

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Dennis Black, <i>et al.</i> ,)	
)	
Plaintiffs,)	Case No. 2:09-cv-13616
)	Hon. Arthur J. Tarnow
v.)	Magistrate Judge Mona K. Majzoub
)	
Pension Benefit Guaranty Corporation,)	
)	
Defendant.)	
)	

PLAINTIFFS’ UNOPPOSED MOTION FOR A STATUS CONFERENCE

Anthony F. Shelley
Timothy P. O’Toole
Michael N. Khalil
MILLER & CHEVALIER
CHARTERED
655 15th Street, N.W., Suite 900
Washington, D.C. 20005
(202) 626-5800 (phone)
(202) 626-5801 (facsimile)
E-mail: ashelley@milchev.com
totoole@milchev.com
mkhalil@milchev.com

Alan J. Schwartz (P38144)
JACOB & WEINGARTEN, P.C.
777 Somerset Place
2301 Big Beaver Road
Troy, Michigan 48084
Telephone: 248-649-1900
Facsimile: 248-649-2920
E-mail: alan@jacobweingarten.com

Counsel for the Plaintiffs

STATEMENT OF ISSUE PRESENTED

Whether the Court should grant Plaintiffs' unopposed motion for a status conference?

STATEMENT OF COMPLIANCE WITH L.R. 7.1(a)

On April 18, 2014, counsel for the parties conferred by email concerning the relief requested in this motion, during which counsel for the PBGC advised that the PBGC does not oppose the relief requested herein.

Plaintiffs respectfully move this Court to set a status conference to discuss the status of the case and establish an appropriate set of deadlines to supplement the Interim Scheduling Order entered on March 19, 2014. In support of this motion, Plaintiffs note the following:

1. On September 1, 2011 this Court entered an Order clarifying the scope of discovery in this case, and establishing certain deadlines related to the resolution of Plaintiffs' Second Amended Complaint. ECF No. 193 (the "September 1, 2011 Order"). Under the terms of the September 1, 2011 Order, all discovery related to claims 1-4 was to be completed by April 30, 2012, and all dispositive motions related to claims 1-4 were to be filed by May 31, 2012. *Id.* at 7.
2. The Parties requested that the Court modify those deadlines on numerous occasions by Stipulated Order, and the Court did enter the Stipulated Orders. ECF No. 212; ECF No. 217; ECF No. 222; ECF No. 229; ECF No. 241; and ECF No. 244.
3. Thereafter, unable to reach agreement with the Defendant Pension Benefit Guaranty Corporation ("PBGC") on further stipulated deadlines, on March 14, 2014, Plaintiffs filed an unopposed motion to extend further the discovery deadlines in this case (the "2014 Motion to Extend"). ECF No. 248.

4. In the 2014 Motion to Extend, Plaintiffs noted that there are two long-standing discovery disputes that were unlikely to be resolved prior to the close of discovery: one pending before this Court, involving the PBGC's objections to an order compelling production of discovery that was originally requested in 2011; and the other pending before the United States District Court for the District of Columbia (the "D.C. Court"), involving a motion by the U.S. Department of Treasury ("Treasury") to quash a January 2012 Rule 45 document subpoena, and an August 2013 deposition subpoena. *Id.* at 1.
5. Plaintiffs further noted in the 2014 Motion to Extend their belief that a permanent discovery schedule in this case will depend upon the resolution of at least some of the following matters pending before this Court and the D.C. Court:
 - a. The PBGC's Rule 72 Objections to Magistrate Judge Majzoub's March 9, 2012 Order Granting Plaintiffs' Motion to Compel (ECF No. 209);
 - b. The PBGC's Rule 72 Objections to Magistrate Judge Majzoub's August 21, 2013 Order Granting in Part Plaintiffs' Rule 37 Motion to Enforce Court Order (ECF No. 234);

