STATE OF RHODE ISLAND

PROVIDENCE, SC. **SUPERIOR COURT**

(FILED: May 20, 2025)

STATE OF RHODE ISLAND,	:	
Plaintiff,	:	
	:	
v.	:	**C.A. No. PC-2018-4716**
	:	
CHEVRON CORP.,	:	
CHEVRON U.S.A. INC.,	:	
EXXONMOBIL CORP.; BP P.L.C.;	:	
BP AMERICA, INC.; BP PRODUCTS	:	
NORTH AMERICA, INC.; ROYAL	:	
DUTCH SHELL PLC; MOTIVA	:	
ENTERPRISES, LLC; SHELL OIL	:	
PRODUCTS COMPANY, LLC; CITGO	:	
PETROLEUM CORP.;	:	
CONOCOPHILLIPS;	:	
CONOCOPHILLIPS COMPANY;	:	
PHILLIPS 66; MARATHON OIL	:	
COMPANY; MARATHON OIL	:	
CORPORATION; MARATHON	:	
PETROLEUM CORP.; MARATHON	:	
PETROLEUM COMPANY LP;	:	
SPEEDWAY LLC; HESS CORP.;	:	
LUKOIL PAN AMERICAS, LLC;	:	
GETTY PETROLEUM	:	
MARKETING, INC.; AND	:	
DOES 1 through 100, inclusive	:	
***Defendants*.**	:	

DECISION

CARNES, J. Before this Court is Chevron Corporation and Chevron U.S.A. Inc.'s (collectively Chevron) Motion for Leave to Serve Limited Jurisdictional Discovery. Chevron moves to serve jurisdictional discovery to identify and explore the evidence the State relies on to support jurisdiction. (Defs.' Mem. in Supp. of Mot. for Leave to Serve Limited Jurisdictional Disc.

(Defs.' Mem.) 5.) The matter was heard on May 8, 2025. For the foregoing reasons, this Court denies Chevron's Motion for Leave to Serve Limited Jurisdictional Discovery.

I

Facts and Travel

In this climate change-related action, the State of Rhode Island (Plaintiff or State) brought several legal and equitable causes of actions on behalf of the State, including public nuisance, strict liability for failure to warn, strict liability for design defect, negligent design defect, negligent failure to warn, trespass, impairment of public trust resources, and violations of the State Environmental Rights Act.

The State filed its Complaint on July 2, 2018 and alleged that Defendants, multinational oil and gas companies and some of their subsidiaries, have contributed to climate change and their pollution has damaged the State's infrastructure and coastal communities. *See generally* Compl. The original Complaint named twenty-one Defendants and also included "Does 1 thru 100." It contained 142 pages and 315 paragraphs.

The State asserts that climate change has significantly contributed to "sea level rise, disruption to the hydrologic cycle, more frequent and more intense drought, more frequent and more extreme precipitation, more frequent and more intense heatwaves, and associated consequences of those physical and environmental changes." *Id.* ¶ 3. The State further asserts that Defendants have known about the effects of production and that use of their fossil fuels create greenhouse gas emissions. *Id.* ¶ 5. In addition, the State claims that the pollution from greenhouse gases warms the planet, changes the climate, and causes sea level rise. *Id.* Since the "Great Acceleration" of the 1950s where greenhouse gas emissions soared in history and have only continued to rise through the use of Defendants' fossil fuel products, the State argues that

Rhode Island, its coastline, and infrastructure are suffering from sea level rise, storms, droughts, and other severe weather patterns. *Id.* ¶¶ 4, 8, 212. As such, the State contends that the production, promotion, and marketing of fossil fuel products and the concealment of its known dangers by Defendants have actually and proximately caused injury to Rhode Island. *Id.* ¶ 10.

