

Attorneys

John Anooshian
 R. Victoria Fuller
 Sean Mahoney

Practice Areas

Insurance Coverage and Bad Faith

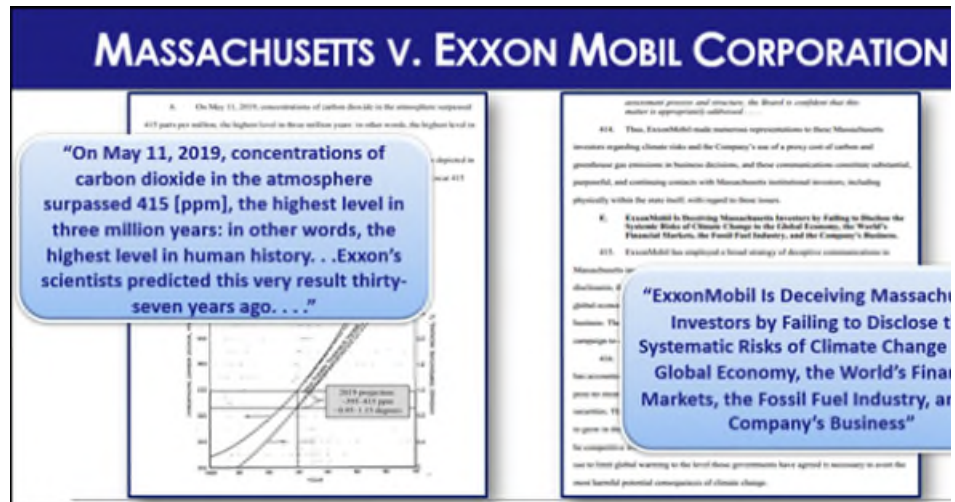
Climate Change in the Courts

Insurance Coverage and Bad Faith Alert | November 8, 2019

By: John Anooshian, Sean Mahoney and R. Victoria Fuller

Thank you again for attending our 2019 Coverage College Masters Class, **“Summer is Coming - The Stark Facts About Climate Change: What Every Insurer Should Know!”**

As discussed extensively in our program, climate change has hit the court systems and the insurance industry in the U.S. and abroad. Bellwether cases against Exxon Mobil Corporation regularly make the news. Just yesterday, Exxon and the New York Attorney General’s office each presented closing arguments in the *New York v. Exxon Mobil Corporation* investor fraud litigation we discussed. **And in late October another climate change-related lawsuit was filed, this time in Massachusetts state court.** The case is ***Commonwealth of Massachusetts v. Exxon Mobil Corporation, No. 19-3333.***



In a lengthy (200+ page) complaint, Massachusetts asserts that Exxon violated state advertising and securities laws in three principal ways:

- Exxon has allegedly known since the 1970s that the use of its fuel products presented a “catastrophic” risk to humanity but “masterminded...a tobacco-industry style campaign to sow doubt and confusion among the public” about climate science, including a public campaign of climate change denial;

- Exxon has purportedly deceived Massachusetts **investors** about the risks climate change poses to its business as well as the systemic risk of climate change to the global economy, including misrepresenting to investors its use of a “proxy cost of carbon” to account for climate change risks; and
- Exxon has allegedly deceived Massachusetts **consumers** by falsely advertising itself and its products as environmentally friendly.

These allegations implicate many of the coverage issues we forecasted in our climate change program. Like the *New York v. Exxon* action and the *Ramirez* shareholder derivative suit pending in Texas federal court, this new Massachusetts case is one to watch.

If you would like to know more about these issues and how they may impact your underwriting and claims-handling, please contact John Anooshian (anooshianj@whiteandwilliams.com; 215.864.7005), Sean Mahoney (mahoneys@whiteandwilliams.com; 215.864.6342) or Victoria Fuller (fullerv@whiteandwilliams.com; 617.748.5211).

This correspondence should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult a lawyer concerning your own situation and legal questions.