UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re: City of Detroit, Michigan, Debtor.	Bankruptcy Case No. 13-53846 Honorable Thomas J. Tucker Chapter 9
The Police and Fire Retirement System of the City of Detroit, Plaintiff v. Investment Committee of the Police and Fire Retirement System of the City of Detroit, Defendant	Adv. Proc. No. 20-04042

CITY OF DETROIT'S *EX PARTE* MOTION FOR AN ORDER SHORTENING NOTICE AND SCHEDULING AN EXPEDITED HEARING ON THE CITY OF DETROIT'S MOTION FOR IMMEDIATE FACILITATION

The City of Detroit ("City") moves for the entry of an *ex parte* order pursuant to Rules 9006(c)(1) and 9007 of the Federal Rules of Bankruptcy Procedures and Rule 9006-1(b) of the Local Rules of the United States Bankruptcy Court for the Eastern District of Michigan (a) shortening the notice period with respect to the *Motion for Immediate Facilitation* ("Motion," Doc. No. 8) and (b) scheduling a hearing on the Motion on or before February 28, 2020.

Defendant Investment Committee concurs in the relief requested in this motion but does not concur in the discussion below. Plaintiff PFRS does not concur in this motion or in the relief requested herein.

In support of this *Ex Parte* Motion, the City respectfully states as follows:

1. On January 28, 2020, the Police and Fire Retirement System of the City of Detroit ("PFRS") filed a complaint for injunctive and declaratory relief against the Investment Committee of the Police and Fire Retirement System of the City of Detroit ("PFRS IC").

2. The dispute underlying the adversary proceeding is whether the PFRS IC has authority, independent of the PFRS Board, to engage professionals and decide on their compensation.

3. This dispute is spiraling out-of-control and threatens to take on a life of its own if not resolved in the near future.

4. As a result, on February 13, 2020, the City filed the Motion. The PFRS IC concurred in the relief requested in the Motion and requested that any mediation in this adversary proceeding be completed no later than March 16, 2020.

5. The PFRS Board has historically had a General Counsel to advise the Board on legal issues. Currently, PFRS' General Counsel is Ron King of the Clark Hill Firm.

6. After the dispute arose, the PFRS engaged the Couzens Lansky firm as special bankruptcy counsel to prosecute this dispute. Four Couzens Lansky lawyers are named in the signature block of the complaint.

7. The PFRS IC has never before had separate legal counsel. After the dispute arose, the PFRS IC hired (i) attorney Valerie Brader as its "general counsel" and (ii) the Bodman firm as its bankruptcy counsel. Three different attorneys from Bodman have filed notices of appearances in this adversary proceeding.

8. So there are now four law firms representing the parties to the dispute and numerous lawyers.

9. The City believes that an experienced facilitator, with knowledge and understanding of commercial disputes, would be able to independently analyze the dispute and speak frankly with the opposing sides about a realistic and appropriate resolution.

10. The City also believes that distrust and acrimony has come between the parties to the adversary proceeding. That has made it all but impossible for the parties to calmly approach this dispute in a cooperative and business like fashion.

11. As set forth in the Brief attached to the Motion, PFRS and the City have much "bigger fish to fry" than what is at issue in the dispute. All parties need to work together cooperatively to address the significant issues faced by PFRS and the City.

12. This Court has the authority to grant an expedited hearing on the Motion pursuant to Bankruptcy Rule 9006(c)(1), which provides that "when an act

is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced." Fed. R. Bankr. P. 9006(c)(1). Local Rule 9006-1(b) further provides that "a party may file a motion for an *ex parte* order reducing or enlarging the time for a party to take any action or file any paper." E.D. Mich. LBR 9006-1(b).

13. In addition, pursuant to Bankruptcy Rule 9007, "[w]hen notice is to be given under the [Bankruptcy Rules], the court shall designate, if not otherwise specified herein, the time within which, the entities to whom, and the form and manner in which the notice shall be given." Fed. R. Bankr. P. 9007.

14. These rules provide the Court with the authority to enter an *ex parte* order scheduling a hearing on shortened notice and approving the manner of notice of the hearing.

15. Because of the speed at which this dispute is moving and the amount of time and money that the parties will spend in the near future, the City respectfully requests that the Motion be heard on or before February 28, 2019, with any responses to be due 48 hours prior to the hearing. Further, the PFRS IC consented to the relief requested in the Motion on the condition that the mediation occur on or before March 16, 2020. If the Motion is not heard on an expedited basis, it is unlikely that the mediation can be completed by March 16, 2020.

WHEREFORE, the City respectfully requests that the Court enter an order, in substantially the same form as the one attached as Exhibit 1 ("Order"), granting the relief requested in this *Ex Parte* Motion and granting such further relief as the Court deems appropriate.

Dated: February 14, 2020

CITY OF DETROIT LAW DEPARTMENT

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SUMMARY OF ATTACHMENTS

The following documents are attached to this Motion, labeled in accordance with Local Rule 9014-1(b).

Exhibit 1 Proposed Form of Order

Exhibit 2 None [Motion Seeks Ex Parte Relief]

Exhibit 3 None [Brief Not Required]

Exhibit 4 Certificate of Service

Exhibit 5 None

Exhibit 6 None

EXHIBIT 1

Proposed Order

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
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CITY OF DETROIT'S *EX PARTE* MOTION FOR AN ORDER SHORTENING NOTICE AND SCHEDULING AN EXPEDITED HEARING ON THE CITY OF DETROIT'S MOTION FOR IMMEDIATE FACILITATION

This case is before the Court on the *City of Detroit's* Ex Parte *Motion for an Order Shortening Notice and Scheduling an Expedited Hearing on the City of Detroit's Motion for Immediate Facilitation* (Docket # 8). The Court, having reviewed the *Ex Parte* Motion and having found that notice of the *Ex Parte* Motion was sufficient under the circumstances; having determined after due deliberation that the relief requested in the *Ex Parte* Motion is in the best interests of the Debtor and its creditors; having determined that good and sufficient cause has been shown;

1. The *Ex Parte* Motion (Docket # [_____]) is GRANTED.

2. The Court will hold an expedited hearing on **[**]** on the *City of Detroit's Motion for Immediate Facilitation* (Docket # 8, the "Motion").

3. Responses to the Motion must be filed ***no later than [**]***.

4. The terms and conditions of this Order will be immediately effective and enforceable upon its entry.

5. The City must serve a copy of this Order on the Plaintiff and Defendant and must file proof of such service no later than February [**], at 5:00 p.m. EDT.

EXHIBIT 2

Not Applicable

EXHIBIT 3

Not Applicable

EXHIBIT 4 – CERTIFICATE OF SERVICE

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 14, 2020, he served a copy of the foregoing *City of Detroit's* Ex Parte *Motion for an Order Shortening Notice and Scheduling an Expedited Hearing on City of Detroit's Motion for Immediate Facilitation* upon the person listed below, via electronic mail and first class mail.

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Dated: February 14, 2020

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EXHIBIT 5

Not Applicable

EXHIBIT 6

Not Applicable