

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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BAKER HUGHES INCORPORATED and  
BAKER HUGHES OILFIELD OPERATIONS, INC.,  
Petitioners

v.

PACKERS PLUS ENERGY SERVICES INC.,  
Patent Owner

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Case IPR2016-01380 (Patent 9,303,501)  
Case IPR2016-01496 (Patent 7,134,505)  
Case IPR2016-01505 (Patent 7,543,634)  
Case IPR2016-01506 (Patent 7,861,774)

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**Harold McGowen Declaration**

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1 For more information on my qualifications, see McGowen, 2016 at pages 1-3.

## 2 **2 COMPENSATION**

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3 I was retained by the attorneys representing the Respondent to provide my expert opinion related to these  
4 matters. I am currently billing counsel for the Respondent at an hourly rate of \$350 per hour for my efforts  
5 on this project. I am also being reimbursed for reasonable expenses I incur in relation to my work on this  
6 proceeding. I will be compensated regardless of the outcome in the preceding.

## 7 **3 SCOPE OF WORK**

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8 I have been engaged by counsel to provide engineering consulting, and expert witness services. I have  
9 been asked to review the 774, 505, 634, and 501 Patents and the challenges to said patents and document  
10 my opinions from the perspective of a person of ordinary skill in the art (hereinafter "POSITA") as defined  
11 herein, having a knowledge of the pertinent art, as of November 19, 2001 (hereinafter referred to as "as  
12 of 2001" or "circa 2001"). This declaration supplements my previous declaration addressing these patents.

## 13 **4 SUMMARY OF CONCLUSIONS**

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14 It is my opinion that the Baker Hughes has failed to prove obviousness. Neither Lane Wells nor Ellsworth  
15 describe fracturing through open-hole segments, which is a critical characteristic of the 774 claims. Prior  
16 art and convention teaches away from the 774 Patent/Invention. Lane-Wells does not provide the POSITA  
17 with enough information to evaluate the general concept presented, would have been interpreted by a  
18 POSITA as an application for inflatable packers, and teaches away from the use of SBPs in an open-hole.  
19 Thus, a POSITA would not have been motivated to combine the sliding sleeve components depicted in Lane-  
20 Wells with the SBPs in Ellsworth in an open-hole portion of a well. Moreover, the POSITA would certainly  
21 not have been motivated to combine Lane-wells and Ellsworth in a Hydraulic Fracturing application when  
22 the end result could not have been known.

23 Similarly, it is my opinion that the Weatherford has failed to prove obviousness. Weatherford fails to show  
24 that a POSITA would have a reasonable expectation of success in using Yost or some modified version of  
25 Yost, or that a POSITA would attempt to modify Yost as Weatherford proposes. Yost describes scientific  
26 experiments, not the results of a commercially viable fracturing operation. And those experiments would  
27 lead a POSITA to believe that attempting to fracture through multiple open hole segments will fail to create

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