
From: Patricia Bauman [mailto:pbauman@baumanfoundation.org]

Sent: Thursday, February 04, 2016 5:18 PM

To: 'Richard E. Ayres' <ayresr@ayreslawgroup.com>; [REDACTED]

Cc: Matt Pawa <mp@pawalaw.com>

Subject: FW: Exxon Knew - And We Will Sue

Matt, we don't have any \$\$\$ for legal assistance, but I will certainly look at this. I have copied Dick Ayres, who has worked on this, and Eric Schneiderman in New York

From: Matt Pawa [mailto:mp@pawalaw.com]

Sent: Thursday, February 04, 2016 4:48 PM

To: Patricia Bauman (pbauman@baumanfoundation.org)

Subject: Exxon Knew - And We Will Sue

Patricia - I hope you are well. It has been awhile since we've spoken but I thought I would reach out to you because of the importance and timeliness of the "Exxon Knew" situation. I am sure you have been following these disclosures. The Global Warming Legal Action Project is deeply involved in assisting attorneys general, briefing government enforcement lawyers, laying out the facts as to exactly what Exxon did for many years after it knew about the causes and consequences of global warming, providing legal research and analysis, and just making sure AG offices are aware of the issue and giving it full consideration. We are incredibly busy and our phones are ringing off the hooks.

This is a key, and perhaps fleeting, moment in which we could potentially go after Exxon with some fairly straightforward legal theories (eg consumer fraud) that could result in forcing Exxon to make

public its decades of internal documents on global warming, admit it acted deceptively and make corrective statements about global warming, including the need to reduce fossil fuel usage substantially.

We are seeking to ramp up in order to meet an acute need for our legal assistance. I attach a document describing our efforts. Might I have a few minutes of your time to tell you more about this work and get your input on it?

All best,

Matt

Matt Pawa

Pawa Law Group, P.C.

1280 Centre Street, Suite 230

To: Eric T. Schneiderman [REDACTED]
From: Lemuel Srolovic [/O=LAWNET/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=LSROLOVI]
Sent: Fri 2/5/2016 3:24:32 PM (UTC-05:00)
Subject: Re: Exxon Knew - And We Will Sue

Got it.

Sent from my iPhone

On Feb 5, 2016, at 2:42 PM, Eric T. Schneiderman <ETS.NYS@ag.ny.gov> wrote:

Begin forwarded message:

From: Eric Schneiderman [REDACTED]
Date: February 5, 2016 at 1:12:31 PM EST
To: [REDACTED]
Subject: Fwd: FW: Exxon Knew - And We Will Sue

----- Forwarded message -----

From: Matt Pawa <mp@pawalaw.com>
Date: Friday, February 5, 2016
Subject: FW: Exxon Knew - And We Will Sue
To: [REDACTED]

Also General Schneiderman -- we have spent a fair bit of time thinking about consumer fraud remedies and believe that a court could (1) require Exxon to make available, in electronic format, its decades of documents on what it knew and when it knew it; (2) make corrective statements admitting that its products contribute to global warming, that global warming poses a threat of extraordinary harm to humanity, and that fossil fuel usage must be significantly reduced in order to prevent unacceptable risks; and (3) admit that it deceived the public. These kinds of remedies would be a game changer. Attached is a short memo summarizing the similar remedies from the federal tobacco litigation.

Matt

Matt Pawa

Pawa Law Group, P.C.

FOIL G000902-122319 000001



To: Lemuel Srolovic[Lemuel.Srolovic@ag.ny.gov]
Cc: Matt Pawa[mp@pawalaw.com]
From: Ben Krass[bkrass@pawalaw.com]
Sent: Fri 3/25/2016 10:42:20 AM (UTC-04:00)
Subject: Re: GW Docs

Here is a link to the documents - <https://www.dropbox.com/sh/j2vtyie7o2jg5o3/AAA35UVK2znK7p0xmfUaKvTva?dl=0>

FYI – they are still a work in progress.

Password is gw1718!

Thanks.

Ben

Benjamin A. Krass
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Newton Centre, MA 02459
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(617) 641-9551 facsimile
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To: Mandy DeRoche[Mandy.DeRoche@ag.ny.gov]
From: Lemuel Srolovic[/O=LAWNET/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=LSROLOVI]
Sent: Fri 3/25/2016 11:18:56 AM (UTC-04:00)
Subject: FW: GW Docs

[Here's Pawa material](#)

From: Ben Krass [mailto:bkrass@pawalaw.com]
Sent: Friday, March 25, 2016 10:42 AM
To: Lemuel Srolovic
Cc: Matt Pawa
Subject: Re: GW Docs

Here is a link to the documents - <https://www.dropbox.com/sh/j2vtyie7o2jg5o3/AAA35UVK2znK7p0xmfUaKvTva?dl=0>

FYI – they are still a work in progress.

Password is gw1718!

Thanks.

