

**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 WRONGFUL DEATH VICTIMS’ (I)
MOTION FOR EMERGENCY HEARING ON RESPONSE TO PROPOSED
ORDERS ESTABLISHING BAR DATE AND (II) MOTION FOR EMERGENCY
DETERMINATION AND SHORTENED OBJECTION PERIOD OF MOTION TO
DETERMINE COMPLIANCE WITH FED. R. BANKR. P. 2019**

Robert J. Keach, Esq., the chapter 11 trustee (the “Trustee”) hereby objects to two motions filed by the so-called Unofficial Committee of Wrongful Death Claimants: first, the Motion for Emergency Hearing on Response to Proposed Orders Establishing Bar Date [D.E. 765] (the “First Motion for Emergency Hearing”) and second, the Motion for Emergency Determination and Shortened Objection Period of Motion to Determine Compliance with Fed. R. Bankr. P. 2019 [D.E. 763] (the “Second Motion for Emergency Hearing”). In support of this objection, the Trustee states as follows:

The First Motion for Emergency Hearing seeks an emergency hearing on the unofficial committee’s “response” to a motion that has already been heard and granted. There is no reason for any hearing, let alone an emergency hearing, on that “response.” As the Court will undoubtedly recall, the Court conducted a hearing on March 12, 2014 on the Trustee’s amended motion seeking establishment of a bar date. During that hearing, the Court found and concluded that the unofficial committee and its counsel had failed to comply with Fed. R. Bankr. P. 2019. As a result, the Court entered its Order Granting Chapter 11 Trustee’s Motion for an Order (I)

Determining that the Unofficial Committee of the Wrongful Death Claimants Failed to Comply with Fed. R. Bankr. P. 2019 and (II) Imposing Sanctions for Such Failure [D.E. 753] (the “2019(e) Order”). The 2019(e) Order provides that “the unofficial committee and its counsel will not be heard on any pending matter in this chapter 11 case, except as may be ordered by the Court in connection with the further proceedings contemplated by this Order.” 2019(e) Order, ¶ 2. As of today, there has been no determination of compliance and the Trustee believes that the amended Rule 2019 statements filed on March 13, 2014 and March 14, 2014 are not sufficient to correct the defects that resulted in the Court’s finding of non-compliance at the March 12 hearing. The mere filing of the “response” by the unofficial committee violates the Rule 2019(e) Order.

During the March 12 hearing—and after the Court had ruled that the unofficial committee failed to comply with Rule 2019—the unofficial committee orally moved the Court for an order continuing the hearing on the Trustee’s amended motion regarding the bar date. That oral motion was denied. As a result, the hearing on the bar date motion went forward. There was no reason to delay the hearing on the bar date motion on March 12, and there is no reason to revisit that motion now, less than a week later.¹

The Second Motion for Emergency Hearing seeks an emergency hearing on the unofficial committee’s motion for an order determining that the unofficial committee and its lawyers have cured their failure to comply with Rule 2019. The Second Motion for Emergency Hearing articulates a single basis for the requested emergency hearing: the unofficial committee’s desire to be heard on a matter that has already been heard and determined (namely, the bar date

¹ The unofficial committee’s “response” asks the Court to include an advisory opinion on the effects of filing a proof of claim in this chapter 11 case. The Court cannot and should not be rendering advisory opinions. The unofficial committee’s bankruptcy lawyers are capable of advising their clients about the effects of filing a proof of claim. Bar date orders advise creditors of the need to, and the process for, filing proofs of claims. Lawyers advise creditors about the consequences of filing proofs of claim.

motion). Undaunted by the Court's admonitions, during the March 12 hearing, about seeking emergency or expedited relief, the unofficial committee asks for another bite at the apple. The Court should not countenance that approach. The First Motion for Emergency Hearing and the Second Motion for Emergency Hearing should be denied without a hearing. The Court should set the unofficial committee's motion regarding the Amended Rule 2019 statements for hearing on April 8, along with other matters currently scheduled for hearing that day.

WHEREFORE, for the reasons set forth in this objection, the Trustee requests that the First Motion for Emergency Hearing and the Second Motion for Emergency Hearing be denied.

Dated: March 17, 2014

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

By his attorneys:

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