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**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA**

EXXONMOBIL OIL CORPORATION,)	1:09-cv-1498 AWI DLB
)	
Plaintiff,)	ORDER REFERRING PENDING
v.)	MOTION TO AMEND TO THE
)	MAGISTRATE JUDGE AND
NICOLETTI OIL, INC. et al.,)	SETTING BRIEFING SCHEDULE
)	
Defendants.)	ORDER VACATING SEPTEMBER 12,
)	2012 PRETRIAL CONFERENCE

This action is set for a pretrial conference to be held on September 12, 2012 and set for trial to begin on November 14, 2012.

On September 7, 2012, Plaintiff filed a motion to amend the complaint. This motion seeks to delete from the operative complaint the second claim for express contractual indemnity, the third claim for equitable indemnity, and the seventh claim for negligence. Plaintiff states that Defendants will not stipulate to this amendment pursuant to Rule 41 of the Federal Rules of Civil Procedure. Plaintiff seeks dismissal of these claims without prejudice, but Plaintiff represents Defendants will only stipulate to these claims' dismissal if the dismissal is with prejudice.

The court finds that resolution of the pending motion to amend should occur prior to any pretrial conference. In light of the upcoming trial date, the court will set an expedited briefing schedule on this motion.

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1 Accordingly, the court ORDERS that:

- 2 1. Any opposition to the motion to amend SHALL BE FILED and served no later
3 than 1:00 p.m. on Monday, September 17, 2012. Any reply brief SHALL BE
4 FILED and served no later than 1:00 p.m. on Thursday, September 20, 2012.
- 5 2. The motion to amend is REFERRED to the Magistrate Judge. The motion to
6 amend will be taken under submission by the Magistrate Judge as of September
7 20, 2012. If the Magistrate Judge determines that a hearing would be beneficial,
8 the Magistrate Judge shall set a hearing at his convenience.
- 9 3. The September 12, 2012 pretrial conference is VACATED.
- 10 4. The pretrial conference is reset for October 4, 2012 at 8:30 a.m.

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12 IT IS SO ORDERED.

13 Dated: September 10, 2012

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16 CHIEF UNITED STATES DISTRICT JUDGE
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