

IN THE TWENTY-SIXTH JUDICIAL DISTRICT  
DISTRICT COURT, STEVENS COUNTY, KANSAS  
CIVIL DEPARTMENT

WILLIE JEAN FARRAR and KEITH )  
FARRAR, as Co-Trustees of the Keith )  
Farrar Revocable Trust, dated October 22, )  
1999 and JOHN ELDON GREGG and )  
KEITH THOMAS GREGG, as Co-Trustees )  
of the Marie Gregg Trust u/a dated April 26, )  
1979, as amended, and THOMAS L. and )  
PATRICIA A. LAHEY, individually and )  
jointly, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
MOBIL OIL CORPORATION, )  
 )  
 )  
Defendant. )  
 )  
\_\_\_\_\_ )

Case No. 01 CV 12

ORDER

NOW ON THIS 28<sup>TH</sup> day of June, 2011, the Court being duly advised in the premise, does hereby ORDER that Defendant, Exxon Mobil, shall have ninety (90) days from this date, pursuant to K.S.A. 60-256(f), for an extension of time to conduct discovery and in which to respond to Plaintiffs' Motion for Summary Judgment.

Reason for Decision

This action was filed in the Stevens County District Court in March 2001. For a variety of reasons, which are unimportant for making this decision, a class certification order was not entered until August 2009. That class certification order was appealed to

the Kansas Court of Appeals and the Kansas Supreme Court ultimately denied review. With the issue of class certification put to rest, the matter was sent back to the District Court to proceed as a certified class action. From all information contained in the court file, it appears that the parties on both sides, prior to the class certification hearing, order, and appeal, had expended most their time and energy in dealing with the class certification issues.

Upon its return to the District Court level, the required notices were mailed to potential class members and shortly after the close of the opt out period, the Plaintiffs, on March 30<sup>th</sup>, 2011 filed their Motion for Summary Judgment as it relates to the 1984 settlement agreement claim, as certified by Judge Tom R. Smith. On April 21<sup>st</sup>, Defendant, Mobil, responded to the Motion for Summary Judgment with a request pursuant to K.S.A. 60-256(f), requesting time to conduct additional discovery prior to answering the Summary Judgment Motion. On May 5<sup>th</sup>, Plaintiffs replied to said response; on May 18<sup>th</sup>, Defendant submitted its own reply; on May 23<sup>rd</sup>, Plaintiffs submitted supplemental authority; and on May 26<sup>th</sup>, the matter was heard.

K.S.A. 60-256(f) states: (f) when affidavits or declarations are unavailable. If a party opposing the motion shows by affidavit or by declaration pursuant to K.S.A. 53-601, and amendments thereto, that, for specified reasons, it cannot present facts essential to justify its opposition, the court may: (1) deny the motion; (2) order a continuance to enable affidavits or declarations to be obtained, depositions to be taken or other discovery to be undertaken; or (3) issue any other just order.

While the Court does not maintain Defendant Mobil has in any way been subject to surprise by the filing of Defendants' Motion for Summary Judgment (based on a claim specifically certified by the District Court pursuant to its class certification order) the

Court does find that, under the circumstances presented, it is appropriate to allow Mobil to conduct discovery prior to answering Plaintiffs' Motion for Summary Judgment.

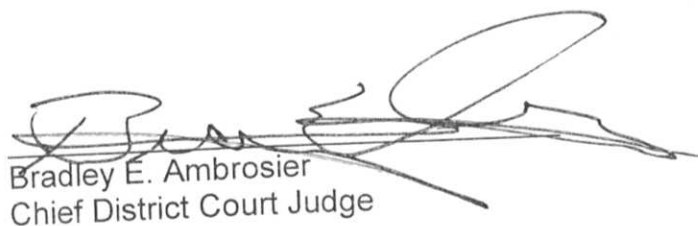
The Kansas Courts have long held that when attempting to ascertain the meaning of written words it is necessary to review the same within the context of which they are used. Central Natural Resources, Inc. v. Davis Operating Company, 288 Kan. 234 (2009). Such an exercise, by its very nature, allows for discovery as to such context.

IT IS THEREFORE THE ORDER, JUDGMENT, and DECREE OF THIS COURT that Defendant Mobil is allowed to move forward on issues of discovery prior to answering Plaintiffs' Motion for Summary Judgment. Mobil is required to file its response to the Motion prior to 5:00 p.m. on September 28<sup>th</sup>, 2011.

Pursuant to the statements of counsel at the May 26<sup>th</sup> hearing, the Court will make no further rulings on any other pending motions. In the event parties require rulings on pending motions, the same shall be set for hearing.

IT IS SO ORDERED.

Dated this 28 of June, 2011.

  
Bradley E. Ambrosier  
Chief District Court Judge

## CERTIFICATE OF SERVICE

I, Kathy Wedel, do hereby certify a true and correct copy of the above and foregoing ORDER was mailed by U.S. Mail postage prepaid on this 28<sup>th</sup> day of June, 2011, to the following:

Mr. Erick E. Nordling  
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209 E. 6<sup>th</sup> Street  
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Mr. David G. Seely  
Fleeson Gooing Coulson & Kitch LLC  
P.O. Box 997  
Wichita, KS 67201-0997

with the Original to:

Ms. Kelsee Burnett  
Clerk of the District Court  
200 E. 6<sup>th</sup> Street  
Hugoton, KS 67951

  
Kathy Wedel, Administrative Assistant