

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Persian Gulf Inc. v. BP West Coast Products LLC, et al.; Bartlett et
al. v. BP West Coast Products LLC, et al.

Persian Gulf/Bartlett sanctions order · No. 15cv1749-JO-KSC; 18cv1374-JO-KSC; 18cv1377-JO-KSC ·
Decided March 19, 2025

SUMMARY

The United States District Court for the Southern District of California denies Alon USA Energy, Inc.’s motions for sanctions under Federal Rule of Civil Procedure 11 and 28 U.S.C. § 1927 against Persian Gulf Inc. and individual consumer plaintiffs. The order addresses the plaintiffs’ investigation into allegations concerning Alon’s participation in the California gasoline refinery market and the 2012 shutdown of its Bakersfield refinery. It includes evidentiary rulings, legal standards, and findings following an evidentiary hearing ordered by the Ninth Circuit.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Jinsook Ohta
JURISDICTION	United States District Court for the Southern District of California
DECIDED	March 19, 2025
DOCKET	15cv1749-JO-KSC; 18cv1374-JO-KSC; 18cv1377-JO-KSC
DISPOSITION	other
PROCEDURAL POSTURE	Defendant Alon USA Energy, Inc. moved for sanctions against Persian Gulf Inc. and individual consumer plaintiffs under Federal Rule of Civil Procedure 11 and 28 U.S.C. § 1927. After the court previously denied the motions, the Ninth Circuit vacated that denial and remanded for an evidentiary hearing concerning counsel's investigation of two challenged allegations. Following the evidentiary hearing, the district court again denied the sanctions motions.
STANDARD OF REVIEW	The court exercised discretion over the sanctions motions. For Rule 11, the moving party had to show that the allegations were objectively baseless and made without a reasonable and competent inquiry. For 28 U.S.C. § 1927, the moving party had to prove that opposing counsel

	acted with subjective bad faith by unreasonably and vexatiously multiplying the proceedings.
PRECEDENTIAL VALUE	Unknown; district court order
PARTIES	Alon USA Energy, Inc. v. Persian Gulf Inc., Joshua Elbright, Paul Lee, David Rinaldi

TOPICS

sanctions pleadings evidence commercial litigation civil procedure

PRACTICE AREAS

Federal civil procedure sanctions antitrust litigation evidence

QUESTIONS PRESENTED

1. Whether the challenged allegations in the amended and consolidated complaints were objectively baseless and unsupported by a reasonable and competent prefiling inquiry under Federal Rule of Civil Procedure 11.
2. Whether plaintiffs' counsel unreasonably and vexatiously multiplied the proceedings or acted with subjective bad faith in violation of 28 U.S.C. § 1927.
3. Whether plaintiffs' counsel conducted a reasonable investigation after Alon disputed the allegations.

HOLDINGS

1. Rule 11 sanctions were not warranted because Alon failed to prove by a preponderance of the evidence that the allegations concerning Alon's market participation and Bakersfield refinery shutdown were baseless, and the court found that plaintiffs' counsel conducted a reasonable and competent inquiry.
2. Section 1927 sanctions were not warranted because Alon failed to prove that plaintiffs' counsel unreasonably and vexatiously multiplied the proceedings or acted with subjective bad faith.

KEY QUOTATIONS

“Where, as here, the complaint is the primary focus of Rule 11 proceedings, a district court must conduct a two-prong inquiry to determine (1) whether the complaint is legally or factually ‘baseless’ from an objective perspective, and (2) if the attorney has conducted ‘a reasonable and competent inquiry’ before signing and filing it.” (at 6)

“Rule 11 sets a low bar: It deters ‘baseless filings’ by requiring a ‘reasonable inquiry’ that there is some plausible basis for the theories alleged.” (at 7)

FACTUAL BACKGROUND

The underlying putative class actions alleged that California gasoline refiners conspired to raise prices by reducing gasoline supply, including through refinery shutdowns. Alon challenged allegations that it was a

participant in the California gasoline-refining market and that its Bakersfield refinery was shut down in April 2012 as part of the alleged conspiracy. Plaintiffs' counsel relied on expert Robert McCullough's reports, public statements, media accounts, emissions data, market reports, and other materials, and investigated further after Alon challenged the allegations. The court found that these materials provided a plausible basis for the allegations and that counsel's investigation was thorough and reasonable.

PROCEDURAL HISTORY

Persian Gulf filed an antitrust action in 2015, and consumer plaintiffs later filed related antitrust actions that were consolidated and coordinated for discovery and briefing. Alon moved for sanctions based on allegations that it participated in the California gasoline-refining market and that its Bakersfield refinery shut down in April 2012 as part of a supply-reduction conspiracy. The district court initially denied sanctions, but the Ninth Circuit vacated that ruling and directed an evidentiary hearing. After receiving testimony and more than 200 exhibits, the court found that plaintiffs' counsel conducted a reasonable investigation, that the allegations had a plausible basis, and that Alon failed to prove baselessness, unreasonable multiplication of proceedings, or subjective bad faith.

DISPOSITION

other

CASES CITED

- Persian Gulf, Inc. v. Alon USA Energy, Inc., No. 22-56016, 2023 WL 8889557, at *2 (9th Cir. Dec. 26, 2023)
- Christian v. Mattel, Inc., 286 F.3d 1118, 1127 (9th Cir. 2002)
- Buster v. Greisen, 104 F.3d 1186, 1190 (9th Cir. 1997)
- Cooter & Gell v. Hartmarx Corp., 496 U.S. 384, 393 (1990)
- Operating Engineers Pension Trust v. A-C Company, 859 F.2d 1336, 1345 (9th Cir. 1988)
- Townsend v. Holman Consulting Corp., 929 F.2d 1358, 1362 (9th Cir. 1990)
- In re Keegan Mgmt. Co., Sec. Litig., 78 F.3d 431, 434 (9th Cir. 1996)
- United Nat’l Ins. Co. v. R&D Latex Corp., 242 F.3d 1102, 1117–18 (9th Cir. 2001)
- Strom v. United States, 641 F.3d 1051, 1059 (9th Cir. 2011)
- Kohler v. Flava Enters., Inc., 779 F.3d 1016, 1020 (9th Cir. 2015)
- B.K.B. v. Maui Police Department, 276 F.3d 1091, 1107 (9th Cir. 2002)
- Tom Growney Equip., Inc. v. Shelley Irr. Dev., 834 F.2d 833, 837 (9th Cir. 1987)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 PERSIAN GULF INC., Individually and Case No.: 15cv1749-JO-KSC and 11
on Behalf of All Others Similarly 18cv1374-JO-KSC Situated, 12 ORDER ON DEFENDANT
ALON’S Plaintiff, 13 MOTIONS FOR SANCTIONS v. 14 BP WEST COAST PRODUCTS LLC,
et 15 al., 16 Defendants. 17 Lead Case No. 18cv1374-JO-KSC 18 RICHARD BARTLETT, et al.,