The State alleges Chevron engaged in different activities in Rhode Island throughout the years. *Id.* ¶ 21. These Rhode Island activities include that "[a] substantial portion of Chevron's fossil fuel products are or have been extracted, refined, transported, traded, distributed, marketed, promoted, manufactured, sold, and/or consumed in Rhode Island, from which Chevron derives and has derived substantial revenue." *Id.* ¶ 21(g).

Chevron filed the instant Motion because it argues that it is entitled to explore and challenge the bases for the State's jurisdictional allegations and the State can no longer rely solely on allegations in its Complaint to sustain its burden to prove this Court can exercise jurisdiction over Chevron. (Defs.' Mem. 2.) Specifically, Chevron seeks leave to serve (1) twenty-nine Requests for Admission, (2) one Request for Production of Documents, and (3) one Interrogatory to identify and explore the evidence the State relies on to support jurisdiction. *Id.* at 5. Chevron's Requests for Admission seek the State to admit it possesses no evidence that Chevron engaged in various fossil fuel related activities in Rhode Island. *See* Defs.' Mem. Ex. A. The Interrogatory asks the State to "describe in detail" the basis for any Requests for Admission that the State denies in full or in part. *See id.* The Request for Production of Documents asks the State to provide documents or information that forms the basis for the State denying any Request for Admission. *See id.* The State argues that Rhode Island courts have never authorized a defendant to take jurisdictional discovery about the defendant's own forum activities, Chevron's argument that the State's jurisdictional discovery is now an evidentiary motion is incorrect, and

Chevron is raising new arguments regarding Rule 12(b)(2) of the Superior Court Rules of Civil Procedure and those are waived and forfeited. (Pl.'s Mem. in Opp'n to Defs.' Mem. (Pl.'s Obj.) 3, 5, 9.)

II

Standard of Review

"It is clearly established that a trial court has jurisdiction to determine its own jurisdiction." *Smith v. Johns-Manville Corp.*, 489 A.2d 336, 338 (R.I. 1985). Thus, when "a more satisfactory showing of the facts is necessary," this Court may properly allow discovery to aid in determining whether it has personal jurisdiction. *Id.* at 339 (internal quotation omitted). Jurisdictional discovery, however, is not available whenever a party requests it. *Beddoe-Greene v. Basic, Inc.*, No. PC-2011-4617, 2012 WL 1440600, at *3 (R.I. Super. Apr. 20, 2012). Rather, jurisdictional fact discovery "is acceptable in certain limited circumstances." *Martins v. Bridgestone Americas Tire Operations, LLC*, 266 A.3d 753, 761 (R.I. 2022) (internal quotation omitted). The Court should only grant jurisdictional discovery "where pertinent facts bearing on the question of jurisdiction are controverted . . . or where a more satisfactory showing of the facts is necessary." *Smith*, 489 A.2d at 339 (internal quotation omitted). The discovery is not absolute, and the Court has broad discretion to determine whether discovery is necessary. *Greenwich Business Capital, LLC v. Highmore Group Advisors, LLC*, No. 1:24-CV-00439, 2025 WL 588311, at *5 (D.R.I. Feb. 24, 2025); *United States v. Swiss American Bank, Ltd.*, 274 F.3d 610, 626 (1st Cir. 2001). Finally, permission to engage in jurisdictional discovery is not a license to conduct a "fishing expedition." *Smith*, 489 A.2d at 340*; see Martins*, 266 A.3d at 761; *see Coia v. Stephano*, 511 A.2d 980, 984 (R.I. 1986).

III

Analysis

Plaintiffs have the burden to establish personal jurisdiction. *Martins*, 266 A.3d at 757; *Calabrese v. Argus Group Holdings Ltd.*, No. 14-463-ML, 2015 WL 3952724, at *3 (D.R.I. June 29, 2015). Because plaintiffs bear the burden of establishing personal jurisdiction, plaintiffs are the party to move for limited jurisdictional discovery. *See, e.g., Greenwich Business Capital, LLC*, 2025 WL 588311; *Soares v. Avon Products Inc.*, No. PC-2024-01631, 2025 WL 646112 (R.I. Super. Feb. 20, 2025); *Martins*, 266 A.3d at 757; *Beddoe-Greene*, 2012 WL 1440600. In contrast, defendants have exclusive control over records that might address jurisdictional answers. *See Smith*, 489 A.2d at 339.

