

How Judge Rhodes came to speak at Walsh commencement



Tom Walsh, Detroit Free Press Columnist 5:23 p.m. EST January 25, 2015



(Photo: Kimberly P. Mitchell, Detroit Free Press)

When I asked Walsh College president Stephanie Bergeron how she had snagged U.S. Bankruptcy Judge Steven Rhodes, who recently presided over Detroit's municipal bankruptcy case, to deliver the commencement address Saturday at the Troy-based college's graduation ceremony, Bergeron said it was pretty simple.

"I said we have students graduating and they're going to be the business leaders of Michigan," Bergeron recalled, "Would you like to come tell them what you want then to do when the bankruptcy's over?"

Rhodes, who had intentionally kept a low profile and avoided news media interviews as the Detroit case proceeded, told her it was the first time he had been asked to speak at a commencement. "My suspicion," she added, "is he's just a person that's to the point, and he likes you to be honest and authentic, you say what you

think, and it was simple."



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Judge Rhodes: Detroit deserved a second chance

(<http://www.freep.com/story/news/local/detroit-bankruptcy/2015/01/24/steven-rhodes-detroit-commencement/22274997/>)

Here is a full transcript of Judge Rhodes' 19-minute speech Saturday:

On July 18, 2013, the city of Detroit filed bankruptcy. Seventeen months later on Dec. 10, 2014, the city exited bankruptcy with a confirmed, feasible and implemented plan of adjustment that most of its creditors supported.

The plan shed over \$7 billion of the city's \$18 billion of debt, enhanced the city's credit rating from junk status to investment or nearly investment grade, and the plan treated the city's creditors as fairly as it could.

The plan also set the city's course to restore adequate municipal services.

The question I'd like to address today is, "What can you learn from Detroit's experience in bankruptcy?" Not you as a community or even as members of the community, but you as individuals who are about to take your new degrees into the business world. What lessons can you learn from Detroit's bankruptcy?

There are lessons in the Detroit case for every one of us. Its size and its scope were enormous, yes — well beyond the scope of problems that you are likely to encounter in your careers. But the city of Detroit got into trouble because people ran the city, people who were not perfect, people who made mistakes and people who took unnecessary risks with the assets and the responsibilities that were entrusted to them.



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Judge Steven Rhodes: 'A tour de force of legal acumen'

(<http://www.freep.com/story/news/local/detroit-bankruptcy/2014/11/09/detroit-bankruptcy-judge-steven-rhodes/18730861/>)

Lesson No. 1. from the city of Detroit bankruptcy case is this: In this country, we love to help people. We love to give people a second chance. A fresh start. To forgive them.

That, of course, is what bankruptcy is all about. It's a chance for people who have fallen on hard times or made bad choices, to start over. Just ask Chrysler, General Motors and Henry Ford. Yes, Henry Ford filed bankruptcy when his Detroit Automobile Co. failed in 1901. Or investigate the four presidents who have been bankrupt: Thomas Jefferson, Abraham Lincoln, Ulysses S. Grant and William McKinley. Or you can ask any of the millions among us who filed bankruptcy and received their fresh start.

Help was there for the city of Detroit, too. It is getting its second chance because we, the people of this region, this state, and this country, want to help it. It is also getting its second chance because its creditors want to help it – its employees, its retirees, its unions, its financial creditors all want to help it.

That's lesson No. 1 from the Detroit case. Help is out there.



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[City of Detroit files for largest municipal bankruptcy in history](#)

[\(http://www.freep.com/topic/85909a11-da2a-4626-b880-27004c98f832/detroit-bankruptcy/\)](http://www.freep.com/topic/85909a11-da2a-4626-b880-27004c98f832/detroit-bankruptcy/)

This leads to lesson No. 2 from the Detroit case. Ask for the help that is out there. You will need help. You will need help because you are just starting out on this new career path, or hoping to accelerate it. And you will need help because you will make mistakes. You will need help because you will suffer the reversals of life. You will need help because of simple bad luck. Whatever the reason, everyone needs help. Risk, human frailty are inherent in everything we do in life and certainly in business.