(consolidated with No. 18cv1377-JO- 19 Individually and on Behalf of All Others KSC) Similarly Situated, 20 Plaintiffs, 21 v. 22 BP WEST COAST PRODUCTS LLC, et 23 al., 24 Defendants.

25 26 In these putative class actions for antitrust conspiracy, Defendant Alon USA Energy, 27 Inc. filed identical motions for sanctions under Federal Rule of Civil Procedure 11 and 28 28 U.S.C. § 1927 against Plaintiff Persian Gulf Inc. and individual consumer plaintiffs Joshua 1 Elbright, Paul Lee, and David Rinaldi (collectively, “Plaintiffs”). Dkt. 282; Bartlett et al. 2 v. BP West Coast Products LLC et al., 18cv1374-JO-AGS, Dkt.

167 (together, “Alon’s 3 Sanc. Mots.”). For the reasons below the Court denies Alon’s motions for sanctions. 4 I. BACKGROUND 5 Plaintiff Persian Gulf Inc. (“Persian Gulf”), the operator of a retail gas station, 6 initiated its antitrust lawsuit on behalf of retail stations in California on July 7, 2015. See 7 Dkt 1.1 On September 22, 2016, Persian Gulf filed an Amended Complaint.

Dkt. 76 8 (“Amend. Compl.”). On June 21, 2018, Richard Bartlett, Kristine Snyder, Joshua Ebright, 9 Paul Lee, and David Rinaldi (“Consumer Plaintiffs”) filed two separate antitrust lawsuits 10 on behalf of consumers who purchased gasoline in California. See Bartlett, Dkt. 1;2 Rinaldi 11 et al. v. BP West Coast Products LLC et al., 18cv1377-JO-AGS, Dkt. 1.

On July 25, 2018, 12 the Court consolidated the two Consumer Plaintiffs’ cases into one action. Bartlett, Dkt. 13 37; Rinaldi, Dkt. 35. On August 8, 2018, the Consumer Plaintiffs filed a Consolidated 14 Complaint. Bartlett, Dkt. 44 (“Cons. Compl.”). Thereafter, the Court ordered the 15 coordination of Persian Gulf’s and Consumer Plaintiffs’ cases for discovery and motion 16 briefing because the allegations were nearly identical.

See Dkt. 143; Bartlett, Dkt. 46.3 17 Persian Gulf’s and Consumer Plaintiffs’ complaints alleged that nine current and 18 former gas refiners in California—Defendants BP, Chevron, Phillips 66, Tesoro, Shell, 19 Valero, ExxonMobil, Kern Oil, and Alon (collectively, “Defendants”)—conspired to fix 20 gas prices in California from 2012 to 2015 in violation of § 1 of the Sherman Act, the 21 Cartwright Act, California Business & Professions Code §16700, et seq., and California’s 22 Unfair Competition Law, California Business and Professions Code § 17200, et seq.

See 23 24 25 1 This case was originally filed in state court and removed to this Court on August 6, 2015. Dkt. 1. Unless otherwise noted, citations to “Dkt.” alone refer to Persian Gulf, Inc. v. BP West Coast Products 26 LLC, et al., 15cv1749-JO-AGS. 2 References to “Bartlett, Dkt.” refer to the consolidated individual consumer case, Bartlett et al. 27 v. BP West Coast Products LLC et al., 18cv1374-JO-AGS.

3 Plaintiffs Bartlett and Snyder were dismissed from the consolidated individual consumer case on 28 1 Amend. Compl.; Cons. Compl. 2 On April 25, 2019, approximately two years and seven months after the filing of 3 Persian Gulf’s Amended Complaint and eight months after the filing of

the Consumer 4 Plaintiffs' Consolidated Complaint, Alon sent letters to Plaintiffs' counsel challenging the 5 accuracy of both complaints.

See Alon's Sanc. Mots. at 7:12–21, 9:7–9; 11:25–27; 24:5– 6 9. On October 4, 2019, Alon moved for sanctions against Persian Gulf and Consumer 7 Plaintiffs, challenging two allegations contained in these complaints. Alon's Sanc. Mots. 8 Alon first challenged the veracity of Plaintiffs' inclusion of Alon's Bakersfield 9 refinery in a chart of “suspicious plant closings in 2012, while the price of gasoline spiked 10 and maintained high levels compared to the rest of the country” (“Shutdown Allegation”).

11 Alon's Sanc. Mots. at 8–21, 26:21–27:10 (challenging Amend. Compl. ¶ 37 (Cons. Compl. 12 ¶ 40)). This chart indicated that Alon had planned an outage of its Bakersfield refinery on 13 April 20, 2012 while publicly claiming that the shutdown was due to a “hydrocracker 14 restart[.]” Amend. Compl. ¶ 37; Cons. Compl. ¶ 40.

In its sanction motions, Alon argued 15 that its Bakersfield refinery did not suspiciously shut down for a short duration but was in 16 fact non-operational for the six-month period from December 2011 to June 2012. Alon's 17 Sanc. Mots. It asserted this information was available in its own public statements, 18 including filings with the Securities and Exchange Commission, transcripts of investor 19 conference calls, and press releases.

