

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:
City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846
Judge Thomas J. Tucker
Chapter 9

**STIPULATION FOR ENTRY OF AN ORDER
WITHDRAWING WITHOUT PREJUDICE
THE CITY OF DETROIT'S MOTION FOR
THE ENTRY OF AN ORDER ENFORCING THE BAR DATE ORDER
AND CONFIRMATION ORDER AGAINST KENNETH NIXON**

The City of Detroit and Kenneth Nixon, by and through their undersigned attorneys, state as follows:

The City of Detroit filed its *City of Detroit's Motion for the Entry of an Order Enforcing the Bar Date Order and Confirmation Order Against Kenneth Nixon* (Doc. No. 13722) ("Motion") on August 24, 2024. Nixon filed his corrected response (Doc. No. 13745) on September 26, 2023, and the City filed a reply in support (Doc. No. 13804) on October 27, 2023. The Court held a hearing on December 13, 2023, took the motion under advisement, and ordered supplemental exhibits and briefing. (Doc. 13862)

In the District Court, the City filed its *Motion to (A) Dismiss in Lieu of an Answer, and (B) Stay Lawsuit Until Bankruptcy Court Enters a Final Order on the City of Detroit's Motion for the Entry of an Order Enforcing the Bar Date Order and*



Confirmation Order Against Kenneth Nixon (the “District Court Motion”) (Case No. 23-11547, Doc. No. 33) on September 5, 2023. Nixon filed his response (Case No. 23-11547, Doc. No. 39) on October 3, 2023, and the City filed a reply in support (Case No. 23-11547, Doc. No. 50) on October 27, 2023.

On January 12, 2024, the City and Nixon agreed to a *Stipulated Order Regarding Proceedings Related to City of Detroit’s Motion to Dismiss* (“District Court Stipulation”) to be filed in the District Court. However, the District Court Stipulation does not take effect until and unless this Court approves this Stipulation and will not be filed until and unless the Court approves this Stipulation and enters the attached proposed Order. The District Court Stipulation agrees that the City has filed this Stipulation to withdraw its Motion without prejudice in this Court, and that the City will not pursue its arguments under the Bar Date Order and the Plan of Adjustment (as those terms are described in the Motion) with respect to its District Court Motion. A copy of the unfiled District Court Stipulation is attached as **Exhibit 2**.

Accordingly, the City and Nixon respectfully stipulate to, and ask the Court to enter, the Order attached as **Exhibit 1**.

Stipulated on January 12, 2024:

By: /s/ Kathryn Bruner James
Kathryn Bruner James P71374
Goodman Hurwitz & James, PC
1394 East Jefferson Ave.
Detroit, MI 48207
Attorney for Kenneth Nixon
kjames@goodmanhurwitz.com

By: /s/ Marc N. Swanson
Marc N. Swanson P71149
Miller Canfield Paddock and Stone PLC
150 West Jefferson, Suite 2500
Detroit, Michigan 48226
Attorney for City of Detroit, Michigan
swansonm@millercanfield.com

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846

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THE ENTRY OF AN ORDER ENFORCING THE BAR DATE ORDER
AND CONFIRMATION ORDER AGAINST KENNETH NIXON**

Upon the stipulation of the City of Detroit and Kenneth Nixon; and the Court finding good cause for the entry of this Order,

IT IS HEREBY ORDERED that the Stipulation is approved and that the *Motion for the Entry of an Order Enforcing the Bar Date Order and Confirmation Order Against Kenneth Nixon*, filed at Docket Number 13722, is withdrawn without prejudice.

EXHIBIT 2

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

Kenneth Nixon,
Plaintiff,

v.

City of Detroit, Detective Moises Jimenez, Commander James Tolbert, Detective Kurtiss Staples, Sgt. Eddie Croxton, Officer Alma Hughes-Grubbs, and Other as-of-yet Unknown Employees of the City of Detroit,

Defendants.

