

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

THOMAS L. TAYLOR III, solely in his	§	
capacity as Court-appointed temporary	§	
receiver for Breitling Energy Corporation, <i>et</i>	§	
<i>al.</i> ,	§	
Plaintiff,	§	
	§	Civil Action No. 3:20-cv-00393-D
v.	§	
	§	
REYMOND TREVINO, EAGLE RIO	§	
ENERGY COMPANIES, INC., DEREK	§	
TAYLOR, ALDEN ADAMS, LLC,	§	
NATHAN MADU, and OKOTO OKPO,	§	
	§	
Defendants.	§	

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**JOINT MOTION TO MODIFY SCHEDULING ORDER**

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Plaintiff Receiver Thomas L. Taylor III (“Receiver”) and Defendants Reymond Trevino (“Trevino”), Eagle Rio Energy Companies Inc. (“Eagle Rio”), Derek Taylor (“Taylor”), Alden Adams, LLC (“Alden Adams”), and Okoto Okpo (“Okpo”) (collectively, “Defendants” and with the Receiver, the “Parties”), respectfully move the Court to modify the Scheduling Order (ECF No. 31) (“Scheduling Order”) in this case, and would show the Court as follows:

On September 9, 2020 this Court entered the Scheduling Order, pursuant to which certain deadlines, including the following, were set:

- complete discovery no later than April 2, 2021;
- file a joint estimate of trial length and joint status report concerning the progress of settlement negotiations no later than April 2, 2021; and

- motions for summary judgment and motions not otherwise covered by the Scheduling Order filed no later than April 30, 2021.

On March 3, 2021 this Court entered the Trial Setting Order (ECF No. 56) (“Trial Setting Order”) setting this case for a two-week docket on February 22, 2022, or 320 days from the date of this Motion.

In light of the trial in this case being set more than 10 months in the future, and to permit the Parties sufficient time to conclude their discovery, the Parties ask the Court to modify the Scheduling Order with respect to the above deadlines as follows:

- complete discovery no later than **June 30, 2021**;
- and file a joint estimate of trial length and joint status report concerning the progress of settlement negotiations no later than **June 30, 2021**;
- motions for summary judgment and motions not otherwise covered by the Scheduling Order filed no later than **July 30, 2021**.

With respect to motions for summary judgment, Defendants Trevino, Eagle Rio, and Okpo also seek leave to amend their previously filed Motion for Summary Judgment, Brief in Support, and Exhibit Appendix (ECF Nos. 38, 39, and 40) at any time through June 30, 2021. Their Motion, Brief in Support, and Exhibit Appendix were filed prior to entry of the Court’s Order granting Defendants Taylor and Alden Adams’ Rule 12(b)(6) Motion (ECF No. 54), and the Receiver’s subsequent filing of his First Amended Complaint (ECF No. 55). The Receiver does not oppose such relief.<sup>1</sup>

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<sup>1</sup> Should the Court grant leave to amend, the Parties ask that the Receiver be permitted to file a response to the amended motion, and Trevino and Eagle Rio be permitted to reply to same.

### **THE COURT’S DISCRETION TO MODIFY IS EXCEEDINGLY WIDE**

“A schedule may be modified only for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). “A trial judge’s control of discovery is granted great deference.” *HC Gun & Knife Shows, Inc. v. City of Houston*, 201 F.3d 544, 549 (5th Cir. 2000) (quoting *Meadowbriar Home for Children, Inc. v. Gunn*, 81 F.3d 521, 534 n. 12 (5th Cir. 1996)). “When the question for the trial court is a scheduling decision, ... the judgment range is exceedingly wide, for, in handling its calendar and determining when matters should be considered, the district court must consider not only the facts of the particular case but also all of the demands on counsel’s time and the court’s.” *Id.* at 549 – 50 (quoting *Fontenot v. Upjohn Co.*, 780 F.2d 1190, 1193 (5th Cir. 1986)).

The Parties ask the Court to exercise its “exceedingly wide” discretion and grant the relief requested herein. The Parties and their counsel have been working to move this case forward since the entry of the Scheduling Order. The Receiver and Defendants have exchanged several rounds of written discovery, with some requests outstanding following courtesy extensions. The Receiver noticed the depositions of all Defendants in March. However, due to scheduling conflicts and previously planned vacation during the spring break window, and in light of the trial setting date now set over 10 months into the future, the Parties ask the Court to modify the Scheduling Order as requested above. Further, as the Parties jointly file this motion, they agree they are neither inconvenienced nor prejudiced by this request.

### **CONCLUSION**

The Parties request that the Scheduling Order be modified as requested herein, that Trevino, Eagle Rio and Okpo be granted leave to amend their Motion for Summary Judgment, and that the Court grant such other relief as the Court deems just.

Dated: April 2, 2021

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANTS  
DEREK TAYLOR AND ALDEN ADAMS,  
LLC**

**CERTIFICATE OF SERVICE**

I certify that on April 2, 2021, I filed the foregoing document through the Court's CM/ECF filing system, which satisfies service requirements under FED. R. CIV. P. 5(b)(2)(E).

/s/ Andrew M. Goforth

Andrew M. Goforth

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**JOINT MOTION TO MODIFY SCHEDULING ORDER**

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Before the Court is the Joint Motion to Modify the Scheduling Order (“Motion”) filed by Plaintiff Receiver Thomas L. Taylor III and Defendants Reymond Trevino, Eagle Rio Energy Companies Inc., Derek Taylor, Alden Adams, LLC, and Okoto Okpo. The Court is of the opinion that the Motion should be granted in all respects.

It is therefore ORDERED that the Scheduling Order (ECF No. 31) is modified as follows:

The Parties shall

- complete discovery no later than **June 30, 2021**;
- file a joint estimate of trial length and joint status report concerning the progress of settlement negotiations no later than **June 30, 2021**; and
- file motions for summary judgment and motions not otherwise covered by the Scheduling Order no later than **July 30, 2021**.

It is further ORDERED that Defendants Trevino, Eagle Rio, and Okpo are granted leave

to amend their previously filed Motion for Summary Judgment, Brief in Support, and Exhibit Appendix (ECF Nos. 38, 39, and 40) at any time through June 30, 2021. Any responses or replies related to same shall be filed in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Northern District of Texas.

Signed: \_\_\_\_\_, 2021

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SIDNEY A. FITZWATER  
SENIOR JUDGE