Id. 20 Alon also challenged as false and unfounded Plaintiffs' allegation that Alon “is a 21 participant in the California gasoline refinery market” (“Market Participant Allegation”). 22 Alon's Sanc. Mots. at 12–14, 20:11–21:19 (challenging Amend. Compl. ¶ 137 (Cons. 23 Compl. ¶ 30)); see also Dkt. 897, May 7, 2024 Transcript of Proceedings (“Hr'g Tr.”) at 24 92:12–94:21.

Alon argues this allegation was false because it had suspended refining 25 operations in California after December 2011. Alon's Sanc. Mots. at 12–14, 20:11–21:19. 26 In its sanctions motion, Alon alleges Plaintiffs and their counsel knew or should have 27 known these factual allegations were false but included them in their complaints without 28 conducting a reasonable pre-filing investigation and inquiry.

Alon's Sanc. Mots. Alon 1 also alleges that Plaintiffs “unreasonably and vexatiously multiplied proceedings” against 2 Alon by refusing to withdraw their claims after Alon refuted these allegations in its April 3 2019 letter. Id. at 16:16–19. 4 On May 7, 2020, the district judge previously assigned to this case denied Alon's 5 motions for sanctions.⁴ Dkt. 410; Bartlett, Dkt.

276. Defendants appealed and the Ninth 6 Circuit Court of Appeals vacated the Court's denial of sanctions. *Persian Gulf, Inc. v. Alon 7 USA Energy, Inc.*, No. 22-56016, 2023 WL 8889557, at *2 (9th Cir. Dec. 26, 2023).

The 8 Court was ordered to “hold an evidentiary hearing to further develop the record as to what 9 investigation Plaintiffs’ Counsel undertook for the two factual allegations at issue in the 10 motion for sanctions, both at the time of filing the complaints and at the time of receipt of 11 Alon’s letter disputing the allegations.” Id. 12 On May 7, 2024, the Court conducted the required evidentiary hearing.

Dkt. 892. 13 The Court received into evidence over 200 exhibits from Plaintiffs and six exhibits from 14 Alon and heard testimony from six witnesses. Dkts. 894–96. Based on the evidence in the 15 record, including the testimony and exhibits presented at the May 7, 2024 evidentiary 16 hearing, the Court issues its findings of fact and conclusions of law. 17 II.

EVIDENTIARY OBJECTIONS 18 Before turning to its findings of fact and conclusions of law, the Court first addresses 19 some preliminary evidentiary issues. Throughout the evidentiary hearing, Alon’s counsel 20 made certain assertions that could be construed as objections.

Accordingly, the Court 21 resolves them here. 22 A. Persian Gulf’s Exhibits 138 and 139 and Consumer Plaintiffs’ Exhibits 23 The Court OVERRULES Alon’s objections to Persian Gulf and Consumer 24 Plaintiffs’ exhibits for lack of foundation or relevance. Hr’g Tr. at 31:13–16 (“So, there’s 25 five volumes of [Plaintiffs’ exhibits] that they produced here. None of those documents 26 27 28 1 indicate when they got them, when they looked at them, who looked at them.

It’s just a pile 2 of stuff they’re just going to throw on you.”); see also Dkt. 901. Persian Gulf has provided 3 credible testimony that its Exhibits (“PG’s Exs.”) 138 and 139 detail the documents that its 4 counsel considered before filing the Amended Complaint and after receiving Alon’s April 5 25, 2019 letter. Hr’g Tr. at 35:21–37:5; 41:20–42:18; 43:15–44:10.

Consumer Plaintiffs 6 also provided credible testimony that they reviewed certain documents before or after filing 7 the Consolidated Complaint as catalogued in Consumer Plaintiffs’ Exhibit (“Cons. Pls.’ 8 Ex.”) 231. Id. at 149:14–153:14, 155:14–158:4, 158:22–159:23.

The above testimony 9 provides the foundation that the documents listed in these exhibits are those that Plaintiffs’ 10 counsel reviewed before bringing their allegations against Alon and in deciding to continue 11 prosecuting their case against Alon. Id. The above testimony also establishes that these 12 documents are relevant to the central inquiry of this sanctions motion, i.e., what Plaintiffs’ 13 counsel considered in bringing and continuing to prosecute their allegations.

Id. 14 To the extent that Alon objects that Plaintiffs relied on documents or discovery 15 outside the “frozen” record permitted by the Court, id. at 40:6–10, the Court OVERRULES 16 those objections. The Court finds that in advance of the evidentiary hearing, Persian Gulf 17 provided Alon a detailed exhibit list, PG’s Ex. 147, that included a table with a “Cited In” 18 column that listed where each exhibit had previously been cited, used, or exchanged prior 19 to the May 7, 2020 record cut-off date.

Hr’g Tr. at 40:19–41:5. 20 B. Involvement of Attorney-Witness Armen Zohrabian 21 To the extent that Alon objects to the testimony of Armen Zohrabian (“Zohrabian”) 22 as undisclosed, Hr’g Tr. at 72:25–73:1, the Court OVERRULES this objection for the 23 following reasons. Zohrabian’s name was on the caption and signature pages of Persian 24 Gulf’s Amended Complaint, filed on September 22, 2016.

Dkt. 76 at 1, 74. Further, 25 Plaintiffs identified Zohrabian as a potential witness at the February 21, 2024 status 26 conference regarding the evidentiary hearing. Dkt. 883, February 21, 2024 Tr. at 27:10. 27 III. LEGAL STANDARDS 28 Rule 11 of the Federal Rules of Civil Procedure allows a party to request sanctions 1 if the opposing party has filed a frivolous lawsuit or engaged in abusive litigation practices.

2 Rule 11 further requires that an attorney certify that pleadings, motions or other court 3 filings are “not being presented for any improper purpose, such as to harass, cause 4 unnecessary delay, or needlessly increase the cost of litigation” and the factual contentions 5 in those filings either “have evidentiary support or, if specifically so identified, will likely 6 have evidentiary support after a reasonable opportunity for further investigation or 7 discovery.” Fed.

R. Civ. P. 11(a), (b)(1), (b)(3). “Where, as here, the complaint is the 8 primary focus of Rule 11 proceedings, a district court must conduct a two-prong inquiry to 9 determine (1) whether the complaint is legally or factually ‘baseless’ from an objective 10 perspective, and (2) if the attorney has conducted ‘a reasonable and competent inquiry’ 11 before signing and filing it.” *Christian v. Mattel, Inc.*, 286 F.3d 1118, 1127 (9th Cir.

