

**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

**CITY OF DETROIT’S MOTION TO ENFORCE ORDER,  
PURSUANT TO SECTIONS 105, 501, AND 503 OF THE BANKRUPTCY  
CODE AND BANKRUPTCY RULES 2002 AND 3003(c), ESTABLISHING  
BAR DATES FOR FILING PROOFS OF CLAIM AND APPROVING  
FORM AND MANNER OF NOTICE THEREOF AGAINST  
HORIZON IMAGING, LLC**

The City of Detroit, Michigan (“City”) by its undersigned counsel, Miller, Canfield, Paddock and Stone, PLC, files this Motion to Enforce Order, Pursuant to Sections 105, 501, and 503 of the Bankruptcy Code and Bankruptcy Rules 2002 and 3003(c), Establishing Bar Dates for Filing of Proofs of Claim and Approving Form and Manner of Notice Thereof Against Horizon Imaging, LLC (“Motion”). In support of this Motion, the City respectfully states as follows:

**I. Introduction**

1. Despite having not filed a proof of claim in the City’s bankruptcy case, Intervening Plaintiff, Horizon Imaging, LLC (“Horizon”) continues to prosecute a state court lawsuit seeking a monetary award on account of a pre-petition claim against the City. In accordance with the Bar Date Order, the City seeks an order barring and permanently enjoining Horizon from asserting its claim

against the City or property of the City, and requiring that the Horizon dismiss the City with prejudice from the state court lawsuit.

## II. Factual Background

### A. The Bar Date Order

2. On July 18, 2013 (“Petition Date”), the City filed this chapter 9 case.

3. On November 21, 2013, this Court entered its Order, Pursuant to Sections 105, 501, and 503 of the Bankruptcy Code and Bankruptcy Rules 2002 and 3003(c), Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof (Doc. No. 1782) (“Bar Date Order”).

4. The Bar Date Order established February 21, 2014 (“General Bar Date”) as the deadline for filing claims against the City. Paragraph 6 of the Bar Date Order states that the

following entities must file a proof of claim on or before the Bar Date...any entity: (i) whose prepetition claim against the City is not listed in the List of Claims or is listed as disputed, contingent or unliquidated; and (ii) that desires to share in any distribution in this bankruptcy case and/or otherwise participate in the proceedings in this bankruptcy case associated with the confirmation of any chapter 9 plan of adjustment proposed by the City...

Bar Date Order ¶ 6.

5. Paragraph 22 of the Bar Date Order also provided that:

Pursuant to sections 105(a) of the Bankruptcy Code and Bankruptcy Rule 3003(c)(2), **any entity that is required to file a proof of claim in this case pursuant to the Bankruptcy Code, the Bankruptcy Rules or this Order with respect to a particular claim against the**

**City, but that fails properly to do so by the applicable Bar Date, shall be forever barred, estopped and enjoined from: (a) asserting any claim against the City or property of the City that (i) is in an amount that exceeds the amount, if any, that is identified in the List of Claims on behalf of such entity as undisputed, noncontingent and liquidated or (ii) is of a different nature or a different classification or priority than any Scheduled Claim identified in the List of Claims on behalf of such entity (any such claim under subparagraph (a) of this paragraph being referred to herein as an “Unscheduled Claim”); (b) voting upon, or receiving distributions under any Chapter 9 Plan in this case in respect of an Unscheduled Claim; or (c) with respect to any 503(b)(9) Claim or administrative priority claim component of any Rejection Damages Claim, asserting any such priority claim against the City or property of the City.**

Bar Date Order ¶ 22 (emphasis added).

6. The Bar Date Order also approved the form and manner of notice of the Bar Dates. *See e.g.* Bar Date Order ¶¶ 3, 23-26. In accordance with the Bar Date Order, notice of the General Bar Date was published in several newspapers. [Doc. Nos. 3007, 3008, 3009]. In addition, Horizon was served with a notice of the Bar Date via first class mail on November 29, 2013. *See* Certificate of Service [Doc. No. 2337, page 441 of 2427]

7. The Bar Date Order also provided that this Court retained “jurisdiction with respect to all matters arising from or related to the interpretation, implementation and/or enforcement of this Order.” Bar Date Order ¶ 29.

