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US BANKRUPTCY MIE-DET

**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

**CLASS 11 CLAIMANT JOHN P. QUINN'S RESPONSE IN OPPOSITION TO
CITY OF DETROIT'S MOTION FOR AUTHORITY TO MODIFY THE
CONFIRMED PLAN OF ADJUSTMENT WITH RESPECT TO CERTAIN
MODIFICATIONS TO THE COMBINED PLAN FOR THE POLICE AND
FIRE RETIREMENT SYSTEM OF THE CITY OF DETROIT**

I, John P. Quinn, representing myself,¹ oppose the City of Detroit's ("City") Motion for Authority to Modify the Confirmed Plan of Adjustment ("POF") with Respect to Certain Modifications to the Combined Plan for the Police and Fire Retirement System of the City of Detroit ("Motion") and urge the Court to deny the Motion. In support of my opposition to the Motion I respectfully state as follows:

I. ARGUMENT.

The City seeks several amendments to the Combined Plan for the Police and Fire Retirement System ("Combined Plan") and quotes the proposed amendments in Exhibit 6E of its Motion (Doc 13930 Pages 32 – 37). See page 2 of the Motion (Doc 13930 Page 2). The City does not ask the Court to make the amendments. Rather it asks that the Court authorize the City to make them. Nowhere in the Motion does the City discuss the merits of the proposed amendments. The City does argue that the

1. I retired from the practice of law about fifteen years ago. I am a member of the State Bar of Michigan (P23820) but do not take clients or otherwise engage actively in the practice of law on behalf of anyone other than myself. I have previously appeared representing myself in this matter before this Court, the United States District Court for the Eastern District of Michigan and the United States Court of Appeals for the Sixth Circuit.



POA, including the Combined Plan, *can* be amended (I address that argument below.); but it makes no effort to explain why it *should* be amended.

The amendments the City proposes to make would cost money. At page 5 of its Motion (Motion, Doc 13930, at 5.) the City informs the Court that its proposed amendments would require it to take upon itself a contractual duty to devote \$5 million per year for several years, beginning this year, to the enhancement of the pension benefits of certain City employees, none of whom appears to have a claim that falls within Class 11, which consists of GRS pension claims. (See Motion, Doc 13930, at 5.)

It should go without saying that the City's financial resources are and always will be finite. It follows that by binding itself to spend \$5 million per year to enhance the pensions of persons who do not have Class 11 claims, the City would reduce by \$5 million per year the funds available to restore, partially or fully, Class 11 pensions. The POA provides for the partial or full restoration of Class 11 pensions, but it makes any such restoration contingent on strict actuarial and fiscal conditions set forth in Exhibit II.B.3.r.ii.C to the POA, entitled "Terms of GRS Pension Restoration". The required annual expenditure of \$5 million reduces the likelihood that those conditions will be met and thus negatively impacts Class 11 claims by reducing the likelihood and/or amount of any future restoration of Class 11 pensions.

This takes us to the City's argument that the POA can be amended. The City concedes that the POA has been confirmed and substantially consummated and that the the Bankruptcy Code makes no provision for amendment of a confirmed and substantially consummated Plan of Adjustment. (See Motion, Doc 13930, at 8 – 9.) It

cites language in the POA and the Confirmation Order permitting some amendments to the confirmed POA before it is substantially consummated (See Motion, Doc 13930, at 6 – 7.), but that language does not help the City in light of its concession that the POA has been substantially consummated. The City cites no case from the Supreme Court, the Sixth Circuit or even any district court or bankruptcy court within the Sixth Circuit suggesting that a confirmed and substantially consummated plan of adjustment can ever be amended, and I have found none. The City does cite one treatise and a few cases from outside the Sixth Circuit (and therefore, at best, merely persuasive in this Court) suggesting that in limited circumstances a confirmed and substantially consummated plan of adjustment can be amended (See Motion, Doc 13930, at 9 – 12.) The City says these cases support the proposition that a confirmed and substantially consummated Chapter 9 plan may be modified, provided that no creditor will be treated less favorably on account of the modification. (See Motion, Doc 13930, at 8.) But as shown above, it is clear that the modification will treat hundreds of Class 11 claimants, including me, less favorably by reducing or eliminating the likelihood that our pensions will be fully or partially restored as provided in the POA as it now stands.

The City has previously and successfully argued in this case that “neither the Bankruptcy Court nor [the U.S. District Court for the Eastern District of Michigan] possesses authority to modify the [POA].” [See Motion of Appellee City of Detroit, Michigan for an Order Pursuant to Fed.R.Civ.P. 12(b)(1)) Dismissing Appeal as Equitably and Constitutionally Moot, at page 39, *Quinn v. City of Detroit*, E.D.Mich. Case No 1414899 (2:14-cv-14899-BAF-RSW Doc # 32 Filed 02/19/15 Pg 42 of 291 Pg ID

52842). Accordingly, as noted above, in this Motion the City does not ask the Court to modify the POA. Instead, it asks the Court to authorize the City to modify the POA. But the City offers no reason why the Court should provide the requested authorization, or even why that authorization is needed or permitted. Indeed, it suggests in a final footnote that the Court's authorization is not needed - that the City itself has the authority to modify the POA. (See Motion, Doc 13930, at 13, note 7.)

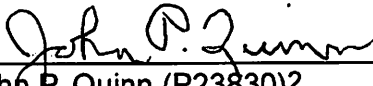
It's quite clear what is really going on here. The City is a political entity, answerable to all its voters. It has decided that it wants to achieve certain modifications in the POA for the benefit of a group of employees who happen to be represented by politically powerful unions. But if the City itself takes responsibility for those modifications, it risks the ire of thousands of constituents, including the long suffering GRS retirees with Class 11 claims. If the City cannot obtain the cover it wants this Court to provide by granting this motion, it will have to explain, as it should, why it is modifying the POA for the benefit of some claimants and not others. And if it cannot provide a satisfactory explanation, its officers will have to face the electoral consequences.

The Court should not allow itself to be used in this way, and it cannot lawfully do so. It should either dismiss the motion or deny it.

II. CONCLUSION.

The Court should either dismiss the Motion or deny it its entirety.

January 17, 2025



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² See note 1 on p. 1, above.

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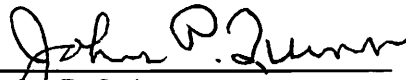
PROOF OF SERVICE

I certify that on January 17, 2024, I mailed a copy of the attached CLASS 11 CLAIMANT JOHN P. QUINN'S RESPONSE IN OPPOSITION TO CITY OF DETROIT'S MOTION FOR AUTHORITY TO MODIFY THE CONFIRMED PLAN OF ADJUSTMENT WITH RESPECT TO CERTAIN MODIFICATIONS TO THE COMBINED PLAN FOR THE POLICE AND FIRE RETIREMENT SYSTEM OF THE CITY OF DETROIT by first class mail to:

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

On the same date I sent a pdf of the same document as an email attachment to Mr. Swanson at his email address, swansonm@millercanfield.com.

January 15, 2025



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