

## Exxon, Alabama face off in court over gas payments

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By Verna Gates

MONTGOMERY, Ala., Feb 6 (Reuters) - Exxon Mobil Corp. <XOM.N> told the Alabama Supreme Court on Tuesday it did not fraudulently underpay the state for gas leases and asked the court to throw out a \$3.6 billion judgment against the company.

Alabama sued Exxon in 1999 claiming the company fraudulently withheld millions of dollars in royalties from natural gas wells off the state's coastline.

Two juries agreed the company illegally reduced its payments to the state by claiming inappropriate expenses as deductions from the royalties. The juries awarded the state compensatory damages as well as billions of dollars in punitive damages.

Exxon argued that the state has not proven any fraud on the company's part and the suit should be thrown out. The company says the matter should have been treated as a run-of-the-mill contract dispute.

"The state was not deceived," Exxon lawyer Chris King, a partner at Alabama law firm Lightfoot, Franklin & White, told the court.

He argued that the state had the opportunity to audit Exxon's payments and had been notified that the company was making

deductions from its payments.

"Exxon's secret deductions were not secret at all," said King, who previously defended another company -- Hunt Petroleum -- against similar charges from the state.

The Alabama Supreme Court reversed a \$20 million punitive damage verdict against Hunt in 2004.

## FRAUD IN QUESTION

But the lawyer representing Alabama told the court on Tuesday that Exxon "knowingly and calculatedly cheated the state of Alabama."

Charles Cooper, a partner at Washington, D.C., law firm Cooper & Kirk, also said, "They concealed facts from inexperienced auditors."

He said eight other oil companies drilling with similar offshore leases in Alabama use the state's interpretation of the contract.

Cooper faced tough questioning from the justices on whether the state had proven fraud. Associate Justice Patricia Smith said the state never maintained that it would blindly accept Exxon's payments without auditing them.

In the case's second trial, a jury handed down \$11.8 billion of punitive damages -- the largest award by a jury in 2003. It was later reduced to \$3.5 billion by a circuit court judge.

If the court does not overturn the charges, Exxon is asking that it reduce the punitive damages.

"It is up in the stratosphere right now -- far from anything that we feel could be upheld constitutionally," said David Boyd, a lawyer for the company with Balch & Bingham in Montgomery.

Last week, Exxon Mobil reported the largest year's profit in U.S. history -- \$39.5 billion in 2006. Its full-year revenue was about \$377.64 billion.

Cooper said Exxon makes revenue equal to the \$3.6 billion judgment in 3.5 days and said it would be equivalent to a \$370 fine for the average Alabamian.

There is no schedule for when the state Supreme Court justices will return their verdict, but lawyers for the state said it could be three months.

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