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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  
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9 UNITED STATES BANKRUPTCY COURT  
 10 EASTERN DISTRICT OF CALIFORNIA  
 11 SACRAMENTO DIVISION  
 12

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

Case No. 2012-32118  
 D.C. No. OHS-1  
 Chapter 9

16 **OBJECTIONS TO DECLARATION**  
 17 **AND EXPERT REPORT OF DAVID**  
 18 **NEUMARK IN SUPPORT OF**  
 19 **NATIONAL PUBLIC FINANCE**  
 20 **GUARANTEE CORPORATION'S AND**  
 21 **ASSURED GUARANTY CORP. AND**  
 22 **ASSURED GUARANTY MUNICIPAL**  
 23 **CORP.'S SUPPLEMENTAL**  
 24 **OBJECTION TO CITY OF**  
 25 **STOCKTON'S QUALIFICATIONS**  
 26 **UNDER 109(C) AND 921(C)<sup>1</sup>**

Date: February 26, 2013  
 Time: 1:30 p.m.  
 Dept: C  
 Judge: Christopher M. Klein

27 <sup>1</sup>The City is not asking the Court for a ruling on the City's objections to evidence at the February 26, 2013  
 28 Status Conference. Rather, the City will seek direction from the Court at such hearing as to how it would  
 like to proceed as to the City's objections.

1 The City of Stockton (the “City”) respectfully submits the following objections<sup>1</sup> to the  
 2 Declaration and Expert Report of David Neumark In Support Of National Public Finance  
 3 Guarantee Corporation’s And Assured Guaranty Corp. And Assured Guaranty Municipal Corp.’s  
 4 Supplemental Objection To The City Of Stockton’s Qualifications Under Section 109(c) and  
 5 921(c). These Objections do not include objections based on the qualifications, helpfulness, or  
 6 reliability of David Neumark’s (“Neumark”) testimony as an expert, which are contained in the  
 7 accompanying “Objections To Declaration and Expert Report Of David Neumark Pursuant To  
 8 Federal Rule Of Evidence 702 And *Daubert V. Merrell Dow Pharmaceuticals, Inc.*”

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 10 **OBJECTIONS TO DECLARATION OF DAVID NEUMARK**

PARAGRAPH OBJECTED TO	GROUNDS FOR OBJECTION
11 2. In connection with the chapter 9 12 bankruptcy filing by the City of Stockton 13 (the “City”), I have been retained by Mintz 14 Levin Cohn Ferris Glovsky and Popeo P.C., 15 counsel to Wells Fargo Bank, National 16 Association, as indenture trustee on behalf 17 of the capital markets creditors, to evaluate 18 the economic implications of the City’s 19 compensation practices, including the City’s 20 contention that it cannot reduce pension 21 benefits as part of its restructuring in 22 response to bankruptcy because such a 23 reduction would lead to a “mass exodus” of 24 police officers and create recruitment 25 problems.	The City objects on the grounds that Neumark’s understanding of the term “mass exodus” is vague and speculative.
21 4. In my opinion as a labor economics 22 expert, the City’s claims are unfounded. I 23 have prepared a report detailing my 24 conclusion. A true and correct copy of that 25 report is attached as Exhibit B (the 26 “Report”) and hereby incorporated by 27 reference.	The City objects on the grounds that Neumark’s conclusion that the “City’s claims are unfounded” is vague, speculative, and assumes facts not in evidence. Neumark’s conclusion is based on his opinion that the City’s evidence does not show that a “modest” reduction in pension benefits will lead to a “mass exodus” of experienced officers to a social sciences standard. Neumark’s conclusion not only depends on his own assumptions regarding the meaning of the terms “modest” and “mass exodus”, but also holds the City’s own

28 <sup>1</sup> The Federal Rules of Evidence are made applicable to cases under the Bankruptcy Code by Rule of Bankruptcy Procedure 9017.

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	evidence to the standard of a scientific certainty. Neumark offers no independent analysis or evidence of his own showing that a substantial number of officers will <i>not</i> leave if a pension benefit reduction is imposed, but only states that the City cannot be sure that they will. Because the City is not held to proving its concerns were based on a scientific standard of certainty, Neumark’s conclusion is also completely irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.
<p>5. It is my understanding that the City alleges that in order to remain competitive in the public-sector labor market, it must pay wages and pension benefits comparable to the pay and benefits in other cities deemed to be similar to Stockton. In particular, it is claimed that if Stockton were to reduce pensions it would face a “mass exodus” of experienced employees to other cities and face difficulties recruiting new employees. These concerns are expressed primarily with regard to the police force. In my opinion as a labor economics expert, the City’s claims are unfounded for multiple reasons and one cannot conclude that the City would face a mass exodus of experienced employees or police officers in particular, or face problems associated with recruitment and retention of City employees or police officers in particular, as a result of any, or modest, cuts in pensions. This conclusion is based on the opinions set forth in the Report, which are summarized in the following paragraphs.</p>	<p>The City objects on the grounds that Neumark’s conclusion that “one cannot conclude that the City would face a mass exodus of experienced employees or police officers in particular . . . as a result of any, or modest, cuts in pensions” is vague, speculative, and assumes facts not in evidence. Neumark’s conclusion is based on his opinion that the City’s evidence does not show that a “modest” reduction in pension benefits will lead to a “mass exodus” of experienced officers to a social sciences standard. Neumark’s conclusion not only depends on his own assumptions regarding the meaning of the terms “modest” and “mass exodus” but also holds the City’s own evidence to the standard of a scientific certainty. Neumark offers no independent analysis or evidence of his own showing that a substantial number of officers will <i>not</i> leave if a pension benefit reduction is imposed, but only states that the City cannot be sure that they will. Because the City is not held to proving its concerns were based on a scientific standard of certainty, Neumark’s conclusion is also completely irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>6. First, the City’s claims are not based on any findings that stand up to recognized social science standards of evidence, and are not even supported by the City’s own data. No convincing evidence has been presented by the City that any cut in pension benefits — or even a modest cut — would lead to a “mass exodus” of experienced police officers. The “evidence,” such as it is,</p>	<p>The City objects on the grounds that Neumark’s conclusion that the “City’s claims are not based on any findings that stand up to recognized social science standards of evidence, and are not even supported by the City’s own data” is vague, speculative, and assumes facts not in evidence. Neumark’s conclusion—including his conclusion that the City’s own evidence does not support its position—is based on his opinion that the City’s</p>

