

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MAINE

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In re)	
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MONTREAL MAINE & ATLANTIC)	CHAPTER 11
RAILWAY, LTD.)	CASE NO. 13-10670-LHK
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	Debtor)	
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**WRONGFUL DEATH VICTIMS’ MOTION FOR EMERGENCY HEARING ON
RESPONSE TO PROPOSED ORDERS ESTABLISHING BAR DATE**

The Unofficial Committee of Wrongful Death Claimants (the “Committee”), consisting of representatives (the “Wrongful Death Victims”) of the estates of the 47 victims of the massive explosion in Lac-Mégantic, Quebec, from the derailment of a train operated by the Debtor (the “Derailment”)¹, hereby moves this Court for an emergency hearing to be held immediately following the hearing on the Committee’s Motion to Determine Compliance with Fed. R. Bankr. P. 2019 filed concurrently herewith (“Rule 2019 Motion”) [Docket No. 762] to the extent the Rule 2019 Motion is granted, on the Wrongful Death Victims’ Response to Proposed Orders Establishing Bar Date (the “Bar Order Response”).² The Committee respectfully seeks immediate action, upon the Court’s determination of the Committee’s compliance with Rule 2019, on the Bar Order Response to allow the Committee to seek the inclusion of a single paragraph in any bar order or bar notice entered by the Court, as proposed in Exhibit A to the Bar Order Response, to provide fair notice to creditors of the consequences of filing a proof of claim

¹ The victims and the representatives of their estates are listed in the Amended Exhibit A filed on March 14, 2014 [Docket No. 756] in connection with the Second Amended Verified Statement Concerning Representation of Unofficial Committee of Wrongful Death Claimants as Required by Fed. R. Bankr. P. 2019 [Docket No. 754]. 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.

² The Committee has sought an emergency hearing on the Rule 2019 Motion to be held on March 19, 2014 at 10:00AM.

in this case. Sufficient cause exists for emergency determination the Bar Order Response due to the imminent entry of the bar date order.

Background

1. On January 27, 2014, the Trustee filed an Amended Motion for Entry of an 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 Proofs of Claim and Procedures Relating Thereto and Approving Form and Manner of Notice Thereof [Docket No. 596] (the “Trustee Bar Date Motion”). A competing Motion to Establish Claim Procedures was filed on February 9, 2014 by plaintiffs in a putative class action filed in Canada [Docket No. 625] (the “Class Rep Motion”).

2. On March 5, 2014, the Committee filed an objection (the “Objection”) to the Trustee Bar Date Motion and the Class Rep Motion [Docket No. 713].

3. Hearings on the Trustee Bar Date Motion, the Class Rep Motion and the Objection were scheduled for March 12, 2014.

4. At a hearing held on March 12, 2014, the Court barred the Committee from being heard on, among other things, the Objection due to the Committee’s non-compliance with Fed. R. Bankr. P. 2019 (“Rule 2019”). The Court ordered the Committee to file amended disclosures under Rule 2019 and scheduled a hearing on the adequacy of such disclosures for April 8, 2014, unless an earlier hearing date was requested by the Committee for cause shown.

5. At the hearing on the Trustee Bar Date Motion, the Trustee requested that the Court grant the motion but delay by one week the entry of an order establishing the bar date to allow a hearing to take place in Canada on the Canadian debtor’s motion to establish bar date. The Court approved the Trustee’s request for bar date and ordered the Trustee to submit a

proposed form of order within seven (7) days. Counsel for the Committee requested that the Committee be permitted to seek, on an expedited basis and upon compliance with Rule 2019, inclusion of its proposed language to the bar date order. The Court indicated that upon compliance with Rule 2019, the Committee could seek expedited treatment with respect to its proposed language in the bar date order.

6. On March 13, 2014, the Committee filed a Second Amended Verified Statement Concerning Representation of Unofficial Committee of Wrongful Death Claimants as Required by Fed. R. Bankr. P. 2019 [Docket No. 754] (the “Second Amended 2019 Statement”).

7. On March 17, 2014, the Committee filed a motion to determine compliance with Fed. R. Civ. P. 2019 [Docket No. 762] (the “Rule 2019 Motion”) and concurrently moved for emergency determination of the Rule 2019 Motion.

Relief Requested

8. By this Motion, the Committee requests that the Court: (a) schedule a hearing on the Bar Order Response for Wednesday, March 19, 2014 at 10:00 a.m., immediately following a hearing on the Rule 2019 Motion to the extent the Rule 2019 Motion is granted; (b) set a shortened deadline for objections to this Motion and the Bar Order Response Motion for March 19, 2014 at 10:00AM; and (c) approve service of this Motion and the Rule 2019 Motion in the manner set forth herein.

