

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670

Chapter 11

**TRUSTEE'S MOTION, PURSUANT TO 11 U.S.C. §§ 105(a) AND 503,
FOR AN ORDER ESTABLISHING THE DEADLINE FOR FILING
ADMINISTRATIVE CLAIMS AND APPROVING THE FORM
AND MANNER OF NOTICE THEREOF**

NOTE: THIS MOTION SETS ESTABLISHMENT OF A BAR DATE BY WHICH CREDITORS HOLDING ADMINISTRATIVE CLAIMS UNDER 11 U.S.C. § 503(b) MUST FILE SUCH CLAIMS. THE ADMINISTRATIVE CLAIMS BAR DATE REQUESTED BY THIS MOTION SHALL APPLY TO ALL ADMINISTRATIVE CLAIMS, EXCEPT (A) HOLDERS OF CLAIMS OF PROFESSIONALS RETAINED IN THE CASE FOR PROFESSIONAL FEES AND EXPENSES, INCLUDING THE TRUSTEE (DEFINED BELOW); (B) CLAIMS ARISING UNDER 11 U.S.C. §1171; AND (C) CLAIMS ARISING AFTER THE ADMINISTRATIVE CLAIMS BAR DATE (DEFINED BELOW).

Robert J. Keach, the Trustee (the "Trustee") of Montreal Maine & Atlantic Railway, Ltd. (as the name may have been changed, the "Debtor"), by and through his undersigned counsel, hereby moves this Court for an order establishing the deadline for filing administrative claims (other than claims for professional fees and expenses of professionals retained in this case, claims arising under 11 U.S.C. § 1171, and claims arising after the Administrative Claims Bar Date (defined below)) and approving the form and manner of notice thereof (the "Motion"). In further support of this Motion, the Trustee states as follows:

JURISDICTION, VENUE, AND STATUTORY BASIS

1. The United States District Court for the District of Maine (the "District Court") has original, but not exclusive, jurisdiction over this chapter 11 case pursuant to 28 U.S.C.

§ 1334(a) and over this Motion pursuant to 28 U.S.C. § 1334(b). Pursuant to 28 U.S.C. § 157(a) and Rule 83.6 of the District Court's local rules, the District Court has authority to refer and has referred this chapter 11 case to this Court.

2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and this Court has constitutional authority to enter an order in this proceeding.

3. Venue over this chapter 11 case is proper in this district pursuant to 28 U.S.C. § 1408, and venue over this proceeding is proper in this district pursuant to 28 U.S.C. § 1409.

4. The relief sought in this Motion is predicated upon 11 U.S.C. §§ 105(a) and 503.

BACKGROUND

5. On or about August 7, 2013 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Maine. Simultaneously, the Debtor's wholly-owned subsidiary, Montreal Maine & Atlantic Canada Co. ("MMA Canada") filed for protection under Canada's Companies' Creditors Arrangement Act.

6. On or about August 21, 2013, the United States Trustee appointed the Trustee to serve as trustee in the Debtor's chapter 11 case pursuant to 11 U.S.C. § 1163.

7. As set forth in the Order Pursuant to 11 U.S.C. §§ 105(a) and 502(b)(9), Fed. R. Bankr. P. 3002 and 3003(c)(3), and D. Me. LBR 3003-1 Establishing Deadline for Filing Proof of Claims and Procedures Relating Thereto and Approving Form and Manner of Notice Thereof [D.E. 783], the deadline for alleged creditors to file proofs of claims for prepetition claims

against the Debtor, other than the Derailment Claims,¹ was June 13, 2014. The deadline to file a Derailment Claim was July 14, 2014.

8. A bar date for filing applications for payment of administrative claims and/or expenses in relation to the Debtor has not yet been set by this Court.

RELIEF REQUESTED

9. Pursuant to 11 U.S.C. §§ 105(a) and 503, the Trustee requests that the Court: (a) establish December 1, 2014 at 5:00 p.m. (prevailing Eastern Standard Time) as the last date and time for each person or entity (including, without limitation, individuals, partnerships, corporations, joint ventures, trusts and governmental units) to file a claim based on alleged administrative claims under 11 U.S.C. §503(b) (the “Administrative Claims Bar Date”) on the terms and conditions set forth in this Motion, and with the exceptions set forth below; and (b) approve the proposed Bar Date Notice (as defined below).

