

Court hearings resume for Detroit's "plan of adjustment"

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Hearings on the city of Detroit's plan to exit Chapter 9 bankruptcy, known as the Plan of Adjustment (PoA), began Tuesday at the federal courthouse downtown. The hearings will continue for several weeks and include testimony from some 80 witnesses.

The bankruptcy process, presided over by Judge Steven Rhodes, is a political and legal conspiracy against the working class. Whatever their differences, the two main sides present in the courtroom—the city government headed by Emergency Manager Kevyn Orr and various financial creditors seeking a more favorable deal—are agreed that the workers of Detroit must pay through drastic cuts in jobs and benefits, and the sell-off of city assets.

The bankruptcy process has the support of the Obama administration and the entire political establishment, and is being carefully followed as a model for similar actions throughout the country.

The proceedings began on Tuesday with a motion on water shutoffs filed by Alice Jennings, an attorney representing Moratorium Now!, the Michigan Welfare Rights Organization and other "left" groups that operate in and around the Democratic Party. Jennings requested a temporary restraining order that would prevent the city from carrying out further water shutoffs against Detroit residents.

Earlier this year, Rhodes urged the city to implement a "pause" of shutoffs out of concern that the policy, which has attracted national and international attention, was disrupting the broader goals of the restructuring plan. Since the pause ended at the beginning of last week, some 900 households have been cut off from service.

The groups represented by Jennings are working closely with Rhodes to facilitate the bankruptcy. Jennings proposed the creation of special funds to help residents with children, the elderly and the sick as part of a more diplomatic and flexible shutoff policy, arguing that this would lead to more efficient revenue collection. "Every state that has given leniency [on utility payments] has found that they collect more money that way," Jennings said.

While first indicating that he would decide on the request

Tuesday afternoon, Rhodes did not make a ruling on the water shutoff issue before court proceedings ended for the day.

This was followed by procedural matters related to testimony. Most significantly, Rhodes ruled that he would not admit evidence documenting the impact of the pension cuts, including the end of cost of living adjustments (COLA), on the personal finances of retirees.

Last year, Rhodes made the precedent-setting decision that the bankruptcy court trumped Michigan constitutional protections that prohibit cuts to public worker pensions.

The only sustained legal opposition to the PoA has come from bond insurers Syncora and FGIC, who have criticized the grand bargain as "tainted." While banks have been paid off and Wall Street bondholders themselves are covered by insurance, the insurers stand to take a hit from the "grand bargain" worked out under oversight of Rhodes and Emergency Manager Kevyn Orr, with the backing of the trade unions.

Syncora and FGIC stated in an August 12 court session that the grand bargain was prepared by "agenda driven, conflicted mediators who colluded with certain interested parties." They demanded even steeper cuts to pensions and the immediate sell-off of the Detroit Institute of Arts (DIA) collection. Rhodes responded to the insurers' claims last Thursday, saying statements by Syncora were "highly personal" and "legally and factually unwarranted, unprofessional."

The bond insurers filed various motions Tuesday seeking to prevent the introduction of evidence assembled by the city in support of the plan. All of the insurers' motions were rejected by Rhodes except for one. Rhodes approved FGIC and Syncora's motion that testimony from Detroit's financial consultant Kenneth Buckfire be withheld.

Led by the American Federation of State, County and Municipal Employees (AFSCME), the unions signed onto the PoA in April as part of agreements negotiated by Rhodes' handpicked mediator Judge Gerald Rosen. The unions subsequently instructed their membership to vote in

favor of the plan. During Tuesday’s hearing, Rhodes insisted that evidence from Rosen’s closed-door mediation sessions would not be considered during the trial.

While the insurers aggressively challenged the bankruptcy plan, AFSCME, the United Auto Workers, the Teamsters and the various retiree, police and fire associations made no such efforts. Union executives sat alongside city officials as the latter presented their case for bankruptcy.

By signing on to the “grand bargain” and dropping any pretense of opposition to the bankruptcy, the unions exposed themselves as full collaborators in the looting of the city and the attack on the working class. They stand together as partners with billionaire land speculators and corporate executives like Dan Gilbert, who is scheduled to testify in support of the PoA sometime in the coming weeks.

During the final hours of Tuesday’s afternoon session, Bruce Bennett gave the opening statement for the city, speaking for nearly two hours in defense of the PoA, as Emergency Manager Orr sat at the front of the courtroom alongside the legal team from his former law firm, Jones Day, which he hired to represent the city in the bankruptcy process.

Bennett said that the purpose of the plan is “no less than to save the city of Detroit” and warned that “Detroit won’t recover or survive if this isn’t done.” Bennett said that the plan would cut the city’s debt by \$7 billion (mainly by attacking retiree health care and pensions), while making net investments in city infrastructure and services of some \$877 million. These investments will be aimed at facilitating the “renewal” of parts of downtown, while large sections of the city are depopulated.

Bennett described the plan as “broadly consensual,” citing the support of union-affiliated organizations. He argued that unsecured creditors such as the bond insurance firms Syncora and FGIC have no special rights under Chapter 9 of the bankruptcy code and therefore no right to access city assets, such as the Detroit Institute of Arts, to recover their losses.

Bennett’s arguments reflected a change in the strategy of Orr and the Jones Day team, no doubt instigated by the intervention of Rhodes. Where previously the city’s legal team held that all of the city’s assets were “on the table,” with the so-called “grand bargain” in place, they changed their position and assumed the pose of defending the DIA and other assets against the most aggressive creditors.

In the course of the trial thus far, Rhodes has proven himself to be a ruthless and class conscious political operator who is sensitive to the explosive social tensions building up in the city, initiating a series of tactical maneuvers aimed at insuring passage of the bankruptcy plan and containing popular outrage.

Rather than ramming through the bankruptcy unilaterally, as Orr initially seemed set to do, Rhodes successfully sought to gain the full support of the unions, pension boards, retiree organizations and other “creditors” for the plan, while dissipating popular anger against the proposed sale of the DIA by arranging a deal with wealthy foundations to transform the DIA into a “private nonprofit”—i.e., to “save” the DIA by privatizing it.

Rhodes himself embodies the manipulative, deceitful and completely undemocratic character of the entire bankruptcy process, which has been imposed over the heads and against the opposition of the workers and retirees who will see their livelihoods destroyed as a result.

The only political opposition to the bankruptcy process has come from the Socialist Equality Party, which organized a demonstration against the attacks on the DIA last October, followed by a Workers Inquiry into the Bankruptcy of Detroit and the Attack on the DIA & Pensions, held earlier this year.

Socialist Equality Party Assistant National Secretary and Detroit Workers Action Committee Chairman Lawrence Porter said after Tuesday’s proceedings that the bankruptcy was “part of a legal conspiracy to destroy pensions, health care, and cultural gains such as the DIA.” This conspiracy, he said, “has the support of the courts, the Obama administration, the Democratic and Republican parties, the Detroit City Council, the unions and their political affiliates like Moratorium Now.”

Porter added, “This brutal assault has set a new precedent in the drive to impoverish workers throughout the country and is part of the austerity measures by capitalist governments all over the world.”

The SEP and the Detroit Workers Action Committee have called an emergency meeting to oppose water shutoffs and the Detroit bankruptcy, to be held in Detroit on September 9.



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