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Newsmakers of the Year 2014

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Two stars align for Detroit: Kevyn Orr, Steven Rhodes

By [Amy Haimerl](#)



Kevyn Orr (left) and Judge Steven Rhodes

Newsmaker of the Year luncheon

Date: 11:30 a.m.-1:30 p.m. Feb. 25

Location: MotorCity Casino Hotel, Detroit

Tickets: \$70 for individuals, \$750 for table of 10, \$60 for students

Register: crainsdetroit.com/events

Deadline: Preregistration closes at 5 p.m. Feb. 20. If available, walk-in registration will be \$90 a person.

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Gerald Rosen, the mediator: "It was really the colliding together of unrelated people and events to form a perfect universe."

When Emergency Manager Kevyn Orr filed Chapter 9 on July 18, 2013, nobody imagined that by the dawn of 2015, the country's largest and most complex municipal bankruptcy would be resolved.

"It happened at almost warp speed," said Gerald Rosen, chief judge of the **U.S. District Court for the Eastern District of Michigan**, who also acted as chief bankruptcy mediator.

Even he, an eternal optimist, was uncertain: "My wife says it's always 78 and sunny in my world, but from the beginning I knew this would be a challenge. There were virtually no assets other than the DIA's art collection."

So what changed? It's Rosen's Big Bang Theory of the Bankruptcy.

"It was really the colliding together of unrelated people and events to form a perfect universe," Rosen said.

At the center of that universe were Orr and Judge Steven Rhodes of **U.S. Bankruptcy Court**, who are Crain's Newsmakers of the Year for 2014.

With the effort and creativity of dozens of other people, including Rosen himself, they effectively cleaned up Detroit's books within 16 months, satisfying the city's fiercest creditors and overseeing the creation of a "grand bargain" designed to protect the assets of the Detroit Institute of Arts and, more important, soften the blow of cuts to retirees' pensions. On top of that, the city had started reinvesting in its future, installing new streetlights at a clip of 500 a week and demolishing nearly 200 blighted homes every seven days.

Making it whole again

When it was announced that Rhodes would oversee Detroit's bankruptcy, he was a little-known judge who was preparing to retire after serving in the Eastern District of Michigan since 1985. But Alice Batchelder, the chief judge for the **U.S. Court of Appeals** in Cincinnati, asked him to do what was seen as the near-impossible: Take a city in a financial death spiral with \$18 billion in debt and negative cash flow of more than \$260 million projected for 2015, and find a way to make it whole again.

But by the end of the 16-month trial, with what seemed to be all the world watching, Rhodes had shown himself to be the kind of judge that scholars will study for decades, both for his legal acumen and his compassion.

It was Rosen who recommended Rhodes for the case because he believed that Rhodes had the "scholarship, intellect, judicial temperament, compassion and open-mindedness and open-heartedness" to manage all of the players and personalities while keeping the docket on a tight schedule.

He wasn't the only one: Phillip Shefferly, chief of the Bankruptcy Court in Detroit, wrote a letter in support, stating that the judges on the bench unanimously thought Rhodes was "best qualified" to preside.

Rhodes proved that faith to be well-placed. The **University of Michigan** graduate ran his courtroom with a firm hand and a compassion for Detroiters that went beyond judicial courtesy. He invited those without lawyers -- laypeople and retirees -- to present their objections before the court and allowed them to question Orr and other \$500-an-hour lawyers as if they were equals.

In each of his rulings, Rhodes returned to the people of Detroit and how the bankruptcy would affect them. He wanted to ensure that the city's future balance sheet could support its needs.

"What happened in Detroit must never happen again," Rhodes said in his Nov. 7 ruling confirming Orr's plan to exit bankruptcy. "The hardship and anxiety that its employees and retirees, and their families, have endured and will continue to endure must never happen again. ... Your enduring and collective memory of what happened here, and your memory of your anger about it, will be exactly what will prevent this from ever happening again."

Of the attorneys in his courtroom, Rhodes demanded intellectual honesty, direct language and preparedness. He suffered no fools and had a sharp tongue for anyone trying to evade questions or use jargon. He started each day precisely at the moment court was scheduled -- and he set that tone from day one.

On the first day of hearings, the city's lead attorney, David Heiman of the Cleveland-based law firm **Jones Day**, was prepared with his opening remarks about the case and his proposed timeline, just as he has done for each case since founding Jones Day's bankruptcy practice 30 years ago. But he never got the chance.

"Judge Rhodes came out of the blocks in full control, making it clear we were in his courtroom and things were going to go the way that he expected them to go," Heiman said. "Not as a dictator but as a steward of the needs of the case and the city of Detroit and its residents."

But Rhodes was also direct about his expectations and how to meet them, Heiman explained. He frequently issued orders that contained lists of topics that he wanted the attorneys to consider so they could be prepared for court.

