

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

---

Oxygenator Water Technologies, Inc.,

Plaintiff,

v.

Tennant Company,

Defendant.

---

Civil No. 20-cv-0358 (ECT/HB)

**PRETRIAL  
CASE MANAGEMENT ORDER  
(PATENT CASES)**

Pursuant to Rule 16 of the Federal Rules of Civil Procedure and the Local Rules of this Court, and in order to secure the just, speedy, and inexpensive determination of this action, the following schedule shall govern these proceedings.

This schedule may be modified only upon formal motion and a showing of good cause as required by Local Rule 16.3.<sup>1</sup> Counsel must promptly notify the Court of developments in the case that could significantly affect the case management schedule.

The Court expects the parties and their counsel to work cooperatively throughout this litigation to narrow the issues in dispute, and to use reasonable, good faith and proportional efforts to preserve, request, identify and produce relevant information and resolve discovery disputes.

---

<sup>1</sup> Parties who agree to seek a modification of this Scheduling Order may file a joint motion with a proposed order to the Court without requesting a hearing; however, the joint motion must set forth good cause for modification of the order as required by Local Rule 16.3. The parties are reminded that even if they are in agreement, the decision about whether such a motion will be granted is ultimately that of the Court.

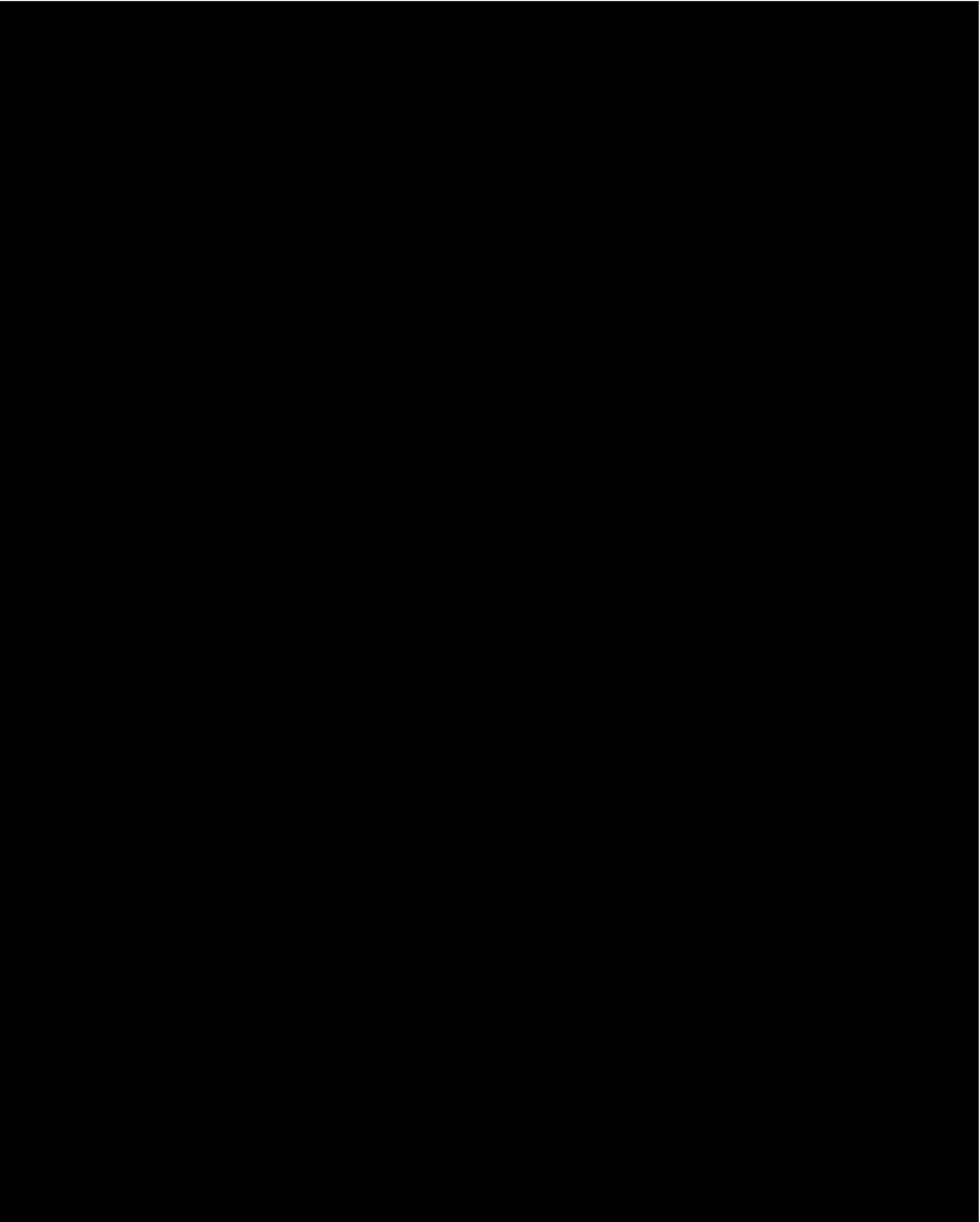
familiar with and adhere to these Practice Pointers, including any variances from the Local Rules.