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<b>PARAGRAPH OBJECTED TO</b>	<b>GROUND FOR OBJECTION</b>
<p>consists of unspecified and undocumented speculation about how police officers might respond to proposed cuts in pension benefits, rather than any direct evidence that pension cuts have in the past or will in the future cause such an exodus. Moreover, there are numerous reasons to believe this would <i>not</i> be the case.</p>	<p>evidence does not show that a “modest” reduction in pension benefits will lead to a “mass exodus” of experienced officers to a social sciences standard. Neumark’s conclusion not only depends on his own assumptions regarding the meaning of the terms “modest” and “mass exodus” but also holds the City’s own evidence to the standard of a scientific certainty. Neumark offers no independent analysis or evidence of his own showing that a substantial number of officers will <i>not</i> leave if a pension benefit reduction is imposed, but only states that the City cannot be sure that they will. Because the City is not held to proving its concerns were based on a scientific standard of certainty, Neumark’s conclusion is also completely irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>7. Second, one cannot conclude that past police force departures are solely due to compensation changes, and that any additional pension modifications would cause a “mass exodus” of police officers or diminish the ability to recruit and retain City employees, or police officers in particular. Economic studies on economic migration indicate that factors such as compensation, both current and future, are not alone decisive in migration decisions. Non-economic factors including working spouses, friends, age, and local characteristics are also important in migration decisions. As a result, it cannot be concluded that changes in pension benefits will lead to a “mass exodus” of employees.</p>	<p>The City objects on the grounds that Neumark’s conclusion that “one cannot conclude that past police force departures are solely due to compensation changes” is vague, speculative, and assumes facts not in evidence. Neumark offers no independent analysis or evidence of his own showing what other factors would affect the City’s officers specifically, or what degree of impact any given factor might have. Instead, Neumark only points out other possible factors he thinks might be significant, while holding the City’s evidence to a level of scientific certainty. Because the City is not held to proving its concerns were based on a scientific standard of certainty, Neumark’s conclusion is also completely irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>8. Even more important, there is no empirical evidence that remotely meets social science standards of evidence to suggest that proposed cuts in pension benefits would trigger a “mass exodus” of City workers or police officers, or create recruitment difficulties. No evidence tying proposed cuts in pension benefits to voluntary departures is presented by the</p>	<p>The City objects on the grounds that Neumark’s conclusion that there is “no empirical evidence that remotely meets social science standards of evidence” showing that proposed pension cuts would lead to a mass exodus is vague, speculative, and assumes facts not in evidence. Neumark offers no empirical evidence showing the City’s concerns are definitively not true, and is ambiguous regarding what would amount to a</p>

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<p>City, with respect to Stockton or any other jurisdiction, and the research literature does not establish such a relationship. Moreover, evidence from the departures that have occurred — if we are willing, hypothetically, to believe that similar departures would occur in response to proposed cuts in pension benefits — directly contradicts claims of a “mass exodus” of experienced workers. Data provided by the City show that the experience level of the police force is greater now than it was in 2008. Further, the City’s unsubstantiated, claims about difficulties in recruiting are contradicted directly by continuing applications for police department jobs and the actual hiring of applicants that has occurred in the most recent two years.</p>	<p>“social science standard of evidence.” Moreover, because the City is not held to proving its concerns were based on a scientific standard of certainty, Neumark’s conclusion is also completely irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>9. Finally, even if we accept — hypothetically — that proposed cuts in pension benefits would prompt some small number of senior police officers to leave, precluding any pension cuts for all 1,400 City workers is a remarkably inefficient way to deter these hypothetical departures. It would be far less expensive to create explicit incentives to encourage longevity of the police force, by targeting a far smaller number of workers. This type of explicit, targeted policy is far preferable to maintaining high pensions for all City workers based on claims about the need to remain competitive with other cities, a process that has led to continued ratcheting up of compensation for public-sector workers.</p>	<p>The City objects on the grounds that Neumark’s opinion as to efficient ways to “deter these hypothetical departures” is completely speculative, vague, and assumes facts not in evidence. Neumark presents no analysis or discussion of his proposed alternatives, and thus cannot say with certainty whether they would be more efficient than the City’s payment of pension benefits. Moreover, Neumark’s conclusion as to whether the City has adopted the “most efficient” means of retaining officers, to a level of scientific certainty, is irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>

**OBJECTIONS TO EXPERT REPORT OF DAVID NEUMARK**

<b>PARAGRAPH OBJECTED TO</b>	<b>GROUND FOR OBJECTION</b>
<p>The City of Stockton’s central position on which this report focuses is that in order to remain competitive, Stockton must pay wages and pension benefits comparable to the pay and benefits paid by other cities</p>	<p>The City objects on the grounds that Neumark’s statements are vague as to the meaning of the term “mass exodus.”</p>

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<p>deemed to be competitive with Stockton. In particular, it is claimed that if Stockton were to reduce pensions it would face a “mass exodus” of experienced employees to other cities. As Police Chief Eric Jones, referring to the police force, states in a memorandum to Bob Deis, City Manager: “If forced... to reject our CalPERS contract and reduce pensions for existing and/or future retirees, it is possible, perhaps even likely, that we may face an employee mass exodus...”<sup>1</sup> He states that the principal problem will be the loss of experienced police officers.<sup>2</sup> This is echoed by City Manager Deis, who in a letter to Governor Brown and others states that pension reductions in Stockton would potentially spark “a mass exodus of experienced police officers ...”<sup>3</sup> (Neumark Decl., Exh. B., p. 1).</p>	
<p>The City has not considered reductions in pension benefits for existing City workers. In his deposition, City Manager Deis is asked “Did you represent any commitment to make every effort not to seek an impairment of CalPERS either in AB506 or the Chapter 9 bankruptcy?” (p. 238). To which he responds, “I said that we will be aggressive in defending the City’s interests and goals. And at this stage, we have no plans to impair the PERS contract” (p. 238).<sup>7</sup> (Neumark Decl., Exh. B., p. 2).</p>	<p>The City objects to this statement to the extent it implies that the City should have sought reductions in pension benefits or an impairment from CalPERS. Such implication is vague, speculative, and assumes facts not in evidence in that it does not consider the potential impact of such actions, or the City’s ability to impose such reductions. Moreover, such an implication would constitute an impermissible legal conclusion that the City has the legal authority to make such a reduction outside of bankruptcy. Finally Neumark’s opinion regarding the fact that the City allegedly did not seek such reductions is irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>

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<p>Thus, the City argues that it cannot reduce pension benefits as part of its restructuring in response to bankruptcy, to avoid a “mass exodus” of police officers, and to continue to be able to recruit workers to the city. My report considers whether the City has provided reliable, scientific evidence to establish that any pension cuts — even modest pension cuts — would lead to this “mass exodus” or create recruitment problems. (Neumark Decl., Exh. B., p. 2).</p>	<p>The City objects on the grounds that Neumark’s conclusion that the City cannot show, to a level of scientific certainty, that substantial numbers of officers would transfer in the face of pension benefit cuts, is entirely irrelevant to the Court’s determination of the City’s eligibility under chapter 9, because the City is required to meet that standard. Fed. R. Evid. 401, 402.</p>
<p>The claim that any reduction in pension benefits — even a modest reduction — would lead to a “mass exodus” of senior police officers is not based on any findings that stand up to social science standards of evidence. Indeed, it is not even supported by the casual data that has been presented. (Neumark Decl., Exh. B., p. 6).</p>	<p>The City objects on the grounds that Neumark’s conclusion that the “City’s claims are not based on any findings that stand up to recognized social science standards of evidence, and are not even supported by the City’s own data” is vague, speculative, and assumes facts not in evidence. Neumark’s conclusion—including his conclusion that the City’s own evidence does not support its position—is based on his opinion that the City’s evidence does not show that a “modest” reduction in pension benefits will lead to a “mass exodus” of experienced officers to a social sciences standard. Neumark’s conclusion not only depends on his own assumptions regarding the meaning of the terms “modest” and “mass exodus” but also holds the City’s own evidence to the standard of a scientific certainty. Neumark offers no independent analysis or evidence of his own showing that a substantial number of officers will <i>not</i> leave if a pension benefit reduction is imposed, but only states that the City cannot be sure that they will. Because the City is not held to proving its concerns were based on a scientific standard of certainty, Neumark’s conclusion is also completely irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>First, the only “evidence” offered in support of this claim is Police Chief Jones’ assertion that “We expect to lose another 20 to 40 police officers to other law enforcement agencies over the next year.”<sup>8</sup> He and City Manager Deis characterize this as a “mass exodus” of experienced police officers that</p>	<p>The City objects on the grounds that Neumark’s statements mischaracterize the cited evidence as the City’s “only” evidence. The City also objects on the grounds that Neumark’s understanding of the term “mass exodus” is vague, speculative, and assumes facts not in evidence.</p>

