

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

In re CITY OF DETROIT, MICHIGAN, Debtor.	Chapter 9 Case No. 13-53846 Hon. Steven W. Rhodes
THE OFFICIAL COMMITTEE OF RETIREES OF THE CITY OF DETROIT, MICHIGAN, et al., Plaintiffs.	Chapter 9 Adv. Pro. No. 13-05244 Hon. Steven W. Rhodes
v. THE CITY OF DETROIT, MICHIGAN, et al., Defendants.	

**PLAINTIFFS' EX PARTE MOTION TO: (A) SET AN EXPEDITED
HEARING DATE ON THEIR MOTION FOR PRELIMINARY INJUNCTION
AND (B) FOR LEAVE TO CONDUCT TRIAL DEPOSITIONS**

Plaintiffs, the Official Committee of Retirees of the City of Detroit, Michigan, the Detroit Retired City Employees Association, the Retired Detroit Police and Fire Fighters Association, and AFSCME Sub-Chapter 98, City of Detroit Retirees (collectively "Plaintiffs"), by and through their undersigned attorneys, respectfully request the Court to:

1. Schedule a hearing on their Motion for Preliminary Injunction during the week of November 4, 2013, and
2. Grant Plaintiffs leave to conduct trial depositions between the date of this motion and the hearing date in order to perpetuate the testimony of several Retirees who are old, ill, unable to travel and located long distances from the court. Some reside out of state. Plaintiffs plan to use this testimony at the hearing.

In support of this request, Plaintiffs state the following:

1. On this date, contemporaneous with this filing, Plaintiffs have filed a Complaint and a Motion for Preliminary Injunction, or in the Alternative, for Relief from the Stay.

2. Although addressed more fully in the Complaint and the Motion for Preliminary Injunction, Plaintiffs seek to prevent the City from unilaterally imposing on the Retirees an 83% cut to the Retirees' contractually-provided and vested healthcare benefits. Such a substantial impairment of the City's contractual obligations violates the Michigan and Federal Constitutions because it is not "necessary" or "appropriate" and less drastic options exist here.

3. Plaintiffs seek an expedited hearing because the City recently transmitted information to the Retirees that informs them they must choose their drastically-reduced healthcare benefit options by December 7, 2013 (if they are Medicare eligible), or purchase replacement insurance from the healthcare exchanges by December 15, 2013 (if they are not Medicare eligible).

4. The relief sought is thus of an emergency nature. Because the City is attempting to unilaterally cut retirees' vested healthcare coverage, retirees will be forced to acquiesce to the City's imposed terms or risk going without coverage if the matter in the Complaint and the Motion for Preliminary Injunction is not addressed before the City-created December 7, 2013 and December 15, 2013 deadlines.

5. Plaintiffs request a hearing date the week of November 4, 2013 for three reasons. First, Plaintiffs recognize the Court's already busy hearing schedule makes a more immediate hearing of the Motion for Preliminary Injunction difficult. Second, while retirees urgently need disposition of this matter in advance of the December 7 and December 15 deadlines, a decision is not needed in October. Thus, Plaintiffs did not want to burden the Court with a request for an

immediate hearing or request for a TRO.¹ Third, many of Plaintiffs' witnesses are old, suffer significant health problems and are located far from the Court (some out of state), making live testimony at the hearing impossible. Conducting a hearing during the week of November 4 would allow Plaintiffs the opportunity to secure critical testimony of these witnesses through trial depositions.

6. Plaintiffs further request leave to secure trial depositions of Retirees who, because of the condition of their health or because of the distance of travel required, will be unable to attend the hearing on the Motion for Preliminary Injunction. Specifically, Plaintiffs request leave to secure the trial depositions of:

- a. John Elsey. Mr. Elsey lives in Lupton, Michigan, approximately 180 miles from the Court. He is 74 years old and suffers from chronic myelo leukemia and polycythemia. The treatment for these conditions leaves Elsey with a compromised immune system. As a result, the significant travel required to attend a hearing in Detroit, Michigan would present a substantial threat to Mr. Elsey's health.
- b. Robert Morris. Mr. Morris lives in Hommosassa, Florida, approximately 1,100 miles from the Court. He is 71 years old. His wife, who is 70 years old, was hospitalized from September 23, 2013 to October 2, 2013 with bacterial and viral meningitis. Mr. Morris is his wife's primary caregiver as she recovers. As a result of the substantial travel and significant time away from his wife as she recovers, Mr. Morris would be unable to attend a hearing in Detroit, Michigan.
- c. Sharon Schumacher. Mrs. Schumacher lives in Montrose, Colorado, approximately 1,500 miles from the Court. She is 65 years old and suffers from Hepatitis C. As a result of the substantial travel required, Mrs. Schumacher would be unable to attend a hearing in Detroit, Michigan.
- d. Ed Smith. Mr. Smith lives in Harrison, Michigan, approximately 170 miles from the Court. He is 71 years old, suffers from large B cell lymphoma, and has recently undergone a bone marrow transplant. While Mr.

¹ Although deferring until the week of November 4 is possible, it remains important that the matter be heard well in advance of the December 7 and 15 deadlines. Retirees will otherwise be increasingly likely to commit themselves to paying for inferior coverage elsewhere, believing themselves to have no choice.

Smith is currently recovering, his immune system is nonetheless significantly compromised at this time. As a result, the significant travel required to attend a hearing in Detroit, Michigan would present a substantial threat to Mr. Smith's health.

- e. Dorothy O'Dell, if necessary. Mrs. O'Dell lives in Hubbard Lake, Michigan, approximately 230 miles from the Court. She is 86 years old, lives alone, and suffers from chronic myelogenous leukemia. As a result of the substantial travel required, Mrs. O'Dell may have trouble attending a hearing in Detroit, Michigan.

7. Finally, Plaintiffs request leave to secure the trial depositions of further witnesses as made necessary by the circumstances in advance of the hearing on the Motion for Preliminary Injunction.

WHEREFORE, Plaintiffs respectfully request that the Court schedule a hearing for Plaintiffs' Motion for Preliminary Injunction for the week of November 4, 2013 and for leave to perpetuate necessary testimony through trial depositions.

Respectfully submitted,

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