2002) 12 (quoting *Buster v. Greisen*, 104 F.3d 1186, 1190 (9th Cir. 1997)). The central purpose of 13 Rule 11 is to deter unsubstantiated filings in district court and streamline administration 14 and procedure of the federal courts. See *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 15 393 (1990). 16 In the Ninth Circuit, “Rule 11 is an extraordinary remedy, one to be exercised with 17 extreme caution.” *Operating Engineers Pension Trust v. A-C Company*, 859 F.2d 1336, 18 1345 (9th Cir.

1988). The party seeking Rule 11 sanctions bears the burden of 19 demonstrating that the allegations were “both baseless and made without a reasonable and 20 competent inquiry.” *Townsend v. Holman Consulting Corp.*, 929 F.2d 1358, 1362 (9th Cir. 21 1990); see also *In re Keegan Mgmt. Co., Sec. Litig.*, 78 F.3d 431, 434 (9th Cir. 1996) 22 (applying *Townsend* “to the factual basis for a claim”).

The test is whether counsel had 23 “some plausible basis” for the allegation; even “a weak one” will suffice. *United Nat’l 24 Ins. Co. v. R&D Latex Corp.*, 242 F.3d 1102, 1117–18 (9th Cir. 2001) (emphasis in 25 original).

Thus, “Rule 11 sets a low bar: It deters ‘baseless filings’ by requiring a 26 ‘reasonable inquiry’ that there is some plausible basis for the theories alleged.” *Strom v. 27 United States*, 641 F.3d 1051, 1059 (9th Cir. 2011). 28 A sanction under 28 U.S.C. § 1927 is appropriate when opposing counsel has 1 needlessly prolonged litigation and/or made it more expensive.

Section 1927 provides: 2 [a]ny attorney or other person admitted to conduct cases in any court of the 3 United States or any Territory thereof who so multiplies the proceedings in 4 any case unreasonably and vexatiously may be required by the court to satisfy 5 personally the excess costs, expenses and attorney’s fees reasonably incurred 6 because of such conduct.

7 Id. Under § 1927, the party seeking to impose sanctions bears the burden of proving that 8 the opposing party acted with “subjective bad faith.” *Kohler v. Flava Enters., Inc.*, 779 9 F.3d 1016, 1020 (9th Cir. 2015). Subjective bad faith exists “when an attorney knowingly 10 or recklessly raises a frivolous argument, or argues a meritorious claim for the purpose of 11 harassing an opponent.” *B.K.B. v. Maui Police Department*, 276 F.3d 1091, 1107 (9th Cir.

12 2002) (internal citation and quotation omitted). As is the case with Rule 11 sanctions, the 13 imposition of sanctions under §1927 “is an extraordinary remedy.” *Keegan*, 78 F.3d at 14 437. 15
IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW 16 1.

The California gasoline market is characterized by its geographic isolation 17 from other refining centers and alternative sources of supply. It is regularly described as a 18 “gasoline island.” PG’s Exs. 43, 56 at 1, 98 at 20.

Moreover, California mandates a high- 19 quality gasoline known as CARBOB that is only produced at specific refineries across the 20 world. PG’s Ex. 98 at 20. 21 2. As summarized by Judge Lorenz in his June 18, 2018 order on Defendants’ 22 Motion to Dismiss, Persian Gulf’s case centered around allegations that gasoline refining 23 companies like Alon “conspired to create a false impression of reduced supply [of 24 gasoline], when in fact they possessed the inventory and production capacity to supply the 25 California market.” Dkt.

86 at 7. Persian Gulf further alleged that this conspiracy involved 26 several instances of unnecessary refinery shutdowns, simultaneous exports during a short 27 period of time, an orchestrated run on the market, and other coordinated actions. Id. 28 3.

As of October 13, 2011, Alon owned three refineries in California: 1 Bakersfield, Long Beach, and Paramount. PG’s Ex. 4 at 3. Alon purchased its Bakersfield 2 refinery in 2010. Id. 3 4. The California Energy Commission’s Energy Almanac reported that as of 4 November 2014 Alon was one of seven gasoline refiners (along with Defendants Chevron, 5 Exxon, Phillips 66, Shell, Tesoro, and Valero) that comprised 99% of California’s 6 CARBOB refining capacity.⁵ See PG’s Ex. 104 at 1–3.

7 McCullough Reports 8 5. Persian Gulf retained economist Robert M. McCullough as an expert in June 9 or July 2015 and relied on consultations with him in filing its Amended Complaint on 10 September 26, 2016. Dkt. 294-13 (“McCullough Decl.”) ¶ 1; Hr’g Tr. at 45:19–46:24, 11 77:2–21, 118:22–23, 119:6–13, 170:8–19. 12 6.

On June 5, 2012 and November 15, 2012, three years before Persian Gulf 13 retained him, McCullough had issued a series of reports analyzing rising gasoline prices 14 on the West Coast (“McCullough Reports”). McCullough Decl. ¶ 2. These reports 15 described California as a “gasoline island” and discussed its unique challenges in accessing 16 gasoline supply.

PG’s Exs. 23, 51. McCullough’s June 5, 2012 report, titled “Analysis of 17 West Coast Gasoline Prices” (the “June 2012 Report”), examined “a suspicious 18 combination of rising supplies, falling demand, increasing inventories, and increasing 19 prices” in gasoline prices on the West Coast. PG’s Ex. 23 at 1. Both McCullough Reports 20 contained a table of gasoline refinery shutdowns that occurred in spring 2012 and examined 21 the role of these shutdowns in causing a spike in gasoline prices at that time.

PG’s Exs. 23 22 at 1–2, 51 at 2, 8 (Cons. Pls.’ Exs. 180 at 1–2; 181 at 2, 8). The table of shutdowns listed 23 Alon’s Bakersfield refinery as having been shut down on April 20, 2012 and indicated that 24 it remained closed as of June 6, 2012. PG’s Exs. 23 at 2, 51 at 2, 8; McCullough Decl., 25 26 27 5 All nine California refiners were included as defendants in Persian Gulf’s first complaint (“Original Complaint”), but the smallest of the nine, Kern Oil & Refining Co., was dismissed by 28 1 Ex. 2.

