

UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF MICHIGAN
 SOUTHERN DIVISION

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In re	:	
	:	Chapter 9
	:	
CITY OF DETROIT, MICHIGAN,	:	Case No. 13-53846
	:	
Debtor.	:	Hon. Steven W. Rhodes
	:	
	:	
-----X	:	
CITY OF DETROIT, MICHIGAN,	:	Chapter 9
	:	
Plaintiff,	:	Adversary No. 14-04112
	:	
vs.	:	Hon. Steven W. Rhodes
	:	
DETROIT GENERAL RETIREMENT	:	
SYSTEM SERVICE CORPORATION, <i>et al.</i>,	:	
	:	
	:	
Defendants.	:	
-----X	:	

Order Granting Financial Guaranty Insurance Company’s Motion to File Counterclaims Pursuant to this Court’s Order Granting Motions to Intervene with Limitations

This matter having come before the Court on a motion of Financial Guaranty Insurance Company (“FGIC”) for leave to file counterclaims pursuant to this Court’s order granting motions to intervene with limitations (the “Motion”), and the Court having jurisdiction to consider the Motion in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. § 1409; and upon the entire record of all the proceedings before the Court; the Court finds as follows:

1. FGIC risks serious prejudice if it were not permitted to file its counterclaims in this action because, as recognized in this Court's June 30, 2014 Order ("Intervention Order"), "[t]he disposition of this action may impair or impede [FGIC's] ability to protect [its] legal interest." *Id.*, page 10.

2. The Sixth Circuit, recognizing that leave to amend must be freely given, outlined several factors to for courts to consider when deciding when to allow a motion to amend:

Undue delay in filing, lack of notice to the opposing party, bad faith by the moving party, repeated failure to cure deficiencies by previous amendments, undue prejudice to the opposing party, and futility of amendment.

See Commercial Money Ctr., Inc. v. Illinois Union Ins. Co., 508 F.3d 327, 346 (6th Cir. 2007).

The Court concludes that these factors weigh in favor of granting FGIC's Motion. First, as previously recognized in this Court's Intervention Order, the motions are timely. *See* Intervention Order, p. 10. Second, the City has been on notice of FGIC's counterclaims since the initial stages of this Adversary Proceeding and faces no undue prejudice. Third, there has been no appearance of bad faith on behalf of FGIC in raising these claims.

3. The legal and factual bases set forth in the Motion establish just and sufficient cause to grant the relief requested therein; and the relief requested herein is necessary, reasonable and appropriate;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. The objections, if any, to entry of this Order are overruled in their entirety.
3. FGIC is granted leave to file its proposed counterclaims.

It is so ordered.

Signed on August 06, 2014

/s/ Steven Rhodes
Steven Rhodes
United States Bankruptcy Judge