BASIS FOR RELIEF

10. Under section 503(a), “[a]n entity may timely file a request for payment of an administrative expense.” 11 U.S.C § 503(a). Section 503(b) provides that “[a]fter notice and a hearing, there shall be allowed administrative expenses,” which, under 507(a)(2), shall have priority over certain other unsecured claims. 11 U.S.C. §§ 503(b); see also 11 U.S.C. § 507(a)(2).

11. Section 105(a) of the Bankruptcy Code authorizes the Court to “issue any order... that is . . . appropriate to carry out the provisions of this title.” 11 U.S.C. §105(a).

12. The claims bar date is an essential aspect of the chapter 11 process. “The claims allowance process is an integral component of the court’s equitable power to restructure the

¹ “Derailment Claims” shall mean any and all claims against MMA and/or MMA Canada arising out of or relating to the Derailment, including, but not limited to, wrongful death, personal injury, property damage, contribution and/or indemnity claims, among others.

debtor-creditor relationships.” In re Best Products Co., Inc., 140 B.R. 353, 356 (Bankr. S.D.N.Y. 1992) (citing Langenkamp v. Culp, 298 U.S. 42 (1990)). “The bar order then is not a mere procedural gauntlet, but an integral step in the reorganization process.” Id. at 357 (citing First Fidelity Bank, N.A. v. Hooker Investments, Inc. (In re Hooker Investments, Inc.), 937 F.2d 833, 840 (2d Cir. 1991)). A bar order enables the debtor to “ascertain with reasonable promptness the identity of those making claims against the estate and the general amount of the claims,” which is a necessary step in both the reorganization and liquidation processes. Id.

13. Fixing the Administrative Claims Bar Date will enable the Trustee to receive, process and continue his analysis of creditors’ administrative claims in a timely and efficient manner. This analysis will enable the Trustee to better determine the structure of any plan of reorganization and will aid in the more expeditious conclusion of the administration of the Debtor’s bankruptcy estate. Based on the procedures set forth below, the Administrative Claims Bar Date will give administrative claims creditors ample opportunity to prepare and file applications for payment of administrative claims.

A. Notice of the Bar Date

14. Pursuant to the proposed order filed with this Motion, each person or entity (including, without limitation, each individual, partnership, joint venture, corporation, estate, trust or governmental unit) that asserts it holds an administrative claim under section 503 against the Debtor’s estate must file an original, written request for payment of an administrative expense so as to be received on or before the Administrative Claims Bar Date by the Court and the Trustee or Trustee’s counsel; provided, however, that **THE ADMINISTRATIVE CLAIMS BAR DATE SHALL NOT APPLY TO (A) HOLDERS OF CLAIMS OF PROFESSIONALS RETAINED IN THE CASE FOR PROFESSIONAL FEES AND**

EXPENSES, INCLUDING THE TRUSTEE; (B) CLAIMS ARISING UNDER 11 U.S.C. § 1171; AND (C) CLAIMS ARISING AFTER THE ADMINISTRATIVE CLAIMS BAR DATE.

15. The Trustee anticipates that he will provide notice of the Administrative Claims Bar Date substantially in the form attached hereto as **Exhibit A** (the “Bar Date Notice”), by first-class United States mail (or electronic mail), to all known entities holding potential administrative claims against the Debtor’s estate, including any suppliers who did business with the Debtor during the post-petition period. The date on which the Trustee actually serves the Bar Date Notice is referred to herein as the “Service Date.” The Trustee requests that this Court establish December 1, 2014 at 5:00 p.m. (prevailing Eastern Standard Time) as the Administrative Claims Bar Date.

16. No later than five (5) business days after the entry of the Order granting this Motion (the “Bar Date Order”), the Trustee intends to provide the Bar Date Notice to all known persons and entities holding potential administrative claims against the Debtor’s estate. The mailing of the Bar Date Notice no later than the Service Date will ensure that creditors receive substantially more notice than the minimum twenty-one (21) day notice period required under Bankruptcy Rule 2002(a)(7).