By including Alon’s Bakersfield refinery in this chart, the McCullough Reports also 2 implied that Alon was a California gasoline refinery that had colluded with the other 3 refinery Defendants to decrease gasoline supply. See PG’s Exs. 23, 51. 4 7.

In addition to authoring the above reports on the gasoline industry, 5 McCullough has bachelor’s and master’s degrees in economics, Hr’g Tr. at 113:9–15; 6 McCullough Decl., Ex. 1, and nearly 30 years of experience performing economic analyses 7 in various markets. Hr’g Tr. at 113:16–114:2. McCullough has been retained as an expert 8 by the states of California, Illinois, New York, Maine, Montana, Oregon, and Washington, 9 and by the United States Department of Justice to provide economic analysis in suits 10 involving various energy and utility industries, including the gasoline industry.

11 McCullough Decl. Ex. 1; Hr’g Tr. at 117:22–118:2 (states); Hr’g Tr. at 118:35 (Department 12 of Justice). 13 8. Prior to filing the Amended Complaint, Persian Gulf conferred with 14 McCullough regarding the accuracy of the drafts of the Amended Complaint, including its 15 allegations that Alon was a participant in the gasoline refinery market and that it had 16 conspired to shut down its Bakersfield refinery in the April 2012 time frame.

Hr’g Tr. at 17 45:19–46:24, 76:23–77:21, 118:22–119:1, 119:6–13, 170:8–19. 18 Media Accounts 19 9. Plaintiffs also considered the following media accounts in concluding that 20 Alon was a participant in the gasoline refinery market in the 2012 to 2016 time frame as 21 alleged by in the Market Participant Allegation, and that its Bakersfield refinery was shut 22 down in April 2012 pursuant to joint action among the Defendants as alleged by the 23 Shutdown Allegation.

24 A. Market Participant Allegation – Amend. Compl. ¶ 137, Cons. Compl. ¶ 30 25 10. Plaintiffs relied on Alon’s own public statements, market reports, media 26 reports, and (later) internal emails in asserting in its 2016 Amended Complaint that “Alon 27 is a participant in the California gasoline refinery market.” Amend. Compl. ¶ 137 (Con. 28 Compl. ¶ 30); see, e.g., PG’s Exs.

64 at 5, 66 at 6, 69 at 4, 70 at 10, 71 at 4, 72 at 2, 80 at 1 1, 82 at 1, 87 at 3, 90 at 5, 7, 13, 91 at 1, 94 at 2, 95 at 3, 96 at 1, 107 at 2, 112 at 10, 114 2 at 1–2, 126 at 10, 127; Cons. Pls.’ Exs. 205, 211–213, 215, 217–218, 220, 221 at 3 CP00009185, 222 at CP000009242–43, 227 at CP00013455, 228 at CP00013901–03, 08, 4 229 at CP00014079, 82. 5 11. Plaintiffs consulted Alon’s emissions data for dates that Alon claims the 6 Bakersfield refinery was closed and determined that Alon was producing emissions, a sign 7 that the refinery was operational at least in some capacity during the 2012 timeframe.

PG’s 8 Ex. 130, ¶¶ 12–13; Hr’g Tr. at 110:20–23. 9 12. Plaintiffs also considered public information such as the Petroleum Market 10 Advisory Committee’s discussion at a 2016 meeting about “potential supply constraints 11 unique to California.” Cons. Pls.’ Ex. 193 at CP00000788.

In connection with this topic, 12 the committee had “asked about the potential of utilizing more California refining capacity, 13 specifically what’s been off line like ALON in Bakersfield, whether we could bring that 14 back on line in order to help.” Id. 15 13. Based on information from public sources, such as the California Energy 16 Commission’s Energy Almanac on California Oil Refineries, Plaintiffs also determined 17 that between October 2012 through 2016, Alon’s Bakersfield refinery was capable of 18 producing gasoline, distillates, and vacuum gas oil (including 66,000 barrels of CARBOB 19 per day), even if its actual refining activities had been limited to blending after 2012.

PG’s 20 Exs. 76 at 2–3, 102 at 1, 104 at 2–3, 112 at 9, 114 at 1–2. 21 14. In addition to confirming Alon’s blending activities and its latent refining 22 capacity, Plaintiffs determined that Alon actively participated in California’s gasoline 23 refinery market well into 2017 in other ways.

As confirmed by its own February 21, 2017 24 Form 10-K, Alon’s “California refineries utilize[d] product pipelines, truck racks and 25 terminals to distribute refined products” throughout this time frame. PG’s Ex. 126 at 10. 26 15. Based on Plaintiffs’ counsel’s examination of these varied sources of 27 information, they determined that as of 2016, Alon continued to be part of the California 28 refining capacity landscape.

1 B. Shutdown Allegation – Amend. Compl. ¶ 37, Cons. Compl. ¶ 40 2 16. Plaintiffs also reviewed and relied on the following media accounts and 3 Alon’s public statements in concluding that Alon’s Bakersfield refinery was temporarily 4 shut down in April 2012 as part of a scheme to reduce supply rather than the refinery being 5 non-operational as Alon alleges.

Hr’g Tr. at 34:16–36:7; PG’s Exs. 18 at 2, 19 at 3, 20 at 6 1, 21 at 10, 22 at 1, 138. 7 17. Plaintiffs examined multiple sources which documented the fact that seven 8 California refiners, including Alon, experienced similarly timed refinery shutdowns during 9 periods of rising prices in 2012. See, e.g., PG’s Exs. 18 at 2, 19, 20 at 1, 21, 23, 24, 26 at 10 1, 27 at 1–2, 28 at 1, 29, 30 at 1, 35 at 1, 41 at 1–2, 43 at 2, 44 at 2–3, 50 at 1, 53 at 1, 54 11 at 2, 55 at 1–4; Cons.

