

**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
: :
: :
-----X

**DEBTOR’S *EX PARTE* MOTION FOR AN ORDER SHORTENING
NOTICE AND SCHEDULING AN EXPEDITED HEARING WITH
RESPECT TO THE CITY OF DETROIT’S MOTION FOR LEAVE
TO SERVE THE SUPPLEMENTAL EXPERT REPORT OF
CAROLINE SALLEE**

The City of Detroit (“the “City”) hereby moves for the entry of an *ex parte* order pursuant to Rules 9006(c)(1) and 9007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 9006-1(b) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Eastern District of Michigan (the “Local Rules”) (a) shortening the notice period with respect to the City of Detroit’s Motion for Leave To Serve the Supplemental Expert Report of Caroline Sallee (the “Principal Motion”) and (b) scheduling a hearing on the Motion for August 21, 2014 or as soon thereafter as

the Court's calendar permits. In support of this *Ex Parte* Motion, the City respectfully states as follows:

Jurisdiction and Venue

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.

Relief Requested

2. The City filed the Principal Motion contemporaneously with the filing of the instant *Ex Parte* Motion. In the Principal Motion, the City seeks entry of an order providing the City leave to serve the Supplemental Report of Caroline Sallee.

3. By this *Ex Parte* Motion, the City seeks an order (a) shortening notice with respect to its Principal Motion; (b) allowing the Principal Motion to be heard on August 21, 2014 in conjunction with the previously scheduled status conference; and (c) granting such other and further relief to the City as the Court deems appropriate.

Basis for Relief

4. Bankruptcy Rule 9006(c)(1) 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).

5. 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.

6. Together, these rules provide the Court with the authority to enter an *ex parte* order scheduling a hearing on shortened notice and approve the manner of notice of such hearing.

7. As explained fully in its Principal Motion, the City seeks leave to serve a supplemental expert report of Caroline Sallee in order to rebut expert opinions offered by witnesses whose expert reports were filed after the City’s. The City believes that it is appropriate to offer Ms. Sallee’s supplemental report to prevent surprise to objecting parties, procedural delay in the confirmation hearing, and uncertainty as to whether it will be permitted to offer Ms. Sallee’s rebuttal opinions.

8. Pursuant to Local Rules 9006-1(b) and 9014-1(g), on August 16, 2014, the City provided notice and sought the concurrence of Syncora

Guarantee, Inc., and Financial Guaranty Insurance Company in the Principal Motion, which was not obtained. The City will serve this *Ex Parte* Motion via the Court's ECF system to the parties in the above-captioned adversary proceeding, and will provide notice of the *ex parte* order promptly upon issuance.

9. For these reasons, the City submits that cause exists to schedule the hearing on its Principal Motion for August 21, 2014 on shortened notice.

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

Dated: August 17, 2014

Respectfully submitted,

/s/ David G. Heiman

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ATTORNEYS FOR THE CITY OF DETROIT

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 <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

Proposed Order

**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

**ORDER GRANTING DEBTOR’S *EX PARTE* MOTION FOR AN ORDER
SHORTENING NOTICE AND SCHEDULING
AN EXPEDITED HEARING**

This matter coming before the Court on Debtor’s *Ex Parte* Motion for an Order Shortening Notice and Scheduling an Expedited Hearing with Respect to the City of Detroit’s Motion for Leave to Serve the Supplemental Expert Report of Caroline Sallee.¹ The Court having reviewed the Motion; having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409, (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b), and (iv) notice of the Motion was sufficient under the circumstances; having determined after due

¹ Capitalized terms not otherwise defined herein have the meanings given to them in the Motion.

deliberation that the relief requested in the Motion is in the best interests of the Debtor and its creditors; and good and sufficient cause having been shown;

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED**.
2. A hearing with respect to the City of Detroit's Motion for Leave to Submit a Supplemental Expert Report of Caroline Sallee shall be held on August 21, 2014, at 9:00 a.m. before the Hon. Steven Rhodes in Courtroom 716, Theodore Levin United States Courthouse, 231 W. Lafayette Blvd., Detroit, Michigan.
3. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.
4. This Court shall retain jurisdiction over any and all matters arising from the interpretation or implementation of this Order.

EXHIBIT 2

Notice (Not Applicable)

EXHIBIT 3

Brief (Not Applicable)

EXHIBIT 4

Certificate of Service

CERTIFICATE OF SERVICE

I, David G. Heiman, hereby certify that the foregoing *Debtor's Ex Parte Motion for an Order Shortening Notice and Scheduling an Expedited Hearing with Respect to the City of Detroit's Motion for Leave to Serve the Supplemental Expert Report of Caroline Sallee* was filed and served via the Court's electronic case filing and noticing system on this 17th day of August, 2014.

/s/ David G. Heiman _____

EXHIBIT 5

Affidavits (Not Applicable)

EXHIBIT 6

(Not Applicable)