

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE**

In re:

MONTREAL, MAINE & ATLANTIC  
RAILWAY, LTD.,

Debtor.

Case No. 13-10670  
Chapter 11

**MOTION FOR EXPEDITED HEARING AND SHORTENED OBJECTION DEADLINE  
RELATING TO MOTION OF FAMILY MEMBERS FOR ORDER: (I) ENFORCING  
CONFIRMED CHAPTER 11 PLAN, (II) HOLDING CONTEMNORS IN CIVIL  
CONTEMPT, AND (III) IMPOSING SANCTIONS**

In accordance with Rule 9013-1(i) of this Court's Local Bankruptcy Rules (the "Local Rules"), Josee Lajeunesse, as the special representative of the estate of Eric Pepin Lajeunesse (the "Decedent Representative") and individually, Clermont Pepin, and Yannick Pepin (collectively, the "Family Members") hereby request that this Court enter an order scheduling an expedited hearing, and setting a shortened objection deadline, relating to the *Motion of Family Members for Order: (I) Enforcing Confirmed Chapter 11 Plan; (II) Holding Contemnors in Civil Contempt; and (III) Imposing Sanctions* (the "Motion"). In support of this motion to expedite (the "Motion to Expedite"), the Family Members further state as follows:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over the Motion to Expedite pursuant to 28 U.S.C. §§ 157 and 1334 and Rule 83.6 of the Local Civil Rules for the United States District Court for the District of Maine. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

## **BACKGROUND**

2. On July 6, 2013, a train operated by Montreal, Maine & Atlantic Railway, Ltd. (the “Debtor”) and its subsidiary, Montreal Maine & Atlantic Canada Co. (“MMAC”), derailed in Lac Megantic, Quebec, killing forty-seven individuals and causing widespread property damage and environmental contamination (the “Derailment”).

3. As a result of the Derailment, on August 7, 2013, the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). MMAC commenced proceedings in the Quebec Superior Court of Justice – Commercial Division (the “Canadian Court”) under the Canadian Companies’ Creditors Act (the “CCAA”).

4. During the Debtor’s case, many claimants filed proofs of claim related to the Derailment, including the Decedent Representative [Claim No. 354] and Sabrina Nadeau (“Ms. Nadeau”) [Claim No. 549].

5. On October 9, 2015, this Court entered an order [Docket No. 1801] (the “Confirmation Order”) confirming the amended chapter 11 plan [Docket No. 1795, Exh. A] (the “Confirmed Plan”).

6. Section 5.10 of the Confirmed Plan established a mechanism for payments to Derailment-related wrongful death claimants – a trust was established (the “WD Trust”), a negotiated amount of available funds was transferred to the WD Trust, and the trustee of the WD Trust (the “WD Trustee”) is responsible for making distributions in accordance with the Confirmed Plan. Importantly, however, “[a]ny dispute arising under this section 5.10 . . . shall be determined exclusively by *de novo* review before the Bankruptcy Court . . . .” The terms of section 5.10 were highly negotiated on both sides of the border and represented a clear and

intentional division of labor between this Court and the Canadian Court, which was explicitly approved by both courts.

7. On May 19, 2016, Ms. Nadeau and her Canadian attorneys filed an unlawful motion in the Canadian Court requesting that the Canadian Court, rather than this Court, determine whether she is entitled to a distribution from the WD Trust as the alleged “common law spouse” of Eric Pepin Lajeunesse (the “Nadeau Motion”). The Nadeau Motion was served on parties to the CCAA proceeding, if at all, via email on May 25, 2016.