## **B. The State Court Action**

8. In violation of the automatic stay and the Bar Date Order, on January 26, 2016, Horizon filed an intervening complaint against the City (“Horizon

Complaint”) in Wayne County Circuit Court, case number 15-004176. The Horizon Complaint is attached as Exhibit 6. Horizon asserts it provided Plaintiff Frederick Morris with medical services related to his alleged pre-petition injury since approximately April, 2013. Horizon Complaint ¶ 7.

### **III. Argument**

9. Horizon failed to file a proof of claim in the City’s bankruptcy case. Consequently, pursuant to the Bar Date Order, Horizon is “forever barred, estopped and enjoined from...asserting any claim against the City or property of the City.” Bar Date Order ¶ 22. As Horizon’s actions violate the Bar Date Order, its claim against the City must be dismissed with prejudice.

### **IV. Conclusion**

10. The City thus respectfully requests that this Court enter an order, in substantially the same form as the one attached as Exhibit 1, (a) directing Horizon to dismiss, or cause to be dismissed, the State Court Action; and (b) permanently barring, estopping and enjoining the Horizon from asserting the claim alleged in or claims related to the State Court Action against the City or property of the City. The City sought, but did not obtain, concurrence to the relief requested in the Motion.

Dated: March 18, 2016

MILLER, CANFIELD, PADDOCK AND  
STONE, P.L.C.

By: /s/ Marc N. Swanson  
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- and -

CITY OF DETROIT LAW DEPARTMENT

Charles N. Raimi (P29746)  
James Noseda (P52563)  
2 Woodward Avenue, Suite 500  
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Phone - (313) 237-5037  
Email - [raimic@detroitmi.gov](mailto:raimic@detroitmi.gov)

Attorneys for the City of Detroit

**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
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**EXHIBIT LIST**

Exhibit 1	Proposed Order
Exhibit 2	Notice of Opportunity to Object
Exhibit 3	None
Exhibit 4	Certificate of Service
Exhibit 5	None
Exhibit 6	Horizon Complaint

**EXHIBIT 1 – PROPOSED ORDER**

**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

**ORDER GRANTING CITY OF DETROIT’S MOTION TO  
ENFORCE ORDER, PURSUANT TO SECTIONS 105, 501, AND 503 OF  
THE BANKRUPTCY CODE AND BANKRUPTCY RULES 2002 AND  
3003(c), ESTABLISHING BAR DATES FOR FILING PROOFS OF CLAIM  
AND APPROVING FORM AND MANNER OF NOTICE THEREOF  
AGAINST HORIZON IMAGING, LLC**

This matter, having come before the Court on the Motion to Enforce Order, Pursuant to Sections 105, 501, and 503 of the Bankruptcy Code and Bankruptcy Rules 2002 and 3003(c), Establishing Bar Dates for Filing of Proofs of Claim and Approving Form and Manner of Notice Thereof Against Horizon Imaging, LLC (“Motion”)<sup>1</sup>, upon proper notice and a hearing, the Court being fully advised in the premises, and there being good cause to grant the relief requested,

**THE COURT ORDERS THAT:**

1. The Motion is granted.

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<sup>1</sup> Capitalized terms used but not otherwise defined in this Order shall have the meanings given to them in the Motion.

2. Within five days of the entry of this Order, Intervening Plaintiff Horizon Imaging, LLC will dismiss, or cause to be dismissed, with prejudice its Intervening Complaint filed on January 26, 2016 in the lawsuit captioned as Frederick Morris, Plaintiff and Horizon Imaging, LLC, Intervening Plaintiff, vs. City of Detroit, Defendant, case number 15-004176, Wayne County Circuit Court, Michigan (“State Court Action”).

3. Horizon Imaging, LLC is permanently barred, estopped and enjoined from asserting the claim arising from or related to its State Court Action against the City of Detroit or property of the City of Detroit.

4. The Court shall retain jurisdiction over any and all matters arising from the interpretation or implementation of this Order.