Chevron raises no persuasive reason to suggest that limited discovery around jurisdictional issues should be granted where any evidence about personal jurisdiction is within its own control. Chevron argues that it seeks "limited discovery to define the State's claims and the evidence it purports to rely on to establish personal jurisdiction." (Defs.' Mem. 6.) However, jurisdictional discovery is only acceptable in certain limited circumstances. *Martins*, 266 A.3d at 761; *Smith*, 489 A.2d at 339. "Discovery . . . should be [allowed] where pertinent facts bearing on the question of jurisdiction are controverted or where a more satisfactory showing of the facts is necessary." *Martins*, 266 A.3d at 761 (internal quotation omitted).

Here, any jurisdictional facts in controversy are the State's burden to prove and any "evidence it purports to rely on" is within Chevron's exclusive control. (Defs.' Mem. 6.) Although Chevron argues that it seeks information that is solely within the State's possession, *see* Defs.' Reply 4, Chevron's discovery requests focus on information that stems from Chevron's own activities, and such activities are within Chevron's own control. *See* Defs.' Ex. A

(Chevron's Requests for Admission ask the State to admit what evidence it possesses about Chevron's own activities, such as Chevron extracting fossil fuels in Rhode Island, Chevron purchasing fossil fuels in Rhode Island, and Chevron's statements made in marketing); *see* Defs.' Ex. A (Chevron's Requests for Production of Documents relate to the State's answers to the Requests for Admission and would require the State to "furnish all documents and information available" on Chevron's own contacts with Rhode Island); *see* Defs.' Ex. A (Chevron's Interrogatory would require the State to set forth facts to support any denials for the Requests for Admission, and such facts would stem from what the State knows about Chevron's own contacts with Rhode Island).

Chevron further argues that Chevron has an "equal right" to jurisdictional discovery and contends that the Rhode Island Supreme Court has "endorsed defendant-led jurisdictional discovery," citing *Hall v. Kuzenka*, 843 A.2d 474 (R.I. 2004), to support this proposition. *See* Defs.' Reply 3. In *Hall*, the Rhode Island Supreme Court affirmed the Rhode Island Superior Court's decision to grant a defendant's motion to dismiss for lack of personal jurisdiction on the ground that the defendant was not precluded[1] from raising the defense in a motion filed at a later date where the defendant had raised lack of personal jurisdiction in his answer and satisfied the requirements of Rule 12(h) of the Superior Court Rules of Civil Procedure. *Hall*, 843 A.2d at 478-79. Hall had argued, amongst other arguments, that the defendant wasted judicial resources

[1] Notwithstanding the precise text of Rule 12(b) of the Superior Court Rules of Civil Procedure, the Rhode Island Supreme Court held, "[w]ith respect to motions filed under Rule 12(b) generally, we have ruled that a court may consider a post-answer motion raising a defense that was asserted in the answer." *Hall v. Kuzenka*, 843 A.2d 474, 476 (R.I. 2004) (citing *Collins v. Fairways Condominiums Association*, 592 A.2d 147, 148 (R.I. 1991)). The Court went on to explain: "This Court acknowledged that a strict interpretation of the timing . . . language of Rule 12(b) leads to the conclusion that the court must deny any motion made after a responsive pleading as being too late[;] . . . Nevertheless, we considered the defendant's motion, stating that, courts have allowed untimely motions if the defense has been previously included in the answer." *Id.* (internal quotation omitted).

