

Drogos, Donna, Env. Health

From: Drogos, Donna, Env. Health
Sent: Monday, March 08, 2010 3:34 PM
To: 'wroy@sheppardmullin.com'
Subject: Subpoena re: files for RO394
Attachments: USTCF_5YR_2009-03-03.pdf; maps.pdf; boringlog.pdf; Notes.pdf; tables.pdf

Hi Whitney,

Re: our phone call for the subpoena for documents pertaining to our case file for RO394. All of our case files are available online at the address below.

<http://www.acgov.org/aceh/index.htm>

Attached are 5 additional files that we have for this site:

- USTCF correspondence
- 4 pdfs of caseworker notes.

These are all the files we have for the site.

Donna

Donna L. Drogos, PE
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510-567-6721
donna.drogos@acgov.org

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UNITED STATES DISTRICT COURT
for the
Northern District of California

SULLINS, et al.
Plaintiff
v.
EXXON/MOBIL CORPORATION
Defendant
Civil Action No. 4:08-cv-04927-CW
(If the action is pending in another district, state where:)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:
Alameda County Health Care Services Agency, Custodian of Records, 1131 Harbor Bay Parkway, Suite 250,
Alameda, CA 94502-6577
[X] Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following
documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the
material:
See Attachment 1

Table with 2 columns: Place and Date and Time. Place: Capitol Digital Document Solutions, c/o Dave Wilkinson, 555 Capitol Mall, Suite 235, Sacramento, CA 95814. Date and Time: March 19, 2010 10:00 a.m.

[] Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or
other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party
may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time. Both fields are currently empty.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule
45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are
attached.

Date: February 26, 2010

CLERK OF COURT
Signature of Clerk or Deputy Clerk

OR
Whitney Jones Roy
Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Exxon Mobil Corporation,
erroneously sued herein as "Exxon/Mobil Corporation", who issues or requests this subpoena, are:
Whitney Jones Roy, Esq.; Sheppard, Mullin, Richter & Hampton LLP; 333 S. Hope St., Los Angeles, CA 90071;
wroy@sheppardmullin.com; (213) 620-1780

Civil Action No. 4:08-cv-04927-CW

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

(c) Protecting a Person Subject to a Subpoena.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

**ATTACHMENT "1" TO ALAMEDA COUNTY HEALTH CARE SERVICES
AGENCY SUBPOENA TO PRODUCE DOCUMENTS**

Pursuant to the terms of the attached subpoena, Defendant Exxon Mobil Corporation, erroneously sued herein as "Exxon/Mobil Corporation," and requests that Alameda County Health Care Services Agency produce the documents described herein pursuant to Rule 45 of the Federal Rules of Civil Procedure.

DEFINITIONS

1. As used herein, the terms "ACHCSA," "YOU," and "YOUR" shall mean the Alameda County Health Care Services Agency, and shall include all employees, agents, or representatives thereof.
2. As used herein, the term "EXXONMOBIL" shall mean and refer to Exxon Mobil Corporation, and shall include all employees, agents, and representatives of said entity, and any attorney or consultant acting on behalf of said entity.
3. As used herein, the term "PROPERTY" shall mean and refer to the property located at 187 North L Street, Livermore, California.
4. As used herein, the term "SULLINS" shall mean and refer to Carlton Sullins, Rita Sullins, and Don-Sul, Inc., collectively.
5. As used herein, the term "RELATING TO" shall mean arising out of, resulting from, in connection with, supporting, evidencing, indicating, referencing, or relating to.

6. As used herein, the term "COMMUNICATIONS" shall mean and refer to any contact between two or more persons or entities and includes, without limitation, written contact such as letters, notes, memoranda, electronic mail messages, and telegrams, and oral contact such as face to face meetings and telephone conversations. This term also includes internal contacts within an organization or department, as well as contacts with others.

7. As used herein, the term "DOCUMENTS" shall be used in the broadest sense possible and shall mean and include, without limitation, any and all writings, papers, correspondence, notes, letters, telegrams, mailgrams, cables, telex messages, facsimiles, transmittals, bulletins, instructions, rulings, decisions, policies, binders, books, file folders, printed matter, notebooks, minutes, agenda, memoranda, intra- or inter-office communications of any type or nature, workbooks, worksheets, stenographers' notebooks, reports, records, diaries, calendars, calendar entries, files, studies, forecasts, projects, surveys, appraisals, analyses, financial statements of every type, budgets, projects, quotations, calculations, logs, job logs, timesheets, bills, invoices, statements, purchase orders, checks, check registers, journals, schedules, ledger books, log books, book of account, accounts, work papers, summaries, contracts or any other types of agreement, proposals, working papers, payrolls, charts, notes of meetings or interviews or telephone conversations, requests for authorization, requests for quotation, press releases, schedules, maps, drawings, designs, diagrams, blueprints, plans, schematics, manuals, accountants' statements or summaries, graphs, charts, photographs, motion pictures, slides, microfilm, microfiche, recordings of meetings or conversations or

interviews either in writing or made upon any mechanical, electronic or electrical recording device, data compilations from which information can be obtained or can be translated through detection devices into a reasonably usable form, computer inputs or outputs, or any other written, graphic or recorded representations or communications whatsoever, whether in lithograph, or in any other tangible form or intangible form which can be reduced to tangible form, and any other form of communication or representation including letters, records, pictures, film, videotape, sounds, symbols or communications thereof.

The term "DOCUMENT(S)" shall also mean and include, without limitation, any and all originals, duplicate originals, facsimiles and extra copies or reproductions of all such written, printed, typed, reported, recorded or graphic matter included above, upon which notations and writing, print or otherwise, have been made or to which such notations have been appended.

DOCUMENT CATEGORIES

1. Any and all DOCUMENTS RELATING TO YOUR fuel leak case number RO0000394.
2. Any and all DOCUMENTS RELATING TO the presence, investigation, assessment, cleanup, abatement, remediation, and/or monitoring of chemicals, hazardous substances, contaminants, and/or petroleum products at the PROPERTY.
3. Any and all DOCUMENTS consisting of evaluations, orders, or demand letters RELATING TO the PROPERTY.
4. Any and all DOCUMENTS RELATING TO the PROPERTY.

5. Any and all DOCUMENTS RELATING TO COMMUNICATIONS
between YOU and the SULLINS RELATING TO the PROPERTY.

6. Any and all DOCUMENTS RELATING TO COMMUNICATIONS
between YOU and any entity or person regarding the PROPERTY.