

Appeal No. 14-0102

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**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

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**In re: Retired Detroit Police & Fire Fighters Association;  
Donald Taylor, individually and as President of RDPFFA;  
Detroit Retired City Employees Association;  
Shirley V. Lightsey, individually and as President of DRCEA**

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**Appeal from the United States Bankruptcy Court  
For the Eastern District of Michigan**

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**RETIREE ASSOCIATION PARTIES' MOTION FOR EXPEDITED HEARING ON  
PETITION TO APPEAL PURSUANT TO 28 U.S.C. § 158(d)(2)**

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The Retired Detroit Police & Fire Fighters Association (“RDPFFA”), Donald Taylor, individually and as President of the RDPFFA, the Detroit Retired City Employees Association (“DRCEA”), and Shirley V. Lightsey, individually and as President of the DRCEA (collectively, “Retiree Association Parties”) move, pursuant to F.R.A.P. 2, 6 Cir. R. 2 and 6 Cir. R. 27(f), for an expedited hearing on their Petition<sup>1</sup> for permission to appeal the determination of the United States Bankruptcy Court for the Eastern District of Michigan that the City of Detroit is eligible for chapter 9 relief (the "Eligibility Determination"). In support of their Motion, the Retiree Association Parties respectfully represent as follows:

### **Factual and Procedural Background**

The appeal filed by the Retiree Association Parties is one of several related to the Eligibility Determination which are similar in substance and procedural posture. Those other appeals, as the date of this Motion, were filed by the Official Committee of Retirees of the City of Detroit (“Committee”) (No. 13-0118), the Detroit Retirement Systems (No. 14-0101), and AFSCME (No. 14-0103).

The Committee on December 31, 2013 filed a motion for an expedited hearing on its petition for permission to appeal pursuant to 28 U.S.C. § 158(d)(2). On

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<sup>1</sup> Petition for Direct Appeal by Appellants Retiree Association Parties under 28 U.S.C. §158(d)(2) ( the "Petition"), filed on January 8, 2013.

January 9, 2014, the Committee filed a reply in support of that motion. The Retiree Association Parties adopt the Committee's motion and reply and ask that the relief sought by the Committee be granted with respect to the Petition.

As is more fully explained in the Petition, the chapter 9 case has proceeded with the utmost speed and urgency. Petition, at 2-3. Specifically, the bankruptcy court found the need to "expedite" the resolution of constitutional issues. Opinion, at 2. The appeals filed by the Retiree Association Parties, the Committee and others likewise require a prompt resolution.

Additionally, the Retiree Association Parties rely on and incorporate by reference, as if fully restated herein, the facts set forth in their Petition and the factual and procedural background as presented to this Court by the Retiree Committee's motion to expedite as filed in Case No.13-0118.

### **The Relief Sought**

The Retiree Association Parties request an expedited hearing on their Petition for Permission to Appeal.

### **Good cause exists for an expedited determination of the Petition.**

This Court has authority to expedite consideration of the Petition under F.R.A.P. 2 and 6 Cir. R. 2 and 27(f). Rule 2 provides that:

On its own or a party's motion, a court of appeals may - to expedite its decision or for other good cause - suspend any provision of these rules in a particular case and order proceedings as it directs, except as otherwise provided in Rule 26(b).

F.R.A.P. 2; *see also Nat'l City Bank v. Battisti*, 581 F.2d 565, 569 (6th Cir. 1977).

Further guidance regarding F.R.A.P. 2 is provide by the committee notes to the rule, which state that "[t]he primary purpose of this rule is to make clear the power of the courts of appeals to expedite the determination of cases of pressing concern to the public or to the litigants by prescribing a time schedule other than that provided by the rules." F.R.A.P. 2, advisory committee's note. Moreover, Local Rule 27(f) provides that "[a] party may move to expedite the appeal" upon a showing of "good cause."

Good cause exists for the Petition to be considered on an expedited basis. The chapter 9 case involves issues of critical importance to the City of Detroit and the Eligibility Determination presents constitutional issues of first impression of importance not only to the City of Detroit but also the nation. An expedited appeal will serve the public interest by avoiding delay in the chapter 9 case. Moreover, an expedited opinion may be necessary to preserve the Retiree Association Parties' appellate rights because the theory of equitable mootness may be later argued, after confirmation of a plan of adjustment, to preclude appellate review of important issues. Both the Official Retiree Committee and the Detroit Retirement Systems

explained these points in their motions to expedite the consideration of their respective petitions, and the Retiree Association Parties adopt those arguments.

**Proposed Briefing Schedule.**

The Committee, in its motion, set forth a proposed briefing schedule. The deadlines proposed by the Committee have already passed, but the City (the principal appellee in each of the appeals) has already responded to the Committee's motion, and, as noted above, the Committee already filed a reply brief in support of its motion. The Retiree Association Parties request therefore that the instant motion be considered along with the Committee's motion.

The Retiree Association Parties further respectfully request that no hearing be held with respect to the Motion and that the Court promptly issue an order granting the requested relief. Should the Court accept the appeal, the Retiree Association Parties will request that the Court order an expedited briefing schedule and schedule an early argument date.

**Conclusion**

WHEREFORE, the Retiree Association Parties respectfully request that this Court expedite consideration of this Motion and their Petition, and grant such other and further relief as the Court deems appropriate.

Dated: January 16, 2014

Respectfully submitted,

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