

FORUM
February 21, 2012

1 FORUM ON MICHIGAN'S EMERGENCY MANAGER LAW
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10 The Forum on Michigan's Emergency Manager Law,
11 Taken at Soul Harvest Ministries,
12 16300 Woodward Avenue,
13 Highland Park, Michigan,
14 Commencing at 5:39 p.m.,
15 Tuesday, February 21, 2012,
16 Before Melinda S. Moore, CSR-2258.

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1 PARTICIPANTS:

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3 The Honorable John Conyers, Jr.

4 Michigan's 14th Congressional District

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6 The Honorable Hansen Clarke

7 Michigan's 13th Congressional District

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9 The Honorable Gary Peters

10 Michigan's 9th Congressional District

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12 The Honorable Bert Johnson

13 Michigan's 2nd Senate District

14

15 The Honorable John Olumba

16 Michigan's 5th House District

17

18 The Honorable JoAnn Watson

19 Detroit City Council

20

21 PANELISTS/WITNESSES

22 Mr. Joseph Harris

23 Emergency Manager, Benton Harbor

24

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- 1 Rev. David Alexander Bullock
- 2 Rainbow PUSH Coalition Detroit
- 3
- 4 Professor Kenneth N. Klee (Via Telephone)
- 5 UCLA School of Law
- 6
- 7 Mr. James E. Spiotto (Via Telephone)
- 8 Chapman & Cutler, LLP
- 9
- 10 Professor Jocelyn Benson
- 11 Wayne State University Law School
- 12
- 13 The Honorable Lee Jones
- 14 President, Pontiac City Council
- 15
- 16 The Honorable Kermit Williams
- 17 Pontiac City Council
- 18
- 19 The Honorable Marcus Muhammad
- 20 Benton Harbor City Commission
- 21
- 22 Mr. Chris Michalak
- 23 Secretary-Treasurer, Metropolitan
- 24 Detroit AFL-CIO
- 25

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- 1 Mr. Keith Johnson
- 2 President, Detroit Federation of Teachers
- 3
- 4 Mr. Kenneth Cole
- 5 Representative for the City of Detroit
- 6 to Michigan State Government
- 7
- 8 Mr. Brandon Jessup
- 9 Chairman, Michigan Forward
- 10
- 11 Mr. John Philo
- 12 Legal Director, Sugar Law Center
- 13
- 14 Mr. Herbert Sanders
- 15 The Sanders Law Firm, P.C.
- 16
- 17 The Honorable Martha Scott
- 18 Former Mayor, Highland Park
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1 Highland Park, Michigan
2 Tuesday, February 21, 2012
3 5:39 p.m.

4 CONGRESSMAN CONYERS: Good evening,
5 ladies and gentlemen. Let's give all of ourselves
6 a big hand of applause for starting this on
7 time -- or nearly. Thank you very much. I'm
8 honored to have my experts with me. Congressman
9 Hansen Clarke of the 13th Congressional District,
10 give him a round of applause. Gary Peters,
11 Congressman, 9th Congressional District, give him
12 a hand of applause. Honorable Bert Johnson of the
13 2nd Senate District of Michigan from Highland
14 Park, give him a round of applause. State
15 Representative John Olumba, Highland Park, 5th
16 House District, and the one and only JoAnn Watson
17 of the Detroit Common Council.

18 We are gathered tonight for the first
19 official discussion of the Michigan Emergency
20 Managers Law in this congressional forum in which
21 we've invited so many distinguished members,
22 lawyers, constitutional experts, citizens, mayors,
23 and even an emergency manager himself. All right,
24 now.

25 We're happy to start off with our

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1 witnesses. They range from John Philo, the legal
2 director of the Sugar Law Center. Give him a
3 round of applause. The one and only, professor at
4 Wayne State University Law School, Professor
5 Jocelyn Benson. Where is she? She's missing.
6 She was here. Okay. Attorney James Spiotto,
7 Chapman & Cutler, the law firm, where is he? He's
8 on the phone. Okay. Mr. Joseph Harris, emergency
9 manager, Benton Harbor, where is he? Please. All
10 right, now. And Professor Kenneth Klee of the
11 University of California -- School of Law, UCLA,
12 where is he? Oh, he's on the phone, too, okay.

13 In addition, we have a number of other
14 distinguished leaders. Some have not arrived yet.
15 But I'm just going to call their names: Fred
16 Durhal, Michigan 6th House District and
17 chairperson of the Michigan Legislative Black
18 Caucus, the Honorable Thomas Stallworth, the
19 House, Michigan. Mayor DeAndre Windom of Highland
20 Park will be here. The Honorable Lee Jones,
21 president, Pontiac City Council, the Honorable
22 Kermit Williams, Pontiac City Council, the
23 Honorable Marcus Muhammad, Benton Harbor City
24 Commission. All right. And last but not least,
25 Kenneth Cole, representative for the City of

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1 Detroit to the Michigan State Government. And
2 Lamar Lemons, president of the Detroit School
3 Board is with us. Oh, and the attorney that is
4 the general counsel of AFSCME, Herbert Sanders.
5 Thank you very much.

6 We will now begin our testimony via
7 satellite or FM or video from Professor Kenneth
8 Klee of the UCLA School of Law. Let's welcome him
9 and thank him for joining us.

10 PROFESSOR KLEE: Congressman Conyers,
11 I'm sorry that I can't be there in person to
12 testify before your distinguished town hall. It's
13 my pleasure to address one narrow aspect of the
14 constitutionality of the Emergency Financial
15 Manager Act. The act appears to be a carefully
16 drawn piece of legislation to deal with financial
17 issues in Michigan. However, the act in my
18 judgement goes too far when it permits the
19 emergency manager to reject a collective
20 bargaining agreement outside the context of a
21 Chapter 9 bankruptcy.

22 In particular, a collective bargaining
23 agreement is a very serious contract entered into
24 by a municipality and its employees. In order to
25 reject such a contract, the act must comply to

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1 Article 1, Section 10, the so-called Contract
2 Clause of the Constitution. Although the
3 Constitution on its face prohibits from passing
4 laws that [inaudible] obligations of the contract,
5 the Supreme Court has interpreted the Constitution
6 for [inaudible] to allow [inaudible] to
7 [inaudible] contracts in certain circumstances.

8 In particular, under the Spannaus case,
9 the Supreme Court [inaudible] three questions are
10 posed to [inaudible]. If the act passes all those
11 questions, it is constitutional. Otherwise, it
12 fails.

13 The first question is is the
14 contractual impairment substantial. Now, if it's
15 not, and it's [inaudible] impairment, it fails
16 [inaudible]. Stated another way, only material
17 impairments of obligations of contracts are
18 unconstitutional. In this case, the act permits
19 the wholesale rejection of collective bargaining
20 agreements. There can be no doubt that that's a
21 contractual impairment [inaudible]. [Inaudible]
22 to the second question, does the law serve a
23 legitimate public purpose such as remedying a
24 general social or economic problem.

25 Now, it would sound on its face that if

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1 there is a self-declared financial emergency, that
2 the act would satisfy a legitimate [inaudible].
3 The Supreme Court has set forth very strict
4 requirements for such a [inaudible] to be
5 satisfied. There must be a severe financial
6 emergency of severe proportion. The way the
7 Michigan Emergency Financial Manager Act was
8 drafted, there are [inaudible] in the act that can
9 justify a finding of severe financial emergency
10 that in my considered judgement don't [inaudible]
11 necessary to [inaudible] severe emergency within
12 the guidelines of the Supreme Court. As much, I
13 don't believe the Michigan Emergency Financial
14 Manager Act satisfies [inaudible] the public
15 purpose test, but I acknowledge that if
16 [inaudible], if that question is answered in favor
17 of the act, there is a third requirement, that the
18 means chosen to [inaudible] are reasonable and
19 necessary. I think that the wholesale rejection
20 of collective bargaining outside [inaudible] is
21 neither reasonable nor necessary.

22 The act fails to consider [inaudible].
23 For example, the Bankruptcy Act itself in Section
24 11, Part b(3) permits temporary modification
25 necessary to prevent irreparable damage. There's

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1 no such provision in the Michigan act.