- c. The PBGC's Emergency Motion for Stay Pending Resolution of its Rule 72 Objections to Magistrate Judge Majzoub's August 21, 2013 Order (ECF No. 235);
 - d. Plaintiffs' Motion to Dissolve the Partial Stay of Judge Majzoub's August 21, 2013 Order (ECF No. 245); and
 - e. The D.C. Court's resolution of Plaintiffs' discovery dispute with the Treasury.¹
6. Pursuant to the 2014 Motion to Extend, Plaintiffs requested that the Court enter an interim two-month extension of the discovery deadlines to assure that the discovery process not suffer any further interruptions, to be followed by a scheduling conference with the Parties to help ascertain a more permanent discovery schedule. Plaintiffs noted that the purpose of the scheduling conference would be to discuss the disposition of the aforementioned filings in an effort to craft a more permanent scheduling order. If, in the alternative, the Court was not inclined to hold a scheduling conference, Plaintiffs requested that the Court grant a longer extension of the discovery period sufficient to allow for the resolution of the pending

¹ In the 2014 Motion to Extend, Plaintiffs noted that the D.C. Court had set a hearing on April 7, 2014 on Plaintiffs' discovery dispute with Treasury. On April 2, 2014, the DC Court issued a minute order canceling the April 7th hearing, and stating that "[i]n the event the Court is unable to resolve the pending motion to quash without a hearing, the Court will advise the parties and reschedule the hearing for a mutually agreeable date and time." See *U.S. Dept. of Treasury v. Black*, Case No. 1:12-mc-00100-EGS (D.D.C. April 2, 2014).

discovery disputes, as well as the production, review, and follow-up arising from that resolution. *Id.* at 10.

7. Ruling on the 2014 Motion to Extend, the Court entered an Interim Scheduling Order on March 19, 2014, extending all deadlines by two months. ECF No. 249.
8. Absent further action by the Court, discovery will close under the Interim Scheduling Order on June 2, 2014. Given that the matters discussed above remain unresolved, Plaintiffs do not believe that discovery will be completed by June 2, 2014. As such, Plaintiffs continue to believe that a conference between the Parties and the Court would be helpful in setting a more permanent schedule. Accordingly, Plaintiffs respectfully request the Court set a status conference.

Dated: April 22, 2014

Alan J. Schwartz (P38144)
JACOB & WEINGARTEN, P.C.
777 Somerset Place
2301 Big Beaver Road
Troy, Michigan 48084
Telephone: 248-649-1900
Facsimile: 248-649-2920
E-mail: alan@jacobweingarten.com

Respectfully submitted,

/s/ Anthony F. Shelley
Anthony F. Shelley
Timothy P. O'Toole
Michael N. Khalil
MILLER & CHEVALIER
CHARTERED
655 15th Street, N.W., Suite 900
Washington, D.C. 20005
(202) 626-5800 (phone)
(202) 626-5801 (facsimile)
E-mail: ashelley@milchev.com
totoole@milchev.com
mkhalil@milchev.com

Counsel for the Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

owen.wayne@pbgc.gov (C. Wayne Owen)
david.glass@usdoj.gov (David M. Glass)
edward.w.risko@gm.com (Edward W. Risko)
rswalker@jonesday.com (Robert S. Walker)

/s/ Anthony F. Shelley
Anthony F. Shelley
MILLER & CHEVALIER CHARTERED
655 15th Street, N.W., Suite 900
Washington, D.C. 20005
(202) 626-5800 (phone)
(202) 626-5801 (facsimile)
E-mail: ashelley@milchev.com

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[PROPOSED] ORDER

THIS MATTER, having come before the Court on the Plaintiffs' Unopposed Motion Requesting Status Conference,

IT IS HEREBY ORDERED that the Motion is GRANTED.

A Status Conference in this matter will be held on ____, ____, 2014, at _____, in Court Room ____.

SO ORDERED this ____ day of _____, 2014.

Arthur J. Tarnow
Senior United States District Judge