



THE COMMONWEALTH OF MASSACHUSETTS
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January 17, 2019

VIA THE CM/ECF SYSTEM

Catherine O'Hagan Wolfe
Clerk of the Court
U.S. Court of Appeals for the
Second Circuit
40 Foley Square
New York, NY 10007

**Subj: No. 18-1170 – *Exxon Mobil Corp. v. Healey* – Notice of Order in
Related Case.**

Dear Clerk Wolfe:

Defendant-appellee Massachusetts Attorney General Healey submits this letter to notify the Court that on January 7, 2019, the U.S. Supreme Court denied plaintiff-appellant Exxon Mobil Corporation's (Exxon) petition for a writ of certiorari to the Massachusetts Supreme Judicial Court to review that court's decision in the related case of *Exxon Mobil Corp. v. Attorney General*, 479 Mass. 312 (2018). 2019 WL 113105, 586 U.S. __ (Jan. 7, 2019).¹ The Supreme Judicial Court's decision is reproduced in the addendum to the Attorney General's brief in response in this Court. Mass.A.G. Br. (Br.) Addendum (Add-__) 63.

The U.S. Supreme Court's denial of Exxon's petition for certiorari is relevant to the Attorney General's arguments at pages 48-55 of her brief in this case, where she explains why this federal action is barred by claim preclusion. The District Court below held that the Massachusetts Superior Court's order denying Exxon's state court claims seeking to enjoin enforcement of the same Civil Investigative Demand at issue here barred all of Exxon's claims against the Attorney General in this federal court action and, accordingly, dismissed Exxon's complaint against the Attorney General. Br. Add-25-32. As a result of the U.S. Supreme Court's order, it is now indisputable that the Superior Court's judgment, *see id.* at Add-62, and the Massachusetts Supreme Judicial Court's decision affirming that judgment, *id.* at Add-79, are final

¹ The U.S. Supreme Court's Order is also available at https://www.supremecourt.gov/orders/courtorders/010719zor_m6ho.pdf.

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and subject to no further review. The Attorney General's claim preclusion arguments thus carry all the more force.

Respectfully submitted,

/s/ Seth Schofield

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Cc: All Counsel of Record (by ECF)