

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

	X	
	:	Chapter 9
In re:	:	Case No. 13-53846
CITY OF DETROIT, MICHIGAN,	:	Hon. Steven W. Rhodes
Debtor.	:	
	:	
	:	

PETITIONERS ROBERT DAVIS' AND DESMOND M. WHITE'S MOTION FOR AN *EX PARTE* ORDER TO REDUCE THE TIME FOR A PARTY TO TAKE ANY ACTION OR FILE ANY OBJECTIONS TO PETITIONER ROBERT DAVIS' AND DESMOND MICHELLE WHITE'S EMERGENCY MOTION FOR CLARIFICATION OF THE COURT'S JULY 25, 2013 STAY ORDER

PETITIONERS, Robert Davis and Desmond M. White, by and through their attorney, Andrew A. Paterson, submit this, their Motion for an *Ex Parte* Order Reducing the Time for A Party To Take Any Action or File Any Objections to Petitioners Robert Davis' and Desmond M. White's Emergency Motion for Clarification of the Court's July 25, 2013 Stay Order, and state as follows:

1. Pursuant to LBR 9006-1(b), Petitioners Robert Davis and Desmond M. White (collectively "**Petitioners**") respectfully request the Court to enter an *ex parte* order reducing the time for a party to take any action or file any objections to Petitioners' Emergency Motion for Clarification of the Court's July 25, 2013 Stay Order ("**Emergency Motion**").
2. Currently, Petitioners have an election-related matter pending in Wayne County Circuit Court against the Detroit City Clerk, Detroit Election Commission,

ACCUFORM Printing and the Wayne County Board of Canvassers. It is Wayne County Circuit Court Case No. 13-013071-AW, and it is before the Honorable Judge Patricia Fresard (“**Judge Fresard**”) (“*Petitioners’ Election Case*”). It raises issues that can impact the upcoming November 5, 2013 General Election. It is undisputed between counsel for the parties in that case that this Court’s July 25, 2013 Stay Order is not applicable to ACCUFORM Printing or to the Wayne County Board of Canvassers, neither of whom are officers or representatives of the Debtor as defined in this Court’s July 25, 2013 Stay Order.

3. Further, this Court should know that in another recent election-related lawsuit in Wayne County Circuit Court that also can impact the upcoming November 5, 2013 General Election, being *Wilcoxon, et al. v Detroit City Clerk, et al.*, Wayne County Circuit Court Case No. 13-012502-AW (“*Wilcoxon Election Case*”), (also before Judge Fresard), Assistant Corporation Counsel for the City of Detroit agreed on the record during an emergency hearing held September 25, 2013, that this Court’s July 25, 2013 Stay Order *did not apply* to that election-related matter after counsel for the plaintiff agreed not to seek attorney fees and costs against the Debtor. Counsel for the Petitioners represents the plaintiff in the *Wilcoxon Election Case*.
4. In accordance with LBR 9006-1(b), on October 8, 2013, Petitioners’ counsel and Eric Graabo, Assistant Corporation counsel for the City of Detroit, agreed and stipulated on the record, before Judge Fresard, that an immediate and emergency hearing is needed to be held by this Court on **Thursday, October 10, 2013** to determine whether Petitioners’ Election Case can proceed against the Detroit City Clerk and Detroit Election Commission, considering that Judge Fresard may decide to order,

- inter alia*, that the City Clerk and Detroit Election Commission need to reprint the ballots for the upcoming November 5, 2013 General Election. Additionally, counsel for both parties further agreed and stipulated that any pleadings necessary for said emergency hearing can be filed by either party on **Thursday, October 10, 2013**.
5. Counsel for both sides agree that it is imperative and urgent for the Court to address the merits of Petitioners' Emergency Motion for Clarification of the Court's July 25, 2013 Stay Order as it relates to Petitioners' Election Case, because the merits of Petitioners' Election Case raises CRITICAL issues with respect to the legality of the printing of the ballots that are currently being used, and distributed to electors for the upcoming November 5, 2013 General Election.
 6. There is thus an immediate need for this Court to enable Judge Fresard to adjudicate the merits of Petitioners' Election Case on an expedited basis. The allegations that require adjudication include that the Defendant City Clerk has unlawfully authorized, processed and distributed, facially invalid ballots, to absentee voters, including Petitioner Desmond M. White, for the upcoming November 5, 2013 General Election. These ballots do not comply with the mandatory prescribed format as set forth in the various provisions of Michigan Election Law and thus pursuant to MCL 168.560, as amended, **NONE** of the ballots, as currently printed, **"shall be used, cast, or counted."**
 7. The Michigan Supreme Court has recognized the importance of election-related cases and has so required that election-related cases are heard in an expedited manner. See *Scott v Director of Elections*, 490 Mich 888, 889; 804 NW2d 119 (2011).

8. Additionally, MCR 7.213(C)(4) requires the Michigan Court of Appeals to expedite appeals from all cases involving election-related issues.
9. Accordingly, counsel for both sides have stipulated and agreed to the necessity that a hearing needs to be held by this Court on **Thursday, October 10, 2013**, with pleadings due the same day, to address and clarify this Court's July 25, 2013 Stay Order inapplicability to election-related matters against the Detroit City Clerk and Detroit Election Commission.
10. Accordingly, Petitioners respectfully request that the Court reduce the time for a party to take action or object to Petitioners' Emergency Motion and require that an emergency hearing and all pleadings are filed with respect thereto on or before **Thursday, October 10, 2013**, as stipulated and agreed to by counsel for the Petitioners and Eric Graabo, Assistant Corporation Counsel for the City of Detroit.

