

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

EXXON MOBIL CORPORATION,

Defendant.

Service Via E-Mail

Request For Hearing

**DEFENDANT EXXON MOBIL CORPORATION'S MOTION TO COMPEL THE
COMMONWEALTH TO EXPLAIN WHY IT BELIEVES EXXONMOBIL'S
STATEMENTS, ACTS, AND PRACTICES WERE DECEPTIVE**

Pursuant to Mass. R. Civ. P. 45(d) and Superior Court Rule 9A, Defendant Exxon Mobil Corporation ("ExxonMobil") hereby moves for an order compelling the Commonwealth to comply promptly with Interrogatory Nos. 6 and 11 by identifying, for each allegedly deceptive statement, act, and practice, the alleged deceptive omission, and to produce documents responsive to Request for Production ("RFP") Nos. 48-49 and 72. As grounds for this motion, and as set forth in detail in ExxonMobil's Memorandum of Law in Support incorporated herein, ExxonMobil states:

1. In response to ExxonMobil's interrogatories, the Commonwealth has identified approximately 800 statements, acts, and practices that it alleges are deceptive. But the Commonwealth has refused in its response to Interrogatory Nos. 6 and 11 to identify the specific information the Commonwealth contends ExxonMobil was required to provide in order to make those statements, acts, and practices not deceptive. The Commonwealth has also refused to

produce any documents in response to RFP Nos. 48-49 and 72, which seek documents reflecting non-deceptive statements. As set forth in the Memorandum of Law, this information and these documents should be provided because they are all relevant to the Commonwealth's claims and ExxonMobil's defenses. *See* Mass. R. Civ. P. 26(b)(1).

2. Therefore, the Commonwealth should be compelled to (1) respond to Interrogatory Nos. 6 and 11 by identifying the specific information that ExxonMobil allegedly omitted from each allegedly deceptive statement, act, and practice set forth in Exhibit 1, and (2) produce records responsive to RFP Nos. 48-49 and 72.

3. 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 10, which are attached to the Pirozzolo Affidavit.

CONCLUSION

For the foregoing reasons, ExxonMobil respectfully requests that this Court order the Commonwealth to (1) respond to Interrogatory Nos. 6 and 11 by identifying the specific information that ExxonMobil allegedly omitted from each allegedly deceptive statement, act, and practice set forth in Exhibit 1, and (2) produce records responsive to RFP Nos. 48-49 and 72.

REQUEST FOR HEARING

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

Dated: April 26, 2024

Respectfully submitted,

SIDLEY AUSTIN LLP

/s/ Jack W. Pirozzolo

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CERTIFICATION UNDER SUPERIOR COURT RULE 9C

Pursuant to Superior Court Rule 9C, counsel for Defendant Exxon Mobil Corporation (Jeannie S. Rhee, Kyle Smith, and David Kessler) and counsel for Plaintiff the Commonwealth of Massachusetts (Richard Johnston, Seth Schofield, Brian Clappier, and Ezra Geggel) conducted telephonic conferences on December 15, 2023, January 3, 2024, and March 6, 2024, exchanged multiple written communications on these issues, and made a good faith effort to reach agreement on the Commonwealth's responses to ExxonMobil's interrogatories and RFPs.

CERTIFICATE OF SERVICE

I, Jack W. Pirozzolo, counsel for Defendant Exxon Mobil Corporation, hereby certify that on April 26, 2024, I caused a copy of this Exxon Mobil Corporation's Motion to Compel the Commonwealth to Explain Why It Believes ExxonMobil's Statements, Acts, and Practices Were Deceptive to be served on the Massachusetts Office of the Attorney General by e-mail and hand delivery.

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