

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

In re:]	
]	
CITY OF DETROIT, MICHIGAN]	Chapter 9
]	Case No. 13-53846
Debtor.]	Hon. STEVEN W. RHODES
]	
]	
MAURIKIA LYDA, JOHN SMITH,]	
NICOLE HILL, ROSALYN WALKER,]	
ANNETTE PARHAM, JANICE WARD,]	Adv. Pro. 14-04732
SYLVIA TAYLOR, SCOTT EUBANK,]	Hon. STEVEN W. RHODES
JOANN JACKSON, TAMMIKA R.]	
WILLIAMS, individually and behalf of]	
all other similarly situated, and]	
MICHIGAN WELFARE RIGHTS]	
ORGANIZATION, PEOPLES WATER]	
BOARD, NATIONAL ACTION]	
NETWORK-MICHIGAN CHAPTER,]	
And MORATORIUM NOW!,]	
Plaintiffs,]	
v.]	
CITY OF DETROIT, a Municipal]	
Corporation, through the Detroit]	
Water and Sewerage Department, its]	
Agent,]	
Defendant.]	
]	

MOTION BY PLAINTIFFS TO SET A STATUS CONFERENCE

Plaintiffs by their counsel and say:

1. The Plaintiffs are individual residents of the City of Detroit who had their water service disconnected or disconnection is imminent and threatened as a result of massive water shut-offs order by the City of Detroit through its agent the Detroit Water and Sewerage Department; such shut-offs threatened the health and survival of thousands of city residents and attracted world-wide attention and many of the Plaintiffs have health concerns.

2. Plaintiffs filed an adversary proceeding on behalf of themselves and others similarly situated challenging the shut-offs in disputed cases and where a shut-off would threaten the health, safety or well-being of residents; such proceeding does not call on the City to adopt new policies but calls on the City to fulfill existing obligations it has undertaken.

3. The Court directed the parties to meet and enter negotiations at a side-bar on July 21, 2014.

4. After a delay attributable to the City, the parties met on August 12, 2014 but no agreement was reached on any issue and the negotiations have broken down.

5. At side-bar the Court directed the parties to report if negotiations were not successful; this motion constitutes compliance with the Court's directions.

6. The Court has authority to set a status conference at any time, even before the time for a responsive pleading has passed, 11 USC §105, Fed. R. Civ. Pro. 16, Fed. R. Bankr. Pro. 16, L.R. 16.1 (E.D.Mich).

7. If no responsive pleading is filed, the Court can give electronic notification in the associated Chapter 9 case.

8. Concurrence was sought from the representatives of the Defendant; one law firm assented and the other law firm did not respond.

9. A proposed order is attached as Exhibit "1".

Wherefore Plaintiffs pray the Court will set a status conference.

FOR THE PLAINTIFFS:

By: /s/ _alice b. jennings_____

Alice B. Jennings, Esq.

EDWARDS & JENNINGS, P.C.

Cadillac Tower Building

65 Cadillac Square, Suite 2710

Detroit, MI 48226

(313) 961-5000

ajennings@edwardsjennings.com

By: /s/ _kurt thornbladh_____

KURT THORNBLADH P25858

Thornbladh Legal Group PLLC

7301 Schaefer

Dearborn MI 48126

(313) 943 2678

kthornbladh@gmail.com

Dated: August 18, 2014

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ORDER TO SET A STATUS CONFERENCE

This matter came before the Court upon the Motion of Plaintiffs to Set a Status Conference, and it appearing to the Court that a status conference should be set, and the Court being fully advised on the premises, now therefore,

IT IS ORDERED that the Court will set a status conference.

IT IS FURTHER ORDERED that the Court will publish notice of the date set for the status conference by giving notice in both the Associated Chapter 9 and the Adversary Proceeding.

Exhibit "1"
Proposed Order

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AFFIDAVIT

State of Michigan)
)Ss.
County of Wayne)

KURT THORNBLADH, first being duly sworn, deposes and says as follows:

1. I am one of the Counsel for the Plaintiffs in this case.
2. On July 21, 2014 I was present at a side bar conference; the Court ordered the parties to go into negotiation in the Adversary Proceeding.
3. After a delay occasioned by the Defendant, a negotiation session was held on August 12, 2014.
4. The persons present were:
 - Kary L. Moss, ACLU of Michigan
 - Mark Fancher, ACLU of Michigan
 - Veronica Joice, NAACP Legal Defense Fund

Jin Hee Lee, NAACP Legal Defense Fund (Participating via telephone)

Alice Jennings, Edwards & Jennings, P.C.

Jerome D. Goldberg, Jerome D. Goldberg P.C. (Participating by telephone)

John C. Philo, Maurice & Jane Sugar Law Center for Economic and Social Justice

Marilyn T. Mullane, Michigan Legal Services

Kurt Thornbladh, Thornbladh Legal Group PLLC

Bill Wolfson, General Counsel, DWSD

Cheryl Jordan, Associate General Counsel, DWSD

Richardo Kilpatrick, Kilpatrick & Associates, P.C.

Shanna Kaminski, Kilpatrick & Associates, P.C.

Timothy Fusco, Miller Canfield

Marc Swanson, Miller Canfield

Robert Franzinger, Dykema Gossett

Mark Jacobs, Dykema Gossett

5. Parties to the negotiation met at the offices of Miller Canfield, braving unseasonable flooding for a prolonged rain storm.
6. Parties met through the morning and afternoon.
7. Although the tone of the meeting was civil and constructive the parties ended up far apart at the conclusion of negotiation and it appears negotiation has broken down.

Further your affiant says not.

 /s/ kurt thornbladh
KURT THORNBLADH

Subscribed and sworn to before me this 18th
day of August, 2014.