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<p>will ensue if pensions are reduced for existing and/or future retirees.<sup>9</sup> The source of this assertion is Chief Jones’ testimony, referring to feedback from an “informal list” of people considering leaving the department, provided by his command staff: “We have a variety of captains who are asked to keep a pulse on the department, and that’s employees who have told them that they are applying or in an application process or seriously considering leaving.”<sup>10</sup></p> <p>(Neumark Decl., Exh. B., pp. 6-7).</p>	
<p>This is the only “evidence” on which a prediction about the effects of pension cuts is based. This anecdotal information fails to meet standards of reliable social science evidence as it is not based on any kind of systematic data collection or interviewing, and cannot be used to study the potential impact of pension changes on retention or recruitment of police officers, or any other city employees. (Neumark Decl., Exh. B., p. 7).</p>	<p>The City objects on the grounds that Neumark mischaracterizes the cited evidence as the City’s “only” evidence. Furthermore, the City objects on the grounds that Neumark’s statement that the City’s evidence “fails to meet standards of reliable social science evidence” because it is “not based on any kind of systematic data collection or interviewing” and cannot be used for science-level studies is vague, speculative, assumes facts not in evidence, and is entirely irrelevant to the Court’s determination of the City’s eligibility for chapter 9. Fed. R. Evid. 401, 402.</p>
<p>One cannot conclude that past police force departures are solely due to compensation changes, or that any proposed pension changes would cause a “mass exodus” of police officers or substantially inhibit the ability to recruit and retain city employees. Any claim that pension cuts would cause a “mass exodus” of experienced police officers is unfounded since the only data we have been provided pertains to <i>past</i> departures, and we do not know why these occurred. (Neumark Decl., Exh. B., p. 7).</p>	<p>The City objects on the grounds that Neumark’s conclusion that “one cannot conclude that past police force departures are solely due to compensation changes” is vague, speculative, and assumes facts not in evidence. Neumark offers no independent analysis or evidence of his own showing what other factors would affect the City’s officers specifically, or what degree of impact any given factor might have. Instead, Neumark only points out other possible factors he thinks might be significant, while holding the City’s evidence to a level of scientific certainty. Because the City is not held to proving its concerns were based on a scientific standard of certainty, Neumark’s conclusion is also completely irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>



1	<b>PARAGRAPH OBJECTED TO</b>	<b>GROUND FOR OBJECTION</b>
<p>2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18</p>	<p>Data provided by City indicates that since January 1, 2012, there were 27 departures of police officers to other law enforcement jobs, an increase from earlier years (Figure 1).<sup>11</sup> These moves did follow cuts in additional pays (“add-pays”), with a particular reduction in pay for more-senior police officers.<sup>12</sup> Some of these departures may have been a response to the compensation cuts, including the reductions in longevity bonuses. But simply because the departures occurred at the same time as substantial pay and benefit cuts does not establish a causal link. In social science research, any claim that a factor (“X”) caused an outcome (“Y”) has to be bolstered by evidence that other factors (“Z”) did not <i>in fact</i> cause Y. Observing social systems over time generates a continual stream of data on events that occur at the same time, or with one followed soon by another. For example, President Barack Obama won re-election days after Hurricane Sandy hit the East Coast. But this temporal pattern does not establish causality, and the standards for doing so are much higher. (Neumark Decl., Exh. B., p. 7-8)</p>	<p>The City objects on the grounds that Neumark’s conclusion that the City cannot conclude, with scientific certainty, that past departures of police officers to other law enforcement jobs were the result of past compensation and benefit reductions is vague, speculative, and assumes facts not in evidence. Moreover, Neumark’s statements as to the City’s lack of scientific certainty are completely irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>19 20 21 22 23 24 25 26 27 28</p>	<p>What other factors could have been at play in the departures from Stockton’s police force? First, of the 27 departures mentioned above, one was likely an upward career move (to the FBI) unrelated to pay or benefit cuts, two were to universities, and one was to Idaho. Second, of the destination cities of the lateral transfers, most are to cities that present a much higher quality of life than Stockton, including places like Oceanside, CA (10 moves); Newport Beach, CA; Napa, CA; Berkeley, CA; and Monterrey, CA. Many of the cities to which police officers transferred are cities with very appealing features, including in many cases coastal or beach locations. Figure 2 gives evidence on crime in many of</p>	<p>The City objects on the grounds that Neumark’s reference to other factors that might have been considered by the officers who departed the City for other law enforcement jobs is speculative, vague, and assumes facts not in evidence, in that Neumark merely lists factors he thinks could have played a role, without any analysis or independent evidence whatsoever showing that such factors did play a role or to what degree they might have been considered. Moreover, Neumark’s implication that the City cannot, with scientific certainty, say that compensation and benefit cuts were the only factors considered by departing officers is irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>

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<p>these cities, as one example, and shows that Stockton has <i>much</i> higher rates of violent crime. The apparent availability of positions in other cities with a much higher quality of life could clearly have contributed to the lateral departures that occurred, for reasons having nothing to do with pay or pensions. (Neumark Decl., Exh. B., p. 8).</p>	
<p>Third, there is evidence of other sources of discontent among Stockton police that surfaced around the same time. Multiple news stories describe unhappiness with the Police Chief who preceded Chief Jones, discontent with potential changes to the shift schedule, the termination of specialized police units and the return of officers to patrol duty, the lack of a contract with the City, and the police union’s purchase of the house next to the City Manager to attempt to “intimidate” him.<sup>13</sup> It is possible that some of these other factors, or the uncertainty that they gave rise to, may have stemmed in part from the City’s fiscal difficulties. But these stories make the point that many factors were at play that could have induced police officers to leave Stockton, aside from compensation cuts. (Neumark Decl., Exh. B., pp. 8-9).</p>	<p>The City objects on the grounds that Neumark’s reference to other factors that might be considered by officers considering departing the City for other law enforcement jobs is speculative, vague, and assumes facts not in evidence, in that Neumark merely lists factors he thinks could have played a role, without any analysis or independent evidence whatsoever showing that such factors did play a role or to what degree they might have been considered. Moreover, Neumark’s implication that the City cannot, with scientific certainty, say that compensation and benefit cuts are the only factors considered by officers thinking about transferring is irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>Economic studies on migration indicate that factors such as compensation, both current and future, are not decisive in migration decisions. Non-economic factors including working spouses, friends, age, and local characteristics are also important in migration decisions. As a result one cannot conclude with certainty that changes in pension benefits will lead to a “mass exodus” of employees. (Neumark Decl., Exh. B., p. 9).</p>	<p>The City objects on the grounds that Neumark’s reference to other factors that might be considered by officers considering departing the City for other law enforcement jobs is speculative, vague, and assumes facts not in evidence, in that Neumark merely lists factors he thinks could have played a role, without any analysis or independent evidence whatsoever showing that such factors did play a role or to what degree they might have been considered. Moreover, Neumark’s implication that the City cannot, with scientific certainty, say that compensation and benefit cuts are the only factors considered by officers thinking about transferring is irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>

