

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846

Judge Thomas J. Tucker

Chapter 9

**CITY OF DETROIT'S OBJECTION TO
CLAIM NUMBER 3201 FILED BY HENRY FORD HEALTH SYSTEM**

The City of Detroit ("Detroit") files its *City of Detroit's Objection to Claim Number 3201 Filed by Henry Ford Health System* ("Objection") and in support states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Objection pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(B). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND FACTS

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

On November 12, 2013, the City filed its *Motion of Debtor Pursuant to Sections 105 and 502 of the Bankruptcy Code, for Entry of an Order Approving Alternative Dispute Resolution Procedures to Promote the Liquidation of Certain Prepetition Claims* [Doc. No. 1665] ("ADR Procedures Motion"). On December



24, 2013, this Court entered an order approving the ADR Procedures Motion [Doc. No. 2302] (“ADR Order”).

The Alternative Dispute Resolution Procedures (“ADR Procedures”) attached as Annex 1 to the ADR Order permitted the City to serve on claimants a

notice that the Stay/Injunction is lifted to permit the underlying claim to be liquidated in a non-bankruptcy forum consistent with the terms, conditions and limitations of Section II.E. below (a “Stay Modification Notice”). In that event, immediately upon the filing of the Stay Modification Notice, the Stay/Injunction shall be deemed modified with respect to the applicable Initial Designated Claim solely to permit the liquidation of the claim in a non-bankruptcy forum...

ADR Procedures, Section I.B, p. 4.

Paragraph 10 of the ADR Order states

If the Stay/Injunction is modified as a result of a Stay Modification Notice, the liquidation of each applicable Initial Designated Claim shall proceed in [. . .] such other non-bankruptcy forum selected by the Designated Claimant

Each Stay Modification Notice emphasized:

Note that, if you do not promptly proceed with the prosecution of the Claim(s) in the applicable non-bankruptcy forum, the City reserves its right to seek appropriate relief from the non-bankruptcy forum or the Bankruptcy Court, including, without limitation, the disallowance and expungement of the Claim(s).

E.g., Stay Modification Notice, Doc. No. 9716, p. 4.

The ADR Procedures contain a procedure for their enforcement:

If a Designated Claimant fails to comply with the ADR Procedures, negotiate in good faith or cooperate with the City as may be necessary to effectuate the ADR Procedures, the Bankruptcy Court may, after notice and a hearing, find such conduct to be in violation of the ADR Order or an abandonment of or failure to prosecute the Designated Claim, or both. Upon such findings, the Bankruptcy Court may, among other things, disallow and expunge the Designated Claim, in whole or part, or grant such other or further remedy deemed just and appropriate under the circumstances, including, without limitation, awarding attorneys' fees, other fees and costs to the City.

ADR Procedures, Section II.G.

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* [Doc. No. 1782] ("Bar Date Order"), establishing deadlines to file certain proofs of claim in this case. The Bar Date Order set the deadline to file proofs of claim as February 21, 2014 at 4:00 p.m., Eastern Time.

On July 9, 2014, this Court entered its *Order Pursuant to 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 3007 Approving Claim Objection Procedures* [Doc. No. 5872] ("Claims Procedures Order"), allowing the City to file omnibus objections with respect to claims that do not identify a valid basis for any liability of the City. Claim Procedures Order at 2.

On October 22, 2014, the City filed the *Eighth Amended Plan of the Adjustment of Debts of the City of Detroit (October 22, 2014)* [Doc. No. 8045]

(“Plan”). The Plan provides that the City will continue using the ADR Procedures to resolve claims after the Effective Date. Plan, Art. VI.A.2, page 68. The Court retained jurisdiction to allow or disallow claims and to enforce orders it had previously entered. Plan, Art. VII. A, O, pages 69-70

On November 12, 2014, this Court entered an Order confirming the Plan [Doc. No. 8272] (“Confirmation Order”).

The Plan became effective on December 10, 2014 (“Effective Date”).

