



5

1 MARC A. LEVINSON (STATE BAR NO. 57613)  
malevinson@orrick.com  
2 NORMAN C. HILE (STATE BAR NO. 57299)  
nhile@orrick.com  
3 JOHN W. KILLEEN (STATE BAR NO. 258395)  
jkilleen@orrick.com  
4 ORRICK, HERRINGTON & SUTCLIFFE LLP  
400 Capitol Mall, Suite 3000  
5 Sacramento, California 95814-4497  
Telephone: (916) 447-9200  
6 Facsimile: (916) 329-4900

7 Attorneys for Debtor  
City of Stockton

8

9

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

10

11

12

13

In re:  
14 CITY OF STOCKTON, CALIFORNIA,  
15 Debtor.

Case No. 2012-32118

DC No. OHS-4

Chapter 9

16

**MOTION FOR ORDER SHORTENING  
NOTICE ON THREE EMERGENCY  
MOTIONS**

17

18

Date: Friday, July 6, 2012  
Time: 10:00 a.m.  
Place: United States Courthouse  
Dept. A, Courtroom 28  
501 I Street, Sacramento

19

20

21

22

The City of Stockton, California (the "City"), the debtor in the above-captioned case,  
23 moves the Court (by this "Motion") for entry of an order shortening the notice period for the  
24 hearing on the following three emergency motions filed and served by email by the City on  
25 Friday, June 29, 2012 (each an "Emergency Motion" and collectively, the "Emergency  
26 Motions"):

27

- DC No. OHS-2 – Seeking an order for approval of the form of notice to be

28

1 published pursuant to Bankruptcy Code § 923 and an order setting deadline for  
2 filing objections to petition;

- 3 • DC No. OHS-3 – Seeking an order limiting notice and permitting the City to  
4 establish a publicly available internet-accessed website in lieu of notice to certain  
5 parties; and
- 6 • DC No. OHS-4 – Seeking an order permitting the introduction of evidence of the  
7 AB 506 process (as such term is defined in the pleadings filed in OHS-4).

8 The Clerk of the Court has tentatively scheduled such hearings for Friday, July 6, at 10:00  
9 a.m. in Department A, Courtroom 28, and each of the three Emergency Motions lists such time,  
10 date and place information on the caption page. In addition, in the late evening of Friday, June  
11 29, the undersigned counsel for the City sent an email to the lengthy list of creditors and parties in  
12 interest, notifying them of the City’s request that the Emergency Motions be heard at such time  
13 and date. A true and correct copy of such email memorandum (“Levinson email”) is attached to  
14 the Declaration of Marc A. Levinson in Support of Motion for Order Shortening Notice on Three  
15 Emergency Motions (“Levinson declaration”).

16 In support of the Motion, the City respectfully represents as follows.

17 **BACKGROUND**

18 As is explained in great detail in the City’s Memorandum of Fact and Law in Support of  
19 its Statement of Qualifications under Section 109(c) of the United States Bankruptcy Code [Dkt.  
20 No. 19], the City has faced massive budget deficits for the past several years. In each of the past  
21 three springs, the City has projected that it would operate at a deficit of over \$20 million during  
22 the following fiscal year. To close these gaps, the City has depleted reserves, re-negotiated labor  
23 contracts and unilaterally imposed compensation reductions when negotiation was unsuccessful,  
24 cut jobs, reduced or eliminated services, missed bond payments, deferred payouts to retiring  
25 employees, and otherwise used every tool at its disposal to avoid insolvency. Despite these  
26 efforts, the City has no remaining reserves and is facing an operating shortfall of almost \$26  
27 million in the budget for fiscal year 2012-13, which began yesterday.

28 Confronted with this fundamental imbalance, in late February 2012, the City entered the

1 new state-mandated “neutral evaluation process” in an attempt to resolve its outstanding debts  
2 consensually, without the need for a chapter 9 case. From that time until the filing of its chapter  
3 9 petition, with the assistance of an expert mediator, the City and many of its creditors worked  
4 diligently and in good faith to identify solutions acceptable to all parties that would prevent  
5 General Fund insolvency in the short term and provide a structure for the long term that would  
6 return the City to financial health and reestablish General Fund cash reserves. However, the City  
7 and its creditors were unable to reach either a short or a longer-term agreement, and on June 28,  
8 the City filed its petition that initiated this case.

9 **RELIEF REQUESTED**

10 Pursuant to Local Rule 9014-1(f)(3), the Court can, for good cause shown, order that the  
11 amount of notice for a hearing be shortened to fewer than 14 days. Because of the time  
12 sensitivity described herein, the City respectfully requests an order to shorten the notice period so  
13 that the Emergency Motions will be heard on Friday, July 6, at 10:00 a.m.

14 The Emergency Motions were filed because the City (and, presumably, its creditors and  
15 parties in interest), want to move the chapter 9 case along with all deliberate speed in order to  
16 promptly address their mutual financial issues and to minimize to the extent possible the  
17 professional fees all will be incurring. The bankruptcy filing already was delayed by the 90 days  
18 of the AB 506 process (although there is no guaranty that the City would have filed 90 days ago).  
19 The City cannot concentrate on its paramount objective of adjusting its obligations and achieving  
20 a sustainable and balanced budget until it establishes its eligibility for chapter 9, and that cannot  
21 occur until after notice of the filing of the case and of the date to object to eligibility has been  
22 approved by the Court and then published at least once a week for three successive weeks in a  
23 local newspaper and in a national newspaper. Bankruptcy Code § 923. In OHS-2, the City is  
24 asking that such date be set for August 9, 2012. If a timely objection is filed, litigation will  
25 follow, and the entry of the order for relief will be delayed weeks if not months. Thus, the City  
26 asks that the notice period start as soon as possible and that the hearing on the relief requested in  
27 OHS-2 be held on seven days notice.

28 The relief sought in OHS-4 is related to the timing of the objection deadline discussed in

1 the previous paragraph. In that Emergency Motion, the City seeks permission to introduce  
2 evidence of discussions and data relating to the AB 506 process in order to establish eligibility.  
3 But it cannot reveal such information under the California Government Code absent an order of  
4 this Court. The City cannot expect the Court to set a deadline for objections to eligibility until  
5 creditors and parties in interest have seen such evidence – assuming the Court grants the  
6 Emergency Motion. Thus, such Emergency Motion should be heard on shortened notice for the  
7 same reasons enumerated above.

8 The creditor matrix filed along with the voluntary petition contains approximately 6,000  
9 names. The relief sought in OHS-3 seeks to limit notice to those who request special notice and  
10 to the parties who participated in the AB 506 process – a list of approximately 50 names/email  
11 addresses (“Special Notice Parties”). The Emergency Motions and all other pleadings filed on  
12 Friday, June 29, were emailed to the Special Notice Parties, as was the Levinson email. The  
13 Emergency Motion discloses that the City will establish links on its website that will enable its  
14 residents as well as creditors and parties in interest to access key pleadings and information. The  
15 City believes that such Emergency Motion is as noncontroversial as it is practical.

16 **SERVICE OF THIS MOTION**

17 This Motion and the supporting Levinson declaration, along with a proposed form of  
18 order shortening notice, will be transmitted today to each of the Special Notice Parties by  
19 electronic mail for immediate delivery. Like the Levinson email, the order notes that pursuant to  
20 Local Rule 9014-1(f)(3), no written opposition to one or more of the Emergency Motions is  
21 necessary. The City submits that such service is appropriate under the circumstances. If the  
22 Court approves the order, it will be served by email on the Special Notice Parties upon the City’s  
23 receipt thereof.

24 **CONCLUSION**

25 WHEREFORE, for the foregoing reasons, the City believes cause exists to grant the City  
26 an order shortening the notice period on the Emergency Motions to a period of seven days, such

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

that the Emergency Motions will be heard on July 6, 2012 at 10:00 a.m.

Dated: July 2, 2012

ORRICK, HERRINGTON & SUTCLIFFE LLP

By:                     /s/ Marc A. Levinson                      
                                    Marc A. Levinson  
                                    Norman C. Hile  
                                    John W. Killeen  
                                    Attorneys for City of Stockton, Debtor