

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670

Chapter 11

**AMENDED MOTION OF CHAPTER 11 TRUSTEE 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**

Robert J. Keach, the chapter 11 trustee (the “Trustee”) appointed in the above-captioned chapter 11 case of Montreal Maine & Atlantic Railway, Ltd. (“MMA” or the “Debtor”), pursuant to 11 U.S.C. §§ 105(a) and 502(b)(9), Rules 3002 and 3003(c)(3) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and D. Me. LBR 3003-1, hereby requests that the Court enter an order that: (i) establishes May 31, 2014 as the deadline for filing proofs of claim; (ii) establishes certain procedures for filing proofs of claim as described more fully below, including a provision that Derailment Claims (as defined below) filed in the Canadian Case (as defined below) and also asserting a claim against MMA will be deemed filed in this case; and (iii) approves the form and manner of notice of the Bar Date and the procedures established in relation thereto. In support of this motion (the “Motion”), the Trustee states as follows:

**I. JURISDICTION, VENUE AND STATUTORY BASIS FOR RELIEF**

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 sections 105(a) and 502(b)(9) of the Bankruptcy Code, Bankruptcy Rules 3002 and 3003(c)(3), and D. Me. LBR 3003-1.

## **II. BACKGROUND**

5. On August 7, 2013 (the "Petition Date"), the Debtor filed a voluntary petition for relief under 11 U.S.C. § 101 et seq. (the "Case"). The Debtor's bankruptcy filing was precipitated by the train derailment in Lac-Mégantic, Québec on July 6, 2013 (the "Derailment"). The Derailment set off explosions, destroyed part of downtown Lac-Mégantic, and is presumed to have killed 47 people. The Derailment also precipitated the filing by Montreal Maine & Atlantic Canada Co. ("MMA Canada"), MMA's subsidiary, under Canada's *Companies' Creditors Arrangement Act* (the "Canadian Case").

6. On September 4, 2013, the Court entered an order adopting the *Cross-Border Insolvency Protocol* (the "Protocol") [Docket No. 168]. In light of the Protocol, the Trustee has conferred with counsel to MMA Canada and with Richter Advisory Group Inc., the monitor (the "Monitor") appointed in the Canadian Case, regarding the relief sought in this Motion.

7. The Trustee anticipates that numerous claimants will assert claims against MMA and/or MMA Canada arising out of or related to the Derailment, including, without limitation, claims for wrongful death, personal injury, property damage, environmental damage,

contamination and clean-up and contribution and/or indemnity claims of third parties sued by victims of the Derailment for claims or causes of action arising out of or related to the Derailment (collectively, the “Derailment Claims”), in addition to the other significant secured, priority, and general unsecured claims that will likely be asserted against MMA. Many, if not most, of the holders of the Derailment Claims will be Canadian citizens or entities, and many of the individuals holding Derailment Claims may speak and read French as their primary if not exclusive language. Barring an order from this Court excusing them from doing so, holders of Derailment Claims against both MMA and MMA Canada would be required to file separate claims in this case and the Canadian Case or risk having their claims barred against one or more estates. *See, e.g., In re Griffin Trading Co.*, 270 B.R. 905 (N.D. Ill. 2001) (United Kingdom claims not timely filed in U.S. case barred despite prior cooperation between U.S. chapter 7 trustee and U.K. liquidators). Moreover, issues of due process likely require that potential holders of Derailment Claims receive notices and proof of claim forms in French, as well as English. *See, e.g., In re Petition of Blackwell for the Estate of I.G. Svcs., Ltd.*, 267 B.R. 741, 754-59 (Bankr. W.D. Tex. 2001) (Court holds that due process rights of Mexican creditors were addressed by publication and service of bar date notices in Spanish as well as English).

8. Further, because MMA Canada is an unlimited liability company under Canadian law, MMA, as its parent, may be required to fund any “deficiency” in the payment of claims asserted against MMA Canada; the nature and priority of the claim or claims for such deficiency (including, without limitation, under section 1171), and who may have standing to assert such claims, remains to be determined.