RELIEF REQUESTED

The City files this Objection pursuant to the Bar Date Order, Section 502(b) of the Bankruptcy Code,¹ Rule 3007(c) of the Federal Rules of Bankruptcy Procedures (“Bankruptcy Rules”), and the Claims Procedures Order, seeking entry of an order disallowing and expunging claim #3201 because the claimant has violated ADR Order. Under the ADR Order, the claim should be disallowed and expunged because the claimant has abandoned and failed to prosecute the claim.

The City filed a Stay Modification Notice against the claimant on July 28, 2017. Once the claimant has been served with a Stay Modification Notice, the ADR Order mandates that the claimant must proceed to liquidate the claim. ADR Order, ¶ 10 (noting that liquidation “shall proceed”). The claimant did not take the

¹ Section 502 of the Bankruptcy Code applies to Chapter 9 proceedings pursuant to Section 901(a) of the Bankruptcy Code.

necessary steps to liquidate the claim. After more than eighteen months of inaction, the claimant “[have] fail[ed] to comply with the ADR Procedures, negotiate in good faith or cooperate with the City as may be necessary to effectuate the ADR Procedures” ADR Procedures, Section II.G. As such, the Court “may, among other things, disallow and expunge the [Claimant’s] Claim or grant such other or further remedy deemed just and appropriate under the circumstances, including, without limitation, awarding attorneys’ fees, other fees and costs to the City.” *Id.*

The Stay Modification Notices expressly warned claimants that failure to prosecute their Claim could result in disallowance and expungement of the Claim. *E.g.*, Stay Modification Notice, Doc. No. 9716, p. 4. The City thus objects to claim #3201 and asks the Court to disallow and expunge claim #3201 pursuant to Section II.G. of the ADR Procedures.

To the extent the Court does not expunge claim #3201 on that basis, the City reserves all of its rights to object, on the merits and on any other basis, including without limitation, failure to comply with any applicable statute of limitations, to claim #3201.

BASIS FOR RELIEF REQUESTED

The City has reviewed claim #3201 and submits that the claim does not identify a valid basis for any liability under the ADR Order.

This Court has the authority to enter an order approving this Objection. Based upon the foregoing, the City seeks entry of an order, expunging and disallowing claim #3201. Accordingly, pursuant to section 502(b) of the Bankruptcy Code and Bankruptcy Rule 3007(c), the Court should grant the relief requested.

NOTICE

The City has provided notice of this Objection to the claimant, claim #3201 at the address set forth on its proof of claim, and all other parties who have requested notice pursuant to Bankruptcy Rule 2002. Given the nature of the relief requested, the City respectfully submits that no other or further notice of this Objection need be given.

WHEREFORE, the City respectfully requests that this Court enter an order, substantially in the form attached as Exhibit 1, granting the relief requested herein and granting the City such other and further relief as the Court may deem just and proper.

Dated: May 24,2019

By: /s/ Mary Beth Cobbs

Mary Beth Cobbs (P40080)
Assistant Corporation Counsel
2 Woodward Ave, Suite 500
Detroit, MI 48226
Phone: (313) 237-3075

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846

Honorable Thomas J. Tucker

Chapter 9

**NOTICE OF CITY OF DETROIT'S OBJECTION TO
CLAIM NUMBER 3201 FILED BY HENRY FORD HEALTH SYSTEMS**

PLEASE TAKE NOTICE THAT the City of Detroit ("City") has filed its *City of Detroit's Objection to Claim Number 3201 Filed by Henry Ford Health Systems*("Objection").

Your claim may be reduced, modified, or disallowed. You should read these papers carefully and discuss them with your attorney, if you have one.

If you do not want the court to disallow or change your claim, then on or before **July10, 2019**,

1. You or your lawyer must file with the court a written response to the objection explaining your position at the address below.

United States Bankruptcy Court
211 W. Fort Street, Suite 2100
Detroit, MI 48226

If you mail your response to the Court for filing, you must mail it early enough so that the Court will **receive** it on or before the date stated above. All attorneys are required to file pleadings electronically.

