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How Exxon Attys Beat A 10-Year-Old Securities Class Action

By **Spencer Brewer**

Law360 (May 21, 2026, 3:36 PM EDT) -- At the outset of a multiweek trial in Texas federal court, an attorney for Exxon Mobil Corp. made a calculated promise to jurors that they would not hear any evidence that an Exxon executive lied or pressured subordinates to mislead the company's investors in its financial statements.

"That's one of the beauties of a 10-year-old case," said Thomas Melsheimer of King & Spalding LLP. "You can really look at what you've got. You've got a lot of time to study it, and you can assure yourself that you can make that kind of promise," adding that such statements are "a check you want to be able to cash at the end of the trial."

Melsheimer, along with other members of Exxon's defense team, helped deliver a clean sweep victory for the energy giant when the jury found on May 14 the company did not lie to investors about the profitability of its operations at Kearl Lake in Canada and its Rocky Mountain Dry Gas assets. The class action, filed initially in 2016, alleged that Exxon hid from investors the poor state of some of its operations, and when the information became public, the company's shares dropped by $3.44 per share.

The class period was between Feb. 24 and Oct. 28, 2016. While the parties never had to calculate the precise payout because Exxon won, the company's defense team estimated the damages could have pushed past $3 billion if the investors prevailed.

Following the three-week trial, members of the jury said that Melsheimer's statement bore out after they heard the witnesses and reviewed the evidence, according to multiple members of Exxon's defense team, who spoke with jurors posttrial. Jurors also pointed to the character and quality of Exxon's witnesses, who included several former executives such as former Exxon CEO Rex Tillerson, Melsheimer said.

Preparing the witnesses ahead of trial was no small thing. Many of the executives who testified had retired, including Tillerson, by the time the trial started, and Exxon's defense team had to prep them by going over financial documents from a decade earlier.

"The other side actually tried to make a big deal and cast aspersions for these folks preparing to testify and looking at documents that are 10 years old," said Scott Thomas of Latham & Watkins LLP. "But I think that's exactly what the jury would have expected them to do, is refresh their memory."

Counsel for lead plaintiff Eastern Atlantic States Carpenters Pension Fund claimed that Exxon knew some of its operations weren't as profitable as the company advertised. By the investors' telling, Exxon hid the information because it sought to complete a $12 billion bond offering and wished to keep its AAA credit rating intact to secure a lower interest rate. Disclosing the information could have affected the company's credit rating, the investors claimed.

Representatives for the investors didn't immediately respond to a request for comment.

During the trial, Tillerson testified at length that the company followed the rules governing annual reports to investors when it came to detailing its Kearl Lake reserves.

Central to the investors' claim was an allegation that Exxon used the transportation costs reflective of shipping the product extracted from Kearl Lake within Canada in its annual report to investors rather than the transportation costs the company bore by shipping it to the Gulf Coast for refinement. When pressed by an attorney for the plaintiffs on why that information was selected for release to investors, Tillerson answered that the company determined it was the most appropriate methodology.

Tillerson also told the jury that while Exxon's investments in Kearl Lake and its Rocky Mountain Dry Gas assets were important, the company had a lot of other assets that factored into its overall financial health. Tillerson was CEO and chairperson of Exxon from 2006 to 2016.

"The jury found [Tillerson and other Exxon witnesses] to be the kind of people that would not have cheated or lied or otherwise committed fraud," Melsheimer said. "That was very, very powerful."

Exxon's defense team also agonized over how to present the relatively dense accounting concepts at the heart of the lawsuit. Each day, Melsheimer said, they asked themselves how much detail would be too much.

"We don't want to be teaching an accounting seminar," said Daniel Toal of Paul Weiss Rifkind Wharton & Garrison LLP. "You try and make it as interesting and compelling as you can. But even for some pretty arcane accounting concepts, the jury was focused throughout."

Work Before the Trial

A significant portion of the lawsuit was won long before the trial ever started, according to prior court filings. The investors' case was initially patterned on a suit brought by the New York attorney general and contained allegations that the company concealed knowledge about the effects of climate change on the company's bottom line.

Shareholders initially claimed that Exxon had known for years that an increase in global temperatures was coming, and that as the planet became hotter, the company's access to its hydrocarbon reserves would be limited.

Exxon took the New York attorney general's claims to trial in 2019, and prevailed. After that win, Exxon asked the Texas court to toss the shareholders' case. The company knocked out many claims at that stage, including all climate change allegations.

Knocking out those allegations early was "critical," Toal said. He first began working on the case a decade ago.

The content of the case already dealt with some fairly intricate accounting issues, Toal said, and that alone was complicated enough for a jury to absorb.

"If we had to bring in these other climate-related concepts, it threatened to just overwhelm the jurors with details," he said. "I think it was critical. It also knocked out of the case what is a more highly charged political issue."

The investors are represented by Darren J. Robbins, Michael J. Dowd, Spencer A. Burkholz, Scott H. Saham, Sam S. Sheldon, Jonah H. Goldstein, Nathan R. Lindell, Sara B. Polychron, Erika L. Oliver and T. Alex B. Folkerth of Robbins Geller Rudman & Dowd LLP, Joe Kendall of Kendall Law Group PLLC, and Balon B. Bradley of Balon B. Bradley Law Firm.

Exxon is represented by Theodore V. Wells Jr., Daniel J. Toal, Audra J. Soloway, Paul D. Brachman and Lyuba Shamailova of Paul Weiss Rifkind Wharton & Garrison LLP, Nina Cortell, Jason Bloom and Jason Neil Jordan of Haynes Boone, Thomas M. Melsheimer of King & Spalding LLP, and Scott C. Thomas, Sarah Tomkowiak, Heather Waller and Taz Jones of Latham & Watkins LLP.

Rex W. Tillerson is represented by D. Patrick Long of Squire Patton Boggs LLP.

The case is Ramirez v. Exxon Mobil Corp. et al., case number 3:16-cv-03111, in the U.S. District Court for the Northern District of Texas.

--Additional reporting by Katryna Perera, Kat Greene and Keith Goldberg. Editing by Robert Rudinger.