

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MAINE

)	
In re)	
)	
MONTREALMAINE&ATLANTIC)	CHAPTER 11
RAILWAY, LTD.)	CASE NO. 13-10670-LHK
)	
Debtor)	
)	

WRONGFUL DEATH CLAIMANTS’ OPPOSITION TO TRUSTEE’S MOTION TO EXPEDITE CONSIDERATION OF BAR DATE

The Unofficial Committee of Wrongful Death Claimants (the “Committee”), consisting of representatives of the estates of 46 out of the 47 victims (the “Wrongful Death Claimants”) of the massive explosion in Lac-Mégantic, Quebec, from the derailment of a train operated by the Debtor (the “Disaster”),¹ hereby opposes the Trustee’s Motion for Expedited Hearing, Approval of Shortened Notice Period, and Approval of Notice Procedures with Respect to Bar Date Motion filed December 13, 2013 [Docket No. 497]. As grounds therefor, the Committee states:

1. For weeks the Trustee has been preparing documents related to a bar date for filing claims. In the course of those efforts, he rejected a request by Committee counsel to review in advance and to discuss the proposed bar date procedure as it relates to wrongful death claims. Knowing of the Committee’s concerns and of the highly unusual bar order he is seeking, the Trustee nevertheless chose, without even a heads-up to the Committee, to file his bar date motion and a request for expedited hearing thereon after the close of business on a Friday evening during the holiday season, seeking entry of a bar order on, effectively, two days’ notice.

¹ The victims and the representatives of their estates are listed in Exhibit A to this Objection. Solely for the avoidance of doubt as to standing, this motion is filed on behalf of all members of the Committee as well as the Committee itself. Counsel to the Committee is in the process of preparing the statement required by Fed. R. Bankr. P. 2019, and anticipates filing it within seven days.

2. The proposed bar order is highly unusual and potentially prejudicial. The Trustee proposes to require the Wrongful Death Claimants and other creditors whose claims arise out of the July 6 derailment disaster to file claims in a foreign proceeding – the Companies’ Creditors Arrangement Act case of the Debtor’s affiliate, pending in Canada (the “CCAA Case”) – or else be barred from a distribution *in this case*. Instead of Official Form 10, the Trustee proposes to require those with claims arising from the derailment to file a “proof of claim” consisting of a four-page form plus *91 pages of detailed schedules*.² The bar date documents may depart in other respects as well from standard practice, but the Committee and other affected parties have not yet had sufficient time to review and analyze these documents. Given the length, complexity and radical nature of the bar date documents, the shortened response time proposed by the Trustee is so inadequate as to violate the requirements of due process.

3. In addition to needing adequate time to analyze and respond to the bar date documents, the Committee would like the opportunity to discuss these documents with the Trustee and, as appropriate, the monitor. Presumably the Trustee, having chosen for whatever reason to file the bar date documents without consulting key parties, would now welcome the opportunity to conform his conduct to the consultative norms on which Chapter 11 relies (especially as relates to a Chapter 11 trustee), by having post-filing discussions with the key parties in order to take account of their views.

4. Additional time would also permit the Trustee and the monitor to correct deficiencies in the documents. For example, the Trustee would surely wish to avoid the need to address an objection to proposed form of the bar order based on an ambiguity such as this chestnut:

² Fewer than all of the schedules will apply to any particular claim. Most of the 95 pages consist of schedules that are or might be applicable to wrongful death and personal injury claims.

Derailment Claims may be filed in this case and the Canadian Case, provided, however, that Derailment Claims may be filed only in the Canadian Case

The Trustee might also consider whether it is consistent with his duties to propose that the consequences of not timely filing a proof of claim include discharge of the claim, given that this is a liquidating case where the Debtor is barred from receiving a discharge. *See* 11 U.S.C. § 1141(d)(3). Surely there will be other respects in which the Trustee, totally apart from whatever substantive disagreements he might have with key constituents, would benefit from a collaborative process to assure that the bar date documents reflect a level of care commensurate with their importance.

5. Finally, the Trustee has offered no justification for his haste. There is no particular need for the bar date to be March 31, 2014, as the Trustee has proposed. This Court can and should exercise its prerogative to specify an appropriate bar date at such time as all parties have had full and fair opportunity to be heard on this most important matter. Given the time of year and the complexity of the Trustee's proposal, the Committee respectfully requests a response deadline no earlier than January 31, 2014.

