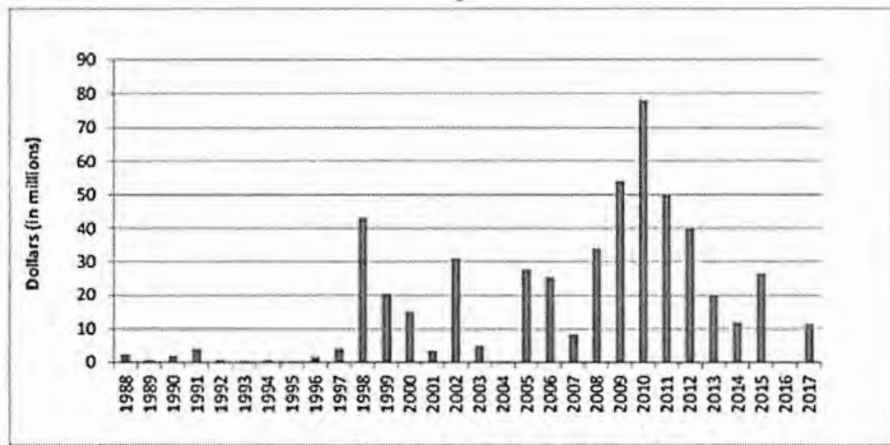


Figure 2: State of Minnesota Funding of the Flood Hazard Mitigation Grant Assistance Program

<sup>139</sup> Bill Salisbury & Doug Belden, *Minnesota Legislature OKs \$4.5M in disaster relief in one-day session*, Pioneer Press (Sept. 8, 2013).

<sup>140</sup> Minn. House of Representatives, *Division OKs \$30 million to replenish the state’s disaster contingency account* (Feb. 24, 2020), <https://www.house.leg.state.mn.us/sessiondaily/Story/14095> [<https://perma.cc/TJ7L-D4YU>].

<sup>141</sup> *Id.*

<sup>142</sup> Minn. Dept. of Nat. Res., *Minnesota’s Flood Hazard Mitigation Grant Assistance Program* (2018).

151. Faster water flow caused by extreme rains can erode the bases of bridges, a condition known as scour.<sup>150</sup> Scour may leave bridges vulnerable to damage and failure during flooding by undermining bridge foundations or removing the protection from the abutment slopes.<sup>151</sup> The Minnesota Department of Transportation allocates resources to address bridge scour through multiple efforts;<sup>152</sup> those costs will increase due to climate change. The Environmental Protection Agency (EPA) estimates the annual cost of maintaining current levels of service on Midwestern bridges from scour damage from climate change at about \$400 million per year in 2050.<sup>153</sup>

152. EPA estimates that higher temperatures associated with unmitigated climate change would result, by 2090, in U.S. annual road maintenance costs increasing by over \$6 billion (in 2015 dollars) each year.<sup>154</sup> Minnesotans would be responsible for in-state costs.

153. Increased average annual rainfall and the increase in the severity of extreme precipitation events will damage stormwater and sewer systems.<sup>155</sup> Many wastewater systems in the State are located in floodplains to take advantage of gravity-fed flows.<sup>156</sup> Increased flooding will more frequently exceed infrastructure capacity, overwhelming and submerging infrastructure, including pipelines, wastewater pumping stations, and treatment systems.<sup>157</sup> Treatment systems and pumping stations will require upgrades to withstand future conditions. In

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<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> See, e.g., Minn. Dept. of Trans., *Bridge Scour*, <http://dot.state.mn.us/bridge/hydraulics/scour.html> [<https://perma.cc/YM9T-DMDY>].

<sup>153</sup> EPA 2017 Technical Report.

<sup>154</sup> *Id.*

<sup>155</sup> Fourth National Climate Assessment Ch. 12: Transportation.

<sup>156</sup> Metropolitan Council, *Wastewater System Plan*, 50, <https://metro council.org/METC/files/be/bed2d5b4-9026-485a-a70f-6dfec3559755.pdf> [<https://perma.cc/Y8DT-NTKU>].

<sup>157</sup> Fourth National Climate Assessment Ch. 12: Midwest.

156. Increased extreme heat days also put stress on the State's electricity grid, by requiring increased air conditioning. State agencies are playing key roles in overseeing energy assurance and resiliency in Minnesota; climate change will increase the cost to provide these assurances.

### *Public Health*

157. Increased air temperatures and changes to the hydrologic cycle associated with climate change have resulted and will result in public-health impacts for Minnesota. Minnesota has incurred and will continue to incur expenses in planning, preparing for, and treating the public-health impacts associated with climate change. Health impacts of climate change, and associated harms and costs, include impacts from extreme heat, increased challenges with allergies and pollen, asthma, and vector-borne diseases.<sup>164</sup>

158. U.S. asthma rates have been trending upwards since 2001.<sup>165</sup> Warmer temperatures due to climate change are predicted to increase ground-level ozone, which contributes to breathing problems.<sup>166</sup> Climate change is also predicted to result in increased

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<sup>164</sup> IPCC 5<sup>th</sup> Assessment, *Human health: impacts, adaptation, and co-benefits*.

<sup>165</sup> Centers for Disease Control & Prevention, *Asthma Prevalence*, [https://www.cdc.gov/asthma/data-visualizations/prevalence.htm#anchor\\_1569598046502](https://www.cdc.gov/asthma/data-visualizations/prevalence.htm#anchor_1569598046502) [<https://perma.cc/98SJ-9G9W>].

<sup>166</sup> Yale Climate Connections, *Climate Change is making ground-level ozone pollution worse*, <https://www.yaleclimateconnections.org/2019/04/climate-change-makes-air-pollution-worse/> [<https://perma.cc/E8NS-V4WE>].

