

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff

v.

EXXON MOBIL CORPORATION

Defendant.

Civil Action No.

3:06-CV-1732-K

SUPPLEMENTAL COMPLAINT

**SUPPLEMENT TO ITS PETITION FOR PRELIMINARY INJUNCTION
PURSUANT TO RULE 65, F.R.C.P.**

EEOC files this Supplement to its Petition for Preliminary Injunction for the limited purpose of adding the names of four Exxon Mobil pilots to the EEOC’s prayer for relief in the Original Petition for Temporary Restraining Order and Preliminary Injunction filed on Spetember 22, 2006. EEOC hereby incorporates by reference all of the facts, evidence, affidavits and analysis already presented to the Court on this issue.

In its Original Petition, EEOC sought to enjoin Exxon Mobil Corporation (“Defendant” or “Exxon Mobil”) from involuntarily retiring Charging Party Michael Morschauer on or before October 1, 2006 pursuant to the company’s age 60 mandatory pilot retirement policy. To maintain the status quo, the parties agreed that Mr. Morschauer would remain an employee and not be forcibly retired from his position as pilot while the EEOC’s application for preliminary injunction was pending. Since the date EEOC filed its Original Petition, the parties reached the

same agreement with regard to 60-year-old Exxon Mobil pilot Buford Barrett, who reached age 60 on December 7, 2006.

During the next two weeks through June 1, 2007, three additional Exxon Mobil pilots will reach age 60:

- Steven Herman (60th birthday – May 22, 2007) (Herman's affidavit is attached as Attachment A.)
- Gary Schaffer (60th birthday – May 31, 2007) (Schaffer's affidavit is attached as Attachment B.)
- Thomas O'Malley (60th birthday – June 1, 2007) (O'Malley's affidavit is attached as Attachment C.)

Through this document, EEOC seeks to supplement its Original Petition to name Herman, Schaffer, and O'Malley in its prayer for preliminary injunctive relief as they reach age 60. EEOC also seeks to supplement its Original Petition to name Barrett because he also was not part of the original complaint.

EEOC attempted to resolve this issue with Exxon Mobil prior to filing this Supplemental Petition. EEOC asked counsel for the Defendant if the company intended to apply the Age 60 policy and involuntarily retire Herman, Schaffer and O'Malley, or if the company would also agree to maintain the status quo with respect to their employment, or if the company was willing to consider some other option to maintain the status quo. After making two e-mail requests, EEOC contacted counsel for the Defendant by telephone who indicated that he could not provide any information to the EEOC regarding the employment status of the three pilots. Exxon has not indicated a willingness to reach an agreement prior to the Court issuing its ruling for Herman,

Schaffer and O'Malley that is similar to the agreement reached for Moreschauser and Barrett.¹

Therefore, this supplement to the EEOC's prayer for preliminary injunctive relief is necessary to avoid irreparable harm to Herman, Schaffer and O'Malley when they are removed from flight duty and/or involuntarily retired on or before June 1, 2007. The EEOC also finds it necessary to supplement its petition by formally adding Barrett's name as well.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court supplement the prayer in its Petition by adding a request that the Court:

- A. Granting a Preliminary Injunction restraining Defendant from involuntarily retiring Steven Herman, Gary Schaffer, Thomas O'Malley and Buford Barrett on or before June 1, 2007.
- B. Grant EEOC such further relief as the Court deems necessary and proper in the public interest.

Respectfully submitted,

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Regional Attorney
Oklahoma State Bar No. 011782

¹ If indeed Exxon Mobil does decide to involuntarily retire these pilots, EEOC may be forced to file another Application for a Temporary Restraining Order seeking to stop the retirement of these pilots under the discriminatory policy.

/s/ Suzanne M. Anderson

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CERTIFICATE OF SERVICE

This is to certify that on this, the 18th day of May, 2007, I electronically transmitted the attached document to the Clerk of the Court using the ECF system of filing, which will transmit a Notice of the Electronic Filing to Defendant's counsel, an ECF registrant.

/s/ Suzanne M. Anderson

SUZANNE M. ANDERSON