9. Currently, the Court has not set a date by which proofs of claim must be filed. The Trustee requires establishment of a bar date, as well as establishment of procedures

governing the filing of proofs of claim, in order to identify the universe of claims asserted against the Debtor and to ensure that the Trustee is able to administer this Case as efficiently as possible, in a manner beneficial to the Debtor's creditors and parties in interest. Moreover, MMA Canada is filing pleadings contemporaneously with this Motion, to establish a bar date and claims process in the Canadian Case. To avoid confusion, it is critical that the bar dates are the same and that the claims processes are coordinated and integrated. Accordingly, the Trustee has filed this Motion, seeking approval of the Bar Date (as defined below) and the proposed procedures related thereto.

10. Additionally, and in light of the significant likelihood that many of the Derailment Claims asserted against MMA will be identical or similar to Derailment Claims asserted against MMA Canada, as well as the fact that MMA may be required to fund any deficiency in the payment of claims asserted against MMA Canada, the Trustee requests, by this Motion, that any Derailment Claims filed against MMA Canada in the Canadian Case, to the extent also asserting claims against MMA, be deemed filed against MMA, even if only filed in the Canadian Case.

11. In that light, the Trustee has worked with the Monitor and MMA Canada to develop the notices (the "CCAA Notices") and special claims forms for Derailment Claims to be utilized in the Canadian Case (the "CCAA Derailment Claims Forms"), copies of which are attached hereto, along with the related pleadings filed in the Canadian Case, collectively as **Exhibit A**. The CCAA Derailment Claims Forms require the claimant to state if a claim is also asserted against MMA. The CCAA Notices and the CCAA Derailment Claims Forms will be published and distributed in French and English, with publication occurring in local, regional, and national French and English publications in Canada. In addition, the Monitor, through bilingual individuals, will conduct information sessions on claim preparation and filing in Lac-

Mégantic. The Trustee would have difficulty duplicating this effort for this case alone, to the same degree, duplicating the effort would likely cause confusion, and create additional costs and expenses for the estate, all when the due process rights and interests of the holders of Derailment Claims will be best addressed by being allowed to file claims only in the Canadian Case, perhaps in French, with such claims, to the extent also against MMA, to be deemed filed in this case, and the record in this case will be established as follows. The Monitor has agreed to provide the Trustee a detailed list and accounting of the Derailment Claims filed in the Canadian Case which also assert claims against MMA, in English, as well as translations of individual claims forms, as required, and the Trustee will in turn file such documents with this Court.

### **III. RELIEF REQUESTED**

12. The Trustee requests that, pursuant to sections 105(a) and 502(b)(9) of the Bankruptcy Code, Bankruptcy Rules 3002 and 3003(c)(3), and D. Me. LBR 3003-1, the Court:

- i. Establish **May 31, 2014 at 5:00 p.m. (Eastern Standard Time)** as the deadline (the “Bar Date”) for each person or entity (including, without limitation, individuals, partnerships, corporations, joint ventures, trusts, limited liability companies, and governmental units (as defined in section 101(27) of the Bankruptcy Code)) to file a proof of claim (each, a “Proof of Claim”) in respect of a prepetition claim (as defined in section 101(5) of the Bankruptcy Code), and including, for the avoidance of doubt, secured claims, claims under 11 U.S.C. § 1171, priority claims, and general unsecured claims against MMA; and further establish that Derailment Claims filed in the Canadian Case on or before May 31, 2014 at 5:00 p.m. shall be deemed timely filed in this case to the extent also asserting claims against MMA.
- ii. Provide that Derailment Claims filed in the Canadian Case using the CCAA Derailment Claims Forms shall be deemed filed in this case to the extent also asserting claims against MMA, and approve the Trustee’s filing of a detailed list and accounting of such Derailment Claims, in English, as prepared by the Monitor, in this Court as proof of such Derailment Claims;

- iii. Provide that the notice provided to the holders of Derailment Claims pursuant to the CCAA Notices, and via procedures in the Canadian Case (outlined in Exhibit A to this Motion), as well as pursuant to this Motion, is adequate and sufficient due process;
- iv. Otherwise approve the proposed procedures for filing Proofs of Claim in this case;
- v. Approve the proposed procedures for notice of the Bar Date, including, among other things, the form of notice (the “Bar Date Notice”) substantially in the form attached hereto as Exhibit B; and
- vi. Approve the form and manner of notice of this Motion.