 /s/kurt thornbladh

HAWRAA AL-ARIDHI, NOTARY PUBLIC
Wayne County, Michigan
My Commission Expires: January 18, 2019
Acting for Wayne County

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**MEMORANDUM OF LAW
IN SUPPORT OF
MOTION BY PLAINTIFFS TO SET A STATUS CONFERENCE**

Plaintiffs respectfully submit:

I. FACTS:

The facts are as stated in the Motion and the attached Affidavit. The Plaintiffs are asking for the extraordinary relief of a status conference after service is made but prior to responsive pleadings from Defendant.

II. ISSUE

WHETHER THE COURT SHOULD SCHEDULE AN IMMEDIATE STATUS CONFERENCE?

III. AUTHORITY

The Court has general equitable authority to establish procedure in contested cases under 11 USC § 105. Additional authority is found in Fed. R. Civ. Pro. 16 and its embodiment in Fed. R. Bankr. Pro. 16 which articulate the authority to set pre-trial meetings such as pre-trial conferences and status conferences. In local practice L.R. 16.1(b) (E. D. Mich.) allows any party to petition the Court to hold a status conference at any time even when other parties are not yet represented.

Although no counsel has filed an appearance on behalf of the Defendant, counsel for Plaintiffs have been informed Timothy Fusco of Miller Canfield will file a responsive pleading within the response period. Such period expires September 9, 2014.

Expeditious handling is mandated, firstly by the Court which gave instructions to inform when negotiations ceased to be productive. This has occurred, but also thousands of persons face shut-off over justly disputed water bills or shut-offs in the face of health hazards. Although the City has ameliorated the potential health and human rights disaster caused by the policy of mass shut-offs through moratoriums, the potential remains and Plaintiffs anticipate filing a motion for a temporary restraining order and preliminary injunction.

IV. PRAYER FOR RELIEF

Wherefore the Plaintiffs ask the Court to set an immediate status conference.

Respectfully submitted,
FOR THE PLAINTIFFS:
By: /s/ _alice b. jennings_____
Alice B. Jennings, Esq.
EDWARDS & JENNINGS, P.C.
Cadillac Tower Building
65 Cadillac Square, Suite 2710
Detroit, MI 48226
(313) 961-5000
ajennings@edwardsjennings.com

/s/kurt thornbladh
KURT THORNBLADH P25858
Thornbladh Legal Group PLLC
7301 Schaefer
Dearborn MI 48126
(313) 943 2678
kthornbladh@gmail.com
P25858

Dated: August 18, 2014

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NOTICE AND OPPORTUNITY FOR HEARING

PLEASE TAKE NOTICE that the attached MOTION BY PLAINTIFFS TO SET A STATUS CONFERENCE has been filed in accordance with Local Bankruptcy Rule 9014-1 (E.D.M.). Pursuant to the rule, you have fourteen (14) days after service to file and serve a response or a request for a hearing.

YOUR RIGHTS MAY BE AFFECTED

PLEASE TAKE FURTHER NOTICE that unless a written objection is filed within fourteen (14) days from the date of this Notice, the Court may, upon presentation of an Order by the applicant, grant the relief requested consistent with the provisions of 11 U.S.C. 102, and L.B.R. 9014-1 (E.D.M.), without a hearing.

PLEASE TAKE FURTHER NOTICE that if a timely written objection in the form of a pleading is filed with the Clerk of the Court and served upon the Movant, the Court shall send a Notice of the date set for hearing on the objection¹. The address of the Court is:

**CLERK, U.S. Bankruptcy Court
17th Floor
211 West Fort
Detroit MI 48226**

PLEASE TAKE FURTHER NOTICE that any response or request for hearing must be served electronically or upon the following addresses:

KURT THORNBLADH, Esq. Attorney for Debtor 7301 Schaefer Dearborn MI 48126	Alice B. Jennings, Esq. EDWARDS & JENNINGS P.C. Cadillac Tower Building 65 Cadillac Square, Suite 2710 Detroit, MI 48226
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FOR THE MOVANTS:

By: /s/ alice b. jennings
ALICE B. JENNINGS, Esq.
Edwards & Jennings, P.C.
Cadillac Tower Building
65 Cadillac Square, Suite 2710
Detroit, MI 48226
(313) 961-5000
ajennings@edwardsjennings.com

By: /s/ kurt thornbladh
KURT THORNBLADH, Esq.
Thornbladh Legal Group PLLC
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1 Response or answer must comply with F.R.Civ.P. 8(b), (c), and (e).

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CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2014 I electronically filed MOTION BY PLAINTIFFS TO SET A STATUS CONFERENCE with the Clerk of the Court using the ECF system which will send notification of such filing to the following by filing:

kthornbladh@gmail.com
ajennings@edwardsjennings.com

And I hereby certified that I have mailed by United States Postal Service the Paper(s) to the following non-ECF participants:

Timothy Fusco, Esq. Marc Swason, Esq. 150 Jefferson Avenue Dickinson Wright Detroit, MI 48226	Robert Franzinger, Esq. Mark Jacobs, Esq. Dykema Gossett 400 Renaissance Center Detroit MI 48227 Bill Wolfson, Esq. Cheryl Jordan Esq. Detroit Water & Sewerage Dept.	Richardo I. Kilpatrick Shanna Kaminski Kilpatrick & Associates Rochester Hills MI
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Date: August 18, 2014

/s/ Kurt Thornbladh
Attorney for Debtor(s)
Kurt Thornbladh P25858
Thornbladh Legal Group PLLC
7301 Schaefer 48532
(313) 943-2678
kthornbladh@gmail.com
P25858