17. Pursuant to Bankruptcy Rule 2002(a)(7), the Trustee proposes to mail (or send via electronic mail) the Bar Date Notice to the following parties:

- a. The United States Trustee;
- b. Attorneys for any official committee;
- c. All known holders of claims listed on the Debtor’s Schedules at the addresses stated therein;

- d. All parties known to the Trustee as having potential administrative claims against the Debtor's estate not arising under 11 U.S.C. § 1171;
- e. All counterparties to any executory contracts and unexpired leases listed on the Schedules at the addresses stated therein;
- f. All parties to litigation with the Trustee (as of the date of the entry of the Bar Date Order);
- g. Applicable federal and state taxing authorities; and
- h. All parties who have requested notice pursuant to Rule 2002.

18. The Bar Date Notice: (a) sets forth the Administrative Claims Bar Date; (b) advises creditors under what circumstances they must file an application for payment of an administrative claim; (c) alerts creditors to the consequences of failing to timely file an application for payment of an administrative claim, as set forth in Rule 3003(c)(2) or an Order of this Court; and (d) sets forth the addresses to which applications for payment of administrative claims must be sent for filing, if not filed via CM/ECF. The Trustee submits that the Bar Date Notice will provide creditors with sufficient information to file properly prepared applications for payment of administrative claims in a timely manner.

B. Consequences of Failure to File an Application for Payment of Administrative Expense or Administrative Claim

19. The Trustee requests that any holder of an administrative claim against the Debtor's estate who is required to file an application for payment of such claim in accordance with the Bar Date Order, but fails to do so on or before the Administrative Claims Bar Date, shall be forever barred, estopped, and enjoined from asserting such claim against the Debtor's estate (or filing a proof of claim or application for payment of administrative claim with respect thereto), and the Debtor and its property shall be forever discharged from any and all indebtedness or liability with respect to such claim.

NOTICE

20. The Trustee has provided notice of this Motion to: (a) the United States Trustee; (b) applicable federal and state taxing authorities; (c) counsel for any committee appointed pursuant to 11 U.S.C. § 1102(a)(2); and (d) others who have, as of the date of the Motion, entered an appearance and requested service of papers in the chapter 11 case. In light of the nature of the relief requested in the Motion, the Trustee requests that the Court approve notice to, and service of the Motion on, the parties set forth above as adequate and sufficient notice under the circumstances.

CONCLUSION

Based on the foregoing, the Trustee requests that this Court enter an Order pursuant to 11 U.S.C. §§ 105(a) and 503: (i) establishing the Administrative Claims Bar Date as set forth herein; (ii) approving the form and notice of the Administrative Claims Bar Date; and (iii) granting such other and further relief as this Court deems just and equitable.

Dated: October 3, 2014

ROBERT J. KEACH
CHAPTER 11 TRUSTEE OF MONTREAL
MAINE & ATLANTIC RAILWAY, LTD.

By his attorneys:

/s/ Sam Anderson

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670
Chapter 11

**NOTICE OF ENTRY OF BAR DATE ORDER ESTABLISHING DEADLINE
FOR FILING APPLICATION FOR PAYMENT OF ADMINISTRATIVE
CLAIMS AGAINST THE DEBTOR**

PLEASE TAKE NOTICE THAT:

The United States Bankruptcy Court for the District of Maine (the "Bankruptcy Court") has entered an Order (the "Bar Date Order") establishing the deadline (the "Administrative Claims Bar Date") by which certain holders of administrative claims under 11 U.S.C. § 503(b) must file an application for payment of administrative claims (the "Administrative Claim Application") against the above-captioned debtor and debtor-in-possession (the "Debtor").