Ben

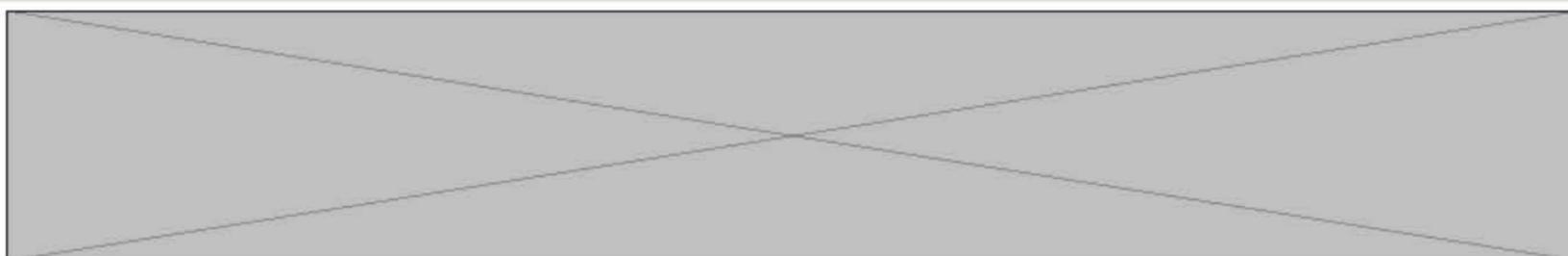
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To: Lemuel Srolovic[Lemuel.Srolovic@ag.ny.gov]
From: Matt Pawa[mp@pawalaw.com]
Sent: Tue 2/16/2016 1:05:34 PM (UTC-05:00)
Subject: Global Warming Legal Action Project Update Feb 2016

Dear Friends of the Global Warming Legal Action Project – I wanted to take this opportunity to update you on our work which is exploding. We are f



Dear Friends of the Global Warming Legal Action Project –

I wanted to take this opportunity to update you on our work – which is exploding. We are faced with a unique opportunity on global warming liability and are doing everything we can to seize this moment.

You may have seen the news over the last few months that “Exxon Knew.” Two news outlets have disclosed internal Exxon documents from the 1970s and 1980s demonstrating that Exxon scientists knew the key information on global warming a long time ago and informed the company’s management. We have been deeply engaged on this issue. We are partnering with Sharon Eubanks (the former federal government lawyer who led the tobacco litigation) and other highly reputable law firms. We are making sure attorneys general offices are aware of the issue and we have provided extensive factual and legal resources to attorneys general (and their staffs) and other government officials. Obviously, our work is confidential in this regard but suffice it to say that we are busier than we ever have been.

Here are some examples of what is in these newly disclosed documents:

- 1978 Presentation to Exxon Management Committee:

- “[T]here is general scientific agreement that the most likely manner in which mankind is influencing the global climate is through carbon dioxide release from the burning of fossil fuels. A doubling of carbon dioxide is estimated to be capable of increasing the average global temperature by from 1°C to 3°C, with a 10°C rise predicted at the poles.”

- the use of fossil fuels “should not be encouraged.”

- 1978 “Man can afford 5-10 yr. time window to establish what must be done.”

- 1980 presentation to the American Petroleum Institute by Stanford professor API describes as a “recognized expert in the field of CO₂ and climate.” Presentation informs API that there is a “Scientific Consensus on the Potential for Large Future Climatic Response to Increased CO₂ Levels” and says “2.5°C rise (2038): major economic consequences” and “5°C Rise (2067): Globally Catastrophic Effects.”

- 1981 Memo by Exxon scientist Roger Cohen: “it is distinctly possible that [Exxon’s fossil fuel consumption]

scenario will later produce effects which will indeed be catastrophic (at least for a substantial fraction of the earth's population)"`

- 1982 Letter from Exxon scientist Roger Cohen to Exxon headquarters:

- “over the past several years a clear scientific consensus has emerged regarding the expected climatic effects of increased atmospheric CO₂,” i.e., “that a doubling of atmospheric CO₂ from its pre-industrial revolution value would result in an average global temperature rise of $(3.0 \pm 1.5) ^\circ\text{C}$.”

- “There is unanimous agreement in the scientific community that a temperature increase of this magnitude would bring about significant changes in the earth's climate, including rainfall distribution and alterations in the biosphere.”

- 1982 Briefing Document that was "given wide circulation to Exxon management": “Mitigation of the ‘greenhouse effect’ would require major reductions in fossil fuel combustion.”

Despite this internal knowledge, Exxon spent the next decades engaged in a campaign of deception and denial on global warming. In fact, as the LA Times disclosed, Exxon used scientific projections of global warming in the 1980s to protect its own business assets in the frozen north even as it spent the next decades publicly seeking to discredit those very projections.

There is a striking similarity between Exxon's campaign to convince people that it was safe to purchase and use fossil fuels and the tobacco companies' campaign to convince people that cigarettes are safe. In fact, Exxon and the fossil fuel industry used some of the same consultants, scientists and themes to manufacture a sense of scientific uncertainty on global warming that the tobacco companies had used.

In response to these disclosures, there has been an outcry to investigate Exxon and determine whether it has violated any laws. Hillary Clinton and Bernie Sanders have called for the federal government to investigate Exxon, as has Senator Sheldon Whitehouse. Secretary of State John Kerry has spoken out in strong terms as well. See also links to articles below. You can see Senator Whitehouse's powerful argument that global warming is like tobacco here: <https://www.youtube.com/watch?v=s8tbzTrVElg> (see 1:16:30 – 1:26:27). I had the privilege of serving on the panel last week where Senator Whitehouse spoke (see 35:40 – 44:14).