2 Moreover, case law, although the cases
3 are [inaudible] on this point, says that if a
4 union contract is rejected and a [inaudible] that
5 the plan of adjustment must contain a [inaudible]
6 provision to give the union workers the benefits
7 that they gave up during the time of financial
8 crisis.

9 Michigan pays lip service to this
10 requirement by stating that the rejection of a
11 collective bargaining agreement is temporary.
12 There's nothing in the act or implementation of
13 the act that provides for a [inaudible] of a
14 collective bargaining agreement once the
15 municipality returns [inaudible].

16 CONGRESSMAN CONYERS: Could you
17 conclude, sir, with your last sentence, please.

18 PROFESSOR KLEE: I'm sorry, I couldn't
19 hear.

20 CONGRESSMAN CONYERS: Can you conclude
21 with your last sentence, please.

22 PROFESSOR KLEE: I'm sorry, you're
23 either too close to the microphone or the volume
24 is too loud here. I can't hear.

25 CONGRESSMAN CONYERS: Okay. Well, then

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1 I'm going to cut you off and replace you. That's
2 all I can do.

3 Professor Kenneth Klee from UCLA School
4 of Law testifying from New York City. Give him a
5 round of applause and thank him for his very
6 cogent legal testimony. There will be others that
7 will be testifying.

8 I am now pleased to announce that the
9 Rev. Pastor David Bullock is in the house, and so
10 is Representative Jimmy Womack. If you would
11 recognize them with a round of applause. Where
12 are they? Okay. All right.

13 Now, I am pleased to recognize --
14 Shanelle Jackson is here, okay. State
15 Representative Shanelle Jackson is with us. Okay.
16 Thank you.

17 I am now pleased -- and to the
18 gentleman I'm going to introduce, I would really
19 like him to get a resounding round of applause,
20 not for who he is or what he does, but because he
21 had the fairness and justice in his mind and heart
22 to come here to this hearing even though he is the
23 emergency manager of Benton Harbor. Let's give
24 him a round of applause. I welcome you, sir.

25 MR. HARRIS: Thank you. Thank you for

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1 your consideration. I wanted to say -- I know I
2 don't have much time, but I did want to say that
3 I'm not an attorney. I'm not qualified to speak
4 on the legal aspects of the law. I can only tell
5 you that I am here in support of it, because it
6 has done so much good in the city where I've had
7 the opportunity to manage. So thank you for the
8 invitation.

9 Let me just say very quickly that --
10 again -- I have just three points that I would
11 like to make. One of them has to do with state
12 oversight programs. The real question that comes
13 to mind is this: When a city -- when a local
14 government has financial difficulty, emergencies,
15 the question is, what do you do? The state has
16 the ultimate responsibility for ensuring that --
17 the safety, the health -- public safety, the
18 health, the welfare of its citizens. It does not
19 give up those rights -- not rights, constitutional
20 obligations when authority is transferred to local
21 governments. The state has to. It's obligated to
22 come in.

23 And for those of you who are
24 interested, I did prepare a summary that explains
25 what we've done in Benton Harbor and why the state

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1 has -- is obligated to come in, and just how much
2 good it has done.

3 Let me also say that the last thing
4 that you want is municipal bankruptcy, and that is
5 what could occur if the state does not intercede
6 and right this ship. Bankruptcy is the last thing
7 you want, because as the professional was saying,
8 there are -- and it's indicated in my papers for
9 any of those who wish to have the summary of what
10 has happened in other states, particularly
11 Vallejo, California, where pensioners lost their
12 benefits, where others -- where the employees had
13 to give back 30 percent of their -- of their -- of
14 their salaries, et cetera. If we can right the
15 ship without going through bankruptcy, then
16 everyone is better off.

17 Third point, state's rights. The state
18 does have the right to run -- to come in and
19 intercede and to run cities. That is a -- it's
20 called state's rights. In other words, the
21 Constitution does not prohibit the state from
22 coming in and running the entire state, for that
23 matter. And so that is not a constitutional
24 issue. The constitutional issue that the
25 professor brought up, and rightly so, have to do

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1 with this consideration or question as to whether
2 the state can discontinue contracts -- labor
3 contracts. And I note that's a contentious issue.

4 As I read Public Act 4, it says that
5 the emergency manager can modify or terminate
6 provisions of the -- of contracts, and I realize
7 that's questionable, but I don't think anyone is
8 considering throwing out the contracts and
9 starting with a fresh slate.

10 Last point -- and I need my glasses for
11 this. Last point: The emergency manager brings
12 much more than financial management to cities.
13 The emergency managers bring expertise that is not
14 available at the cities. We have brought in to
15 Benton -- and I won't say all cities. I will say
16 certainly in Benton Harbor -- and if you can read
17 my paper, you can appreciate what I'm saying. In
18 Benton Harbor we did not have the expertise to do
19 the types of things that we're doing. And so
20 we've been able to reduce a \$6 million -- that's
21 all we have -- \$6 million budget -- down to \$6
22 million from seven and a half million dollars, and
23 we have not reduced public safety, we have not
24 reduced the cleaning of the streets, et cetera.
25 In fact, we've improved all that.

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1 And I do know, again, that my time is
2 short, so I won't take any more of your time. But
3 I will say that it does work. It can work. And
4 there are some cities that it's really absolutely
5 essential that the state intercede. Thank you.

6 CONGRESSMAN CONYERS: Thank you, sir.
7 And I again applaud you for coming to this forum.
8 You did not have to show up. You did show up.
9 You stated your opinion. And we hope that you'll
10 stay around to join in the back-and-forth that
11 will occur.

12 Now, I introduce to you Attorney James
13 Spiotto, Chapman & Cutler, by video and other
14 telecommunications means.

15 MR. SPIOTTO: Thank you, Congressman,
16 and thank you members of the panel. The issue of
17 state and local government relationships and also
18 how to deal with the issue of a local government
19 in financial distress has a proud history of very
20 constructive resolution through the history of
21 this country. The reason for that is the state at
22 least historically has worked with its local
23 governments to find ways to bridge financial
24 problems, that found ways to work with the local
25 government to deal with their issues, to help them

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1 towards a road to recovery. It has been by mutual
2 cooperation. Some of the best examples of that
3 have been New York City in 1975, where with the
4 help of the state and the Municipal Assistance
5 Corporation, they solved some very difficult
6 financial problems that helped the city become and
7 continue what it is to that state and to the
8 United States.

9 Philadelphia, Pennsylvania in 1991 had
10 the commonwealth work with them on an
11 intergovernment cooperation. The city still
12 remained in control of its destiny. The state
13 helped them come up with a recovery plan, balanced
14 their budget, and also moved certain services to
15 other governmental agencies to reduce its cost,
16 and allowed it to bridge that troubled situation
17 and obviously returned, recovered, and are a vital
18 part of that commonwealth.

19 Also Cleveland in '78 had problems. No
20 one would lend it money. The state gave it
21 financial aid and helped it work through its
22 situation.

23 The states throughout the United States
24 have come up with different and unique ways. The
25 question I think you posed is very good. I think

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1 what you are doing is very constructive. And what
2 you're really doing is sending a message, how can
3 we help local governments in trouble revolve their
4 problems.

5 The states have gone from oversight
6 with [inaudible] advisory commissions looking at
7 how much debt really should be committed to direct
8 oversight through financing. The question with
9 the emergency manager with extraordinary powers is
10 when, if ever, is that needed, and if it is
11 introduced before exploring the intergovernment
12 cooperation and trying to bridge it so that local
13 elected officials, its citizens and its workers
14 can come to a plan of recovery that works for
15 them, which is the best way of doing it. But if,
16 in fact, it becomes a plan dictated from on high,
17 its success and the continued recovery is
18 threatened, because it's the local government, its
19 citizens and its workers that need to decide and
20 implement their future.

21 We have various ways of doing it:
22 Financial control boards in New York, Act 47 in
23 Pennsylvania, refinancing and oversight
24 authorities in New Jersey and other states. They
25 worked with a degree of cooperation.

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1 Obviously if things completely break
2 down, if they're totally dysfunctional, you have
3 to look for partial [inaudible]. By and large,
4 states and their local governments have tried to
5 avoid any type of oversight that is being too
6 dictatorial or Chapter 9, for example. Very
7 rarely do municipalities have to make use of it
8 because it is admission of the failure to be able
9 to deal with [inaudible] both by the state and its
10 local government.

