

# Judge to Rule Whether GM Bankruptcy Favored Hedge Funds Over Creditors

by Joel R. Glucksman on January 18, 2013

## Bankruptcy Judge to Provide Ruling

U.S. Bankruptcy Judge Robert Gerber is expected to hand down a ruling shortly on a controversial provision of the 2009 restructuring of General Motors, the results of which may cost GM upwards of \$1 billion dollars.

The issue is whether GM unfairly favored hedge fund investors over its unsecured creditors when it entered into a "lock-up agreement" during its restructuring, in which it sent \$367 million to a group of hedge funds, according to Reuters. The unsecured creditors argue that this lock-up agreement should be invalidated by Judge Gerber, asserting that it was a secret deal that took place after the company filed for protection under bankruptcy law. As a result, the creditors say that the deal required Gerber's approval before being honored.

GM and the hedge funds have responded to these claims by saying that the lock-up agreement took place prior to the bankruptcy and that the terms are included in security filings.

The hedge funds currently hold roughly \$1 billion in notes at face value, and received a claim against GM for \$2.67 billion, Reuters reports. While they received \$367 million after the agreement, creditors received pennies on the dollar, the news source added.

Although Gerber has not yet issued a ruling, he did note his surprise at the agreement struck between hedge fund investors and GM.

"The bottom line is, is that this matter is huge," Gerber said in a court hearing, according to Reuters. "There was a lack of disclosure to the court on the matter with the potential to injure 'Old GM' creditors to the extent of hundreds of millions, if not billions of dollars."