



On January 14, 2020, the Court entered the Agreed Order on Amendment to the Scheduling Order. In relevant part, the Agreed Order provided the following deadlines:

<b>Discovery Completion/Status Report</b>	<b>November 16, 2020</b>
<b>Summary Judgment Motions</b>	<b>December 1, 2020</b>
<b>Summary Judgment Responses</b>	<b>December 31, 2020</b>
<b>Summary Judgment Replies</b>	<b>January 15, 2021</b>

Additionally, the Court's May 7, 2020, Trial Setting Order [Doc. 48] established an April 19, 2021, Trial Setting date.

The Parties have engaged in robust discovery including written document requests, interrogatories and multiple depositions during the course of this litigation. The Parties have also exchanged multiple expert reports and conducted expert depositions.

## **II. ARGUMENT**

Regarding the existing deadline to complete discovery by November 16, 2020, the parties anticipate completing discovery by that date with one exception. Counsel for third party witness David Kovacs informed the parties that Mr. Kovacs will be unavailable for deposition until mid-December 2020. The parties agree that Mr. Kovacs' deposition may go forward after the current November 16 discovery cut-off date. The parties agree that the November 16 discovery cut-off shall remain in place for all other purposes.

Regarding the existing deadlines relating to Motions for Summary Judgment, the Summary Judgment Motion deadline is December 1, 2020 which is the Tuesday following Thanksgiving. The deadline for the Summary Judgment Response is December 31, 2020 which is the Thursday following Christmas. The Defendants expect to file Motions for Summary Judgment, or in the Alternative, Motions for Partial Summary Judgment.

The Parties believe that the filing of the Motions for Summary Judgment or Partial Summary Judgment may help to narrow issues for trial. *See Edwards v. Hartford Underwriters Ins. Co.*, No. 1:18-CV-370, 2019 WL 5790857, at \*4 (E.D. Tex. Oct. 18, 2019), report and recommendation adopted, No. 1:18-CV-370, 2019 WL 5722111 (E.D. Tex. Nov. 4, 2019)(citing *Gatt Trading, Inc. v. Sears, Roebuck & Co.*, No. CIV.A.3:02-CV-1573-B, 2004 WL 2511894, at \*5 n. 12 (N.D. Tex. Nov. 8, 2004); *Welsh v. Rockmaster Equip.*, 47 F.Supp.2d 818, 820 (E.D. Tex. 1999)) (Cobb, J.); *see also Durham v. Allstate Vehicle & Prop. Ins. Co.*, No. CV H-17-1752, 2019 WL 2907263, at \*2 (S.D. Tex. Jan. 4, 2019) (“[a]s a dispositive motion, a motion for summary judgment may narrow the issues for trial or resolve the entire case, thereby enhancing judicial efficiency.”) Additionally, the Court’s ruling on the Motion for Summary Judgment may assist in identifying potential hazards of litigation.

Because of the proximity of the deadlines to the holidays of Thanksgiving and Christmas, the Parties are requesting that the Court move the Summary Judgment deadlines by two weeks.

The revised deadlines would be as follows:

<b>Deposition of David Kovacs</b>	<b>May Occur After November 16, 2020</b>
<b>Summary Judgment Motions</b>	<b>December 8, 2020</b>
<b>Summary Judgment Responses</b>	<b>January 12, 2021</b>
<b>Summary Judgment Replies</b>	<b>February 2, 2021</b>

These extensions will allow the Parties additional time to fully brief the issues for the Court’s careful consideration. The trial setting date of April 19, 2021 [Doc. 48] remains the same. The Parties believe the proposed schedule allows ample time for the Court to consider the Motions for Summary Judgment prior to trial.

**III. PRAYER**

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

Date: November 4, 2020

By: /s/ Nicolas Morgan

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**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.	§	NO. 3:19-cv-01594-D
	§	
ROTHSTEIN KASS P.A. d/b/a ROTHSTEIN	§	
KASS & CO. P.C., ROTHSTEIN KASS &	§	
COMPANY, PLLC and BRIAN MATLOCK,	§	
	§	
Defendants.	§	

**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 summary judgment deadlines as follows:

<b>Summary Judgment Motions</b>	<b>December 15, 2020</b>
<b>Summary Judgment Responses</b>	<b>January 14, 2021</b>
<b>Summary Judgment Replies</b>	<b>January 29, 2021</b>

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

SO ORDERED this \_\_\_\_\_ day of November, 2020.

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SIDNEY A. FITZWATER  
UNITED STATES DISTRICT JUDGE