

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

PEOPLE OF THE STATE OF NEW YORK, by
LETITA JAMES, Attorney General of the State of
New York,

Plaintiff,

-against-

EXXON MOBIL CORPORATION,

Defendant.

Index No. 452044/2018

IAS Part 61
Hon. Barry R. Ostrager

**VERIFIED AMENDED
ANSWER**

Defendant Exxon Mobil Corporation (“Defendant” or “ExxonMobil”), through its undersigned attorneys, responds to Plaintiff’s Complaint as follows:

Defendant denies all allegations, except as specifically admitted. Any factual averment admitted herein is admitted only as to the specific facts and not as to any conclusion, characterization, implication, innuendo or speculation contained in any averment or in the Complaint as a whole. Headings in the Complaint are not allegations and therefore do not require a response.

1. Defendant denies the allegations in Paragraph 1.
2. Defendant denies the allegations in Paragraph 2, except admits that ExxonMobil applies a proxy cost to model projected energy demand and, where appropriate, also applies a GHG cost when seeking funding for capital investments.
3. Defendant denies the allegations in Paragraph 3.
4. Defendant denies the allegations in Paragraph 4.
5. Defendant denies the allegations in Paragraph 5.
6. Defendant denies the allegations in Paragraph 6.

7. Defendant denies the allegations in Paragraph 7.
8. Defendant denies the allegations in Paragraph 8.
9. Defendant denies the allegations in Paragraph 9.
10. Defendant denies the allegations in Paragraph 10.
11. Defendant denies the allegations in Paragraph 11.
12. Defendant denies the allegations in Paragraph 12, and refers the Court to the 2015 economic forecast referenced by Plaintiff for its contents.
13. Defendant denies the allegations in Paragraph 13.
14. Defendant denies the allegations in Paragraph 14.
15. Defendant denies the allegations in Paragraph 15.
16. Defendant denies the allegations in Paragraph 16.
17. Defendant denies the allegations in Paragraph 17.
18. Defendant denies the allegations in Paragraph 18, and refers the Court to the referenced 2016 Vanguard assessment for its contents.
19. Defendant denies the allegations in Paragraph 19.
20. Defendant denies the allegations in Paragraph 20.
21. The allegations in Paragraph 21 contain Plaintiff's description of its own claims, to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 21.
22. Defendant admits the allegations in Paragraph 22.
23. Defendant denies the allegations in Paragraph 23, except admits that the Attorney General is the chief law enforcement officer of the State of New York.
24. Defendant denies the allegations in Paragraph 24.

25. Defendant admits the allegations in Paragraph 25.
26. Defendant admits the allegations in Paragraph 26.
27. Defendant admits the allegations in Paragraph 27.
28. Defendant denies the allegations in Paragraph 28, except admits that ExxonMobil operates a number of subsidiaries.
29. Defendant denies the allegations in Paragraph 29, except admits that ExxonMobil has an upstream business segment, a downstream business segment, and a chemicals business segment.
30. Defendant admits the allegations in Paragraph 30.
31. Defendant denies the allegations in Paragraph 31.
32. Defendant denies the allegations in Paragraph 32.
33. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 33, except admits that the Earth's climate system has experienced changes due to human activities.
34. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 34, except admits that GHGs can trap heat and energy, and admits that GHG emissions have increased since the start of the industrial era.
35. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35, except admits that increasing GHG emissions may result in adverse global impacts.

36. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 36, and refers the Court to the United Nations Framework Convention on Climate Change for its contents.
37. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 37, and refers the Court to the Paris Agreement for its contents.
38. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 38, and refers the Court to the Paris Agreement for its contents.
39. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 39, and refers the Court to the U.S. Environmental Protection Agency regulations referenced by Plaintiff for their contents.
40. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 40, and refers the Court to the state and municipal regulations and commitments referenced by Plaintiff for their contents.
41. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 41.
42. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 42, and refers the Court to the World Bank report referenced by Plaintiff for its contents.
43. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 43.

44. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 44, and refers the Court to the Alberta and British Columbia carbon tax regimes referenced by Plaintiff for their contents.
45. Defendant denies the allegations in Paragraph 45, except admits that ExxonMobil has investments in Alberta.
46. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 46, and refers the Court to the Specified Gas Emitters Regulation and the Carbon Competitive Incentive Regulation referenced by Plaintiff for their contents.
47. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 47, and refers the Court to the Alberta carbon tax referenced by Plaintiff for its contents.
48. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 48, except admits that some of ExxonMobil's shareholders are long-term investors.
49. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 49, except admits that approximately 54% of ExxonMobil stock is held by institutional investors, and admits that ExxonMobil's top three institutional shareholders are Vanguard, BlackRock, Inc., and State Street Corporation.
50. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 50, except admits that as of June 2018, the New York State Common Retirement Fund held ExxonMobil shares, admits that,

as of June 2018, the New York State Teachers Retirement System held ExxonMobil shares with a value over \$500 million, admits that, as of May 2018, New York City Pension Funds held ExxonMobil shares, and admits that pension funds in others states hold ExxonMobil shares.

51. Defendant denies the allegations in Paragraph 51, and refers the Court to the article referenced by Plaintiff for its contents.
52. Defendant denies the allegations in Paragraph 52, and refers the Court to the statements of ExxonMobil and Mr. Tillerson referenced by Plaintiff for their contents.
53. Defendant denies the allegations in Paragraph 53, and refers the Court to the statements of Vanguard referenced by Plaintiff for their contents.
54. Defendant denies the allegations in Paragraph 54, and refers the Court to the comments of ExxonMobil's Vice President of Corporate Strategic Planning referenced by Plaintiff for their contents.
55. Defendant denies the allegations in Paragraph 55.
56. Defendant denies the allegations in Paragraph 56, and refers the Court to the email referenced by Plaintiff for its contents.
57. Defendant denies the allegations in Paragraph 57, and refers the Court to the statements referenced by Plaintiff for their contents.
58. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 58.
59. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 59.

60. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 60, and refers the Court to the 2014 J.P. Morgan Chase & Co. Environmental and Social Policy Framework and 2017 report by J.P. Morgan Asset Management referenced by Plaintiff for their contents.
61. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 61, and refers the Court to the 2016 Morgan Stanley Smith Barney LLC report referenced by Plaintiff for its contents.
62. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 62, and refers the Court to the 2017 State Street Global Advisors, Inc. document referenced by Plaintiff for its contents.
63. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 63, and refers the Court to the 2013 and 2015 HSBC Global Research reports referenced by Plaintiff for their contents.
64. Defendant denies the allegations in Paragraph 64, and refers the Court to the document referenced by Plaintiff for its contents.
65. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 65, and refers the Court to the 2014 PwC survey referenced by Plaintiff for its contents.
66. Defendant denies the allegations in Paragraph 66, except admits that certain ExxonMobil shareholders have submitted proposals requesting that ExxonMobil take certain actions concerning climate change, and that these proposals are at times included in ExxonMobil's annual proxy statement.

