

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

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In re : Chapter 9
CITY OF DETROIT, MICHIGAN, : Case No. 13-53846
Debtor. : Hon. Steven W. Rhodes
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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. :
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**THE TRUST DEFENDANTS' REPLY TO CITY OF DETROIT'S
OPPOSITION TO *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”), submits this reply (this “Reply”), on behalf of the Trust Defendants, by and through its undersigned counsel, in support of the Trust Defendants’ *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* (“Ex Parte Page Motion”) (Adv. Pro. Doc. 133) and in response to the *City of Detroit’s Opposition To 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* (the “Page Opposition”) (Adv. Pro. Doc. 134).¹

REPLY

1. The City of Detroit, Michigan (the “City”) maintains that this above-captioned adversary proceeding (this “Adversary Proceeding”) is a simple

¹ It should be noted that the Page Opposition, upon information and belief and after a high-level review of the docket in the chapter 9 proceeding, as well as every adversary proceeding related thereto, is the City’s (as defined below) **first and only** opposition to a request for submitting a pleading in excess of the page limits established in this jurisdiction.

and discrete matter that can be dispensed with easily, and this mantra underlies the statements in the Page Opposition. That simply is not true.

2. Further, the City's characterization of the consent request lacks authenticity. When informed about the approximate page total, counsel for the City did not consent but also did not object in any manner and simply stated the Trust Defendants should file their motion and the City will allow the Court to decide the issue. Counsel for the City never made the proposal outlined in the Page Opposition.

3. The Trust Defendants and other defendants have argued, and as the Court has acknowledged, the transactions at issue in this Adversary Proceeding are complex, as are the parties' claims and defenses. *See* Case Management Order ("CMO") (Adv. Pro. Doc. 131), at 1. Further, the Court acknowledged that "the parties' claims and defenses are intensely fact-specific and that the facts will be broadly controverted." *Id.* at ¶ 8.

4. As set forth in the *Ex Parte* Page Motion, the City is seeking to dismiss thirteen (13) out of the fourteen (14) counterclaims asserted by the Trust Defendants – all but one counterclaim is at issue. And the City has made various arguments for the dismissal of each counterclaim – some procedural and some substantive – requiring separate analysis and rebuttal.

5. In addition to the factual disputes, the City's Motion² presents complex legal issues regarding, *inter alia*, (a) Michigan constitutional and statutory law, (b) Michigan municipal finance law, (c) the scope of municipal authority, (d) the reliability of a municipality's representations to investors, and (e) interpretation of two (2) sets of complex transactional documents.³ The City persists in its untenable belief that these issues deserve superficial discussion and analysis, but – as the Opposition demonstrates – the City's perception is wrong. The Trust Defendants believe that these complex factual and legal issues, as acknowledged by the Court, warrant the thorough analysis provided in the Opposition, which will assist the Court in denying the Motion.

6. Moreover, under the CMO, the City will have more than a month (35 days), to formulate and prepare a reply to the Opposition to the Motion.

7. The City's position is untenable and contrary to what everyone else has accepted – this is a complicated matter. Accordingly, the *Ex Parte* Page Motion should be granted and the Page Opposition should be denied.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the *Ex Parte* Page Motion and the Opposition.

³ The fact that the Motion and the Memorandum reference Rule 12(c) of the Federal Rules of Civil Procedure, made applicable to this Adversary Proceeding by Rule 7012 of the Federal Rules of Bankruptcy Procedure, required the Trust Defendants to respond to the invocation of that Rule, as well.

CONCLUSION

WHEREFORE, for the reasons set forth in the *Ex Parte* Page Motion and this Reply, WTNA requests that the Court (a) grant the *Ex Parte* Page Motion and permit the Trust Defendants to file the Opposition in excess of the twenty (20) page limit set by the Local Bankruptcy Rules; (b) deny the Page Opposition filed by the City; and (c) grant such other and further relief as the Court deems just and proper under the circumstances.

[Signature Page Immediately Follows]

August 15, 2014

DRINKER BIDDLE & REATH LLP

/s/ Heath D. Rosenblat

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Detroit Retirement Systems Funding Trust 2006*

CERTIFICATE OF SERVICE

I, Heath D. Rosenblat, hereby certify that on this 15th day of August 2014, I caused a true and correct copy of the foregoing *The Trust Defendants' Reply To City Of Detroit's Opposition To 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 and served by operation of the CM/ECF system for the Eastern District of Michigan Bankruptcy Court upon all registered users thereof.

/s/ Heath D. Rosenblat

Heath D. Rosenblat