

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

-----X	
In re	: Chapter 9
CITY OF DETROIT, MICHIGAN,	: Case No. 13-53846
	:
Debtor.	: Hon. Steven W. Rhodes
	:
	:
-----X	
CITY OF DETROIT, MICHIGAN,	: Chapter 9
	:
Plaintiff,	: Adversary Proceeding No. 14-04112
	:
vs.	: Hon. Steven W. Rhodes
	:
DETROIT GENERAL RETIREMENT	:
SYSTEM SERVICE CORPORATION,	:
DETROIT POLICE AND FIRE	:
RETIREMENT SYSTEM SERVICE	:
CORPORATION, DETROIT	:
RETIREMENT SYSTEMS FUNDING	:
TRUST 2005, and DETROIT	:
RETIREMENT SYSTEMS FUNDING	:
TRUST 2006	:
	:
Defendants.	:
-----X	

**EX PARTE MOTION OF DEFENDANTS DETROIT  
RETIREMENT SYSTEMS FUNDING TRUST 2005  
AND DETROIT RETIREMENT SYSTEMS FUNDING  
TRUST 2006 TO FILE A BRIEF IN EXCESS OF PAGE LIMIT**

Wilmington Trust, National Association (“WTNA”), successor trustee for the above-captioned defendants (a) Detroit Retirement Systems Funding Trust 2005 (the “2005 Funding Trust”) and (b) Detroit Retirement Systems Funding Trust 2006 (the “2006 Funding Trust” and, together with the 2005 Funding Trust, the “Trust Defendants”), hereby moves (this “Ex Parte Motion”), on behalf of the Trust Defendants, by and through its undersigned counsel, for the entry of an order authorizing the Trust Defendants to file a Memorandum in Opposition (the “Opposition”) in excess of twenty (20) pages to *City of Detroit’s Motion to Dismiss in Part the Funding Trusts’ Counterclaims* (the “City’s Motion”) (Adv. Pro. Doc. 23).

### **Jurisdiction and Venue**

1. The Bankruptcy Court has jurisdiction to consider this *Ex Parte* Motion under 28 U.S.C. §§ 157 and 1334. The Bankruptcy Court’s consideration of this *Ex Parte* Motion is a core proceeding under 28 U.S.C. § 157(b).

2. Venue is proper before the Bankruptcy Court pursuant to 28 U.S.C. §§ 1408 and 1409.

### **Relief Requested**

3. By this *Ex Parte* Motion, WTNA seeks an order authorizing it to file the Opposition, on behalf of the Trust Defendants, in excess of twenty (20) pages.

### **Basis for Relief**

4. The City<sup>1</sup> commenced the above-captioned adversary proceeding (this “Adversary Proceeding”) on January 31, 2014 to invalidate two (2) Service Contracts that it entered into as part of transactions that raised \$1.44 billion for the City to pay unfunded accrued actuarial liabilities of two (2) retirement systems. *See Complaint for Declaratory and Injunctive Relief* (Adv. Pro. Doc. 1). WTNA, as successor trustee for the Trust Defendants, filed an answer with affirmative defenses and counterclaims, pursuant to a Court-approved stipulation, on March 17, 2014. *See Agreed Order Extending Time to Answer or Otherwise Respond to Complaint* (Adv. Pro. Doc. 7); *Answer with Affirmative Defenses and Counterclaims of Defendants Detroit Retirement Systems Funding Trust 2005 and Detroit Retirement Systems Funding Trust 2006 to Complaint for Declaratory and Injunctive Relief* (Adv. Pro. Doc. 10) (the “Trust Defendants’ Answer”).

5. In the City’s Motion, the City moved to dismiss all but one of the Trust Defendants’ fourteen (14) Counterclaims. *See City’s Motion* (Adv. Pro. Doc. 23).

6. Pursuant to Rule 9014-1(e) of the Local Rules for the United States Bankruptcy Court for the Eastern District of Michigan (the “Local Bankruptcy”

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<sup>1</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Trust Defendants’ Answer (defined below).