Dated: December 17, 2013

Marie Semie Alliance, *et al.*

By their attorneys,

/s/ George W. Kurr, Jr.
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Exhibit A

1. The estate representatives are Seraphin Alliance (on behalf Alliance, MarieSemie); Elise Dubois Couture (on behalf of Beaudoin, David Lacroix); Pascal Charest (on behalf of Begnoche, Alyssa Charest); Pascal Charest (on behalf of Begnoche, Bianka Charest); GastonBegnoche (on behalf of Begnoche, Talitha Coumi); Suzanne Bizier, Alain Bizier (on behalf ofBizier, Diane); Caroline Tremblay (on behalf of Bolduc, Guy); Lisette Fortin-Bolduc, (on behalf of Bolduc, Stephane); Genevieve Dube (on behalf of Bouchard, Yannick); Michel Boulanger (on behalf of Boulanger, Eliane Parenteau); Louise Boulet (on behalf of Boulet, Marie-France); Colette Boulet, (on behalf of Boulet, Yves); Isabelle Boulanger, Rene Boutin, Sophie Boutin, Roxanne Boutin (on behalf of Frederic Boutin); Real Breton (on behalf of Breton, Genevieve); Yann Proteau (on behalf of Champagne, Karine); Cynthia Boule, Jean-Guy Boule, Alexandre Boule (on behalf of Sylvia Charron); Louise Courture (on behalf of Clusiaux, Kathy); Sonia Pepin; Jeremy Custeau, Theresa Pouliot, Michael Cousteau, Rejean Custeau, Kathleen Bedard, Simon Custeau, Richard Custeau, Sylvie Custeau (on behalf of Real Custeau); Therese Dubois (on behalf of Dubois, Denise); Joannie Proteau, (on behalf of Dubois, Maxime); Maude Faucher (on behalf of Faucher, Marie-Noelle); Guylaine St-Laurent (on behalf of Natachat Gaudreau); Sandy Bedard (on behalf of Guertin Jr., Michel); Raymond Lafontaine, Pierrette Boucher Lafontaine (on behalf of Lafontaine, Gaetan); Pascal Lafontaine (on behalf of Lafontaine, Karine); Clermont Pepin (on behalf of Lajeunesse, Éric Pépin); Marie-Eve Lapierre (on behalf of Lapierre, Stéphane); Diane Belanger (on behalf of Lapointe, Joannie); Marie Josee Grimard (on behalf of Latulippe, Henriette); Georgette Martin (on behalf of David Martin); Karine Paquet (on behalf of Paquet, Roger); Alexia Dumas-Chaput (on behalf of Pelletier, Mathieu); Robert Picard (on behalf of Picard, Louise Poirer); Mario Poulin (on behalf of Poulin, Marianne); Herbert Ratsch (on behalf of Wifrid Ratsch); Lily Rodrique (on behalf of Rodrique, Martin); Maxime Roy, Carol-Anne Roy (on behalf of Roy, Jean-Pierre); Lise Doyon (on behalf of Roy, Kevin); Rejean Roy (on behalf of Roy, Melissa); Mario Sévigny (on behalf of Sévigny, Andrée-Anne); Michel Sirois, Solange Belanger (on behalf of Sirois, Jimmy); Richard Turcotte, Christine Pulin (on behalf of Turcotte, Elodie); Suzanne Bizier (on behalf of Turmel, Joanie); Francois Poulin, Sylvia Vadnais and Jean Vadnais (on behalf of Lucie Vadnais); Annick Roy (on behalf of Veilleux, Jean-Guy); and Sophie Veilleux (on behalf of Veilleux, Richard).

2. The victims are Marie Semie Alliance, David Lacroix Beaudoin, Alyssa CharestBegnoche, Bianca Charest Begnoche, Talitha Coumi Benoche, Diane Bizier, Guy Bolduc,Stephane Bolduc, Yannick Bouchard, Eliane Parenteau Boulanger, Marie France Boulet, YvesBoulet, Frederic Boutin, Genevieve Breton, Karine Champagne, Sylvia Charron, KathyClusiault, Real Custeau, Denise Dubois, Maxime Dubois, Marie-Noelle Faucher, NatachatGaudreau, Michael Guertin, Jr., Gaetan Lafontaine, Karine Lafontaine, Eric Pepin Lajeunesse,Stephane Lapierre, Joannie Lapointe, Henriette Latulippe, David Martin, Roger Paquet, MathieuPelletier, Louise Poirer Picard, Marianne Poulin, Wifrid Ratsch, Martin Rodrique, Jean PierreRoy, Kevin Roy, Melissa Roy, Andree-Anne Sevigny, Jimmy Sirios, Elodie Turcotte, JoanieTurmel, Lucie Vadnais, Jean-Guy Veilleux and Richard Veilleux.