2. A copy of your response must also be mailed to counsel for the City:

Mary Beth Cobbs
City of Detroit Law Department
2 Woodward Avenue, Suite 500
Detroit, MI 48226

3. You must also attend the hearing on the objection scheduled to be held on **July 17, 2019**, at 1:30 P.M. in Courtroom 1925, 211 W. Fort Street, Detroit, MI 48226 unless your attendance is excused by mutual agreement between yourself and the objector's attorney. (Unless the matter is disposed of summarily as a matter of law, the hearing shall be a pre-trial conference only; neither testimony nor other evidence will be received. A pre-trial scheduling order may be issued as a result of the pre-trial conference.)

If you or your attorney do not take these steps, the court may decide that you do not oppose the Objection, in which event the hearing will be canceled and the objection sustained.

Dated: May 24, 2019

By: /s/ Mary Beth Cobbs
Mary Beth Cobbs (P40080)
Assistant Corporation Counsel
2 Woodward Ave, Suite 500
Detroit, MI 48226
Phone: (313) 237-3075

EXHIBIT 1 -- PROPOSED ORDER

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846
Honorable Thomas J. Tucker
Chapter 9

**ORDER GRANTING CITY OF DETROIT'S OBJECTION TO
CLAIM NUMBER 3201 FILED BY HENRY FORD HEALTH SYSTEM**

Upon the City of Detroit's Objection to Claim Number 3201 filed by Henry Ford Health Systems ("Objection") seeking entry of an order disallowing Claim Number 3201, and it appearing that this Court has jurisdiction over the Objection pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(B); and the Court having found that venue of this proceeding and the Objection in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in the Objection is in the best interests of the City, and its creditors; and due and proper notice of the Objection having been given as provided in the Objection; and it appearing that no other or further notice of the Objection need be given; and a hearing on the Objection having been held before the Court; and any objections to the Objection having been overruled or withdrawn; and the Court finding that the legal and factual bases set forth in the Objection and at the hearing establish just

cause for the relief granted; and after due deliberation and good and sufficient cause appearing therefore; it is hereby

ORDERED, DECREED AND ADJUDGED that:

1. The Objection is granted
2. Claim Number 3201 is hereby disallowed and expunged under section 502(b)(1) of the Bankruptcy Code.
3. The City's claims agent is authorized to update the claims register to reflect the relief granted in this order.
4. The City is authorized to take all actions necessary to effectuate the relief granted pursuant to this order in accordance with the Objection.
5. Notice of the Objection as provided therein is good and sufficient notice of such objection, and the requirements of Federal Rule of Bankruptcy Procedure 3007(a) and the local rules of the Court are satisfied by such notice.

