

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

In re: Case No. 13-53846

CITY OF DETROIT, MICHIGAN Chapter 9

Debtor.

Hon. Thomas J. Tucker

**APPELLANT POLICE AND FIRE RETIREMENT SYSTEM OF THE CITY
OF DETROIT’S DESIGNATION OF RECORD ON APPEAL AND
STATEMENT OF ISSUES PURSUANT TO FEDERAL RULES OF
BANKRUPTCY PROCEDURE 8009**

Appellant the Police and Fire Retirement System of the City of Detroit (the “PFRS”), hereby submits the enclosed for its Designation of Record and Statement of Issues Pursuant to Federal Rules of Bankruptcy Procedure 8009, regarding the appeal currently pending before the United States District Court for the Eastern District of Michigan, Case No. 23-cv-13159-BAF-APP, the Honorable Bernard Friedman, presiding.

Respectfully submitted,

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Statement of Issues Presented on Appeal

- I. Whether the Bankruptcy Court erred in granting the City of Detroit’s Motion to Enforce the Plan of Adjustment and Require 30-Year Amortization of the UAAL in the Police and Fire Retirement System Pension Plan, where, *inter alia*, the Court’s Opinion: (i) fails to enforce the 10-year injunction in the Plan of Adjustment (the “Plan”), which expressly permits changes to the pension contribution terms after that 10-year period, and never reconciled that Plan injunction provision with its ruling that a 30-year amortization applied; (ii) erroneously credits financial projections as controlling the amortization issue and elevated those to the force and effect of the Plan, even though the express terms of the Plan are contrary to those projections; (iii) rests upon a sentence in the Court’s original confirmation opinion from 2013 that is at odds with the express language of the Plan and which contains a blatant factual error that even the City admits exists; (iv) creates an internal inconsistency on the amortization issue because the Plan only enjoins the PFRS from setting its own funding policies for a 10-year period but the Court’s Opinion effectively enjoins the PFRS from setting its own funding policies for a 30-year period; and (v) never considered controlling state law cited by the PFRS that interpreted the same pension plan language as granting PFRS the sole right to determine amortization?

Appellant Answers: Yes

Appellee Answers: No

- II. Whether the Bankruptcy Court erred in denying the Police and Fire Retirement System’s Motion to Alter or Amend Pursuant to Federal Rules of Bankruptcy Procedure 9023, and Pursuant to 9024-1 for Reconsideration of, the Court’s Order Granting the City of Detroit’s Motion to Enforce Plan of Adjustment Against the Police and Fire Retirement System Pension Plan, where, *inter alia*, the Court (i) erroneously failed to rule upon at least two dispositive arguments raised the PFRS—*i.e.*, that the Plan expressly permits changes to contribution amounts and pension terms after 10 years, and that the governing documents, as already ruled upon by a Michigan state court, expressly grant the exclusive authority to the PFRS to set the amortization period,

and (ii) erroneously ignored two admissions by the City that support the PFRS' position but that were not made until *after* the hearing and therefore qualified as newly discovered evidence?

Appellant Answers: Yes

Appellee Answers: No

DESIGNATION OF RECORD ON APPEAL

Rec. No.	Date	Description of Document
4391	5/5/2014	Fourth Amended Disclosure Statement with Respect to Fourth Amended Plan for the Adjustment of Debts of the City of Detroit
4392	5/5/2014	Fourth Amended Plan for the Adjustment of Debts of the City of Detroit
4401	5/5/2014	Order Approving the Proposed Disclosure Statement
7617	9/21/2014	Transcript regarding Hearing Held 09/15/14
7819	10/3/2014	Transcript regarding Hearing Held 09/29/14
8045	10/22/2014	Eighth Amended Plan for the Adjustment of Debts of the City of Detroit, including all Exhibits thereto.
8272	11/12/2014	Order Confirming Eighth Amended Plan for the Adjustment of Debts for the City of Detroit
8649	12/10/2014	Entry of Order (I) Confirming Eighth Amended Plan for the Adjustment of Debts for the City of Detroit, and (II) Occurrence of Effective Date
8993	12/31/2014	Supplemental Opinion Regarding Plan Confirmation, Approving Settlements, and Approving Exit Financing
13602	8/3/2022	Motion to Enforce Plan of Adjustment and Require 30-Year Amortization of the UAAL in the Police and Fire Retirement System Pension Plan
13602	8/3/2022	Exhibit 6, Part 1 Ex. 1 – Declaration of Mayor Michael Duggan

		<p>Ex. 2 – Gabriel Roeder’s March 4, 2021, PFRS Funding Policy</p> <p>Ex. 3 – March 4, 2021 PFRS Board minutes approving 20-year amortization</p> <p>Ex. 4 – Detroit CFO’s July 21, 2021</p> <p>Ex. 5 – Gabriel Roeder’s August 2, 2021 Memo Objecting to 20-Year Amortization</p> <p>Exhibit 6 – Oct. 1-14, 2021 Emails between Ms. Brader and Mr. Raimi</p> <p>Ex. 7 – Oct. 18, 2021 PFRS IC Meeting Minutes Approving 20-Year Amortization</p>
13602	8/3/2022	<p>Exhibit 6, Part 2</p> <p>Ex. 8 – Oct. 18, 2021 PFRS IC Resolution Approving 20-Year Amortization</p> <p>Ex. 9 – Nov. 18, 2021 PFRS Board Minutes Ratifying 20-Year Amortization</p> <p>Ex. 10 – Stout Report dated Oct. 13, 2021</p> <p>Ex. 11 – Michigan Tax Tribunal Order dated June 11, 2021</p> <p>Ex. 12 – Cheiron Report dated June 6, 2022</p> <p>Ex. 13 – Gabriel Roeder’s June 17, 2022 Letter re: Restoration Reserve Account</p> <p>Ex. 14 – Excerpt from 40-Year Projection</p>
13634	9/9/2022	Response to Motion to Enforce Plan of Adjustment and Require 30-Year Amortization of the UAAL in the Police and Fire Retirement System Pension Plan
13634	9/9/2022	Exhibit A (part 1) - Order No. 44 and PFRS Report
13634	9/9/2022	Exhibit A (part 2) - Order No. 44 and PFRS Report
13634	9/9/2022	Exhibit B - Bowen Dep Transcript - July 1, 2014
13634	9/9/2022	Exhibit C - Kermans Dep Transcript - August 8, 2014
13634	9/9/2022	Exhibit D - Thomas Dep Transcript - July 15, 2014
13634	9/9/2022	Exhibit E - Hearing Transcript - September 15, 2014
13634	9/9/2022	Exhibit F - M Kopacz Supplemental Report 8-27 - FINAL
13634	9/9/2022	Exhibit G - Hearing Transcript - September 29, 2014
13634	9/9/2022	Exhibit H - Moore Dep Transcript - July 24, 2014

