

From: Glassman, Paul R.  
Sent: Thursday, November 15, 2012 11:27 AM  
To: Buchanan, Laura  
Subject: FW: In re City of San Bernardino (Case No. 12-28006 Bankr. C.D. Cal.)

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From: Sargent, Brandy [mailto: [REDACTED]@stoel.com]  
Sent: Tuesday, November 13, 2012 3:58 PM  
To: Glassman, Paul R.  
Subject: In re City of San Bernardino (Case No. 12-28006 Bankr. C.D. Cal.)

Mr. Glassman,

Thank you for your telephone call last week regarding my client, American Traffic Solutions (ATS).

Per our discussion, I understand that the City plans to reject its lease agreement with ATS. I was expecting to receive an email from you to that effect, but have not heard from you as of this email.

After reviewing the local rules for the Central District, it appears that a motion to reject would likely qualify for consideration under the "notice and an opportunity for a hearing" procedure under Local Rule 9013-1(o). If I'm reading the rule correctly, all that is required is 14 days' notice. Because the next status hearing in this case has not been scheduled until December 21, there is more than sufficient time for a simple motion to reject to be filed and served on the limited number of parties required by FRBP 6006(c).

In the interim, my client intends to comply with the requirements of its agreement with the City and the limitations of the automatic stay. As far as I can determine, the requirement that a motion to reject be filed under Rule 6006 applies equally in a Chapter 9 case, and ATS is not willing to risk a violation of the automatic stay by disconnecting or removing any equipment prior to entry of a rejection order.

Please let me know when you are available to discuss preparation of an agreed motion.

Best Regards,

Brandy A. Sargent, Of Counsel  
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From: Glassman, Paul R.  
Sent: Friday, November 16, 2012 8:40 PM  
To: 'Sargent, Brandy'  
Cc: Buchanan, Laura  
Subject: In re City of San Bernardino (Case No. 12-28006 Bankr. C.D. Cal.)

Re: Vendor Service Agreement between American Traffic Systems and City of San Bernardino

Dear Ms. Sargent,

I am writing to follow up on our earlier conversation and your emails regarding the red light camera contract between your client, ATS, and the City of San Bernardino. As I indicated to you, this confirms that the City, now a debtor in a Chapter 9 bankruptcy case, has determined that this contract is burdensome and has exercised its rights to reject the contract. We will file a motion confirming the court's authorization to do so very shortly. As you noted, the motion can be filed without setting a hearing, so we will file it with a notice of opportunity to request a hearing. Since the City desires that your client pick up its equipment as soon as possible, I advised you in our conversation that the City has tendered the equipment back to your client and ATS does not need a stipulation for relief from the automatic stay. The City will not assert a stay violation if ATS picks up the equipment before the Court enters an order approving rejection of the contract which the City considers already rejected.

Please have your client discontinue the operation of the cameras and contact Captain Raymond King with the City to arrange for removal of the cameras and to make arrangements to wind down processing of violations in the pipeline under Section 4 d of the agreement. As the agreement requires, please ask ATS to leave installed foundations in place, with the surface approximately level with grade and with no exposed anchor bolts or other visible hazards. ATS' authorization to use the City's Agency ORI for the Niets system will terminate when all pending violations have been processed.

I understand from your email that ATS may choose not pick up the equipment until the Court enters an order approving the rejection, but to be clear, as I advised in our conversation, the City is tendering it for pick up as quickly as possible.

The City at a later date will ask the Court to set a deadline for ATS to file a claim for damages from rejection.

Sincerely,

Paul