67. Defendant denies the allegations in Paragraph 67, except admits that certain ExxonMobil shareholders have sponsored resolutions requesting that ExxonMobil adopt goals for reducing GHG emissions.
68. Defendant denies the allegations in Paragraph 68, and refers the Court to any referenced shareholder proposals for their contents.
69. Defendant denies the allegations in Paragraph 69, and refers the Court to any referenced shareholder proposals for their contents.
70. Defendant denies the allegations in Paragraph 70, except admits that on January 21, 2014, ExxonMobil wrote to the U.S. Securities and Exchange Commission requesting that ExxonMobil be permitted to exclude from its 2014 proxy statement the Arjuna and Christopher Reynolds Foundation proposals.
71. Defendant denies the allegations in Paragraph 71, except admits that on March 31, 2014, ExxonMobil released a report titled “Energy and Carbon – Managing the Risks” (the “MTR Report”), and that the proponents of the shareholder proposal referenced by Plaintiff withdrew their shareholder proposal when ExxonMobil indicated it would release the MTR Report.
72. Defendant denies the allegations in Paragraph 72, except admits that on March 31, 2014, ExxonMobil released a report titled “Energy and Climate” (the “E&C Report”), and that the proponents of the shareholder proposal referenced by Plaintiff withdrew their shareholder proposal when ExxonMobil indicated it would release the E&C Report.
73. Defendant denies the allegations in Paragraph 73, except admits that in 2016 the New York State Common Retirement Fund and the Church of England co-filed a

proposal that ExxonMobil publish an annual assessment of the long-term impacts of global climate change policies, and that certain shareholders voted in favor of the proposal.

74. Defendant denies the allegations in Paragraph 74, except admits that in 2017 the New York State Common Retirement Fund and the Church of England submitted a proposal that ExxonMobil publish an annual assessment of the long-term impacts of global climate change policies, and that certain shareholders voted in favor of the proposal.
75. Defendant denies the allegations in Paragraph 75.
76. Defendant denies the allegations in Paragraph 76.
77. Defendant denies the allegations in Paragraph 77, except admits that ExxonMobil applies a proxy cost of carbon to model a wide variety of potential policies that might be adopted by governments to help stem GHG emissions in evaluating capital expenditures and developing business plans, and that a proxy cost is used as a proxy for the likely effects of expected future events.
78. Defendant denies the allegations in Paragraph 78, except admits that ExxonMobil applies a proxy cost of carbon to model a wide variety of potential policies that might be adopted by governments to help stem GHG emissions in evaluating capital expenditures and developing business plans, and admits that ExxonMobil has applied a proxy cost of carbon to assess investments since 2007.
79. Defendant denies the allegations in Paragraph 79.
80. Defendant denies the allegations in Paragraph 80.

81. Defendant denies the allegations in Paragraph 81, except admits that ExxonMobil's Outlook for Energy contains ExxonMobil's long-term views of energy supply and demand.
82. Defendant denies the allegations in Paragraph 82, except admits that ExxonMobil prepares the Outlook for Energy report annually, and that the Outlook for Energy report is reviewed with ExxonMobil's CEO and Management Committee.
83. Defendant denies the allegations in Paragraph 83, and refers the Court to ExxonMobil's 2010 and 2012 Outlook for Energy for their contents.
84. Defendant denies the allegations in Paragraph 84, and refers the Court to ExxonMobil's 2013 Outlook for Energy for its contents, and further incorporates, as if set forth in full, the response to the allegations in Paragraph 87.
85. Defendant denies the allegations in Paragraph 85, except admits that on March 31, 2014, ExxonMobil published the MTR Report and the E&C Report, admits that the proponents of the shareholder proposals referenced by Plaintiff withdrew their proposals when ExxonMobil indicated it would release the MTR Report and the E&C Report, and admits that the MTR Report was reviewed by Mr. Tillerson.
86. Defendant denies the allegations in Paragraph 86, and refers the Court to the E&C Report for its contents.
87. Defendant denies the allegations in Paragraph 87, and refers the Court to the E&C Report for its contents.
88. Defendant denies the allegations in Paragraph 88, and refers the Court to the E&C Report for its contents.

89. Defendant denies the allegations in Paragraph 89, and refers the Court to the E&C Report for its contents.
90. Defendant denies the allegations in Paragraph 90, except admits that on March 31, 2014 ExxonMobil published the MTR Report, and refers the Court to the MTR Report for its contents.
91. Defendant denies the allegations in Paragraph 91, and refers the Court to the MTR Report for its contents.
92. Defendant denies the allegations in Paragraph 92, and refers the Court to the MTR Report for its contents.
93. Defendant denies the allegations in Paragraph 93, and refers the Court to the MTR Report for its contents.
94. Defendant denies the allegations in Paragraph 94.
95. Defendant denies the allegations in Paragraph 95.
96. Defendant denies the allegations in Paragraph 96, and refers the Court to ExxonMobil's 2013 Corporate Citizenship Report for its contents.
97. Defendant denies the allegations in Paragraph 97, and refers the Court to the November 2014 article referenced by Plaintiff for its contents.
98. Defendant denies the allegations in Paragraph 98, and refers the Court to ExxonMobil's 2014 CDP response referenced by Plaintiff for its contents.
99. Defendant denies the allegations in Paragraph 99, and refers the Court to the publication entitled ExxonMobil and the carbon tax for its contents.

100. Defendant denies the allegations in Paragraph 100, and refers the Court to the statement published on ExxonMobil's website entitled Meeting Global Needs – Managing Climate Change Business Risks for its contents.
101. Defendant denies the allegations in Paragraph 101, and refers the Court to ExxonMobil's 2016 proxy statement for its contents.
102. Defendant denies the allegations in Paragraph 102, and refers the Court to the statements of Mr. Tillerson at ExxonMobil's 2016 shareholder meeting for their contents.
103. Defendant denies the allegations in Paragraph 103, and refers the Court to the statements of ExxonMobil's Manager of Investor Relations referenced by Plaintiff and ExxonMobil's 2017 proxy statement for their contents.
104. Defendant denies the allegations in Paragraph 104, and refers the Court to ExxonMobil's 2016 letter to the SEC referenced by Plaintiff for its contents.
105. Defendant denies the allegations in Paragraph 105.
106. Defendant denies the allegations in Paragraph 106, and refers the Court to the statements of Mr. Tillerson at a meeting with institutional investors in September 2009 referenced by Plaintiff for their contents.
107. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 107, and refers the Court to the Bloomberg article referenced by Plaintiff for its contents.
108. Defendant denies the allegations in Paragraph 108, except admits that in 2015 and 2016, ExxonMobil held meetings with certain representatives of ExxonMobil's

institutional investors, and refers the Court to the J.P. Morgan notes from one of those meetings referenced by Plaintiff for its contents.

109. Defendant denies the allegations in Paragraph 109, and refers the Court to the September 2015 Bank of America Merrill Lynch presentation referenced by Plaintiff for its contents.
110. Defendant denies the allegations in Paragraph 110, and refers the Court to the statements by ExxonMobil representatives made at the October 2015 meeting referenced by Plaintiff for their contents.
111. Defendant denies the allegations in Paragraph 111, and refers the Court to the statement by ExxonMobil employees referenced by Plaintiff for its contents.
112. Defendant denies the allegations in Paragraph 112, and refers the Court to the Vanguard internal analysis referenced by Plaintiff for its contents.
113. Defendant denies the allegations in Paragraph 113, and refers the Court to the statements by ExxonMobil's Investor Relations and Environmental Planning and Policy staff referenced by Plaintiff for their contents.
114. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 114, and refers the Court to the Wells Fargo report referenced by Plaintiff for its contents.
115. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 115, and refers the Court to the Wells Fargo report referenced by Plaintiff for its contents.
116. Defendant denies the allegations in Paragraph 116, except admits that ExxonMobil held meetings with investors in which climate-related risks were

discussed, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the of the allegations in the second sentence of Paragraph 116.