11 So I think there are a lot of good
12 examples. I think your efforts are to be
13 applauded because there are interim steps that can
14 be taken before supplanting a local government or
15 its elected officials or disconnecting that
16 cooperation and spirit that is needed not only
17 between state and local government but between its
18 workers and its taxpayers. Thank you.

19 CONGRESSMAN CONYERS: Thank you very
20 much. From Chicago, Illinois, Attorney James
21 Spiotto, Chapman & Cutler. Give him a round of
22 applause, please. Thank you.

23 And now, Wayne State University Law
24 School professor, Attorney Jocelyn Benson. Let's
25 welcome her.

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1 PROFESSOR BENSON: Thank you,
2 Congressman. And thank you for providing me with
3 the opportunity to testify before your committee
4 today. My comments will address Section 2 of the
5 Voting Rights Act. It's an area of law that I
6 teach and I focus my career on as also the
7 associate director of the Damon Keith Center for
8 Civil Rights and as the director of the Michigan
9 Center for Election law.

10 I really want to talk about whether
11 Michigan's Emergency Financial Manager Law, Public
12 Act 4 is a potential violation of the Voting
13 Rights Act. And I will say if it's -- it has the
14 potential to be a violation of Section 2 in
15 reality, and certainly is a violation of the
16 Voting Rights Act in spirit.

17 Almost 50 years ago, civil rights
18 activists across the country rejoiced in the
19 passing of one of the best pieces of legislation
20 that Congress has he ever enacted, and I believe,
21 Congressman, it was one of your first votes, if I
22 recall. It certainly was, you know, a critical
23 aspect of ensuring that we have federal law in
24 this country that protects the voices of everyone.
25 It was a crowning achievement of the civil rights

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1 movement and the culmination of the bloody series
2 of events seeking to add statutory protections to
3 ensure that no citizen was denied the right to
4 vote or the ability to elect their candidate of
5 choice on account of their race or color.

6 Under Section 2 of the Voting Rights Act, a
7 private party or the Justice Department can bring
8 a suit to challenge any existing law that results
9 in the denial or abridgement of the right to vote
10 on the basis of race, color or language-minority
11 status. Section 2 claims require a court to
12 evaluate the totality of the circumstances under
13 which the law is being enforced in order to
14 determine whether a violation has occurred. In
15 other words, the court must examine the overall
16 context of the election systems to determine
17 whether the challenged law causes minority voters
18 to have less opportunity than other members of the
19 electorate to participate in the political
20 process.

21 Let's think about that language,
22 whether a law causes minority voters to have less
23 opportunity than other members of the electorate
24 to participate in the political process or elect
25 representatives of their choice. That is the

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1 standard of the Voting Rights Act. And here,
2 while the trigger in PA4 is neutral based on
3 financial solvency of the municipality or school
4 district, there is significant evidence that the
5 amended Emergency Financial Manager Law has a
6 disproportionate impact on the state's
7 African-American and Latino population. Of
8 Detroit's 713,000 residents, 89 percent are
9 African-American. Similarly, about 89 percent of
10 Benton Harbor's residents are Black, and that
11 number is 46 percent in Ecorse, 52 percent in
12 Pontiac, and nearly 57 percent in Flint. The City
13 of Inkster, with a population of 25,000, which was
14 recently appointed an emergency financial manager,
15 has a Black population of 73 percent.

16 Having emergency financial managers in
17 this city -- in these cities mean that unelected
18 officials would govern and do govern the majority
19 of the state's Black population. This would
20 suggest that under the totality of the
21 circumstances where you have a law that's being
22 enforced to ensure, again, that the majority of
23 African-Americans in this state are governed by
24 unelected officials, this suggests that it would
25 result in the African-Americans having less

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1 opportunity for self-governance than other members
2 of Michigan's electorate.

3 In addition, the way in which this law
4 is being enforced sends an implicit message of
5 disempowerment and suppression. Imagine going to
6 the polls on election day to vote in your city
7 election only to hear on the radio on your way to
8 the polls that your vote for mayor will be
9 overruled by a state authority appointing an
10 emergency financial manager to take over the city.
11 Imagine hearing that on your way to the polls to
12 vote. Well, that's exactly what happened in Flint
13 last November. Flint, a majority Black city,
14 Flint residents, state officials announced on
15 Election Day that they would likely appoint an
16 emergency financial manager to oversee Flint's
17 finances after declaring a financial emergency in
18 the city. That's what voters heard when they were
19 on the way to the polls. Again, this is a
20 majority Black city.

21 I say all this to emphasize also I,
22 like I think, everyone here, we all believe
23 strongly in reforms that have the potential to
24 improve our cities and our government. We want to
25 improve the political arena. We want to see our

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1 city [inaudible]. And reforms that promote and
2 require accountability and transparency from our
3 public officials can change government for the
4 better. Solutions that improve the efficient and
5 cost effective delivery of government services
6 makes society better, and changes that give
7 citizens a greater voice in their government like
8 campaign finance disclosure laws and redistricting
9 reform are long overdue and can create a better
10 arena for all of us. These types of reforms bring
11 us closer to the ideals imbedded in the Voting
12 Rights Act and in our United States and state
13 constitutions. These documents that established
14 branches of government that were to be of, for,
15 and accountable to the people. But Michigan's
16 Emergency Financial Manager Law takes us further
17 away from those ideals.

18 Now, to be clear, the state's fiscal
19 health is dependent upon the solvency of its
20 cities and towns, and Michigan has an interest in
21 protecting its local governments. But it is
22 inconsistent with democracy for managers to take a
23 shortcut around the democratic process in order to
24 gain local authority.

25 I believe managers should, if they have

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1 expertise, should be able to run in local
2 elections and gain the job of running the place,
3 because if they're going to be empowered to
4 essentially run the local government, they should
5 have to convince more people than the Governor and
6 his appointees that they are right for the job.
7 They should be required to win over the people who
8 live in the locality and convince them that they
9 are right to fix the town.

10 At the very least, in times of
11 financial emergency, managers should be appointed
12 with the consent of the citizens over which they
13 will have authority, and those citizens should not
14 only have a say in who is appointed as manager,
15 they should also be able to have the ability to
16 remove a manager who has abused their power or
17 exceeded their authority without the current high
18 hurdles of the law. Because, let's face it,
19 accountability -- accountability is in a
20 democracy. Thank you.

21 CONGRESSMAN CONYERS: Thank you,
22 Jocelyn Benson.

23 Our last witness is Attorney John
24 Philo, nephew of Harry Philo, and legal director
25 of the Sugar Law Center, named after the late

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1 Maurice Sugar. Welcome Mr. Philo -- Attorney
2 Philo.

3 MR. PHILO: Thank you, Congressman.
4 And thank you for pulling this together. I'd also
5 like to thank my co-counsel on whose shoulders I
6 in part rest here, and the Honorable JoAnn Watson
7 for pushing us all to give this the serious
8 attention that it deserves.

9 Some of these -- well, let me go to my
10 notes. The nation's founders long ago recognized
11 that democracy -- our democracy is not the
12 quickest, the most efficient form of government at
13 times. This is not a new concept. They described
14 it as it's not the most expedient, but it is the
15 best form of government. Traditions of our
16 country have always placed a higher importance on
17 democracy than on temporary efficiencies. We've
18 done so because governance gains legitimacy
19 through the consent of residents and those people
20 who are governed. With checks and balances, it
21 precludes the exercise of arbitrary power.

22 The consolidation of political power at
23 any level of government, federal, state or local
24 in one unelected individual risks losing the
25 consent of the governed that is rife with

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1 opportunities for abuse. In times of economic
2 crisis, more democracy, not less, is needed.
3 During such times there's going to have to be some
4 very hard choices made in policies and practices.

5 However, the causes and consequences of
6 the present global economic meltdown were not
7 caused at the local level. They were not caused
8 even at the state level. They're national in
9 scope; they're global in scope. And we know what
10 those causes are. It was a failure to regulate
11 the banking financial industry in this country.