1 <b>PARAGRAPH OBJECTED TO</b>	<b> GROUNDS FOR OBJECTION</b>
<p>2 A large body of research in economics 3 studies the factors that influence economic 4 migration — that is, moving locations to 5 take another job. This literature establishes 6 a few key points that undermine claims that 7 pay (let alone pensions) is decisive. (The 8 next sub-section discusses this research in 9 more detail.) First, economic factors such 10 as compensation differences are not alone 11 decisive. Other factors such as leaving 12 behind relatives or friends, and working 13 spouses who do not want to change jobs, 14 can weigh heavily on such decisions. 15 Moreover, the economic influences may not 16 even be in the expected direction. Second, 17 the impact of economic factors diminishes 18 with age, implying that economic factors are 19 even less important for the more- 20 experienced police officers about which the 21 City is so concerned. Third, the group most 22 responsive to economic conditions in other 23 cities is those who are currently 24 <i>unemployed</i>, not those who are currently 25 <i>employed</i>. This central message from the 26 research on migration — that non-economic 27 factors are important — reinforces doubts 28 about any inference that the lateral transfers out of Stockton’s police force were driven by compensation cuts, and, more importantly, that a further “mass exodus” would be generated by any proposed cuts in pension benefits. (Neumark Decl., Exh. B., pp. 9-10).</p>	<p>The City objects on the grounds that Neumark’s reference to other factors that might be considered by officers considering departing the City for other law enforcement jobs is speculative, vague, and assumes facts not in evidence, in that Neumark merely lists factors he thinks could have played a role, without any analysis or independent evidence whatsoever showing that such factors did play a role or to what degree they might have been considered. Moreover, Neumark’s implication that the City cannot, with scientific certainty, say that compensation and benefit cuts are the only factors considered by officers thinking about transferring is irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>21 One powerful piece of evidence that 22 migration responses to economic factors are 23 very muted and sluggish, is the fact that 24 variations in unemployment rates across 25 cities and states are quite dramatic and 26 persistent. For example, as of October, 27 2012, unemployment rates ranged from 3.1 28 percent in North Dakota to 11.5 percent in Nevada.<sup>14</sup> Even among Stockton and the comparison cities the City refers to based on the survey by R.G. Anderson,<sup>15</sup> there are sharp differences. Figure 3 shows the rates for 2011 for the counties in which these</p>	<p>The City objects on the grounds that Neumark’s statement that “migration responses to economic factors are very muted and sluggish” is vague, speculative, and assumes facts not in evidence, because Neumark does not discuss how variations in the general unemployment rate are applicable to the City’s specific circumstances. Moreover, Neumark’s implication that the City cannot, with scientific certainty, say that compensation and benefit cuts are the only factors considered by officers thinking about transferring is irrelevant to the Court’s determination of the City’s eligibility</p>

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<p>cities are located, which range from 8.7 percent to 16.8 percent. Moreover, this is not an artifact of the Great Recession. These unemployment differentials are quite persistent. The figure also shows the rates for 2006, and the correlation across the two years is 0.95. The existence of these large and persistent unemployment rate differences belies the notion that workers migrate quickly for better job opportunities. (Neumark Decl., Exh. B., p. 10).</p>	<p>under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>This sub-section discusses the research on the economics of migration that was summarized above. This research establishes that many factors besides economic gains influence migration and decisions about where to work. The research indicates that economic factors such as compensation differences are not decisive and do not even necessarily have the predicted effect, and that small differences do not generate large migration responses. While the research on the economics of migration generally does not specifically quantify the effects of economic vs. other factors, it certainly demonstrates that non-economic factors play an important role. (Neumark Decl., Exh. B., pp. 10-11).</p>	<p>The City objects on the grounds that Neumark’s conclusion that scientific research “establishes that many factors besides economic gains influence migration” is speculative, vague, and assumes facts not in evidence, in that Neumark merely lists factors he thinks could have played a role, without any analysis or independent evidence whatsoever showing that such factors did play a role or to what degree they might have been considered. Moreover, Neumark’s conclusion is speculative and vague in that he does not consider the possibility that Stockton’s lack of appeal on certain non-economic factors might render compensation and benefits more, rather than less, important for the City’s retention of experienced officers. Finally, Neumark’s implication that the City cannot, with scientific certainty, say that compensation and benefit cuts are the only factors considered by officers thinking about transferring is irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>The classic original study of economic migration is Sjaastad (1962). He documented that economic factors do matter, but their importance declines with age, as the period over which the economic gain from migrating can be recouped declines with age. (Bowles (1970) reaches similar conclusions.) Migration for economic reasons declines with age, for investment reasons. The finding that</p>	<p>The City objects on the grounds that Neumark’s reference to research into other factors that might be considered by officers considering departing the City for other law enforcement jobs is speculative, vague, and assumes facts not in evidence, in that Neumark merely lists factors he thinks could have played a role, without any analysis or independent evidence whatsoever showing that such factors did play a role or to what degree they might have been considered.</p>

1 <b>PARAGRAPH OBJECTED TO</b>	<b>GROUND FOR OBJECTION</b>
<p>2 migration in response to economic factors 3 declines with age is confirmed in research 4 by Sandell (1977), Nakosteen and Zimmer 5 (1980), and Borjas (2000). Obviously this 6 finding is important in light of claims by the 7 City that the most severe threat from 8 pension cuts is the outflow of more- 9 experienced Stockton police officers, who 10 are of course older on average. (Neumark 11 Decl., Exh. B., p. 11).</p>	<p>Moreover, Neumark's implication that the City cannot, with scientific certainty, say that compensation and benefit cuts are the only factors considered by officers thinking about transferring is irrelevant to the Court's determination of the City's eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>8 Research by O'Neill (1970) undermines the 9 claim that declining pay in a worker's 10 current location provides a major push for 11 out-migration. Her work suggests that 12 declines in income (we can substitute 13 "compensation") in origin locations do not 14 necessarily predict out-migration. 15 (Neumark Decl., Exh. B., p. 11).</p>	<p>The City objects on the grounds that Neumark's reference to research into other factors that might be considered by officers considering departing the City for other law enforcement jobs is speculative, vague, and assumes facts not in evidence, in that Neumark merely lists factors he thinks could have played a role, without any analysis or independent evidence whatsoever showing that such factors did play a role or to what degree they might have been considered. Moreover, Neumark's implication that the City cannot, with scientific certainty, say that compensation and benefit cuts are the only factors considered by officers thinking about transferring is irrelevant to the Court's determination of the City's eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>18 Moreover, DeVanzo (1976) finds that when 19 local economic conditions (origin 20 unemployment rates) <i>do</i> affect out- 21 migration, this is predominantly for the 22 unemployed, who might view themselves as 23 having essentially no work opportunities 24 where they currently reside, rather than just 25 less remunerative work. In the present 26 context, this suggests that for workers 27 already employed — like Stockton's public- 28 sector workforce — origin economic conditions are less significant. (Neumark Decl., Exh. B., p. 11).</p>	<p>The City objects on the grounds that Neumark's reference to research into other factors that might be considered by officers considering departing the City for other law enforcement jobs is speculative, vague, and assumes facts not in evidence, in that Neumark merely lists factors he thinks could have played a role, without any analysis or independent evidence whatsoever showing that such factors did play a role or to what degree they might have been considered. Moreover, Neumark's implication that the City cannot, with scientific certainty, say that compensation and benefit cuts are the only factors considered by officers thinking about transferring is irrelevant to the Court's determination of the City's eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>