8. On May 30, 2016, the Canadian Court held an initial hearing on the Nadeau Motion. Despite arguments by Canadian counsel for the WD Trustee (and others) that the Canadian Court lacked jurisdiction over the dispute under section 5.10 of the Confirmed Plan – and parallel provisions of Canadian Court’s order sanctioning MMAC’s plan of arrangement (the “Sanction Order”) – the Canadian Court entered a scheduling order for the Nadeau Motion. The WD Trustee was ordered to file a memorandum on jurisdictional and underlying substantive issues by July 1, 2016, with a reply memorandum by Ms. Nadeau (and others) by August 1, 2016. A final hearing on the Nadeau Motion has been scheduled for August 30, 2016.

9. Due to the Canadian Court’s refusal to dismiss the Nadeau Motion for lack of jurisdiction, the Family Members have now been forced file the Motion, which seeks an order from this Court enforcing section 5.10 of the Confirmed Plan and asserting this Court’s continued and **exclusive** jurisdiction over matters related to the WD Trust.

### **RELIEF REQUESTED**

10. The Family Members request that the Court enter an order: (a) scheduling a hearing on the Motion for **Thursday, July 7, 2016 at 10:30 a.m.** pursuant to Local Rule 9013-

1(i); and (b) setting a shortened deadline for objections to the Motion for **Wednesday, July 6, 2016 at 10:30 a.m.** pursuant to Local Rule 9013-1(i)(3).

**BASIS FOR RELIEF**

11. Pursuant to Local Rule 9013-1(d)(5), “the hearing date for a motion shall be no less than twenty-one (21) days, and the response date no less than fourteen (14) days, from the date the motion is filed.”

12. However, parties are entitled to seek expedited hearings on motions by filing a separate motion that “set[s] forth in detail all facts and circumstances which justify expedited hearing . . . .” D. Me. LBR 9013-1(i). “Responses to expedited motions shall be filed no later than the business day preceding that day of hearing.” D. Me. LBR 9013-1(i)(3).

13. The Canadian Court’s refusal to dismiss the Nadeau Motion for lack of jurisdiction, and its setting of an expedited briefing and hearing schedule, presents this Court with exactly the type of exigent circumstances justifying expedited consideration under Local Rule 9013-1(i). As explained more fully in the Motion, section 5.10 of the Confirmed Plan was only arrived at after months of intensive negotiations and extensive hearings on both sides of the border. This intentional division of labor was approved by both this Court in the Confirmation Order and by the Canadian Court in the Sanction Order – disputes relating to claims against the WD Trust are exclusively reserved for determination by this Court. Ms. Nadeau’s request for the Canadian Court to determine an issue within this Court’s exclusive jurisdiction, and the specter that the Canadian Court might make such a determination on an expedited basis, require an immediate hearing on the relief requested in the Motion.

14. Accordingly, the Family Members request that the Court (a) schedule an expedited hearing on the Motion for **Thursday, July 7, 2016 at 10:30 a.m.** pursuant to Local

Rule 9013-1(i); and (b) setting a shortened deadline for objections to the Motion for **Wednesday, July 6, 2016 at 10:30 a.m.** pursuant to Local Rule 9013-1(i)(3)

**NOTICE AND SERVICE**

15. Copies of the Motion to Expedite and the Motion have been served as follows: (a) via this Court's CM/ECF system on all parties requesting CM/ECF notice in the Debtor's case; (b) on Ms. Nadeau via hand-delivery by a bailiff at the address listed in the Nadeau Motion; and (c) via hand-delivery by a bailiff on counsel of record for Ms. Nadeau before the Canadian Court, as listed in the Nadeau Motion. The Family Members submit that this notice constitutes "a good faith effort to advise all affected parties of the pending motion and the time and date of the hearing," as required by Local Rule 9013-1(i)(2).

WHEREFORE, the Family Members request that the Court enter an order: (a) granting the Motion to Expedite; (b) scheduling an expedited hearing on the Motion for **Thursday, July 7, 2016 at 10:30 a.m.**; (c) setting a deadline for parties-in-interest to object to the Motion for **Wednesday, July 6, 2016 at 10:30 a.m.**; and (d) granting such other and further relief as this Court deems just and proper.