No journey to the top, to the mountaintop of success in business, is perfectly straight and tidy. No one succeeds in making that treacherous journey alone. No one.

Actually, thanks to the auto industry, the city of Detroit did run a fairly straight course up that mountaintop until about the 1960s.

Then came the decline of the auto industry, the flight of its manufacturing facilities out of Michigan, and along came OPEC, rising gas prices, race issues and a recession or two and the city got to the point where it could no longer pay its bills.

It owed its pension plans \$3.5 billion.

It owed its retirees \$7 billion for other benefits, including health care benefits.

It owed its financial creditors billions.

It could not pay its debts. It was even looking at cash-flow shortages that might result in payless paydays for its employees.

It could not also provide adequate municipal services. Police, fire, emergency medical services were unacceptably delayed because they were understaffed and had antiquated equipment. There were not enough buses. Parks were closed and dilapidated. Vast neighborhoods were blighted. And the city's computers were still using Windows XP. How did that happen? How did it happen that the city of Detroit went so long — at least eight years and probably much more than that – before asking for the help that it needed and was out there.

This is a phenomenon that every professional in the financial restructuring field knows. It's a psychological phenomenon. It's a kind of defense mechanism. It's simply called denial. People who need help deny needing help and they deny it for too long. Well, my friends, denial is a river in Egypt. It has no place on your road to success in business or your life. In fact, your road to success will dead end at the river of denial if you don't think about a way to build a bridge over it. So that's lesson No. 2. Denial is a river in Egypt. Get help when you need it.

This leads then to lesson No. 3 from the Detroit case. As I say, denial is a river in Egypt so get help when you need it.

The city of Detroit did not do that. It needed help for years, perhaps even decades, before it filed bankruptcy in 2013. It certainly needed help back in 2005 when it entered into that disastrous financial transaction to cover its \$1.8 billion debt to its employee pension plans. Now that was a bad deal because it involved a financial gamble that the city would never be able to pay off. And it was a bad deal because it only delayed the inevitable.

If you can't pay your debts, it doesn't help just to substitute a new creditor for your old creditor.

Worse yet, that deal almost certainly violated state law by evading the city's legal debt limit. And worst of all, the consequences of that deal made the process of resolving Detroit's problems eight years later, when it did file bankruptcy, much more challenging and much more expensive.

So now, this leads to lesson No. 4 from the Detroit case. Get the help you need by surrounding yourself with people who have the skill and willingness to help you deal with your mistakes or your bad luck. Better yet, get help with planning so you can avoid mistakes and minimize risk in the first place. The word for this, of course, is teamwork.

This is a very significant lesson from the Detroit case. Everything we accomplished in the Detroit case was the result of teamwork — teamwork among everyone involved. Me as the judge. The mediators that worked to assist the parties in settling their issues. The lawyers, the other professionals, the creditors and the city's own politicians and employees.

So let me give you an example of this.

When I got the case, I realized that I needed help because in significant ways a Chapter 9 municipal bankruptcy case than other bankruptcy cases I had been accustomed to. I was at a conference with bankruptcy judges from around the country, so I organized a luncheon with a few judges who had presided over other municipal bankruptcy cases just to get their advice.

One judge advised me to be sure that the mayor and the City Council will support the plan because he was having trouble with that in his case. In fact, they were refusing to implement parts of the plan. I certainly did not want that in my case, so when I came back to Detroit, I announced in court that I expected the mayor and a member of City Council to testify that they support the city's plan.

I later learned that before I did that, the mayor and the City Council had not been consulted much at all about the plan to adjust the city's debts or the plan to restore and revitalize the city's services, even though they would be expected to implement the plan. Well, suddenly there was teamwork between the city's professionals in the bankruptcy case and its elected officials and employees.

As a direct result of that teamwork, we have a much more feasible, effective and efficient plan to revitalize the city with full buy-in.

