

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

---

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

---

**OFFICIAL COMMITTEE OF RETIREES'  
STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Pursuant to Rule 8006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and the Bankruptcy Court's Notice, dated December 12, 2013 [Doc. No. 2065], the Official Committee of Retirees (the "Committee") submit this statement of issues to be presented on appeal in connection with the Committee's Notice of Appeal, dated December 11, 2013 [Doc. No. 2057], filed pursuant to Bankruptcy Rule 8001 and 28 U.S.C. § 158(a) & (d), of the *Opinion Regarding Eligibility*, dated December 5, 2013 [Docket No. 1945] and the *Order for Relief*, dated December 5, 2013 [Doc. No. 1946], entered by the United States Bankruptcy Court for the Eastern District of Michigan regarding the City of Detroit's eligibility for relief under Chapter 9 of the United States Bankruptcy Code.

## STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

1. Should each of (i) the Emergency Manager's July 16, 2013 request for authorization, (ii) the Governor's July 18, 2013 grant of unconditional authorization and/or (iii) the Emergency Manager's July 18, 2013 bankruptcy petition filing be considered void as an ultra vires act in violation of the Pension Clause of the Michigan Constitution, such that the City therefore lacked authorization under 9 U.S.C. § 109(c)(2) to file this Chapter 9 petition, where the Governor was aware of the Emergency Manager's expressed intention to impair or diminish vested pension benefits?

2. Is PA 436, MCL 141.1541 et seq., unconstitutional under the Michigan Constitution to the extent that it purported to authorize state officials to take actions that could, or were intended to, result in the impairment or diminishment of vested pension benefits that are expressly protected from impairment or diminishment by the Pension Clause of the Michigan Constitution?

3. Did the City file its petition without good faith, within the meaning of 11 U.S.C. § 921(c), where (i) the Emergency Manager was sworn to uphold the laws and constitution of Michigan, and (ii) admitted that vested pension benefits were "sacrosanct" under the Pension Clause of the Michigan Constitution, yet filed

the petition with the specific and express intent of achieving ends that are prohibited by the Pension Clause?

4. Did the City's Chapter 9 case violate the Tenth Amendment of the United States Constitution by impermissibly intruding upon the sovereign rights of Michigan citizens to the extent the filing permits elected and appointed officials to impair or diminish vested pension benefits that are expressly protected from impairment or diminishment under the Pension Clause of the Michigan Constitution?

5. Was the City excused from its obligation of good faith negotiations under 11 U.S.C. § 109(c)(5)(B), on the ground that the number of individual creditors per se made negotiations "impracticable", within the meaning of section 109(c)(5), where the uncontested evidence showed that (i) prior to the bankruptcy filing, the City did not have a plan of adjustment, and (ii) the court found that the City did not make good faith effort to negotiate with all classes of creditors with which negotiations were practicable?

Dated: December 21, 2013

**DENTONS US LLP**

By: /s/ Claude D. Montgomery  
Claude D. Montgomery (P29212)  
Carole Neville  
1221 Avenue of the Americas  
New York New York 10020  
Tel: (212) 768-6700  
Fax: (212) 768-6800  
claude.montgomery@dentons.com  
carole.neville@dentons.com

-and-

**DENTONS US LLP**

Sam J. Alberts  
1301 K Street, NW  
Suite 600, East Tower  
Washington, DC 20005-3364  
Tel: (202) 408-6400  
Fax: (202) 408-6399  
sam.alberts@dentons.com

-and-

**BROOKS WILKINS SHARKEY &  
TURCO**

Matthew E. Wilkins (P56697)  
Paula A. Hall (P61101)  
401 South Old Woodward, Suite 400  
Birmingham, Michigan 48009  
Tel: (248) 971-1800  
wilkins@bwst-law.com  
hall@bwst-law.com

*Counsel for the Official Committee  
of Retirees*