

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

COMMONWEALTH OF MASSACHUSETTS,)
)
 Plaintiff,)
)
 v.)
)
 EXXON MOBIL CORPORATION,)
)
 Defendant.)

JOINT MOTION TO SET PLEADING DEADLINES

Pursuant to Mass. R. Civ. P. 6(b), Plaintiff Commonwealth of Massachusetts (“Commonwealth”) and Defendant Exxon Mobil Corporation (“ExxonMobil”) jointly move for an order setting the following deadlines in the above captioned case, in lieu of the Rule 16 Status Conference, subject to any further adjustments made necessary by disruptions caused by COVID-19: the Commonwealth’s amended complaint shall be served no later than May 15, 2020; ExxonMobil’s motion to dismiss the Commonwealth’s Amended Complaint shall be served no later than July 15, 2020; the Commonwealth’s opposition to ExxonMobil’s motion shall be served no later than September 15, 2020; and ExxonMobil’s reply in further support of its motion shall be served and filed no later than October 15, 2020. As grounds for this joint motion, the parties state:

1. On October 24, 2019, the Commonwealth filed the Complaint in this case against ExxonMobil in Suffolk Superior Court. The Complaint spans 205 pages and contains 830 paragraphs. It asserts four causes of action alleging ExxonMobil violated G. L. c. 93A, § 2 and various regulations promulgated by the Commonwealth’s Attorney General.

2. On October 24, 2019, the Commonwealth provided counsel for ExxonMobil with a copy of the Complaint by e-mail. On October 28, 2019, the Suffolk Superior Court allowed the Commonwealth's Ex Parte Motion for Appointment of a Special Process Server, and ExxonMobil was served on October 30, 2019.

3. On November 29, 2019, ExxonMobil filed a Notice of Removal, removing the case to the United States District Court for the District of Massachusetts pursuant to Fed. R. Civ. P. 81(c)(2)(C).

4. On December 2, 2019, with the expectation that the Commonwealth would file a motion to remand the case to Suffolk Superior Court, the parties filed a Joint Emergency Motion to Extend Responsive Pleading Deadlines in the United States District Court, which extended ExxonMobil's deadline to file an answer or move to dismiss the Complaint to a date 60 days after denial of the Commonwealth's motion to remand, and in the event ExxonMobil moved to dismiss, extended the Commonwealth's deadline to respond to 60 days after ExxonMobil files its motion. That motion also memorialized the parties' agreement to request those same deadlines if the District Court granted the Commonwealth's motion to remand. The District Court granted the parties' Joint Emergency Motion to Extend Responsive Pleading Deadlines on December 3, 2019.

5. On December 26, 2019, the Commonwealth filed a motion to remand the case to Suffolk Superior Court and briefing on the Commonwealth's motion was completed on January 17, 2020. On March 17, 2020, the District Court granted the Commonwealth's motion to remand. On March 18, 2020, the District Court sent the case file back to Suffolk County Superior Court and closed the case on the District Court docket.

6. On March 20, 2020, the parties met and conferred regarding a briefing schedule before this Court, which included sufficient time for the Commonwealth to amend the Complaint and for the parties to fully brief ExxonMobil's motion to dismiss.

7. Based on those discussions, the parties jointly propose that the Court set the following deadlines: (1) the Commonwealth shall serve an Amended Complaint no later than May 15, 2020; (2) ExxonMobil shall serve any motion to dismiss the Amended Complaint no later than July 15, 2020; (3) the Commonwealth shall serve its Opposition to any motion to dismiss no later than September 15, 2020; and (4) ExxonMobil shall serve its reply in further support of any motion to dismiss and file the Rule 9A Package no later than October 15, 2020. The parties agree that service by email will constitute service under the Rules.

8. The parties agree that these deadlines might need to be further adjusted in light of the significant disruptions and challenges presented by the COVID-19 pandemic and that such adjustments may be directed by the Court or requested by the parties.

9. The parties further agree that ExxonMobil, by filing this joint motion and thereby appearing in this matter under Rules 11(b)(1) and (b)(3), does not waive its right to raise the defenses set forth in Rule 12(h)(1), including lack of personal jurisdiction.

10. The parties believe there is good cause under Rule 6(b) supporting the proposed schedule deadlines and respectfully request the Court to grant the joint motion.

Respectfully Submitted.

EXXON MOBIL CORPORATION,

By its attorneys,

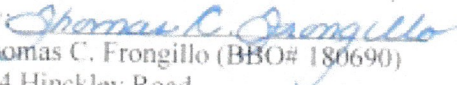
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Date: March 26, 2020

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