

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT  
CIVIL ACTION No. 1984-CV-03333-BLS1

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COMMONWEALTH OF MASSACHUSETTS,	)	
	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	<b>Service by e-mail</b>
	)	
EXXON MOBIL CORPORATION,	)	
	)	
<i>Defendant.</i>	)	
_____	)	

**COMMONWEALTH’S MOTION TO PERMIT  
THE DEPOSITIONS OF CERTAIN WITNESSES PENDING APPEAL**

The Commonwealth respectfully requests, pursuant to Rule 27(b) of the Massachusetts Rules of Civil Procedure, that this Court permit the Commonwealth to perpetuate the testimony of two expected witnesses, who are in their 80s, during the pendency of the defendant Exxon Mobil Corporation’s (ExxonMobil) appeal of the denial of its special motion to dismiss pursuant to the anti-SLAPP statute.<sup>1</sup>

The witnesses are Professor Martin Hoffert of 8961 SW 86<sup>th</sup> Loop, Ocala, FL 34481 and Dr. Richard Werthamer, of 38 Cedar Point Lane, Sag Harbor, NY 11963.

As grounds for this motion, and as set forth in the Greer Affidavit (enclosed), the Commonwealth states that Professor Hoffert, an emeritus professor of physics at New York University who researched climate change as an Exxon consultant between approximately 1979 and 1985, is now 83 years old and suffers from multiple life-threatening, chronic conditions. Dr. Werthamer, a physicist who worked for Exxon Research and Engineering Company, including as

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<sup>1</sup> See G.L. c. 231, § 59H.

a manager, from approximately 1979-1982, is now 86 years old and will turn 87 in a matter of weeks.

Each witness's expected testimony is uniquely important to showing ExxonMobil's prior knowledge about climate change and explaining its actions and omissions based on that knowledge. The substance of the witnesses' expected testimony relies on internal Exxon documents, which have been published in the media and scientific journals; is publicly available (including to ExxonMobil) through their press interviews and/or Congressional testimony; and was described in the Amended Complaint. There is a real risk that each witness could become unavailable by death or illness by the time ExxonMobil's appeal of this Court's denial of its special motion to dismiss is resolved. Because of the unique testimonial evidence which the Commonwealth expects each witness to provide, any such unavailability would constitute a failure of justice under Rule 27(b).

For the reasons described further in the accompanying Memorandum of Law, the Commonwealth respectfully requests that the Court allow this motion and enter orders permitting the Commonwealth to depose each of Professor Hoffert and Dr. Werthamer as soon as possible.

Respectfully Submitted,

COMMONWEALTH OF MASSACHUSETTS,

By its attorney,

MAURA HEALEY  
ATTORNEY GENERAL

/s/ David A. Wittenberg

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Dated: January 10, 2022

**CERTIFICATE OF SERVICE**

I, David A. Wittenberg, counsel for Plaintiff Commonwealth of Massachusetts, hereby certify that, on this 10th day of January 2022, I served a copy of the foregoing document by sending a copy thereof by electronic service to:

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*Counsel of Record for ExxonMobil  
Corporation*

**/S/ DAVID A. WITTENBERG**

DAVID A. WITTENBERG

COMMONWEALTH OF MASSACHUSETTS

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CIVIL ACTION No. 1984-CV-03333-BLS1

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COMMONWEALTH OF MASSACHUSETTS,	)
	)
<i>Plaintiff,</i>	)
	)
v.	)
	)
EXXON MOBIL CORPORATION,	)
	)
<i>Defendant.</i>	)
_____	)

**AFFIDAVIT OF MARLEE GREER**

I, Marlee Greer, declare and state as follows:

1. I am a Senior Investigator for the Commonwealth of Massachusetts. I have worked as an investigator for the Commonwealth for four years, including as Senior Investigator for the past two years. Prior to working for the Commonwealth, I worked as an investigator for a law firm and for a background check company. I hold a master’s degree in homeland security and a bachelor’s degree in criminal justice from Endicott College. My role as an investigator includes, but is not limited to, interviewing witnesses and victims, researching people of interest, collecting background information, and obtaining and analyzing relevant documents, court records, and open-source information.

2. I am assigned to the above-captioned case. My responsibilities include working with and collecting information regarding various witnesses, including Martin Hoffert and Richard Werthamer. Pursuant to this assignment, and based on information provided by Professor Hoffert and Dr. Werthamer, I have become aware of the following facts:

3. Martin Hoffert is an emeritus professor of physics at New York University who researched climate change as an ExxonMobil consultant.

4. As part of his work conducted for ExxonMobil between approximately 1979 and 1985, Professor Hoffert’s research group predicted the current rate of global warming with great precision.

5. Professor Hoffert is 83 years old. Since 1991, he has dealt with numerous serious, life-threatening health conditions including heart disease, lung cancer, diverticulitis, unexplained internal bleeding, and a broken neck.

6. Professor Hoffert suffered heart attacks in 1991 and 2003; he had a quadruple bypass in 1992; he has had a total of four electronic devices implanted in his chest to regulate his heartrate. Professor Hoffert has experienced cardiac events that triggered electric shocks from his implanted devices twice, on July 28, 2007 and March 28, 2020. He had a new implant installed most recently on April 29, 2021. Professor Hoffert was diagnosed with and surgically treated for lung cancer in 2008. He fell walking on the street in Lower Manhattan in 2013, resulting in hairline fractures to his C3 and C4 vertebrae. He was diagnosed with and surgically treated for diverticulitis in 2016. And on May 31, 2021, he went to the hospital with symptoms of internal bleeding that was so severe he received a blood transfusion. Physicians were unable to determine the cause of the bleeding.

7. Professor Hoffert currently resides at 8961 SW 86<sup>th</sup> Loop, Ocala, FL 34481.

8. Richard Werthamer is a former ExxonMobil physicist who worked for Exxon Research and Engineering Company, including as a manager, from approximately 1979 to 1982.

9. Dr. Werthamer is 86 years old and will turn 87 in several weeks.

10. Other than his advanced age, Dr. Werthamer reports that he is in good health.

11. From 1980 to 1981, Dr. Werthamer supervised Henry Shaw, who is now deceased.

12. Dr. Shaw was the key proponent of an ambitious ExxonMobil research program into the extent to which CO<sub>2</sub> greenhouse gases released into the atmosphere were absorbed into the world's oceans, an important factor in determining the rate at which CO<sub>2</sub> greenhouse gases would build up in the atmosphere.

13. The research program monitored oceanic and atmospheric CO<sub>2</sub> using sensors mounted to an ExxonMobil oil tanker that traversed the Atlantic Ocean from the Persian Gulf to the Gulf of Mexico, known as the "tanker project."

14. Dr. Werthamer discussed with Dr. Shaw the management and public relations strategy driving the tanker project.

15. In addition to other duties, Dr. Werthamer worked on an ambitious public-relations plan aimed at achieving national recognition of ExxonMobil's CO<sub>2</sub> greenhouse research project.

16. The tanker project was a key component of Dr. Werthamer's proposed public relations plan.

17. Dr. Werthamer currently resides at 38 Cedar Point Lane, Sag Harbor, NY 11963.

18. I, Marlee Greer, have read the above statement consisting of 2 pages, and I certify under penalty of perjury that the foregoing is true and correct. Executed on January 6, 2022.

*Marlee Greer*  
MARLEE GREER  
SENIOR INVESTIGATOR