

EXHIBIT 3

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re Chapter 9
CITY OF DETROIT, MICHIGAN,
Debtor.

Case No. 13-53846
Hon. Steven W. Rhodes

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**BRIEF IN SUPPORT OF DEVERY JONES MOTION FOR RELIEF FROM THE
AUTOMATIC STAY**

Factual Background

On June 23, 2006, a City of Detroit police patrol car was involved in the chase of an allegedly stolen motor vehicle. An innocent bystander, Devery Jones ("Plaintiff"), was struck by the pursued car while riding on a motorcycle. Mr. Jones was seriously injured as a result of the collision, and later had a leg amputated. In litigation resulting from the accident, the Wayne County Circuit Court determined that the City of Detroit was first in order of priority for paying No Fault benefits, and Mr. Jones' insurer, Home Owners Insurance, had a lower priority. Mr. Jones has subsequently had to file additional lawsuits against the City of Detroit to adjudicate his claims for No Fault benefits, and the most

recent of these is currently pending in Wayne County Circuit Court.

For the purposes of the Michigan No Fault statute, the City of Detroit is qualified as a self-insurer, and it has in the recent past paid Mr. Jones No Fault benefits, including those for attendant care, for medical expenses incurred by Mr. Jones for injuries suffered in the aforesaid accident. The City of Detroit ceased paying attendant care benefits, and Mr. Jones filed suit in Wayne County Circuit Court. That suit is now stayed pursuant to Sections 362 and 922 of the Bankruptcy Code.

Legal Argument

THE AUTOMATIC STAY IMPOSED UPON PLAINTIFF'S PERSONAL INJURY CIVIL CLAIMS AGAINST DEFENDANT-DEBTOR SHOULD BE LIFTED PURSUANT TO 11 U.S.C. §362(d)(1)

The Bankruptcy Code §362(d)(1) permits the bankruptcy judge "to grant relief from the stay . . . for cause." 'Cause,' as used in §362(d) "has no clear definition and is determined on a case-by-case basis." *In Re Fernstrom Storage and Van Co.*, 938 F.2d at 731 (7th Cir. 1981). Furthermore, the Historical and Statutory Notes of §362 explain that §362(d) requires

the court, on request of a party in interest, to grant relief from the stay, such as by terminating, annulling, modifying, or conditioning the stay, for cause. The lack of adequate protection of an interest in property of the party requesting relief from the stay is one cause for relief, but is not the only cause...[A] desire to permit an action to proceed to completion in another tribunal may provide another cause. Other causes might include the lack of any connection with or interference with the pending bankruptcy case

11 U.S.C. §362 Historical and Statutory Notes

Mr. Jones currently has a case pending in Wayne County Circuit Court, in which the City of Detroit is the Defendant. Case No. 12-014951-NF. He requests that this Court lift

the automatic stay so that his case before this tribunal may proceed to completion. Allowing Mr. Jones' case to proceed will not interfere with the existing bankruptcy case because the City of Detroit is self-insured for No Fault automobile insurance and continues to make payments for those claims.

However, if this Court determines that the City of Detroit is insolvent with regard to paying Mr. Jones' claim, the stay should be lifted to allow him to pursue his case in Wayne County Circuit Court by amending his Complaint to add Home-Owners Insurance. Michigan law provides that when a priority No Fault insurer becomes insolvent, the next insurer in order of priority becomes liable to pay benefits. *Auto Club Ins. Ass'n v. Meridian Mut. Ins. Co.*, 207 Mich. App. 37; 523 N.W.2d 821 (1994). In that case, the plaintiff was injured in a motor vehicle accident and collected benefits from his insurer until that company became insolvent. The Michigan Court of Appeals held that following the insolvency of the primary insurer, the next-in-line insurer became liable to pay the plaintiff's No Fault benefits. Similarly, if the City of Detroit is not able to pay Mr. Jones' No Fault benefits, Home-Owners Insurance, as the next-in-line insurer, would become liable to pay those benefits.

WHEREFORE, Plaintiff respectfully requests that this Court lift its automatic stay of proceedings as it applies to Plaintiff, so that he may establish liability against the City of Detroit as a self-insurer.

IN THE ALTERNATIVE, Plaintiff respectively requests that this Court lift the automatic stay as it applies to Plaintiff for the sole purpose of amending his Complaint in Wayne County Circuit Court to add Home-Owners Insurance as a party.

Respectfully submitted,

SACHS WALDMAN Professional Corporation,

BY: ***/s/ Mami Kato***
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