1	<b>PARAGRAPH OBJECTED TO</b>	<b>GROUND FOR OBJECTION</b>
<p>2 3 4 5 6 7 8 9 10 11</p>	<p>Fabricant (1970), Greenwood (1969), and Nelson (1959) suggest that the psychic costs of leaving behind relatives and friends could pose a substantial barrier to migration. They also point out that there could be psychic benefits of moving to localities to which relatives and friends have previously migrated, but again that would be independent of compensation considerations. Reinforcing the point that economic factors decline in importance with age, Gallaway (1969) argues that job security and family ties are also likely to be more important for older persons than for younger ones, which will further discourage older persons from migrating. (Neumark Decl., Exh. B., p. 12).</p>	<p>The City objects on the grounds that Neumark’s reference to research into other factors that might be considered by officers considering departing the City for other law enforcement jobs is speculative, vague, and assumes facts not in evidence, in that Neumark merely lists factors he thinks could have played a role, without any analysis or independent evidence whatsoever showing that such factors did play a role or to what degree they might have been considered. Moreover, Neumark’s implication that the City cannot, with scientific certainty, say that compensation and benefit cuts are the only factors considered by officers thinking about transferring is irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28</p>	<p>Finally, research by DeVanzo (1976) and Mincer (1978) emphasizes the important role of spouses in economic migration decisions. DeVanzo reports that families that move tend to select destinations where both the husbands’ and <i>wives</i>’ earnings are highest, so that the relevant comparison is not just what an individual worker can earn in alternative locations. Mincer (1978) also studied how family ties affect migration. He showed that such ties result in negative personal externalities that are usually internalized by the family and that thus tend to discourage migration. Related to this, Graves and Linneman (1979) find that marriage deters migration. The implication of this work is that one cannot simply compare compensation for one person where he or she currently lives with compensation elsewhere, and assume that this person will move — even more so when a working spouse figures into the decision. (Neumark Decl., Exh. B., p. 12).</p>	<p>The City objects on the grounds that Neumark’s reference to research into other factors that might be considered by officers considering departing the City for other law enforcement jobs is speculative, vague, and assumes facts not in evidence, in that Neumark merely lists factors he thinks could have played a role, without any analysis or independent evidence whatsoever showing that such factors did play a role or to what degree they might have been considered. Moreover, Neumark’s implication that the City cannot, with scientific certainty, say that compensation and benefit cuts are the only factors considered by officers thinking about transferring is irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>

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<p>While some of this evidence is dated, two more recent surveys by Greenwood (1985, 1997) point to very similar conclusions. These latter surveys also emphasize evidence of other factors aside from earnings differences between regions that influence migration decisions. These include: the importance of individual and family characteristics aside from income differences, including life-cycle factors such as marriage, divorce, starting a career, age of children, etc.; housing markets; amenities (which can include climate, crime, etc.). For example, Greenwood (1997) concludes that: "Migration frequently occurs in connection with a change in life-cycle circumstances, such as at the completion of one's college education, at the time of marriage, and soon after retirement" (p. 705). (Neumark Decl., Exh. B., pp. 12-13).</p>	<p>The City objects on the grounds that Neumark's reference to research into other factors that might be considered by officers considering departing the City for other law enforcement jobs is speculative, vague, and assumes facts not in evidence, in that Neumark merely lists factors he thinks could have played a role, without any analysis or independent evidence whatsoever showing that such factors did play a role or to what degree they might have been considered. Moreover, Neumark's implication that the City cannot, with scientific certainty, say that compensation and benefit cuts are the only factors considered by officers thinking about transferring is irrelevant to the Court's determination of the City's eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>In sum, the research on labor mobility all indicates that there exist numerous factors beyond compensation that affect the decision of an employee to migrate to another employer in a different location. (Neumark Decl., Exh. B., p. 13).</p>	<p>The City objects on the grounds that Neumark's reference to research into other factors that might be considered by officers considering departing the City for other law enforcement jobs is speculative, vague, and assumes facts not in evidence, in that Neumark merely lists factors he thinks could have played a role, without any analysis or independent evidence whatsoever showing that such factors did play a role or to what degree they might have been considered. Finally, Neumark's implication that the City cannot, with scientific certainty, say that compensation and benefit cuts are the only factors considered by officers thinking about transferring is irrelevant to the Court's determination of the City's eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>

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<p>Starting with the (unfounded) assumption that the past police officer voluntary departures were attributable to pay cuts, the City makes the further assumption that pension cuts would lead to more departures. When City Manager Bob Dies is asked, in his deposition, “[W]hat supports your belief that people will leave if there’s a modification of their pension benefits?” (p. 191), he answers, “We have already seen a huge amount of employees leaving the Police Department” (p. 192).<sup>16</sup> However, even if we were to accept — hypothetically — that the past compensation cuts did generate the past lateral moves, there is no reason to conclude from this that any (or modest) cuts in pensions would trigger a “mass exodus” of experienced police. (Neumark Decl., Exh. B., p. 13).</p>	<p>The City objects on the grounds that Neumark’s conclusion that, given the assumption that past officer departures were the result of compensation and benefit cuts, the City has “no reason” to be concerned that pension cuts might lead to additional transfers is speculative, vague, and assumes facts not in evidence. Moreover, Neumark’s contention that the City cannot, with scientific certainty, conclude that pension cuts will cause officers to transfer out of the City is irrelevant to the Court’s determination of the City’s eligibility for chapter 9. Fed. R. Evid. 401, 402.</p>
<p>The existing research literature (summarized below) provides two reasons to doubt that pension cuts would produce this effect. First, the research finds that younger workers are the ones more likely to migrate for economic reasons, but that younger workers are less attuned to their pensions. Thus, the research indicates that the mobility response to pension cuts may be quite muted both for older workers because they tend not to move for economic reasons, and for younger workers because they pay less attention to pensions. Second, the research literature does not establish any link between pension reductions and voluntary departures. (Neumark Decl., Exh. B., pp. 13-14).</p>	<p>The City objects on the grounds that Neumark’s conclusion that, given the assumption that past officer departures were the result of compensation and benefit cuts, the City has “no reason” to be concerned that pension cuts might lead to additional transfers is speculative, vague, and assumes facts not in evidence. Moreover, Neumark’s references to this research is speculative and vague because he does not identify how this research would apply to the City’s specific circumstances. Finally, Neumark’s contention that the City cannot, with scientific certainty, conclude that pension cuts will cause officers to transfer out of the City is irrelevant to the Court’s determination of the City’s eligibility for chapter 9. Fed. R. Evid. 401, 402.</p>



1 <b>PARAGRAPH OBJECTED TO</b>	<b> GROUNDS FOR OBJECTION</b>
2 The role of age in reducing migration 3 responses to economic factors may be 4 particularly important in thinking about the 5 potential effects of pension cuts. As 6 discussed above, the migration literature 7 implies that older workers are less likely to 8 migrate for economic reasons, whereas 9 younger workers are more attuned to these 10 influences. On the other hand, existing 11 research indicates that younger workers are 12 less attuned to (or even to know about) the 13 details of their pensions. (Neumark Decl., 14 Exh. B., p. 14).	The City objects on the grounds that Neumark’s reference to research into other factors that might be considered by officers considering departing the City for other law enforcement jobs is speculative, vague, and assumes facts not in evidence, in that Neumark merely lists factors he thinks could have played a role, without any analysis or independent evidence whatsoever showing that such factors did play a role or to what degree they might have been considered. Moreover, Neumark’s implication that the City cannot, with scientific certainty, say that compensation and benefit cuts are the only factors considered by officers thinking about transferring is irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.
12 Gustmann and Steinmeier (2005) explored 13 worker knowledge of pensions, using data 14 on what type of pension (defined benefit vs. 15 defined contribution) workers have, and, for 16 defined benefit plans, the age at which the 17 respondent expects to earn benefits and the 18 level of benefits (in absolute terms or 19 relative to final pay). These worker 20 responses are compared to responses about 21 actual plan details from employers. They 22 find considerable evidence of lack of 23 knowledge. When asked to estimate their 24 pension benefits, 41 percent were unable to 25 give a value, and only 15.9 percent were 26 within 75 to 125 percent of the actual value. 27 Gustmann and Steinmeier also examine 28 individuals’ knowledge about pensions based on various characteristics. They find that union members are a bit better informed, but still misinformed. For example, union members are 9 percentage points more likely to know the type of pension they have (on a base of 41 percent who do not know this), and have slightly better estimates of their pension value. Also, those with larger pensions have more accurate information about them. There is no information on how age affects pension knowledge, but since age is positively	The City objects on the grounds that Neumark’s conclusion that workers are often unaware of their pension benefits is vague, speculative, and assumes facts not in evidence because it does not consider the applicability of this research to the City’s specific circumstances (in particular, it does not consider the fact that the City’s employees are particularly aware of compensation and benefit cuts in light of the City’s ongoing negotiations and bankruptcy filings, and the accompanying press coverage thereof). Moreover, Neumark’s conclusion that the City cannot be sure whether its police officers are sufficiently aware of the proposed pension benefit cuts to consider transferring is also highly speculative, as well as irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.