Pls.’ Exs. 168 at CP00000032, 186 at CP00000318–21, 196 at 12 CP00000996–98, 200 at CP00001068–70, 203 at CP00001124. 13 18. In concluding that Alon’s 2012 Bakersfield refinery shutdown was likely the 14 result of collusion, Plaintiffs’ counsel also examined reports that analyzed data from 15 refinery shutdowns that occurred between 2012 and 2015 and confirmed the connection 16 between refinery shutdowns and rising gasoline prices.

See, e.g., PG’s Exs. 85 at 1–2, 86, 17 87 at 3, 5, 88, 92, 98 at 31, 99 at 1–4; Cons. Pls.’ Exs. 172 at CP00000052, 176 at 18 CP00000072–74, 177 at CP00000081, 190 at CP00000347, CP00000356, 191 at 19 CP00000361, 199, 203 at CP00001123. 20 19. Persian Gulf and Consumer Plaintiff’s investigations also included reviewing 21 multiple sources that discussed suspicions of market manipulation and called for 22 investigation of the gasoline industry.

See, e.g., Cons. Pls.’ Exs. 160, 162 at CP00000008– 23 11, 163 at CP00000014, 164 at CP00000017, 167 at CP00000028–29, 168 at CP00000032, 24 169 at CP00000037, CP00000041–45, 171 at CP00000051, 172 at CP00000052–53, 173 25 at CP00000058, 178 at CP00000084, 179 at CP00000091–92, 186, 187, 188 at 26 CP00000330, 189 at CP00000383, 192 at CP00000376, 196 at CP00000996–98, 197 at 27 CP00001002, 198 at CP00001057–58, 199, 200 at CP00001068–69, 201.

28 20. Oftentimes, the public did not have access to information regarding refinery 1 operations—only the refiners had direct access to information specifying the dates and 2 refineries that were operational. See, e.g., PG’s Ex. 58a at 20 (Western States Petroleum 3 Association’s report stating companies did not announce planned shutdowns nor the 4 specific units involved).

5 21. Plaintiffs concluded that Alon’s company statements could not always be 6 relied on after they uncovered multiple instances where Alon’s statements concerning its 7 refinery operations were inconsistent with emissions data and/or inconsistent with its 8 subsequent statements.

For example, Plaintiffs considered the fact that Alon’s emissions 9 data did not always match its claims that the Bakersfield refinery was closed on particular 10 dates. Hr’g Tr. at 110:20–23. They

determined that Alon was producing emissions, a sign 11 that the refinery was operational at least in some capacity during the 2012 timeframe. See 12 id.; PG's Ex. 130 ¶¶ 12–13.

Another example of an inconsistency with Alon's public 13 statements occurred on May 4, 2012, when Alon stated that its "Paramount refinery was 14 restarted in April and [] expect[ed] to restart the Bakersfield refinery including the 15 hydrocracker [that month]," PG's Ex. 16 at 3, even though Alon had previously stated in 16 October 2013 that it was running the Paramount, Long Beach, and Bakersfield refineries 17 "as one integrated refinery." PG's Ex. 4 at 3.

18 No Corrective Response Despite Widespread Media and Political Attention 19 22. Plaintiffs also relied on the fact that neither Alon, nor anyone else, refuted 20 public assertions—that Alon was a participant in the gasoline industry and shut down its 21 refinery in Bakersfield in the April 2012 time frame—despite the fact that the McCullough 22 Reports had received widespread and substantial attention from the press.

23 23. These media accounts included more than 80 contemporaneous press reports, 24 mentions in major newspapers on the West Coast, and coverage in industry journals. PG's 25 Exs. 25, 50, 55 at 1–3, 57, 130 at 1. 26 24.

After publication of the June 2012 Report, multiple articles, reports, and 27 statements from elected officials addressed the possible connection between the spring 28 2012 refinery shutdowns and rising gasoline prices. Many of these media accounts 1 expressly referred to the McCullough Reports and at least one article attributed a reduction 2 in gasoline production to "Alon's hydrocracker restart in Bakersfield, Calif., on April 20, 3 [2012]." See, e.g., PG's Exs.

24 at 1–3, 26 at 1, 27 at 1–2, 28 at 1, 29, 30 at 1, 35 at 1, 41 4 at 2, 42 at 1, 43 at 1, 44 at 1–2, 50 at 1, 53 at 1, 54 at 2, 55 at 1, 3–4, 138; Cons. Pls.' Exs. 5 167 at CP00000027–28, 168 at CP00000032, 171 at CP00000051, 186 at CP00000318– 6 21, 196 at CP00000996–98, 200 at CP00001068–70, 203 at CP00001124, 231–232. 7 25. Multiple investigations conducted by California legislators and members of 8 the United States Congress also expressly relied on the McCullough Report without 9 triggering any response from Alon refuting the accuracy of the information contained in 10 these reports about its role in this industry or its Bakersfield refinery shutdown.

Hr'g Tr. 11 at 116:13–15, 149:4–9; PG's Exs. 24–28, 50 at 1–3, 54 at 2, 55 at 1, 3–4; Cons. Pls.' Exs. 12 167 at CP00000028–29, 186 at CP00000318, CP00000321–22, 196 at CP00000996–97, 13 200 at CP00001068. 14 26. The Western States Petroleum Association ("WSPA"), a non-profit trade 15 association representing petroleum companies in Arizona, California, Nevada, Oregon, and 16 Washington with the goal of "disseminat[ing] accurate information on industry issues,"⁶ 17 issued a report addressing and refuting some of the findings contained in the McCullough 18 Reports.

PG's Ex. 58a. The WSPA report spanned 24 pages and criticized several aspects 19 of the November 2012 Report, but did not question, challenge, or correct any information 20 regarding Alon's role in the gasoline refinery market or its Bakersfield refinery shutdown. 21 Id.; Hr'g Tr. at 116:19–117:11. 22 No Corrective Response from Alon Despite Litigation 23 27.

In filing its Amended Complaint, Persian Gulf also relied on the fact that Alon 24 failed to refute the assertion that Alon was a participant in the California gasoline refinery 25 market (Market Participant Allegation) or that it had shut down its Bakersfield refinery in 26 27 6 Western States Petroleum Association, <https://www.wspa.org/about/> (last accessed March 18, 28 1 April 2012 (Shutdown Allegation) despite the fact that Persian Gulf initiated litigation on 2 August 6, 2015 with its Original Complaint.

