

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

)	
UNITED STATES DEPARTMENT)	
OF TREASURY)	
Petitioner,)	
)	
v.)	No. 1:12-mc-00100-EGS
)	
PENSION BENEFIT)	
GUARANTY CORPORATION,)	
Interested Party,)	
)	
v.)	
)	
DENNIS BLACK, <i>et al.</i> ,)	
Respondents.)	
)	

RESPONDENTS' NOTICE OF DEVELOPMENT IN UNDERLYING CASE

Respondents, plaintiffs in *Black, et. al v. PBGC*, Case No. 09-13616 (“*Black*”), currently pending in the United States District Court for the Eastern District of Michigan before Senior Judge Arthur Tarnow (the “Michigan Court”), respectfully file this notice to apprise the Court of a development in the underlying *Black* case.

On May 17, 2012, this Court issued a MINUTE ORDER, stating that:

Upon review of the motion to quash, the response, and the reply thereto, it appears to the Court that a threshold issue in this matter is whether the court in the underlying action has permitted discovery regarding the factors enunciated in 29 U.S.C. 1342(c). In light of the fact that this precise issue is ripe for resolution before Judge Tarnow, the judge in the underlying action, the Court hereby STAYS this matter pending Judge Tarnow's resolution of PBGC's Objections to Magistrate Judge's Order of March 9, 2012 Granting Plaintiffs' Motion to Compel Discovery, Case 09-13616 (E.D. Mich.), Doc. No. 209. Plaintiffs are directed to notify this Court of Judge Tarnow's decision within five calendar days after it issues.

The PBGC has notified the Michigan Court that the Objections referred to in the Court's May 2012 Minute Order (the "PBGC's 2012 Rule 72 Objections") are moot because the PBGC claims to have complied with the Magistrate Judge's March 9, 2012 Order (notwithstanding its Objections), and the Michigan Court has now issued an Order denying the PBGC's 2012 Rule 72 Objections as moot. *See Black*, Dkt. Nos. 253, 255 (attached hereto as Ex. A). Accordingly, like the other Michigan Court Orders that Respondents rely on in support of their subpoenas, the Magistrate Judge's Order of March 9, 2012 is now final, and no further ruling from the Michigan Court is expected on the issues raised by the PBGC's 2012 Rule 72 Objections.¹

Date: May 29, 2014

Respectfully submitted,

/s/ Anthony F. Shelley

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¹ *See, e.g.*, Respondents' Memorandum in Opposition to the Treasury's Renewed Motion to Quash (DE No. 19) at 4-5, 8-9, 22-24, 26, 34, 38, 41-42 (discussing relevant Michigan Court Orders).

CERTIFICATE OF SERVICE

I hereby certify that on May 29, 2014, I electronically filed the foregoing with the Clerk of Court using the CM/ECF System, which will send notice of such filing to the following registered CM/ECF users:

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/s/ Anthony F. Shelley

Exhibit A

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

Dennis Black, *et al.*,

Plaintiffs,

V.

Pension Benefit Guaranty Corporation,

Defendant.

Case No. 2:09-cv-13616
Hon. Arthur J. Tarnow
Magistrate Judge Mona K. Majzoub

NOTICE

Defendant Pension Benefit Guaranty Corporation (“PBGC”) hereby presents
the Court with this Notice.

On May 12, 2014, the Court held 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. *See* ECF Nos. 250, 251. With respect to the scheduling issue, on May 20, 2014, PBGC and the plaintiffs jointly filed a Stipulated Order extending the discovery deadlines in this case.

During the status conference, PBGC and the plaintiffs also discussed the disposition of the following discovery disputes:

- a. The PBGC's Rule 72 Objections to Magistrate Judge Majzoub's March 9, 2012 Order Granting Plaintiffs' Motion to Compel (ECF No. 209) (the "2012 Rule 72 Objections"); and
- 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) (the "2013 Rule 72 Objections").

The Parties agreed, and PBGC hereby formally notifies the Court, that the PBGC's Rule 72 Objections to Magistrate Judge Majzoub's March 9, 2012 Order Granting Plaintiffs' Motion to Compel (ECF No. 209) are moot because PBGC has complied with the Magistrate Judge's Order. Therefore, the Court need take no action with respect to those Objections. The Rule 72 Objections to Magistrate Judge Majzoub's August 21, 2013 Order Granting in Part Plaintiffs' Rule 37

Motion to Enforce Court Order remain outstanding and require resolution by the Court.

Dated: May 22, 2014

/s/ C. Wayne Owen, Jr.
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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of May, 2014, the foregoing Notice was served on the following:

Alan J. Schwartz Jacob and Weingarten 2301 West Big Beaver Road Suite 777 Troy, MI 48084 <i>Plaintiffs' Attorney via CM/ECF</i>	Anthony F. Shelley Michael N. Khalil Timothy P. O'Toole Miller & Chevalier 655 15 th Street, N.W. Washington, D.C. 20005 <i>Plaintiffs' Attorneys via CM/ECF</i>
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/s/ C. Wayne Owen, Jr.
C. Wayne Owen, Jr.

