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7 **UNITED STATES DISTRICT COURT**  
8 **EASTERN DISTRICT OF CALIFORNIA**  
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10	MARC MCCULLOCH, et al.,	)	Case No.: 1:16-cv-00157 DAD JLT
11	Plaintiffs,	)	
12	v.	)	SCHEDULING ORDER (Fed. R. Civ. P. 16)
13	BAKER HUGHES INTEQ DRILLING	)	Pleading Amendment Deadline: 9/9/2016
14	FLUIDS, INC., et al.,	)	Discovery Deadlines:
15	Defendants.	)	Initial Disclosures: 5/2/2016
		)	Non-Expert: 3/17/2017
		)	Expert: 5/26/2017
16		)	Mid-Discovery Status Conference:
17			9/19/2016 at 9:00 a.m.
18			Class Certification Motion Filing Deadline:
19			10/7/2016
20			Non-Dispositive Motion Deadlines:
21			Filing: 6/9/2017
22			Hearing: 7/7/2017
23			Dispositive Motion Deadlines:
24			Filing: 8/4/2017
25			Hearing: 9/5/2017
26			Pre-Trial Conference:
27			10/30/2017 at 3:30 p.m.
28			Courtroom 5, Fresno
			Trial: 12/19/2017 at 8:30 a.m.
			Courtroom 5, Fresno
			Jury trial: 10 days

1 **I. Date of Scheduling Conference**

2 April 28, 2016

3 **II. Appearances of Counsel**

4 Daniel S. Brome appeared on behalf of Plaintiffs

5 M. Brett Burns appeared on behalf of Defendant

6 **III. Information Concerning the Court's Schedule**

7 Out of fairness, the Court believes it is necessary to forewarn litigants that the Fresno Division  
8 of the Eastern District of California now has the heaviest District Court Judge caseload in the entire  
9 nation. While the Court will use its best efforts to resolve this case and all other civil cases in a timely  
10 manner, the parties are admonished that not all of the parties' needs and expectations may be met as  
11 expeditiously as desired. As multiple trials are now being set to begin upon the same date, parties may  
12 find their case trailing with little notice before the trial begins. The law requires that the Court give any  
13 criminal trial priority over civil trials or any other matter. The Court must proceed with a criminal trial  
14 even if a civil trial was filed earlier and set for trial first. Continuances of any civil trial under these  
15 circumstances will no longer be entertained, absent a specific and stated finding of good cause. All  
16 parties should be informed that any civil trial set to begin during the time a criminal trial is proceeding  
17 will trail the completion of the criminal trial.

18 The parties are reminded of the availability of a United States Magistrate Judge to conduct all  
19 proceedings in this action. A United States Magistrate Judge is available to conduct trials, including  
20 entry of final judgment, pursuant to 28 U.S.C. § 636(c), Federal Rule of Civil Procedure 73, and Local  
21 Rule 305. The same jury pool is used by both United States Magistrate Judges and District Court  
22 Judges. Any appeal from a judgment entered by a United States Magistrate Judge is taken directly to  
23 the United States Court of Appeal for the Ninth Circuit. However, the parties are hereby informed that  
24 no substantive rulings or decisions will be affected by whether a party chooses to consent.

25 Finally, the Fresno Division of the Eastern District of California, whenever possible, is utilizing  
26 United States Article III District Court Judges from throughout the nation as Visiting Judges. Pursuant  
27 to the Local Rules, Appendix A, reassignments will be random, and the parties will receive no advance  
28 notice before their case is reassigned to an Article III District Court Judge from outside of the Eastern

1 District of California.

2 Plaintiff has indicated his willingness to consent to the jurisdiction of the Magistrate Judge.  
3 Therefore, the defendants are directed to consider consenting to Magistrate Judge jurisdiction to  
4 conduct all further proceedings, including trial. **Within 10 days** of the date of this order, the  
5 defendants **SHALL** file a consent/decline form (provided by the Court at the inception of this case)  
6 indicating whether they will consent to the jurisdiction of the Magistrate Judge.

7 **IV. Pleading Amendment Deadline**

8 Any requested pleading amendments are ordered to be filed, either through a stipulation or  
9 motion to amend, no later than **September 9, 2016**.