You should **not** file an Administrative Claim Application if you do not have an administrative claim under 11 U.S.C. § 503(b) against the Debtor. The fact that you received this Notice does not necessarily mean that you have an administrative claim or that either the Trustee or the Bankruptcy Court believe that you have an administrative claim. For purposes of the Bar Date Order and this Notice, the term "administrative claim" means any type of claim set forth in 11 U.S.C. § 503(b); **provided, however, that (a) holders of claims of professionals retained in the case for professional fees and expenses, including the Trustee appointed in the Debtor's case; (b) holders of claims arising under 11 U.S.C. §1171; and (c) claims arising after the Administrative Claims Bar Date, shall not be barred by the Administrative Claims Bar Date.**

Pursuant to the Bar Date Order, and except as otherwise provided herein, each person or entity (including, without limitation, each individual, partnership, joint venture, corporation, limited liability company, estate, trust, or governmental unit) that holds or asserts an administrative claim against the Debtor must file an Administrative Claim Application so that it is actually received by the Bankruptcy Court on or before the Administrative Claims Bar Date

set forth below. The Administrative Claim Application must be filed via CM/ECF or sent, by first class mail, to:

Alec Leddy, Clerk
United States Bankruptcy Court for the District of Maine
202 Harlow Street
Bangor, Maine 04401

Except as otherwise provided herein, each person or entity holding or asserting an administrative claim under 11 U.S.C. § 503(b) against the Debtor must file an Administrative Claim Application so that it is actually received by the Bankruptcy Court on or before **December 1, 2014 at 5:00 p.m. (prevailing Eastern Standard Time)**.

The following persons and entities need NOT file an Administrative Claim Application by the Administrative Claims Bar Date:

- a) Professionals retained in the case for fees and expenses incurred in relation to the case;
- b) Any person or entity whose claim arises only under 11 U.S.C. § 1171;
- c) Any person or entity that has already properly filed an Administrative Claim Application with the Bankruptcy Court; and
- d) Claims arising after the Administrative Claims Bar Date.

Any person or entity that is required to file a timely Administrative Claim Application and who fails to do so on or before the Administrative Claims Bar Date shall be forever barred, estopped, and enjoined from asserting such claim against the Debtor (or filing a proof of claim or application for payment of administrative claim with respect thereto). **In accordance with 11 U.S.C § 503(b), requests for payment of an administrative claim must be made by separate request for payment and will not be deemed proper if made by a proof of claim.**

The Trustee reserves the right to dispute, or to assert offsets or defenses against, any administrative claim filed, as to the nature, amount, liability, classification, or otherwise. Nothing contained in this Notice shall preclude the Trustee from objecting to any Administrative Claim Application on any grounds.

You may wish to consult an attorney regarding questions concerning this Notice, including the completion of an Administrative Claim Application.

Dated: _____, 2014

ROBERT J. KEACH
CHAPTER 11 TRUSTEE OF MONTREAL
MAINE & ATLANTIC RAILWAY, LTD.

By his attorneys:

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670

Chapter 11

**ORDER ESTABLISHING THE DEADLINE FOR FILING
ADMINISTRATIVE CLAIMS AND APPROVING THE
FORM AND MANNER OF NOTICE THEREOF**

This matter having come before the Court on the Trustee's Motion, Pursuant to 11 U.S.C. §§ 105(a) and 503, for an Order Establishing the Deadline for Filing Administrative Claims and Approving the Form and Manner of Notice Thereof (the "Motion"), and adequate notice of the Motion and opportunity for hearing having been given, and after a hearing held before this Court, if needed, and after due deliberation and sufficient cause therefor, it is hereby **ORDERED**, **ADJUDGED**, and **DECREED** as follows:

1. The Motion is granted.
2. Each person or entity, including, without limitation, each individual, partnership, joint venture, corporation, limited liability company, estate, trust or governmental unit, that holds or asserts an administrative claim, as set forth in 11 U.S.C. § 503(b), against the Debtor's estate, shall file an application for payment of such administrative claim (the "Administrative Claim Application") by the deadline set forth below (the "Administrative Claims Bar Date"); provided, however, that (a) holders of claims of professionals retained in the case for professional fees and expenses, including the Trustee appointed in the above-captioned case (the "Trustee"); (b) holders of claims arising under 11 U.S.C. § 1171; and (c)

claims arising after the Administrative Claims Bar Date shall be exempted from the Administrative Claims Bar Date.

3. No later than five (5) business days after the entry of this Order, the Trustee shall provide notice of the Administrative Claims Bar Date by mailing a copy of the Bar Date Notice (as defined in the Motion), attached as **Exhibit A** to the Motion, by first-class United States mail (or electronic mail), to all known persons and entities holding potential administrative claims against the Debtor. The Bar Date Notice shall be deemed good, adequate, and sufficient notice of the relief granted by this Order to all known creditors of the Debtor if it is served by being deposited in first-class United States mail (or electronic mail) no later than five (5) business days after the entry of this Order to all parties listed in paragraph 17 of the Motion.