by filing his motion three and a half months after filing his answer and after discovery had already begun. *Id.* at 478. The Court explained that "by waiting to file his motion to dismiss for lack of personal jurisdiction, defendant was able to conduct discovery to perfect his argument" and reasoned that the motion justice "would have had no basis upon which to decide whether to dismiss for lack of personal jurisdiction" without such discovery. *Id.* However, in that case, there appears to have been no *limited jurisdictional discovery* and only "a portion of the parties' discovery efforts [were] focused on personal jurisdiction, [so] few judicial resources were wasted by the discovery that occurred before defendant filed his motion to dismiss." *Id.*

The Court is not persuaded by *Hall* because *Hall* is not similar to the facts and circumstances surrounding the instant action. Here, Chevron seeks to obtain jurisdictional discovery from the State where the defendant in *Hall* did not expressly obtain jurisdictional discovery from the plaintiff. *See id.* at 475-79. Additionally, the instant action is only in a limited jurisdictional discovery stage rather than the circumstances in *Hall* where the parties were in a discovery phase and jurisdictional discovery was taking only a portion of the discovery efforts. *See id.* at 478. Therefore, the Court is not persuaded that *Hall* has endorsed the type of defendant-led jurisdictional discovery that Chevron seeks. What is true is the Court cannot find a case where a Rhode Island court has allowed a defendant to engage in limited jurisdictional discovery.

Additionally, there are few cases from other states where defendants have been allowed to engage in limited jurisdictional discovery, and, in these few cases, the discovery was "extremely limited" in scope. *See In re Zantac (Ranitidine) Products Liability Litig*ation, 706 F. Supp. 3d 1363, 1374 (S.D. Fla. 2020) (finding that courts have discretion to authorize defendants to engage in jurisdictional discovery, but the court denied defendant's request for jurisdictional

discovery because there was no genuinely disputed issue upon which to conduct jurisdictional discovery); *see Vorbe v. Morisseau*, No. 1:14-CV-20751, 2014 WL 12637924, at *2, 4-5 (S.D. Fla. Aug. 27, 2014) (allowing defendant "extremely limited" jurisdictional discovery to determine whether the plaintiff was a Florida resident because the plaintiff had to have been a Florida resident to obtain personal jurisdiction in the case involving alleged defamation on a website, and there was not sufficient evidence on record to determine whether the plaintiff was a Florida resident). The same circumstances are not present in this action because all Chevron's discovery requests revolve around Chevron's own contacts with Rhode Island. Therefore, the Court is not persuaded that it is necessary to allow Chevron limited jurisdictional discovery.

The Court notes that the parties argue about whether the Rule 12(b)(2) motion converted to an evidentiary motion and whether Chevron waived or forfeited certain Rule 12(b)(2) arguments. *See* Defs.' Mem.; Pl.'s Obj.; Defs.' Reply.

First, the Court does not find that the Rule 12(b)(2) motion has been converted to an evidentiary motion at this time. "To overcome a defendant's motion to dismiss for lack of personal jurisdiction under Rule 12(b)(2), the plaintiff must allege sufficient facts to establish a prima facie case of personal jurisdiction." *Martins*, 266 A.3d at 757. "It is well settled that in determining whether a plaintiff has sustained his burden . . . a court may rely on affidavits and discovery to establish the jurisdictional facts and, in doing so, should consider such evidence in the light most favorable to the nonmoving party." *Ben's Marine Sales v. Sleek Craft Boats*, 502 A.2d 808, 810 (R.I. 1985).

