

# **Bond Case Briefs**

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## **BANKRUPTCY - MICHIGAN**

### **In re City of Detroit, Mich.**

**United States Bankruptcy Court, E.D. Michigan, Southern Division - December 5, 2013 - B.R. - 2013 WL 6331931**

Parties objected to city's eligibility to be Chapter 9 debtor, and to whether its Chapter 9 petition had been filed in "good faith."

The Bankruptcy Court held that:

- Bankruptcy court, even as non-Article-III court, had constitutional authority to finally determine all issues that were raised in context of resolving objections to city's eligibility for Chapter 9 relief, including constitutionality of state statute pursuant to which emergency manager caused city to file for Chapter 9 relief;
- Chapter 9 of the Bankruptcy Code did not violate the Tenth Amendment, either on its face or as applied;
- Michigan's emergency manager law did not, as predicted by bankruptcy judge in Michigan, violate the State's constitutional right of referendum;
- Michigan law did not, as predicted by bankruptcy judge in Michigan, violate Pension Clause of the Michigan Constitution;
- Filing of Chapter 9 petition on city's behalf deprived Michigan state court of jurisdiction to enter any order or to determine any issue pertaining to city's eligibility to be a Chapter 9 debtor;
- City was "insolvent," as required to be eligible for Chapter 9 relief;
- City desired to effect plan to adjust its debts, as required for it to be eligible for Chapter 9 relief;
- City demonstrated the "impracticability" of engaging in prefiling negotiations with its creditors; and
- City acted in "good faith" in filing for Chapter 9 relief, and case could not be dismissed as "bad faith" filing.