

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

THOMAS L. TAYLOR, III, in his capacity
as Court-appointed temporary receiver for
Breitling Energy Corp. et al.,

Plaintiff

v.

ROTHSTEIN KASS P.A. d/b/a ROTHSTEIN
KASS & CO. P.C.; ROTHSTEIN KASS &
COMPANY, PLLC and BRIAN MATLOCK,

Defendants.

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NO. 3:19-cv-01594-D

STIPULATION AND [PROPOSED] ORDER

IT IS HEREBY STIPULATED AND AGREED by Defendants Rothstein, Kass & Company, PLLC, Rothstein-Kass P.A. d/b/a Rothstein Kass & Company, P.C., (collectively, “Rothstein Kass”) and Brian Matlock (together, “Defendants”), and Plaintiff Thomas L. Taylor III (the “Receiver”) (collectively, the “Parties”), solely in his capacity as temporary Receiver of the Breitling group of companies, that the provisions set forth below shall govern the deposition and trial testimony of Kenneth Stephens.

1. In order to conserve Receivership resources, and because the following witness has already been deposed (in some cases multiple times) in Breitling-related cases, the Receiver agrees that he shall not depose Kenneth Stephens (“Mr. Stephens” or “Rothstein Kass Witness”), subject to the following conditions:

- a. Mr. Stephens shall appear for testimony at trial.
- b. Mr. Stephens shall accept service of trial subpoenas via the undersigned counsel for Rothstein Kass and agree to appear at trial.

- c. The Rothstein Kass Witness has previously testified via depositions in *Jinsun, L.L.C., et al. v. Rothstein, Kass & Company, PLLC*, No. CC-17-06249-C (Cty. Ct. at Law No. 3, Dallas Cty., Tex. filed Nov. 28, 2017) (“*Jinsun Action*”) and In the Matter of Breitling Oil and Gas Corporation (File No. FW-03789-A) (including Amended 8-22-2017) (the “SEC Investigation”) (collectively, “Prior Deposition Testimony”).
 - d. The parties shall not object to the use of the Rothstein Kass Witness’s Prior Deposition Testimony as evidence attached to and incorporated into any motions for summary judgment (or responses thereto) filed in the instant action. Solely for purposes of the parties’ summary judgment motions (and responses thereto), the Prior Deposition Testimony will be treated by the parties as if taken in this case.
 - e. The Receiver will not introduce the Rothstein Kass Witness’s Prior Deposition Testimony at the trial of this action except as permitted by Fed. R. Civ. P. 32. This stipulation shall not waive or affect the Receiver’s ability to use the Prior Deposition Testimony for impeachment purposes at trial.
2. The foregoing shall not be considered a waiver of any objections to questions or testimony stated on the record during the Prior Deposition Testimony of the Rothstein Kass Witness, and is subject to any future written agreements between the Defendants and the Receiver, court rulings regarding trial testimony, and the rules and limitations of the Federal Rules of Evidence and Civil Procedure.

SO ORDERED this ____ day of June, 2020

SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE

Agreed as to form:

Dated: June 2, 2020

/s/ Nicolas Morgan
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and Brian Matlock

Dated: June 2, 2020

/s/ Edward C. Snyder
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STIPULATION AND [PROPOSED] ORDER

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Attorneys for Plaintiff
Thomas L. Taylor, III

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been served to all counsel of record in accordance with the Federal Rules of Civil Procedure on June 2, 2020 via ECF notification.

/s/ Nicolas Morgan

NICOLAS MORGAN