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ExxonMobil Urges Alabama Supreme Court to Reverse Largest Punitive Damages Award in State's History

IRVING, Texas--(BUSINESS WIRE)--

Asserting the state improperly turned a contract dispute into a fraud action, Exxon Mobil Corporation (NYSE:XOM) today urged the Alabama Supreme Court to overturn a \$3.5 billion punitive damages award. The award resulted from a lawsuit regarding payment of Mobile Bay Project royalties to the state.

"This entire case stems from a contract dispute over a poorly drafted lease agreement. Fraud had no part in the dispute," said ExxonMobil General Counsel Charles Matthews. "It's a dangerous precedent for a state to be able to charge someone with fraud if you don't agree with their interpretation of a contract."

In 2003, a jury found that ExxonMobil committed fraud in the calculation of royalties it paid the state on production from its Mobile Bay natural gas wells. The jury had to find that the company committed fraud in order to award punitive damages.

During oral arguments Tuesday, Chris King and Sam Franklin, outside counsel for ExxonMobil, maintained that the evidence clearly showed that the state, for tactical reasons, had tried to turn a contract dispute into a fraud claim. In its appeal, the company wrote, "The jury and the trial court rewarded those tactics with a giant punitive damages award. But there was no evidence of fraud, and no basis for any punitive damages. The State could not prove and the evidence they submitted does not prove fraud. That's because there was no fraud."

The size of the punitive damage award is clearly unconstitutional, grossly excessive and arbitrary. The punitive damages award is 149 times the compensatory award, and, in its brief, ExxonMobil noted that in 2003, the U.S. Supreme Court reversed a \$145 million punitive damages verdict against State Farm Mutual Automobile Insurance Co., in which there were \$1 million in compensatory damages. The court's ruling was intended to prevent large punitive damages awarded by juries that bear little resemblance to actual damages. Justice Anthony M. Kennedy wrote for the court, "We have no doubt that there is a presumption against an award that has a 145-to-1 ratio."

Early in the process, ExxonMobil and the State of Alabama disagreed over the proper method of determining royalty payments and agreed the issue would be resolved on audit. In its appeal, ExxonMobil cited a virtually identical case with the same poorly drafted lease language, also decided by the Alabama Supreme Court, in which the court said there could be no fraud because the state intended to audit and independently verify every month's payment and production.

Since production began at Mobile Bay, the company has paid more than \$1 billion in royalty and lease payments directly to the state. ExxonMobil's total capital investment in Alabama currently exceeds \$3 billion and the company employs more than 200 people and numerous contractors, and more than 300 retirees live in the state.

Since 1995, ExxonMobil has contributed about \$3.5 million to charitable, civic and educational organizations throughout Alabama. The U.S. Department of the Interior has honored ExxonMobil for excellence in mineral royalty and production reporting and compliance.

Source: Exxon Mobil Corporation