117. Defendant denies the allegations in Paragraph 117, and refers the Court to the meeting notes referenced by Plaintiff for their contents.
118. Defendant denies the allegations in Paragraph 118.
119. Defendant denies the allegations in Paragraph 119.
120. Defendant denies the allegations in Paragraph 120.
121. Defendant denies the allegations in Paragraph 121.
122. Defendant denies the allegations in Paragraph 122, except admits that ExxonMobil annually issues its internal Corporate Plan, including its accompanying Dataguide Appendices, the latter of which includes greenhouse gas emissions budget and project considerations.
123. Defendant denies the allegations in Paragraph 123.
124. Defendant denies the allegations in Paragraph 124.
125. Defendant denies the allegations in Paragraph 125, and refers the Court to the analysis referenced by Plaintiff for its contents.
126. Defendant denies the allegations in Paragraph 126, and refers the Court to the statement referenced by Plaintiff for its contents.
127. Defendant denies the allegations in Paragraph 127, and refers the Court to the cash flow model referenced by Plaintiff for its contents.
128. Defendant denies the allegations in Paragraph 128, except admits that members of the Management Committee annually review the Outlook for Energy and key

elements of the Corporate Plan and its accompanying Dataguide Appendices, that Mr. Tillerson reviewed and approved the MTR Report, and refers the Court to the ExxonMobil statement referenced by Plaintiff for its contents.”

129. Defendant denies the allegations in Paragraph 129, and refers the Court to the email referenced by Plaintiff for its contents.
130. Defendant denies the allegations in Paragraph 130, and refers the Court to the email referenced by Plaintiff for its contents.
131. Defendant denies the allegations in Paragraph 131, and refers the Court to the speaker notes referenced by Plaintiff for their contents.
132. Defendant denies the allegations in Paragraph 132, and refers the Court to the 2014 Corporate Plan referenced by Plaintiff for its contents.
133. Defendant denies the allegations in Paragraph 133, and refers the Court to the testimony referenced by Plaintiff for its contents.
134. Defendant denies the allegations in Paragraph 134, and refers the Court to the email referenced by Plaintiff for its contents.
135. Defendant denies the allegations in Paragraph 135.
136. Defendant denies the allegations in Paragraph 136.
137. Defendant denies the allegations in Paragraph 137.
138. Defendant denies the allegations in Paragraph 138, and refers the Court to the testimony referenced by Plaintiff for its contents.
139. Defendant denies the allegations in Paragraph 139.
140. Defendant denies the allegations in Paragraph 140.

141. Defendant denies the allegations in Paragraph 141, and refers the Court to the statements referenced by Plaintiff for their contents.
142. Defendant denies the allegations in Paragraph 142.
143. Defendant denies the allegations in Paragraph 143, and refers the Court to the reports referenced by Plaintiff for their contents, and further incorporates, as if set forth in full, the response to the allegations in Paragraph 87.
144. Defendant denies the allegations in Paragraph 144, and refers the Court to the email correspondence referenced by Plaintiff for their contents.
145. Defendant denies the allegations in Paragraph 145.
146. Defendant denies the allegations in Paragraph 146.
147. Defendant denies the allegations in Paragraph 147.
148. Defendant denies the allegations in Paragraph 148.
149. Defendant denies the allegations in Paragraph 149.
150. Defendant denies the allegations in Paragraph 150.
151. Defendant denies the allegations in Paragraph 151, and refers the Court to the statements referenced by Plaintiff for their contents.
152. Defendant denies the allegations in Paragraph 152.
153. Defendant denies the allegations in Paragraph 153.
154. Defendant denies the allegations in Paragraph 154.
155. Defendant denies the allegations in Paragraph 155.
156. Defendant denies the allegations in Paragraph 156.
157. Defendant denies the allegations in Paragraph 157.

158. Defendant denies the allegations in Paragraph 158, and refers the Court to the cash flow models referenced by Plaintiff for their contents.
159. Defendant denies the allegations in Paragraph 159.
160. Defendant denies the allegations in Paragraph 160.
161. Defendant denies the allegations in Paragraph 161.
162. Defendant denies the allegations in Paragraph 162, and refers the Court to the email referenced by Plaintiff for its contents.
163. Defendant denies the allegations in Paragraph 163, and refers the Court to the statement referenced by Plaintiff for its contents.
164. Defendant denies the allegations in Paragraph 164, and refers the Court to the statement referenced by Plaintiff for its contents.
165. Defendant denies the allegations in Paragraph 165, and refers the Court to the cash flow analysis referenced by Plaintiff for its contents.
166. Defendant denies the allegations in Paragraph 166.
167. Defendant denies the allegations in Paragraph 167, except admits that as of February 2016, ExxonMobil's assets in Canada constituted a significant amount of its resource base.
168. Defendant denies the allegations in Paragraph 168, except admits that certain ExxonMobil investors have asked questions about the performance and risk profile of individual investments, and admits that ExxonMobil has presented information about Kearl at its last seven annual analyst meetings.
169. Defendant denies the allegations in Paragraph 169, and refers the Court to the HSBC report referenced by Plaintiff for its contents.

170. Defendant denies the allegations in Paragraph 170.
171. Defendant denies the allegations in Paragraph 171.
172. Defendant denies the allegations in Paragraph 172.
173. Defendant denies the allegations in Paragraph 173.
174. Defendant denies the allegations in Paragraph 174.
175. Defendant denies the allegations in Paragraph 175, except admits that liquefied natural gas projects require energy to convert natural gas to liquid form for purposes of transportation, and refers the Court to the internal ExxonMobil document referenced by Plaintiff for its contents.
176. Defendant denies the allegations in Paragraph 176, and refers the Court to the statement referenced by Plaintiff for its contents.
177. Defendant denies the allegations in Paragraph 177, except admits that ExxonMobil's 2016 Outlook for Energy provided that ExxonMobil assumed that governments would enact policies that impose rising costs on energy-related CO2 emissions, reaching an implied cost in OECD nations of about \$80 per tonne in 2040.
178. Defendant denies the allegations in Paragraph 178, and refers the Court to the statement referenced by Plaintiff for its contents.
179. Defendant denies the allegations in Paragraph 179, and refers the Court to the statement referenced by Plaintiff for its contents.
180. Defendant denies the allegations in Paragraph 180, and refers the Court to the statements referenced by Plaintiff for their contents.

181. Defendant denies the allegations in Paragraph 181, and refers the Court to the internal analyses referenced by Plaintiff for their contents.
182. Defendant denies the allegations in Paragraph 182.
183. Defendant denies the allegations in Paragraph 183.
184. Defendant denies the allegations in Paragraph 184, and further incorporates, as if set forth in full, the response to the allegations in Paragraph 91.
185. Defendant denies the allegations in Paragraph 185.
186. Defendant denies the allegations in Paragraph 186.
187. Defendant denies the allegations in Paragraph 187.
188. Defendant denies the allegations in Paragraph 188, and further incorporates, as if set forth in full, the response to the allegations in Paragraph 246.
189. Defendant denies the allegations in Paragraph 189.
190. Defendant denies the allegations in Paragraph 190.
191. Defendant denies the allegations in Paragraph 191.
192. Defendant denies the allegations in Paragraph 192 because they do not fairly describe the oil and gas industry.
193. Defendant denies the allegations in Paragraph 193 because they do not fairly describe the oil and gas industry, except admits “proved reserves” must satisfy requirements provided by the SEC.
194. Defendant denies the allegations in Paragraph 194, except admits that ExxonMobil defines its resource base as the total remaining estimated quantities of oil and gas that are expected to be ultimately recoverable, which includes

- quantities of oil and gas that are not yet classified as proved reserves under SEC definitions, but that ExxonMobil believes will ultimately be developed.
195. Defendant denies the allegations in Paragraph 195, except admits that its company reserves, which are based on the price bases contained in the Corporate Plan, reflect a separate estimate from its proved reserves.
196. Defendant denies the allegations in Paragraph 196, except admits that on March 23, 2015, ExxonMobil filed a document titled “Financial & Operating Review,” and refers the Court to that document for its contents.
197. Defendant denies the allegations in Paragraph 197.
198. Defendant denies the allegations in Paragraph 198, except admits that, on February 29, 2016, ExxonMobil submitted a letter to the SEC, and refers the Court to that letter for its contents.
199. Defendant denies the allegations in Paragraph 199, and refers the Court to the MTR Report for its contents.
200. Defendant denies the allegations in Paragraph 200.
201. Defendant denies the allegations in Paragraph 201, and refers the Court to the materials referenced by Plaintiff for their contents.
202. Defendant denies the allegations in Paragraph 202, and refers the Court to the E&C Report, the December 2, 2015 publication ExxonMobil and the carbon tax, and the 2016 publication Meeting Global Needs – Managing Climate Change Business Risks for their contents.
203. Defendant denies the allegations in Paragraph 203, and refers the Court to ExxonMobil’s 2016 Energy and Carbon Summary for its contents.

204. Defendant denies the allegations in Paragraph 204, and refers the Court to the Petroleum Resource Management System (“PRMS”) for its contents.
205. Defendant denies the allegations in Paragraph 205.
206. Defendant denies the allegations in Paragraph 206.
207. Defendant denies the allegations in Paragraph 207, and refers the Court to the statement referenced by Plaintiff for its contents.
208. Defendant denies the allegations in Paragraph 208, and refers the Court to the statements referenced by Plaintiff for their contents.
209. Defendant denies the allegations in Paragraph 209, and refers the Court to the internal email referenced by Plaintiff for its contents.
210. Defendant denies the allegations in Paragraph 210, and refers the Court to the presentation and analysis referenced by Plaintiff for their contents.
211. Defendant denies the allegations in Paragraph 211, and refers the Court to the internal meeting invitation referenced by Plaintiff for its contents.
212. Defendant denies the allegations in Paragraph 212.
213. Defendant denies the allegations in Paragraph 213, and refers the Court to the statement and analysis referenced by Plaintiff for their contents.
214. Defendant denies the allegations in Paragraph 214, and refers the Court to the internal review referenced by Plaintiff for its contents.
215. Defendant denies the allegations in Paragraph 215, and refers the Court to the email referenced by Plaintiff for its contents.
216. Defendant denies the allegations in Paragraph 216, and refers the Court to the internal meeting invitation referenced by Plaintiff for its contents.

217. Defendant denies the allegations in Paragraph 217.
218. Defendant denies the allegations in Paragraph 218, and refers the Court to the statements referenced by Plaintiff for their contents.
219. Defendant denies the allegations in Paragraph 219, and refers the Court to the meeting notes referenced by Plaintiff for their contents.
220. Defendant denies the allegations in Paragraph 220.
221. Defendant denies the allegations in Paragraph 221, and refers the Court to the statement by Mr. Tillerson referenced by Plaintiff for its contents.
222. Defendant denies the allegations in Paragraph 222, and refers the Court to the statement by Mr. Tillerson referenced by Plaintiff for its contents.
223. Defendant denies the allegations in Paragraph 223.
224. Defendant denies the allegations in Paragraph 224.
225. Defendant denies the allegations in Paragraph 225.
226. Defendant denies the allegations in Paragraph 226, and refers the Court to Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) 360 and U.S. Generally Accepted Accounting Principles (“GAAP”) for their contents.
227. Defendant denies the allegations in Paragraph 227, and refers the Court to ASC 360 for its contents.
228. Defendant denies the allegations in Paragraph 228, and refers the Court to ASC 360 for its contents.
229. Defendant denies the allegations in Paragraph 229, and refers the Court to ASC 360 for its contents.

230. Defendant denies the allegations in Paragraph 230, and refers the Court to ASC 360 for its contents.
231. Defendant denies the allegations in Paragraph 231, and refers the Court to ASC 360 for its contents.
232. Defendant denies the allegations in Paragraph 232, and refers the Court to ASC 360 for its contents.
233. Defendant admits the allegations in Paragraph 233.
234. Defendant denies the allegations in Paragraph 234, and refers the Court to ExxonMobil's 2015 and 2016 10-Ks for their contents.
235. Defendant denies the allegations in Paragraph 235.
236. Defendant denies the allegations in Paragraph 236.
237. Defendant denies the allegations in Paragraph 237, and refers the Court to the statement of Mr. Tillerson referenced by Plaintiff for its contents.
238. Defendant denies the allegations in Paragraph 238, and refers the Court to the March 2014 email referenced by Plaintiff for its contents.
239. Defendant denies the allegations in Paragraph 239.
240. Defendant denies the allegations in Paragraph 240.
241. Defendant denies the allegations in Paragraph 241, and refers the Court to the testimony referenced by Plaintiff for its contents.
242. Defendant denies the allegations in Paragraph 242.
243. Defendant denies the allegations in Paragraph 243.
244. Defendant denies the allegations in Paragraph 244.

245. Defendant denies the allegations in Paragraph 245, and further incorporates, as if set forth in full, the response to the allegations in Paragraph 184.
246. Defendant denies the allegations in Paragraph 246, and further incorporates, as if set forth in full, the responses to the allegations in Paragraphs 185 to 190.
247. Defendant denies the allegations in Paragraph 247.
248. Defendant denies the allegations in Paragraph 248.
249. Defendant denies the allegations in Paragraph 249.
250. Defendant denies the allegations in Paragraph 250, except admits that ExxonMobil did not take price-related impairments in 2014 and 2015, and refers the Court to the statement by ExxonMobil referenced by Plaintiff for its contents.
251. Defendant denies the allegations in Paragraph 251, and refers the Court to the statements referenced by Plaintiff for their contents.
252. Defendant denies the allegations in Paragraph 252.
253. Defendant denies the allegations in Paragraph 253.
254. Defendant denies the allegations in Paragraph 254.
255. Defendant denies the allegations in Paragraph 255, and refers the Court to the analysis referenced by Plaintiff for its contents.
256. Defendant denies the allegations in Paragraph 256, and refers the Court to the analysis referenced by Plaintiff for its contents.
257. Defendant denies the allegations in Paragraph 257, and refers the Court to the statements of Mr. Tillerson referenced by Plaintiff for their contents.
258. Defendant denies the allegations in Paragraph 258.

259. Defendant denies the allegations in Paragraph 259, and refers the Court to the statements referenced by Plaintiff for their contents.
260. Defendant denies the allegations in Paragraph 260.
261. Defendant denies the allegations in Paragraph 261.
262. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 262.
263. Defendant denies the allegations in Paragraph 263, and refers the Court to the testimony referenced by Plaintiff for its contents.
264. Defendant denies the allegations in Paragraph 264.
265. Defendant denies the allegations in Paragraph 265.
266. Defendant denies the allegations in Paragraph 266, and refers the Court to the Outlook for Energy reports and other public statements referenced by Plaintiff for their contents.
267. Defendant denies the allegations in Paragraph 267, except admits that ExxonMobil's projection of revenues are influenced by the company's expectations as to future oil and gas prices, admits that future climate policies may influence demand for oil and gas and in turn affect oil and gas prices, and refers the Court to the statements of Mr. Tillerson referenced by Plaintiff for their contents.
268. Defendant denies the allegations in Paragraph 268, except admits that ExxonMobil applies a proxy cost of carbon to model a wide variety of potential policies that might be adopted by governments to help stem GHG emissions in evaluating capital expenditures and developing business plans.

