

Lawyers deliver closing statements in Detroit bankruptcy case

Jerry White
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A little more than a year after legal proceedings began in the largest municipal bankruptcy case in US history, lawyers delivered their final statements in a Detroit courtroom on Monday. The federal judge overseeing the case, Steven Rhodes, announced that he would rule on the city's financial restructuring plan on November 7.

There is little doubt that Rhodes will approve the savage plan, which will impose unprecedented cuts to the jobs, pensions and health care benefits of more than 30,000 current and retired city workers. It will also hive off large portions of the city to pay off the debts to Wall Street banks and wealthy bondholders. (See: "The Carve-Up of Detroit")

Rhodes maintained the fiction that his upcoming judgment would be based on objective criteria, including deciding on whether the plan was "fair and equitable" and "feasible." In reality, the judge has repeatedly given a pseudo-legal stamp of approval to the political conspiracy to loot the city. This includes Rhodes' precedent-setting ruling last year that federal Chapter 9 bankruptcy laws trump the Michigan state constitution's protection of public worker pensions.

Both big business parties and the entire political establishment—from the Obama administration to Emergency Manager Kevyn Orr to Democrats and Republicans on the state and local levels—are backing the bankruptcy, which will serve as a model for states and municipalities throughout the US.

The "closing arguments" of the confirmation trial on Monday had no more legal or moral integrity than any other part of the proceedings. There were actually no adversarial parties "arguing" in the courtroom. Instead, all of the highly paid lawyers represented different factions of the corporate and political establishment. There was never the slightest suggestion that there should be any accountability for the corporations and banks that have bled the city dry through decades of factory closures,

corporate tax cuts and financial swindles.

Most of the day Monday was taken up by the presentation of Bruce Bennett, an attorney for the Jones Day law firm, which crafted the "Plan of Adjustment." Bennett, who is reportedly being paid \$1,050 an hour for his services, previously represented LTV Steel, Lehman Brothers, Enron and other corporations in bankruptcy cases.

Republican Governor Rick Snyder and his former state treasurer, Democrat Andy Dillon, hired Jones Day because it has pioneered the idea of using the bankruptcy courts to relieve municipalities of pension obligations. In March 2013, Snyder installed Orr, Bennett's former law partner at Jones Day, as Detroit's unelected emergency manager. Orr promptly hired Jones Day, at the cost of \$18 million, to "represent" the city.

In his remarks, Bennett gushed that all of the major parties in the case, including the trade unions and union-controlled retiree associations, had reached a consensus to back what he called a "radical" restructuring plan. Through months of contentious negotiations, he said, a plan had emerged. The fact that it had included "dramatic changes, which had not disappeared or had not been watered down," Bennett said, was "frankly remarkable."

Bennett seemed to express amazement that the corporate and financial elite had gotten away with their plan thus far without provoking a social explosion. For this, the financial thieves and their political representatives have the trade unions to thank. The American Federation of State, County and Municipal Employees, the United Auto Workers and other city unions have suppressed any working class opposition, while carving out a piece of the spoils for the union executives. Bennett pointed out that the "Grand Bargain" funneled \$500 billion into trust funds known as Voluntary Employees Beneficiary Associations, or VEBAs, controlled by the unions. In addition, money from private

foundations was being used to shore up union-controlled pension funds, which function as investment vehicles for the union executives.

Asked by the judge what he thought the bankruptcy meant for other cities, Bennett said that unions would have to negotiate “pension funding” from now on and be willing to give up more wages and health care benefits. “The implication of your honor’s ruling, that pension claims can be impaired, followed by the Stockton, California case, is that pension funding belongs high on labor’s agenda because retirement benefits are not unalterably protected by constitutions or through the sale of assets.”

Though cities have historically been bound to uphold their pension obligations, this was no longer the case, Bennett said. While peddling the lie that there is no money for pensions, Bennett adamantly rejected increasing taxes on large corporations. This would put cities at a “competitive disadvantage,” he said, pointing to the intense fight between Arizona, Nevada and California to land a Tesla battery plant.

In other words, cities should continue to be starved of essential resources so corporations like General Motors, which just reported a \$1.4 billion third quarter profit and has made untold trillions from the labor of generations of Detroit workers, can continue to skirt taxes.

Although bankruptcy law cannot compel a city to sell assets, Bennett added, “it turns out the city did deploy its assets to make this case easier for creditors and generate more value.” He pointed to the spinoff of Belle Isle Park, the water department, the Detroit-Windsor Tunnel and other assets, which, he said, allowed the city to save funds “so money could be used for other purposes, including paying off creditors” such as bond insurers Syncora and FGIC.

Speaking on behalf of the Snyder administration, Steven Howell, special attorney general for the state of Michigan, said that the “Chapter 9 filing had not been popular, but it was the right thing to do.” He said the overwhelming number of objectors “were now supporters,” singling out the union-controlled retiree committees and their decision to drop lawsuits over the violation of the state constitution’s pension protection clause.

To keep the city from falling back into a “downward spiral,” Howell said, Detroit Mayor Mike Duggan and the financial oversight board would have the power to veto spending and borrowing proposals and overturn labor agreements. The Grand Bargain showed the “bipartisan backing by city and state officials, with the support of the

unions and counties.” There is a “new spirit in Detroit of cooperation,” Howell said of the gang up against the working class, “which must be nurtured and built upon so the future of Detroit will be bright.” The most revealing and revolting performance was given by Claude Montgomery, the well-heeled attorney for the court-appointed retiree committee, which includes AFSCME official Ed McNeil, Wendy Fields-Jacobs, an assistant to the UAW International president, and representatives of the firefighters and police unions. Montgomery, a law partner in the New York office of the global restructuring and financing firm Dentons, articulated the grasping financial interests of the business executives who run the unions and their hostility to the working class.

Montgomery noted that the unions had initially opposed the bankruptcy and filed lawsuits over the violation of the state constitution. The unions agreed to change their position, Montgomery said, because “the city agreed that after June 2023 it would resume contributions to the pension funds. The settlement creates two VEBAs, and instead of walking away, the settlement will give \$492 million to fund the trusts. The settlement starts out cutting pensions and eliminating health care benefits, but it agrees to fund them going forward.”

In addition to this payoff, Montgomery said, the judge and federal mediators had made the “fantastic and brilliant move” to “create the retiree committee with AFSCME and the UAW.” Before this, “they did not negotiate in good faith, and this lack of good faith met with unforgiving retiree and active employee hostility.”

While barely mentioning the devastating cuts to health care and pensions the unions had agreed to impose on retirees surviving on meager pension checks, Montgomery made it clear that the court had made the right choice to rely on the unions to function as full participants in the conspiracy against the working class.



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