

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re

CITY OF DETROIT, MICHIGAN,

Debtor.

NATIONAL PUBLIC FINANCE
GUARANTEE CORPORATION, a New
York Corporation, and ASSURED
GUARANTY MUNICIPAL CORP., a
New York Corporation,

Plaintiff,

v.

THE CITY OF DETROIT, MICHIGAN,
KEVYN D. ORR, in his individual and
official capacity as the EMERGENCY
MANAGER, JOHN NAGLICK, in his
individual and official capacity as FINANCE
DIRECTOR, MICHAEL JAMISON in his
individual and official capacity as DEPUTY
FINANCE DIRECTOR, and CHERYL
JOHNSON, in her individual and official
capacity as TREASURER,

Defendants.

Chapter 9

Case No. 13-53846

Hon. Steven W. Rhodes

Chapter 9

Adv. Pro. No. 13-05309

Hon. Steven W. Rhodes

**CITY OF DETROIT'S
MOTION TO DISMISS THE COMPLAINT**

Defendant City of Detroit, by and through its undersigned counsel, hereby files this Motion to Dismiss, and requests, pursuant to Federal Rule of Civil Procedure 12(b)(6) and Federal Rule of Bankruptcy Procedure 7012(b), that this Court dismiss in full all counts of the Complaint asserted against it. In support of this Motion, the City respectfully refers the Court to the Memorandum in Support attached hereto as Exhibit 3.

Counsel for the City sought the concurrence in the relief requested herein from counsel for the plaintiffs, but such concurrence was not obtained, necessitating the filing of this motion.

WHEREFORE, the City of Detroit respectfully requests that the Court grant its Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b) and Fed. R. Bankr. P. 7012(b), and grant such other and further relief as the Court deems appropriate.

[signature page follows]

Dated: December 9, 2013

Respectfully submitted,

/s/ Deborah Kovsky-Apap
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Deborah Kovsky-Apap (P68258)
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ATTORNEYS FOR THE CITY OF
DETROIT¹

¹ National Public Finance Guarantee Corporation (“National”) recently indicated to Jones Day its concern that Jones Day may have a conflict of interest in representing the City against National in this adversary proceeding, which National brought against the City on November 8 and in which Jones Day has already appeared. (National is a Jones Day client in unrelated matters. National has consented to Jones Day’s taking adverse positions in certain circumstances.) In the time available, Jones Day has not been able to complete its investigation into National’s concerns. In an abundance of caution, Jones Day is not appearing as counsel of record in this adversary proceeding until this issue is resolved. Jones Day has no conflict it is aware of in the companion proceeding brought by Ambac Assurance Corporation, Adversary Proceeding 13-05310, and will continue to appear as counsel of record in that case.