161. Vulnerable populations such as the disabled, the elderly, children, people who live alone, people of color, and less-resourced communities are more likely to suffer health effects from higher air temperatures, flooding, and air pollution.<sup>176</sup>

162. Climate change is expected to shift the geographic range and the distribution of disease-carrying insects and pests, exposing more Minnesotans to ticks that carry Lyme disease and mosquitoes that transmit viruses such as West Nile.<sup>177</sup> Incidence of tick-borne illness (Lyme, babesiosis, and human anaplasmosis) in Minnesota increased 742% over a 16-year period, from 278 cases in 1996 to 2,063 cases in 2011.<sup>178</sup> In Minnesota, increasing temperatures and the expected accompanying changes in seasonal patterns are expected to result in earlier seasonal tick activity and an expansion in tick habitat range, increasing the risk of human exposure to ticks.<sup>179</sup>

163. West Nile virus is the leading cause of mosquito-borne disease in the United States.<sup>180</sup> Climate change will impact the incidence of this potent virus.<sup>181</sup> The Minnesota Department of Health details the fluctuating course of West Nile Virus disease with 821 cases from 2002 to 2018.<sup>182</sup> According to the projections of the Fourth National Climate Assessment:

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<sup>176</sup> IPCC 5<sup>th</sup> Assessment at 717.

<sup>177</sup> Fourth National Climate Assessment Ch. 21: Midwest, at 899.

<sup>178</sup> Stacie J. Robinson et al., *Disease Risk in a Dynamic Environment: The Spread of Tick-borne Pathogens in Minnesota, USA*, 12 *Ecohealth* 152-63 (2015).

<sup>179</sup> Igor Dumić & Edson Severnini, *Ticking Bomb: The Impact of Climate Change on the Incidence of Lyme Disease*, *Can. J. Infect. Dis. Med. Microbiol.* 1-10 (2018).

<sup>180</sup> Centers for Disease Control and Prevention, *West Nile Virus*, <https://www.cdc.gov/westnile/index.html> [<https://perma.cc/Z96D-8U3Q>].

<sup>181</sup> Charles B. Beard et al., U.S. Global Change Research Program, *Ch. 5: Vectorborne Diseases*, at fig. 5.3, *West Nile Virus*, <http://dx.doi.org/10.7930/J0765C7V> [<https://perma.cc/VN8T-4FVK>].

<sup>182</sup> Minn. Dept. of Health, *Reported Cases of West Nile Virus Disease in Minnesota by Year, 2002-2018 (n=821)*, <https://www.health.state.mn.us/diseases/westnile/casesyear.pdf> [<https://perma.cc/7KUR-9MZY>].



faster spread and increased tree mortality. Warmer winters are also presumably causing less winter mortality for overwintering beetles. In addition to the exploding populations of beetles, warmer winters mean less access for loggers to manage tamarack stands, which typically require frozen ground to operate machinery.<sup>190</sup>

### *Planning Costs*

166. Minnesota's natural resource managers are incorporating climate adaptation into land management, taking steps such as increasing the diversity of trees and introducing species suitable for a sustainable climate.<sup>191</sup> But planning and implementation actions come at significant cost to the State.<sup>192</sup>

167. The Minnesota Department of Health is planning for the likelihood that more Minnesotans will be seeking emergency help on hotter days.<sup>193</sup> The State of Minnesota, through the Minnesota Department of Health and local health agencies, has provided public education to some vulnerable communities about central cooling centers where people could go for relief, and has incurred costs educating the public about what to do in extreme heat.<sup>194</sup>

168. Minnesota is undertaking extensive planning efforts across state agencies, as well as funding independent research efforts, to assess the State's vulnerability to a broad range of climate change-related impacts and to develop adaptation and resilience strategies.<sup>195</sup>

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<sup>190</sup> *Id.*

<sup>191</sup> Minn. Dept. of Nat. Res., *What DNR is Doing*, [https://www.dnr.state.mn.us/climate/climate\\_change\\_info/what-dnr-doing.html](https://www.dnr.state.mn.us/climate/climate_change_info/what-dnr-doing.html) [<https://perma.cc/B5GE-N579>].

<sup>192</sup> Todd Ontl et al., *Adaptation pathways: ecoregion and land ownership influences on climate adaptation decision-making in forest management*, 146 *Climatic Change* 75-88 (2018).

<sup>193</sup> Minn. Dept. of Health, *Extreme Heat Toolkit: Preparing Minnesota for Extreme Heat Events* 3-9 [https://www.health.state.mn.us/communities/environment/climate/docs/toolkit\\_chapter3.pdf](https://www.health.state.mn.us/communities/environment/climate/docs/toolkit_chapter3.pdf) [<https://perma.cc/XT6E-3QSW>].

<sup>194</sup> Minn. Dept. of Health, *Extreme Heat Events*, <https://www.health.state.mn.us/communities/environment/climate/extremeheat.html>.

<sup>195</sup> Minn. Pollution Control Agency, *Adapting to Climate Change in Minnesota* (2017).

174. Defendants' efforts to deceive regarding the consequences of the normal use of their fossil-fuel products; their efforts to conceal the hazards of those products from consumers; their promotion of their fossil-fuel products despite knowing the dangers associated with those products; their dogged campaign against regulation of those products based on falsehoods, omissions, and deceptions; and their failure to pursue less hazardous alternative products available to them unduly inflated the market for fossil-fuel products. Consequently, substantially more greenhouse gases have been emitted to the environment than would have been absent that conduct.

175. Defendants' conduct caused a substantial portion of global atmospheric greenhouse-gas concentrations, and the attendant historical, projected, and committed disruptions to the environment—and consequent injuries to Minnesota—associated therewith.

176. Delayed efforts to curb anthropogenic greenhouse-gas emissions have increased environmental harms and increased the magnitude and cost to address harms, including to Minnesota, that have already occurred or are locked in by previous emissions. As greenhouse-gas pollution accumulates in the atmosphere, some of which does not dissipate for potentially thousands of years (namely CO<sub>2</sub>), climate changes and consequent adverse environmental changes compound, and their frequencies and magnitudes increase. As those adverse environmental changes compound and their frequencies and magnitudes increase, so too do the physical, environmental, economic, and social injuries resulting therefrom.

177. Therefore, Defendants' campaign to obscure the science of climate change so as to protect and expand the use of fossil fuels greatly increased and continues to increase the harms and rate of harms suffered by Minnesota and its residents. Defendants, individually and together, have substantially contributed to Minnesota's climate crisis-related injuries.

