

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670
Chapter 11

**TRUSTEE'S OBJECTION TO MOTION FOR EMERGENCY HEARING
AND TO LIMIT NOTICE**

Robert J. Keach, the chapter 11 trustee (the "Trustee") appointed in the above-captioned chapter 11 case of Montreal Maine & Atlantic Railway, Ltd. ("MMA" or the "Debtor"), files this objection to the *Motion for Emergency Hearing and to Limit Notice* [D.E. 626] (the "Emergency Hearing Motion") filed by Yannick Gagné, Guy Ouellet, Serge Jacques and Louis-Serges Parent (collectively, the "Class Action Plaintiffs") with respect to the *Class Action Plaintiffs' Motion to Establish Claims Procedures* [D.E. 625] (the "Class Claims Motion").¹

1. The Class Action Plaintiffs filed the Class Claims Motion on Sunday, February 9, 2014, and filed the Emergency Hearing Motion on that same day, seeking an emergency hearing on Tuesday, February 11, 2014 at 10:00 a.m.

2. As set forth in the *Trustee's Consolidated Response to Class Action Plaintiffs' Motion to Establish Claims Procedures and Objection to Amended Bar Date Motion* (the "Consolidated Response"), which is incorporated herein by reference, the Class Action Plaintiffs filed a plan of argument and cross-motion (the "Cross-Motion") with the Québec Superior Court

¹ In light of the fact that this Objection pertains only to the Class Action Plaintiffs' request for an expedited hearing on the Class Claims Motion, the Trustee respectfully requests that the Court waive the requirements of D. Me. LBR 9013-1(f), which requires that "[e]very response to a motion shall admit or deny each allegation of the motion and, in addition, shall assert affirmatively . . . such defenses or other matters as may be required fully to inform the Court of the scope of issues raised by the motion." D. Me. LBR 9013-1(f).

(the “Canadian Court”) seeking, among other things, authority to file “class-wide representative claims.” Class Claims Motion, Exh. B, p. 14. The hearing on the bar date motion filed by the Monitor in the Canadian Case (the “Canadian Bar Date Motion”) and the Cross-Motion has been continued to February 26, 2014.

3. Although the Class Claims Motion does not directly seek authority to file a class proof of claim in this case, the motion does seek to replace the process jointly proposed by the Trustee and the Monitor with the Class Action Plaintiffs’ own bar date and claims process, which includes the ability to file a class claim in the Canadian Case. Accordingly, because the relief sought in the Class Claims Motion is intertwined with, and contingent upon, the relief sought in the Cross-Motion, any hearing on and decision with respect to the Class Claims Motion must be coordinated with the Canadian Court and cannot occur prior to the Canadian Court’s ruling on the Cross-Motion. The Class Action Plaintiffs’ request that this Court hold a hearing on the Class Claims Motion on February 11, 2014 is, therefore, inappropriate and premature.

4. Further, a decision regarding whether the Class Action Plaintiffs may file a class proof of claim cannot occur until after the parties have been permitted to take discovery and this Court has held an evidentiary hearing. Such a hearing cannot take place on one day’s notice, with no opportunity to take discovery and after a summary hearing.

5. Accordingly, for the reasons set forth herein and in the Consolidated Response, the Trustee requests that the Emergency Hearing Motion be denied.

Dated: February 10, 2014

ROBERT J. KEACH,
CHAPTER 11 TRUSTEE OF MONTREAL
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By his attorneys:

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Chapter 11

CERTIFICATE OF SERVICE

I, Angela L. Stewart, being over the age of eighteen and an employee of Bernstein, Shur, Sawyer & Nelson, P.A. in Portland, Maine, hereby certify that, on February 10, 2014, I filed the following documents via the Court's CM/ECF electronic filing system:

- Trustee's Consolidated Response to Class Action Plaintiffs' Motion to Establish Claims Procedures and Objection to Amended Bar Date Motion [D.E. 632]; and
- Trustee's Objection to Motion for Emergency Hearing and to Limit Notice [D.E. 633].

A list of the parties who were served with the above referenced documents via CM/ECF are identified on the attached Service List.

Dated: February 10, 2014

/s/ Angela L. Stewart
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