12 There are some people -- you know, I
13 don't know the drafters of the bill and I don't
14 know all these emergency managers personally, and
15 I truly do believe some of them come from a place
16 where they are trying to help. Others, not so
17 much. But regardless of the particular
18 motivations, this Public Act 4 evokes some very
19 old bigotries and biases in this country. It is
20 not a new story. At the outset of the country,
21 poor people were considered not to have the
22 requisite discretion to choose who should be our
23 leaders. It took 200 years of court battles,
24 legislation, and changes in mindsets by all of us
25 to get to the point where we recognize that race

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1 or wealth is not -- should never be a condition
2 for someone's voting rights.

3 This law and some of the defenders of
4 the law attempt to divorce any consideration of
5 the wealth or the race of the community that is
6 getting an emergency manager. This is an
7 artificial divorce. By definition, if your
8 community is getting an emergency manager, you are
9 a poor community. That poverty, particularly in
10 this current recession, was directly caused by a
11 massive loss of household wealth. I think it's
12 something like \$17 trillion or something that was
13 determined. And that's hit those people who were
14 already at the, you know, lower middle class,
15 middle class, as we call it in this country, and
16 lower the hardest. They've seen all their
17 investment in their home that they purchased, that
18 they put down payments on gone, poof. They saw
19 their property values collapse. And unemployment
20 is -- I mean, it's -- you know, we put it
21 officially at 10 percent, and it's at 25 or better
22 in these communities.

23 With that loss -- municipalities depend
24 on income taxes and property taxes for a
25 disproportionate amount of their income, and with

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1 that loss, they're now in trouble. Well, that is
2 a wealth equation.

3 And I think Professor Benson has
4 highlighted the racial component. Over 50 percent
5 of our Black population in the state is losing its
6 right in whole or in part to vote in the local
7 elections -- over 50 percent.

8 I'm not going to go too heavily into
9 any legal theories, but we filed a lawsuit and
10 it's proceeding through the courts, and under the
11 Michigan State Constitution, and they also have
12 some consideration in federal constitutional
13 claims.

14 The emergency manager laws violate --
15 blatantly violate separation of powers. Each time
16 an emergency manager can pass local laws, those
17 are lost, folks. You violate them, you get fined.
18 You can't do it. Okay? Our Constitution requires
19 that there be a legislative branch to pass those
20 laws. There is no legislative branch in local
21 government anymore.

22 Additionally, constraints on state
23 government from adopting local law says we
24 [inaudible] majority vote of that local residents.
25 That's gone. There's no local residents that are

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1 getting a chance to vote. And these emergency
2 managers are state officials or they're private
3 contractors. Take your choice, either
4 way it shouldn't be allowed.

5 CONGRESSMAN CONYERS: Attorney John
6 Philo. Let me thank all of the panelists, and
7 introduce in the audience the president of Council
8 25 AFSCME, Al Garrett is here with us. And the
9 chairman of Michigan Forward, Brandon Jessup is
10 also in the audience. Would you give all of our
11 panelists a round of applause.

12 And now I'm going to recognize my
13 colleagues in the Congress and the distinguished
14 councilwoman who has a meeting. I will allow them
15 to make a brief introductory remark, throw a
16 question or two at whomever they choose, and we'll
17 take them in order of Hansen Clarke, Gary Peters,
18 and JoAnn Watson. Let's welcome them.

19 Oh, I'm sorry. Excuse me. Oh, we've
20 got two more. Johnson, too? State
21 Representative -- excuse me, State Representative
22 Olumba is recognized. And forgive me. I thought
23 you were just one of your honored guests on the
24 dais. Give him a round of applause. Mr. Olumba.

25 REPRESENTATIVE OLUMBA: Yes, thank you.

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1 And good evening, everyone. I'm blessed to be
2 here. I want to recognize the one who allowed us
3 all to be here, the Heavenly Father up above, who
4 really is the arbiter of all that is going on
5 right now, who will ultimately have the last say
6 in the struggles that we persevere through on a
7 day-to-day basis, including the financial ones.

8 And so I -- just my brief comments in
9 terms of I've really been fighting this Public Act
10 4. Since almost like the day I was elected, they
11 started moving it. I've only been in the House
12 now for a single term, and this has taken up
13 probably a majority of my time in terms of some of
14 the things that I've been focused on.

15 I found that Public Act 4 is repugnant
16 to my common sense, not only just my legal sense,
17 because the first question that I ask is even when
18 we're talking about Public Act 72, what is it
19 about Public Act 72 and the people who were
20 appointed under Public Act 72 and those that are
21 now appointed under Public Act 4 -- what is it
22 about them and what is about the job that they've
23 done that has actually produced sustainable
24 results. And so to me, I think with anyone,
25 whether elected or appointed, if they're working

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1 on behalf of the people, they ought to be able to
2 show a record -- a record of the work that they've
3 done. And that's what the transparency and
4 accountability is about. And emergency managers
5 in the past haven't been able to do that and show
6 sustainable results.

7 Sure, you can bring the budget into
8 line one year. Some haven't even done that. But
9 they haven't been able to show anything
10 sustainable because the problem is a systemic one;
11 it's a pervasive one. It goes into what Mr. Philo
12 was talking about. It's a much larger problem
13 than just day-to-day budget issues. It's also
14 talking about urban disinvestment where people
15 leave the areas. And so what is it that an
16 emergency financial manager or financial manager
17 or emergency manager -- the three different terms
18 that they use -- what is it that they're going to
19 do that allows for a resurgence of the population?

20 And so -- and then the other thing that
21 I think is important -- and I know that we want to
22 keep the time short, but I think it's worth
23 pointing out, is that recently we've heard about
24 challenges to whether or not the law's being
25 followed with respect to their open meetings, and

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1 I think this is important because any time that
2 you're working on behalf of the people and you say
3 that you're coming to do something that is
4 positive, you wouldn't have any problem about
5 operating in a way that is open and transparent.

6 And so the gentleman, Robert Davis, and
7 the people down at AFSCME, as I understand -- and
8 they -- how they've been doing a tremendous job in
9 terms of staying on top of these things, but they
10 filed suit and the judge has at least decided -- I
11 think he has to file an order -- said that you all
12 are appointing these managers in such a way -- the
13 review team in such a way that it's not open. And
14 so, therefore, this review team is meeting, but
15 what are they actually deciding? What are they
16 actually deciding? And I think that's important
17 because we as individuals, we can go to the
18 meeting and they would be -- they would have to,
19 if they have the expertise that Mr. Harris is
20 talking about -- if they have it, because I doubt
21 that many of them do -- they would have to point
22 out and show us the metrics. They would say
23 here's where you are financially today, here's
24 what we found, and then give us about six months
25 and say here's where we'll end up, and then we'll

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1 be able to hold them accountable on that timeline.

2 But, again, even with the City of
3 Detroit situation -- and I'll close on this. With
4 the City of Detroit situation, on the first day
5 they came and said there was a massive cash
6 problem, and then as they saw they weren't going
7 to be able to articulate a cash problem, they
8 turned around and said, well, it's a legacy debt
9 problem. So the point that I'm making is that if
10 it was an open meeting and they had to lay
11 everything out in front of the people, then we
12 would be able to see exactly where we are and
13 where we need to go. We would have some
14 accountability.

15 And so just last week I met with the
16 Speaker of the House in Lansing, and I said -- he
17 said, well, we have an issue, because we won't be
18 able to appoint our managers because of this open
19 meetings lawsuit. I said, well, why not just
20 start over, appoint your team, and have them do it
21 in the open. But I suppose -- and I'm going to
22 put it to you and you can draw the inference --
23 that that's not an option. That's not an option,
24 because it will require serious justification and
25 accountability. So I'll leave you with that. But

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1 thank you for the time.

2 CONGRESSMAN CONYERS: State
3 Representative John Olumba. Thank you very much.

4 And now we have the Honorable Bert
5 Johnson, the senator from the 2nd District of
6 Michigan, with us, a Highland Parker. Welcome,
7 sir.

8 SENATOR JOHNSON: Thank you,
9 Congressman. Good evening, family. It's good to
10 see you all. And to the mother and father of this
11 house, thank you for having us here this evening.