"That was helpful to us because we had forewarning about what was going to come up and could think through it ourselves but also talk to our client (Kevyn Orr) and the governor's staff," Heiman said.

That, and Rhodes' penchant for swiftly cutting off repetition and longwindedness, helped keep the trial on track and moving swiftly.

The timeline, Heiman said, "couldn't have been done without the judge."

The case behind him, Rhodes, 65, now heads toward his retirement and life in his home of Ann Arbor, where he is known to be an avid bicyclist.

'A clear picture'

If Rhodes was the public face of the bankruptcy proceedings, Orr was the behind-the-scenes man trying to restructure the city and find common ground with creditors.

"He was straightforward, credible and had a thorough appreciation of the challenges," Rosen said. "He had a clear picture.

"He came to Detroit a stranger and left as a friend."

Orr came to Detroit from Washington, D.C., where he was a partner in Jones Day and where he worked with Heiman and on the **Chrysler Group LLC** bankruptcy.

But these past months weren't his first in Detroit: As a UM law student, he visited the city frequently and often cited his affinity for Detroit as part of why he took on the emergency manager role.

Once he arrived, the Florida native was tasked with sorting through the wreckage that was Detroit's books and city services. Accused early on of trying to sell off the city's assets, Orr said he first had to find out whether there were any.



Emergency Manager Kevyn Orr with two others with a keen interest in a swift emergence of Detroit from bankruptcy: Mayor Mike Duggan and Gov. Rick Snyder.

Once it became evident to Orr that bankruptcy was the only path through the mess, he sought legal representation, which led him back to Heiman.

"I know people at the outset raised lots of questions about the inherent conflict or bias that he had come from Jones Day," Heiman said. "The truth of the matter, in my view, is that the prior relationship and knowing how to deal with each other was extraordinarily helpful in the process. We could move through issues incredibly quickly because he knows how I think and I know how he thinks."

One of the challenges he and Orr first had together was negotiating with creditors when they had few carrots and a stick that, initially, had little in the way of punishment power.

Orr's first plan of adjustment proposed deep and draconian cuts to city pensions as well as pennies on the dollar for most creditor classes. Not surprisingly, nearly everyone howled at the proposed pain. But that first plan showed bondholders, banks and retirees exactly how bad things could be if deals couldn't be made.

Rhodes' firm rulings gave Orr a bigger and bigger stick with which to extract deals and hold firm on keeping the DIA's collection safe. In one of the turning points of the bankruptcy, Rhodes forced the emergency manager back to the table even after Rosen and his mediators had signed off on a proposed deal to pay **Bank of America's Merrill Lynch** unit and **UBS AG** \$235 million to terminate financial contracts.

Rhodes would send Orr back twice more before finally accepting an \$85 million settlement.

Rhodes' twice rejecting mediated claims put all creditors on notice that he was looking after the best interests of the city first and foremost. That gave Orr the freedom to entice better deals from parties who were now more fearful of what would happen if they faced the judge.

Of course, none of that would have mattered without the grand bargain, which

brought together \$816 million over 20 years from both the state of Michigan and dozens of foundations, including the **Ford, Kellogg, Knight and Kresge** foundations. That pot of money allowed Orr to draft a plan that minimized -- if not deleted -- cuts to pensioners and preserved the city's cultural heritage.

While Rosen was the one who championed much of that in mediation, Orr was committed and open-minded to the idea even in the early days when it seemed more of a crazy pipe dream than a magic pot of money.

"It is a vast understatement to say that the pension settlement is reasonable," Rhodes said in his ruling on the final exit plan. "It borders on miraculous. No one could have foreseen this result for the pension creditors when the city filed this case. The plan's proposal is only possible because of the pension settlement and the grand bargain."

But Orr also had a two-front war. While fighting with creditors, he also had to manage a delicate working relationship with newly elected Mayor Mike Duggan and **Detroit City Council** President Brenda Jones. It could have been an ugly and contentious triumvirate. But Orr, Duggan and Jones forged a relationship that served to steer the city through treacherous financial and political shoals.

The trust they built was enough, in fact, to persuade Duggan and council to keep Orr after his term expired so he could see the bankruptcy through its waning days. That type of drama-free transition would have been thought impossible at the start of Orr's emergency management term. But by the end, it was nearly expected -- even if it was not without some contention.

"Detroit continues to move forward," Gov. Rick Snyder said at the time. "Today's transition of responsibilities is a reflection of the continuing cooperation between the state and its largest city. Leaders are working together for the best interests of Detroit and all of Michigan."

Orr, 56, has yet to announce his plans, whether they lie in the public or private sector. But he has been able to return home to Washington, D.C., to his wife, Donna Neale, and children after nearly two years in Detroit.

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