

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

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In re	:	Chapter 9
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City of Detroit, Michigan,	:	Case No. 13-53846
	:	
Debtor.	:	Hon. Steven W. Rhodes
	:	
	x	

**EX PARTE MOTION OF THE OFFICIAL COMMITTEE OF RETIREES FOR AN
ORDER AUTHORIZING IT TO FILE A PRE-TRIAL BRIEF
IN EXCESS OF PAGE LIMIT**

The Official Committee of Retirees (the “Committee”) – the representative of the interests of more than 23,000 retirees of the City of Detroit (the “City”) – through its counsel hereby move this Court *ex parte* for the entry of an order authorizing the Committee to file a Pre-Trial Brief Regarding the City's Eligibility to be a Debtor Under Chapter 9 of the Bankruptcy Code (the “Pre-Trial Brief”) in excess of 25 pages (to the extent the Committee is so limited by the Local Rule).

1. On July 19, 2013, the Debtor filed a Motion of Debtor for Entry of an Order (A) Directing and Approving Form of Notice of Commencement of Case and Manner of Service and Publication of Notice and (B) Establishing a Deadline for Objections to Eligibility and a Schedule for Their Consideration (the “Eligibility Motion”). (Dkt. 18).

2. On August 2, 2013, the Bankruptcy Court entered an Order establishing Dates and Deadlines, including an October 17, 2013 deadline to file pretrial briefs. (Dkt. 280).

3. On August 26, 2013, the Bankruptcy Court entered an Order setting forth a discovery schedule with respect to the Eligibility Motion and setting a trial on any objections to the City's eligibility for Chapter 9 relief (the "Eligibility Objections") for October 23, 2013. (Dkt. 296).

4. On September 10, 2013, the Committee filed an Objection to the Eligibility of the City to Be a Debtor under Chapter 9 of the Bankruptcy Code (the "Committee Eligibility Objection"). (Dkt. 805).

5. On September 12, 2013, the Bankruptcy Court entered an Order establishing hearing dates of October 15 and 16 for Eligibility Objections that raise only legal issues. (Dkt. 821).

6. On October 11, 2013, the Committee filed its Supplemental Objection to Eligibility of the City to Be a Debtor Under Chapter 9 of the Bankruptcy Code. (Dkt. 1174).

7. Pursuant to the Bankruptcy Court's order of August 2, 2013, the Committee is submitting its Pre-Trial Brief Regarding the City's Eligibility to be a Debtor Under Chapter 9 of the Bankruptcy Code (the "Pre-Trial Brief") in order to summarize what it expects to show at the October 23, 2013 hearing concerning the eligibility of the City to be a debtor.

8. Rule 9014-1(e) of the Local Rules for the United States Bankruptcy Court for the Eastern District of Michigan provide a 20 page limit to briefs filed in opposition to certain identified proceedings, but does not include any page limitation on a pre-trial brief filed in opposition to a Debtor's eligibility under Chapter 9 of the Bankruptcy Code.

9. Rule 7.1(d)(3)(A) of the Local Rules for the United States District Court for the Eastern District of Michigan ("Rule 7.1(d)(3)(A)") provides that the text of a response brief, including footnotes and signatures, may not exceed 25 pages.

10. The Committee respectfully submits that, to the extent Rule 7.1(d)(3)(A) is applicable to the Objection Brief, the Committee requires more than 25 pages to adequately address its fact-based objections to the City's eligibility, namely: (a) that the City cannot meet its burden of showing that it was authorized to file a Chapter 9 petition as required by Section 109(c)(2) of the Bankruptcy Code; (b) that the City cannot show that it negotiated with creditors in good faith or that negotiations were impracticable, as required under Bankruptcy Code Sections 109(c)(5)(B) and (C); and (c) that, in filing its petition, the City did not act in good faith, so that the petition must be dismissed under Section 921(c) of the Bankruptcy Code.

11. This Court previously granted a motion to file an Original Objection in excess of the page limit of the Michigan Council 25 of the American Federation of State, County & Municipal Employees, AFL-CIO and Sub-Chapter 98, City of Detroit Retirees (the AFSCME retiree chapter for City of Detroit retirees) (collectively, "AFSCME"), another interested party representative of retirees in this Bankruptcy proceeding. Particularly in light of the additional facts and arguments revealed through discovery that must be addressed, the Committee respectfully requests that this Court grant the Committee the ability to submit a Pre-Trial Brief in excess of the page limit.

12. Under the constraints of the local rule, if applicable, the Committee cannot properly articulate and discuss its questions regarding the City's eligibility. Accordingly, and in the interests of due process, the Committee should be granted permission to file an overlength Pre-Trial Brief to ensure that all relevant facts and arguments on the important issues presented in the upcoming hearing are adequately developed for the Court's consideration.

WHEREFORE, the Committee respectfully requests that this Court (i) enter an order substantially in the form attached hereto as Exhibit 1, granting the relief sought herein; and (ii) grant such other and further relief to the Committee as the Court may deem proper.

Dated: October 17, 2013
New York, New York

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EXHIBIT 1

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

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**EX PARTE ORDER AUTHORIZING THE OFFICIAL COMMITTEE OF
RETIREES TO FILE A PRE-TRIAL BRIEF IN EXCESS OF PAGE LIMIT**

This matter coming before the Court on the *ex parte* motion (the “Motion”) of the Official Committee of Retirees (the “Committee”) for an order authorizing it to file a Pre-Trial Brief Regarding the City of Detroit's Eligibility to be a Debtor Under Chapter 9 of the Bankruptcy Code (the “Pre-Trial Brief”) in excess of page limit, filed by the Committee; and the Court being fully advised in the premises;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. The Committee may file its Pre-Trial Brief in excess of 25 pages.

Dated: October __, 2013

Steven Rhodes
United States Bankruptcy Judge

EXHIBIT 2

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

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In re	: Chapter 9
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City of Detroit, Michigan,	: Case No. 13-53846
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Debtor.	: Presiding: Hon. Steven W. Rhodes
	:
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CERTIFICATE OF SERVICE

I, Claude D. Montgomery, hereby certify that service of the Ex Parte Motion of the Official Committee of Retirees for an Order Authorizing it to File a Pre-Trial Brief Regarding the City of Detroit's Eligibility to be a Debtor Under Chapter 9 of the Bankruptcy Code in Excess of Page Limit was filed and served via the Court's electronic case filing and noticing system on October 17, 2013.

/s/ Claude D. Montgomery _____