

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

NATIONAL OILWELL DHT, LP,

Plaintiff,

v.

AMEGA WEST SERVICES, LLC,

Defendant.

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Case No. 2:14-cv-1020-JRG-RSP

ORDER

Before the Court is the Unopposed Motion to Substitute Technical Expert, filed by Plaintiff National Oilwell DHT, L.P. Dkt. No. 123. Plaintiff moves for leave to replace its technical expert Edward Hemphill with substitute expert Harold McGowen because due to Covid-19 Mr. Hemphill discontinued his consulting business and now works in a different profession. Plaintiff has represented that Mr. Hemphill’s new employer “contend[s] he cannot continue as [the Plaintiff’s] technical expert in this case at least because of the time and travel burden occasioned by deposition and trial testimony, including necessary preparation.” Dkt. No. 123 at 1.

The parties have presented the following stipulations that the Court expressly relies upon in granting the Motion. Those stipulations are:

1. Mr. McGowen will adopt Mr. Hemphill’s opinions expressed in Mr. Hemphill’s prior reports, including Mr. Hemphill’s methodology, as if they were his own.

2. Mr. McGowen need not adopt all of Mr. Hemphill's opinions expressed in Mr. Hemphill's prior reports.
3. Mr. McGowen will not exceed the scope of Mr. Hemphill's report or provide any new or different opinions concerning infringement or validity other than those previously expressed by Mr. Hemphill in his report.
4. Subject to his availability, Mr. McGowen will be made available for deposition at a time convenient for defendant Amega West.
5. The above notwithstanding, Mr. McGowen may testify as to his credentials and experience as they relate to the issues in this case.
6. At trial, Mr. McGowen shall not rely on any information not in Mr. Hemphill's reports but may rely on evidence presented at trial.
7. The scope of the opinions that Mr. McGowen may express at trial shall be the same as the scope of opinions that Mr. Hemphill could have expressed at trial, were he able to continue as an expert in this case.
8. Amega West agrees not to question Mr. McGowen (at trial or in deposition) regarding the timing or circumstances of his retention or the amount of time he has spent adopting Mr. Hemphill's opinions.

After due consideration, the Court **GRANTS** the Motion. It is therefore **ORDERED** that the Plaintiff be permitted to substitute Harold McGowen for Edward Hemphill in the manner requested herein.

SIGNED this 20th day of October, 2021.


ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE