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Detroit swap litigation could join proceedings following two hearings in New York
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The US District Court, in the Southern District of New York, will hear arguments 24 September and 1 October regarding a motion to move litigation between plaintiff **Syncora Guarantee** and defendants **Merrill Lynch** and **UBS** to the Eastern District of Michigan, according to court documents.

The litigation stems from a proposed settlement between **Detroit** Emergency Manager Kevyn Orr and the defendants, which would terminate the swap transaction and pay the banks USD 0.75 to USD 0.82. Syncora insures the swap transaction and believes that its approval is needed for the parties to reach an agreement on what to do with the USD 340m in debt, according to prior reports.

"There's an effort to transfer this to the court that's handling the Detroit case," Ben Seigel, a lawyer at Buchalter Nemer, who was counsel to California's **Orange County** Employees Retirement System in that county's 1994 bankruptcy.

"There is an undeniably close interconnection between this action and the City of Detroit's bankruptcy proceeding. This action directly impacts core bankruptcy functions that 'arise in' the underlying bankruptcy case and 'arise under' the Bankruptcy Code," according to a 15 August Reply Memorandum of Law 15 August filed by the defendants requesting the case be heard in the Eastern District of Michigan, where Detroit is currently in bankruptcy proceedings. The parties are "already appearing in the Michigan Bankruptcy Court on a regular basis".

There will be a hearing in the Eastern District Court of Michigan 23 September to hear arguments for and against the suggested settlement, according to prior reports.

Legal representatives for UBS did not respond to request for comment. Representatives for Merrill Lynch declined to comment.

Jumping into the fray

The city had attempted to spur a similar motion on 13 August but was told that it was not an interested party, according to a 20 August order from Judge Lewis Kaplan, of the Southern District of New York Court.

"Under the federal rules of civil procedure, which are also in the bankruptcy rules... a party cannot come in and put for a position unless they're a party to the case," said Chuck Tatelbaum, a partner in the bankruptcy practice with Hinshaw & Culbertson, and who represented creditors in **Harrisburg**, Pennsylvania, as well as Orange County. "And the way you become a party to the case is you file a Motion to Intervene", which Detroit had not done at the time.

According to the court docket, the city has not filed a Motion to Intervene.

"Our focus is not on that lawsuit, but what is going on here," said Bill Nowling, spokesperson for Orr. He declined to comment whether the city would file a Motion to Intervene.

A USD 5m tranche of Series 2005B general obligation unlimited tax bonds, which mature in 2025, last traded in small lots on 6 September at 90.0 yielding 6.2%, according to Electronic Municipal Market Access. The bonds were last rated C by Fitch Rating Services on 14 June, Caa3 by Moody's Investor Services on 17 June and C by Standard & Poor's on 18 July. The bonds are insured by **Assured Guaranty**.

by Maryellen Tighe