



New York Attorney General Goes After Exxon Mobil on Climate-change Stance

The attorney general of New York, Eric Schneiderman, subpoenaed Exxon Mobil Corporation on November 4, in an attempt to uncover evidence that the energy giant misled the public and investors about the risks of climate change. Such a probe has been called for by environmentalists who subscribe to the theory that carbon pollutants emitted into the atmosphere by burning fossil fuels contribute to a rise in the Earth's average temperatures.



Reuters reported that Schneiderman's subpoena demanded "extensive financial records, emails and other documents" looking into Exxon Mobil's knowledge and disclosures about climate change going back to the 1970s. (Exxon Mobil, whose headquarters is in Irving, Texas, was formed in 1999 by the merger of Exxon (originally the Standard Oil Company of New Jersey) and Mobil (originally the Standard Oil Company of New York).

The Reuters report said that Exxon Mobil issued a statement in response to the New York probe noting that the company has worked on climate science in a transparent way for nearly 40 years and has regularly disclosed the business risks of climate change to investors for years.

A report by ABC News noted that the New York subpoena came after the Union of Concerned Scientists (UCS) issued a report over the summer emphasizing that Exxon Mobil had been researching the risks of climate change since as early as 1981. If Schneiderman's action was in any way influenced by the UCS statement, he is basing his argument on an unreliable source. A writer in *Human Events* on May 8, 2007 said of UCS:

For almost four decades, the Union of Concerned Scientists (UCS) has manipulated the high reputation of "science" to serve the low ends of politics. It has done a good job of cherry-picking scientific facts to stir up public fears to advance its agenda. This time it is promoting alarmist claims about global warming by leveraging the prestige of the "concerned scientist."...

That UCS is a highly partisan operation — well funded by left-leaning foundations and Hollywood celebrities and happy to ignore established scientific methodologies for its own purposes — is apparently not newsworthy. The group has a long history of being just plain wrong on many scientific issues, and its current agenda conforms to the extremes of environmentalist ideology.

Schneiderman, for his part, has a track record of using the powers of his office to wage legal warfare against what might generally be regarded as the "conservative" position on various public issues.

For example, he joined with the Service Employees International Union (SEIU) in a suit against Ron Johnson, the owner of five Papa John's pizza stores in downtown Manhattan for supposed "wage theft" back in 2014.

Back in 2013, Schneiderman pressured gun show owners in New York to agree to what he described as



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“stringent new rules to track sales” of guns. *Newsmax* reported on the attorney general’s assault on the Second Amendment in New York:

Under the agreements worked out by Schneiderman, all firearms are tagged at the entrances to gun shows. Operators must provide computer stations for sellers to do national background checks. Guns are checked as they are taken away through a limited number of exits to make sure background checks are performed. No buyers can leave a show without documentation of a proper sale.

In addition, noted *Newsmax*, “Schneiderman also has a staff member at each gun show to work with operators to monitor compliance with the new gun control ‘agreement.’ ”

Back in 2012, Schneiderman launched an investigation into whether the energy-drink industry is misleading consumers about the ingredients and overall health effects of its products and issued subpoenas to three manufacturers — including PepsiCo Inc., which manufactures the popular AMP energy beverage; Monster Beverage Corp.; and Living Essential LLC — requesting details regarding the firms’ marketing and advertising practices.

The *Washington Post* reported that Schneiderman is basing his legal action against Exxon Mobil on both consumer protection laws and New York’s Martin Act, a securities law passed in 1921 to protect investors.

Reuters notes that under the Martin Act, the state must prove that a company deceived the public by misrepresenting or omitting a material fact in the offering of securities. The report cited the opinion of lawyers who said the act is “unique in that no proof of intent to deceive is required to bring a claim, and prosecutors do not even need to show that anyone was in fact defrauded.”

Exxon did not comment when Reuters asked the company about the Martin Act. However, the report quoted a statement from Jim McGuire, a litigation partner at the Dechert law firm in New York, who said: “The Martin Act is a nearly empty vessel into which the AG can pour virtually any content that he wants.

Schneiderman’s use of the Martin Act, which was passed before there was such a thing as the Securities and Exchange Commission (SEC) to protect investors from fraud in the sale of securities and commodities, seems hardly relevant to whatever Exxon Mobil’s researchers may have found — pro or con — on the issue of climate change. The debate over climate change (including whether it exists and, if it exists, if it is a naturally occurring meteorological phenomenon or the result of mankind’s carbon emissions) will continue regardless of what Exxon’s Mobil’s people discover. Even if the company were less than forthcoming about what it found out about the “risks” of climate change, its staffers are hardly experts on the subject and potential investors have far more reliable sources upon which to base their investment decisions.

In some ways, Schneiderman use of the Martin Act to go after Exxon Mobil appears to be an act of desperation, akin to the lawsuit filed in 1986 by the National Organization of Women (NOW) against the pro-life groups Operation Rescue and the Pro-Life Action League; the League’s executive director, Joseph Scheidler; and two of Scheidler’s associates. The lawsuit relied on the U.S. Federal Racketeer Influenced and Corrupt Organizations Act (RICO), a 1970 law originally written to target organized crime.

Exxon Mobil’s legal resources are countless times greater than the pro-life organizations and the Chicago-based Thomas More Society that defended them during their long legal battle. Therefore,



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Schneiderman's legal action may well be little more than an annoyance for the energy giant. However, the publicity over the lawsuit, which has already received national attention in the press, will shine a spotlight on an even larger conflict — the ongoing debate over climate change.

Many reputable scientists insist that not only has the naturally occurring period of global warming ceased, but that global temperatures have actually cooled over the past decade. It would lend clarity to the discussion, however, if political figures such as Schneiderman would refrain from initiating frivolous legal actions to whatever end they might have in mind. The debate would produce better results if continued in the scientific arena, not the political or legal one.

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