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11 **UNITED STATES BANKRUPTCY COURT**  
12 **EASTERN DISTRICT OF CALIFORNIA**  
13 **SACRAMENTO DIVISION**

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

**Case No. 12-32118**  
**DCN: MH-001**  
**Chapter 9**

**DECLARATION OF MARK S. ADAMS**  
**IN SUPPORT OF MOTION FOR**  
**RELIEF FROM THE AUTOMATIC**  
**STAY OF 11 U.S.C. § 362(a) AS TO**  
**PENDING CIVIL RIGHTS ACTION [11**  
**U.S.C. § 362(d)(1)].**

**Date: November 20, 2012**  
**Time: 9:30 a.m.**  
**Judge: Hon. Christopher M. Klein**  
**Location: 501 'T' Street, 6<sup>th</sup> Flr**  
**Courtroom No. 35**  
**Sacramento, CA**

17 **DECLARATION OF MARK S. ADAMS**

18 I, MARC S. ADAMS, declare:

- 19
- 20 1. I am an attorney at law duly licensed and admitted to practice before all the
  - 21 courts of the State of California and the United States District Courts for all California districts.
  - 22
  - 23 2. I am a partner with the Law Offices of Mayall Hurley, the attorneys for

1 RONALD HITTLE (“Movant”) in the federal civil rights case HITTLE v. CITY OF  
2 STOCKTON, et al now pending before the United States District Court for the Eastern District  
3 of California (Case No. 2:12-cv-00766-GEB-KJN) (the “District Court Action”) and in this  
4 bankruptcy action.

5 3. Modifying the automatic stay in this bankruptcy action to permit the District  
6 Court Action to proceed to judgment would completely resolve the question of liability as to  
7 the Debtor, their insurer(s) or indemnitor(s), and the Non-Debtor Defendants in the district  
8 court case, thereby liquidating Movant’s claim in this bankruptcy case.

9 4. The District Court Action will not interfere with the bankruptcy case. Rather, it  
10 will help to streamline the case by liquidating the Movant’s claim in a single case instead of  
11 multiple federal cases, as will be required to liquidate the claim within the bankruptcy case.

12 5. The District Court Action does not involve Debtor as a fiduciary.

13 6. No specialized tribunal has been established, nor will one be required in The  
14 District Court action.

15 7. I am informed and believe that the Debtor is protected to some degree by  
16 coverage for employment practices liability of the kind alleged in the district court action,  
17 under a joint powers agreement and/or one or more policies of insurance. Since discovery has  
18 been prevented in the District Court Action by the filing of this bankruptcy case, I have not yet  
19 been able to investigate and obtain documentation of that coverage. I do not currently know  
20 whether any insurer or Joint Power Authority to which the Debtor belongs has assumed  
21 responsibility for defending the District Court Action.

22 8. The District Court Action primarily addresses the liability of the Debtor and the  
23 Non-Debtor Defendants for the acts of the Non-Debtors, individually and in their official  
24 capacities with Debtor. The liability of any insurer, indemnitor or other source providing  
25 Debtor with coverage for employment practices liability will also be established in that action.

26 9. Permitting Movant to proceed with the district court action will not prejudice  
27 the interests of other creditors, it will only liquidate Movant’s existing contingent claim.

28 10. I am informed and believe that Movant’s claim is not subject to equitable

1 subordination.

2 11. Movant is not seeking modification of the stay that would permit him to obtain  
3 a judicial lien against, or otherwise attempt to collect from, the Debtor under any judgment  
4 obtained in the district court action.

5 12. The District Court Action will need to be tried, as to the Debtor and the Non-  
6 Debtor Defendants, in order to liquidate Movant's claim against the Debtor.

7 13. The Complaint in the District Court Action was filed 3 months before the  
8 Debtor filed the petition in this bankruptcy case. As a result, the parties are not yet ready for  
9 trial in that case.

10 14. If Movant is denied stay relief, the resulting delay of the District Court Action is  
11 reasonably expected to prevent him from even commencing the discovery process as to even  
12 the Non-Debtor Defendants for three or more years, during the entire pendency of this  
13 bankruptcy action.

14 15. From my 35 years of experience as a trial attorney I can personally attest that,  
15 due to the expected delay, if stay relief is denied, it is very likely that before the District Court  
16 Action can be tried: (a) important witnesses in that case will disappear, move away, die or  
17 otherwise become unavailable; (b) witnesses' memories of relevant facts will fade to the point  
18 that they can no longer provide meaningful testimony; (c) crucial documentary evidence that is  
19 available today will be lost or destroyed; and (d) important documents and data will be  
20 rendered irretrievable by the degrading of the media on which they are stored, or by the  
21 obsolescence and replacement of the software and hardware used to store and retrieve them.

22 I declare under penalty of perjury under the laws of the United States of America that the  
23 foregoing is true and correct.

24 Executed this 23rd day of October, 2012, at Stockton, California.

25  
26 /s/ Mark S. Adams  
27 MARK S. ADAMS  
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