3 28. In response to Persian Gulf's Original Complaint, which named Alon as a 4 defendant in this price fixing scheme and alleged that it took actions to reduce gasoline 5 supply, Alon did not reach out to clarify that it had suspended operations and was not 6 conducting any refining operations in California after December 2011 and therefore could 7 not have been a participant of the California gasoline refining market as of 2015.

8 29. On March 7, 2016, Defendants, including Alon, requested that the Court take 9 judicial notice of the McCullough Reports. Dkt. 47-2. Thus, Alon was aware of these 10 reports and the tables stating that Alon had shut down its Bakersfield refinery on April 20, 11 2012 to reduce supply, but did not reach out to Plaintiffs to correct this information or to 12 communicate that it did not shut down its Bakersfield refinery on April 20, 2012—that, in 13 fact, it had earlier suspended all California refining operations in December 2011.

Hr'g 14 Tr. at 48:20–24; see Dkt. 47-2. 15 30. Persian Gulf filed its Amended Complaint on September 22, 2016, containing 16 the Shutdown Allegation and Market Participant Allegation. Amend. Compl. ¶¶ 37, 137. 17 31. Given the lack of transparency into the Alon's actions, in filing its Amended 18 Complaint on September 22, 2016, Persian Gulf's counsel reasonably relied on the 19 above—McCullough's reports, his guidance as their expert, and media reports—to 20 conclude that a plausible basis existed to allege that Alon was a participant in the gasoline 21 industry during the time periods alleged in the Amended and Consolidated Complaints, 22 and that Alon's Bakersfield refinery had shut down on April 20, 2012 pursuant to a scheme 23 to reduce supply.

24 32. Alon and Defendants jointly moved to dismiss the Amended Complaint on 25 October 17, 2016. Dkt. 81. In the motion, Alon argued that its Bakersfield refinery 26 shutdown a “routine scheduled maintenance event[]” rather than an effort to raise prices. 27 Dkt. 81-1 at 18:16–19:4.

However, it again did not reach out to explain that this refinery 28 had been non-operational from December 2011 to June 2012. See generally Dkt. 81-1. 1 33. Following the Court's denial of

Alon's motion to dismiss, Alon answered 2 Plaintiffs' allegation that it was "a participant in the California gasoline refinery market" 3 by objecting that this characterization called for a legal conclusion, and that Persian Gulf 4 and Consumer Plaintiffs had failed to define the term "California gasoline refinery market." 5 Dkt.

115 ¶ 137 ("Alon's Ans. to Amend. Compl."); Bartlett, Dkt. 117 ¶ 30 ("Alon's Ans. 6 to Cons. Compl."). Alon neither denied the truth of these allegations, see *id.*, nor reached 7 out to Plaintiffs to explain that it had stopped refining in California as of December 2011 8 and that the Bakersfield refinery had been closed between December 2011 and June 2012. 9 34.

Consumer Plaintiffs filed their Consolidated Complaint on August 8, 2018. 10 Cons. Compl. Consumer Plaintiffs' counsel reasonably relied on McCullough's Reports 11 (although they did not directly consult with McCullough, unlike Persian Gulf); the district 12 court's dismissal of Alon's motion to dismiss Persian Gulf's Amended Complaint; and 13 media reports in concluding that a plausible basis existed to allege that Alon was a 14 participant in the gasoline industry during the time periods alleged in the Consolidated 15 Complaints and that Alon's Bakersfield refinery had shut down on April 20, 2012 pursuant 16 to a scheme to reduce supply.

Additionally, by the time the Consolidated Complaint was 17 filed, Alon had already requested that the Court judicially notice the McCullough Reports 18 and had answered Persian Gulf's Amended Complaint without reaching out to Plaintiffs' 19 counsel to dispute that it was involved in the gasoline industry or clarifying that its 20 Bakersfield refinery had already been shut down rather than temporarily closed.

See Dkt. 21 47-2; Alon's Ans. to Amend. Compl. 22 35. Moreover, Alon's Answer to the Consolidated Complaint admitted that it did 23 indeed have at least the latent capacity to refine significant amounts of CARBOB gasoline, 24 stating "its Bakersfield refinery has a nominal crude capacity of 70,000 barrels per day." 25 Alon's Ans. to Cons. Compl. ¶ 29 (emphasis added).

26 36. Multiple witnesses testified that throughout their investigation, which 27 included the above responses from Alon and the gasoline industry, they did not come across 28 anything that gave them reason to doubt the accuracy of allegations, which Alon did not 1 challenge until two years and seven months after the Amended Complaint's filing and eight 2 months after Consolidated Complaint's filing.

Hr'g Tr. at 53:5–22, 117:4–11, 119:23– 3 120:6, 142:20–143:9, 144:13–21, 153:15–154:24, 170:5–172:1. Having observed 4 Plaintiffs' witnesses' demeanor, including their body language, facial expressions and eye 5 contact, as well as the tone and content of their testimony, the Court finds them to be 6 credible.

The Court especially notes that attorney Alexandra S. Bernay gave testimony 7 that demonstrated a thorough and earnest regard for the truth and took pains to avoid 8 overreaching or inaccurate

testimony. See e.g., Hr’g Tr. at 34:16–111:25. Alon presented 9 no evidence or testimony calling into question the credibility of the attorney witnesses. 10 Plaintiffs’ Investigation Following Alon’s Challenge to the Accuracy of Complaints 11 37.

Alon first contested the accuracy of Plaintiffs’ allegations in a letter dated 12 April 25, 2019. See Alon’s Sanc. Mots. at 7:12–21, 9:7–9; 11:25–27; 24:5–9; PG’s Ex. 13 128 (“Alon’s April 25, 2019 Letter”). 14 38. In this letter, Alon primarily relied on its own public statements to dispute 15 Plaintiffs’ allegations that it closed its Bakersfield refinery in April 2012 to reduce gasoline 16 supply (Shutdown Allegation).