10 **V. Discovery Plan and Cut-Off Date**

11 The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1)  
12 on or before **May 2, 2016**.

13 The parties are ordered to complete all discovery pertaining to non-experts on or before **March**  
14 **17, 2017**, and all discovery pertaining to experts on or before **May 26, 2017**.

15 The parties are directed to disclose all expert witnesses, in writing, on or before **April 7, 2017**,  
16 and to disclose all rebuttal experts on or before **May 5, 2017**. The written designation of retained and  
17 non-retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B), and (C) and**  
18 **shall include all information required thereunder**. Failure to designate experts in compliance with  
19 this order may result in the Court excluding the testimony or other evidence offered through such experts  
20 that are not disclosed pursuant to this order.

21 The provisions of Fed. R. Civ. P. 26(b)(4) and (5) shall apply to all discovery relating to experts  
22 and their opinions. Experts must be fully prepared to be examined on all subjects and opinions included  
23 in the designation. Failure to comply will result in the imposition of sanctions, which may include  
24 striking the expert designation and preclusion of expert testimony.

25 The provisions of Fed. R. Civ. P. 26(e) regarding a party's duty to timely supplement disclosures  
26 and responses to discovery requests will be strictly enforced.

27 A mid-discovery status conference is scheduled for **September 19, 2016**, at 9:00 a.m. before the  
28 Honorable Jennifer L. Thurston, U.S. Magistrate Judge, located at 510 19<sup>th</sup> Street, Bakersfield,

1 California. Counsel SHALL file a Joint Mid-Discovery Status Conference Report one week prior to the  
2 conference, and shall also lodge it via e-mailed, in Word format, to JLTorders@caed.uscourts.gov. The  
3 joint statement SHALL outline the status of the matter, including all discovery that has been completed  
4 as well as any impediments to meeting the deadlines set forth in this order. In addition, counsel  
5 SHALL propose a range of dates for the Court to conduct a settlement conference. Counsel may appear  
6 via the CourtCall service.

7 **VI. Pre-Trial Motion Schedule**

8 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later  
9 than **June 9, 2017**, and heard on or before **July 7, 2017**. Non-dispositive motions are heard before the  
10 Honorable Jennifer L. Thurston, United States Magistrate Judge at the United States Courthouse in  
11 Bakersfield, California.

12 **No written discovery motions shall be filed without the prior approval of the assigned**  
13 **Magistrate Judge.** A party with a discovery dispute must first confer with the opposing party in a  
14 good faith effort to resolve by agreement the issues in dispute. If that good faith effort is unsuccessful,  
15 the moving party promptly shall seek a telephonic hearing with all involved parties and the Magistrate  
16 Judge. It shall be the obligation of the moving party to arrange and originate the conference call to the  
17 court. To schedule this telephonic hearing, the parties are ordered to contact Courtroom Deputy Clerk,  
18 Susan Hall at (661) 326-6620 or via email at SHall@caed.uscourts.gov. **Counsel must comply with**  
19 **Local Rule 251 with respect to discovery disputes or the motion will be denied without prejudice**  
20 **and dropped from calendar.**

21 In scheduling such motions, the Magistrate Judge may grant applications for an order shortening  
22 time pursuant to Local Rule 144(e). However, if counsel does not obtain an order shortening time, the  
23 notice of motion *must* comply with Local Rule 251. Counsel may appear and argue non-dispositive  
24 motions via CourtCall.

25 All dispositive pre-trial motions shall be filed no later than **August 4, 2017** and heard no later  
26 than **September 5, 2017** in Courtroom 5 at 8:30 a.m. by the Honorable Dale A. Drozd, United States  
27 District Court Judge. In scheduling such motions, **counsel shall comply with Fed. R. Civ. P. 56 and**  
28 **Local Rules 230 and 260.**

1 **VII. Motions for Summary Judgment or Summary Adjudication**

2 **At least 21 days before** filing a motion for summary judgment or motion for summary  
3 adjudication, the parties are **ORDERED** to meet, in person or by telephone, to confer about the issues  
4 to be raised in the motion.

5 The purpose of the meeting shall be to: 1) avoid filing motions for summary judgment where a  
6 question of fact exists; 2) determine whether the respondent agrees that the motion has merit in whole  
7 or in part; 3) discuss whether issues can be resolved without the necessity of briefing; 4) narrow the  
8 issues for review by the court; 5) explore the possibility of settlement before the parties incur the  
9 expense of briefing a summary judgment motion; 6) to arrive at a joint statement of undisputed facts.

10 The moving party shall initiate the meeting and SHALL provide a complete, proposed statement  
11 of undisputed facts at least five days before the conference. The finalized joint statement of undisputed  
12 facts SHALL include all facts that the parties agree, for purposes of the motion, may be deemed true.  
13 In addition to the requirements of Local Rule 260, the moving party shall file the joint statement of  
14 undisputed facts.

15 In the notice of motion the moving party shall certify that the parties have met and conferred as  
16 ordered above, or set forth a statement of good cause for the failure to meet and confer.

17 **VIII. Motion for class certification**

18 The motion for class certification **SHALL** be filed no later than **October 7, 2016**.<sup>1</sup> A hard-copy,  
19 courtesy copy of all filings related to the class motion **SHALL** be sent via overnight mail to the  
20 Chambers of Judge Drozd, at the same time the filing is submitted. All of the pages of evidence in the  
21 hard copy **SHALL** be numbered, tabbed and indexed.

22 **IX. Pre-Trial Conference Date**

23 **October 30, 2017**, at 3:30 p.m. in Courtroom 5 before Judge Drozd.

24 The parties are ordered to file a **Joint Pretrial Statement pursuant to Local Rule 281(a)(2)**.  
25 The parties are further directed to submit a digital copy of their pretrial statement in Word format,  
26 directly to Judge Drozd's chambers, by email at DADorders@caed.uscourts.gov.

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<sup>1</sup> Counsel agree that, once the motion is ready to be filed, they will meet and confer to discuss the hearing date to select a date that suits each side's need to conduct discovery on the issues and as to the evidence upon which the motion relies.

Counsels' attention is directed to **Rules 281 and 282 of the Local Rules** of Practice for the Eastern District of California, as to the obligations of counsel in preparing for the pre-trial conference. The Court will insist upon strict compliance with those rules. In addition to the matters set forth in the Local Rules the Joint Pretrial Statement shall include a Joint Statement of the case to be used by the Court to explain the nature of the case to the jury during voir dire.

**X. Trial Date**

**December 19, 2017**, at 1:00 p.m. in Courtroom 4 before the Honorable Dale A. Drozd, United States District Court Judge.

- A. This is a jury trial.
- B. Counsels' Estimate of Trial Time: 10 days.
- C. Counsels' attention is directed to Local Rules of Practice for the Eastern District of California, Rule 285.

**XI. Settlement Conference**

Counsel **SHALL** meet and confer to select proposed dates for a settlement conference. Counsel **SHALL** address this topic in their mid-discovery status conference report. Counsel are advised that the settlement conference will be conducted by Magistrate Judge Jennifer L. Thurston at the United States District Courthouse located at 510 19<sup>th</sup> Street, Bakersfield, CA. **If any party prefers the settlement conference be conducted by a judicial officer not assigned to this case, that party SHALL notify the Court at in their mid-discovery status report to allow sufficient time for a different judicial officer to be assigned to the conference.**

**XII. Compliance with Federal Procedure**

All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure and the Local Rules of Practice of the Eastern District of California, and to keep abreast of any amendments thereto. The Court must insist upon compliance with these Rules if it is to efficiently handle its increasing case load, and sanctions will be imposed for failure to follow the Rules as provided in both the Federal Rules of Civil Procedure and the Local Rules of Practice for the Eastern District of California.

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1 **XIII. Effect of this Order**

2 The foregoing order represents the best estimate of the court and counsel as to the agenda most  
3 suitable to dispose of this case. If the parties determine at any time that the schedule outlined in this  
4 order cannot be met, counsel are ordered to notify the court immediately of that fact so that adjustments  
5 may be made, either by stipulation or by subsequent status conference.

6 **The dates set in this Order are considered to be firm and will not be modified absent a**  
7 **showing of good cause even if the request to modify is made by stipulation. Stipulations**  
8 **extending the deadlines contained herein will not be considered unless they are accompanied by**  
9 **affidavits or declarations, and where appropriate attached exhibits, which establish good cause**  
10 **for granting the relief requested.**

11 Failure to comply with this order may result in the imposition of sanctions.

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13 IT IS SO ORDERED.

14 Dated: April 28, 2016

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE