

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

ROCHE DIAGNOSTICS CORP., and	)	
ROCHE DIABETES CARE, INC.,	)	
	)	
Plaintiffs,	)	
	)	No. 1:17-cv-00949-LJM-DML
vs.	)	
	)	
BINSON'S HOSPITAL SUPPLIES, INC.,	)	
et al.	)	
	)	
Defendants.	)	
	)	

**ORDER ON PLAINTIFFS' MOTION FOR EXPEDITED DISCOVERY**

This matter is before the Court on Plaintiffs', Roche Diagnostics Corp. and Roche Diabetes, Inc. (collectively "Roche"), Motion for Expedited Discovery. Dkt. 21. Roche requests expedited non-party discovery of the Defendants Pharmacy John Does 1-50 ("Pharmacies") prior to the conference between the parties required by Federal Rule of Civil Procedure 26(f) ("Rule 26(f)").

Roche alleges in its Complaint that the unknown Pharmacies, in conjunction with the Defendants, engaged in a fraudulent scheme to purchase Roche's blood glucose test strips at a discount and sell them at a higher rate. *See generally* Dkt. 12. Roche contends that "Defendants Pharmacy John Does 1-50 are retail pharmacies, their principals, and their employees that are involved in the conspiracy to commit insurance fraud ... but whose identities are presently unknown." Dkt. 12, ¶ 31.

Rule 26(d)(1) of the Federal Rules of Civil Procedure requires that, before any discovery may be served, the parties must confer as required by Rule 26(f) absent an

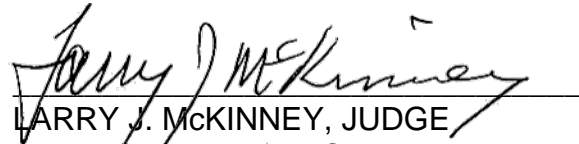
exception, stipulation, or court order. A party seeking leave to conduct expedited discovery bears the burden of making a prima facie case for such early discovery. *Hard Drive Prods., Inc. v. Doe*, 283 F.R.D. 409, 410 (N.D. Ill. 2012). In order to meet this burden, the movant must establish “good cause.” *Id.* Good cause can be found when the need for expedited discovery, in consideration with the administration of justice, outweighs the prejudice to the responding party. *Id.*

Roche argues that good cause exists to permit expedited discovery to identify crucial defendants to the lawsuit and to prevent the spoliation of evidence. Dkt. 22 at 5-6. Roche also claims that the identification of these parties will preserve claims under applicable statutes of limitation and hasten Roche’s recovery in this matter. Dkt. 22 at 6.

Roche has not, however, provided the Court with any reason – aside from some speculation – that any of these potential harms would occur if Roche is not permitted to expedite discovery. There is no evidence to suggest that the Pharmacies would destroy business records or engage in the spoliation of evidence. Nor is there evidence that the statute of limitations would run as to Roche’s claims against any of the Pharmacies. In other words, Roche has presented no concrete evidence to establish good cause to permit expedited discovery in the instant case. See *Best v. AT & T, Inc.*, No. 1:12-cv-564, 2014 WL 1923149 at \*2 (S.D. Ohio May 14, 2014) (“In the absence of evidence establishing a need for a preservation order or expediting discovery, the Court finds no good cause for granting plaintiff’s motions.”).

Accordingly, Roche's Motion for Expedited Discovery is **DENIED WITHOUT PREJUDICE.**

IT IS SO ORDERED this 11th day of May, 2017.

  
LARRY J. MCKINNEY, JUDGE  
United States District Court  
Southern District of Indiana

Distribution attached.

Distribution:

David O. Tittle  
BINGHAM GREENEBAUM DOLL LLP  
dtittle@bgdlegal.com

Jessica Whelan  
BINGHAM GREENEBAUM DOLL LLP  
jwhelan@bgdlegal.com

Andrew W. Hull  
HOOVER HULL TURNER LLP  
awhull@hooverhullturner.com

Jason L. Fulk  
HOOVER HULL TURNER LLP  
jfulk@hooverhullturner.com

Riley H. Floyd  
HOOVER HULL TURNER LLP  
rfloyd@hooverhullturner.com

Wayne C. Turner  
HOOVER HULL TURNER LLP  
wturner@hooverhullturner.com

Jason L. Fulk,  
HOOVER HULL TURNER LLP  
jfulk@hooverhullturner.com

Jennifer Van Dame  
KIGHTLINGER & GRAY LLP  
jvandame@k-glaw.com

Robert M. Kelso  
KIGHTLINGER & GRAY LLP  
rkelso@k-glaw.com

John M. Sier  
Kitch Drutchas Wagner Valitutti &  
Sherbrook  
john.sier@kitch.com

Aron R Fischer  
PATTERSON BELKNAP WEBB &  
TYLER LLP  
afischer@pbwt.com

Joseph R. Richie  
PATTERSON BELKNAP WEBB &  
TYLER LLP  
jrichie@pbwt.com

Geoffrey Potter  
PATTERSON BELKNAP WEBB  
& TYLER LLP  
gpotter@pbwt.com

Tracy Nicole Betz  
TAFT STETTINIUS & HOLLISTER LLP  
tbetz@taftlaw.com

Danila V. Artaev  
THE MIKE COX LAW FIRM  
dartaev@mikecoxlaw.com

Donna A. Heiser  
THE MIKE COX LAW FIRM  
dheiser@mikecoxlaw.com

Ernest J. Essad  
WILLIAMS, WILLIAMS, RATTNER &  
PLUNKETT, PC  
380 N. Old Woodward Ave., Suite 300  
Birmingham, MI 48009

Mark R. James  
WILLIAMS, WILLIAMS, RATTNER &  
PLUNKETT, PC  
380 N. Old Woodward Ave., Suite 300  
Birmingham, MI 48009