

UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

BEYOND PESTICIDES,

Plaintiff,

v.

EXXON MOBIL CORP.,

Defendant.

Civil Action No. 1:20-cv-  
01815-TJK

**REPLY IN SUPPORT OF EXXONMOBIL'S EMERGENCY MOTION FOR A  
TEMPORARY STAY OF EXECUTION OF THE REMAND ORDER**

Defendant Exxon Mobil Corporation (“ExxonMobil”) writes in response to Plaintiff’s Opposition (ECF No. 16) to ExxonMobil’s Emergency Motion for a Temporary Stay of Execution of the Court’s Remand Order (ECF No. 15).

ExxonMobil’s Emergency Motion seeks limited relief: a *temporary* stay of execution of the remand order until the Court resolves ExxonMobil’s forthcoming motion for a stay pending appeal. As ExxonMobil explained in its Emergency Motion, that temporary stay is sought “so that the parties can brief, and the Court can resolve, the question of whether a longer stay pending appeal is warranted.” Emergency Motion ¶ 5. ExxonMobil is diligently preparing its motion for a stay pending appeal, and, as stated in the Emergency Motion, it will submit that motion no later than April 1, concurrent with when the petition to the D.C. Circuit for leave to appeal is due. Should the Court direct, ExxonMobil will submit its motion earlier than April 1.

Plaintiff’s Opposition skips over ExxonMobil’s argument for temporary relief pending resolution of the forthcoming motion, and jumps straight into a premature response to a forthcoming motion for stay pending appeal that ExxonMobil has not yet had the opportunity to submit.

The Opposition argues that “ExxonMobil makes no indication” of what harm it would suffer if its request for emergency relief is denied. ECF 16 at 4. That is incorrect. If a temporary stay is not entered and the remand order is prematurely transmitted to the Superior Court, the harm is obvious. ExxonMobil would be deprived of an opportunity to persuade this Court that a stay pending appeal is warranted. In the absence of a temporary stay, ExxonMobil will have had no opportunity to present its position on why litigation in the state court should not proceed in parallel with ExxonMobil’s appeal of the remand order—namely, why ExxonMobil is likely to succeed in the appeal, why it would suffer irreparable harm if the local action proceeds while the appeal is pending, why Plaintiff would not be prejudiced by the requested stay, and why the public interest favors a stay. Denying ExxonMobil the opportunity to present its arguments to the Court would unfairly prejudice ExxonMobil, while causing Plaintiff no cognizable deprivation whatsoever, other than the additional week or so that such briefing might require.

The question at this juncture is not whether ExxonMobil or Plaintiff is right about whether a stay pending appeal is warranted. Rather, the question right now is whether the Court should temporarily pause pending proper briefing on that issue. Once ExxonMobil moves the Court for a stay pending appeal, the arguments in Plaintiff’s Opposition brief may ripen. Today, however, they are not germane to the Emergency Motion for a temporary stay, which is purely to allow time for proper briefing on the request for a stay pending appeal.

The Opposition notably does not even mention or attempt to respond to any of the numerous orders from other district courts, cited by ExxonMobil in its Emergency Motion, granting the exact same type of *temporary* relief that ExxonMobil asks for here. Emergency Motion ¶ 5 (citing five such orders). Those numerous persuasive precedents, which also underscore the irreparable harm faced by ExxonMobil here, weigh in favor of temporarily staying

execution of the remand order pending further briefing on and resolution of the forthcoming motion to stay.

Accordingly, ExxonMobil respectfully requests that the Court grant its request for a temporary stay pending resolution of ExxonMobil's forthcoming motion to stay pending appeal. As indicated in the Emergency Motion, and reiterated here, ExxonMobil will submit that motion by April 1, or an earlier date if the Court so directs.

DATED: March 25, 2021

Respectfully submitted,

EXXON MOBIL CORPORATION,

By its attorneys,

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/s/ Theodore V. Wells, Jr.

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**CERTIFICATE OF SERVICE**

I hereby certify that, on March 25, 2021, I caused the foregoing Reply in support of ExxonMobil's Emergency Motion for a Temporary Stay of the Remand Order to be electronically filed using the Court's CM/ECF system, and service was effected electronically pursuant to Local Rule 5.3 to all counsel of record.

/s/ Theodore V. Wells, Jr.  
Theodore V. Wells, Jr. (D.C. Bar No. 468934)