183. This accelerated rate of climate change has led to more harm suffered by Minnesota. Defendants' misleading statements and deceptive practices, directly and through other organizations, have contributed to and exacerbated Minnesota's climate-change injuries.

### **CLAIMS FOR RELIEF**

#### **COUNT I: PREVENTION OF CONSUMER FRAUD ACT VIOLATION (AGAINST ALL DEFENDANTS)**

184. Minnesota realleges and incorporates by reference paragraphs 1-183 of this Complaint.

185. Minnesota Statutes, section 325F.69, subdivision 1, provides:

The act, use, or employment by any person of any fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, is enjoined as provided in section 325F.70.

186. Defendants are "persons" within the meaning of Minn. Stat. § 325F.69.

187. Fossil fuels are "merchandise" within the meaning of Minn. Stat. § 325F.69.

188. Defendants repeatedly violated Minnesota Statutes, section 325F.69, subd. 1, by using fraud, false pretense, false promise, misrepresentation, misleading statements, or deceptive practices in the connection with the sale of fossil fuels in Minnesota.

189. Defendants also repeatedly violated Minnesota Statutes, section 325F.69, subd. 1, by omitting material information in the course of marketing and selling their products in Minnesota such that their failures to sufficiently disclose such material information constituted deceptive and fraudulent practices.

190. Defendants made these fraudulent, false, and misleading statements and omissions with the intent that others rely on them in connection with the sale of fossil fuels.

191. Fossil-fuel consumers are "others" within the meaning of Minn. Stat. § 325F.69.

200. A manufacturer has a duty to warn end users of a dangerous product if it is reasonably foreseeable that an injury could occur in its use. Where the manufacturer has actual or constructive knowledge of danger to users, the manufacturer has a duty to give warning of such dangers.

201. The injuries that Minnesotans and the state of Minnesota are experiencing—and will experience—were well known to the Defendants because Defendants' own scientists predicted them decades ago. Defendants had actual knowledge of the danger that continuing to consume fossil fuels would have for climate change, the catastrophic effects of climate change, and the need to act urgently to address it or lose the ability to prevent the consequences from coming about.

202. Given Defendants' actual knowledge of the injury that would result from the use of fossil fuels, it was not *merely* reasonably foreseeable that an injury could occur. Instead, the injuries that Minnesota and Minnesotans are experiencing now are the types of injuries that Defendants knew the use of their products would bring about.

203. Given their knowledge of the likelihood of injury from the use of their products, Defendants had a duty to give warning of the injuries they knew their products were going to cause. Yet they did not.

204. Defendants instead worked to undermine any warning by affirmatively misrepresenting the hazardous nature of their products by fraud, false and misleading statements, and omission. Defendants affirmatively took steps to undermine legitimate science highlighting the danger of purchasing and consuming their products, thereby engaging in a conspiracy to deceive consumers and the public about the certainty of the science of climate change, the role

210. The State and Minnesotans have conferred a benefit upon Defendants by paying for the costs of the harms caused by Defendants' improper and unlawful practices. Defendants knowingly accepted and retained such benefits. Further, Defendants have failed to pay for the consequences of their unlawful conduct.

211. Because of the conduct, practices, actions, and material omissions described in this Complaint, Defendants obtained enrichment they would not otherwise have obtained. The enrichment was without justification and the State lacks an adequate remedy provided by law.

**COUNT III: FRAUD AND MISREPRESENTATION  
(AGAINST ALL DEFENDANTS)**

212. Minnesota realleges and incorporates by reference paragraphs 1-183 of this Complaint.

213. Defendants made misrepresentations of material facts about the certainty and consensus about the science of climate change, the role their products played in causing climate change, the consequences of climate change, and the need to act quickly to mitigate climate change and the harms that it would bring.

214. Defendants knew or should have known that the science of climate change was certain and that there was a scientific consensus about the science and the role of fossil fuels as early as 1982, that the consequences of climate change could be catastrophic, and that we needed to act quickly to mitigate the worst injuries from climate change.

215. Minnesota consumers, regulators, policy makers, and the public relied on these misrepresentations, allowing for the purchase of more fossil-fuel products than otherwise would have occurred.

216. Consumers', regulators', policy makers', and the public's reliance on Defendants' misrepresentations in continuing to purchase and use Defendants' fossil-fuel products was

A person engages in a deceptive trade practice when, in the course of business, vocation, or occupation, the person:

...

(5) represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have;

(7) represents that goods or services are of a particular standard, quality, or grade . . . if they are of another;

(13) engages in any other conduct which similarly creates a likelihood of confusion or of misunderstanding.

224. Defendants are “persons” within the meaning of this statute.

225. In the course of their business, vocation, or occupation, Defendants have repeatedly violated Minnesota Statutes section 325D.44, subdivision 1 by engaging in the deceptive trade practices described in this Complaint. Defendants’ deceptive acts and practices have the tendency or capacity to deceive and/or mislead the State and its residents and therefore constitute multiple separate deceptive trade practices.

226. Defendants engaged in conduct that created a likelihood of confusion or misunderstanding about their products by, among other things, engaging in a conspiracy to deceive consumers and the general public about the certainty of the science of climate change, the role that their products play in causing climate change, the consequences of continued unabated fossil-fuel emissions, and the need to act quickly.

227. Defendants also repeatedly violated Minnesota Statutes section 325D.44, subdivision 1 by, among other things, omitting material information in the course of marketing and selling their fossil-fuel products that caused a likelihood of confusion or misunderstanding by failing to sufficiently disclose that consuming their products caused climate change.

228. Defendants’ deceptive practices have exacerbated the harms that the State and its citizens have suffered due to climate change. These harms will continue into the future.

**COUNT V: VIOLATION OF FALSE STATEMENT IN ADVERTISING ACT  
(AGAINST ALL DEFENDANTS)**

235. Minnesota realleges and incorporates by reference paragraphs 1–183 of this Complaint.

236. The False Statement in Advertising Act (FSAA) provides:

Any person, firm, corporation, or association who, . . . with intent to increase the consumption [of any merchandise, securities, or service] . . . makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this state . . . an advertisement of any sort regarding merchandise . . . or anything so offered to the public, for use, consumption, purchase, or sale, which advertisement contains any material assertion, representation, or statement of fact which is untrue, deceptive, or misleading, shall, whether or not pecuniary or other specific damage to any person occurs as a direct result thereof, be guilty of a misdemeanor, and any such act is declared to be a public nuisance and may be enjoined as such.