Two state attorneys general have now opened investigations of Exxon. New York Attorney General Eric Schneiderman (our climate hero of the 21st century?) was the first to act; his office issued subpoenas under the state's securities law (the Martin Act) in November 2015. See

<http://insideclimatenews.org/news/05112015/new-york-attorney-general-eric-schneiderman-subpoena-Exxon-climate-documents>. The California Attorney General, Kamala Harris, is also investigating. See <http://www.latimes.com/business/la-fi-exxon-global-warming-20160120-story.html>.

Stay tuned for more developments along these lines.

Meantime, think about this: if a court finds that Exxon violated laws that prohibit false, deceptive or misleading statements with respect to a commercial product or sale of securities, it could order Exxon to make decades of internal documents publicly available (like the tobacco documents, which showed the world that the industry lied for profit and ignited a firestorm of outrage). A court could also order Exxon to admit that it deceived the



public about global warming (again, as in the tobacco case). And it could require Exxon to make corrective statements in media buys (ditto, tobacco). I think you can imagine the importance of an admission by Exxon that not only is global warming a dire threat but that in order to avert unacceptable risks to human lives and safety we must rapidly reduce greenhouse gas emissions from fossil fuels.

For those interested in more information, at the bottom of this email I have provided some additional information and links.

All best,

Matt

Notable Statements and Links

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▪ Secretary of State John Kerry said in December, 2015, that if allegations that Exxon misrepresented its knowledge about the damage its product is doing to the planet “turns out to be true, I’d be outraged, furious. I mean, I would be as angry as I was about people selling cigarettes and pretending they don’t know it gives them cancer. It’s the same thing. It’s immoral and incredibly damaging to everybody’s global interests. It’s a betrayal.” <http://www.rollingstone.com/politics/news/john-kerry-on-climate-change-the-fight-of-our-time-20151201#ixzz3tqEHvRgd>

▪

▪ Senator Sheldon Whitehouse has repeatedly called for federal and state investigations of Exxon. <http://www.dailykos.com/story/2015/10/21/1436553/-Sanders-wants-DOJ-Exxon-probe-Whitehouse-renews-call-for-RICO-investigation-over-climate-fraud>;
<http://www.providencejournal.com/article/20151116/OPINION/151119620>

▪

▪ Senator Bernie Sanders stated that recently released information “about Exxon’s past activities raises potentially serious concerns that should be investigated.” <http://www.sanders.senate.gov/newsroom/press-releases/sanders-calls-for-probe-into-exxon-mobil-claims-on-climate-change>

▪

▪ Hillary Clinton was asked about the issue at a campaign event and said that the Department of Justice should investigate: “There’s a lot of evidence that they misled people.” <http://thehill.com/policy/energy-environment/259436-pressure-builds-to-probe-exxon-climate-claims>

▪

▪ The lead attorney for the U.S. Department of Justice in its RICO (racketeering) lawsuit against the tobacco companies, Sharon Eubanks, is now in private practice and has stated publicly that she believes Exxon could be held liable under RICO. <http://thinkprogress.org/climate/2015/10/20/3713761/exxon-climate-denial/>

L.A. Times stories

<http://graphics.latimes.com/exxon-arctic/>

<http://graphics.latimes.com/exxon-research/>

<http://graphics.latimes.com/oil-operations/>



InsideClimate News stories

<http://insideclimatenews.org/news/15092015/Exxons-own-research-confirmed-fossil-fuels-role-in-global-warming>

<http://insideclimatenews.org/news/16092015/exxon-believed-deep-dive-into-climate-research-would-protect-its-business>

<http://insideclimatenews.org/news/18092015/exxon-confirmed-global-warming-consensus-in-1982-with-in-house-climate-models>

<http://insideclimatenews.org/news/08102015/Exxons-Business-Ambition-Collided-with-Climate-Change-Under-a-Distant-Sea>

<http://insideclimatenews.org/news/08102015/highlighting-allure-synfuels-exxon-played-down-climate-risks>

<http://insideclimatenews.org/news/22102015/Exxon-Sowed-Doubt-about-Climate-Science-for-Decades-by-Stressing-Uncertainty>

<http://insideclimatenews.org/news/25112015/exxon-deep-cuts-climate-change-research-budget-1980s-global-warming>

<http://insideclimatenews.org/news/01122015/documents-exxons-early-co2-position-senior-executives-engage-and-warming-forecast>

<http://insideclimatenews.org/news/22122015/exxon-mobil-oil-industry-peers-knew-about-climate-change-dangers-1970s-american-petroleum-institute-api-shell-chevron-texaco>

<http://insideclimatenews.org/news/04022016/oil-industry-report-shows-early-knowledge-climate-change-impact-api-american-petroleum-institute>

New Yorker article

<http://www.newyorker.com/news/news-desk/will-the-tobacco-strategy-work-against-big-oil>