1 <b>PARAGRAPH OBJECTED TO</b>	<b> GROUNDS FOR OBJECTION</b>
<p>2 correlated with pension value, it seems                      3 likely that older workers also have better                      4 information. Mitchell (1988) provides                      5 additional information on worker                      6 knowledge about pensions, using data from                      7 the Survey of Consumer Finances in 1983,                      8 which also allows comparison of worker                      9 reports to plan details. This paper finds that                      10 nonunion and less senior workers have less                      11 accurate knowledge about their pensions.                      12 (Neumark Decl., Exh. B., pp. 14-15).</p>	
<p>9 Second, existing research does not establish                      10 a link between pension reductions and                      11 voluntary departures. There is, though, a                      12 large body of work showing that the                      13 structure of pensions affects worker                      14 mobility — their incentive to stay with the                      15 firm, and to retire when they do (e.g.,                      16 Ippolito, 1986; Kotlikoff and Wise, 1989).                      17 This work suggests that the City is                      18 misplaced in focusing only on the level of                      19 pension benefits, when in fact the issue is                      20 the incentives created to stay with the                      21 employer. (Neumark Decl., Exh. B., p. 15).</p>	<p>The City objects on the grounds that the applicability of Neumark’s reference to research on the link between pension reductions and voluntary departures to the City’s specific circumstances is speculative, vague, and assumes facts not in evidence. Moreover Neumark’s conclusion that the City should focus on incentives rather than cuts to pension benefits is also speculative and is irrelevant to the Court’s determination of the City’s eligibility for chapter 9. Fed. R. Evid. 401, 402.</p>
<p>17 Turning to evidence on pensions and                      18 voluntary departures, Decressin et al. (2009)                      19 show that firms that offer pensions have                      20 lower turnover, and this is particularly true                      21 of defined benefit pension plans. However,                      22 they do not present evidence on how                      23 turnover changes in response to changes in                      24 offerings of defined benefit (“DB”) plans.                      25 Hill (2006) studies the effects of                      26 conversions of defined benefit to defined                      27 contribution plans. Her main interest is                      28 effects on firm productivity, but some of the                      analysis focuses on voluntary departures.                      This research finds <i>no</i> effects of conversion                      from a DB to a defined contribution (“DC”)                      plan on voluntary departures. There is                      reason to believe that conversions of                      pension plans reduce future payments by                      firms to workers. As Butrica et al. (2009)                      note, “When workers switch from DB to DC                      plans in midcareer, they lose the high-</p>	<p>The City objects on the grounds that the applicability of the research cited by Neumark regarding conversion from defined benefit to defined contribution plans to the City’s specific circumstances is vague, speculative, and assumes facts not in evidence because Neumark offers no explanation of how such research should impact the City’s concern regarding officer retention. Moreover, Neumark’s implication that the City cannot know, with scientific certainty, that a pension benefit reduction will not result in a substantial number of officers seeking to transfer is irrelevant to the Court’s determination of the City’s eligibility for chapter 9. Fed. R. Evid. 401, 402.</p>

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<p>accrual years in their DB plans and have fewer years to accumulate DC wealth” (p. 19). Moreover, DB plans are clearly viewed in the theoretical literature as a way to encourage retention. This is pertinent to the case at hand since if defined benefit plans do not have this effect, it is harder to argue that any cuts, or a modest reduction in benefits from DB plans, will spur major retention problems. (Neumark Decl., Exh. B., pp. 15-16).</p>	
<p>Additional evidence focused on the public sector comes from Bitter and Jepsen (2011), who study changes in pension programs in Michigan and Florida from DB to DC plans. Michigan closed its DB plan to new workers, who were offered instead a DC plan. Current employees were given a choice to remain in the old plan or not. Florida simply implemented choice for their workers. Unlike Hill’s work, they cannot directly measure voluntary departures. But they do find that these pension changes had no effect on workforce composition in terms of age (and other variables), which is suggestive of no effects on turnover. (Neumark Decl., Exh. B., p. 16).</p>	<p>The City objects on the grounds that the applicability of the research cited by Neumark regarding conversion from defined benefit to defined contribution plans to the City’s specific circumstances is vague, speculative, and assumes facts not in evidence because Neumark offers no explanation of how such research should impact the City’s concern regarding officer retention. Moreover, Neumark’s implication that the City cannot know, with scientific certainty, that a pension benefit reduction will not result in a substantial number of officers seeking to transfer is irrelevant to the Court’s determination of the City’s eligibility for chapter 9. Fed. R. Evid. 401, 402.</p>
<p>One very obvious reason why the claim that pension cuts would cause a “mass exodus” of experienced police officers is unfounded is that <i>no</i> data or evidence has been put forth linking cuts in pension payments to departures. That is, even if, hypothetically, we were to conclude that cuts in pay and non-pension benefits were responsible for past departures from the Stockton police force — and to reiterate, that conclusion is unfounded — such evidence would not address the claim that any, even modest, pension reductions would lead to similar departures. It may seem like stating the obvious, but the only type of evidence based on past behavior that could predict future</p>	<p>The City objects on the grounds that Neumark’s conclusion that, even assuming past cuts in pay and non-pension benefits were responsible for past departures, “such evidence would not address the claim that any, even modest, pension reductions would lead to similar departures” is speculative, vague, and assumes facts not in evidence. Neumark offers no independent analysis or evidence showing that this is not a reasonable conclusion, and states only that the City’s concerns are not based on evidence meeting a “social sciences standard of evidence.” The City is not held to that standard, and Neumark’s conclusion is therefore irrelevant to the Court’s determination of the City’s eligibility for</p>

