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EARTH ISLAND INSTITUTE ARGUES FOR KEEPING PLASTIC POLLUTION CASE IN CALIFORNIA STATE COURT

Defendants attempt to move case to federal court, creating delays in reaching the merits of the case

Berkeley, CA (May 6, 2020) — In a move that's straight out of the playbook used by Big Oil, Big Pharma, and Big Tobacco, the defendants in an environmental lawsuit against Big Plastic recently filed a notice to move the case to federal court. Standing its ground, the plaintiff, Earth Island Institute, is fighting back, arguing that the state court, where the suit was originally filed, is the proper venue for the case.

Earth Island Institute, represented by Cotchett, Pitre & McCarthy, [filed the lawsuit](#) on February 26 in California state court under California law against a number of major food, beverage, and consumer goods companies, including Nestle, Pepsico, and Clorox, for the misinformation they spread about the recyclability of their plastic packaging, and for polluting California's waterways and coasts with millions of tons of plastic packaging.



The lawsuit is based on the public's rights under California law to seek compensation and equitable relief for the harms alleged in the complaint. And yet, the motion filed in early May by the named defendants tries to remove the case to federal court, claiming that the case involves federal law. In making their arguments, the defendants attempt to reframe the case as one that seeks to halt and regulate all production and dissemination of plastic around the world. This characterization is untrue and, if successful, will cause significant delay in reaching the merits of the case.

“This move is straight out of the same playbook used by Big Oil, Big Pharma, and Big Tobacco,” said Sumona Majumdar, general counsel for Earth Island Institute. “Over and over again, these multinational corporations use procedural tactics and far-fetched legal theories in an attempt to

deprive litigants of their state law claims and to delay consideration of the merits. We have faith though that our case will be remanded back to state court, where it belongs.”

Earth Island Institute filed its motion to remand on May 1. The motion explains why federal courts do not have jurisdiction over this matter and why state court is the proper venue. The defendants have until June 1, 2020, to respond.

Through this lawsuit, Earth Island is seeking, among other things, to recover the significant resources it expends to prevent and mitigate the effects of plastic pollution on humans, wildlife, oceans, and waterways in California, where the impacts are particularly acute. Earth Island has filed this case in its own right and on behalf of the following sponsored projects:

- [Plastic Pollution Coalition](#), founded in 2009, is a growing global alliance of more than 1,000 organizations, businesses, and thought leaders in 75 countries working toward a world free of plastic pollution and its toxic impacts on humans, animals, waterways, oceans, and the environment. The companies in the lawsuit are held accountable by the coalition, which serves as a industry watchdog, driving corporate change on single-use plastic. Together with members, Plastic Pollution Coalition has created and amplified thousands of petitions, collecting millions of signatures asking these companies to change their polluting practices.
- The [International Marine Mammal Project](#) is one of the leading groups fighting to protect dolphins, whales, and the ocean environment from plastic pollution. The ingestion of plastic packaging produced by the companies in this lawsuit often impacts the health of marine life. IMMP is currently developing a comprehensive report on these impacts and compiling a record of dolphins and whales that are dying from plastic ingestion and washing up on shores around the world.
- [Shark Stewards](#) works on the front lines of marine cleanup efforts and observes firsthand the ubiquitous presence of plastics that are trashing our shorelines and ocean environments. The organization aims to help restore ocean health by organizing and participating in cleanup programs, by saving sharks from overfishing and the shark fin trade, and by protecting critical marine habitat through the establishment of marine protected areas and shark sanctuaries.
- [1000 Fountains](#) is building a network of one thousand drinking fountains throughout San Francisco to provide consumers with alternatives to single-use plastic bottles. By providing San Franciscans with more drinking fountains, almost 300 million single-use plastic water bottles that are purchased annually can be eliminated, saving consumers more than \$500 million per year.

Filed complaint available [here](#).

Photo caption and credit: Mouth of the Los Angeles River, Long Beach, California, by Bill McDonald, Algalita Foundation