

# More testimony from Emergency Manager Kevyn Orr in Detroit bankruptcy case

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Testifying in federal court Tuesday, Detroit Emergency Manager Kevyn Orr said that he would “probably not” have accepted any deal with creditors to avoid bankruptcy, which excluded major cuts to city worker pensions. Orr’s comments underscored the primary goal of the bankruptcy filing: to carry out a massive confiscation of wealth in the form of pensions and other social achievements won by workers over generations of struggle.

Orr stated openly he does not believe the city pensions are subject to any special protections, including the constitution of the state of Michigan, which explicitly upholds the accrued pensions of public workers as inviolable obligations.

“There is nothing that treats pension benefits any differently than any other unsecured creditor,” Orr testified. Orr further affirmed that he would seek a “cram down” order authorizing the city to massively cut payments to creditors, including retirees, and pay just pennies on the dollar for what they are owed. (Under the “cram down” provision of the bankruptcy code a municipality can overturn the claims of dissenting creditors, including pension holders, simply by persuading the judge that this is all the “impaired” creditor can “reasonably expect in the circumstances”).

Previous testimony from investment banker Kenneth Buckfire established that meetings between Jones Day and the state of Michigan occurred beginning in March 2012. Yet Orr, who was a partner with Jones Day up until March of 2013, denied any knowledge of these meetings during testimony Tuesday.

When presented with an email proving that the meetings had taken place, and that the possibility of bankruptcy was discussed, Orr stated, “I just learned now that Jones Day had involvement in March 2012. I never heard it from anybody at Jones Day.”

As in previous days, Orr frequently stated “I don’t know” to and “I don’t recall” and offered evasive responses during his testimony. In one instance, Orr claimed he did not remember whether he had asked Governor Rick Snyder for state funds to preserve Detroit pensions, at which point Judge Steven Rhodes replied incredulously, “You don’t remember asking the governor to write a check for \$3.5 billion dollars?”

Orr and Governor Snyder have been able to brazenly defend their illegal actions because the attorneys representing city unions, including the American Federation of State, County and Municipal Employees and the United Auto Workers, have essentially treated the emergency manager and governor with kid gloves.

UAW lawyer Peter DeChiara told the court, “a major theme of our case is that the state was working hand in glove with the firm Jones Day to implement this strategy to end run the Michigan constitution in order to cut the pensions of Detroit retirees.”

DeChiara also complained about the effort by the city and state “to cloak under the attorney client privilege” critical discussions involving top state officials and representatives from Orr’s former law firm Jones Day. This had little effect as Judge Rhodes repeatedly upheld the dubious assertion that the content of discussions between public officials, such as Orr, Snyder and State Treasurer Andy Dillon, should be concealed from the public simply because they invited their attorneys into the meetings.

While periodically pointing to the most obvious falsifications during their cross-examination of Orr and others, the unions do not want to expose the full extent of the conspiracy against the working class. That is because the union executives are concerned that such an exposure could provoke mass opposition by workers and young people, which they are deadly opposed to

and fear they could quickly lose control over.

Sharing the outlook of corporate America and the two big business parties, the unions fully accept the framework of the bankruptcy: that the working class must pay for a financial crisis, which was created by decades of deindustrialization, tax cuts, the virtual disappearance of federal and state aid, and usury by the banks.

Throughout the first four days of the trial union attorneys have argued city assets including the Detroit Institute of the Arts (DIA) and the Detroit Water and Sewerage Department (DWSD) should have been sold to avert the Chapter 9 filing.

Questioning Orr Tuesday morning, Attorney Anthony Ullman aggressively pushed the point that billions of dollars could be raised through selling the DIA artwork, saying, “an influx of funds of that magnitude would pay pension contributions for years.” Ullman also referred to the Detroit Water and Sewerage Department (DWSD) as a “potential cash source.”

Orr reiterated that the DIA’s priceless collection was still on the table, saying, “It is valuable; I do not know if it is a potential source of cash for the city.”

The claim that the selling off of the city’s publicly owned treasures will shore up the pensions is a fraud. It is clear that Orr wants to destroy pensions *and* sell off the city’s assets.

Far from opposing the gutting of pensions, the unions only want to be engaged in “good faith” negotiations with the state over what share of the booty the union apparatus will get in exchange for selling out retirees just as they have done to active workers for decades.

Orr, whose testimony will continue when court sessions continue Monday, November 4, was handpicked by Snyder, Dillon and the governor’s shadowy “transformation manager” Rich Baird, because of his record as a ruthless bankruptcy and restructuring “expert.”

The Washington, DC attorney followed a career path from the government’s Resolution Trust Corporation in the early 1990s, which oversaw the bankruptcy of savings and loans institutions to the director of United States Trustees Program in Clinton’s Justice Department in 2000. He joined Jones Day in 2001 and was a partner in the giant law firm until he resigned in March 2013, shortly after being installed as emergency manager.

In a March 2011 article and “Can municipalities use bankruptcy to solve their pension woes,” two Jones Day attorneys boasted how the law firm—led by Orr—used bankruptcy laws during the restructuring of Chrysler in 2009 to cancel agreements with hundreds of car dealerships, whose contracts would have been protected by state laws outside of bankruptcy.

Orr convinced the bankruptcy court to allow the automaker to shut 789 of its 3,200 auto dealerships—one quarter of its total—wiping out an estimated 37,000 jobs in cities and small towns across the US. The *Detroit News* reported Orr gave the dealerships less than a month to transfer unsold inventory to other dealers and close their doors. When a lawyer for the dealers said Chrysler was acting in an “unconscionable” fashion and orchestrated a process that was “less than fair to dealers,” Orr replied, “We’re not here to negotiate.”



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