269. Defendant denies the allegations in Paragraph 269.
270. Defendant denies the allegations in Paragraph 270.
271. Defendant denies the allegations in Paragraph 271, and refers the Court to the MTR Report for its contents.
272. Defendant denies the allegations in Paragraph 272, and refers the Court to ExxonMobil's 2014, 2015, and 2016 responses to CDP, Exxon's 2015 Corporate Citizenship Report, and ExxonMobil's 2016 proxy statement to shareholders for their contents.
273. Defendant denies the allegations in Paragraph 273, and refers the Court to ExxonMobil's 2013 Outlook for Energy for its contents.
274. Defendant denies the allegations in Paragraph 274, and refers the Court to the statement referenced by Plaintiff for its contents, and further incorporates, as if set forth in full, the response to the allegations in Paragraph 186.
275. Defendant denies the allegations in Paragraph 275, except admits that the transportation sector is one sector of ExxonMobil's overall business, and refers the Court to ExxonMobil's 2017 Form 10-K for its contents.
276. Defendant denies the allegations in Paragraph 276.
277. Defendant denies the allegations in Paragraph 277.
278. Defendant denies the allegations in Paragraph 278.
279. Defendant denies the allegations in Paragraph 279, and refers the Court to the 2013 memorandum referenced by Plaintiff for its contents.
280. Defendant denies the allegations in Paragraph 280, and refers the Court to the memorandum referenced by Plaintiff for its contents.

281. Defendant denies the allegations in Paragraph 281.
282. Defendant denies the allegations in Paragraph 282.
283. Defendant denies the allegations in Paragraph 283, and refers the Court to ExxonMobil's 2014 and 2015 Corporate Plans for their contents.
284. Defendant denies the allegations in Paragraph 284.
285. Defendant denies the allegations in Paragraph 285.
286. Defendant denies the allegations in Paragraph 286, and refers the Court to the MTR Report for its contents.
287. Defendant denies the allegations in Paragraph 287.
288. Defendant denies the allegations in Paragraph 288, and refers the Court to the analysis in the MTR Report referenced by Plaintiff for its contents.
289. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 289, and refers the Court to the report published by the Intergovernmental Panel on Climate Change referenced by Plaintiff for its contents.
290. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 290, and refers the Court to the November 2011 report published by the Carbon Tracker Initiative and the report by the International Energy Agency referenced by Plaintiff for their contents.
291. Defendant denies the allegations in Paragraph 291, and refers the Court to the 2014 shareholder resolution and the MTR Report for their contents.
292. Defendant denies the allegations in Paragraph 292.

293. Defendant denies the allegations in Paragraph 293, and refers the Court to the MTR Report for its contents.
294. Defendant denies the allegations in Paragraph 294, and refers the Court to the MTR Report for its contents.
295. Defendant denies the allegations in Paragraph 295, and refers the Court to the MTR Report for its contents.
296. Defendant denies the allegations in Paragraph 296, and refers the Court to the MTR Report for its contents.
297. Defendant denies the allegations in Paragraph 297, and refers the Court to the MTR Report for its contents.
298. Defendant denies the allegations in Paragraph 298.
299. Defendant denies the allegations in Paragraph 299, and refers the Court to three climate models referenced by Plaintiff for their contents.
300. Defendant denies the allegations in Paragraph 300.
301. Defendant denies the allegations in Paragraph 301, and refers the Court to the statement referenced by Plaintiff for its contents.
302. Defendant denies the allegations in Paragraph 302.
303. Defendant denies the allegations in Paragraph 303, and refers the Court to the statements of the MIT economist referenced by Plaintiff for their contents.
304. Defendant denies the allegations in Paragraph 304.
305. Defendant denies the allegations in Paragraph 305, and refers the Court to the talking points referenced by Plaintiff for their contents.

306. Defendant denies the allegations in Paragraph 306, and refers the Court to the 2016 Vanguard analysis referenced by Plaintiff for its contents.
307. Defendant denies the allegations in Paragraph 307, and refers the Court to the 2016 Vanguard analysis referenced by Plaintiff for its contents.
308. Defendant denies the allegations in Paragraph 308.
309. Defendant denies the allegations in Paragraph 309.
310. Defendant denies the allegations in Paragraph 310.
311. Defendant denies the allegations in Paragraph 311.
312. Defendant denies the allegations in Paragraph 312.
313. Defendant denies the allegations in Paragraph 313.
314. Defendant denies the allegations in Paragraph 314.
315. Defendant incorporates, as if set forth in full, the responses to the allegations in the paragraphs above.
316. Defendant denies the allegations in Paragraph 316.
317. Defendant incorporates, as if set forth in full, the responses to the allegations in the paragraphs above.
318. Defendant denies the allegations in Paragraph 318.
319. Defendant denies the allegations in Paragraph 319.
320. Defendant incorporates, as if set forth in full, the responses to the allegations in the paragraphs above.
321. Defendant denies the allegations in Paragraph 321.
322. Defendant denies the allegations in Paragraph 322.
323. Defendant denies the allegations in Paragraph 323.

- 324. Defendant denies the allegations in Paragraph 324.
- 325. Defendant denies the allegations in Paragraph 325.
- 326. Defendant incorporates, as if set forth in full, the responses to the allegations in the paragraphs above.
- 327. Defendant denies the allegations in Paragraph 327.
- 328. Defendant denies the allegations in Paragraph 328.
- 329. Defendant denies the allegations in Paragraph 329.

Defendant denies any remaining allegations contained in the Complaint, including any allegations or claims for relief set forth in the preamble, prayer for relief, unnumbered headings or titles, appendices or exhibits, which are not otherwise expressly and specifically admitted heretofore in this Verified Amended Answer as being true.

SEPARATE DEFENSES

Without assuming any burden of proof it would not otherwise bear, Defendant asserts the following defenses. By listing a defense here, Defendant in no way concedes that it bears the burden of proving any fact, issue, or element of a cause of action (or any burden) where such burden properly belongs to Plaintiff. Defendant reserves the right to assert further defenses as the case proceeds.

First Defense

1. The Complaint fails to state a claim against Defendant upon which relief can be granted.

Second Defense

2. The claims purportedly asserted by Plaintiff are barred, in whole or in part, because this Court lacks personal jurisdiction over Defendant.

Third Defense

3. The claims purportedly asserted by Plaintiff are barred, in whole or in part, by the applicable statutes of limitation and/or statutes of repose.

Fourth Defense

4. The claims purportedly asserted by Plaintiff are barred, in whole or in part, by the doctrine of laches.

Fifth Defense

5. The claims purportedly asserted by Plaintiff are barred, in whole or in part, by the doctrines of waiver and estoppel.

Sixth Defense

6. The claims purportedly asserted by Plaintiff are barred, in whole or in part, by the doctrine of assumption of risk.

Seventh Defense

7. The claims purportedly asserted by Plaintiff are barred, in whole or in part, because Defendant's statements were accurate in all material respects, and did not contain misrepresentations or omissions.

Eighth Defense

8. The claims purportedly asserted by Plaintiff are barred, in whole or in part, because any alleged false or misleading statements or omissions were not material.

Ninth Defense

9. The claims purportedly asserted by Plaintiff are barred, in whole or in part, because Defendant neither had a duty nor breached a duty to disclose any facts allegedly not disclosed.

Tenth Defense

10. The claims purportedly asserted by Plaintiff are barred, in whole or in part, because some or all of the information that Plaintiff alleges was misrepresented or omitted was publicly available.

Eleventh Defense

11. The claims purportedly asserted by Plaintiff are barred, in whole or in part, because Defendant did not participate in the alleged fraudulent conduct for which Plaintiff seeks relief; did not employ any device, scheme, or artifice to defraud; and did not engage in any act, practice, or course of business which operates or would operate as fraud or deceit on any person.

Twelfth Defense

12. The claims purportedly asserted by Plaintiff are barred, in whole or in part, because Defendant acted at all times in good faith and had no knowledge, and was not reckless in not knowing, that any alleged misstatement or omission was false or misleading.

Thirteenth Defense

13. The claims purportedly asserted by Plaintiff are barred, in whole or in part, because Plaintiff cannot establish reliance on any statement, omission, or act by Defendant.

Fourteenth Defense

14. The claims purportedly asserted by Plaintiff are barred, in whole or in part, because Plaintiff cannot establish justifiable reliance on any statement, omission, or act by Defendant.