12 This is a collection of great people
13 with great perspective on this issue. I won't
14 repeat anything that's been said. I will add a
15 new wrinkle, though. I think this emergency
16 manager -- number one, we're going to defeat this,
17 okay? We're going to put in petitions. We're
18 going to state the law. And the Republicans'
19 attempt to do the next phase of this chicanery,
20 we'll stop that, too, if we have to go back to the
21 folks.

22 The important thing to remember here, I
23 believe, is that this has to be and continue to be
24 a people-driven fight. People who are being --
25 people who are being divested of their interest in

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1 these locales or these cities or school districts
2 must be engaged.

3 For instance, the reason that in the
4 City of Highland Park we stood up to formulate
5 something known as the Financial and Academic
6 Reinvestment Commission was to not simply study
7 the school district and the emergency management
8 pushed on top of the system, but was to explain
9 publicly and with the express support of people
10 that there has been systemic and wholesale
11 disinvestment. If it can be said that school
12 districts, are, in fact, creatures of the city,
13 cities then creatures of the state, then we
14 understand that the state has not simply an
15 oversight managerial legal responsibility to see
16 these cities and these school districts back to
17 fiscal health, but also has a function known as --
18 a fiduciary responsibility really to invest in
19 these cities.

20 Each of the enclaves today that are
21 sitting under emergency management can boast 30 to
22 40 to 50 years of systemic disinvestment and
23 disenfranchisement. When you extract major
24 manufacturing firms and they take with them the
25 people who moved into that town, and the tax base

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1 that goes with it, the property tax base, they
2 also take their children. This school district is
3 but a microcosm of a larger disease. So I would
4 challenge you to think along these lines as well
5 in addition to all the information we've heard
6 here tonight and will continue to hear.

7 If you don't have a functional school
8 system in a given city, if you don't have working
9 libraries, if you don't have adequate police and
10 fire services, you don't have a city that will
11 ever come back to promise. And this disinvestment
12 that we've seen that this state continues to
13 ignore -- I'm sure Councilwoman Watson will talk
14 about the money that the state owns us. If, in
15 fact, the state would simply give us the
16 revenue-sharing dollars that the City of Detroit
17 deserves, she's not having this conversation.
18 People have to evidence that to the Governor, and
19 they've got to do it in a way where no is not an
20 acceptable answer.

21 So I'll close on this. Thursday we're
22 having a public hearing that is people driven --
23 people driven. We've invited folks from around
24 the state to come in and testify about what is
25 important to them. No one ever asked the people

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1 what they're [inaudible]. And I can say to you
2 verily, I told the Governor this morning, who, by
3 the way, has called me three to four times this
4 weekend. He wants me to sit down and have a
5 conversation about Highland Park. I told him I'll
6 be happy to have that conversation just as soon as
7 I check with my people. And I invited him to this
8 public hearing on Thursday, not that he'll come,
9 but maybe one of his handlers will.

10 And if there is a teaser that I can
11 offer you, we started this commission just a few
12 short weeks ago. We promised that we would come
13 up with -- because everybody asks, what will you
14 do in the absence of an emergency manager to solve
15 your own financial crisis. I can tell you we've
16 done it. We've got a report that is stunning. It
17 is people led and people driven, and it will get
18 us out of some of these structural and systemic
19 fixes. God bless you all.

20 CONGRESSMAN CONYERS: Bert Johnson,
21 thank you very much.

22 Last, but not least, Councilwoman JoAnn
23 Watson.

24 COUNCILWOMAN WATSON: Good evening,
25 Mr. Chairman. I want to take a moment to salute

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1 the dean of the Congressional Black Caucus, the
2 ranking democrat on the House Judiciary Committee.
3 Your boldness, your brilliance, your magnificence
4 in representing us down through the years has
5 filled up this church and filled our hearts with
6 pride, hope, faith and joy. We thank you. We
7 thank you for being our congressman. Oh, yes, we
8 do.

9 First and foremost, let me say that
10 Public Act 4, which is the act that enabled the
11 emergency manager implementation, is a dictator
12 act. It's in clear violation of the United states
13 Constitution on three levels. Article 1, Section
14 10, states in part, "No state shall enter into any
15 law impairing the obligation of contracts,"
16 unquote.

17 Article 4, Section 4, "The United
18 States shall guarantee to every State in the Union
19 a Republican Form of Government." That's
20 republican with a small R. That means that the
21 people have a right to select their own
22 representatives. "...and shall protect each of
23 them against invasion."

24 Number three, the 14th Amendment,
25 section 1, "All persons born or naturalized in

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1 these United States, and subject to the
2 jurisdiction thereof, are citizens of the United
3 States and of the State wherein they reside. No
4 state shall make or enforce any law which shall
5 abridge the privileges or the immunities of
6 citizens of the United States; nor shall any State
7 deprive any person of life, liberty or property,
8 without due process of law; nor deny to any person
9 within its jurisdiction...equal protection..."

10 Public Act 4 allows an emergency
11 manager to invalidate union contracts, strips away
12 the fundamental franchise of its citizens, and to
13 impose an emergency manager, undemocratic,
14 unelected leadership on the 50 percent of the
15 African-Americans in the State of Michigan.

16 Thus far, a barrier-breaking
17 communication authored by Congressman John Conyers
18 to the U.S. Attorney General Eric Holder calling
19 for an investigation and possible intervention
20 into the application of Public Act 4, that we
21 praise God for that. That deserves applause from
22 this body.

23 There's also been a major loss -- and I
24 salute Herbert Sanders, the general counsel of
25 AFSCME, Michigan Council 25, Al Garrett, John

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1 Philo, Sugar Law Center, Bill Goodman, Julie
2 Hurwitz and all those, like Attorneys Richard Mack
3 who have been involved in leading a dream team,
4 leading an act with 28 plaintiffs, one who is
5 here, our sister, and maybe others who are here.
6 I know Edith Lee-Payne is here. We have
7 plaintiffs from all over this state standing for
8 justice and the [inaudible] of Public Act 4.

9 We also should know that Brandon
10 Jessup, a magnificent young man, has [inaudible]
11 Michigan Forward, and there will be victory next
12 week on February 29th as we take 210,000
13 signatures into Lansing to file for repeal of
14 Public Act 4. We want everybody to get on that
15 bus. Get on the bus. And that is to file these
16 petitions and demand the repeal and the scale-back
17 of Public Act 4.

18 Finally, as we come to grips with the
19 reality that fully two-thirds of the states in the
20 United States, according to the president of the
21 National NAACP, Mr. Ben Jealous, [inaudible] voter
22 suppression, two-thirds of the states in the
23 United States, including Michigan. But make no
24 mistake about, this is not just a local issue.
25 This is about the national Republican agenda --

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1 and that's with a big R -- designed to shield the
2 voters before the November election. I know I'm
3 right about it.

4 This is a significant -- significant
5 finding that ought to cause every citizen in this
6 region and in this state to stand -- to stand --
7 to stand on the Constitution, to stand on the U.S.
8 Constitution and the Michigan Constitution. We
9 are fully citizens. We're going to demand our
10 constitutional rights are protected. We will not
11 go back.

12 Thank you, Mr. Chairman.

13 CONGRESSMAN CONYERS: Thank you, JoAnn
14 Watson. Give her a round of applause, please.
15 JoAnn Watson, councilwoman, Detroit City Council.

16 It's now my pleasure to recognize my
17 colleague in the Congress, Congressman Hansen
18 Clarke. Let us welcome him.

19 CONGRESSMAN CLARKE: Thank you. Being
20 in the house of the Lord, giving honor to God, and
21 giving reverence to our host, Bishop Evans, and to
22 our leader, Chairman John Conyers.

23 I'd like to share with you my
24 observations on the testimony that we just heard,
25 but also in those observations will be questions

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1 for any of the panelists to address. So the
2 question as I heard it from the lawyers that
3 testified is that when you're looking at whether
4 the emergency financial manager is constitutional,
5 whether those powers are able to break collective
6 bargaining agreements is constitutional, you've
7 got to look at what was the cause of the financial
8 crisis in the first place in the city. Brother
9 Philo just laid it right out. It's because of
10 foreclosures. We forced folks out of their home,
11 either outright evicted them and Congress allowed
12 it. They passed all these laws to allow us to be
13 targeted by these predatory loans.