Here, the present action is not at the Rule 12(b)(2) motion stage but rather in a preliminary stage where the Court granted the State limited jurisdictional discovery around questions "concerning minimum contacts [that] need to be answered before a motion dismissing

for lack of jurisdiction may be granted." *See Smith*, 489 A.2d at 340. Therefore, any jurisdictional discovery at this stage does not preclude the Court from assessing the Rule 12(b)(2) motion under a prima facie standard when the Court determines the Rule 12(b)(2) motion. *See Boit v. Gar-Tec Products, Inc.*, 967 F.2d 671, 674-75 (1st Cir. 1992) ("When a defendant presents to a district court a motion to dismiss for lack of *in personam* jurisdiction, the court may proceed to adjudication by one or another among several different methods," and, even under a prima facie showing, the "plaintiff must go beyond the pleadings and make affirmative proof."). While this Court is aware of and appreciates District Judge Keeton's erudite discussion in *Boit* of the various adjudication methods for a defendant's Rule 12(b)(2) motion, the overall effect of the motion judge's decision appears to involve the level of deference employed in reviewing the motion judge's decision on appeal. In *Boit*, the Court of Appeals held that the motion judge was in error in concluding there was no evidence to support the Boits. *See Boit*, 967 F.2d at 679. However, the Court of Appeals went on to affirm the ultimate dismissal of the Boits' claim, albeit with a slightly different rationale. *Id.* at 681. Therefore, the Court need not decide that the Rule 12(b)(2) motion has been converted to an evidentiary motion at this time.

Second, at this juncture, the Court does not find that Chevron has waived or forfeited Rule 12(b)(2) arguments. "A motion making [a Rule 12(b)(2) objection] shall be made before pleading if a further pleading is permitted[,] and [n]o defense or objection is waived by being joined with one (1) or more other defenses or objections in a responsive pleading or motion." Super. R. Civ. P. 12. Chevron filed a joint Rule 12(b)(2) motion to dismiss for lack of personal jurisdiction on January 13, 2020 with the other named defendants in this action, and Chevron has not filed an Answer at this time. *See* Docket. Because Chevron took steps as required by the

Superior Court Rules of Civil Procedure, as well as because there are additional factors present, such as the instant action is complex, cutting edge, and there are other actions similar in nature being seen and litigated nationally, the Court is not inclined to find that Chevron has waived or forfeited arguments at this time. This Court must afford the parties every opportunity to explore the merits of the case while also being mindful of the spirit enunciated in Rule 1 of the Superior Court Rules of Civil Procedure, and that is what this Court intends to do. *See Maguire v. North East Insurance Co.*, No. 75-791, 1977 WL 186328, at *1 (R.I. Super. Feb. 21, 1977); Super. R. Civ. P. 1 (the Superior Court Rules of Civil Procedure "shall be construed and administered to secure the just, speedy, and inexpensive determination of every action").

In light of the arguments presented by Chevron, as well as an examination of the cases suggested by Chevron, this Court must determine not whether it *can* allow for some limited jurisdictional discovery by Chevron, but whether it *should*.

At the oral argument for the instant Motion, Chevron suggested that it may file its own separate Rule 12(b)(2) motion in the future. Counsel went on to implore the Court, "We're asking for a much more limited opportunity to have the same chance to *find out what the State's evidence is*." (Hr'g Tr. 12:1-3, May 8, 2025 (rough transcript) (emphasis added).) It is clear to this Court that Chevron will obtain any jurisdictional evidence that the State relies on once there is a hearing on the Rule 12(b)(2) motion(s). Chevron will be able to appropriately challenge the State's reliance on specific jurisdiction at this stage. Therefore, although Chevron's discovery requests are narrowly targeted, this Court is not persuaded, in light of the history and trends of cases involving limited jurisdictional discovery, and in the spirit of Rule 1, that there is a need to allow Chevron jurisdictional discovery at this time. As stated *supra*, the State has the burden to prove personal jurisdiction.

IV

Conclusion

For the foregoing reasons, Chevron's Motion is DENIED. Counsel shall submit the appropriate order for entry.

RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE:	**State of Rhode Island v. Chevron Corp., et al.**
CASE NO:	**PC-2018-4716**
COURT:	**Providence County Superior Court**
DATE DECISION FILED:	**May 20, 2025**
JUSTICE/MAGISTRATE:	**Carnes, J.**
ATTORNEYS:	
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