

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670  
Chapter 11

**CHAPTER 11 TRUSTEE'S MOTION FOR AN ORDER (I) DETERMINING  
THAT THE UNOFFICIAL COMMITTEE OF WRONGFUL DEATH  
CLAIMANTS FAILED TO COMPLY WITH FED R. BANKR. P. 2019  
AND (II) IMPOSING SANCTIONS FOR SUCH FAILURE**

Robert J. Keach, the chapter 11 trustee in the above-captioned chapter 11 case, moves this Court for an order (i) determining that the unofficial committee of wrongful death claimants has failed to comply with Fed. R. Bankr. P. 2019 and (ii) imposing sanctions as a result of that failure. The unofficial committee's failures in this case are more than technical defaults. The unofficial committee has filed a plan in this case. How is the Court, or anyone else, supposed to understand whether one member of the committee, or three members of the committee, or 47 members of the committee authorized the plan's filing or even support that plan? The Trustee believes that the unofficial committee's plan is not capable of being confirmed and that, as a result, no disclosure statement should be approved. The fact remains, however, that a plan or plans will need to be formulated and the Trustee and other creditors will need to know the authority of the unofficial committee if those negotiations are to be successful.<sup>1</sup> As a result of this non-compliance, the Court should strike all of the unofficial committee's filings and prohibit

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<sup>1</sup> The Trustee contends that the unofficial committee, as such, is not a party in interest eligible to file a plan under 11 U.S.C. § 1121(c). Therefore, issues of authority are highly relevant to the plan process.

it, or its counsel, from being heard in this case until they comply with the rule. In further support hereof, the Trustee states as follows:

### **JURISDICTION**

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 and this motion to this Court.

2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and the Court has constitutional authority to enter final judgment 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 Fed. R. Bankr. P. 2019 (“Rule 2019”) and 11 U.S.C. § 105(a).

### **BACKGROUND**

5. On August 7, 2013, Montreal Maine & Atlantic Railway, Ltd. (“MMA”) filed a voluntary petition for relief under 11 U.S.C. § 101 *et seq.* MMA’s bankruptcy filing was precipitated by the train derailment in Lac-Mégantic, Québec on July 6, 2013 (the “Derailement”). The Derailement also precipitated the filing by Montreal Maine & Atlantic Canada Co. (“MMAC”), MMA’s subsidiary, in Québec under Canada’s *Companies’ Creditors Arrangement Act* (the “CCAA”).

6. On August 21, 2013, the Trustee was appointed pursuant to 11 U.S.C. § 1163.

7. Between August 22, 2013 and September 3, 2013, Murtha Cullina LLP (“Murtha”) and Gross, Minsky & Mogul, P.A. (“GMM”) filed several papers with the Court and appeared in the Case on behalf of the representatives of the estates of 18 victims of the Derailment (the “18 Claimants”).<sup>2</sup> During that same time period, GMM separately filed a motion and appeared in the Case on behalf of the representatives of the estates of 15 additional victims of the Derailment (the “15 Claimants”). *See* D.E. 78.

8. Then, on September 27, 2013, Murtha and GMM filed the Wrongful Death Claimants’ Withdrawal of Their Motion for Formation of Creditors’ Committee [D.E. 291] (the “Withdrawal Notice”) on behalf of an unofficial committee comprised of the representatives of the estates of 42 victims of the Derailment (the “42 Claimants”). The 42 Claimants include the 18 Claimants, the 15 Claimants, and the representatives of the estates of an additional 9 victims of the Derailment. *See* Withdrawal Notice, Ex. A. In the Withdrawal Notice, the unofficial committee represented that “the legal representatives of 42 of those killed in the [Derailment] have agreed to work together in this case as the Unofficial Committee of Wrongful Death Claimants[.]” *Id.*, ¶ 1. Presumably, this agreement “to work together” was made on or before September 27, 2013.

9. Almost three weeks later, on October 16, 2013, Murtha and GMM filed the Verified Statement Concerning Representation of Unofficial Committee of Wrongful Death Claimants as Required by Fed. R. Bankr. P. 2019 [D.E. 388] (the “Original 2019 Statement”).