14 Now, if you look and listen to the
15 testimony of the first professor, he mentioned a
16 case, U.S. Supreme Court case, that says that --
17 and many people will use this case in saying,
18 well, it's all right to pass a law to change some
19 contracts because in 1934 there was this Blaisdell
20 case in the United States Supreme Court that
21 allows a state law to modify a contract. But you
22 know what? I read the case. Do you know what the
23 case was about? It upheld a state moratorium on
24 foreclosures. If we need to modify any contract,
25 it's the mortgage between the lender and the

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1 homeowner to allow them to stay in their homes
2 when they can afford to maintain their property,
3 you see? So that's what I'd like to put forth as
4 if there's any law that we need to enact, if
5 there's any contract that needs to be changed, it
6 has nothing to do with the collective bargaining
7 agreements. We need to deal with these mortgages
8 that can keep our people in their homes. That's
9 how you save our property values and save our
10 neighborhoods. That's what this is all about.

11 So, now, with -- and that is a
12 question, too, as well, for any of you.

13 Now, the other thing -- let me just
14 deal with Detroit in particular, okay, because I'm
15 born and raised in Detroit, and this emergency
16 financial manager is looming over Detroit. Now,
17 if you look at what the cause of this financial
18 crisis -- and we are in one in Detroit. Last ten
19 years, we had a quarter of a million people leave
20 the city to the suburbs, praise God, to
21 Southfield, Farmington Hills, other areas like
22 that, Pontiac, you know. That's all right. But
23 left the city because of what? Because the state
24 took over the school district, closed our schools,
25 drove the parents out of the city along with their

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1 money.

2 So emergency financial manager is not
3 constitutional because it ain't gonna help the
4 problem. What was the reason why we got into this
5 problem in the first place? Do you see what I'm
6 saying? So I'm just saying now -- I'm saying as a
7 lawyer analyzing the elements of the law, and I'm
8 trying to share this with you, is that the
9 emergency financial manager is unconstitutional
10 and will make matters worse.

11 Now, what else should we do? The
12 Professor Spiotto talked about -- and I'm going to
13 close, but it's important to analyze these cases
14 like this. He said that, well, what should we do
15 if we're in a crisis? Well, in New York, they
16 were near bankruptcy. The federal government came
17 and loaned them some money back in the mid-70's.
18 Brother Peters and I were on Air Force One a
19 couple weeks ago. I straight up told the
20 president. I said, look, Mr. President, Detroit,
21 we're in the same situation as New York. We need
22 some direct federal aid, straight up. And we need
23 [inaudible] payments.

24 But here's something I'd like to throw
25 out to the panelists. We don't need to go to the

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1 emergency financial manager because collective
2 bargaining agreements and wages and benefits, that
3 didn't put us in this crisis at all. Now, what
4 will -- what we do need is we need more people
5 here. We need more employers to come here. You
6 don't get that by cutting back on police and fire
7 and transportation and garbage workers. We need
8 to add more people. We need a lighting system
9 that works. We need to open more schools. We
10 need to do all that. And that costs money. And
11 where is the money going to come from? John
12 Conyers and I proposed that we keep the federal
13 tax dollars that we pay in Detroit in Detroit as
14 opposed to sending it to IRS. Do you see what I'm
15 saying? That's \$10 billion right there. That is
16 a bill going through the house right now that I
17 sponsored, the Congressman co-sponsored. We work
18 -- even Republicans are trying to help us out
19 because they understand how important Detroit is
20 not only to Michigan but to this entire country.

21 So my point is this: The Emergency
22 Financial Manager Law is unconstitutional because
23 we don't need to break contracts. We need to hire
24 more people to take care of our people. That's
25 the issue.

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1 All right. I'm closing right now.
2 Now, you know, Brother Olumba, who's a lawyer,
3 said, look, it just doesn't make any common sense
4 to do what we're doing. And some people may say,
5 well, the emergency financial manager's got the
6 expertise to make all these decisions for us. You
7 know what? The overseer has always claimed that
8 they know better than us, all right? That's not
9 the case. The point is this, is that it's our
10 money that is being spent. We must always have
11 control over our tax dollars. That's period.
12 That's common sense.

13 Now, the final point is -- and I raise
14 this -- Professor Benson talked about how the law
15 has a -- could have an effect on suppressing vote,
16 and this is my major concern, is even if we avoid
17 these managers from being appointed in other
18 cities like the City of Detroit, my concern right
19 now, unless we do something dramatically different
20 to educate our folks, the damage has been done
21 because this law, this is about suppressing our
22 vote. You see, the point is this -- this is
23 very -- it's a subtle point. It's that -- think
24 about it. So we got folks out here in the
25 neighborhood. They struggling for their financial

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1 survival right now, okay? So they don't really
2 think about voting as being a way to actually help
3 them directly. They notice the emergency
4 financial manager all around here. They've heard
5 a lot about it. So their thoughts are this: Why
6 should I go out and vote, vote for somebody that's
7 not going to be able to do anything for me? See
8 what I'm saying? This is what we have to guard
9 against right now. We've got to let folks know is
10 that you've got to go out and vote. You have to
11 do it right now. You've got to hold the elected
12 officials accountable because people right now
13 feel that it doesn't matter. So that's the other
14 fight.

15 So my questions are -- how we analyze
16 this is that the contract we need to change, not
17 collective bargaining -- we need a moratorium on
18 foreclosures. Emergency financial manager ain't
19 gonna help things. We got in this problem because
20 of emergency financial manager over our schools.
21 And it doesn't matter if the emergency financial
22 manager said that they know better. We don't need
23 an overseer. This is the United States of
24 America. You hear what I'm saying?

25 I'm going to make one point. This is

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1 about me personally. You know, maybe you know
2 about my background. My mama was from the north
3 end and my daddy came from India. Do you know why
4 he came over here back in the 30s? Yes, it was to
5 work in the plant, but where he was raised, the
6 country that he was raised in, all that land, the
7 British controlled everything in India back then.
8 That's why he got on a boat and stowed away and
9 couldn't make it over here the first time and
10 tried the second time because he didn't have any
11 power over his own life. So he came here to live
12 [inaudible] even though it was segregated, he had
13 more freedom here, you know, because you can
14 halfway vote for people. This is what we're
15 talking about. This is what our country is all
16 about. Our country's not perfect. It's full of
17 the history of racism and prejudice, but you and I
18 can work to make those ideas a reality in our
19 people right now.

20 So I appreciate you listening to me,
21 and if anyone would like to respond to any of
22 these constitutional questions I posed, I'd
23 welcome their response.

24 CONGRESSMAN CONYERS: Hansen Clarke,
25 member of Congress. Thank you.

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1 And now we turn to a more senior member
2 from the 9th District of Michigan, the one and
3 only Gary Peters. Let's welcome him.

4 CONGRESSMAN PETERS: Thank you. Well,
5 thank you, Congressman. And I call you
6 Mr. Chairman. You're still the chairman in my
7 book, Chairman Conyers of the Judiciary Committee.
8 And distinguished panelists, my colleague, Hansen
9 Clarke, it's wonderful to be with all of you.

10 And you know, I've been sitting here
11 listening to this testimony as well, and got some
12 reflections thinking back, as my colleague
13 mentioned, about the bigger picture and why we are
14 in this situation that we're in right now, and I'm
15 reminded as to when I came into Congress back in
16 2009, and where the economy was and the fact that
17 at that time we were hemorrhaging jobs in this
18 country. And how did we get there? We got there
19 because of unbridled greed on Wall Street. We got
20 there from hedge fund managers and others that
21 leveraged our future. And what happened when they
22 did that? And this was incredible mismanagement
23 that we saw on Wall Street driven by greed. And
24 the impact that they had was devastating not just
25 to the Detroit area, not just to Michigan, but the

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1 entire country. We were all on the precipice
2 looking out over the edge into the abyss, and
3 there was no bottom, and we got there because of
4 greed on Wall Street.

5 What did President Bush do? President
6 Bush said, well, let's give a bailout to the
7 banks. But when he gave the bailout to the banks,
8 did he ask for any CEOs to resign? No. Did he
9 ask for any members of the board of directors of
10 these companies that drove our economy into the
11 ditch -- did he ask them to resign? No. Did he
12 ask any of the financial executives, the rich VIPs
13 that made those decisions, the bond traders, the
14 stock traders that took incredible risks with our
15 hard-earned money and our pension fund and our
16 401(k)s in our savings deposits? No.