Minn. Stat. § 325F.67.

237. Fossil fuels are “merchandise” within the meaning of Minnesota Statutes section 325F.67.

238. Defendants repeatedly violated Minnesota Statutes, section 325F.67 by making, publishing, disseminating, circulating, and/or placing before the public advertisements regarding fossil fuels containing material assertions, representations, and/or statements of facts which were untrue, deceptive, and or misleading.

239. Defendants made the aforementioned advertisements with the intent to increase the consumption of fossil fuels.

240. Defendants’ conduct, practices, actions, and material omissions described in this Complaint constitute multiple, separate violations of Minnesota Statutes section 325F.67.

241. Defendants engaged in a civil conspiracy with each other, with organizations not directly engaged in the sale of fossil-fuel products, and with individuals to mislead the public

247. Award judgment against Defendants for maximum civil penalties pursuant to Minnesota Statutes section 8.31, subdivision 3 for each separate violation of Minnesota law;

248. Award judgment against Defendants for restitution pursuant to Minnesota Statutes section 8.31, Minnesota common law, the *parens patriae* doctrine, and the general equitable powers of this Court to remedy the great harm and injury to the State resulting from Defendants' unlawful conduct;

249. Order ExxonMobil and Koch to disgorge all profits made as a result of their unlawful conduct;

250. Award Minnesota the costs of investigation and this action, attorneys' fees, expert consultant and expert witness fees, and all other costs and disbursements as authorized by Minnesota Statute section 8.31, subd. 3a; and

251. Grant such additional relief as the Court deems just and proper.

#### **JURY DEMAND**

The State demands a jury trial for all issues pled herein that are triable by a jury.

Dated: June 24, 2020 \_\_\_\_\_

KEITH ELLISON  
MINNESOTA ATTORNEY GENERAL

/s/ Liz Kramer

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ATTORNEYS FOR STATE OF MINNESOTA



# **EXHIBIT B**

A lawsuit by Democratic Minnesota **Attorney General** Keith Ellison to hold large fossil fuel firms responsible for deceiving the public on climate change has become a campaign issue as Ellison defends his seat this year.

**Jim Schultz**, his newly minted Republican challenger, has made an issue of the suit on the campaign trail. In an interview, he described it as "frivolous" and said the **Attorney General's** Office should focus on violent crime by hiring more prosecutors in that area.

"It has zero chance at succeeding," **Schultz** said of the fossil fuel lawsuit. "It's fundamentally motivated by headlines and pleasing one side of the political aisle."

Minnesota's isn't the only climate-change lawsuit in the courts right now — there are more than 20 from cities, counties and states across the country. Very few have been dismissed.

"This lawsuit is in the long and successful tradition of Minnesota attorneys general standing up to protect Minnesotans from corporate fraud and deception by Big Tobacco, Big Pharma, and now Big Oil," Ellison wrote in an email statement. "This is what Minnesotans expect from their **attorney general**. It's the right fight to be having."

The litigation argues that the American Petroleum Institute, ExxonMobil and Koch Industries misled Minnesota consumers for years about the consequences of burning oil and gas. It argues that the state "has already experienced billions of dollars of economic harm due to climate change" and without action "will continue to suffer billions of dollars of damage through midcentury."

There is broad scientific agreement that burning fossil fuels has overheated the planet by belching carbon dioxide and other gases into the atmosphere, supercharging disasters like floods, droughts and wildfires.

#### Oil firms' data sought

In the suit, Minnesota asks for the defendants to publish any research they possess relating to climate change and to fund a public education campaign about climate change. It also asks for unspecified restitution and damages.

It's still not clear how judges and juries would view this legal maneuver to hold the fossil fuel industry accountable, or if the questions will even get their day in court.

Minnesota's lawsuit and similar ones elsewhere hinge on the claim that fossil fuel companies duped consumers even as they knew that burning oil and gas would make the planet hotter, said **Korey Silverman-Roati**, a fellow with the Sabin Center for Climate Change Law at Columbia University. **Michael Burger**, executive director of the center, also works with **Sher Edling**, the law firm handling Minnesota's case and others.

The cases are largely stuck on the same question: whether they should be heard in state or federal court. Almost all were originally filed in state court, and the defendants have tried to move them to federal venues.

"This wave of litigation started in 2017, so we're coming up on the fifth year of these cases, and we're still sort of mired in this," **Silverman-Roati** said.

Oil companies and other defendants argue that as a national or international issue, climate change should be heard in a federal courtroom.

But if they are heard there, they face the hurdle of a 2011 Supreme Court case that makes it harder to claim fossil fuel emissions are a nuisance under federal common law. The case, *American Electric Power Co. v. Connecticut*, determined that the Clean Air Act, not lawsuits, are the way to deal with some of these claims,

Silverman-Roati said.

So if the cases do stay in federal court, and the court decides they're being pursued under common law, they're in danger of being dismissed.

One case in New York that originated in federal court has since been dismissed. But in cases that were first filed at the state level, federal courts and appeals courts have uniformly been sending them back there for consideration, Silverman-Roati said.

#### Stalled in Appeals Court

Minnesota's suit was filed in 2020. American Petroleum Institute is an industry group. One of the two oil companies named in the suit, Koch Industries, runs the Pine Bend Oil Refinery in Rosemount through a subsidiary, Flint Hills Resources, which is also a named defendant.

The lawsuit cites internal corporate research, particularly from ExxonMobil, conducted as far back as the late 1950s that showed burning fossil fuels was increasing planet-warming gases in the atmosphere. It also includes examples of internal strategy documents from the late 1980s onward that call for injecting uncertainty into scientific discussions of global warming.