**EXHIBIT 2 – NOTICE**

**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

**NOTICE OF OPPORTUNITY TO OBJECT TO CITY OF  
DETROIT’S MOTION TO ENFORCE ORDER, PURSUANT TO  
SECTIONS 105, 501, AND 503 OF THE BANKRUPTCY CODE AND  
BANKRUPTCY RULES 2002 AND 3003(c), ESTABLISHING BAR DATES  
FOR FILING PROOFS OF CLAIM AND APPROVING FORM AND  
MANNER OF NOTICE THEREOF AGAINST HORIZON IMAGING, LLC**

The City of Detroit has filed its Motion to Enforce Order, Pursuant to Sections 105, 501, and 503 of the Bankruptcy Code and Bankruptcy Rules 2002 and 3003(c), Establishing Bar Dates for Filing of Proofs of Claim and Approving Form and Manner of Notice Thereof Against Horizon Imaging, LLC.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney.**

If you do not want the Court to enter an Order granting the Motion to Enforce Order, Pursuant to Sections 105, 501, and 503 of the Bankruptcy Code and Bankruptcy Rules 2002 and 3003(c), Establishing Bar Dates for Filing of Proofs of Claim and Approving Form and Manner of Notice Thereof Against Horizon Imaging, LLC, within 14 days, you or your attorney must:

1. File with the court a written response or an answer, explaining your position at:<sup>1</sup>

United States Bankruptcy Court  
211 W. Fort St., Suite 1900  
Detroit, Michigan 48226

If you mail your response to the court for filing, you must mail it early enough so that the court will **receive** it on or before the date stated above. You must also mail a copy to:

Miller, Canfield, Paddock & Stone, PLC  
Attn: Marc N. Swanson  
150 West Jefferson, Suite 2500  
Detroit, Michigan 48226

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time, and location of that hearing.

**If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.**

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<sup>1</sup> Response or answer must comply with F. R. Civ. P. 8(b), (c) and (e).

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

By: /s/ Marc N. Swanson

Marc N. Swanson (P71149)  
150 West Jefferson, Suite 2500  
Detroit, Michigan 48226  
Telephone: (313) 496-7591  
Facsimile: (313) 496-8451  
swansonm@millercanfield.com

Dated: March 18, 2016

**EXHIBIT 3 – NONE**

**EXHIBIT 4 – CERTIFICATE OF SERVICE**

**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

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on March 18, 2016, he served a copy of the foregoing **CITY OF DETROIT’S MOTION TO ENFORCE ORDER, PURSUANT TO SECTIONS 105, 501, AND 503 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 2002 AND 3003(c), ESTABLISHING BAR DATES FOR FILING PROOFS OF CLAIM AND APPROVING FORM AND MANNER OF NOTICE THEREOF AGAINST HORIZON IMAGING, LLC** upon the persons listed below via first class mail and email:

Counsel to Horizon Imaging, LLC:

Paul J. Whiting, III  
Micah R. German  
Whiting Law  
26300 Northwestern Highway, Suite 301  
Southfield, MI 48076

[paul@844whiting.com](mailto:paul@844whiting.com)  
[micah.german@844whiting.com](mailto:micah.german@844whiting.com)

DATED: March 18, 2016

By: /s/ Marc N. Swanson  
Marc N. Swanson (P71149)  
150 West Jefferson, Suite 2500  
Detroit, Michigan 48226  
Telephone: (313) 496-7591  
Facsimile: (313) 496-8451  
[swansonm@millercanfield.com](mailto:swansonm@millercanfield.com)

**EXHIBIT 5 – NONE**

**EXHIBIT 6 – HORIZON COMPLAINT**



STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

FREDERICK MORRIS,

Plaintiff,

-and-

HORIZON IMAGING, LLC,  
(Frederick Morris)

Intervening Plaintiff,

vs.

CITY OF DETROIT,

Defendant.

CASE NO. 15-004176-NI  
HON. EDWARD EWELL, JR.

