



## ExxonMobil Wins Climate-change Accounting Case Against the State of New York

On Tuesday, the ExxonMobil Corporation came out victorious in a high-profile climate-change accounting case brought by the New York attorney general. Justice Barry Ostrager of the New York Supreme Court ruled that the company did not mislead investors about the potential costs of climate-change legislation and penalties that the oil company may have to pay in the future.



“The office of the Attorney General failed to prove by preponderance of the evidence, that ExxonMobil made any material misstatements or omissions about its practices and procedures that mislead any reasonable investor,” Justice Ostrager wrote in his [ruling](#).

The judge also determined that the attorney general’s office failed to produce testimony from any ExxonMobil investor saying that he had been misled, despite the office’s claim that it would do so.

This is the culmination of a four-year-long legal battle between the New York AG’s office and ExxonMobil. The suit — originally brought by former New York AG [Eric Schneiderman](#) — was originally about the much larger issue claiming that ExxonMobil “knew” for decades that fossil-fuel emissions were dangerous to the climate and told no one. That issue was settled in favor of ExxonMobil in August of 2018 when the Securities and Exchange Commission (SEC) [dropped its probe](#) of those claims, citing a lack of evidence.

Despite the obvious drop in the scale of the probe, new state AG Letitia James took the legal ball and ran with it, claiming that Exxon-Mobil had run afoul of New York’s [Martin Act](#), which is meant to protect investors against companies giving them false information. The State of New York claimed that the oil giant had failed to inform investors of the potential cost of future climate-change legislation and possible penalties that might be imposed on the company by governments.

Under the terms of the Martin Act, there is a much lower burden of proof, as a prosecutor must only prove that a company misrepresented facts to investors and that there were consequences as a result of that misinformation. Yet, the New York AG office utterly failed, even to that.

Among those expert witnesses was former Secretary of State Rex Tillerson, who served as ExxonMobil’s CEO from 2006 until 2017. Tillerson testified that the company used an internal assessment to evaluate potential climate-change costs overall — such as a potential global carbon tax on energy producers — and another assessment for specific, real-world projects, which was shared with investors. Tillerson testified that there would be no reason to underestimate potential costs internally since, as he put it, “We’d be misinforming ourselves.”

“The testimony of the expert witnesses called by the Office of the Attorney General was eviscerated on cross-examination and by ExxonMobil’s expert witnesses,” Justice Ostrager wrote in his ruling.

In a statement, AG James claimed a moral victory. “Throughout this case, we laid out how Exxon made



Written by [James Murphy](#) on December 11, 2019

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materially false, misleading and confusing representations to the American people about the company's response to climate regulations," the statement read. "Exxon's inability to tell the truth further underscores the lies that have been sold to the American public for decades," James said. "Despite this decision, we will continue to fight to ensure companies are held responsible for actions that undermine and jeopardize the financial health and safety of Americans across our country, and we will continue to fight to end climate change."

How, exactly, does the "fight to end climate change" fall within the purview of the New York Office of the Attorney General?

Exxon, on the other hand, claimed an actual victory, saying that the ruling "affirms the position Exxon Mobil has held throughout the New York Attorney General's baseless investigation. We provided our investors with accurate information on the risks of climate change. The court agreed that the Attorney General failed to make a case, even with the extremely low threshold of the Martin Act in its favor."

One "victory" that climate hysterics can take from this suit is the justice's tacit recognition of the reality of so-called climate change as an actual problem. "Nothing in this opinion is intended to absolve ExxonMobil from responsibility for contributing to climate change through the emission of greenhouse gases in the production of its fossil fuel products. ExxonMobil does dispute either that its operations produce greenhouse gases or that greenhouse gases contribute to climate change. But ExxonMobil is in the business of producing energy, and this is a securities fraud case, not a climate change case."

It's the type of official recognition of the climate "problem" that those in the climate-hysteria movement covet. With dozens of upcoming climate lawsuits — [many brought by NGOs on behalf of children](#) — coming up, that recognition may have been the New York attorney general's whole reason for bringing its flimsy case to trial.

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