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25 UNITED STATES BANKRUPTCY COURT
26 EASTERN DISTRICT OF CALIFORNIA
27 SACRAMENTO DIVISION

28 In re:
CITY OF VALLEJO, CALIFORNIA,
Debtor.

Case No. 2008-26813

Adv. No. 2010-02136

DC No. OHS-1

Chapter 9

Official Unsecured Creditors Committee
of City of Vallejo Retirees,

**CITY'S MOTION TO DISMISS
FIRST AMENDED COMPLAINT
[FED. R. BANKR. P. 7012(B)]**

Plaintiff,

v.

Date: June 28, 2010

Time: 9:00 a.m.

Crtrm: A

Judge: Hon. Michael S. McManus

City of Vallejo, California,
Defendant.

1 Complaint address the City's treatment of the monetary contribution the City makes (or
2 purportedly must make) to each retiree's health benefits. Those causes of action are possessed, if
3 by anyone, by the individual retirees whose health benefits have been affected, and can be
4 asserted against the City only by those retirees. Absent standing, the Complaint must be
5 dismissed. The Committee's substantive allegations similarly fail as a matter of law.

6 The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and
7 157(b). This is a core proceeding pursuant to 28 U.S.C. §157(b)(2). Venue in the Eastern
8 District of California is appropriate pursuant to 28 U.S.C. §§ 1408 and 1409.

9 This Motion is based on the Memorandum, the request for judicial notice, the
10 record in this case, and the evidence, arguments, and representations that may be presented at or
11 prior to the hearing on the Motion.

12 WHEREFORE, the City respectfully requests that the Court enter an order:
13 (i) dismissing with prejudice the First Amended Complaint filed on April 22, 2010, by the
14 Official Unsecured Creditors Committee of City of Vallejo Retirees; and (ii) granting such other
15 and further relief as the Court deems to be just and proper.

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17 Dated: May 6, 2010

ORRICK, HERRINGTON & SUTCLIFFE LLP

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19 /s/ Marc A. Levinson

Marc A. Levinson
Norman C. Hile
Michael Weed

Attorneys for the City of Vallejo, Debtor

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22 Dated: May 6, 2010

RENNE SLOAN HOLTZMAN SAKAI LLP

23
24 /s/ Charles D. Sakai

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Genevieve Y. Ng
Steven P. Shaw

Attorneys for the City of Vallejo, Debtor