Attachment A to this Order is a Schedule setting forth the key dates set forth in the order in chronological order. The Schedule is provided for the convenience of the Court and the parties, but is not intended to modify or supersede this Order. In all cases of apparent dispute, this Order controls.

### PLEADINGS

1. All motions that seek to amend or supplement the pleadings or to add parties, together with supporting documents, must be filed and served on or before **December 3, 2020**.
2. Discovery will be permitted with respect to claims of willful infringement and defenses of patent invalidity or unenforceability not pleaded by a party, where the evidence needed to support the pleading of those claims or defenses is in whole or in part in the hands of another party. Once a party has provided the necessary discovery, and on or before the deadline set forth in Paragraph 1 above, the opposing party may seek leave of Court to add claims or defenses for which it alleges, consistent with Fed. R. Civ. P. 11, that it has support. Such support must be explained in the motion seeking leave. Leave will be liberally given where prima facie support is present, provided the party has been diligent in seeking the necessary discovery and that it seeks leave as soon as reasonably possible following receipt of the necessary discovery.
3. Any motion that seeks to amend or supplement the pleadings must include a redlined version reflecting the changes contained in the proposed pleading. (See Local Rule 15.1.)

---



responsive materials are being withheld on the basis of that objection. An objection to part of a request must specify the part and permit inspection of the rest.” Boilerplate or general objections that do not clearly communicate whether and to what extent the scope of the response is more limited than the scope of the request do not meet these criteria.

8. Each side may take no more than **10 fact depositions**, including Rule 30(b)(6) and non-party depositions.

The parties agree that three business days before any scheduled 30(b)(6) deposition, the party producing the 30(b)(6) witness(es) will identify the witness(es) being produced by name and will specifically identify the topics about which each witness will be prepared to testify.

The parties do not anticipate that any deposition will be taken outside the United States or conducted in a language other than English. If it is determined that a translator will be necessary, the parties will work together in good faith to reach agreement regarding any additional hours that might be required to conduct a full deposition.

9. Based on the parties’ Draft Stipulation for Discovery Order (ECF No. 30) and the Court’s resolution of certain disputes therein, a Discovery Order governing the discovery and production of electronically stored information (“ESI”) has been entered (ECF No. 40). The parties are expected to be proactive and diligent in identifying and discussing any other issues that may arise relating to the scope, search, collection, review, and production of ESI. Any disputes that cannot be resolved through a good faith meet and confer process must be brought promptly to the Court for resolution so that such disputes do not impede the progress of discovery.
10. Claims of Privilege or Protection as Attorney Work Product.

- a. Defendant may postpone the waiver of any applicable attorney-client privilege on topics relevant to claims of willful infringement, if any, until **thirty (30) days after the Court issues its Claim Construction Order**, provided that it will produce all relevant privileged documents no later than **thirty (30) days after the Court issues its Claim Construction Order**. All additional discovery regarding the waiver must be completed **no later than the close of fact discovery or sixty (60) days after the Court issues its claim construction order, whichever is later**.
- b. Unless otherwise ordered, the parties are not obligated to include on their privilege logs documents, communications, or other materials

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.