The Original 2019 Statement provides, in pertinent part, that:

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<sup>2</sup> *See, e.g.*, Wrongful Death Claimants’ Motion for Formation of Creditors’ Committee [D.E. 76]; Wrongful Death Claimants’ Reservation of Rights Concerning Employment of Chapter 11 Professionals [D.E. 150]; Motion for Expedited Hearing of Wrongful Death Claimants’ Motion for Formation of Creditors’ Committee [D.E. 171]; Wrongful Death Claimants’ Objection to Motion of “Informal Committee of Quebec Claimants” for Appointment of Creditors’ Committee [D.E. 214].

[Murtha] was engaged as bankruptcy counsel and GMM as local bankruptcy counsel for the Unofficial Committee, by the Wrongful Death Claimants' personal injury counsel, The Webster Law Firm of Houston, Texas; Meyers & Flowers, LLC of St. Charles, Illinois and Weller, Green, Toups & Terrell LLP of Beaumont, Texas (collectively, "Personal Injury Counsel"). Personal Injury Counsel had earlier engaged Murtha and GMM to provide services related to the Debtor's Chapter 11 case on behalf of all of their respective clients having wrongful death claims against the Debtor.

Original 2019 Statement, at ¶ 2 (emphasis added).

10. The Original 2019 Statement was later amended to reflect, in part, that the unofficial committee now allegedly consists of the representatives of the estates of 47 victims of the Derailment. *See* Amended Verified Statement Concerning Representation of Unofficial Committee of Wrongful Death Claimants as Required by Fed. R. Bankr. P. 2019 [D.E. 599] (the "Amended 2019 Statement"). The Amended 2019 Statement contains language identical to the language quoted in Paragraph 9 above. *See* Amended 2019 Statement, at ¶ 2.<sup>3</sup>

11. Between September 27, 2013 and the date of this motion, the unofficial committee has actively participated in the Case by filing motions, objections, and—recently—a chapter 11 plan and a related disclosure statement. Murtha and GMM have appeared at and participated in many hearings in the Case.

### **RELIEF REQUESTED**

12. The Trustee requests that this Court enter an order pursuant to Rule 2019 and section 105(a) of the Code: (a) determining that the unofficial committee and their counsel failed to comply with Rule 2019; (b) striking all of the unofficial committee's filings in this case; (c) prohibiting the unofficial committee or their counsel from being heard or intervening in the case pending their compliance with Rule 2019; and (d) granting such other and further relief as may be just and equitable.

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<sup>3</sup> As used in this motion, the term "Rule 2019 Statement" refers collectively to the Original 2019 Statement and the Amended 2019 Statement.

**BASIS FOR RELIEF**

13. In pertinent part, Rule 2019 provides that:

In a chapter 9 or 11 case, a verified statement setting forth the information specified in subdivision (c) of this rule shall be filed by every group or committee that consists of or represents, and every entity that represents, multiple creditors or equity security holders that are (A) acting in concert to advance their common interests, and (B) not composed entirely of affiliates or insiders of one another.

Fed. R. Bankr. P. 2019(b)(1). Rule 2019 is a rule of disclosure. See In re Northwest Airlines Corp., 363 B.R. 704, 707 (Bankr. S.D.N.Y. 2007) (“Bankruptcy Rule 2019 is a disclosure rule . . . . [I]t requires unofficial committees that play a significant role in reorganization proceedings and enjoy a level of credibility and influence consonant with group status to file a statement containing certain information.”); Matter of CF Holding Corp., 145 B.R. 124, 126 (Bankr. D. Conn. 1992) (“The purpose of Rule 2019 is to further the Bankruptcy Code’s goal of complete disclosure during the business reorganization process, and was designed to cover entities, which, during the bankruptcy case, act in a fiduciary capacity to those they represent, but are not otherwise subject to control of the court.”); Baron & Budd, P.C. v. Unsecured Asbestos Claimants Committee, 321 B.R. 147, 166 (D.N.J. 2005) (“Absent compliance with Rule 2019, there is danger that ‘parties purporting to act on another’s behalf may not be authorized to do so and may receive distributions to which they are not entitled.’”) (*quoting* Matter of F & C Int’l, Inc., No. 93-11688, 1994 Bankr. LEXIS 274, \*8 (Bankr. S.D. Ohio Feb. 18, 1994)). As observed by one court, Rule 2019 is:

a disclosure provision, which must necessarily be enforced as any other disclosure provision concerning attorneys or professionals . . . . [T]he Court should also play a role in ensuring that lawyers adhere to certain ethical standards. Bankruptcy Rule 2019 was designed for such a purpose. It is part of the Chapter 11 reorganization process that all matters should be done openly and subject to scrutiny, whether it is the proposal of a plan of reorganization, representation of the debtor, or representation of numerous creditors[.]

In re Oklahoma P.A.C. First Ltd. Partnership, 122 B.R. 387, 392-93 (Bankr. D. Ariz. 1990).

14. The plain language of Rule 2019 requires a verified statement to be filed by “every group or committee that consists of or represents . . . multiple creditors” when those creditors are acting in concert and are not otherwise affiliated. *See* Fed. R. Bankr. P. 2019(b)(1). Here, based on its own allegations, the unofficial committee is a “group or committee that consists of or represents . . . multiple creditors” within the scope of Rule 2019(b). Therefore, the unofficial committee is required to file a Rule 2019 statement. That has not happened in this case.

15. Murtha and GMM have filed a Rule 2019 statement. That statement suggests that Murtha and GMM are representing lawyers, not individuals with claims against MMA’s estate. *See* Paragraph 9, *supra*. The Rule 2019 Statement should be clarified to explain exactly who or what constitutes the clients of Murtha and GMM.

16. If Murtha and GMM are, in fact, representing a single group or committee of creditors, then the committee was required to file a Rule 2019 statement. As noted above, that has not happened. If Murtha and GMM are, in fact, representing 47 different creditors, then Murtha and GMM were required to file statements under Rule 2019. While Murtha and GMM did file a statement, the statement does not, for the reasons discussed below, satisfy the requirements of Rule 2019.

17. The requirements of a Rule 2019 statement are set forth in Rule 2019(c). It provides that:

The verified statement shall include:

- (1) the pertinent facts and circumstances concerning:
  - (A) with respect to a group or committee, other than a committee appointed under § 1102 or § 1114 of the Code, the formation of the group or committee, including the name of each entity at whose instance the

group or committee was formed or for whom the group or committee has agreed to act; or

(B) with respect to an entity, the employment of the entity, including the name of each creditor or equity security holder at whose instance the employment was arranged;

(2) if not disclosed under subdivision (c)(1), with respect to an entity, and with respect to each member of a group or committee:

(A) name and address;

(B) the nature and amount of each disclosable economic interest held in relation to the debtor as of the date the entity was employed or the group or committee was formed; and

(C) with respect to each member of a group or committee that claims to represent any entity in addition to the members of the group or committee, other than a committee appointed under § 1102 or § 1114 of the Code, the date of acquisition by quarter and year of each disclosable economic interest, unless acquired more than one year before the petition was filed;

(3) if not disclosed under subdivision (c)(1) or (c)(2), with respect to each creditor or equity security holder represented by an entity, group, or committee, other than a committee appointed under § 1102 or § 1114 of the Code:

(A) name and address; and

(B) the nature and amount of each disclosable economic interest held in relation to the debtor as of the date of the statement; and

(4) a copy of the instrument, if any, authorizing the entity, group, or committee to act on behalf of creditors or equity security holders.

Fed. R. Bankr. P. 2019(c). Rule 2019 further provides that “On motion of any party in interest, or on its own motion, the court may determine whether there has been a failure to comply with any provision of this rule.” Fed. R. Bankr. P. 2019(e)(1). Upon a finding of non-compliance, the court may “refuse to permit the entity, group, or committee to be heard or to intervene in the case.” *Id.* at 2019(e)(2)(A).