15-004176-NI

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WAYNE COUNTY CLERK  
1/26/2016 9:27:02 AM  
CATHY M. GARRETT

---

KATRINA A. MURREL P53831  
APPLEBAUM & STONE, PLC  
Attorneys for Defendant  
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Southfield, MI 48076  
248-233-5050 (tel)/248-359-8516 (fax)  
Email: [kmurrel@applebaumstone.com](mailto:kmurrel@applebaumstone.com)

---

CITY OF DETROIT LAW DEPARTMENT  
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COLEMAN A. YOUNG MUNICIPAL CENTER  
Detroit, MI 48226  
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Email: [serifovskiv@detroitmi.gov](mailto:serifovskiv@detroitmi.gov)

WHITING LAW  
PAUL J. WHITING, III P61570  
MICAH R. GERMAN P74215  
Attorneys for proposed Int. Plaintiff Horizon  
26300 Northwestern Hwy., Ste. 301  
Southfield, MI 48076  
248-355-5900 (tel)/248-355-5901 (fax)  
Email: [paul@844whiting.com](mailto:paul@844whiting.com)  
Email: [micah.german@844whiting.com](mailto:micah.german@844whiting.com)

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**HORIZON IMAGING, LLC'S INTERVENING COMPLAINT**

NOW COMES Intervening Plaintiff HORIZON IMAGING, LLC (hereinafter "HORIZON IMAGING"), by and through its attorneys, WHITING LAW and for its Complaint, states as follows:

**JURISDICTIONAL ALLEGATIONS**

1. The Intervening Plaintiff HORIZON IMAGING (hereinafter "Plaintiff") provides medical services within County of Oakland, State of Michigan.

2. This is an action for No-Fault benefits arising out of the Plaintiff's medical services provided to Frederick Morris, who sustained serious bodily injuries in a motor vehicle accident within the meaning of the No-Fault Act, MCL 500.3101 *et seq.*

3. The Defendant CITY OF DETROIT, is a municipal entity, self-insured, and at all times doing business in the County of Wayne, State of Michigan.

4. The amount in controversy is less than \$25,000.00 exclusive of costs, interest and attorney fees.

#### **UNPAID MICHIGAN NO-FAULT BENEFITS**

5. Plaintiff re-alleges and re-asserts the allegations set forth within paragraphs 1-4 above as if the same were set forth word for word herein.

6. Plaintiff provided (and may continue to provide) medical and diagnostic services to Frederick Morris for injuries arising out of the motor vehicle accident. By this action, Plaintiff seeks payment of No-Fault benefits from Defendant for the medical services rendered to this individual.

7. Since approximately April 11, 2013, Plaintiff has provided medical service to Frederick Morris for injuries arising out of said motor vehicle accident.

8. Plaintiff's services were reasonable and necessary for the named individual's care, recovery and rehabilitation.

9. Plaintiff has submitted reasonable proof of the fact and the amount of the loss to CITY OF DETROIT pursuant to MCL 500.3142 and demanded payment. That pursuant to MCR 2.113(F), the itemized bills are in Defendant's possession.

10. Frederick Morris has assigned his rights to obtain payment for these medical benefits to Plaintiff.

11. CITY OF DETROIT is self-insured and is in highest order of priority obligated to pay for products services and accommodations rendered to Frederick Morris.

12. Despite demands for payment, CITY OF DETROIT has failed to pay Plaintiff for the

services rendered to Frederick Morris.

13. Under the Michigan No-Fault Law, CITY OF DETROIT has a statutory duty to promptly pay Plaintiff for services rendered to Frederick Morris arising out of this motor vehicle accident.

14. Defendant CITY OF DETROIT's action and/or inaction withholding and/or delaying payment to Plaintiff is a breach of CITY OF DETROIT's statutory obligation to provide timely No-Fault insurance benefits for injuries Frederick Morris sustained in the motor vehicle accident and subjects Defendant CITY OF DETROIT to No-Fault penalties.

15. Defendant CITY OF DETROIT's refusal or delay in making payments to Plaintiff is unreasonable within the meaning of the No-Fault law and subjects Defendant to liability for No-Fault attorney fees.

WHEREFORE, Plaintiff asks the court for the following relief:

- a. That this Court adjudicate CITY OF DETROIT's liability for services provided by Plaintiff to Frederick Morris;
- b. That this Court grants judgment against CITY OF DETROIT in an amount equal to the charges for services, together with costs, interest and attorneys' fees;
- c. That the Court order the speedy hearing of this action and advance it on the calendar; and,
- d. Such other relief that the Court deems just and proper.