Fifteenth Defense

15. The claims purportedly asserted by Plaintiff are barred, in whole or in part, because Plaintiff cannot establish any legally cognizable damages.

Sixteenth Defense

16. The claims purportedly asserted by Plaintiff are barred, in whole or in part, by failure to mitigate damages.

Seventeenth Defense

17. The claims purportedly asserted by Plaintiff are barred, in whole or in part, because any alleged losses were the result of intervening causes not under Defendant's control.

Eighteenth Defense

18. The claims purportedly asserted by Plaintiff are barred, in whole or in part, because Defendant's conduct did not actually or proximately cause any damages.

Nineteenth Defense

19. The claims purportedly asserted by Plaintiff are barred, in whole or in part, because the alleged damages, if any, are speculative and because of the impossibility of the ascertainment and allocation of the alleged damages.

Twentieth Defense

20. The purported damages, if any, allegedly sustained were proximately caused or contributed to, in whole or in part, by market conditions and/or the conduct of others, or both, rather than any conduct of Defendant.

Twenty-First Defense

21. The Complaint fails to allege facts sufficient to support any granting of injunctive relief.

Twenty-Second Defense

22. The Complaint fails to allege facts sufficient to support any granting of disgorgement.

Twenty-Third Defense

23. The Complaint fails to allege facts sufficient to support any granting of restitution.

Twenty-Fourth Defense

24. Plaintiff is not entitled to recover attorney's fees, experts' fees, or other costs and expenses.

Twenty-Fifth Defense

25. Plaintiff is not entitled to its requested amount, or rate, of pre-judgment interest.

Twenty-Sixth Defense

26. Plaintiff's claims for damages and restitution are barred, in whole or in part, because the relief sought can be pursued through private litigation.

Twenty-Seventh Defense

27. The relief sought by Plaintiff is barred by the Excessive Fines Clause of the Eighth Amendment of the United States Constitution, as applied to the States through the Fourteenth Amendment to the United States Constitution.

Twenty-Eighth Defense

28. The relief sought by Plaintiff is barred by the Excessive Fines Clause of the Constitution of the State of New York.

Twenty-Ninth Defense

29. The claims purportedly asserted by Plaintiff are barred, in whole or in part, due to conflict of interest in violation of the Due Process Clause of the Fourteenth Amendment of the United States Constitution and other clauses of the United States and New York State Constitutions.

NYAG and Special Interests Colluded to Suppress ExxonMobil's Speech

30. The New York Attorney General ("NYAG") has colluded for years with private, special interests to use government power to coerce acceptance of their climate policy agenda.
31. A group of special interests developed their strategy for this unlawful agenda at a June 2012 meeting in La Jolla, California, billed as a "Workshop on Climate Accountability, Public Opinion, and Legal Strategies." Peter Frumhoff, the

Director of Science and Policy for the Union of Concerned Scientists, and Naomi Oreskes, a professor of the History of Science and an affiliated professor of Earth and Planetary Sciences at Harvard University and longtime critic of ExxonMobil, conceived of this workshop. (Ex. 1 at 2, 35.) Frumhoff and Oreskes also recruited Matthew Pawa, a litigator who unsuccessfully sued ExxonMobil in 2009 for allegedly causing global warming, to participate as a featured speaker. (*Id.* at 35.) The workshop's aim was to consider "the viability of diverse strategies, including the legal merits of targeting carbon producers (as opposed to carbon emitters) for U.S.-focused climate mitigation." (*Id.* at 31.)

32. In keeping with the workshop's stated focus on "public opinion," the La Jolla attendees discussed strategies for silencing the speech of energy companies considered obstructive to their climate change policy aims. (Ex. 1.) The conference's attendees were "nearly unanimous" regarding "the importance of legal actions, both in wresting potentially useful internal documents from the fossil fuel industry and, more broadly, in maintaining pressure on the industry that could eventually lead to its support for legislative and regulatory responses to global warming." (*Id.* at 27.) Many participants noted that "pressure from the courts offers the best current hope for gaining the energy industry's cooperation in converting to renewable energy." (*Id.* at 27–28.) Recognizing the broad power of state attorneys general, the La Jolla participants observed that even "a single sympathetic state attorney general might have substantial success in bringing key internal documents to light." (*Id.* at 11.)

33. The La Jolla meeting participants also discussed “Strategies to Win Access to Internal Documents” of energy companies, such as ExxonMobil, that could be used to obtain leverage over these companies. (Ex. 1 at 11.) They saw civil litigation as a vehicle for accomplishing their goals, with one commentator observing: “Even if your ultimate goal might be to shut down a company, you still might be wise to start out by asking for compensation for injured parties.” (*Id.* at 13.)
34. NYAG began covertly working with those special interests shortly after the La Jolla meeting. In or around June 2015, Professor Oreskes met with NYAG to discuss the purported “history of misinformation” she attributed to ExxonMobil.¹ And in July 2015, Frumhoff boasted to fellow activists that he was exploring “state-based approaches to holding fossil fuel companies legally accountable” and anticipated “a strong basis for encouraging state (e.g., AG) action forward.”²
35. Pawa also emailed NYAG numerous times in the hope of finding a “sympathetic state attorney general” who could use state power to obtain documents from, and put pressure on, fossil fuel companies such as ExxonMobil, just as he advocated at La Jolla. (Ex. 1 at 11.) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] (Ex. 8 at 2–3.) [REDACTED]

¹ Katie Brown, *Activists Admit at Friendly Forum They’ve Been Working with NY AG on Climate RICO Campaign for Over a Year*, Energy in Depth (June 24, 2016), <https://eidclimate.org/activists-admit-at-friendly-forum-theyve-been-working-with-ny-ag-on-climate-rico-campaign-for-over-a-year/>.

² Michael Bastasch, *Emails: Eco-Activists Plotted Oil Industry Lawsuits Before Anti-Exxon Stories*, The Daily Caller (May 16, 2016), <https://dailycaller.com/2016/05/16/emails-eco-activists-plotted-oil-industry-lawsuits-before-anti-exxon-stories-released/>.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (Ex. 9 at 1.)

36. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (Ex. 10 at 1.) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (Ex. 11 at 1.)

37. The Rockefeller Family Fund also contacted then-New York Attorney General Eric Schneiderman before NYAG commenced its investigation of ExxonMobil to express “concern” about ExxonMobil’s statements on climate change, and was “encouraged by Schneiderman’s interest” in the matter.³ NYAG and the Rockefeller Family Fund exchanged at least a dozen emails concerning the “activities of specific companies regarding climate change.” (Ex. 16 at 2–7.)

38. In January 2016, the Rockefeller Family Fund hosted a sequel to the La Jolla conference at its offices in New York City, which was attended by La Jolla participants Pawa and Sharon Eubanks. (Ex. 15 at 1.) The purpose of the meeting was to further solidify the “[g]oals of an Exxon campaign.” (*Id.*)

³ Katie Brown, *The Rockefellers and Pay-To-Play Journalism*, Energy in Depth (Dec. 7, 2016), <https://eidclimate.org/pay-to-play-journalism/>.

According to the meeting’s agenda, those goals included: (i) “[t]o drive divestment from Exxon,” (ii) “[t]o delegitimize [ExxonMobil] as a political actor,” (iii) “[t]o establish in [the] public’s mind that Exxon is a corrupt institution that has pushed humanity (and all creation) toward climate chaos and grave harm,” and (iv) “[t]o force officials to disassociate themselves from Exxon, their money, and their historic opposition to climate progress, for example by refusing campaign donations, refusing to take meetings, calling for a price on carbon, etc.” (Ex. 2 at 1.) The attendees considered “AGs” as one of the “the main avenues for legal actions & related campaigns” for “creating scandal” and “getting discovery.” (*Id.* at 1–2.)

39. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (See Ex. 12.) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (*Id.* at 1.) [REDACTED]

[REDACTED] (*Id.*) [REDACTED]

[REDACTED] (*Id.*)

**NYAG Used State Power Against ExxonMobil for
Allegedly Being a “Climate Change Denier”**

40. NYAG’s participation in this campaign against ExxonMobil was not publicly revealed until March 29, 2016, when Attorney General Schneiderman hosted a press conference with a collection of state attorneys general—self-styled the “AGs United for Clean Power.” (*See* Ex. 3.)
41. At the press conference, NYAG promoted “clean power” from renewable sources as the only legitimate response to climate change. (Ex. 3 at 19–20.) Attorney General Schneiderman insisted: “We have to change conduct” to “mov[e] more rapidly towards renewables.” (*Id.*) He denounced the “highly aggressive and morally vacant forces that are trying to block every step by the federal government to take meaningful action,” and asserted that “today, we’re sending a message that, at least some of us—actually a lot of us—in state government are prepared to step into this battle with an unprecedented level of commitment and coordination.” (*Id.* at 4.) Vowing “to step into th[e] [legislative] breach” and unleash his law enforcement powers against perceived enemies, Attorney General Schneiderman declared that there could be “no dispute” about his climate policy proposals, only “confusion” and “misperceptions in the eyes of the American public” “sowed by those with an interest in profiting from the [so-called] confusion” “that really need to be cleared up.” (*Id.* at 2–4.)
42. Attorney General Schneiderman boasted that his office already “had served a subpoena on ExxonMobil,” and declared presumptively that ExxonMobil has engaged in unlawful conduct, even though he had not yet completed his fact gathering. (Ex. 3 at 3.) He faulted ExxonMobil for “know[ing] how fast the ice

sheets are receding,” while supposedly simultaneously telling “the public for years there were ‘no competent models.’” (*Id.* at 3.) He later reported to *The New York Times* that there “may be massive securities fraud” at ExxonMobil based on its estimation of proved reserves and the valuation of its assets.⁴

43. After the press conference, NYAG endeavored to conceal the involvement of the La Jolla architects who were lurking in the background. Mere hours before the March 2016 press conference, Pawa and Frumhoff led secret workshops for assembled members of the attorneys general’s offices. (*See* Ex. 7.) While the contents of the activists’ presentations remain shielded from public scrutiny, publicly disclosed documents reveal that Pawa delivered a presentation on “climate change litigation,” and Frumhoff delivered a presentation on the “imperative of taking action now on climate change.” (*Id.* at 2.) When a reporter contacted Pawa shortly after the press conference to inquire about his role, Pawa reached out to the Chief of the Environmental Protection Bureau at the New York Attorney General’s Office. (Ex. 4 at 1.) The NYAG official told Pawa: “My ask is if you speak to the reporter, to not confirm that you attended or otherwise discuss the event.” (*Id.*)
44. Following the press conference, the deputy chief of the Environmental Protection Bureau signed a “Climate Change Coalition Common Interest Agreement,” designed to shield “information shared at and after the March 29 meeting.” (Ex. 5 at 1.) That agreement memorialized the coalition’s “common interest” of

⁴ John Schwartz, *Exxon Mobil Fraud Inquiry Said to Focus More on Future Than Past*, N.Y. Times (Aug. 19, 2016), <https://www.nytimes.com/2016/08/20/science/exxon-mobil-fraud-inquiry-said-to-focus-more-on-future-than-past.html>.

“limiting climate change” and “ensuring the dissemination of *accurate* information about climate change.” (*Id.* at 1 (emphasis added).) In this litigation, NYAG has invoked the common interest privilege to withhold documents. (Ex. 14 at 5.)

45. NYAG also refused to produce records concerning the coalition’s activities in response to a public record request. That resulted in a firm judicial rebuke from the New York Supreme Court, which awarded attorney fees and costs because NYAG “lacked a reasonable basis” for its refusal.⁵
46. NYAG’s subpoena likewise demonstrated its intent to cleanse the climate policy debate of disfavored viewpoints. For example, the subpoena also demanded ExxonMobil’s communications with trade associations and industry groups that promote oil and gas, such as the American Petroleum Institute, but not groups that support alternative fuels or advocate for policies favored by the Attorney General. (Ex. 20 at 8.) In the 2017 movie *An Inconvenient Sequel*, Attorney General Schneiderman repeatedly targeted these same industry groups for their purported “propaganda” which had allegedly “cripple[d]” “mankind’s ability [] to respond to” climate change. (Ex. 13 at 1.) These sentiments echoed those made by NYAG within a week of issuing the subpoena, when Attorney General Schneiderman appeared on a *PBS NewsHour* segment, entitled “Has Exxon Mobil misled the public about its climate change research?” During that appearance, he stated the investigation extended to ExxonMobil’s “funding [of] organizations,” including American Enterprise Institute, the American Legislative Exchange

⁵ *Competitive Enter. Inst. v. Attorney General of N.Y.*, 53 Misc. 1216(A) (Sup. Ct., Albany Cty., Nov. 21, 2016).

Council, and the American Petroleum Institute.⁶ Attorney General Schneiderman made plain his intent to target such groups based on their positions on climate change, deriding them as “climate change deniers” and “climate denial organizations.”⁷

47. The subpoena also targeted ExxonMobil’s speech and associational activities, including its speech on climate policy in investor filings, the “*Outlook For Energy* reports,” the “*Energy Trends, Greenhouse Gas Emissions, and Alternative Energy* reports,” and the “*Energy and Carbon - Managing the Risks* Report.” (Ex. 20 at 8.)
48. On October 24, 2018, NYAG filed this civil enforcement action.

**NYAG solicited and Received Financial Benefits
from Pursuing Perceived Opponents of “Clean Energy”**

49. Public records indicate that special interests have sought to influence NYAG through financial donations. For example, in March 2016, Attorney General Schneiderman allegedly tried to arrange a meeting with Tom Steyer, a California billionaire and environmental activist.⁸ According to an internal record obtained from Steyer by the *New York Post*, this communication reads, “Eric Schneiderman would like to have a call with Tom regarding support for his race for governor . . . regarding Exxon case.”⁹ Attorney General Schneiderman and Steyer also exchanged emails just days after Schneiderman issued a subpoena to

⁶ *Has Exxon Mobil Misled the Public About Its Climate Change Research?*, PBS NewsHour (Nov. 10, 2015), <https://www.pbs.org/newshour/show/exxon>.

⁷ *Id.*

⁸ Isabel Vincent, *Schneiderman Tried to Contact Eco-Tycoon Amid Exxon Probe*, N.Y. Post (Sept. 11, 2016), <https://nypost.com/2016/09/11/schneiderman-tried-to-contact-eco-tycoon-amid-exxon-probe/>.

⁹ *Id.*

ExxonMobil, when Steyer's scheduler emailed NYAG in order to "[f]ollow[] up on conversation re: company specific climate change information."¹⁰

50. To this day, NYAG continues to allow special interests to provide financial benefits to the office to support a climate agenda. In August 2017, New York University ("NYU") launched the State Energy and Environmental Impact Center (the "Center"), after receiving a \$6 million donation from Bloomberg Philanthropies.¹¹ According to its website, the Center seeks to influence state attorneys general to "defend[] and promot[e] clean energy, climate and environmental laws and policies" and to assist them with this political mission.¹² The Center recruits and funds lawyer "fellows," who are staffed in the offices of attorneys general.¹³ Participating attorneys general accept these "fellows," who they agree to use only for preferred agenda selected by the Center and its donors.¹⁴
51. In January 2018, NYAG accepted two fellows from the Center and entered into a secondment agreement with NYU governing their arrangement. (Ex. 6 at 1.) The agreement requires NYAG to (i) assign the fellows to work "on matters relating to clean energy, climate change, and environmental matters of regional and national importance," (ii) provide reports to the Center regarding the fellows and their

¹⁰ Katie Brown, *After Even Deeper Collusion with Schneiderman Revealed, #ExxonKnew Campaign Tries to Change the Subject*, Energy in Depth (Mar. 14, 2017), <https://eidclimate.org/after-even-deeper-collusion-with-schneiderman-revealed-exxonknew-campaign-tries-to-change-the-subject/>.