18. Here, the Rule 2019 Statement does not satisfy the requirements of Rule 2019(c)(1) or 2019(c)(4). Each requirement is addressed in turn below.

19. The 2019 Statement fails to include the requisite amount of information relating to the formation of the unofficial committee, including the name of each entity at whose instance the unofficial committee was formed or for whom the unofficial committee agreed to act. *See* Fed. R. Bankr. P. 2019(c)(1)(A). Instead of providing any detail, the Rule 2019 Statement

simply states that the unofficial committee was formed in response to comments made by the Court at the September 13, 2013 hearing regarding an official creditors' committee. *See* Original 2019 Statement, ¶ 2, Amended 2019 Statement, ¶ 2. This general statement does not provide the necessary quantum of information. For example, it does not indicate “the name of each entity at whose instance the group or committee was formed or for whom the group or committee has agreed to act[.]” Fed. R. Bankr. P. 2019(c)(1)(A). It is possible that counsel solicited committee membership. It is also possible that one or more of the individual creditors suggested the formation of an unofficial committee. In either instance, the Rule 2019 Statement must provide the details of formation.

20. The Rule 2019 Statement also fails to disclose compensation arrangements such as contingent fees or other similar sharing relationships or arrangements, and does not include retention agreements. The possibility that Murtha and GMM were retained by other lawyers (*i.e.*, the creditors' personal injury counsel) suggests that there may be a possible fee-sharing or other financial relationship between them. This information and the documents containing this information are pertinent facts and circumstances concerning either the personal injury counsel or the unofficial committee's employment of Murtha and GMM as required by Rule 2019(c)(1)(B).<sup>4</sup>

21. Further, the Rule 2019 Statement fails to provide the instrument (such as an engagement letter) that explains the employment and evidences the authorization of Murtha and GMM to act on behalf of the interests of the unofficial committee as a group instead of the interests of the individual members. *See* Fed. R. Bankr. P. 2019(c)(4).

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<sup>4</sup> Such information may also reveal that Murtha, GMM, or the personal injury counsel have disclosable economic interests in relation to MMA, which interests are relevant to the Case. For example, the personal injury counsel may have a fee agreement whereby they will be compensated out of the amounts recovered for the unofficial committee members' alleged wrongful death claims against MMA, or Murtha and GMM may have a fee-sharing arrangement with the personal injury counsel for the same type of compensation.



22. Between at least August 22, 2013 and September 3, 2013, Murtha and GMM represented several individual clients. However, at some point, their individual clients, along with the representatives of 13 additional victims of the Derailment, decided to “work together in this case as the Unofficial Committee of Wrongful Death Claimants.” The members of the unofficial committee, in essence, made a conscious decision to organize formally and to act together to consolidate their common efforts. In order to do so, each member of the unofficial committee must have authorized Murtha and GMM to act on behalf of the group as a whole rather than each client individually. Alternatively, each member must have consented to a formal governance structure or must have delegated authority expressly in some other way. Under any alternative, Murtha and GMM must provide copies of the instrument or instruments that provided this authorization. *See, e.g., In re Trebol Motors Distributor Corp.*, 211 B.R. 785, 787 (D.P.R. 1997) (“Federal Rules 2019 and 3001, require agents to explain the circumstances of their agency.”); *Baron & Budd*, 321 B.R. at 166-67 (affirming bankruptcy court order requiring law firms representing asbestos claimants to provide detailed explanation of any type of co-counsel, disclose fee-sharing relationships, and provide documents that were signed in relation to creating the relationship); *In re Muralo Co., Inc.*, 295 B.R. 512, 524 (Bankr. D.N.J. 2003) (“A properly filed statement under Fed. R. Bankr. P. 2019, including those filed by attorneys, should indicate the relationship between the filing entity and the creditors named in the submission.”); Collier on Bankruptcy ¶ 2019.02, p. 2019-4 (Alan N. Resnick & Henry J. Sommer eds., 16th ed. 2012) (“The rule, as amended in 2011, insures that all parties that are a group or committee of multiple creditors and their counsel will make disclosures of economic interests that are relevant to the bankruptcy case in which they are appearing.”) (emphasis added); *cf. CF Holding Corp.*,

145 B.R. at 126 (ordering law firms representing entities to disclose in their verified statement any written basis for their representation of the entities).

