

NOTIFY

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
Civil No. 19-3333-BLS1

COMMONWEALTH OF MASSACHUSETTS
Plaintiff

vs.

EXXON MOBIL CORPORATION
Defendant

SCHEDULING ORDER

After hearing from the parties at a Rule 16 conference on May 5, 2022, it is hereby ORDERED as follows:

1. Stay Pending Appeal. Discovery shall be stayed until the Supreme Judicial Court issues its decision in Commonwealth v. Exxon Mobil Corporation, SJC-13211 (argued Mar. 9, 2022), provided the Supreme Judicial Court affirms the denial by this Court (Green, J.) of ExxonMobil Corporation's special motion to dismiss under the anti-SLAPP statute.

2. Fact Discovery. Fact discovery shall be completed by July 31, 2024.

a. The parties are encouraged to propound their document requests and interrogatories by September 29, 2023, to avoid delays in discovery. Rolling production of documents is permitted. Responsive documents may be produced as they are kept in the ordinary course of business or organized and labeled to correspond with the categories in the request.

b. All interrogatories seeking the identity of individuals will be considered a single interrogatory.

c. All written discovery (including document requests and interrogatories), notices of deposition, and requests for admission shall be served sufficiently in advance of July

31, 2024, so that responses may be provided and depositions may be scheduled in the time allowed under the rules of civil procedure by July 31, 2024.

d. Each party may take up to thirty (30) fact witness oral depositions, including depositions of third parties, but exclusive of the two depositions the Court allowed under Rule 27(b) by order dated February 8, 2022. Corporate representative witness depositions under Mass. R. Civ. P. 30(b)(6) shall be considered as one deposition. The parties may move for leave to take additional depositions upon a showing of good cause. Depositions under Mass. R. Civ. P. 30(b)(6) and an additional five (5) fact witness oral depositions per party shall not be subject to any presumptive time limit. The remaining fact witness oral depositions shall have a presumptive duration of one day and seven hours, exclusive of breaks. The parties shall agree to additional time for any such deposition if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination.

e. Any party that receives discovery in this case from any third party shall, without awaiting a Rule 34 request, produce said discovery to the other party within two weeks from the time of receipt of said discovery or entry of this order, whichever is later.

3. Disputes Related to Fact Discovery. Any dispute related to fact discovery shall be raised in a timely manner and, if it cannot be resolved by the parties in good faith and warrants judicial involvement, shall be presented to the Court by motion promptly to allow the parties to meet the deadlines set out in paragraph 2 and not otherwise meaningfully delay discovery. Any motion related to a fact discovery dispute that could not have been filed before the completion of fact discovery shall be filed with the Court pursuant to Superior Court Rule 9A no later than August 30, 2024. Extraordinarily good cause will have to be shown for briefing of any non-dispositive motion in excess of the 20-page limit.

4. Experts.

a. Each party's expert disclosures (*i.e.*, qualifications, substance of opinions, and bases for opinions) shall comply, in content and in spirit, with Mass. R. Civ.

P. 26(b)(4)(A)(i). Except for good cause shown, any expert testimony that is not fairly described in the expert's written disclosure will not be admitted at trial. All expert disclosures shall be produced with all documents on which the expert relied, including documents previously produced by the parties. Draft expert reports and/or work papers, and communications between or among experts, their staff, and counsel shall not be subject to discovery. Expert reports will not be automatically deemed confidential, but any party may designate those portions of reports that include information protected under the Confidentiality Stipulation and Protective Order (Docket #73) by following the procedure set forth therein.

b. Expert disclosures shall be made on the following schedule:

i. Plaintiff shall make its expert disclosures by September 27, 2024.

ii. Defendant shall make its expert disclosures by December 20, 2024.

iii. Plaintiff shall make any rebuttal expert disclosures by February 20,

2025. Rebuttal expert disclosures shall be limited to issues raised and opinions presented for the first time in the defendant's expert disclosures.

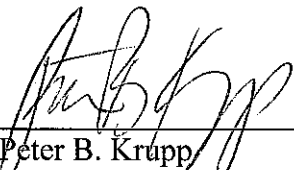
c. Expert depositions shall be completed by April 25, 2025.

5. Further Hearings. To address pending issues, to set a summary judgment briefing schedule, and to adjust the schedule set out herein as may be necessary, the Court shall conduct a status conference at 2 p.m. on June 15, 2023, and on June 14, 2024. If any party believes any other status conference would be useful to the parties, the party may submit a short letter request

for a conference to the Court, identifying three dates for such conference that are workable to all parties.

6. Extensions. Given the age of this case and the considerable amount of time the parties have requested and received to conduct and complete discovery, no party shall expect any extension of the dates set forth herein.

Dated: May 6, 2022



Peter B. Krupp
Justice of the Superior Court