4. Except as otherwise provided herein, any person or entity asserting an administrative claim against the Debtor shall file an Administrative Claim Application so that it is received, as provided in paragraph 5 below, **on or before 5:00 p.m. (prevailing Eastern Standard Time) on December 1, 2014.**

5. Administrative Claim Applications must be filed via CM/ECF or sent by first-class United States mail to:

Alec Leddy, Clerk
United States Bankruptcy Court for the District of Maine
202 Harlow Street
Bangor, Maine 04401

Administrative Claim Applications filed via CM/ECF or mailed or delivered to the parties above will be deemed timely filed only if actually received by the United States Bankruptcy Court for the District of Maine on or before the Administrative Claims Bar Date listed in paragraph 4 above.

6. The following persons and entities need NOT file an Administrative Claim Application:

- a) Holders of claims that are not of the kind specified in 11 U.S.C. § 503(b);
- b) Holders of claims arising only under 11 U.S.C. § 1171;
- c) Any person or entity that has already properly filed an Administrative Claim Application with the Bankruptcy Court; and
- d) Professionals retained by the Trustee or the Committee pursuant to orders of this Court who assert administrative claims for fees and expenses subject to this Court's approval pursuant to 11 U.S.C. §§ 330, 331 and 503(b).

7. Any person or entity that is required to file a timely Administrative Claim Application and who fails to do so on or before the Administrative Claims Bar Date shall be forever barred, estopped, and enjoined from asserting such claim against the Debtor (or filing a proof of claim or application for payment of administrative claim with respect thereto). **In accordance with 11 U.S.C. § 503(a), requests for payment of an administrative claim must be made by separate request for payment and will not be deemed proper if made by a proof of claim.**

8. Nothing in this Order shall prejudice the right of the Trustee or any other party in interest herein to dispute, or to assert offsets or defenses to, any Administrative Claim Application as to amount, liability, characterization, or otherwise.

Dated:

The Honorable Louis H. Kornreich
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670
Chapter 11

NOTICE OF EXPEDITED HEARING

Robert J. Keach, the duly appointed chapter 11 trustee (the “Trustee”) in the above-captioned case, has filed a Motion for Expedited Hearing and Shortened Objection Period with Respect to Trustee’s Motion, Pursuant to 11 U.S.C. §§ 105(a) and 503, for an Order Establishing the Deadline for Filing Administrative Claims and Approving the Form and Manner of Notice Thereof [D.E. 1135] (the “Motion to Expedite”), seeking an expedited hearing on the Trustee’s Motion, Pursuant to 11 U.S.C. §§ 105(a) and 503, for an Order Establishing the Deadline for Filing Administrative Claims and Approving the Form and Manner of Notice Thereof [D.E. 1134] (the “Motion”).

If you do not want the Court to approve the Motion to Expedite or the Motion, then on or before **October 17, 2014**, you or your attorney must file with the Court a response or objection explaining your position. If you are not able to access the CM/ECF Filing System, then your response should be served upon the Court at:

Alec Leddy, Clerk
United States Bankruptcy Court for the District of Maine
202 Harlow Street
Bangor, Maine 04401

If you do have to mail your response to the Court for filing, then you must mail it early enough so that the Court will receive it **on or before October 17, 2014**.

You may attend the final hearing with respect to the Motion to Expedite scheduled to be held at the Bankruptcy Court, 202 Harlow Street, Bangor, Maine on **October 21, 2014 at 10:00 a.m. E.S.T.** If the Motion to Expedite is granted at that time, the Court may immediately thereafter conduct a hearing to consider, and may grant some or all of the relief sought by, the Motion.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one. If you do not have an attorney, you may wish to consult one.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion to Expedite or the Motion, and may enter an order granting the requested relief without further notice or hearing.

Dated: October 3, 2014

ROBERT J. KEACH,
CHAPTER 11 TRUSTEE OF MONTREAL
MAINE & ATLANTIC RAILWAY, LTD.

By his attorneys:

/s/ Sam Anderson

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