17 AUDIENCE MEMBER: They got bonuses.

18 CONGRESSMAN PETERS: They got bonuses.
19 In fact, we bought that one company in particular,
20 AIG, a large insurance company, but it was a small
21 number of individuals from this financial service
22 products group that really launched us into the
23 abyss. And what happened to those folks? As this
24 gentleman mentioned, they were given bonuses and
25 they were given bonuses with taxpayer money. That

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1 was outrageous. That should have never happened.

2 And when I fought that in the Financial
3 Services Committee, I said we've got to bring that
4 back, do you know what I heard? I heard, well,
5 they're under contract. These are contracts. You
6 can't abridge a contract, God forbid a Wall Street
7 contract. Those are sacred. You can't do
8 anything. Then why can we break union contracts?
9 That is not the right way to go.

10 And so when you look at cities and the
11 problems that we have because of what happened to
12 the collapse on Wall Street, when the government
13 wants to get involved in state government, they're
14 saying we need to fire elected officials. We
15 didn't demand that of CEOs, we didn't demand that
16 of board of directors, but elected officials,
17 elected by the people of the city are going to be
18 fired. Well, in my mind, the only people that can
19 fire an elected official is the people of the
20 city, are the only ones who can do that. And not
21 only can only the people fire elected officials,
22 only the people of the city can actually elect the
23 leadership of that city. Elected officials need
24 to be making those kind of decisions.

25 And the reason they need to do that is

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1 because it is all about accountability. And I
2 want to give you an example from the city that I
3 represent, Pontiac. And I know we've got
4 Councilman Kermit Williams here with me as well
5 from the City of Pontiac, Bill Maxey and others
6 from Pontiac.

7 Just to give you a little idea of what
8 can happen with an emergency manager, which is
9 currently happening in the City of Pontiac, and an
10 issue that I became involved in because it
11 involved federal money, Community Development
12 Block Grant money, we had a situation where the
13 emergency manager in the City of Pontiac decided
14 to send money, federal HUD money that was coming
15 into the City of Pontiac as an entitlement city --
16 he decided to send it away from the city to Brooks
17 Patterson in Oakland County, and when we did that,
18 not only did the city lose the 1.4 million when it
19 went to the county, that amount dropped to
20 700,000, and there was no guarantee that the city
21 would actually see any penny of that.

22 Now, an elected official would never do
23 that because the people would throw him or her out
24 at the next election. There was no
25 accountability.

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1 Now, when I heard about that, my staff
2 and I, we picked up the phone. As an elected
3 official, knowing that I'll be accountable for
4 that, federal money is leaving the city, I called
5 HUD's assistant secretaries, deputy secretaries.
6 My staff got involved with HUD. We went back and
7 forth, all right. And now we were told, well, we
8 can't do anything. The city entered into a
9 contract with the emergency manager. The
10 emergency manager has the ability to contract.
11 Well, I wouldn't accept no for an answer because
12 I'm accountable to the people of my district. We
13 continued to push it, and just before Christmas we
14 got a call back from HUD, and they said our
15 lawyers have figured out a way to get around that
16 contract. The City of Pontiac is going to be
17 restored their entitlement city status and get the
18 full \$1.4 million.

19 But that, ladies and gentlemen, is an
20 example. You've got an EM who's only concerned
21 about the short-term money, didn't want to be
22 involved in this federal money which is making
23 investments. As the senator mentioned, we've got
24 to invest in our communities. It's about the next
25 five, ten years making investments. That federal

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1 money would have a big impact on that city over
2 the long term. But he didn't care. He was only
3 worried about the short term. He wasn't
4 accountable for that, and shipped it off. That is
5 why we cannot have emergency managers. It is not
6 what's right for the city for the long term.

7 We're going to have to fight this, and
8 I applaud all of you that were out there fighting
9 to put this on the ballot to have this referendum
10 to stop PA4 from going forward. Those petitions
11 are going to be it, but I will also warn everybody
12 that the fight is not over when those petitions go
13 in. In fact, we had a meeting with my colleagues
14 here from the state House with the Governor, and I
15 asked the Governor -- I said does this mean the
16 emergency manager doesn't go forward in the City
17 of Detroit if those petitions are filed, and he
18 said no. He can still go forward because they're
19 going pass another law -- or try to pass another
20 law in the state legislature. Well, I reminded
21 the Governor that that is not what the
22 Constitution says. The Constitution says if you
23 get the petitions and you file them with the
24 Secretary State, the law does not go into effect.

25 So if I could ask a question about --

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1 briefly to our emergency manager here. And I
2 apologize to go on, but, Mr. Harris, I appreciate
3 you being here, because I know this is an audience
4 that may be difficult for you, but I just had a
5 question for you. When you talked about
6 contracts, and that is a significant
7 constitutional issue, you thought, but you said
8 that you believe it was okay if you can modify
9 those contracts. The only thing that seems you
10 think is the limit is if you throw the contract
11 out completely, but if you modify -- you can
12 modify significantly, not throw that contract out,
13 but basically undermine all of the collective
14 bargaining rights that the men and women have in
15 your city. Where is the limit to how much you can
16 modify a contract?

17 MR. HARRIS: Thank you. May I?

18 CONGRESSMAN CONYERS: Yes.

19 MR. HARRIS: Thanks for the opportunity
20 to respond. I'd like to say this, that I'd like
21 you to just to think about the bottom line of what
22 I'm trying to communicate, because what you're
23 saying about the contract is true. There is -- if
24 you're going to modify one piece, you're going to
25 modify the second piece, the third piece. My

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1 support of the emergency manager law has to do
2 with stopping the potential for bankruptcy.
3 Because as you know, if you go into bankruptcy,
4 now you don't have a person -- an emergency
5 manager that's trying to maintain what we have.
6 You have a person that's simply looking at the
7 short run and modifying contracts, not only of the
8 current employees, but also of the pensioners.

9 In other words, take a look at Vallejo,
10 California. And I'm sure you looked at that.
11 It's in my paper. Take a look at Vallejo,
12 California, and those cities that have run into
13 bankruptcy, and take a look at the difference
14 between what we've done as emergency managers even
15 though -- and, granted, we have not, at least in
16 Benton Harbor, even though we've had PA4 for a
17 year, we have not modified any contracts. We
18 entered into contracts with AFSCME, police
19 patrolmen, police supervisors, and fire, without
20 touching -- modifying, terminating the contract,
21 and everybody got a raise, even though we have a
22 one-and-a-half million dollar deficit. And we cut
23 it. So I'm not suggesting to you that the
24 emergency managers have to. I'm simply saying
25 it's better than bankruptcy. That's all I'm

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1 saying.

2 CONGRESSMAN PETERS: Well, sir, I would
3 argue it is better to work with elected officials
4 and respect collective bargaining rights.

5 MR. HARRIS: I don't disagree with you
6 on that, but receivers for the court don't work
7 with elected officials.

8 CONGRESSMAN PETERS: Well, the idea is
9 to avoid that by having elected officials. You
10 have labor unions that are willing to step forward
11 and make the sacrifices -- the shared sacrifices,
12 which we've seen.

13 MR. HARRIS: No disagreement.

14 CONGRESSMAN PETERS: We saw that with
15 the auto industry, and the men and women of the
16 UAW made significant sacrifices. They contributed
17 to saving the auto industry. The auto industry is
18 making record profits right now, but that was done
19 in a process where labor was at the table
20 negotiating those things. Collective bargaining
21 is a right of the people in the State of Michigan
22 and this country, and that should be respected at
23 all costs. And I have another question for you.

24 MR. HARRIS: It's a last resort.
25 Bankruptcy is a last resort.

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1 CONGRESSMAN PETERS: One other
2 question. I saw this on the program recently
3 about a park in Benton Harbor that --

4 AUDIENCE MEMBER: Jean Klock Park.

5 CONGRESSMAN PETERS: Is that the park?
6 Which is on prime real estate? Am I -- do I need
7 some clarification? This is just like prime real
8 estate right on Lake Michigan, sand dunes,
9 picturesque -- some of the prettiest land that the
10 state has to offer. My understanding is that that
11 was a park open to the citizens of Benton Harbor
12 to enjoy, to have a place to have a refuge from
13 the challenges of everyday life, to sit there and
14 be in a place in the State of Michigan that
15 normally only rich folks get to be around. And
16 now my understanding is that that was sold off to
17 build a golf course where only rich folks can play
18 the golf course. Is that right? Is that what
19 happens with an emergency manager? That is --
20 that's exactly what is wrong. We cannot have
21 emergency managers. You need to have people who
22 are accountable to the people of the state. Thank
23 you very much.