Rules”), a brief in opposition to a motion in an adversary proceeding may not exceed twenty (20) pages.

7. The Court previously authorized the City to file a brief in support of the City’s Motion in excess of twenty (20) pages. *See Ex Parte Order Authorizing Plaintiff City of Detroit to File a Brief in Excess of Page Limit* (Adv. Pro. Doc. 29).

8. WTNA submits that in order for the Trust Defendants to adequately address and rebut the various legal and procedural arguments raised by the City in the City’s Motion and accompanying memorandum the Trust Defendants require more than twenty (20) pages in length for the Opposition. Accordingly, WTNA respectfully requests that the Bankruptcy Court enter an order granting this *Ex Parte Motion*.

9. Pursuant to Rule 9014-1(g) of the Local Bankruptcy Rules, on August 14, 2014, counsel for WTNA sought the concurrence of counsel for the City on the relief sought in this *Ex Parte Motion*. The City did not consent to the relief requested herein.

WHEREFORE, WTNA, on behalf of the Trust Defendants, respectfully requests that the Bankruptcy Court enter an order substantially in the form attached

hereto as Exhibit 1, granting the relief requested herein and such other and further relief as the Bankruptcy Court may deem just and proper under the circumstances.

August 14, 2014

DRINKER BIDDLE & REATH LLP

/s/ Heath D. Rosenblat

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## SUMMARY OF ATTACHMENTS

The following documents are attached to this *Ex Parte* Motion, labeled in accordance with Local Bankruptcy Rule 9014-1(b):

- |           |  |
|-----------|--|
| Exhibit 1 | Proposed Form of Order                                       |
| Exhibit 2 | None [Motion Seeks <i>Ex Parte</i> Relief]                   |
| Exhibit 3 | None [Brief Not Required]                                    |
| Exhibit 4 | Certificate of Service                                       |
| Exhibit 5 | None [No Affidavits Filed Specific to this Motion]           |
| Exhibit 6 | None [No Documentary Exhibits Filed Specific to this Motion] |

# **EXHIBIT 1**

**UNITED STATES BANKRUPTCY COURT  
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SOUTHERN DIVISION**

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DETROIT POLICE AND FIRE :  
RETIREMENT SYSTEM SERVICE :  
CORPORATION, DETROIT :  
RETIREMENT SYSTEMS FUNDING :  
TRUST 2005, and DETROIT :  
RETIREMENT SYSTEMS FUNDING :  
TRUST 2006 :  
: :  
Defendants. :  
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**EX PARTE ORDER AUTHORIZING  
DEFENDANTS DETROIT RETIREMENT SYSTEMS  
FUNDING TRUST 2005 AND DETROIT RETIREMENT SYSTEMS  
FUNDING TRUST 2006 TO FILE A BRIEF IN EXCESS OF PAGE LIMIT**



This matter coming before the Court on the *Ex Parte Motion of Defendants Detroit Retirement Systems Funding Trust 2005 and Detroit Retirement Systems Funding Trust 2006 to File a Brief in Excess of Page Limit* dated August 14, 2014 (the “Ex Parte Motion”), filed by WTNA,<sup>1</sup> successor trustee for the Trust Defendants, and the Court being fully advised on the basis for the requested relief,

**IT IS HEREBY ORDERED THAT:**

1. The *Ex Parte Motion* is GRANTED.
2. WTNA may file, on behalf of the Trust Defendants, the Opposition in excess of the twenty (20) page limit set by the Local Bankruptcy Rules.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Hon. Steven W. Rhodes

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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the *Ex Parte Motion*.

# **EXHIBIT 4**

**CERTIFICATE OF SERVICE**

I, Heath D. Rosenblat, hereby certify that on this day I caused a true and correct copy of the foregoing ***Ex Parte Motion of Defendants Detroit Retirement Systems Funding Trust 2005 and Detroit Retirement Systems Funding Trust 2006 to File a Brief in Excess of Page Limit*** to be filed electronically, and to be thereby served upon the following:

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Dated: August 14, 2014

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