23. For example, in Northwest Airlines, 363 B.R. at 703, a law firm represented the interests of the committee as a whole instead of the separate interests of each committee member. Counsel for the *ad hoc* committee attached its engagement letter to its verified statement, which “confirmed the agreement of the signatory ‘to become a member of the Ad-hoc Committee of Equity Holders in connection with the Norwest bankruptcy cases.’” Id. at 702.

24. Other courts considering 2019 motions have upheld trial court orders requiring counsel for groups or committees to submit retention documents and related documents along with their 2019 statement. For instance, in Baron & Budd, 321 B.R. at 154, the bankruptcy court entered an order requiring law firms representing more than one creditor in the case to file “a list and detailed explanation of any type of co-counsel, consultant or fee-sharing relationships and arrangements whatsoever, in connection with [the] bankruptcy case or claims against any of the Debtors, and attachment of copies of any documents that were signed in conjunction with creating that relationship or arrangement[.]” Counsel subject to the bankruptcy court order appealed to the district court arguing that the order exceeded the limits of Rule 2019, and the bankruptcy court was limited to reviewing the “representation provision of specified retention agreements” and not “the whole documents creating fee sharing or co-counsel relationships.” Id. at 166 and 168 (internal quotations and citations omitted). The district court rejected these arguments and affirmed the bankruptcy court order holding that “fee sharing, co-counsel and referral relationships (and the potential conflicts of interest that may arise therefrom) are indeed ‘pertinent facts and circumstances in connection with the employment of the entity.’” Id. at 167 (internal quotations and citations omitted).

25. If Murtha and GMM are, in fact, representing a committee, they should provide documentation evidencing the committee formation just as counsel did in Northwest Airlines. They should also submit their retention documents and detail their fee arrangement, including any fee-sharing arrangements, as was required in Baron & Budd.

26. These failures cause more than theoretical problems. For example, counsel for a putative class of claimants in the CCAA proceeding has requested that the Superior Court overseeing the CCAA proceeding approve a claims process different from the one proposed by the monitor in the CCAA proceeding. In that motion (an excerpt of which is attached hereto as Exhibit A), counsel asserts that “the Class Action Plaintiffs have obtained the proxies of over 1,500 victims of the Lac-Mégantic train derailment (the “Derailment”). The proxies authorize the Class Action Plaintiffs to represent the interests of the registered victims in these insolvency proceedings and the Chapter 11 Proceedings.” Exhibit A, at ¶ 10 (footnote omitted). Based on the sheer number of “registered victims” allegedly represented by the putative class, it seems likely that some of the 47 wrongful death victims—which are allegedly represented by Murtha and GMM—are included in that putative class. If there is a committee, its membership and its internal governance mechanism, including how decisions are to be made in a way that binds all members of the committee, must be disclosed.<sup>5</sup>

27. For these reasons, the unofficial committee and their counsel, Murtha and GMM, and have failed to comply with Rule 2019. Accordingly, pursuant to Rule 2019(e), the Court should strike all of the unofficial committee’s filings and prohibit them, or their counsel, from being heard or intervening in the Case until they have complied with the rule. See Oklahoma P.A.C., 122 B.R. at 390 (“If there is a failure to comply with the disclosure provisions of

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<sup>5</sup> The Class Action Plaintiffs must also comply with Rule 2019 in similar fashion.

Bankruptcy Rule 2019, the Court may, *inter alia*, refuse to permit the entity action on behalf of the parties from being heard further in a Chapter 11 case.”).

**NOTICE**

28. Notice of this Motion was served on the following parties on the date in the manner set forth in the certificate of service: (1) the United States Trustee; (2) MMA’s counsel; (3) counsel to the Official Committee of Derailment Victims; (4) counsel to the unofficial committee; and (5) others who have, as of the date of this Motion, entered an appearance and requested service of papers in this case.