Civil Action No. 23-11547

Judge Judith E. Levy

Magistrate Judge Elizabeth A. Stafford

**STIPULATED ORDER REGARDING PROCEEDINGS RELATED TO
CITY OF DETROIT’S MOTION TO DISMISS**

UPON STIPULATION of Plaintiff Kenneth Nixon and Defendant City of Detroit, by and through their attorneys, and the Court being fully advised in the premises, as follows:

In this Court, the City filed its *Motion to (A) Dismiss in Lieu of an Answer, and (B) Stay Lawsuit Until Bankruptcy Court Enters a Final Order on the City of Detroit’s Motion for the Entry of an Order Enforcing the Bar Date Order and Confirmation Order Against Kenneth Nixon* (the “Motion”) (ECF No. 33) on September 5, 2023. Nixon filed his response (ECF No. 39) on October 3, 2023, and the City filed a reply in support (ECF No. 50) on October 27, 2023.

In the Bankruptcy Court for the Eastern District of Michigan, on August 24, 2023, the City filed its *Motion for the Entry of an Order Enforcing the Bar Date Order and Confirmation Order Against Kenneth Nixon* (the “Bankruptcy Court Motion”) (Case No. 13-53846, ECF No. 13722). Nixon filed his corrected response (Case No. 13-53846, ECF No. 13745) on September 26, 2023, and the City filed a reply in support (Case No. 13-53846, ECF No. 13804) on October 27, 2023.

In the Bankruptcy Court Motion, the City argued that any claim Nixon might have against the City was (1) barred by an order entered in the City’s bankruptcy case requiring claims to be filed by a deadline in 2014 or be forever barred (the “Bar Date Order”) and (2) barred and discharged by the City’s confirmed Plan of Adjustment. The City made essentially the same argument in its Motion in this Court, along with additional arguments for relief.

The Bankruptcy Court held a hearing on the Bankruptcy Court Motion on December 13, 2023. Following that hearing, the Bankruptcy Court entered its *Order Regarding Further Proceedings on the City of Detroit’s Motion for the Entry of an Order Enforcing the Bar Date Order and Confirmation Order Against Kenneth Nixon, and Scheduling a Further Hearing* (the “Further Proceedings Order”) (Case No. 13-53846, ECF No. 13862). The Further Proceedings Order permitted Nixon and the City to submit further evidence and briefing to be considered at a further hearing to be held by the Bankruptcy Court on February 28, 2024.

The City and Nixon have conferred. The City and Nixon have filed a stipulation in the Bankruptcy Court to withdraw the Bankruptcy Court Motion without prejudice. The Bankruptcy Court entered an order approving the stipulation.

The City has agreed that, although it does not waive its arguments that this lawsuit should be dismissed because Plaintiff's claims were discharged and barred by the Bar Date Order and the Plan of Adjustment (as such terms are defined in the Motion), it will no longer pursue those arguments with respect to its Motion pending before this Court. The City also will no longer pursue the argument it made in its Motion that this lawsuit should be stayed pending determination of the Bankruptcy Court Motion. The City does intend to pursue all other arguments that it made in the Motion.

However, the City and Nixon agree that, should the Bankruptcy Court enter an order determining that Nixon's claims were barred, discharged, estopped, or enjoined by the Plan of Adjustment or the Bar Date Order, Nixon agrees that this Stipulation and Stipulated Order will not act as a release, defense, or bar to such Bankruptcy Court order.

Stipulated on January 12, 2024:

By: /s/ Marc N. Swanson

Marc N. Swanson P71149
Miller, Canfield, Paddock & Stone, PLC
Attorney for City of Detroit, Mich.
swansonm@millercanfield.com

By: /s/ Kathryn Bruner James (w/perm)

Kathryn Bruner James P71374
Goodman Hurwitz & James, PC
Attorney for Kenneth Nixon
kjames@goodmanhurwitz.com

IT IS HEREBY ORDERED that the above Stipulation is approved and binding upon the City of Detroit and Kenneth Nixon.

Date: January ____, 2024

JUDITH E. LEVY
United States District Judge