1 <b>PARAGRAPH OBJECTED TO</b>	<b>GROUND FOR OBJECTION</b>
2 responses to pension cuts would be past 3 evidence on pension cuts. (Neumark Decl., 4 Exh. B., p. 16).	chapter 9. Fed. R. Evid. 401, 402.
5 However, even if we were to accept — 6 hypothetically — that predictions about the 7 effects of future pension cuts could be based 8 on past evidence on cuts in pay or non- 9 pension benefits, and even if we were to 10 accept — hypothetically — a causal link 11 between the two, there are yet additional 12 reasons that the City’s claim that pension 13 cuts would leave it with a less-experienced 14 workforce is unfounded. (Neumark Decl., 15 Exh. B., pp. 16-17).	The City objects on the grounds that Neumark’s conclusion that pension cuts would not raise the possibility that the City might end up with a less experienced workforce is vague, speculative, and assumes facts not in evidence because Neumark offers no independent analysis or evidence regarding that claim, and instead states only that the City cannot be sure of this result. Moreover, Neumark’s implication that the City cannot show that a less experienced workforce is a potential result of cutting pension benefits to a scientific certainty is irrelevant to the Court’s determination of the City’s eligibility for chapter 9. Fed. R. Evid. 401, 402.
16 First, the document on lateral transfers 17 described earlier shows that in 2011 and 18 2012 there were many lateral moves out of 19 Stockton by relatively inexperienced police 20 officers. (Neumark Decl., Exh. B., p. 17).	The City objects on the grounds that Neumark’s conclusion that pension cuts would not raise the possibility that the City might end up with a less experienced workforce is vague, speculative, and assumes facts not in evidence because Neumark offers no independent analysis or evidence regarding that claim, and instead states only that the City cannot be sure of this result. Moreover, Neumark’s implication that the City cannot show that a less experienced workforce is a potential result of cutting pension benefits to a scientific certainty is irrelevant to the Court’s determination of the City’s eligibility for chapter 9. Fed. R. Evid. 401, 402.
21 A more complete picture is provided by 22 Figures 4A-4F. These figures show the 23 distribution, by seniority (years of 24 experience) of the entire police force, all 25 departures, lateral departures out, and 26 retirements. Looking year by year, and at 27 all years combined, shows that the 28 distribution of lateral transfers by seniority is similar to that of the police force as a whole. That is, there is no indication that more-senior police officers were particularly likely to transfer to other cities. To see this in a simple summary measure, according to	The City objects on the grounds that Neumark’s conclusion that pension cuts would not raise the possibility of a less experienced workforce is vague, speculative, and assumes facts not in evidence. Neumark offers no independent analysis or evidence regarding that claim, and states only that the City cannot be sure of this result. Neumark’s implication that the City cannot show that a less experienced workforce is a potential result of cutting pension benefits to a scientific certainty is also irrelevant to the Court’s determination of the City’s eligibility for chapter

1 <b>PARAGRAPH OBJECTED TO</b>	<b> GROUNDS FOR OBJECTION</b>
2 data provided by the City the average 3 experience of the Stockton police force in 4 fact <i>increased</i> over the 2008-2012 period 5 covered by these data, from 10.2 to 10.9 6 years of experience. This evidence clearly 7 contradicts any claim that past 8 compensation cuts have led to a “mass 9 exodus” of experienced police officers. 10 (Neumark Decl., Exh. B., p. 17).	9. Fed. R. Evid. 401, 402.
7 Second, even if we were to accept — 8 hypothetically — that predictions about the 9 effects of future pension cuts could be based 10 on past evidence on cuts in pay or non- 11 pension benefits, and even if we were to 12 accept — hypothetically — a causal link 13 between the two, the City’s claim is 14 unconvincing. The police officers who may 15 have been most sensitive to compensation 16 differences between locations would have 17 been the ones who already moved, whereas 18 those less sensitive to compensation 19 differences — and we know from the 20 migration literature that many other factors 21 matter — would be the ones who have 22 remained. In other words, even if we were 23 to accept — hypothetically — that the past 24 departures were for economic reasons that 25 would carry over to pensions, there is good 26 reason to believe that those police officers 27 who have <i>stayed</i> in Stockton despite the 28 compensation cuts that have <i>already</i> occurred would be unlikely to move in response to any further pension cuts. (Neumark Decl., Exh. B., pp. 17-18).	The City objects on the grounds that the Neumark’s conclusion that the “City’s claim is unconvincing” is vague, speculative, and assumes facts not in evidence because Neumark presents no independent analysis or evidence regarding the validity of the City’s concerns, and instead states only that he is not convinced to a scientific standard of evidence. The City is not held to that standard, and Neumark’s conclusion is, therefore, irrelevant to the Court’s determination of the City’s eligibility for chapter 9. Fed. R. Evid. 401, 402.
22 This is a standard perspective in the social 23 science research on the causal effects of 24 individual responses to economic stimuli, 25 including government programs. In the 26 models used to estimate such effects, it is 27 typically assumed that there are differences 28 — or “heterogeneity” — across people in their response to policy (e.g., Heckman et al., 1999). For example, those with the greatest gain from participating in a government training program will be the	The City objects on the grounds that Neumark’s statements are vague, speculative, and assume facts not in evidence with regard to the application of the models he cites to the City’s specific situation. Moreover, Neumark’s conclusion that the City’s concerns do not satisfy these models is irrelevant to the Court’s determination of the City’s eligibility for chapter 9. Fed. R. Evid. 401, 402.

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PARAGRAPH OBJECTED TO	GROUNDS FOR OBJECTION
<p>ones who choose to participate, and those with smaller gains (or no gains) will not participate. Similarly, in the present context, those who would gain the most in terms of overall “utility” from moving to another city’s police force would have already done so, whereas those with the least to gain — in this case, presumably, because economic factors are less important in their decision — would not. (Neumark Decl., Exh. B., p. 18).</p>	
<p>The most obvious reason for this heterogeneity in responses is the interplay between economic and non-economic factors. Arguably, those who have not yet moved have other factors that mute the response to economic factors — such as working spouses, connections to family or friends in Stockton, etc. (Neumark Decl., Exh. B., p. 18).</p>	<p>The City objects on the grounds that Neumark’s reference to other factors that might be considered by officers considering departing the City for other law enforcement jobs is speculative, vague, and assumes facts not in evidence, in that Neumark merely lists factors he thinks could have played a role, without any analysis or independent evidence whatsoever showing that such factors did play a role or to what degree they might have been considered. Moreover, Neumark’s implication that the City cannot, with scientific certainty, say that compensation and benefit cuts are the only factors considered by officers thinking about transferring is irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>Another potentially important factor arises from constraints on residential mobility stemming from current circumstances in housing markets, as underwater homeowners face severe constraints on selling their home and moving. In particular, many homeowners are underwater, which at a minimum inhibits moving to new jobs that are far enough from away that commuting from Stockton is not feasible and would require residential moves. This may also act, in the near-term, to make moves to the private sector in Stockton the more plausible alternative, reinforcing the point above that comparisons to public-sector jobs in other cities may be less relevant. The City of Stockton’s “Proposals for Modifications to Obligations</p>	<p>The City objects on the grounds that Neumark’s reference to other factors that might be considered by officers considering departing the City for other law enforcement jobs is speculative, vague, and assumes facts not in evidence, in that Neumark merely lists factors he thinks could have played a role, without any analysis or independent evidence whatsoever showing that such factors did play a role or to what degree they might have been considered. Moreover, Neumark’s implication that the City cannot, with scientific certainty, say that compensation and benefit cuts are the only factors considered by officers thinking about transferring is irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>

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<b>PARAGRAPH OBJECTED TO</b>	<b>GROUND FOR OBJECTION</b>
<p>Under AB 506 Process” reports that Stockton has had the worst foreclosure rate in the U.S., and the second highest share of home loans that were underwater.<sup>17</sup> In October, 2012, the only comparator city (based on the Anderson report)<sup>18</sup> with a higher foreclosure rate than Stockton was Modesto (Figure 5). This stems from Stockton having experienced the sharpest housing price declines in recent years. (See Figure 5.) Of course not everyone was a homeowner, and not all homeowners in Stockton were underwater. But it is plausible that those who are underwater are much less likely to move elsewhere for economic reasons, and to the extent that those police officers are the ones who still remain in Stockton, they are unlikely to respond to any cut in pensions by moving. (Neumark Decl., Exh. B., pp. 18-19).</p>	
<p>The claims about recruitment difficulties are directly contradicted by the evidence. The October 23, 2012, memorandum from Police Chief Jones notes that of 155 Stockton police officers assigned to the Patrol Division, 50 have less than one year of experience.”<sup>19</sup> Moreover, data submitted by the City shows a high level of recruitment in 2011 and 2012, precisely the period when non-pension compensation cuts were occurring and fears about pension cuts may have surfaced. Specifically, a document provided by the City shows 1,002 applications to the City from a California POST-certified academy, 519 applications from recruits currently attending a California POST-certified academy, another 1,739 applications from entry-level trainees, and— most importantly with regards to concerns about experienced police officers—164 applications for lateral transfers from those who serve or served as peace officers in California and possess a California POST Basic Certificate or higher.<sup>20</sup> Moreover, for all categories except trainees these application numbers</p>	<p>The City objects on the grounds that Neumark’s conclusions regarding the City’s “recruitment difficulties” are speculative, vague, and assume facts not in evidence because Neumark offers no evidence or analysis regarding potential differences in quality in recruited officers as a result of the possibility of future pension cuts, and also offers no evidence or analysis as to the effort required by the City to attract qualified candidates. Moreover, Neumark’s conclusion that the City has access to new hires does not account for the institutional knowledge that would be lost if experienced officers were to transfer out of the City. Finally, Neumark’s conclusion that the City’s “claims about recruitment difficulties are directly contradicted by the evidence” is, in any case, irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>