So it was that that little teamwork among me and my colleagues led to an important level of teamwork in creating a viable plan for the city of Detroit.

Now, teamwork does not necessarily mean that everyone agrees on everything all the time. No. in the Detroit case, there was serious litigation over big and little issues from the beginning to the end. Whether to sell the art at the DIA to pay creditors was probably the biggest issue. But even that litigation was conducted by the professionals in a cooperative professional way.

We often think of the judicial process as an adversarial process in which warring parties combat each other until one prevails. That certainly does happen, but it's actually fairly rare. Much more often, the parties battle – not until one prevails but until they settle and resolve their differences.

That is what happen with most of the disputes in the Detroit case. At the end of the Detroit case there was actually very little left for me to decide. Why was that? Because the city and the parties surrounded themselves with people who helped them deal with their issues. That's lesson no. 4: Use teamwork to get the help you need.

This leads to lesson No. 5 in the Detroit case. To get help, give help. Actually there is no better example of this than the Detroit case itself. Why did creditor after creditor settle and agree to adjust its debt with the city on terms that the city could afford? There was so much anger about the filing and the threat to the retirees' pensions that the people saw at the beginning of the case. Yet just months later the employees and the retirees overwhelmingly voted to accept the plan and agreed to endure the personal sacrifice that the plan required.

Why was that? At the same time, the financial creditors litigation asserted that Detroit's plan would be the end of the municipal bond market as we know it. So why did they agree to give up their litigation and accept anywhere from 10% to 70% on their claims? And why did the state of Michigan and a collection of foundations voluntarily come together to contribute \$816 million to the city? Certainly there was a measure of self-interest in each of their

settlement decisions. Let's not doubt that. But there was more to it than that. Much more.

A big reason all of this happened is because the mission of the city of Detroit is to help people.

Its 1974 charter states, "the city shall provide for the proper peace, health and safety of persons and property within its jurisdictional limits."

The mission of the city of Detroit is to help people. Police help. Fire help. Medical services. Water service. Transportation. Recreation. Culture.

It was the mission of the city that made it so compelling for Detroit's creditors, the state of Michigan and the foundations to help the city of Detroit. To help the city was to help its people. We Americans believe in the obligation of community to promote the dignity of its residents and visitors. We Americans believe in the obligation of community to promote the welfare of its residents and visitors. And we Americans believe in the obligation of community to promote the full opportunities of its residents and visitors. We Americans believe in the mission of the city of Detroit.

But what is that community that shoulders those obligations? It's just us. You and me. If we don't work to promote those values, it doesn't happen. It's on us. That's why, when I confirmed the city's plan, I added, quote, "and so the court asks the people of the city, for the good of the city's fresh start, to move past their anger. To join in the work that's necessary to fix the city. And to help your city leaders do that. It is your city. "

These are our values. Yes at the beginning of the Detroit case we fought and we objected and we litigated. But in the end, the only thing to do was to help the city of Detroit and its people. It is who we are. It is us. So that's lesson No. 5. To promote a community that can give you the help you need, give help to that community. To get help, give help.

Now this closes the circle back to lesson No. 1, where we started. Remember back to lesson No. 1?

We Americans love to give help. As I said, it's who we are.

With the circle now closed, let's review and conclude.

Lesson. No. 1 from the Detroit case: We Americans love to give help.

Lesson No. 2: Ask for the help that's out there

Lesson No. 3: Denial is a river in Egypt. C'mon. Denial is a river in Egypt. Get help when you need it.

Lesson No. 4: Use teamwork to get the help you need.

Lesson NO. 5: To get help, give help. It's who we are.

May you get the help that you need to run a straight course up the mountaintop of success in business and may the help that you need never require a trip to my Bankruptcy Court.

Congratulations, graduates. Thank you.

Contact Tom Walsh: 313-223-4430 or twalsh@freepress.com, also follow him on Twitter [@TomWalsh_freep](https://twitter.com/TomWalsh_freep) (http://twitter.com/TomWalsh_freep).

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