

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION – DETROIT

In re:

CITY OF DETROIT, MICHIGAN

Debtor.

Chapter 9

Hon. Thomas J. Tucker

Case No. 13-53846

**DETROIT WATER AND SEWERAGE DEPARTMENT'S MOTION FOR
CLARIFICATION OF NOVEMBER 19, 2015 ORDER**

Detroit Water and Sewerage Department ("DWSD"), by and through its attorneys Kilpatrick & Associates, P.C., the undersigned, brings this Motion For Clarification of this Court's November 19, 2015, Order, and in support thereof states as follows:

1. On July 18, 2013 ("Petition Date"), the City filed a petition for relief in this Court, commencing a Chapter 9 bankruptcy case.

2. On November 21, 2013, this Court issued its *Order, Pursuant to Sections 105, 501, and 503 of the Bankruptcy Code and Bankruptcy Rules 2002 and 3003(c), Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof* [See Doc. No. 1782] ("Bar Date Order"), establishing deadlines to file certain proofs of claim in this case.

3. On December 5, 2013, this Court found that the City was eligible for relief under Chapter 9 of the Bankruptcy Code. *See Order for Relief Under Chapter 9 of the Bankruptcy Code*. [See Doc. No. 1946].

4. On December 24, 2013, the Court issued an Order, Pursuant to Sections 105 and 502 of the Bankruptcy Code, Approving Alternative Dispute Resolution



Procedures to Promote the Liquidation of Certain Prepetition Claims (the “ADR Order”)
[See Doc. No. 2302]

5. On November 12, 2014, this Court entered an Order confirming the Plan [See Doc. No. 8272]. The Plan became effective December 10, 2014.

6. On February 21, 2014, Kim Spicer (“Mr. Spicer”) timely filed his proof of claim, asserting a charge of employment discrimination (the “Charge”) against the City – specifically relating to the actions of DWSD, in addition on January 2, 2013, Mr. Spicer filed a claim with the United States Equal Employment Opportunity Commission (“EEOC”) alleging that he was subjected to discrimination based on his race in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* [See Claim Number 3657].

7. On December 30, 2014, DWSD filed its objection to Mr. Spicer’s claim.

8. On November 19, 2015, based upon a Stipulation between Mr. Spicer and DWSD, this Court entered an Order (the “Arbitration Order”), requiring that Mr. Spicer’s claim and DWSD’s objection be submitted to and resolved by binding arbitration by an employment arbitrator before the American Arbitration Association Employment Panel.
[See Doc. 10269]

9. The parties have selected an arbitrator, and the matter is scheduled for a Case Management Conference Call. The Court’s November 19, 2015 Order did not address which party would be responsible for paying the arbitrator’s fees and costs.

10. In a prior Order entered by the Court, the ADR Order, the Court ordered that if the City and a claimant consented to binding arbitration, “the fees and costs

charged by the arbitrator . . . shall be shared equally among the parties.” [See Doc No. 2302, ¶ C.2.(c)]

11. Pursuant to the ADR Order, the parties should equally share the cost of the arbitrator’s fees and costs.

WHEREFORE Detroit Water and Sewerage Department requests that this Court enter an Order clarifying its November 19, 2015, Arbitration Order specifically directing that the parties equally share the arbitrator’s costs and fees and that it grant such further relief as this Court deems just and proper.

KILPATRICK & ASSOCIATES, P.C.

/s/ Richardo I. Kilpatrick
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Dated: August 11, 2016

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
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ORDER CLARIFYING COURT’S NOVEMBER 19, 2015, ORDER

This matter having come before the Court on the Motion of Detroit Water and Sewerage Department for Entry of an Order Clarifying the Court’s November 19, 2015 Order, due notice having been provided and the Court being otherwise fully advised in the premises;

IT IS HEREBY ORDERED that this Court’s Order of November 19, 2015, is supplemented to provide that Detroit Water and Sewerage Department and Kim Spicer shall equally share the arbitrator’s costs and fees pursuant to the Court’s December 24, 2013, Order Approving Alternative Dispute Resolution Procedures to Promote Liquidation of Certain Prepetition Claims.

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**NOTICE OF DETROIT WATER AND SEWERAGE
DEPARTMENT'S MOTION FOR CLARIFICATION OF
NOVEMBER 19, 2015 ORDER**

PLEASE TAKE NOTICE THAT the City of Detroit Water and Sewerage Department, by and through its undersigned counsel, has filed a Motion for Clarification of the November 19, 2015, Order entered by this Court requesting that the arbitrator's costs and fees be shared equally.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you have any objections to the relief sought in the Motion, within fourteen (14) days, you or your attorney must:

1. File with the Court a written response or an answer, explaining your position at:¹ United States Bankruptcy Court, 211 W. Fort Street, Detroit, Michigan 48226.

If you mail your response to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above. You must also mail a copy to:

Richardo I. Kilpatrick, Attorney for Detroit Water and Sewerage Department, Kilpatrick & Associates P.C., 615 Griswold, Suite 1305, Detroit, Michigan 48226

¹ Response or answer must comply with Fed. R. Civ. P. 8(b), (c) and (e).

United States Trustee, 211 W. Fort Street, Suite 700, Detroit, Michigan 48226

If you have any objections to the relief sought in the Motion, within twenty-one (21) days, you or your attorney must:

1. File with the Court a written response or an answer, explaining your position at:² United States Bankruptcy Court, 211 W. Fort Street, Detroit, Michigan 48226.

If you mail your response to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above. You must also mail a copy to:

Richardo I. Kilpatrick, Attorney for Detroit Water and Sewerage Department, Kilpatrick & Associates P.C., 615 Griswold, Suite 1305, Detroit, Michigan 48226

2. If a response or objection is timely filed and served, the clerk will schedule a hearing on the Motion and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an order granting the relief requested in the Motion.

Respectfully submitted;

KILPATRICK & ASSOCIATES, P.C.

/s/ Richardo I. Kilpatrick
RICHARDO I. KILPATRICK (P35275)
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Dated: August 11, 2016

² Response or answer must comply with Fed. R. Civ. P. 8(b), (c) and (e).

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PROOF OF SERVICE

Karen O’Nail states that on this 11th day of August, 2016, she served a copy of the DETROIT WATER AND SEWERAGE DEPARTMENT’S MOTION FOR ENTRY OF AN ORDER TO CLARIFY THE COURT’S NOVEMBER 19, 2015 ORDER, NOTICE OF DETROIT WATER AND SEWERAGE DEPARTMENT’S MOTION FOR ENTRY OF AN ORDER TO CLARIFY THE COURT’S NOVEMBER 19, 2015 ORDER, and this PROOF OF SERVICE upon the following parties with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Richardo I. Kilpatrick ecf@kaalaw.com

Office of the U.S. Trustee via ecf email

And by depositing same in a United States postal box located in Detroit, Michigan, with the lawful amount of postage affixed thereto and addressed to:

Liz Ferguson
55 Southbound Gratiot
Mount Clemens, Michigan 48043

Kim Spicer
29357 Sandlewood
Roseville MI 48066

/s/Karen O'Nail

Karen O'Nail, an employee of
KILPATRICK & ASSOCIATES, P.C.

Attorneys for Detroit Water and Sewerage Department

615 Griswold, Suite 1305

Detroit, Michigan 48226

(313) 963-2581

ecf@kaalaw.com

Dated: August 11, 2016