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<p>are higher than in 2008. For lateral transfers into Stockton, the numbers for 2011 and 2012 are more than double the 2008 numbers. (Neumark Decl., Exh. B., p. 19-20).</p>	
<p>This direct evidence that the City has been able to recruit is also supported by other evidence. The City's data show that 64 individuals were hired in 2012, as of November 20, 2012.<sup>21</sup> A memorandum from Vanessa Burke, CFO, to the Mayor and City Council, dated December 11, 2012, notes that "some progress is being made on filling office vacancies ...the department has increased officer staffing from the approximately 320 level they were at as the fiscal year began, to 333. They are projecting they will reach 344 by the end of the calendar year ... There are four recruits in academy that will graduate by December, nine more due to begin academy at about the same time, and a sizeable number of candidates undergoing background checks" (pp. 700-1).<sup>22</sup> These 13 additional hires in December, combined with the 64 hired through November, bring the total for the year to over 70. The City acknowledges that there is no recruitment problem with respect to police. Despite claims about difficulties of recruiting, Chief Jones in his deposition acknowledges that upwards of 70 new officers were hired over the past year (p. 163) and the department is at capacity with regard to training new officers (p. 178). Finally, as further evidence on the availability of recruits, a news report on December 12, 2012, reports on 1,300 people applying to become officers with the Stockton police force applicants, concluding that "Police Chief Eric Jones ... said that there was twice the number of applicants at this training session than a training session held earlier this year."<sup>23</sup> (Neumark Decl., Exh. B., pp. 20-21).</p>	<p>The City objects on the grounds that Neumark's conclusions regarding the City's "recruitment difficulties" are speculative, vague, and assume facts not in evidence because Neumark offers no evidence or analysis regarding potential differences in quality in recruited officers as a result of the possibility of future pension cuts, and also offers no evidence or analysis as to the effort required by the City to attract qualified candidates. Moreover, Neumark's conclusion that the City has access to new hires does not account for the institutional knowledge that would be lost if experienced officers were to transfer out of the City. Finally, Neumark's conclusion that the City's "claims about recruitment difficulties are directly contradicted by the evidence" is, in any case, irrelevant to the Court's determination of the City's eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>



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<p>The relative ease in recruiting is not surprising, given the extraordinarily weak labor market in Stockton. A RAND study (Wilson and Grammich, 2009) discusses findings from a national summit on police recruitment and retention in urban environments. It notes that, according to participants, since the downturn in the economy in late 2008 and early 2009, “many of those [departments] fortunate enough to be able to hire new officers have found a bounty of qualified applicants due to the lack of hiring elsewhere and the volume of those laid off from other industries” (p. iii, bracketed word added). Similarly, a RAND study of police recruitment in San Diego (Ridgeway et al., 2008) noted that “[T]he prospects for more effective local recruiting are encouraging ... law enforcement in general, pays well relative to employment opportunities for young people without college degrees” (p. 113). (Neumark Decl., Exh. B., p. 21).</p>	<p>The City objects on the grounds that Neumark’s conclusions regarding the City’s “recruitment difficulties” are speculative, vague, and assume facts not in evidence because Neumark offers no evidence or analysis regarding potential differences in quality in recruited officers as a result of the possibility of future pension cuts, and also offers no evidence or analysis as to the effort required by the City to attract qualified candidates. Moreover, Neumark’s conclusion that the City has access to new hires does not account for the institutional knowledge that would be lost if experienced officers were to transfer out of the City. Finally, Neumark’s conclusion that the City’s “claims about recruitment difficulties are directly contradicted by the evidence” is, in any case, irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>Even if we accept — hypothetically — that pension cuts would prompt senior police to leave, precluding any pension cuts for all city workers is a remarkably inefficient way to deter these departures. It would be far more efficient to create explicit incentives to encourage longevity of the police force, which would target a far smaller number of workers. This type of explicit policy is preferable to continuing to appeal to claims of the need to remain competitive with other cities, a process that has likely led to continued ratcheting up of public-sector compensation, and contributed to the City’s financial difficulties in the first place. Rather, the City should focus its resources more efficiently on solving particular personnel problems that arise in managing its workforce. (Neumark Decl., Exh. B., pp. 21-22).</p>	<p>The City objects on the grounds that Neumark’s opinion as to efficient ways to “deter these hypothetical departures” is completely speculative, vague, and assumes facts not in evidence. Neumark presents no analysis or discussion of his proposed alternatives, and thus cannot say with certainty whether they would be more efficient than the City’s payment of pension benefits. Moreover, Neumark’s conclusion as to whether the City has adopted the “most efficient” means of retaining officers, to a level of scientific certainty, is irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>

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<b>PARAGRAPH OBJECTED TO</b>	<b>GROUND FOR OBJECTION</b>
<p>There are approximately 340 police officers in Stockton out of a workforce of approximately 1,400, <sup>24</sup> and only a subset of those police officers in experienced. I am not aware of evidence the City has introduced that it is facing retention difficulties for other categories of city workers. Given that, a decision to retain current pension benefits for all city workers would end up spending a great deal of money that plays no role in avoiding the one problem the City has emphasized – the potential departure of experienced police officers. (Neumark Decl., Exh. B., p. 22).</p>	<p>The City objects on the grounds that Neumark’s statement that he is “not aware of evidence” that the City is facing “retention difficulties for other categories of city workers” is completely speculative, vague, and assumes facts not in evidence. Moreover, these statements are completely irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>
<p>Fortunately, in the present context of an alleged prospective exodus of some 20 to 40 experienced police officers from Stockton, there is a far more efficient and less costly solution than preserving full pensions for all 1,400 city workers. Specifically, the police department can use targeted incentives to encourage longevity of services, such as the longevity “add-pays” it has used in the past. These can be structured so as to create incentives for police officers to remain in Stockton, as they would be lost if an officer left the City. And they can also be structured to provide higher pay or bonuses for multiple levels of service, hence making them much more salient for less experienced police officers that the department would like to retain, but for whom the value of pensions may have little influence. (Neumark Decl., Exh. B., p. 22).</p>	<p>The City objects on the grounds that Neumark’s opinion as to efficient ways to “deter these hypothetical departures” is completely speculative, vague, and assumes facts not in evidence. Neumark presents no analysis or discussion of his proposed alternatives, and thus cannot say with certainty whether they would be more efficient than the City’s payment of pension benefits. Moreover, Neumark’s conclusion as to whether the City has adopted the “most efficient” means of retaining officers, to a level of scientific certainty, is irrelevant to the Court’s determination of the City’s eligibility under chapter 9. Fed. R. Evid. 401, 402.</p>

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Dated: February 15, 2013

ORRICK, HERRINGTON & SUTCLIFFE LLP

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