13634	9/9/2022	Exhibit I - Legacy Report
13634	9/9/2022	Exhibit J - GRS Report 9.28.2020
13634	9/9/2022	Exhibit K - Crains Article dated March 7, 2022
13663	10/31/2022	<p>Reply in Support of City of Detroit's Motion to Enforce Plan of Adjustment and Require 30-Year Amortization of the UAAL in the Police and Fire Retirement System Pension Plan</p> <p>Exhibits: Ex. 15 – Excerpts of the Confirmation Opinion (524 B.R. 147) Ex. 16 – Excerpts of the Confirmation Order (Court Doc. 8272) Ex. 17 – Trial Exhibit 793 Ex. 18 – Trial Exhibit 723 Ex. 19 – Trial Exhibit 111 Ex. 20 – Trial Exhibit 734 Ex. 21 – Trial Exhibit 779 Ex. 22 – Expert Report of Martha Kopacz re: POA Feasibility (excerpts) Ex. 23 – Combined Plan for the Police and Retirement System (excerpts) Ex. 24 – Detroit News Article, 8/31/22 Ex. 25 – Detroit News Article, 9/30/22 Ex. 26 – Testimony of Ron Bloom</p>
	10/31/2022	Exhibits 15-26, part 1
	10/31/2022	Exhibits 15-26, part 2
	10/31/2022	Exhibits 15-26, part 3
13675	1/26/2023	Ex Parte Motion for Leave to File Sur-Reply
13677	2/3/2023	Order Addressing Two Recent Ex Parte Motions, And Adjourning The February 8, 2023 Telephonic Hearing On The City Of Detroit's Motion To Enforce Plan Of Adjustment, Etc. (Docket #13602).
13678	2/6/2023	Supplement to Motion to Enforce Plan of Adjustment and Require 30-Year Amortization of the UAAL in the Police

		and Fire Retirement System Pension Plan filed by Debtor In Possession City of Detroit, Michigan) City of Detroit's Supplement Filed in Connection with the City of Detroit's Motion to Enforce Plan of Adjustment and Require 30-Year Amortization of the UAAL in the Police and Fire Retirement System Pension Plan
13678	2/6/2023	Exhibit 1 - Forty-Year Financial Projections and Explanation of Projected Financial Information
13678	2/6/2023	Exhibit 2 - Version of State Contribution Agreement Attached to Disclosure Statement
13678	2/6/2023	Exhibit 3 - Revised Version of State Contribution Agreement Attached to Plan
13681	2/14/2023	Sur-Reply in Support of Response to City of Detroit's Motion to Enforce Plan of Adjustment and Require 30-Year Amortization of the UAAL in the Police and Fire Retirement System Pension Plan
13690	3/23/2023	Transcript regarding Hearing Held 03/15/23 RE: Motion to Enforce Plan of Adjustment.
13704	6/26/2023	Opinion Regarding the City of Detroit's Motion to Enforce Plan of Adjustment Against the Police and Fire Retirement System Pension Plan (Docket #13602)
13706	6/26/2023	Order Granting the City of Detroit's Motion to Enforce Plan of Adjustment Against the Police and Fire Retirement System Pension Plan (Docket #13602)
13707	7/10/2023	The Police and Fire Retirement System's Motion to Alter or Amend Pursuant to Federal Rules of Bankruptcy Procedure 9023, and Pursuant to 9024-1 for Reconsideration of, the Court's Order Granting the City of Detroit's Motion to Enforce Plan of Adjustment Against the Police and Fire Retirement System Pension Plan (Docket #13602)
13715	8/10/2023	Response to The Police and Fire Retirement System's Motion to Alter or Amend Pursuant to Federal Rules of

		Bankruptcy Procedure 9023, and Pursuant to 9024-1 for Reconsideration of, the Court's Order Granting the City of Detroit's Motion to Enforce Plan of Adjustment Against the Police and Fire Retirement System Pension Plan (Docket #13602)
13723	8/24/2023	Ex Parte Motion for Leave to File Reply to the City of Detroit's Response to Motion for Reconsideration Filed by Creditor Police and Fire Retirement System
13723	8/24/2023	Exhibit A – Proposed Reply Brief
13832	11/22/2023	Order: (1) Granting The Motion By The Police And Fire Retirement System For Leave To File A Reply (Docket #13723); And (2) Denying The Motion By The Police And Fire Retirement System For Reconsideration, And To Alter Or Amend The Court's June 26, 2023 Order (Docket #13707) (RE: Related Doc # <u>13707</u>), (Related Doc # <u>13723</u>).