Respectfully submitted,

PROOF OF SERVICE	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses, via Wayne County Circuit Court E-File, on January 26, 2016 by:	
<input type="checkbox"/> U.S. Mail	<input type="checkbox"/> Handfile
<input type="checkbox"/> Hand Delivery	<input type="checkbox"/> Overnight Courier
<input type="checkbox"/> Certified Mail	<input type="checkbox"/> E-File
<input type="checkbox"/> Electronic Mail	
Signature: <u>Debra Michelle Jones</u>	
DEBRA MICHELLE JONES	

/s/ Paul J. Whiting, III

Whiting Law  
PAUL J. WHITING, III P61570  
MICAHA R GERMAN P74215  
Attorneys for Plaintiff  
26300 Northwestern Highway, Ste. 301  
Southfield, MI 48076

Dated: January 26, 2016

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

FREDERICK MORRIS,

Plaintiff,

vs.

CITY OF DETROIT,

Defendant.

CASE NO. 15-004176-NI  
HON. EDWARD EWELL, JR.

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CATHY M. GARRETT  
15-004176-NI

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1/26/2016 9:27:02 AM  
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Email: [micah.german@844whiting.com](mailto:micah.german@844whiting.com)

**ORDER ALLOWING HORIZON IMAGING, LLC  
TO INTERVENE AS PARTY PLAINTIFF**

At a session of said Court held in the Courthouse,  
City of Detroit, County of Wayne, State of Michigan  
on 1/22/2016

PRESENT: HONORABLE Edward Ewell  
CIRCUIT COURT JUDGE

This matter having come before the Court by Intervening Applicant's Motion to Intervene,  
oral arguments having been heard, and the Court being fully advised in the premises;

**IT IS ORDERED** that Plaintiff HORIZON IMAGING, LLC's Motion to Intervene as a Party Plaintiff is GRANTED.

**IT IS FURTHER ORDERED** that HORIZON IMAGING, LLC's Intervening Complaint shall be considered to have been filed as the date of Plaintiff's Complaint in this matter.

/s/ Edward Ewell

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CIRCUIT COURT JUDGE  
Edward Ewell

**MAKE CHECKS PAYABLE TO:**

HORIZON IMAGING LLC  
 1695 W 12 MILE RD SUITE 240  
 BERKLEY MI 48072-2183  
 248-889-4580

EIN# 270514243

FREDRICK MORRIS  
 20100 CONCORD  
 DETROIT, MI 48228

**IF PAYING BY CREDIT CARD, FILL OUT BELOW CHECK CARD USED:**

MASTERCARD  VISA

CARD NUMBER AMOUNT

SIGNATURE EXP. DATE

**AMOUNT DUE NOW STATEMENT DATE ACCOUNT NUMBER AMOUNT ENCLOSED**

0.00 10/28/2015 38070  
 07

HORIZON IMAGING LLC  
 1695 W 12 MILE RD SUITE 240  
 BERKLEY MI 48072-2183  
 248-889-4580

Please check if address or insurance has changed. Make changes on reverse side.

**PLEASE DETACH AND RETURN THE TOP PORTION OF THIS STATEMENT WITH YOUR PAYMENT. RETAIN THE BOTTOM PORTION FOR YOUR RECORDS.**

DATE	PATIENT	DESCRIPTION	ACCOUNT ACTIVITY	
			INSURANCE	PATIENT

FREDRICK MORRIS

Date Statement from 01/01/2000 to 10/28/2015

04/11/2013	72141	MRI, CERVICAL W/O CONTRAST	5300.00	
04/11/2013	72148	MRI, LUMBAR W/O CONTRAST	5300.00	
04/24/2013	70551	MRI, BRAIN [INCLUDING STEM] W/O CONTRAST	7000.00	

BALANCE 17600.00 0.00

PLEASE MAKE PAYMENT IN FULL UPON RECEIPT.

BILLING QUESTIONS CALL 248-889-4580

0-30 DAYS	31-60 DAYS	61-90 DAYS	91-120 DAYS	120+ DAYS
0.00	0.00	0.00	0.00	0.00

ACCT:  
 07-38070  
 FREDRICK

**MAKE CHECKS PAYABLE TO:** HORIZON IMAGING LLC  
 1695 W 12 MILE RD SUITE 240  
 BERKLEY MI 48072-2183