SLIDDEME COLIDT OF THE STATE OF NEW YORK

NYSCEF DOC. NO. 585

INDEX NO. 452044/2018

RECEIVED NYSCEF: 01/28/2020

| COUNTY OF NEW YORK              |  |
|---------------------------------|--|
| In the matter of:               | )  |
| PEOPLE OF THE STATE OF NEW YORK | ) Index No.: 0452044/2018                          |
|                                 | ) SECTION 202.8 (e)(2) ) REQUEST FOR ) ADJOURNMENT |
| Plaintiff,                      | )  |
| <b>v.</b>                       | )  |
| EXXON MOBIL CORPORATION         | )  |
| Defendant.                      | )  |

NOW COME the Proposed Intervenors, Energy Policy Advocates and Robert Schilling, and request adjournment of the Motion for Leave To Appear as Amicus Curiae filed by Matthew Pawa.

In support of their request for adjournment under Section 202.8(e)(2) of the Uniform Civil Rules, the Proposed Intervenors state as follows:

- 1) The cross-motion filed by Mr. Pawa was served on undersigned counsel via email on Saturday January 25, 2020 at 10:10 p.m.
- 2) Mr. Pawa's cross-motion raises several new issues in this matter, to which the Proposed Intervenors wish to respond.
- 3) Because the Cross-Motion is currently returnable to January 29, 2020 at 9:30 a.m., Proposed Intervenors cannot adequately respond to Mr. Pawa's arguments in time.

NEW YORK COUNTY CLERK 01/28/2020 10:01

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4) No party or non-party to this matter objects to an adjournment. Although the parties

were unwilling to sign a stipulation consenting to adjournment, counsel for the Attorney General

has written to counsel for the Proposed Intervenors indicating that "The OAG takes no position

on the timing of your response to Mr. Pawa's cross-motion." Counsel for ExxonMobil responded

that Exxon "takes no position on the timing of a response to the proposed amicus brief." Lastly,

counsel for Mr. Pawa himself wrote to counsel for the Proposed Intervenors to state that

"Matthew Pawa also takes no position on the timing of proposed intervenors' response to our

cross-motion." See Exhibit A.

5) Adjourning the Motion for Leave to Appear as Amicus Curiae until February 7, 2020

at 9:30 a.m. would serve the interests of justice by allowing Proposed Intervenors to respond,

without unduly delaying this matter.

WHEREFORE, the Proposed Intervenors respectfully request that Mr. Pawa's motion be

adjourned until February 7, 2020 at 9:30 a.m.

Dated: January 28, 2020

New York, NY

LAW OFFICE OF FRANCIS MENTON

Attorney for the Petitioners

Francis Menton

85 Broad Street, 28th floor

New York, New York 10004

(212) 627-1796

fmenton@manhattancontrarian.com

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# Exhibit A

Emails from Counsel for the Plaintiff, the Defendant, and the proposed Amicus Curiae stating that they "take no position" on Adjournment

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From: Wesley Kelman wesk@hbsslaw.com

Subject: RE: People v. Exxon Mobil, No. 452044/2018 (Supreme Court NY Co.)

Date: January 27, 2020 at 12:35 PM

To: Berger, Kim Kim.Berger@ag.ny.gov, Matthew Hardin matthewdhardin@gmail.com

Cc: Anderson, Justin janderson@paulweiss.com, Francis Menton fmenton@manhattancontrarian.com, Wallace, Kevin Kevin.Wallace@ag.ny.gov, Dunning, Mary Kay MaryKay.Dunning@ag.ny.gov, Zweig, Jonathan Jonathan.Zweig@ag.ny.gov, Liskow, Samantha Samantha.Liskow@ag.ny.gov, twells@paulweiss.com, dtoal@paulweiss.com, nahmed@paulweiss.com

Matthew Pawa also takes no position on the timing of proposed intervenors' response to our cross-motion.

From: Berger, Kim <Kim.Berger@ag.ny.gov> Sent: Monday, January 27, 2020 11:55 AM

**To:** Matthew Hardin <matthewdhardin@gmail.com>; Wesley Kelman

<wesk@hbsslaw.com>

**Cc:** Anderson, Justin < janderson@paulweiss.com>; Francis Menton

<fmenton@manhattancontrarian.com>; Wallace, Kevin <Kevin.Wallace@ag.ny.gov>;

Dunning, Mary Kay <MaryKay.Dunning@ag.ny.gov>; Zweig, Jonathan

<Jonathan.Zweig@ag.ny.gov>; Liskow, Samantha <Samantha.Liskow@ag.ny.gov>;

twells@paulweiss.com; dtoal@paulweiss.com; nahmed@paulweiss.com

Subject: RE: People v. Exxon Mobil, No. 452044/2018 (Supreme Court NY Co.)

Mr. Hardin,

The OAG takes no position on the timing of your response to Mr. Pawa's cross-motion.

