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COVANTA HARRISBURG, INC.,  
Plaintiff

IN THE COURT OF COMMON  
PLEAS DAUPHIN COUNTY,  
PENNSYLVANIA

v.

No. 2010-CV-13120

CITY OF HARRISBURG and PAUL P.  
WAMBACH, TREASURER OF THE CITY  
OF HARRISBURG,

Defendants

CIVIL ACTION - LAW

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INTERVENER, RECIEVER FOR THE CITY OF HARRISBURG'S, MOTION FOR A  
STAY OF PROCEEDINGS

Dated: June 7, 2013



Joshua J. Vecchio  
Supreme Court No. 93354  
Governor's Office of General Counsel  
Office of Receiver for the  
City of Harrisburg  
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Intervener, Receiver for the City of Harrisburg (hereinafter "Intervener" or "Receiver") by its undersigned attorney, respectfully moves this Honorable Court to stay the proceedings in this matter and in support thereof states:

1. On July 19, 2011, Plaintiff, Covanta Harrisburg (hereinafter "Plaintiff" or "Covanta") filed a Motion for Summary Judgment and a Memorandum of Law in support thereof.
2. On September 19, 2011, Defendants, City of Harrisburg and Paul P. Wambach, Treasurer of the City of Harrisburg (hereinafter collectively referred to as "Defendants"), filed their Answer to Plaintiff's Motion for Summary Judgment and Brief in support thereof.
3. On September 22, 2011, Plaintiff filed a Certificate of Readiness to indicate that its Motion for Summary Judgment was ready for disposition.
4. On February 6, 2012, David Unkovic,<sup>1</sup> who at the time was the Receiver for the City of Harrisburg, filed a Petition to Intervene in the above-captioned matter.
5. On February 24, 2012, Plaintiff filed a response and brief in support thereof in opposition to the Petition to Intervene filed by the Receiver.

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<sup>1</sup> On December 2, 2011, David Unkovic, having been previously nominated by Governor Thomas Corbett, Jr. for the position of statutory receiver for the City of Harrisburg pursuant to applicable provisions of the Municipalities Financial Recovery Act, Act of July 10, 1987, P.L. 246 (*as amended*), 53 P.S. §11701.101, *et seq.* ("Act 47 as amended"), was appointed to be the Receiver for the City of Harrisburg by Order of the Commonwealth Court of Pennsylvania.

Thus, effective December 2, 2011, Mr. Unkovic began a two-year term of service as the Receiver for the City of Harrisburg pursuant to the provisions of Chapter 7 of Act 47 as amended, during which the Receiver was charged with the responsibility of formulating a recovery plan for the City of Harrisburg that, among other things, ensured the "[c]ontinued provision of vital and necessary services." 53 P.S. §11701.703(b).



6. On March 9, 2012, Plaintiff filed a Certificate of Readiness to indicate that the Receiver's Petition to Intervene in the above-captioned matter was ready for disposition.
7. On March 30, 2012, David Unkovic resigned as the Receiver.
8. On May 11, 2012, the Pennsylvania Department of Community and Economic Development filed a petition for appointment of a new Receiver for the City of Harrisburg in the Commonwealth Court of Pennsylvania. The Commonwealth Court had scheduled a hearing on the petition for appointment for May 24, 2012.
9. On May 24, 2012, Gen. William Lynch (ret.) was appointed to be the Receiver for the City of Harrisburg by Order of the Commonwealth Court of Pennsylvania.
10. On September 5, 2012, this Honorable Court issued an order granting the Receiver's Petition to Intervene in the above-captioned matter.
11. On January 9, 2013, Plaintiff filed a Certificate of Readiness with this Honorable Court indicating that its Motion for Summary Judgment was ready for disposition.
12. On January 22, 2013, the Receiver filed a Motion for Leave of Court to file a Brief Opposing Covanta's Motion for Summary Judgment.
13. On January 24, 2013, Covanta filed a response to the Receiver's Motion for Leave of Court to file a Brief Opposing Covanta's Motion for Summary Judgment and raised a New matter.