9. To the extent that the Court declines to grant an emergency hearing on the Bar Order Response, the Committee requests that any order establishing a bar date entered by the Court include following language pursuant to D. Me. LBR 9013-1(d)(1): “This Order shall become final in fourteen (14) days unless a party in interest sooner objects, in which case the matter shall be set for hearing and considered by the Court as if this Order had not been entered.”

10. The Trustee has refused to consent to the relief sought in this Motion and the Bar Order Response.

Basis for Relief

11. Given the imminent entry of the bar date order and for the reasons set forth in the Bar Order Response, sufficient cause exists for an emergency hearing to allow the Committee to be heard with respect to its proposed language for the bar order and notice.

Notice

12. Notice of the Motion and the Bar Order Response together with a Notice of Hearing and proposed forms of order, was served on the (a) Trustee; (b) the United States Trustee's Office; (c) Debtor's counsel; (d) counsel to the Official Committee of Derailment Victims; and (e) and all other parties receiving notice through the Court's electronic filing system. The Committee hereby requests that this Court find that such service is sufficient notice to all parties in interest in this case.

Conclusion

For these reasons, the Committee respectfully requests that the Court enter an Order:

- (i) granting this Motion for an emergency hearing on the Bar Order Response;
- (ii) setting a hearing on the Bar Order Response for Wednesday, March 19, 2014 at 10:00AM;
- (iii) setting a deadline of Wednesday, March 19, 2014 at 10:00AM for any objections to this Motion and the Bar Order Response;
- (iv) finding that service of this Motion and the Rule 2019 Motion in the manner described herein was sufficient to all parties in interest under the circumstances of this case;

(v) in the alternative, including the language proposed in paragraph 7 of this Motion in any bar order entered by this Court; and

(vi) granting such other relief as the Court deems just and appropriate.

Dated: March 17, 2014

/s/ George W. Kurr, Jr.
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NOTICE OF EMERGENCY HEARING WITH RESPECT TO WRONGFUL DEATH VICTIMS' MOTION FOR EMERGENCY HEARING ON RESPONSE TO PROPOSED ORDERS ESTABLISHING BAR DATE

The Unofficial Committee of Wrongful Death Claimants (the "Committee"), consisting of representatives (the "Wrongful Death Victims") of the estates of the 47 victims of the massive explosion in Lac-Mégantic, Quebec, from the derailment of a train operated by the Debtor (the "Derailment")¹, have filed a *Motion for Emergency Hearing on Response to Proposed Orders Establishing Bar Date* (the "Emergency Motion") and a *Response to Proposed Orders Establishing Bar Date* (the "Bar Order Response"), which Bar Order Response is attached hereto as Exhibit A.

If you do not want the Court to approve the Emergency Motion or the Bar Order Response, then on or before **10:00AM on Wednesday, March 19, 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 19, 2014**.

You may attend the hearing with respect to the Emergency Motion scheduled to be held at the Bankruptcy Court, 202 Harlow Street, Bangor, Maine on **March 19, 2014 at 10:00 a.m.** If the Emergency Motion is granted at that time, the Court may immediately thereafter conduct hearings to consider, and may grant some or all of the relief sought by the Bar Order Response.

¹ The victims and the representatives of their estates are listed in the Amended Exhibit A filed on March 14, 2014 [Docket No. 756] in connection with the Second Amended Verified Statement Concerning Representation of Unofficial Committee of Wrongful Death Claimants as Required by Fed. R. Bankr. P. 2019 [Docket No. 754]. 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.

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 Emergency Motion or the Bar Order Response and may enter an order granting the requested relief without further notice or hearing.

Dated: March 17, 2014

/s/ George W. Kurr, Jr.

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Death Claimants*

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ORDER GRANTING WRONGFUL DEATH VICTIMS’ MOTION FOR EMERGENCY HEARING ON RESPONSE TO PROPOSED ORDERS ESTABLISHING BAR DATE

Upon consideration of the Wrongful Death Claimants’ Motion for Emergency Hearing (the “Emergency Motion”) on Response to Proposed Orders Establishing Bar Date (the “Bar Order Response”), the Proposed Order and Notice of Hearing having been served as set forth in the Emergency Motion, good cause having been shown and pursuant to Rule 9013-1(j) of the Local Bankruptcy Rules, it is hereby ORDERED, ADJUDGED, and DECREED that:

1. Service of the Emergency Motion, Proposed Order, and Notice of Hearing in the manner described in the Motion was sufficient notice to all parties in interest under the circumstances of this case and the relief requested in the Motion;
2. The Motion is GRANTED in all respects;
3. A hearing shall be set for on the Bar Order Response for March 19, 2014 at 10:00 a.m., and all objections to same shall be filed on or before March 19, 2014 at 10:00AM.

Dated at Bangor, Maine, this ____ day of March, 2014.

Hon. Louis H. Kornreich
United States Bankruptcy Judge