

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:
City of Detroit, Michigan,

Debtor.

Chapter 9
Case No. 13-53846
Hon. Steven W. Rhodes

City of Detroit, Michigan,

Plaintiff,

v.

Adv. Pro. No. 14-04112

Detroit General Retirement System Service
Corporation, et al.,

Defendants.

**Order Regarding the City of Detroit's Motion to Take
Expedited Discovery of the Service Corporations**

On July 21, 2014, the City filed a Motion to Take Expedited Discovery of the Service Corporations. (Dkt. #90) The City seeks to take depositions of the Service Corporations under Fed. R. Civ. P. 30(b)(6) before the parties confer under Rule 269(f) and before an initial scheduling conference is held. The City claims that expedited discovery of the Service Corporations is warranted because their answer to the City's complaint is so evasive and disingenuous that the City cannot even frame the issues that will be litigated, making the Rule 26(f) conference futile. The Service Corporations did not file a response to the motion and did not appear at the hearing held on July 31, 2014.

The other defendants - the Detroit Retirement Systems Funding Trust 2005, the Detroit Retirement Systems Funding Trust 2006, Financial Guaranty Insurance Company, and the Ad

Hoc COPs Holders - filed objections to the City's motion. They argue that good cause does not exist for expedited discovery and that it would be both prejudicial to them and premature. They further argue that the more proper approach for the City would be for it to file a motion to strike the evasive answer under Fed. R. Civ. P. 12(f).

A moving party must show good cause for expedited discovery. *Psychopathic Records Inc. v. Anderson*, 2008 WL 4852915 (E.D. Mich. Nov. 7, 2008). To establish good cause, the moving party must show that the discovery is both necessary to move the case forward and not prejudicial to the other parties to the litigation. *Best v. Mobile Streams, Inc.*, 2012 WL 5996222, at *2 (E.D. Mich. Nov. 30, 2012); *Johnson v. U.S. Bank Nat'l Ass'n*, 2009 WL 4682668, at *1 (S.D. Ohio Dec. 3, 2009).

The Court finds that the City has failed to establish good cause for the relief requested and therefore the motion must be denied. Instead of accelerating discovery, the more procedurally proper response to an inadequate answer is to insist upon an adequate answer. Further, the information sought in the proposed Notices of Rule 30(b)(6) Deposition is likely to be obtained through the normal discovery process. To that end, the Court will schedule its initial scheduling conference promptly so that the discovery process can commence.

It needs to be noted that, while the Court does not find good cause to allow the expedited discovery requested by the City, it does share the City's concerns regarding the sufficiency of the Service Corporation's answer and whether it violates Fed. R. Bankr. P. 9011. The Court has not been asked to and is not prepared to rule on that issue at this time. However, the Court cautions counsel for the Service Corporations to review the answer that has been filed to evaluate whether it complies with Rule 9011 and, if it does not, to file an amended answer.

Accordingly, it is hereby ordered that:

1. The motion to take expedited discovery is denied.
2. An initial scheduling conference for this proceeding shall be held on August 14, 2014 at 9:00 am. A separate Notice of Initial Scheduling Conference will be entered.
3. Counsel for the Service Corporations shall submit an amended answer to the complaint, if appropriate, by August 7, 2014.

Not for publication

Signed on July 31, 2014

/s/ Steven Rhodes
Steven Rhodes
United States Bankruptcy Judge