

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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JOHN DOE I, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civ. No. 01-1357 (LFO/AK)
	)	
EXXON MOBIL CORPORATION, et al.,	)	
	)	
Defendants.	)	
_____	)	

**DEFENDANTS’ MOTION FOR LEAVE TO FILE SURREPLY IN OPPOSITION  
TO PLAINTIFFS’ MOTION TO COMPEL**

To address arguments and exhibits first presented in Plaintiffs’ Reply in Support of Their Motion to Compel (the “Reply,” Docket No. 343), Defendants respectfully move this Court for leave to file the attached surreply. Absent the relief requested in this motion, Defendants will have no opportunity to respond in writing to the arguments, purported facts, and exhibits first raised in the Reply. *See Alexander v. FBI*, 186 F.R.D. 71, 74 (D.D.C. 1998) (surreply appropriate where party “would be unable to contest matters presented to the court for the first time” in connection with reply). A surreply is justified in this case because Plaintiffs filed three exhibits with their Reply brief that were not included in their opening brief, one of which was materially incomplete and misleading. (*See* Docket No. 354 (Plaintiffs’ Errata).)

Defendants have conferred with Plaintiffs via telephone regarding this motion, and Plaintiffs stated they oppose the motion.

On July 2, 2008, Plaintiffs filed a motion to compel Defendants to produce unredacted versions of documents produced by Defendants with nonresponsive material redacted. (Docket No. 319.) Plaintiffs repeatedly claimed the matter of redactions for relevance presented a “clear issue of law,” and therefore did not supply any examples of documents purportedly rendered incomprehensible as a result of Defendants’ redactions; in fact, Plaintiffs affirmatively disclaimed any need for the Court’s *in camera* review of the redacted documents. (*Id.* at 1, 6.)

Defendants in their opposition demonstrated, among other things, that redactions for relevance are routinely permitted according to the circumstances. (Docket No. 336 at 7-8.) Defendants further noted that Plaintiffs had failed to argue (much less demonstrate via exhibits) that *any* of Defendants’ documents were rendered incomprehensible by redaction of irrelevant material. (*Id.* at 13-14.)

In their Reply, Plaintiffs *for the first time* argued that some of Defendants’ relevance redactions created “problem” documents, attaching and discussing three exhibits not previously submitted to the Court. (Docket No. 343 at 5-6; Exs. A-C.) Absent the relief requested herein, Plaintiffs’ delayed submission of those exhibits makes it impossible for Defendants to explain to the Court the circumstances surrounding the redactions in those exhibits.

Through a brief 3-page surreply (Exhibit 1) Defendants should be given an opportunity to demonstrate how Plaintiffs’ belated exhibits do not support their contention that Defendants’ redactions of irrelevant material rendered any document incomprehensible. Accordingly, Defendants respectfully request that the Court grant

Defendants' motion for leave to file the Defendants' Surreply in Opposition to Plaintiffs'  
Motion to Compel, attached hereto as Exhibit 1.

Washington, DC  
July 30, 2008

Respectfully submitted,

/s/ Alex Young K. Oh  
Alex Young K. Oh (Bar No. 499955)  
aoh@paulweiss.com  
PAUL, WEISS, RIFKIND, WHARTON  
& GARRISON LLP  
1615 L Street, NW, Suite 1300  
Washington, DC 20036

/s/ Robert J. Meyer  
Robert J. Meyer (Bar No. 405632)  
rmeyer@willkie.com  
WILLKIE FARR & GALLAGHER LLP  
1875 K Street, N.W.  
Washington, DC 20006  
Telephone: (202) 303-1000  
Facsimile: (202) 303-2000

Attorneys for Defendants Exxon Mobil  
Corporation, Mobil Corporation,  
ExxonMobil Oil Corporation,  
and ExxonMobil Oil Indonesia Inc.