

Texans for Lawsuit Reform



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November 19, 2020

Hon. Blake A. Hawthorne, Clerk of the Court
Supreme Court of Texas
Supreme Court Building
201 W. 14th Street, Room 104
Austin, Texas 78701

Re: *Amicus Curiae* Letter Brief of the Texans for Lawsuit Reform; Case
No. 20-0558; *Exxon Mobil Corporation v. City of San Francisco, et al.*;
before the Texas Supreme Court

Dear Mr. Hawthorne:

Please accept this amicus curiae letter brief submitted by Texans for Lawsuit Reform (“TLR”) and the Texas Association of Business (“TAB”) pursuant to Texas Rule of Appellate Procedure 11 in support of Petitioner Exxon Mobil Corporation’s request for review in the above-referenced cause. TLR requests that you provide a copy of this letter to the Justices of the Texas Supreme Court in accordance with your customary practice.

TLR is an organization founded in 1994 to help foster and maintain a civil justice system that achieves a fair, merits-based means of resolving civil disputes. TLR also seeks to help ensure that the Texas civil justice system operates efficiently and in a timely manner to promote economic development and job creation that will benefit all Texans. TLR has more than 18,000 individual supporters in 857 towns and cities representing 1,266 different trades, businesses, and professions that support TLR’s mission. TLR has no direct or indirect interest in this matter other than its interest in promoting an excellent, fair, and merits-based civil justice system in Texas. TLR has paid all fees incurred in preparing this letter brief.

TAB is an organization committed to improving Texas's business climate and ensuring the strength and viability of the Texas economy. By working to preserve an equitable policy and regulatory environment for business, TAB serves as "the voice of Texas business" and represents Texas businesses of all sizes and industry sectors that, along with TAB's 200 local chamber partners, employ thousands of Texans and produce \$8 billion annually in business.

This Court should grant review in this case. The case presents novel and far-reaching issues that strike at the very core of how our society will adjudicate claims such as those asserted by both sides in this dispute. The issues in dispute involve some of the most serious constitutional questions relating to jurisdiction that are currently pending in any court anywhere in the country. In addition, the type of litigation that generated the claims in the current case—the claims filed by California municipalities in California state court relating to climate change—are not only completely novel in American jurisprudence, but have the potential to affect companies and citizens across state borders in unprecedented ways. The claims also involve issues with respect to climate change and the obligations of businesses in the oil and gas industry with respect to purported climate change that are highly controversial and, in many instances, political.

Texas and its citizens have a long and close relationship with the energy industry including specifically the oil and gas industry. The Texas civil justice system and regulatory system has been at the forefront of developing the law with respect to disputes and managing developments in the energy industry for the entire history of the State. It is beyond cavil that this case is important to the jurisprudence of Texas and is the type of case that this Court should review and decide regardless of the outcome. While the Second Court of Appeals certainly put forth its best effort to address the issues in its opinion, an intermediate Texas appellate court should not be the final word on the issues before the Court. These issues can and will arise in numerous contexts around the nation in both State and Federal courts, and Texas should continue to lead in providing a fair, informed opinion from its highest court on how to resolve these issues. If the Second Court of Appeals' opinion is left to stand alone, there will be uncertainty in this critical area until this Court does take a case and write.

The central issue of personal jurisdiction is complex in the context of this case. When and how one State can take up and resolve issues that will affect litigation in other States and citizens of other States as well as the rights and interests of businesses and citizens domiciled in Texas invokes some of the most subtle and complex questions for courts to resolve from constitutional, federalism, and comity perspectives. The questions in this case call for review and decision by this Court.

TLR does not purport to suggest to the Court in this letter how this case should be resolved. Exxon Mobil Corporation is represented by the ablest of counsel, and their briefing on the issues will certainly be comprehensive. TLR does believe that however this case is resolved, the resolution should be made in Texas by this Court. TLR respectfully requests this Court grant review in the above-referenced case.

Respectfully submitted,

E. Lee Parsley

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General Counsel
Texans for Lawsuit Reform

Jay Rutherford

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General Counsel
Texas Association of Business

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Associated Case Party: Exxon Mobil Corporation

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