14. On January 28, 2013, the Receiver filed its response to Covanta's New Matter.
15. On February 22, 2013, the Receiver filed a Certificate of Readiness with this Honorable Court indicating that its Motion for Leave of Court to file a Brief Opposing Covanta's Motion for Summary Judgment was ready for disposition.
16. On May 15, 2013, this Honorable Court granted the Receiver's Motion for Leave of Court to file a Brief Opposing Covanta's Motion for Summary Judgment.
17. Section 706 of Act 47 lists the powers, duties and prohibited actions of the Receiver. Section 706 provides:

Neither this chapter nor the recovery plan shall be interpreted to authorize the receiver to do any of the following: . . . (3) unilaterally impair or modify existing bonds, notes, municipal securities or other lawful contractual or legal obligations of the distressed city or authority, **except as otherwise ordered by a court of competent jurisdiction.**
18. The Receiver is presently involved in prolonged negotiations with all major creditors of the City of Harrisburg. Attached as "Exhibit A" is a signed statement from the Receiver indicating that negotiations are ongoing.
19. Presently, Covanta is seeking the entry of judgment against the City of Harrisburg due to the City's failure to pay Covanta sums due and owing under contract law as well as the Local Government Unit Debt Act.
20. Covanta's attempt to move this case to judgment will frustrate the ongoing negotiations between the Receiver and all major creditors of the City of Harrisburg.

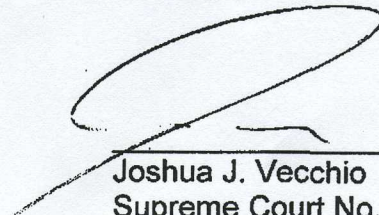


21. The benefits to the parties and this Court outweigh any harm that could be caused by a stay.
22. Failure to issue a stay of these proceedings would likely frustrate the ongoing negotiations between the Receiver for the City of Harrisburg and all the City's major creditors. See "Exhibit A".
23. If negotiations between the Receiver and the major creditors are not successful, the City of Harrisburg may file for Chapter 9 bankruptcy which could affect the payments received by all of Harrisburg's creditors (including Covanta).
24. In accordance with Local Rules of Civil Procedure 208.2(d) and 208.2(e), the undersigned counsel hereby certifies that the full text of the motion was sent to all parties involved on June 5, 2013. Plaintiff does not consent to the relief requested. Defendants consent to the relief requested.
25. A hearing is necessary for this Motion and no discovery is necessary. Should this Court so choose, the parties will already be appearing in Court on June 24, 2013 for oral argument regarding Covanta's Motion for Summary Judgment. This Honorable Court may hold oral argument on this Motion at that time.



WHEREFORE, Intervener, Receiver for the City of Harrisburg, respectfully moves this Honorable Court to stay the above-captioned proceedings pending the conclusion of negotiations between the Receiver and all major creditors for the City of Harrisburg but not to exceed 60 days in length.

Respectfully submitted,



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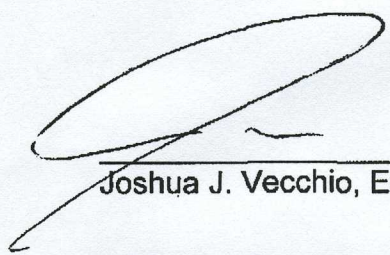
**CERTIFICATE OF SERVICE**

I, Joshua J. Vecchio, Esquire, counsel for Intervener, Receiver for the City of Harrisburg, in the above-captioned matter, hereby certify that I served a true and correct copy of the within **MOTION FOR A STAY OF PROCEEDINGS**, by first class mail, postage paid, on the following:

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Date: June 7, 2013

  
\_\_\_\_\_  
Joshua J. Vecchio, Esquire



COVANTA HARRISBURG, INC,  
Plaintiff

v.

CITY OF HARRISBURG and PAUL P.  
WAMBACH, TREASURER OF THE CITY  
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Defendants

: IN THE COURT OF COMMON  
: PLEAS DAUPHIN COUNTY,  
: PENNSYLVANIA

: No. 2010-CV-13120

: CIVIL ACTION - LAW

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2013, Intervener,  
Receiver for the City of Harrisburg's, Motion to Stay the Proceedings in the above-  
captioned matter is hereby \_\_\_\_\_. It is directed that proceedings are  
stayed until the earlier of 60 days from the date of this order or until all negotiations  
between the Receiver and all major creditors of the City of Harrisburg have concluded.

\_\_\_\_\_  
Scott Arthur Evans, Judge

**Distribution:**

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Chambers of Judge Scott Arthur Evans