

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

OCEANIC EXPLORATION COMPANY et al.,

Plaintiffs,

V.

CONOCOPHILLIPS, INC. et al.,

Defendants.

Civil Action No. 4:07-cv-00815

**PLAINTIFFS' MOTION FOR EXPEDITED SUBMISSION AND HEARING OF
PLAINTIFFS' MOTION TO STRIKE DEFENDANTS' RULE 12(c) MOTION**

Oceanic Exploration Company and Petrotimor Companhia de Petroleos, S.A.R.L. (collectively "Oceanic") respectfully submit this Motion for Expedited Submission and Hearing on Plaintiffs' Motion to Strike Defendants' Rule 12(c) Motion and states as follows:

I. FACTUAL BACKGROUND.

On March 13, 2007, Defendants filed their Rule 12(c) "Motion for Judgment on the Pleadings" together with a lengthy (327-page, fourteen exhibit) affidavit, and a notebook of unpublished cases (collectively the "Rule 12(c) Motion").¹ In the normal course of events, the Plaintiffs' response to such motion would be due on April 2, 2007, a few days before the April 5th pretrial conference already scheduled by this Court.

Today, with this filing, and well before that April 2nd response date, Plaintiffs have filed a motion to strike the Rule 12(c) Motion. That motion argues that the Rule 12(c) Motion should be stricken, in its entirety, because it attempts to re-litigate, in this court, three years of litigation

¹ S.D. Tex. Docket Nos. 114, 115 and 116.

before Judge Sullivan, and to “reverse” his rulings on the matters subject to the Rule 12(c) Motion. This effort is, in Plaintiffs’ view, not only unlawful but in direct conflict with promises made to Judge Sullivan, in obtaining the transfer, that Defendants would not attempt to re-litigate such matters in the transferee court.

This is an important motion, if only because it is the predicate to determining whether and how the parties and this Court should ultimately address the Rule 12(c) motion. Therefore, Plaintiffs respectfully request that this Court hear the Motion to Strike at the already-scheduled April 5th pretrial conference.² In order to do so, however, the submission date for the Motion to Strike (and so the date of the Defendants’ response thereto) would have to be moved forward to April 4th or 5th.³

In addition, and in the interest of judicial efficiency, the Plaintiffs also request that the Court extend the submission date for any substantive response by the Plaintiffs (to the Rule 12(c) Motion) to a date to be set at the April 5th hearing.

That extension is logical because if this Court grants the Motion to Strike, no further response will be required by the Plaintiffs or the Court. If the Court does not grant the Motion to Strike, however, it will have to determine how (and on what schedule) the parties and the Court should address the Rule 12(c) Motion – in light of the fact that the Defendants have presented numerous matters outside of the pleadings with that motion.⁴

² Considering the Motion to Strike at the April 5th conference would be consistent with this Court’s March 16, 2007 order, which indicated that the Court would be deciding motions at that conference. *See* S.D. Tex. Docket No. 122.

³ In the normal course, the submission date, and the due date of Defendants’ response to the Motion to Strike would be April 19, 2007, 14 days after the April 5th pretrial conference.

⁴ It is the Plaintiffs’ position, stated in the Motion to Strike, that if the Rule 12(c) Motion is to be considered at all, then it should be considered as a Rule 56 motion for summary judgment and addressed at the conclusion of discovery in this case.

II. ARGUMENT AND AUTHORITIES.

Pursuant to S.D. Tex. Local Rule 7.8, this Court may, “in its discretion, on its own motion or upon application, entertain and decide any motion, shorten or extend time periods, and request or permit additional authority or supporting material.”

The Plaintiffs respectfully request that this Court exercise that discretion in the manner requested herein, as that approach would be in the interest of judicial efficiency and consistent with this Court’s rules.⁵

III. CONCLUSION.

For all of the reasons stated above, the Plaintiffs request that the Plaintiff’s Motion to Strike the Defendants’ Rule 12(c) Motion be submitted and heard at the pretrial conference set for April 5, 2007. In order to give effect to that schedule, and to the follow-on schedule, Plaintiffs also ask that this Court: (1) require the Defendants to file any response to that Motion to Strike before that April 5th hearing; and (2) extend the submission date for any response by Plaintiffs on the merits of the Rule 12(c) motion to a time to be determined at the April 5th hearing.

Dated: March 30, 2007

⁵ *See, e.g.*, Fed. R. Civ. P. 1, which provides that the Federal Rules shall be “construed and administered to secure the just, speedy, and inexpensive determination of every action.”

Respectfully submitted,

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By: /s/ Julie N. Searle

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CERTIFICATE OF CONFERENCE

This is to certify that James Webster, representing the Plaintiffs, conferred with David Pluchinsky, representing the Defendants, regarding the above and foregoing Plaintiffs' Motion for Expedited Submission and Hearing on Plaintiffs' Motion to Strike Defendant's Rule 12(c) Motion on this the 30th day of March, 2007. The Defendants are not opposed to extending the submission date for Plaintiffs' response to the merits of the Rule 12(c) motion. Otherwise, Defendants oppose the motion.

/s/ James Webster
James Webster

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was served upon the following list via electronic court filing or deposited in the United States Mail, first class delivery on this, the 30th day of March, 2007.

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