Dated: June 29, 2016

Respectfully submitted,

*/s/ Jeremy R. Fischer*

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE

In re:

MONTREAL, MAINE & ATLANTIC  
RAILWAY, LTD.,

Debtor.

Case No. 13-10670  
Chapter 11

**ORDER GRANTING MOTION FOR EXPEDITED HEARING AND SHORTENED  
OBJECTION DEADLINE RELATING TO MOTION OF FAMILY MEMBERS FOR  
ORDER: (I) ENFORCING CONFIRMED CHAPTER 11 PLAN, (II) HOLDING  
CONTEMNORS IN CIVIL CONTEMPT, AND (III) IMPOSING SANCTIONS**

Upon consideration of the *Motion for Expedited Hearing and Shortened Objection Deadline* (the "Motion to Expedite") relating to the *Motion of Family Members for Order: (I) Enforcing Confirmed Chapter 11 Plan; (II) Holding Contemnors in Civil Contempt; and (III) Imposing Sanctions* (the "Motion"), and any objections or responses thereto, and after proper notice and a hearing, it is hereby **ORDERED, ADJUDGED, and DECREED** as follows:

1. The Motion to Expedite is granted.
2. The notice and service of the Motion to Expedite constitutes "a good faith effort to advise all affected parties of the pending motion and the time and date of the hearing," as required by Local Bankruptcy Rule 9013-1(i)(2).
3. Pursuant to Local Bankruptcy Rule 9013-1(i), an expedited hearing on the Motion will be held on **Thursday, July 7, 2016 at 10:30 a.m.** at the U.S. Bankruptcy Court, 537 Congress Street, Second Floor, Portland, Maine.
4. Pursuant to Local Bankruptcy Rule 9013-1(i)(3), objections to the Motion must be filed by **Wednesday, July 6, 2016, at 10:30 A.M.**

DATED:

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Honorable Peter G. Cary  
Chief United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE**

In re:

MONTREAL, MAINE & ATLANTIC  
RAILWAY, LTD.,

Debtor.

Case No. 13-10670  
Chapter 11

**NOTICE OF EXPEDITED HEARING**

Josee Lajeunesse, as the special representative of the estate of Eric Pepin Lajeunesse and individually, Clermont Pepin, and Yannick Pepin (collectively, the “Family Members”), by and through their attorneys, have filed the following papers with the Court:

1. *Motion of Family Members for Order: (I) Enforcing Confirmed Chapter 11 Plan; (II) Holding Contemnors in Civil Contempt; and (III) Imposing Sanctions* (the “Motion”), together with a proposed order granting the Motion; and
2. *A Motion for Expedited Hearing and Shortened Objection Deadline* with respect to the Motion (the “Motion to Expedite”), together with a proposed order granting the Motion to Expedite.

A hearing on the Motion to Expedite will take place at the U.S. Bankruptcy Court, 537 Congress Street, Second Floor, Portland, Maine on **Thursday, July 7, 2016 at 10:30 a.m.** **If the Court grants the relief sought by the Motion to Expedite, the Court will immediately conduct a hearing on the Compromise Motion.**

Objections to both the Motion to Expedite and the Motion, if any, are due to be filed on or before **Wednesday, July 6, 2016, at 10:30 A.M.**, either electronically via the Court’s CM/ECF system for registered and authorized users of that system, or in hard copy format at the U.S. Bankruptcy Court, 537 Congress Street, Second Floor, Portland, Maine 04101, with a copy to the Family Members’ attorneys at the address below.

**Your rights may be affected.** If you fail to object to the Motion or the Motion to Expedite by the deadlines set forth above, the Court may conclude that you have waived any objections to the relief sought by both motions, and enter orders approving the relief sought by the Motion to Expedite and the Motion without further hearing.

Dated: June 29, 2016

Respectfully submitted,

*/s/ Jeremy R. Fischer*

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