

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

COMMONWEALTH OF)	
MASSACHUSETTS,)	
Plaintiff,)	
)	
v.)	C.A. No. 19-12430-MLW
)	
EXXON MOBIL CORPORATION,)	
Defendant.)	

ORDER

WOLF, D.J. December 6, 2019

This case, Commonwealth of Massachusetts v. Exxon Mobil Corporation, C.A. 19-12430-MLW (the "Massachusetts Case"), was filed in the Suffolk Superior Court of the Commonwealth of Massachusetts. Defendant Exxon Mobil removed the case to this court, alleging federal question and diversity jurisdiction under 28 U.S.C. §§ 1331, 1332(d). In the civil cover sheet attached to the Notice of Removal, Exxon Mobil stated that this case is related to Conservation Law Foundation v. Exxon Mobil Corporation, C.A. 16-11950-MLW (the "CLF Case"), which is assigned to this court. Therefore, pursuant to Rule 40.1(g)(3) of the Local Rules of the United States District Court for the District of Massachusetts, the clerk assigned the Massachusetts case to this court rather than randomly assigning it.

The court finds, however, that this case is not related to the CLF Case within the meaning of Local Rule 40(g)(1) and, therefore, it was erroneously assigned to this court. Therefore,

it is being returned to the clerk to be randomly reassigned. See
L.R. 40.1(g)(4).

Local Rule 40.1(g) states in pertinent part that:

(1) For purposes of this rule, a civil case is related to one previously filed in this court if some or all of the parties are the same and if one or more of the following similarities exist also: the cases involve the same or similar claims or defenses; or the cases involve the same property, transaction or event; or the cases involve insurance coverage for the same property, transaction or event; or the cases involve substantially the same questions of fact and law. . . . This rule shall not apply if more than two years have elapsed since the closing of the previous action.

(2) If the party filing the initial pleading believes that the case is related to a case already assigned, whether or not the case is then pending, that party shall notify the clerk by notation on the local civil category sheet indicating the title and number of each such earlier case.

(3) The clerk shall assign related cases to the same district judge without regard to the number of other cases in that category previously assigned to that judge. . . .

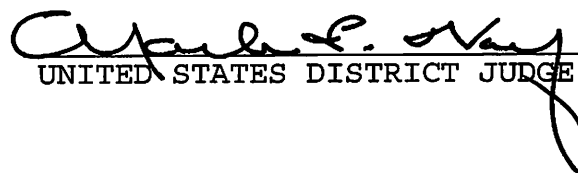
(4) The assignment of cases as related by the clerk shall be subject to correction only by the district judge to whom they have been assigned, who shall return cases erroneously assigned on that basis to the clerk for reassignment.

One of the parties in both the Massachusetts Case and the CLF Case--Exxon Mobil--is the same. However, in the CLF Case the plaintiff alleges that Exxon Mobil is violating the Environmental Protection Agency's ("EPA") permit for an Exxon Mobil facility in Everett, Massachusetts (the "Everett Terminal") in discharging

pollutants and in failing to consider the impacts of climate change in designing and maintaining the Everett Terminal. The Massachusetts Case does not involve the Everett Terminal or EPA permitting. In the Massachusetts Case, plaintiff alleges that Exxon Mobil has violated state consumer protection laws in selling its securities by failing to disclose properly to investors the risks posed by climate change and other facts, and in selling its products to consumers by failing to disclose, among other things, that its fossil fuel products are a leading cause of climate change.

While both cases involve allegations concerning climate change, the claims involve different statutes and the defenses are likely to be materially different. The two cases do not involve the same property, transaction, or event. Nor do they involve the same questions of fact and law, as the CLF Case is based on federal law concerning an EPA permit and the Massachusetts Case is based on state consumer protection law.

Therefore, as indicated earlier, the court finds that Exxon Mobil erroneously designated this case as related to the CLF Case. Accordingly, this case is hereby RETURNED to the clerk to be randomly reassigned.


UNITED STATES DISTRICT JUDGE