The litigation is in limbo at the Eighth Circuit Court of Appeals as Minnesota argues it should be sent back to state court. Oral arguments were held in January. John Stiles, a spokesman for the Attorney General's Office, said in an email that an appeals decision isn't expected before this autumn, at the earliest.

In an email, an ExxonMobil spokesman wrote that the suit was "a waste of millions of dollars of taxpayer money" and doesn't reduce the risks of climate change. An API spokeswoman wrote that in the past two decades, the industry "has achieved its goal of providing affordable, reliable American energy to U.S. consumers while substantially reducing emissions." A spokesman for Flint Hills wrote that the firm strongly disputes "any allegation that our company has ever been deceptive or dishonest with respect to the issue of the changing climate."

Including Koch Industries sets Minnesota's suit apart from others across the country. Pine Bend produces about half the gasoline sold in Minnesota, according to research cited in the suit. It employs more than 1,000 people, according to the refinery's website. Schultz argued the claims in the suit would fall apart. Asked whether the office should have a role in addressing climate change, Schultz said, "The Attorney General's Office is not supposed to be engaging in far left political activism, or activism of any kind." He added, "I will not engage in things like this that are fundamentally about business harassment."

Ellison, however, argued in an email that "ExxonMobil, Koch Industries, and the American Petroleum Institute knew for decades their industries were a major source of climate change and were causing Minnesotans long-term harm."

Chloe Johnson covers climate and other environmental issues for the Star Tribune. She is a corps member with Report for America, a program that places journalists into local newsrooms. • 612-673-4312

# **EXHIBIT C**

<https://eidclimate.org/star-tribune-says-minnesota-climate-lawsuit-has-become-an-issue-in-attorney-generals-race-but-leaves-out-key-context/>

Star Tribune Says Minnesota Climate Lawsuit Has Become “An Issue in Attorney General’s Race,” But Leaves Out Key Context

August 24, 2022 | William Allison

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The political fallout from the climate lawsuit filed by Minnesota Attorney General Keith Ellison in 2020 continues as the Minneapolis Star Tribune reports the case “has become a campaign issue” in the state’s attorney general’s race less than three months before Election Day “as Ellison defends his seat this year.”

The coverage from the Star Tribune – the state’s flagship newspaper – firmly pushes the issue into the heart of the political debate as Ellison’s Republican challenger, Jim Schultz, blasted the lawsuit:

“Schultz ... has made an issue of the suit on the campaign trail. In an interview, he described it as ‘frivolous’ and said the Attorney General’s Office should focus on violent crime by hiring more prosecutors in that area.

**“It has zero chance at succeeding,’ Schultz said of the fossil fuel lawsuit. ‘It’s fundamentally motivated by headlines and pleasing one side of the political aisle.”** (emphasis added)

The story has even gone national, with Fox News picking up on the Star Tribune’s coverage.

But the Star Tribune hasn’t covered the case closely thus far, and the story left out many of the reasons the case has become such a lightning rod issue in the attorney general’s race.

Leonardo DiCaprio Funding Ellison’s Outside Counsel

First, the Star Tribune ignored the bombshell news that landed just a few days earlier when Fox News reported that Hollywood star Leonardo DiCaprio was an integral part of the climate litigation campaign from the very beginning, funneling financial resources through a dark money group to Sher Edling – the San Francisco-based law firm hired by Ellison to serve as outside counsel.

When Ellison announced Minnesota’s climate case in June 2020, it was not disclosed to the public that Ellison had hired Sher Edling, a national firm representing nearly two dozen climate cases around the country. In fact, it wasn’t until December of that year when the private law firm’s role was revealed through court documents. The contract between Ellison and Sher Edling states the firm could be in for a massive payday:

“Subject to the modifications provided in [sic] paragraphs 7 below, payment for legal services covered by this Agreement shall be based on the following contingency fee percentage of the dollars recovered in this case: Special Attorneys shall be paid 16.67% of the first \$150 million recovered, and 7.5% for any portion greater than \$150 million. The recovery of fees is based on a percentage of the net sum recovered by the State of Minnesota, after deducting reimbursable costs...” (emphasis

added)

The recent Fox News reporting reveals that Sher Edling has been receiving third-party funds this whole time, including from DiCaprio, even while it was negotiating lucrative contingency fee arrangements with public-sector clients. After the story broke, Schultz called out the “Hollywood” money supporting Ellison:

#### Bloomberg-Funded Attorneys Boosting Ellison’s Case

Second, the Star Tribune never fully explains why the lawsuit became such a hot button campaign issue in the first place. Controversy over the suit has primarily arisen from Ellison’s use of two Special Assistant Attorneys General in his office whose salaries are paid for by the New York University School of Law’s State Energy & Environmental Impact Center, which was started with a \$5.6 million grant from Michael Bloomberg.

These Bloomberg-funded attorneys played a critical role in drafting the lawsuit and Ellison thanked them for their “excellent, excellent work” when announcing the case.

The blowback was fierce. The Minnesota State Senate considered legislation that would block the attorney general from hiring attorneys who are paid by private parties, instead of by the taxpayer, as this raises questions about their loyalties. Legal Newsline reported earlier this year on the controversy over privately-funded attorneys conducting the business of the state:

“The Minnesota State Senate on Wednesday advanced a bill designed to limit the hiring by the Attorney General’s office of outside attorneys who could be politically motivated by the nonprofits and agencies that provide them.” (emphasis added)

**Then in March, during a Republican attorney general primary debate, all three candidates, including Schultz, clearly stated that if elected, they wouldn’t allow the Bloomberg-funded attorneys to continue working in the attorney general’s office.**

By then, Ellison was facing so much heat, he was confronted during an interview with Minnesota Public Radio, but amazingly claimed ignorance about the entire Bloomberg program. Later, in an about-face, Ellison admitted he was in fact aware of where the money was coming from:

“I don’t dig into who the donors are, so I’m hearing about this all from a third party. But according to the critics, the foundation that Michael Bloomberg started, which is governed under the laws of the state of New York, which has an independent board that makes decisions, which is a professional charitable foundation, donated to New York University. And then New York University set up the program.” (emphasis added)

#### Sabin Center Not a Neutral Third Party

Third, the Star Tribune story heavily quoted and relied on a climate law fellow with the Sabin Center for Climate Change Law at Columbia University as a third-party voice in the story without

mentioning that Michael Burger, the Sabin Center's executive director, also serves as Of Counsel at Sher Edling, which is receiving the DiCaprio money and working for Ellison.