From: Matthew Hardin < matthewdhardin@gmail.com >

**Sent:** Monday, January 27, 2020 11:51 AM **To:** Wesley Kelman <wesk@hbsslaw.com>

Cc: Anderson, Justin < <u>janderson@paulweiss.com</u>>; Francis Menton

<fmenton@manhattancontrarian.com>; Berger, Kim <<u>Kim.Berger@ag.ny.gov</u>>; Wallace,
Kevin <<u>Kevin.Wallace@ag.ny.gov</u>>; Dunning, Mary Kay <<u>MaryKay.Dunning@ag.ny.gov</u>>;

Zweig, Jonathan < Jonathan. Zweig@ag.nv.gov>; Liskow, Samantha

<Samantha.Liskow@ag.ny.gov>; twells@paulweiss.com; dtoal@paulweiss.com;

nahmed@paulweiss.com

Subject: Re: People v. Exxon Mobil, No. 452044/2018 (Supreme Court NY Co.)

### [EXTERNAL]

Counsel:

The Proposed Intervenors intend to file a request for adjournment of Mr. Pawa's Cross-Motion. What we intend to file is attached.

I've asked before regarding your willingness to stipulate and think this adequately represents what was said in reply. If you disagree, or wish for me to draft an adjournment stipulation instead of filing this, please inform ASAP. We intend to file in a few hours if we hear nothing.

Thank you, Matthew Hardin (434) 202-4224 NEW YORK COUNTY CLERK 01/28/2020 10:01

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On Jan 25, 2020, at 10:09 PM, Wesley Kelman < wesk@hbsslaw.com > wrote:

## Dear Counsel:

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I represent Matthew Pawa in this case. I attach a cross-motion for Mr. Pawa to appear as amicus curiae with supporting papers. The supporting papers include a proposed amicus brief opposing the recent motion to intervene by Energy Policy Advocates and Robert Schilling. These are the copies as filed in New York Supreme Court.

Pursuant to my agreement with the proposed intervenors, Exxon, and the OAG, this email constitutes service of these papers. Please let me know if you have any problems opening the files or if you have other questions or concerns. Wes Kelman

Hagens Berman Sobol Shapiro LLP 1280 Centre Street, Suite 230 Newton, MA 02459 Tel. 617 641-9550 wesk@hbsslaw.com

<Notice of cross-motion.pdf><Brief in support of cross-motion.pdf><Kelman affirmation in support of cross-motion.pdf><Exhibit 1 -- Proposed amicus brief in opposition to intervention.pdf>

**IMPORTANT NOTICE:** This e-mail, including any attachments, may be confidential, privileged or otherwise legally protected. It is intended only for the addressee. If you received this e-mail in error or from someone who was not authorized to send it to you, do not disseminate, copy or otherwise use this e-mail or its attachments. Please notify the sender immediately by reply e-mail and delete the e-mail from your system.

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From: Anderson, Justin janderson@paulweiss.com

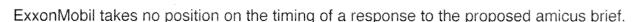
Subject: RE: People v. Exxon Mobil, No. 452044/2018 (Supreme Court NY Co.)

Date: January 25, 2020 at 5:26 PM

To: Wesley Kelman wesk@hbsslaw.com, Matthew D. Hardin MatthewDHardin@protonmail.com, Francis Menton

fmenton@manhattancontrarian.com

Cc: kim.berger@ag.ny.gov



Justin Anderson | Partner Paul, Weiss, Rifkind, Wharton & Garrison LLP 2001 K Street, NW | Washington, DC 20006-1047 +1 202 223 7321 (Direct Phone) | +1 410 591 1737 (Cell) janderson@paulweiss.com | www.paulweiss.com

From: Wesley Kelman <wesk@hbsslaw.com> Sent: Saturday, January 25, 2020 4:56 PM

**To:** Matthew D. Hardin < Matthew DHardin@protonmail.com>; Francis Menton

<fmenton@manhattancontrarian.com>

Cc: kim.berger@ag.ny.gov; Anderson, Justin <janderson@paulweiss.com>
Subject: RE: People v. Exxon Mobil, No. 452044/2018 (Supreme Court NY Co.)

### Dear Mr. Hardin:

Thank you for getting back to me, and thanks also for explaining your position. We will be filing today because of our own deadlines, and at this point (given the weekend and the radio silence) it seems unlikely that both the OAG and Exxon are going to respond to your proposal before we file. So we do not see your request for an extension being resolved by all parties in time for our filing today. Unless you let me know very soon whether your clients consent to (or will not oppose) Pawa's motion to file an amicus brief, which we view as a pretty straightforward request, we will have to file without making any representation as to your position. For what it's worth, my understanding is that the parties' deadline to oppose intervention under the schedule set by your motion is this Monday, and you should have our papers two days before that. So I am having trouble understanding how the amicus brief affects the timing of the existing briefing schedule, which, again, we understand was established on your end. I'm happy to discuss timing issues with you some more, but for now this is how we plan to approach the Court with our amicus motion. Feel free to call my cell (617-921-6165) if you would like to talk, and thank you again for reaching out. Wes

From: Wesley Kelman

Sent: Saturday, January 25, 2020 6:26 AM

**To:** Matthew D. Hardin < <a href="MatthewDHardin@protonmail.com">MatthewDHardin@protonmail.com</a>; Francis Menton

<fmenton@manhattancontrarian.com>

Cc: kim.berger@ag.ny.gov; janderson@paulweiss.com

Subject: RE: People v. Exxon Mobil, No. 452044/2018 (Supreme Court NY Co.)

Thanks to all of you for accepting service on email. We didn't file or serve anything Friday night after all, but I appreciate the quick responses.

Mr. Hardin: I will check with my client on your offer and get back to you.