See Alon’s Sanc. Mots. at 7:12–21, 9:7–9; 11:25–27; 17 24:5–9. Alon asserted that instead of temporarily shutting down this refinery as a scheme 18 to reduce supply, it had in fact it ceased operations at its California refineries as of 19 December 2011. Alon’s April 25, 2019 Letter at 4–5. 20 39.

In response to this letter, Persian Gulf and Consumer Plaintiffs’ counsel 21 reviewed the information provided by Alon and compared the materials they had 22 previously considered. Hr’g Tr. at 41:22–45:3, 54:1–7, 103:6–15; 155:14–156:22; see 23 PG’s Ex. 139; Cons. Pls.’ Exs. 231, 232. They also examined additional documents that 24 included several transcripts of Alon’s earnings releases, earnings calls, SEC Filings, and 25 presentations.

Hr’g Tr. at 41:22–45:3, 54:1–7, 103:6–15; 155:14–156:22; PG’s Exs. 5, 10, 26 12, 16, 34, 139. 27 40. Persian Gulf and Consumer Plaintiffs’ counsel also consulted with Persian 28 Gulf’s expert McCullough regarding Alon’s letter. Hr’g Tr. at 54:8–11, 54:18–25; 157:21– 1 158:4.

In October 2019, during the course of these discussions, McCullough provided to 2 Plaintiffs for the first time emissions data that Alon had previously provided to the San 3 Joaquin Valley Air Pollution Control District. Id. at 54:8–11, 54:18–25, 134:1–135:4, 4 157:4–20. This data was authored by Bill Clemons, an Alon employee, and produced by 5 Alon to the San Joaquin Valley Air Pollution Control District in 2012.

Hr’g Tr. at 111:7– 6 13; 134:1–135:4, 157:4–20; PG’s Exs. 131 at 1–3, 132 at 2–4. This emissions data 7 indicated that the Bakersfield refinery had not been closed as of December 2011 but instead 8 was only temporarily shut down from February 16, 2012 to May 9, 2012. Hr’g Tr. at 9 54:18–55:18. 10 41. Despite the contradictory information about the Bakersfield refinery 11 operations contained in Alon’s public statements, Plaintiffs reasonably relied on the 12 emissions data and the information discussed above to conclude that it remained at least 13 plausible that the Bakersfield refinery had been temporarily shut down in the spring of 14 2012 rather than completely closed between December 2011 to June 2012, as Alon 15 asserted.

Hr’g Tr. at 54:8–11, 54:18–25; 157:4–158:4. Given the inconsistencies and 16 inaccuracies in Alon’s other public statements, see supra ¶ 21, and the abundance of 17 information supporting

their conclusion, Plaintiffs' conclusions were reasonable. They did, however, react to the information that Alon provided them by modifying their conclusion regarding the exact dates and causes of Alon's Bakersfield refinery shutdown based on their investigation.

42. After receiving the above information, on October 21, 2019, Plaintiffs filed with the Court a correction to replace ¶ 37, which reads: Date Company Refinery Amount Type Claimed Industry of of Reason Sources Statewide Outage Capacity 4/20/12 Alon Bakersfield 3.2% Planned Hydrocracker No restarted Information with the following revised allegation: 1 Date Company Refinery Amount Type Claimed Industry of of Reason Sources 2 Statewide Outage 3 Capacity 2/16/12- Alon Bakersfield 3.2% Planned "weak margin San 4 5/9/12 environment"; Joaquin 5 "minor Valley Air revisions to Pollution 6 hydrocracker" Control 7 District emissions 8 data; Alon 9 earnings release 10 11 Dkt.

294 at 12–13; Hr'g Tr. at 54:18–55:18; Bartlett, Dkt. 175 at 12–13. 43. Based on the information in the media, the McCullough reports, counsel's consultation with expert McCullough, and Alon's lack of corrective response despite widely known information in the media and known allegations raised during the course of litigation, the Court finds that Persian Gulf and Consumer Plaintiffs' counsel conducted a thorough, conscientious, and reasonable inquiry regarding its allegations that Alon (1) was "a participant in the California gasoline refinery market" as of the filing of the Amended Complaint and (2) had shut down its Bakersfield refinery in the spring of 2012.

Amend. 19 Compl. ¶¶ 37, 137 (Cons. Compl. ¶¶ 40, 30). 44. The Court also finds that Persian Gulf and Consumer Plaintiffs' counsel conducted a reasonable investigation after Alon's August 2019 letter by comparing the information contained in the August 2019 letter with information previously available, Alon's public statements, and Alon's emission data previously provided to the San Joaquin Valley Air Pollution Control District.

45. Based upon the foregoing factual findings and in the exercise of its discretion, the Court finds Alon failed to prove by a preponderance of the evidence that the allegations alleged against it in ¶¶ 37 and 137 of the Amended Complaint and ¶¶ 30 and 40 of the Consolidated Complaint were baseless. *Tom Growney Equip., Inc. v. Shelley Irr. Dev.*, 1 834 F.2d 833, 837 (9th Cir.

1987). 46. Based upon the foregoing factual findings and in the exercise of its discretion, Court finds that Persian Gulfs and Consumer Plaintiffs' counsel conducted a reasonable inquiry regarding the alleged conspiracy, including Alon's role in it. 47. Based upon the foregoing factual findings and in the exercise of its discretion, the Court finds that there was a plausible basis for the Amended Complaint and the Consolidated Complaint's alleged theories of liability as to Alon.

8 48. Based upon the foregoing factual findings and in the exercise of its discretion, 9 ||the Court finds that Alon did not meet its burden to demonstrate that Plaintiffs' Counsel 10 || multiplied the proceedings in this case unreasonably and vexatiously or that they acted with 11 || subjective bad faith. 12 49.

For the reasons stated above, the Court denies Alon's motions for sanctions 13 || pursuant to Rule 11 and 28 U.S.C. § 1927. Dkt. 282; Bartlett, Dkt. 167. 14 50. The Clerk of Court is directed to CLOSE this case, and the consolidated 15 individual consumer cases at 18cv1374-JO-KSC and 18cv1377-JO-KSC. 16 IT IS SO ORDERED. ~ 17 || Dated: March 19, 2025 18 Honorable Jinsook Ohta 19 United States District Judge 20 21 22 23 24 25 26 27 28