The newspaper eventually added a line disclosing that information:

“Michael Burger, the executive director of the center, also works with Sher Edling, the law firm handling Minnesota's case and others.”

Plus, a correction at the bottom:

“Correction: The story has been revised to include the Sabin Center director's affiliation with a law firm handling the Minnesota attorney general's litigation.”

As the Fox News story on DiCaprio revealed, Andrew Sabin has been a major player in the climate litigation campaign and was recruited by a UCLA law professor to help fund Sher Edling's work.

### Legal Theorizing From National Activist Groups

Finally, the Star Tribune didn't cover all the other privately-affiliated assistance Ellison received in crafting his climate lawsuit, including support from Alexandra Klass, former University of Minnesota Law professor and current Biden administration appointee, who hosted a panel discussion with Ellison the year before the lawsuit was introduced.

Open records requests later revealed that the Rockefeller Family Fund and the Center for Climate Integrity – two major national activist groups supporting climate litigation – and the Minnesota-based nonprofit Fresh Energy all played major roles alongside Klass in constructing the legal theories for Ellison's case, including direct communication with the attorney general and his staff.

In fact, Michael Noble, the executive director of Fresh Energy even bragged on a webinar that his group and the Center for Climate Integrity enlisted Ellison to file the lawsuit. Noble said this in 2020, shortly after the case was introduced:

“I want to first just acknowledge that [Center for Climate Integrity] is a national organization that leads on this kind of climate liability, climate litigation. And they brought this concept to Fresh Energy in the fall of 2018, and Fresh Energy helped put this idea in front of Attorney General Keith Ellison shortly after he was sworn in.”

However, Ellison never disclosed this coordination to the public.

### Bottom Line

The Star Tribune's coverage puts Ellison's climate lawsuit squarely under the political microscope as the fall campaign heats up, even as the story left out some of the most critical context about what has happened in Minnesota in the years since the case was introduced and how Ellison has benefitted

from the financial resources of Michael Bloomberg, Leonardo DiCaprio, and other well-funded sources.



# **EXHIBIT D**

# THINKING MINNESOTA

Center of the American Experiment's mission is to build a culture of prosperity for Minnesota and the nation. Our daily pursuit is a free and thriving Minnesota whose cultural and intellectual center of gravity is grounded in free enterprise, limited government, individual freedom, and other time-tested American virtues. As a 501(c)(3) educational organization, contributions to American Experiment are tax deductible.

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## NOTE FROM THE CHAIRMAN

# POLITICS BY ANY MEANS

What can we do to help young people become independent and analytical thinkers?

The earnest children who skipped school the other day to protest our government's handling of climate change might be surprised to learn that their revered Green New Deal has at best a tenuous connection to climate. Just ask Saikat Chakrabarti, the man who was chief of staff in the office of Representative Alexandria Ocasio-Cortez when she first hatched the idea. During an interview with the *Washington Post* this summer, Chakrabarti openly admitted—*bragged*, really—that his boss's legislation was not primarily motivated by climate.

In an on-the-record conversation with the *Post*, Chakrabarti turned to a staff member from the presidential campaign of Washington Governor Jay Inslee—the most fervent of the climate candidates—and said this:

"The interesting thing about the Green New Deal," Chakrabarti said, "is it wasn't originally a climate thing at all. Do you guys think of it as a climate thing? Because we really think of it as a how-do-you-change-the-entire-economy thing."

By Chakrabarti's lights, climate change is a subordinate tool in an overall campaign to restructure society. The emerging class of progressives, it seems, are not

motivated by policy as much as acquiring the kind of political power that will enable them to tell the rest how to live.

I'm not arguing against the merits of climate change—not here anyway—but how the New Left deploys it as a political weapon. Long gone are the days when James Carville coined, "The economy,

stupid" as the compelling phrase that propelled Bill Clinton to the White House. To the Left, it's not about economics anymore. They've lost that battle. Capitalism has brought unprecedented access to prosperity to Americans of every class. So, the New Left has abandoned the economy and anointed climate as their pathway to political power.

It's worth discussing.

My wish for these protesting students is that someone—*anyone*—within their spheres of influence would help them develop a sense of political discernment so they become independent and analytical thinkers. It doesn't look like it will happen in today's public school classrooms, also known as the Grand Incubators of New Left instruction. I am haunted by a taunt issued by Vladimir Lenin, no stranger to political manipulation. "Give

*continued on page 4*



Ron Eibensteiner

# **EXHIBIT E**

Upper Midwest Law Center

## Weeding Out the ‘Plants’

Lawsuit seeks public records proving AG Keith Ellison’s office is using lawyers funded by billionaire Democrat donor to attack political opponents.

The Minnesota Attorney General’s Office is the latest defendant in a string of lawsuits filed across the nation attempting to shed light on Michael Bloomberg’s unethical and illegal scheme to plant lawyers in state AG offices to pursue his political agenda. The suit was filed by the Upper Midwest Law Center (UMLC)—a Minnesota nonprofit law firm—and the nonprofit public interest law firm Government Accountability & Oversight, P.C., on behalf of the State of Washington-based Energy Policy Advocates. Attorney General Keith Ellison’s office had denied two previous separate requests for data under the Minnesota Government Data Practices Act.

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### Special Assistant Attorney General admits he is “embedded” in Keith Ellison’s office by Bloomberg group.

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The link to billionaire Democrat donor Michael Bloomberg is revealed in the summary section of a Minnesota Special Assistant Attorney General’s LinkedIn profile, which reads: “I am off on a new adventure as a Fellow with the NYU School of Law’s State Impact Center. I will be embedded with the Minnesota Attorney General’s Office as an Environmental Litigator and Special Assistant Attorney General.”

