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**From:** Monica Wagner [Monica.Wagner@ag.ny.gov]  
**Sent:** 4/14/2016 8:01:07 AM  
**To:** Allen Brooks [allen.brooks@doj.nh.gov]; Amy J. Winn [Amy.Winn@doj.ca.gov]; Christopher Courchesne [christophe.courchesne@state.ma.us]; Dennis Ragen [Dennis.Ragen@doj.ca.gov]; Elizabeth Wilkins [elizabeth.wilkins@dc.gov]; Greg Schultz [gSchultz@riag.ri.gov]; Heather Leslie [Heather.Leslie@doj.ca.gov]; James Gignac [JGignac@atg.state.il.us]; Jerry Reid [Jerry.Reid@maine.gov]; John Daniel [jdaniel@oag.state.va.us]; John Oleske [John.Oleske@ag.ny.gov]; Josh Auerbach [jauerbach@oag.state.md.us]; Karen Olson [Karen.Olson@ag.state.mn.us]; Laura Watson [lauraw2@atg.wa.gov]; Lemuel Srolovic [Lemuel.Srolovic@ag.ny.gov]; Leslie Seffern [LeslieS@ATG.WA.GOV]; Linda Singer [lsinger@cohenmilstein.com]; Mandy DeRoche [Mandy.DeRoche@ag.ny.gov]; Matthew Levine [Matthew.Levine@ct.gov]; Melissa Hoffer [Melissa.Hoffer@MassMail.State.MA.US]; Michael J. Myers [Michael.Myers@ag.ny.gov]; Michele Van Gelderen [Michele.VanGelderen@doj.ca.gov]; Patrick Flanagan [Patrick.A.Flanagan@doj.state.or.us]; Paul Garrahan [Paul.Garrahan@doj.state.or.us]; Peter Washburn [Peter.Washburn@ag.ny.gov]; Ralph Durstein [Ralph.Durstein@state.de.us]; Rhodes Ritenour [rritenour@oag.state.va.us]; Robert Snook [Robert.snook@ct.gov]; Sally Magnani [Sally.Magnani@doj.ca.gov]; Scot Kline [scot.kline@vermont.gov]; Tam Ormiston [Tam.Ormiston@iowa.gov]; Tania Maestas [tmaestas@nmag.gov]; Tannis Fox [tfox@nmag.gov]; Tim Nord [Tim.D.Nord@doj.state.or.us]; Wendy Morgan [wendy.morgan@vermont.gov]; William Grantham [wgrantham@nmag.gov]  
**Subject:** Exxon challenge to USVI's subpoena  
**Attachments:** Exxon Complaint USVI.pdf

Sending a Law360 story about Exxon's challenge to the USVI's subpoena and attaching Exxon's complaint.

Monica

Exxon Turns To Texas Court To Block Climate Change Probe

By Stan Parker

Law360, New York (April 13, 2016, 8:27 PM ET) -- ExxonMobil sued the attorney general of the U.S. Virgin Islands and Cohen Milstein Sellers & Toll PLLC in Texas state court Wednesday over a subpoena that came as part of a publicized effort by several state attorneys general to scrutinize the company's knowledge of climate change risks.

The company said the territory's attorney general, Claude Earl Walker, and Cohen Milstein partner Linda Singer violated the company's constitutional rights in sending the subpoena, which requests 40 years' worth of company documents related to greenhouse gas emissions and climate change. The company asked for declaratory judgments that the subpoena was unconstitutional and that its issuance was a common-law abuse of process violation.

"Attorney General Walker and designees Cohen Milstein and Singer, acting in their official capacities, are abusing the power of government to chill and deter ExxonMobil from engaging in public discussions of policy issues related to climate change," ExxonMobil Corp. said.

Exxon said the subpoena arrived by mail a week before a coalition of 20 state attorneys general and former Vice President Al Gore convened for a March 29 press conference led by New York Attorney General Eric Schneiderman.

Walker said during that press conference that his office had launched an investigation, without mentioning Exxon by name, into “a company that we believe must provide us with information about what they knew about climate change and when they knew it.”

“It could be David and Goliath, the Virgin Islands against a huge corporation, but we will not stop until we get to the bottom of this and make it clear to our residents as well as the American people that we have to do something transformational. We cannot continue to rely on fossil fuel,” Walker said.

The subpoena stated Exxon was being investigated for civil violations of the Criminally Influenced and Corrupt Organizations Act, alleging the company misrepresented the effect its products had on climate change in order to defraud the consumers and government of the U.S. Virgin Islands.

Exxon rejected that accusation in its petition on Wednesday, saying that CICO violations must have occurred within the past five years, during which time the company has acknowledged the risks of climate change. The company also said it owns no property and has no employees in the territory.

Exxon also tore into the participation of Cohen Milstein, saying the firm’s track record made it unfit to participate in the investigation.

Exxon said Cohen Milstein received a \$15 million contingency fee from the Virgin Islands for its work in an unrelated case against Hess Oil, and that it believed the firm was likely working on a contingency basis in this case as well.

Exxon referenced another case in which Cohen Milstein represents of a group of Indonesian plaintiffs suing Exxon for human rights abuses, saying that the firm’s involvement in that case and the contingency fee issue raise “substantial doubts about whether that firm should be permitted to serve as the ‘disinterested prosecutor’ whose impartiality is demanded by law and expected by the public.”

“In light of its involvement in this contentious litigation against ExxonMobil, the very target of Attorney General Walker’s investigation, Cohen Milstein cannot be the neutral, disinterested prosecutor required by due process under the United States Constitution and the Texas Constitution,” the company wrote.

Walker, in a Wednesday statement to Law360 provided by Singer, said the First Amendment does not shield Exxon from his office’s fraud investigation.

“My office has a statutory responsibility — and duty — to protect the residents of the Virgin Islands, and bringing in a private law firm to assist in our investigation of this well-resourced corporation is both necessary and entirely proper,” Walker said in the statement.

"Courts have routinely rejected the arguments that ExxonMobil has raised in the press, and I look forward to addressing them in court," he added.

A representative for ExxonMobil declined to comment Wednesday.

ExxonMobil Corp. is represented by Theodore V. Wells, Michele Hirshman, Daniel J. Toal and Justin Anderson of Paul Weiss Rifkind Wharton & Garrison LLP, Ralph H. Duggins, Philip A. Vickers and Alix D. Allison of Cantey Hanger LLP, Nina Cortell of Haynes & Boone LLP, and in-house counsel Patrick J. Conlon and Daniel E. Bolia.

Complete counsel information for the defendants was not available Wednesday.

The case is Exxon Mobil Corp. v. Claude Earl Walker et al., case number 017-284890-16, in the District Court of Tarrant County, Texas.

--Editing by Rebecca Flanagan.

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