24 MR. HARRIS: Can I respond to that?
25 That's unfair. Let me just say that, number one

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1 --

2 CONGRESSMAN CONYERS: Order, please.

3 MR. HARRIS: I need to respond to that.

4 CONGRESSMAN CONYERS: Order. Order,
5 please. Order, please. Thank you very much.

6 MR. HARRIS: Number one, it isn't true.
7 Number one, the park -- the park land was never
8 sold. Jean Klock Park still exists. It was a
9 toxic dump. The city -- it was -- it was -- you
10 can't get your information from just the media.
11 Congressman, I would invite you to come to Benton
12 Harbor and get the real story.

13 Let me just say this. The land was
14 sold two years -- three years by the commission --
15 by the mayor and commission. Am I right,
16 Commissioner?

17 AUDIENCE MEMBER: That is true.

18 COMMISSIONER MUHAMMAD: Honorable
19 Manager, that's a falsehood.

20 MR. HARRIS: It was sold before I got
21 there; is that correct?

22 COMMISSIONER MUHAMMAD: Leased.

23 MR. HARRIS: It was leased.

24 COMMISSIONER MUHAMMAD: Let me answer
25 the question.

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1 MR. HARRIS: Thank you very much.

2 Because we haven't sold anything.

3 COMMISSIONER MUHAMMAD: Jean Klock
4 Park, first of all, it was deeded to the residents
5 of Benton Harbor for the youth to always be in
6 possession of that precious land. That's number
7 one. Number two, it was leased by a group of
8 uninformed and corrupted elected officials.

9 MR. HARRIS: But not by the emergency
10 manager.

11 COMMISSIONER MUHAMMAD: Let me finish.
12 Because this is why you're here, because those
13 officials, as long as they was going along to get
14 along and be the puppets of corporate interests,
15 Benton Harbor suffered from having a derth of
16 cash, but they never sent in a manager. Let me
17 finish.

18 MR. HARRIS: Thank you very much.

19 COMMISSIONER MUHAMMAD: So when a new
20 group came in and said that the jig is up, and
21 you're no longer going to rape and pillage and rob
22 the residents of Benton Harbor of their real
23 estate, then comes in Sir Joseph Harris to neuter
24 the elected officials, take complete control,
25 continue to sell off the city and their civil

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1 rights.

2 MR. HARRIS: I have not sold Jean Klock
3 Park. I have not sold that land at all. Come to
4 Benton Harbor and get the real story, because that
5 is not true.

6 COMMISSIONER MUHAMMAD: And I
7 apologize, Mr. Chairman, for my passion.

8 CONGRESSMAN CONYERS: I now go to our
9 elected officials, and I start off with the
10 president of the Pontiac City Council, the
11 Honorable Lee Jones.

12 Come on up, and then I'm going to call
13 Kermit Williams of the Pontiac City Council. And
14 then I'm going to call Kenneth Cole of the City of
15 Detroit to the Michigan State Government. Very
16 briefly, gentleman. Our time is fleeting because
17 then I'm going to Rev. David Alexander Bullock of
18 the Rainbow PUSH Coalition of Detroit, Brandon
19 Jessup, chairman of Michigan Forward, and Keith
20 Johnson, president of the Detroit Federation of
21 Teachers. Will you all come up.

22 CONGRESSMAN CONYERS: Rev. Bullock will
23 be able to say something quickly because they have
24 to leave.

25 REVEREND BULLOCK: Thank you so much,

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1 Congressman John Conyers, and to all of the
2 elected officials who have spoken tonight, all of
3 the community leaders. I'm so happy to see Rev.
4 Edward Pinkney from Benton Harbor here, and as
5 well as Commissioner Marcus Muhammad from Benton
6 Harbor as well.

7 Very briefly, David Bullock, Rainbow
8 PUSH Michigan. I'll be very brief. Much of what
9 has been said has been right on point, and I
10 simply echo and ditto my support for all of the
11 statements that have been made to the effect that
12 Public Act 4 is anti-democratic. Public Act 4 is
13 anti-union. It fights against our both spirit to
14 collectively bargain as well as fight against the
15 right to collective bargaining.

16 I also echo the fact that Public Act 4
17 is bad public policy. It's top-down legislation.
18 It does not work. You've seen the example,
19 Highland Park, Michigan, under emergency
20 management for over nine years under 72. It still
21 has not recovered. This is bad public policy.

22 Now in Flint, Pontiac, Benton Harbor,
23 Detroit looming under this legislation, right? So
24 we maintain while it is anti-democratic and while
25 it does violate collective bargaining rights, it

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1 is bad public policy. It just does not work. And
2 so we are not here tonight -- at least our
3 position here tonight is not the position of the
4 lawyer who would seek to try to use a fine-tooth
5 comb to look through the legislation to see if, in
6 fact, the legislation is unconstitutional or
7 violates the laws of the land. I'm not a lawyer
8 tonight. I come here tonight as a pastor and
9 community activist simply to say this, is that
10 just because something is a law on the books
11 doesn't make it right.

12 And so the law that Dr. King and others
13 fought against that consigned Negroes to backs of
14 buses, law in Alabama that consigned them to jails
15 because boycotts were illegal, laws that made
16 slavery not just economically viable but also
17 legally sanctioned in the nation, right? We have
18 seen legislation before that was not right. And
19 so our position tonight is that at the end of the
20 day, the question is not what does the law say.
21 The question is what do the people say. Because
22 if the people are against Public Act 4 as a duly
23 enacted legal mandate, then the people are the
24 ultimate repository of power in a democracy. So
25 what we need to do as people is to continue to let

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1 our voices be heard and say we will not stand up
2 for state occupation of our school districts, we
3 will not stand up for state takeovers of our
4 cities, and we will not stand up for the use of
5 the power of the law to consign us to second-class
6 citizenship, but we will stand on the foundation
7 of human dignity and fight against this law.

8 I close with this: Senator Bert
9 Johnson said it, Congressman Gary Peters said it,
10 Congressman Hansen Clarke, Congressman John
11 Conyers, they have all said it, but I want to
12 close by pointing out the true genius of the need
13 not for emergency management but emergency
14 reconstruction. You cannot manage hemorrhage --
15 you don't manage how much you gonna decide to lose
16 today -- decide to lose just enough blood today so
17 that I don't have use of both legs, just one,
18 decide next week to lose just enough blood so that
19 I won't have the ability to walk but I'll be able
20 to move my arms. A foolish man is someone who
21 tries to manage blood loss. We must first stop
22 the bleeding, and then we must replace that which
23 has been lost.

24 And so if Ford and Chrysler leave
25 Highland Park and take 85 percent of the tax base

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1 with them, you can manage all the management you
2 want to manage, but until you fill the hole in the
3 tax base, then you will not solve the problem.

4 And so what we are dealing with is
5 trade policy, manufacturing moving to Mexico and
6 Thailand. We're dealing with jobs being shipped
7 overseas. We're dealing with outsourcing and a
8 public education system that does not prepare our
9 children for globalized knowledge-based economy.
10 And so until we move from emergency management to
11 emergency reconstruction, then we'll be like mama
12 was when she had six kids and two pork chops. She
13 was the best mama she could be, but they still all
14 ate gravy for dinner because she needed somebody
15 to bring the beef home. And so until we bring the
16 tax base back, until we bring good jobs back, then
17 we will be in this conundrum of trying to be doing
18 more with less and less and less.

19 So we stand up on the 29th, Brandon
20 Jessup, take the petitions to Lansing. We're
21 looking forward to November to flip Public Act 4
22 back right into the fiery flames where it came
23 from, and then we fight for urban policy. We
24 fight for federal intervention and for legislation
25 that is going to help us rebuild communities like