

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

)	
In re)	Chapter 11
)	Case No. 13-10670
MONTREAL MAINE & ATLANTIC)	
RAILWAY, LTD.)	
)	
Debtor.)	

**LIMITED OBJECTION OF THE UNITED STATES TRUSTEE TO THE
SO-CALLED WRONGFUL DEATH CLAIMANTS’ MOTION TO DETERMINE
COMPLIANCE WITH FED R. BANKR. 2019**

The United States Trustee (the “U.S. Trustee”), by and through his undersigned counsel, hereby objects to the Motion of the Wrongful Death Claimants (hereafter “Movants”) to Determine Compliance with Fed. R. Bankr. P. 2019, filed by the Estates of Marie Alliance, et al. (“the Motion”)(Docket Entry # 762). In support of his Limited Objection, the U.S. Trustee states as follows:

I. OBJECTION

The Movants submit that the information contained in the Amended Second Verified Statement of Bankruptcy Counsel Concerning Representation of Wrongful Death Claimants (“Amended Verified Statement”)(Docket Entry # 754), which incorporates the Declaration of Ted A. Meyers, Esq., (“Declaration”) complies with the requirements of Federal Bankruptcy Rule 2019. The Movants have not, however, submitted any written instrument authorizing Murtha Cullina, LLP (“Murtha”) and Gross, Minsky, Mogul, PA (“GMM”) (hereafter “Bankruptcy Counsel”) to act on behalf of Movants, other than a Letter Agreement dated February 25, 2014, between Movants’ Personal Injury Counsel and Murtha. The Letter

Agreement memorializes an understanding that Murtha would take direction from Personal Injury Counsel, acting pursuant to their authority from Movants. The Declaration recites that the Movants have executed engagement agreements authorizing their Personal Injury Counsel “to take all necessary action to investigate and to prosecute any and all claims for personal injuries and/or death arising from the Derailment”.(Declaration, par. 3). That Letter Agreement is not an agreement of Movants authorizing Bankruptcy Counsel to act on their behalf. No written evidence has been proffered that Bankruptcy Counsel has any authority to act on Movant’s behalf other than that which might be inferred from the authority allegedly conferred upon Personal Injury Counsel. Personal Injury Counsel has not produced the executed engagement agreements. Instead, the Declaration characterizes those agreements as broad in scope and asks this Court to infer that the scope of authority conferred upon Personal Injury Counsel is so broad as to contemplate the hiring of Bankruptcy Counsel for the purpose of formulating the plan, which is currently pending before the Court.

Rule 2019 “is part of the disclosure scheme of the Bankruptcy Code and is designed to foster the goal of reorganization plans which deal fairly with creditors and which are arrived at openly.” *Baron & Budd, P.C. v. Unsecured Asbestos Claimants Comm.*, 321 B.R. 147, 165 (D.N.J. 2005) (discussing predecessor rule). The rule is rooted in the idea that disclosure “of the personnel and activities of those acting in a representative capacity. . . help[s] foster fair and equitable plans free from deception and overreaching.” *In re Northwest Airlines Corp.*, 363 B.R. 701, 703 (Bankr. S.D.N.Y. 2007) (discussing predecessor rule).

Rule 2019 requires more than the suggestion that the desired inference of authority might be discerned by reference to an instrument which remains undisclosed. It requires production of the actual instrument. Until Movants have produced the executed engagement agreements, referred to and characterized in the Declaration, compliance with Rule 2019 cannot be determined.

WHEREFORE, The U.S. Trustee requests that the Court, after hearing, enter an Order denying the Motion and grant to the parties in this case such further relief as is just.

Dated at Portland, Maine this 18th day of March, 2014.

Respectfully submitted,

William K. Harrington
United States Trustee

By: /s/ Stephen G. Morrell
Stephen G. Morrell, Esq.
United States Department of Justice
Office of United States Trustee
537 Congress Street, Suite 303
Portland, ME 04101
PHONE: (207) 780-3564

CERTIFICATE OF SERVICE

I, Stephen G. Morrell, being over the age of eighteen and an employee of the United States Department of Justice, U.S. Trustee Program, hereby certify that on March 18, 2014, I electronically filed the forgoing Limited Objection of the United States Trustee to Wrongful Death Claimants' Motion to Determine Compliance with Fed. R. Bankr. 2019, which was served upon each of the parties set forth on this Service List via U.S. mail, postage prepaid, on March 18, 2014. All other parties listed on the Notice of Electronic Filing have been served electronically.

Dated at Portland, Maine this 18th day of March 18, 2014.

/s/ Stephen G. Morrell

Service List:

N/A