

DV

SUFFOLK, ss.

SUPERIOR COURT  
CIVIL ACTION NO.:  
1984-CV-03333-BLS1

Plaintiff,

V.

Defendant.

## REQUEST FOR HEARING

### Service Via E-Mail

Pursuant to Mass. R. Civ. P. 37(a) and Superior Court Rule 9A, Defendant Exxon Mobil Corporation (“ExxonMobil”) respectfully requests that the Court allow ExxonMobil’s motion to compel and order the Commonwealth to search for and produce relevant documents in response to Request for Production (“RFP”) Nos. 137 and 138 served on the Commonwealth. As grounds for this motion, and as set forth in detail in ExxonMobil’s Memorandum of Law in Support of this Motion, ExxonMobil states:

1. The Commonwealth alleges that ExxonMobil violated Chapter 93A of the Massachusetts General Laws by making certain allegedly deceptive statements to Massachusetts consumers and investors. The Commonwealth alleges, in part, that ExxonMobil's advertisements purportedly failed to disclose the climate-change risks of its products and that such omission was material to the decisions of Massachusetts consumers to purchase Synergy gasoline, Mobil 1 motor

oil, and other ExxonMobil products, rather than similar products from industry counterparts. The Commonwealth also has admitted that some Massachusetts consumers would consider advertisements from different companies when deciding which gasoline or motor oil products to purchase. In addition, the Commonwealth alleges that ExxonMobil “knows, knew, or should have known” that its advertisements were (supposedly) deceptive. *See, e.g.,* Am. Compl. ¶ 756.

2. On August 9, 2024, ExxonMobil served its fourth set of RFPs on the Commonwealth, including RFP Nos. 137 and 138. Those RFPs seek documents relating to advertisements for motor oil and gasoline by companies other than ExxonMobil. The Commonwealth has refused to produce any documents in response to these RFPs.

3. As set forth in the Memorandum of Law, the Commonwealth should be compelled to search for and produce documents responsive to RFP Nos. 137 and 138. *First*, advertisements for other gasoline and motor oil products are relevant to the Commonwealth’s theory of materiality in this case. Such advertisements are also relevant to the question of whether a reasonable consumer would have been deceived by ExxonMobil’s allegedly deceptive statements. *Second*, advertisements for other gasoline and motor oil products will also bear on whether ExxonMobil “should have known” its advertisements were (allegedly) deceptive. *See* G.L. c. 93A § 4. *Third*, the Commonwealth’s objections to producing responsive records in its possession are unpersuasive, including because the Commonwealth has not shown that producing responsive documents would be unduly burdensome.

In support of its motion to compel, ExxonMobil also relies on the accompanying (i) Memorandum of Law, (ii) Affidavit of Jack W. Pirozzolo (“Pirozzolo Affidavit”), and (iii) Exhibits 1 through 11, which are attached to the Pirozzolo Affidavit.

Pursuant to Superior Court Rule 9A(c), ExxonMobil respectfully requests a hearing on all issues raised in this motion and the accompanying Memorandum of Law. A hearing is warranted because this motion addresses discovery issues that are central to the claims and defenses in the case.

### **CONCLUSION**

For the foregoing reasons, ExxonMobil respectfully requests that the Court allow its motion to compel and order the Commonwealth to search for and produce records responsive to RFP Nos. 137 and 138.

Dated: June 13, 2025

Respectfully submitted,

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/s/ Jack W. Pirozzolo

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**CERTIFICATION UNDER SUPERIOR COURT RULE 9C**

Pursuant to Superior Court Rule 9C, counsel for Defendant ExxonMobil Corporation and counsel for Plaintiff, the Commonwealth of Massachusetts, conducted a telephonic conference on January 10, 2025, and exchanged multiple letters on these issues, and made a good faith effort to narrow the areas of disagreement to the fullest extent regarding the Commonwealth's refusal to produce documents in response to certain of ExxonMobil's requests for production.

**CERTIFICATE OF SERVICE**

I, Jack W. Pirozzolo, counsel for Defendant Exxon Mobil Corporation, hereby certify that on June 13, 2025, I caused a copy of the foregoing document to be served on the Massachusetts Office of the Attorney General by e-mail.

*Commonwealth of Massachusetts*

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