Judge in Stockton bankruptcy upholds retiree benefit cuts

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On February 4th, Judge Christopher Klein of the United States Bankruptcy Court signed a confirmation order allowing the city of Stockton, California to move forward with its bankruptcy plan of adjustment.

The order will most likely enable the city of Stockton to exit bankruptcy after an automatic two-week stay. According to officials, the city is expected to exit from bankruptcy later this month.

Judge Klein's 54-page opinion in the ruling claims that pension obligations under state law can be unilaterally overwritten during the course of bankruptcy proceedings.

Using language that does not even attempt to conceal his enthusiasm for slashing the retirement benefits of elderly workers, Klein declares, "CalPERS [the state's public employee pension system] has bullied its way about this case with an iron fist." The fund, Klein wrote, "turns out to have a glass jaw."

The move to slash the pension benefits of Stockton public employees is part of a nationwide assault on public employee pensions and benefits. The precedent for these moves was set by the Detroit bankruptcy, in which workers' pensions were cut by 4.5 percent, and cost of living adjustments were eliminated.

CalPERS had made a claim of $1.6 billion against the city for unmet pension obligations. The fund had hoped to recoup the $1.6 billion through a lien against city assets.

Klein instead ruled that while employee pensions are nominally honored under state law, the lien itself could be set aside under federal bankruptcy law, effectively negating the very mechanism which would ensure the disbursement to retirees of their constitutionally guaranteed pension payments. Furthermore, according to the judge, state municipalities should be allowed to exit the pension system entirely.

As part of the city's bankruptcy plan, all retiree medical benefits–part of a program costing $544 million–have been eliminated. To make up for this devastating blow to retirees, a paltry, one-time payout of $5.1 million has been made to those affected. Most of these retirees are not eligible for social security benefits and live on near poverty level incomes from CalPERS.

Under the plan of adjustment, remaining pension benefits for new city employees will be lowered while individual employee contributions will rise. In addition to cutting pension benefits for all new hires to the bone, the plan will inevitably be used to pit "greedy" older workers against younger new hires.

The ruling should be taken as a grave warning to the working class. The initiation of municipal bankruptcy is now a tool that the financial elite can utilize to eliminate pensions and healthcare for retirees entirely.

Klein also wrote in his opinion, "As a matter of law, the City's pension administration contract with CalPERS, as well as the City-sponsored pensions themselves, may be adjusted as part of a chapter 9 plan." He continued, "It is doubtful that CalPERS even has standing to defend the City pensions from modification. This decision determines that the obstacles interposed by CalPERS are not effective in bankruptcy."

Furthermore, the legal reasoning behind Klein's ruling is that in bankruptcy proceedings states effectively act as "gatekeepers." That is, states initiate bankruptcy proceedings by determining whether or not bankruptcy is necessary, but once they have, federal Bankruptcy Code directs proceedings. Since pensions often derive their hardiness from their enshrinement in state constitutions, by making bankruptcy a federal issue, state constitutions are effectively bypassed. This opinion may well be used as a starting point for future attacks on pensions across the country.

Bankruptcy courts are increasingly becoming the method of choice by the ruling class to circumvent democracy and impose new and greater attacks on the working class. In Detroit this took the form of an unelected emergency manager, deep cuts in pensions, the sell-off and privatization of public services and invaluable art, and even the cutting off of access by a large section of the population to water.

Franklin Templeton, an investment firm that is calling for even sharper cuts to workers' pensions, is being represented by Jones Day, the same firm that oversaw the dubious and semi-legal proceedings in the Detroit bankruptcy.