The State Energy and Environmental Impact Center was founded by Bloom-



## UPPER MIDWEST LAW CENTER

berg in 2017 and is housed in New York University’s Law School. According to its LinkedIn page, the group exists to provide “direct legal assistance to interested attorneys general on specific administrative, judicial or legislative matters involving clean energy, climate change and environmental interests of regional and national significance.”

“Attorney General Keith Ellison knows Minnesotans would be appalled if they found out a billionaire with a political agenda was able to purchase the AG’s office by hiring and paying its lawyers,” Doug Seaton, president of the Upper Midwest Law Center, said. “The Attorney General’s office is a public institution. As the chief law enforcement officer of our state, Ellison is ‘the people’s attorney,’ but he has politicized the office. Minnesotans demand complete transparency about how the state’s top lawyers are being paid and to whom they report.”

Similar lawsuits are underway in Maryland, Massachusetts and Virginia to compel those AGs to release public documents related to the State Climate Center.

The group claims its attorneys have been planted in at least nine state AG offices: Illinois, Maryland, Massachusetts, New Mexico, New York, Oregon, Pennsylvania, Virginia, Washington, and the District of Columbia.

After state lawmakers discovered Virginia Attorney General Mark Herring attempted to bring Bloomberg-funded lawyers on board, they enacted a law clarifying the illegality of the arrangement. The new law states, “All legal services of the Office of the Attorney General shall be performed exclusively by (i) an employee of the Office, (ii) an employee of another Virginia governmental entity as may be provided by law, or (iii) an employee of a federal government entity.”

Referring to the Virginia legislative action, Seaton added, “Minnesota’s laws are clear; this arrangement is illegal according to Minnesota Statutes Section 8.06, which provides that only the attorney general can represent the state and its agencies. The statute further clarifies that ‘no additional counsel shall be employed and the legal business of the state shall be performed exclusively by the attorney general and the attorney general’s assistants.’ The AG is clearly in the wrong here.”

UMLC is calling on Ellison to provide the public information requested by Energy Policy Advocates, disaffiliate his office from the Bloomberg-funded NYU School of Law State Impact Center and any lawyers employed by it, obtain legitimate state funding for all attorneys working in his office, and follow ethical hiring processes in the future. ★

—Katie Fulkerson

# **EXHIBIT F**

Written by John Hinderaker | August 16, 2019  
The Ellison-Bloomberg Connection

It came to light last year that a handful of rich left-wing donors led by Michael Bloomberg have collaborated with New York University Law School to recruit, place and pay for lawyers in attorney generals' offices around the United States. These lawyers, compensated outside the executive structure of state government, are embedded in state governments to pursue lawsuits that fit Bloomberg's liberal agenda. In particular, they are directed to bring lawsuits against oil companies and others based on "climate change." Bloomberg's scheme is corrupt, poses inevitable conflicts of interest, and in some states is flatly illegal. This video by the Clear Energy Alliance presents a good summary of the scandal:

A group called Energy Policy Advocates requested documents relating to this scheme from the office of Minnesota's Attorney General, Keith Ellison. EPA's requests were made pursuant to Minnesota's broad Government Data Practices Act. The requests were narrowly tailored to ask for documents relating to 1) correspondence between the AG's office and a plaintiffs' law firm, and 2) correspondence between the AG's Office and a specific individual in another state who was recruiting attorneys general to join Bloomberg's scheme. The Minnesota Attorney General replied that there are no such documents, or, if there are, they are privileged and will not be produced.

So EPA sued, represented by the Upper Midwest Law Center. The UMLC's Complaint is here. That Complaint was filed on Wednesday. Doug Seaton of the UMLC gave a press conference Wednesday morning, which you can watch here.

Several news outlets have reported on the lawsuit. The Star Tribune's story is here. The Strib's story, mediocre at best, is most notable because it flushes out Keith Ellison's admission that Minnesota is indeed participating in the Bloomberg scam. Ellison didn't have much choice: there is a LinkedIn page by a lawyer who wrote:

I am off on a new adventure as a Fellow with the NYU School of Law's State Impact Center. I will be embedded with the Minnesota Attorney General's Office as an Environmental Litigator and Special Assistant Attorney General.

So much for any claim that there are no documents linking the Minnesota Attorney General to Bloomberg's corrupt scheme, unless this was all arranged via smoke signals.

In some states, privately funded and agenda-driven "special assistant attorneys general" might only be unethical. Here in Minnesota, they are quite clearly illegal under Minn. Stat. Sec. 8.06, which says:

Except as herein stated, no additional counsel shall be employed and the legal business of the state shall be performed exclusively by the attorney general and the attorney general's assistants.

Ellison claims his Bloomberg connection is legal based on a theory that his office articulated when asked for comment by the Star Tribune. His assertion—that a general statute relating to employee

exchanges between government agencies and private industry covers the case—is ridiculous. Ellison has been caught red-handed. Or, as Clear Energy Alliance’s Mark Mathis would say, green-handed.

It is time to shine the light of day on secret, corrupt and in some cases illegal relationships among billionaire Democratic Party donors and elected officials like Keith Ellison.

John is a long-time commentator and activist. He founded the web site Power Line in 2002 and has been a prominent voice on the internet and elsewhere since that time.

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# **EXHIBIT G**



## *Ellison Loses in Court Again*

Written by Bill Walsh | June 3, 2021

Hypocrisy, thy name is Keith Ellison.

Minnesota Attorney General Keith Ellison and other prominent Democrats have made a career out of criticizing the influence of ALEC — the American Legislative Exchange Commission.

“ALEC is backed by special interests and writes model legislation that Republicans introduce and pass across the nation in a coordinated effort!” they screamed. Ellison said as much in this interview when he was still a member of Congress:

So let me get this straight: coordinated efforts, across many states, to influence policy, backed by special interests, with no transparency, is bad. Got it.

Then how does Ellison explain the fact that two lawyers paid for by a powerful special interest are embedded into the official office of the attorney general?

Two lawyers paid for by billionaire Michael Bloomberg are working on lawsuits advancing his liberal agenda. Read the whole story [here](#).

Ellison lost in court this week in a battle with the Upper Midwest Law Center to hand over documents detailing the arrangement with these embedded lawyers. As the press release below says, the Minnesota Court of Appeals instructed Ellison to hand over the documents requested by UMWLC on behalf of their client.