WHEREFORE, the Trustee respectfully requests that this Court enter an order: (i) determining that the unofficial committee and their counsel failed to comply with Bankruptcy Rule 2019; (ii) striking all of the unofficial committee’s filings; (iii) prohibiting the unofficial committee and their counsel from being heard or inventing in the Case pending their compliance with Rule 2019; and (iv) granting such other and further relief as may be just and equitable.

Dated: February 18, 2014

ROBERT J. KEACH,

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

By his attorneys:

/s/ Michael A. Fagone  
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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 GRANTING CHAPTER 11 TRUSTEE’S MOTION FOR AN ORDER (I)  
DETERMINING THAT THE UNOFFICIAL COMMITTEE OF WRONGFUL  
DEATH CLAIMANTS FAILED TO COMPLY WITH FED R. BANKR. P. 2019  
AND (II) IMPOSING SANCTIONS FOR SUCH FAILURE**

This matter having come before the Court on the Chapter 11 Trustee’s Motion for an Order (I) Determining that the Unofficial Committee of Wrongful Death Claimants Failed to Comply with Fed. R. Bankr. P. 2019 and (II) Imposing Sanctions for such Failure (the “Motion”)<sup>1</sup>, filed by Robert J. Keach, the chapter 11 trustee appointed pursuant to 11 U.S.C. § 1163 (the “Trustee”), and due and appropriate notice of the Motion having been given; and the Court having reviewed the Motion, and considered any objections or responses to the Motion; the Court hereby **ORDERS, ADJUDGES, and DECREES** that:

1. The Motion is granted.
2. The unofficial committee and their counsel failed to comply with Fed. R. Bankr. P. 2019.
3. All filings by the unofficial committee are stricken from the record.
4. The unofficial committee and their counsel are prohibited from being heard or intervening in the Case pending their compliance with Fed. R. Bankr. P. 2019.

Dated:

\_\_\_\_\_  
The Honorable Louis H. Kornreich  
United States Bankruptcy Judge

\_\_\_\_\_  
<sup>1</sup> Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Motion.

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670  
Chapter 11

**NOTICE OF HEARING**

Robert J. Keach, the chapter 11 trustee in the above-captioned case (the “Trustee”), has filed the *Chapter 11 Trustee’s Motion for an Order (I) Determining that the Unofficial Committee of Wrongful Death Claimants Failed to Comply with Fed. R. Bankr. P. 2019 and (II) Imposing Sanctions for such Failure* (the “Motion”).

If you do not want the Court to approve the Motion, then on or before **March 5, 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 March 5, 2014**.

You may attend the hearing with respect to the Motion scheduled to be held at the Bankruptcy Court, 537 Congress Street, 2<sup>nd</sup> Floor, Portland, Maine on **March 12, 2014 at 10:00 a.m.**

**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, and may enter an order granting the requested relief without further notice or hearing.

Dated: February 18, 2014

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

By his attorneys:

/s/ Michael A. Fagone  
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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

**CERTIFICATE OF SERVICE**

I, Kara Mercier, being over the age of eighteen and an employee of Bernstein, Shur, Sawyer & Nelson, P.A. in Portland, Maine, hereby certify that on February 18, 2014, I filed the following pleadings via the Court's CM/ECF electronic filing system:

- Chapter 11 Trustee's Motion for an Order (I) Determining that the Unofficial Committee of Wrongful Death Claimants Failed to Comply with Fed. R. Bankr. P. 2019 and (II) Imposing Sanctions for such Failure; and
- Notice of Hearing.

I further certify that on February 18, 2014, the following parties were served the above reference documents via CM/ECF, U.S. First Class Mail or Electronic Mail: (1) the United States Trustee; (2) the Debtor's counsel; (3) counsel to the Official Committee of Derailment Victims; (4) Counsel to the Unofficial Committee of Wrongful Death Claimants; and (5) others who have entered an appearance and requested service of papers in this case.



Dated: February 18, 2014

*/s/ Kara Mercier*

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Kara Mercier  
Legal Assistant

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