CONCLUSION/PRAAYER FOR RELIEF

Petitioners, Robert Davis and Desmond M. White, pray that the Court enters an *ex parte* order reducing the time for a party to take action or object to Petitioners' Emergency Motion and require that an emergency hearing and all pleadings are filed with respect thereto on or before **Thursday, October 10, 2013**, as stipulated and agreed to by counsel for the Petitioners and Eric Graabo, Assistant Corporation Counsel for the City of Detroit.

Respectfully submitted,

/S/ Andrew A. Paterson
Attorney for Petitioners Robert Davis
and Desmond M. White
46350 Grand River, Suite C
Novi, MI 48374
(248) 568-9712

DATED; October 8, 2013

EXHIBIT 1
Proposed form of Order

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

	X	
	:	Chapter 9
In re:	:	Case No. 13-53846
CITY OF DETROIT, MICHIGAN,	:	Hon. Steven W. Rhodes
Debtor.	:	
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	X	

**ORDER GRANTING PETITIONERS ROBERT DAVIS’ AND DESMOND M. WHITE’S
MOTION FOR AN *EX PARTE* ORDER REDUCING THE TIME FOR A PARTY TO
TAKE ANY ACTION OR FILE OBJECTIONS TO PETITIONERS ROBERT DAVIS’
AND DESMOND M. WHITE’S EMERGENCY MOTION**

This matter coming before the Court on the motion of Petitioners Robert Davis (“Petitioner Davis”) and Desmond M. White (“Petitioner White”) (collectively “Petitioners”) for entry of an *ex parte* order reducing the time for a party to take any action or file any objections to Petitioner’s Emergency Motion for Clarification of the Court’s July 25, 2013 Stay Order (“Emergency Motion”); the Court having reviewed Petitioners’ motion and the Court having determined that the legal and factual bases set forth in the motion establish just cause for the relief granted herein:

IT IS HEREBY ORDERED THAT:

1. Petitioners’ motion is GRANTED.
2. In accordance with LBR 9006-1(b), the time for a party or a party of interest to file any objections to Petitioner’s Emergency Motion with this Court is reduced and all parties are to file any responses to Petitioners’ Emergency Motion on Thursday, October 10, 2013 and an emergency hearing shall be held by the Court on Thursday,

October 10, 2013 at a time to be set by the Court.

3. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

EXHIBIT 2
Notice of Emergency Motion And Opportunity to Object

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

	x	
	:	Chapter 9
In re:	:	Case No. 13-53846
CITY OF DETROIT, MICHIGAN,	:	Hon. Steven W. Rhodes
Debtor.	:	
	:	
	:	

NOTICE OF MOTION AND OPPORTUNITY TO OBJECT

Petitioners Robert Davis and Desmond M. White has filed papers with the court for an *ex parte* order reducing the time for a party to take any action or file objections to Petitioners Robert Davis' and Desmond M. White's (collectively "Petitioners") Emergency Motion for Clarification of the Court's July 25, 2013 Stay Order.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant Petitioners' Motion for an Ex Parte Order Reducing the time for a party to take any action or file objections to Petitioners' Emergency Motion for Clarification of the Court's July 25, 2013 Stay Order, or if you want the court to consider your views on the motion, the deadline to file an objection to the Emergency Motion is Thursday, October 10, 2013 (per stipulation of the parties) after service. Objections shall comply with F.R.Civ.P.8(b)(c) and (e). Accordingly, on or before, October 10, 2013 (per stipulation of the parties), you or your attorney must:

File with the court a written request for a hearing or, if the court requires a written response, an answer, explaining your position at:

211 West Fort
Detroit, MI 48226

If you mail your request/response to the court for filing, you must mail it early enough so that the court will receive it on or before the date stated above.

You must also mail a copy to:

Andrew A. Paterson
Attorney for Petitioners
46350 Grand River, Suite C
Novi, MI 48374
(248) 568-9712
Aap43@hotmail.com

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief. If an objection is not timely filed, the court may grant the motion without a hearing.

Dated: October 8, 2013

/s/Andrew A. Paterson
Attorney for Petitioners
46350 Grand River, Suite C
Novi, MI 48374
(248) 568-9712
Aap43@hotmail.com

EXHIBIT 3

Brief [Not Required]

EXHIBIT 4
Certificate of Service

**THE UNITED STATES BANKRUPTCY COURT
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CITY OF DETROIT, MICHIGAN,	:	Hon. Steven W. Rhodes
Debtor.	:	
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CERTIFICATE OF SERVICE

I, ANDREW A. PATERSON, certify that on August 8, 2013, I served a copy of Petitioners Robert Davis’ and Desmond M. White’s Motion for Ex Parte Order To Reduce the Time for filing objections to Petitioners Robert Davis’ and Desmond M. White’s Emergency Motion for Clarification of the Court’s July 25, 2013 Order on the following parties, via email, at these email addresses:

Eric Gabbo (GaabE@detroitmi.gov)

/S/ Andrew A. Paterson (P18690) _____
Attorney for Petitioners Robert Davis and
Desmond M. White
46350 Grand River, Suite C
Novi, MI 48374
(248) 568-9712
Aap43@hotmail.com
P18690

EXHIBIT 5

NONE

EXHIBIT 6

DOCUMENTARY EXHIBITS [NONE]