#### IV. **BASIS FOR RELIEF**

13. Bankruptcy Rule 3002 requires holders of unsecured claims to file proofs of claim, with exceptions not relevant here. *See* Fed. R. Bankr. P. 3002(a). Bankruptcy Rule 3003(c)(3) provides that the Court shall fix the time within which Proofs of Claim may be filed. Moreover, Rule 3003(c)(2) provides that any creditor whose claim (a) is not scheduled in the Debtor’s schedules of assets and liabilities or (b) is scheduled as disputed, contingent, or unliquidated must file a Proof of Claim by a bar date fixed by the Court. Bankruptcy Rule 3003(c)(2) further provides that “any creditor who fails to do so shall not be treated as a creditor with respect to such claim for the purposes of voting and distribution.” Fed. R. Bankr. P. 3003(c)(2). Likewise, D. Me. LBR 3003-1 provides that “[c]reditors in . . . Chapter 11 cases who are listed on the debtor’s schedules as holding disputed, contingent or unliquidated claims and who are served with the claim status notice provided for in D. Me. LBR 1007-1(c), and creditors who do not agree with the amount or characterization of their claim as scheduled by the debtor, must file a proof of claim in accordance with Fed. R. Bankr. P. 3002 and 3003 no later than ninety (90) days from the first date set for the Section 341 Meeting.” D. Me. LBR 3003-1.

14. Section 502(b)(9) provides that the Court shall allow a claim except to the extent that “proof of such claim is not timely filed . . . .” 11 U.S.C. § 502(b)(9). Section 502(b)(9) of the Bankruptcy Code further provides that the “claim of a governmental unit shall be timely filed if it is filed before 180 days after the date of the order for relief or such later time as the Federal Rules of Bankruptcy Procedure may provide.” 11 U.S.C. § 502(b)(9).

15. Bankruptcy Rule 2002(a)(7) requires that all creditors receive at least twenty-one days’ notice by mail of the time fixed for filing proofs of claim under Rule 3003(c)(3). *See* Fed. R. Bankr. P. 2002(a)(7). Bankruptcy Rule 2002(p)(2) requires that all creditors with a foreign address receive at least thirty days’ notice by mail of the time fixed for filing a proof of claim. Fed. R. Bankr. P. 2002(p)(2). Section 105(a) provides that the court “may issue any order...that is...appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

16. The claims bar date is an essential aspect of the chapter 11 process. Indeed, “[t]he claims allowance process is an integral component of the court’s equitable power to restructure debtor-creditor relationships.” In re Best Prods. Co., Inc., 140 B.R. 353, 356 (Bankr. S.D.N.Y. 1992) (*citing* Langenkamp v. Culp, 298 U.S. 42 (1990)). “The bar order then is not a mere procedural gauntlet, but an integral step in the reorganization process.” Id. at 357 (*citing* First Fidelity Bank, N.A. v. Hooker Inv., Inc. (In re Hooker Inv., Inc.), 937 F.2d 833, 840 (2d Cir. 1991)). A bar order enables the debtor to “ascertain with reasonable promptness the identity of those making claims against the estate and the general amount of the claims,” which is a necessary step in both the reorganization and liquidation processes. Id.