¹¹ Thomas Kassahun, *DOJ Urges Appeals Court to Throw Out NYC's Global Warming Lawsuit*, Legal NewsLine (Mar. 15, 2019), <https://legalnewsline.com/stories/512294396-doj-urges-appeals-court-to-throw-out-nyc-s-global-warming-lawsuit>.

¹² NYU School of Law: State & Energy Environmental Impact Center, <https://www.law.nyu.edu/centers/state-impact> (last visited Mar. 25, 2019).

¹³ NYU School of Law: State & Energy Environmental Impact Center, *NYU Law Fellow Program*, <https://www.law.nyu.edu/centers/state-impact/fellows-program> (last visited Mar. 25, 2019).

¹⁴ *Id.*

work, and (iii) collaborate with the Center on public announcements relating to the fellows' work. (Ex. 17 at 5, 7.) The Center is permitted to terminate its secondment agreement with NYAG if it does not provide the required reports to the Center or does not assign the fellows to work on matters consistent with the Center's agenda. (*Id.* at 5.) At least one of the two fellows that are currently placed in the NYAG's office has worked on the investigation that purportedly led to this enforcement action against ExxonMobil, and the other fellow signed an amicus brief opposing ExxonMobil in an action filed by New York City against various energy companies.¹⁵

52. The fellows program creates a financial incentive for NYAG to pursue and prioritize investigations and enforcement actions in line with the Center's agenda. (Ex. 17 at 5.) The Center can also reward NYAG with renewal or expansion of its participation in the fellows program if the Center is pleased with NYAG's performance.
53. NYAG's decision to allow at least one of the fellows to work on this matter creates an additional conflict of interest and appearance of impropriety in violation of the Due Process Clause.
54. NYAG has otherwise injected a personal interest, political, financial, or otherwise into its prosecutorial decisions.

¹⁵ See, e.g., Motion by the States of New York, California, New Jersey and Washington for Leave to File an Amicus Curiae Brief in Support of Plaintiff's Opposition to Motion to Dismiss at 4, *City of New York v. BP P.L.C.*, No. 18-cv-182-JFK (S.D.N.Y. June 11, 2018), ECF No. 141; Amicus Curiae Brief of the States of New York, California, New Jersey and Washington in Support of Plaintiff's Opposition to Motion to Dismiss at 14, *City of New York v. BP P.L.C.*, No. 18-cv-182-JFK (S.D.N.Y. June 11, 2018), ECF No. 141-1.

Thirtieth Defense

55. The claims purportedly asserted by Plaintiff, are barred, in whole or in part, due to selective enforcement of the law in violation of the Due Process Clause and Equal Protection Clause of the Fourteenth Amendment of the United States Constitution and other clauses of the United States and New York State Constitutions.
56. ExxonMobil incorporates by reference each and every allegation contained in paragraphs 30–54, as though set forth herein in full.
57. NYAG has selectively treated ExxonMobil differently from others who are similarly situated because NYAG seeks to inhibit ExxonMobil’s exercise of its constitutional rights.
58. NYAG has selectively treated ExxonMobil differently from others who are similarly situated because of NYAG’s malicious and bad faith intent to injure ExxonMobil.
59. NYAG has singled out a subset of messages related to climate policy for disfavor based on disagreement with the particular views expressed or with the effects those viewpoints have on the public’s perception of climate policy.

Thirty-First Defense

60. The claims purportedly asserted by Plaintiff violate Article I, Section 8, Clause 3 of the United States Constitution (*i.e.*, the Commerce Clause).

Thirty-Second Defense

61. The claims purportedly asserted by Plaintiff are preempted, in whole or in part, by federal laws and regulations.

Thirty-Third Defense

62. The claims purportedly asserted by Plaintiff are barred to the extent they concern conduct beyond the territorial reach of the Martin Act or New York Executive Law § 63(12).

Thirty-Fourth Defense

63. The claims purportedly asserted by Plaintiff are barred, in whole or in part, due to official misconduct in violation of the Due Process Clause of the Fourteenth Amendment of the United States Constitution and of the Constitution of the State of New York, and other clauses of the United States and New York State Constitutions.
64. ExxonMobil incorporates by reference each and every allegation contained in paragraphs 30–54, as though set forth herein in full.
65. NYAG has used improper methods in its investigation and enforcement action, colluding with special interests focused on delegitimizing ExxonMobil as a political actor.
66. Recognizing the impropriety of its conduct, NYAG has attempted to conceal its relationship with these special interests and other similarly motivated attorneys general.
67. NYAG has also made—and continues to make—prejudicial public statements about ExxonMobil by presumptively declaring that ExxonMobil has participated in unlawful conduct.
68. On the day NYAG filed its complaint, before ExxonMobil had an opportunity to mount a defense, NYAG tweeted that it had “uncovered 97 pages worth of wrongdoing” at the company, (Ex. 18), and that, contrary to public statements,

“Exxon often did no[t]” “factor[] in the risk of increasing climate change regulation into its business decisions,” (Ex. 19).

69. NYAG’s statements at the Green 20 press conference and elsewhere also make clear that it is impermissibly biased against ExxonMobil.

Thirty-Fifth Defense

70. Additional facts that are currently unknown to Defendant may be revealed through the course of discovery and further investigation that will support additional defenses. Defendant reserves the right to assert such additional defenses in the future.

RESERVATION OF RIGHTS

Defendant expressly reserves the right to amend and/or supplement this Verified Amended Answer, its defenses, and all other pleadings. Defendant asserts all defenses (affirmative or otherwise) that may be revealed during the course of discovery or other investigation.

PRAYER FOR RELIEF

WHEREFORE, Defendant respectfully requests that judgment be entered in its favor and against Plaintiff dismissing the Complaint with prejudice, with costs, disbursements and attorneys' fees to Defendant, and such other legal and equitable relief as the Court may deem just and proper.

Dated: June 14, 2019
New York, New York

PAUL, WEISS, RIFKIND, WHARTON
& GARRISON LLP

By: /s/ Theodore V. Wells, Jr.
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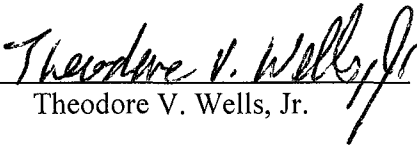
VERIFICATION

STATE OF NEW YORK)
) : s.s.
COUNTY OF NEW YORK)


Theodore Wells, Jr., being duly sworn, states as follows:

I am an attorney admitted to practice in the courts of the State of New York and a partner of the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP, counsel for Defendant in this action, Exxon Mobil Corporation. I have read and know the contents of the foregoing Verified Amended Answer to be true to the best of my knowledge, information and belief. My understanding is based upon a review of documents produced to Defendant by Plaintiff and documents in the public record.

This verification is made by me pursuant to Section 3020(d)(3) of the New York Civil Practice Law and Rules because my client is a foreign corporation.



Theodore V. Wells, Jr.

Sworn to before Me
This 14th Day of June, 2019


NOTARY PUBLIC

ROBERT C. GRAHAM
Notary Public, State of New York
No. 01GR6382746
Qualified in New York County
Commission Expires 10/29/2022