

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

THOMAS L. TAYLOR, III	§	
In his capacity as Court-Appointed	§	
temporary receiver for Breitling	§	
Energy Corporation,	§	
	§	
Plaintiff,	§	
	§	CIV. ACTION NO. 3:19-cv-01594-D
vs.	§	
	§	
ROTHSTEIN KASS & COMPANY	§	
and BRIAN MATLOCK,	§	
	§	
Defendants.	§	

JOINT MOTION TO AMEND SCHEDULING ORDER

COME NOW Plaintiff Thomas L. Taylor III (the “Receiver”), solely in his capacity as temporary Receiver for the Breitling group of companies, and Defendants Rothstein Kass & Company and Brian Matlock (collectively the “Parties”) and file this Joint Motion to Amend Scheduling Order, and would respectfully show the Court as follows:

I. BACKGROUND

In the interest of conserving party (including Receivership) resources, the Parties have agreed to postpone fact witness depositions in this case to allow the Court more time to consider and rule on the Defendants’ pending Motion to Dismiss (the “MTD”) (Doc. No. 19), as well as to allow the Receiver’s counsel additional time to review and get up to speed on the massive evidentiary record that has been compiled over the last 5+ years in the SEC Action as well as the related 2017 state court case, *Jinsun LLC et al. v. Rothstein, Kass & Co.*, Cause No. CC-17-06249-C (the “*Jinsun Case*”), which case is currently scheduled for trial on March 24, 2020.

As a result, and in order to conserve resources, the Parties have agreed to suspend depositions in this case until after the Court rules on the pending motion to dismiss in this case, and have further agreed to request that the Court alter the pre-trial deadlines in the current Scheduling Order accordingly, as described below.

II. PROCEDURAL HISTORY

The Receiver filed the Original Complaint in this case on July 1, 2019 [Doc. 1].

The undersigned counsel entered an appearance as counsel for the Receiver in this case on July 16, 2019 [Doc. Nos. 7 and 8].¹

Defendants filed their MTD on September 3, 2019 [Doc. 19], the Receiver filed his Response on September 20, 2019 [Doc. 22], and Defendants filed their Reply on October 4, 2019 [Doc. 25].

The parties thereafter submitted their Scheduling Proposal on October 11, 2019 [Doc. 26] and the Court entered its Scheduling Order in this case on October 21, 2019 [Doc. 29]. The Scheduling Order sets a discovery deadline of August 14, 2020 but sets no trial date.

The Receiver served his Initial Disclosures on November 15, 2019 and Defendants' served their disclosures on November 21, 2019. The Receiver served his first Request for Production on

¹ At that time the undersigned counsel was just finishing up discovery and in the middle of summary judgment briefing in a Stanford MDL case, *Janvey v. Greenberg Traurig*, Civ. Action No. 3:12-cv-04641-N (N.D. Tex. – Dallas) (Godbey, J.), for which a \$65 million settlement was reached in late August 2019 (currently pending court approval by Judge Godbey).

November 21, 2019 and received Defendants' Response to said document request just before Christmas on December 23, 2019.²

III. ARGUMENT

While the Receiver believes strongly in his case against Defendants, at the same time the Receiver is very conscious of his responsibility to preserve scant Receivership resources and does not believe it prudent to begin depositions prior to the Court's ruling on Defendants' MTD.

For their part, Defendants are in the midst of preparing for trial in the state court *Jinsun* case.

As a result, the Parties have conferred and have agreed to postpone depositions in this case until some time after the Court rules on the pending motion to dismiss. The Parties have also conferred and reached agreement on a (roughly) 3-month extension of the pre-trial deadlines set forth in the Court's Scheduling Order, as follows:

Joinder of Parties	May 15, 2020
Amendment of Pleadings	June 1, 2020
Expert Witness Designations	August 14, 2020
Rebuttal Expert Witness Designations	September 14, 2020
Discovery Completion / Status Report	November 15, 2020
Summary Judgment Motions	December 1, 2020
Summary Judgment Responses	December 31, 2020
Summary Judgment Replies	January 15, 2021

² The Receiver's counsel then went on a 10-day family vacation in Mexico that had been planned since the settlement of the *Janvey v. Greenberg Traurig* matter, returning to the office January 6, 2020.

The Parties attach a proposed Amended Scheduling Order and request entry of same by the Court.

IV. PRAYER

For the foregoing reasons, Plaintiff and Defendants respectfully request that the Court enter an Amended Scheduling Order based on the deadlines outlined above, and for such other and further relief the Court deems just and proper.

Respectfully submitted,

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/s/ Edward C. Snyder

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***ATTORNEYS FOR THOMAS L.
TAYLOR, III***

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served on this 13th day of January, 2020 on all counsel of record via CM/ECF, and/or email, pursuant to the Federal Rules of Procedure 5(b)(2).

/s/ Edward C. Snyder

Edward C. Snyder

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AGREED ORDER ON AMENDMENT OF SCHEDULING ORDER

On this day came on to be considered Plaintiff Thomas L. Taylor III and Defendants Rothstein Kass & Company and Brian Matlock’s Joint Motion to Amend Scheduling Order (the “Motion”). After considering the Motion, the Court is of the opinion that the Motion should be, and it is hereby GRANTED.

IT IS HEREBY ORDERED that Scheduling Order filed and entered with this Court on October 21, 2019 [Doc. No. 29] is amended solely for the purpose of altering the pre-trial deadlines as follows:

Joinder of Parties	May 15, 2020
Amendment of Pleadings	June 1, 2020
Expert Witness Designations	August 14, 2020
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Summary Judgment Responses

December 31, 2020

Summary Judgment Replies

January 15, 2021

The remainder of the existing Scheduling Order shall remain in effect.

SO ORDERED this _____ day of January, 2020.

SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE