IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TEXAS MARSHALL DIVISION

CIVIL ACTION NO. 2:07-cv-191 AUBREY CLARK AND WIFE, (Judge John T. Ward) 88888 KELLY CLARK VS. **KELLOGG BROWN & ROOT, LLC,** BROWN & ROOT, INC n/k/a KELLOGG BROWN & ROOT, LLC, KBR, INC. d/b/a KELLOGG BROWN Pursuant to Rule 9(h) of the Federal Rules of & ROOT (KBR), INC. and § **Civil Procedure - ADMIRALTY** HALLIBURTON COMPANY Ş

PLAINTIFFS' REPLY TO DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION FOR EXPEDITED TRIAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, AUBREY CLARK and wife, KELLY CLARK, hereafter referred to as Plaintiffs, filing this their Reply to Defendants' Response to Plaintiffs' Motion for Expedited Trial and for cause would respectfully show unto this Honorable Court as follows:

I.

Plaintiffs are seeking an expedited trial setting in this cause as Mr. Clark's condition is terminal. Mr. Clark's disease is life threatening and his prognosis is poor at best. Defendants do not dispute the nature of Mr. Clark's medical condition.

This case was originally filed in State Court on June 26, 2006. Mr. Clark answered a comprehensive set of discovery on October 13, 2006. Mr. Clark's deposition was taken on November 6, 2006. The Defendants were aware of the existence of Mr. Clark's wife for (10) ten months and of his children for (7) seven months prior to original

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trial setting and chose not to take their depositions. These depositions could have been taken previously. Defendants opted not to take them.

Additionally, the Defendants had Mr. Clark's work records in their files and were fully aware of prospective fact witnesses. Any delay in taking any of these depositions was of Defendants' own doing.

Further, Plaintiffs retained five expert witnesses, all of whom were deposed by Defendants. Defendants also retained five expert witnesses, all of which were deposed by Plaintiffs.

II.

In summary, Plaintiffs request this case be set for trial before the Honorable Judge Ward in early December if the Court's schedule would so allow. Plaintiffs also seek a scheduling conference with the Court as soon as possible to establish the pre-trial schedule in connection with Plaintiffs' requested trial setting.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that its Motion for Expedited Trial Setting be in all things granted.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been duly forwarded to all counsel of record on this 14th day of September, 2007.

J. KEITH HYDE