

FILED

JAN 12 2015

SUSAN M. SPRUAL, CLERK
U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

**UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT**

In re:) BAP No. EC-14-1550
)
CITY OF STOCKTON, CALIFORNIA;) Bk. No. 12-32118
)
Debtor.)

FRANKLIN HIGH YIELD TAX-FREE)
INCOME FUND; FRANKLIN)
CALIFORNIA HIGH YIELD)
MUNICIPAL FUND,)
Appellants,)

v.)
)
CALIFORNIA PUBLIC EMPLOYEE'S)
RETIREMENT SYSTEM; STOCKTON)
POLICE OFFICERS ASSOCIATION;)
STOCKTON CITY EMPLOYEES)
ASSOCIATION; STOCKTON CITY)
EMPLOYEES ASSOCIATION;)
STOCKTON PROFESSIONAL)
FIREFIGHTERS-LOCAL 456;)
OPERATING ENGINEERS LOCAL)
NO. 3; ASSURED GUARANTY CORP.;)
ASSURED GUARANTY MUNICIPAL)
CORP.; NATIONAL PUBLIC FINANCE)
GUARANTEE CORPORATION; WELLS)
FARGO BANK, N.A., as Indenture)
Trustee; CITY OF STOCKTON,)
CALIFORNIA; OFFICIAL COMMITTEE)
OF RETIREES,)
Appellees.)

**ORDER RE MOTION FOR EXTENSION
OF TIME AND TO EXCEED WORD
LIMIT REQUIREMENTS**

Before: Laura S. Taylor, Bankruptcy Judge.

Appellants Franklin High Yield Tax-Free Income Fund and

Franklin California High Yield Municipal Fund request leave to extend the type-volume limitations of Fed. R. Bankr. P. 8015(a)(7) which provide that a principal brief may not exceed 14,000 words and that a reply brief may not exceed 7,000 words. Assuming a 14 point type face in a proportional font, this results in a brief that is in excess of the alternative 30-page limit but one of a size the Rule's drafters presumably considered equivalent. Appellants request a 50% increase over the maximum word count allowed by the rule (21,000 for principal briefs and 10,500 for reply brief).

Appellee the City of Stockton objects. It argues, in essence, that Appellants can appropriately document their points on appeal within the type-volume limitations of Fed. R. Bankr. P. 8015(a)(7).

We strongly agree with many of the general observations made in the opposition. We, however, accept the representations that the trial transcript exceeds 1,340 pages and that the trial exhibits approximate 1,534. To the extent the type-volume extension is used in part to provide a complete but streamlined statement of the relevant facts, this could be helpful to the Panel.

Further, the Appellants suggest that there are five critical issues on appeal that deserve discussion. To the extent the

type-volume extension is used to discuss five critical issues, it appears appropriate. We note that briefing below exceeds 1,000 pages; Appellants' articulation of only five issues leads us to hope that the type-volume extension will not be used to place an alphabet soup, kitchen sink, or otherwise undifferentiated mass of issues before the Court. A complete discussion of legitimately critical issues would be helpful; the other approach would not be.

Finally, we accept that the Appellants may need to address and anticipate issues raised by more than one Appellee. To the extent this proves not to be the case, we strongly suggest that the Appellants not utilize the extension merely for the redundant.

"[B]revity is a soul of wit." Hamlet, Act 2, scene 2, 90. Notwithstanding, we agree to the requested word count extension for all parties. As the parties jointly agree to additional time for briefing, we will grant that request as well. We strongly urge Appellants and Appellee, however, to avoid the redundant and the unhelpful and to keep in mind that additional time should allow a shorter rather than longer document than would otherwise have been the case.

Therefore, IT IS ORDERED:

a. Appellants' opening brief and excerpts of the record

must be filed on or before Monday, March 2, 2015,

b. The responsive briefs and supplemental excerpts of the record of any appellees must be filed on or before

Thursday, May 7, 2015; and

c. Appellants' reply brief must be filed on or before

Thursday, June 4, 2015.

d. The opening brief filed by appellants must contain no more than 21,000 words and any appellee may file a responsive brief of no more than 21,000 words. Appellants' reply brief must contain no more than 10,500 words.