

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

PEDRO RAMIREZ, JR., Individually and  
on Behalf of All Others Similarly  
Situated,

Plaintiff,

v.

EXXON MOBIL CORPORATION, REX W.  
TILLERSON, ANDREW P. SWIGER,  
JEFFREY J. WOODBURY, and DAVID S.  
ROSENTHAL,

Defendants.

Case No. 3:16-cv-3111-K

**DEFENDANTS' REPLY IN FURTHER SUPPORT OF  
THEIR REQUEST FOR AN EVIDENTIARY HEARING ON  
LEAD PLAINTIFF'S MOTION FOR CLASS CERTIFICATION**

Defendants respectfully submit this reply in further support of their request for an evidentiary hearing on Lead Plaintiff's Motion for Class Certification (Dkt. No. 86) (the "Motion"). Plaintiff contends that there is no need for an evidentiary hearing because the parties' experts have been deposed, neither side has filed *Daubert* motions, and the issues in Defendants' Opposition are purportedly inappropriate for consideration at the class certification stage. (Dkt. No. 106.) None of these arguments detracts from the benefits of a hearing that would clarify complex issues of fact (including conflicting expert opinions) and law raised by the parties' written submissions.

*First*, the Motion primarily turns on the parties' proffered expert testimony regarding the existence of price impact as to the alleged misrepresentations and purported corrective disclosures. The parties' experts dispute key, dispositive issues, including: (i) whether a two-day event window is appropriate to analyze price impact as to certain alleged corrective disclosures

(Dkt. No. 102 at 12–14, 21–23); (ii) whether any allegedly corrective information disclosed in the purported corrective disclosures was “new” information that could have affected ExxonMobil’s common stock price (*id.* at 14–23); and (iii) whether the price movements following the January 20, 2016 *Los Angeles Times* article and the January 18, 2017 UBS analyst report were statistically significant. (*Id.* at 12–13.) The parties’ decision to forgo *Daubert* motions is of no moment. Because the Motion before the Court depends in significant part on conflicting expert opinions, Defendants submit that a hearing would assist the Court in assessing the weight to be assigned to those expert opinions.

*Second*, the Motion involves complex legal issues on which the Court would have the benefit of oral argument. These issues include: (i) the burden of proof on the issue of price impact (Dkt. No. 102 at 10–11); (ii) case law on the appropriateness of a two-day event window (*id.* at 22–23); (iii) the effect of the absence of any alleged corrective disclosure about the alleged misrepresentations concerning ExxonMobil’s use of proxy costs of carbon and greenhouse gas costs (*id.* at 23–25); (iv) the need to exclude from the proposed class all alleged corrective disclosures that had no price impact (*id.* at 34); and (v) Plaintiff’s adequacy as a proposed class representative. (*Id.* at 29–32.) As shown in Defendants’ Memorandum of Law in Opposition to Lead Plaintiff’s Motion for Class Certification (Dkt. No. 102), these issues are significant and are properly considered in ruling on this Motion.

Accordingly, Defendants respectfully submit that an evidentiary hearing would be beneficial for the foregoing reasons, and request that the Court schedule a hearing at the earliest convenient time.

Dated: May 14, 2019

/s/ Daniel J. Kramer

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document has been served by electronic CM/ECF filing, on this 14th day of May, 2019.

*/s/ Daniel J. Kramer*

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Daniel J. Kramer