EXHIBIT 2 – CLAIM

No. 6015 P. 5
Claim #3201 Date Filed: 2/21/2014

B10 (Official Form 10) (04/13) (Modified)		CHAPTER 9 PROOF OF CLAIM	
UNITED STATES BANKRUPTCY COURT		EASTERN DISTRICT of MICHIGAN	
Name of Debtor: City of Detroit, Michigan		Case Number: 13-53846	
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing.			
Name of Creditor (the person or other entity to whom the debtor owes money or property):			
Henry Ford Health System			
Name and address where notices should be sent:		COURT USE ONLY	
Paul J. Millenbach (P42795) pmillenbach@fosterswift.com		<input type="checkbox"/> Check this box if this claim amends a previously filed claim.	
Foster Swift Collins & Smith, PC		Court Claim Number: _____	
32300 Northwestern Hwy., Ste. 230		(if known)	
Farmington Hills, MI 48334 (248) 539-9908		Filed on: _____	
Telephone number: _____ email: _____		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.	
Name and address where payment should be sent (if different from above):			
Telephone number: _____ email: _____		RECEIVED	
1. Amount of Claim as of Date Case Filed: \$ 5,175.00		FEB 24 2014	
If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		KURTZMAN CARSON CONSULTANTS	
2. Basis for Claim: Medical services performed on patient required to be paid by City of Detroit pursuant to Michigan No-Fault Act.			
3. Last four digits of any number by which creditor identifies debtor:		3a. Debtor may have scheduled account as: _____	
(See instruction #2)		(See instruction #3a)	
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information.		Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____	
Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other		Basis for perfection: _____	
Describe: _____		Amount of Secured Claim: \$ _____	
Value of Property: \$ _____		Amount Unsecured: \$ _____	
Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable			
5. Amount of Claim Entitled to Priority as an Administrative Expense under 11 U.S.C. §§ 503(b)(9) and 507(a)(2).		\$ _____	
5b. Amount of Claim Otherwise Entitled to Priority. Specify Applicable Section of 11 U.S.C. § _____		\$ _____	
6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)			
7. Documents: Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, security agreements, or, in the case of a claim based on an open-end or revolving consumer credit agreement, a statement providing the information required by FRBP 3001(c)(3)(A). If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain: _____			
8. Signature: (See instruction # 8) Check the appropriate box.			
<input checked="" type="checkbox"/> I am the creditor. <input type="checkbox"/> I am the creditor's authorized agent. <input type="checkbox"/> I am the trustee, or the debtor, or their authorized agent. <input type="checkbox"/> I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.) (See Bankruptcy Rule 3004.)			
I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.			
Print Name: Paul J. Millenbach, Esq.		2-20-14	
Title: Attorney		(Date)	
Company: Foster Swift Collins & Smith, PC		(Signature)	
Address and telephone number (if different from notice address above):			
Telephone number: _____ email: pmillenbach@fosterswift.com			



Paul J. Millenbach

P: 248.539.9908 F: 248.851.7504
pmillenbach@fosterswift.com

32300 Northwestern Highway - Suite 230
Farmington Hills MI 48334

February 20, 2014

VIA FEDERAL EXPRESS

Office of the Clerk of Court
United States Bankruptcy Court
for the Eastern District of Michigan
211 W. Fort Street, Ste. 1700
Detroit, MI 48226

Re: Arlanders Robinson – Unpaid Medical Bill to Henry Ford Health System
Case No. 13-53846

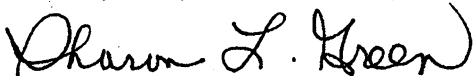
Dear Clerk:

Enclosed please find Henry Ford Health System's claim to the debtor, City of Detroit for payment of the Henry Ford Health System medical bills for treatment rendered to Arlanders Robinson who was involved in a motor vehicle accident. As of this date, Henry Ford Health System has not received their payment.

Thank you for your courtesy in this regard.

Very truly yours,

Foster, Swift, Collins & Smith, PC


Sharon L. Green, Legal Assistant to
Paul J. Millenbach
/slg

Enclosure

99999:SGREEN:1834221-1

fosterswift.com

age: .1

PATIENT NAME.. ROBINSON ARLANDERS

ACCT NO.. [REDACTED] 1202 ENTITY.. HF

ADMT/REG 07/21/11

250-PHARMACY	16.00
300-LABORATORY	125.00
320-DX X-RAY	2,695.00
410-RESPIRATORY SVC	41.00
450-EMERGENCY ROOM	1,213.00
771-ADMINISTRATION IV	135.00
	4,225.00

→ Hospital/Clinic Services

Professional Fees

↑

STATEMENT BALANCE AS OF 09/13/11.....:	950.00	.00	.00
20 29483039 54690 9599 9599 2			
072111 70450 CT -HEAD/BRAIN	200.00	.00	.00
20 29483039 54690 9599 9599 2			
072111 72125 CT - SPINE	254.00	.00	.00
20 29483039 54690 78096 78096 2			
072111 73090 RADIOLOGY - FOREARM	35.00	.00	.00
20 29483039 54690 78096 78096 2			
072111 73110 RADIOLOGY - WRIST	38.00	.00	.00
20 29483039 54690 71944 71944 2			
072111 73130 RADIOLOGY - HAND	38.00	.00	.00
15 29483039 25705 71948 7231 2			
072111 99284 ER VISIT	385.00	.00	.00

Total owed \$5,175.00

ate: 2/19/2014 Time: 10:23:58 AM

ate: 2/19/2014 Time: 10:23:37 AM