Watch this space for updates on what those documents tell us about special interests funding staff in Minnesota state government.

Minnesota Court of Appeals Tells Attorney General Ellison To Hand Over Documents Related to Bloomberg Lawyers Embedded In His Office

(Golden Valley, MN) Today, Energy Policy Advocates, a public interest group seeking transparency in nationwide energy policy, represented by Upper Midwest Law Center, secured a major victory against Attorney General Keith Ellison at the Minnesota Court of Appeals. The Court of Appeals issued a precedential decision that requires Attorney General Keith Ellison to support his attempts to withhold data from the public with real descriptions and evidence, and not broad and general claims of privilege.

The Court of Appeals reversed the Ramsey County District Court and held that the Attorney General could not rely on a broad and vague “common interest doctrine” to shield documents related to discussions with other attorneys general around the country from discovery by the public. To review the decision [click here](#).

Importantly, the attorney general has been withholding documents related to his discussions with

other states' attorneys general in his war on traditional energy sources. In addition, Ellison has allowed outside special interests to embed attorneys in the Minnesota Attorney General's office to work on their agenda. This lawsuit and others filed by Upper Midwest Law Center and Energy Policy Advocates seek to shine light on this dubious practice, which they believe violates state law and ethical requirements.

Doug Seaton, President of Upper Midwest Law Center, stated as follows: "this major decision upholds transparency and requires Attorney General Ellison and his team to operate in the public view, and not behind a shroud of secrecy. We are confident that the attorney general will now be held accountable to the public for renting out the constitutional office of the attorney general to extremist climate change activists."

Chris Horner of Energy Policy Advocates also said: "Keith Ellison has been the most secretive and anti-transparency Attorney General that our group has sought documents from in the entire nation. We are grateful that the Court of Appeals has rejected his attempt to conceal his office's activities, and we look forward to getting the documents we asked for more than two years ago. Hopefully after this decision, we won't have to file lawsuits to get documents about which the public has a right to know."

#### About Upper Midwest Law Center

Upper Midwest Law Center is a non-profit, public interest law firm with the mission to initiate pro-freedom litigation to protect against constitutional violations, government overreach, special interest agendas and public union corruption and abuses. UMLC is a 501(c)(3) organization.

To learn more about Upper Midwest Law Center, [click here](#).

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# **EXHIBIT H**

*Case Could Force Ellison to Reveal Talks with Lawyers on Bloomberg's Payroll on Climate Lawsuits*

Written by Tom Steward | July 13, 2021

Minnesota Attorney General Keith Ellison is fighting to prevent the public from seeing documents detailing his behind-closed-doors strategizing on climate litigation with a network of state attorneys general with embedded lawyers on billionaire Michael Bloomberg's payroll. This is being closely watched around the country.

The Washington Free Beacon is on the case filed by American Experiment's sister organization, the Upper Midwest Law Center, and currently awaiting action by the Minnesota Supreme Court on Ellison's last-ditch attempt to avoid public disclosure.

The Minnesota Court of Appeals ruled in June that Ellison must release communications regarding his hiring of two private attorneys through Bloomberg's State Energy and Environmental Impact Center (SEEIC). Rather than turn over the documents, however, Ellison appealed the ruling to the state's Supreme Court, lamenting that the decision would force his office to produce "internal privileged communications to any member of the public who requests it."

...Bloomberg established the SEEIC in 2017 through a \$6 million grant to the New York University School of Law. The center funds climate change litigation by paying to place environmental lawyers in attorney general offices across the country. Ellison applied to participate in the program in 2019, saying Bloomberg funds would provide his office with the "additional staffing necessary" to pursue "progressive clean energy, climate, and environmental matters of regional and national importance."

Ellison's staff in the Minnesota Attorney General's office includes two outside attorneys funded by Bloomberg's group specifically to concentrate on what the Upper Midwest Law Center calls his "war on traditional energy sources."

Within three months of Ellison's request, the SEEIC embedded two environmental attorneys in the Democrat's office at an estimated annual cost of between \$192,000 and \$260,000, according to Ellison's application. When nonprofit group Energy Policy Advocates sought communications from Ellison discussing the program, the Democrat refused, claiming the information was "nonpublic."

The group sued Ellison in August 2019, arguing that the "public has a substantial interest in learning how private law firms are recruiting elected officials to further private goals." Upper Midwest Law Center president Doug Seaton—who is representing Energy Policy Advocates—accused the Democrat of "covering his tracks" and stressed the need to "scrutinize the behavior of the attorney general's office."

"It's critical that the citizens of Minnesota be able to know what the attorney general is doing, who he is working with, who he's deputizing to be his assistants," Seaton said. "We think this represents essentially a leasing out of the badge of the attorney general to third parties that have their own agenda."

A year ago, Ellison filed a global warming lawsuit against Koch Industries, the American Petroleum Institute and Exxon Mobil, which the SEEIC highlights on its website.

Attorney General Ellison alleges that the defendants understood since the 1970s the devastating effects that their products would cause the climate, including Minnesota, but engaged in a highly-effective public-relations campaign to mislead Minnesotans about the consequences of using their product. During this period, Minnesota suffered billions of dollars of economic harm due to climate change, while the defendants reaped billions in profits by selling their products.

The plaintiffs call Ellison's office the most secretive of all the state attorneys general offices with Bloomberg's climate change zealots on staff when it comes to disclosure.

"Keith Ellison has been the most secretive and anti-transparency Attorney General that our group has sought documents from in the entire nation," said Chris Horner of Energy Policy Advocates. "We are grateful that the Court of Appeals has rejected his attempt to conceal his office's activities, and we look forward to getting the documents we asked for more than two years ago. Hopefully after this decision, we won't have to file lawsuits to get documents about which the public has a right to know."

No doubt Ellison's fellow attorneys general and their Bloomberg-funded cohorts hope the Minnesota Supreme Court rules against Ellison disclosing the nuts and bolts of their collaboration given the likely detrimental impact on their scheme moving forward.

Tom Steward is a Government Accountability Reporter at Center of the American Experiment.  
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