17. Fixing the Bar Date will enable the Trustee to receive, analyze, and process any claims held by creditors of MMA in a timely and efficient manner. Further, establishing the procedures outlined below for filing Proofs of Claim, including the procedures relating to the

Derailment Claims, will ensure that all claims can be processed efficiently and accurately for the benefit of all creditors and parties in interest.

18. Additionally, because this Case is a railroad reorganization case, section 341 of the Bankruptcy Code does not apply and no meeting of creditors has been held. *See* 11 U.S.C. § 1161. Accordingly, D. Me. LBR 3003-1, which requires that certain creditors file proofs of claim no later than 90 days after the first date set for the meeting of creditors, does not apply. Creditors require guidance in light of this local rule, as well as the requirement under section 502(b)(9) that a proof of claim be “timely filed,” regarding how a Proof of Claim will be deemed timely filed for purposes of this Case. The Trustee requests the relief sought in this Motion to provide creditors with such guidance.

**A. Proposed Procedures for Filing Proofs of Claim**

19. The Trustee proposes the following procedures for filing Proofs of Claim:

- a. The Bar Date shall be **May 31, 2014 at 5:00 p.m. (EST)**.
- b. Proofs of Claim, **other than Derailment Claims** (which may be filed in French or English in the Canadian Court), must: (i) be written in the English language; (ii) be denominated in lawful currency of the United States as of the Petition Date (using the exchange rate published by the Bank of Canada, if applicable, as of the Petition Date); (iii) for all claims **other than the Derailment Claims**, conform substantially to Official Bankruptcy Form No. 10 (“Official Form 10”); (iv) set forth with specificity the legal and factual basis for the alleged claim; (v) include supporting documentation for the claim or an explanation as to why such documentation is not available; and (vi) be signed by the claimant or an authorized agent of the claimant.
- c. A holder of a Derailment Claim against both MMA (the Debtor in this case) and MMA Canada (the Debtor in the Canadian Case) has the option of filing a Derailment Claim both in this case and in the Canadian Case by submitting the CCAA Derailment Claim Form as directed in the Canadian Case and indicating on that Form (by checking the appropriate box that appears on the CCAA Derailment Claim Form) that the derailment claim is being asserted against MMA as well as MMA Canada. By submitting the CCAA Derailment Claim Form (with the appropriate box checked) in

the Canadian Case before the Bar Date, the holder will be deemed to have timely filed its Derailment Claim **against MMA and is not required to submit a separate Proof of Claim in this case.** By checking the box to assert a claim against MMA on the CCAA Derailment Claim Form, however, a claimant shall be deemed to have submitted to this Court's jurisdiction with respect to the allowance of his/her/its claims against MMA and related matters. A claimant who files a CCAA Derailment Claim Form but fails to check the box indicating his/her/its intention to assert a Derailment Claim against MMA and fails to file a Proof of Claim in this Case shall be forever barred from asserting such Derailment Claim against MMA. By agreement with the Monitor, the Monitor will provide to the Trustee, in English, a detailed list and accounting of Derailment Claims filed in the Canadian Case and also asserting claims against MMA (the "CCAA Derailment Claims List") and the Trustee will file the CCAA Derailment Claims List with this Court. The Monitor will also provide to the Trustee, on request, copies of individual Derailment Claims.

- d. Any person or entity that holds a claim arising from the rejection of an executory contract or unexpired lease must file a Proof of Claim on or before the **later** of (i) the date that is thirty (30) days after the entry of an order approving the rejection of the executory contract or unexpired lease or (ii) the Bar Date (the "Rejection Bar Date").
- e. If a claimant asserts a claim against both MMA and MMA Canada, other than a Derailment Claim, the claimant must file a separate Proof of Claim against each Debtor in each case in accordance with the procedures established by the relevant court and the rules governing each such case or proceeding.
- f. A Proof of Claim shall be deemed timely filed only if it is actually filed, via CM/ECF, or actually received by the Court, on or before the Bar Date, at the address listed below:

United States Bankruptcy Court, District of Maine  
c/o Alec Leddy, Clerk  
202 Harlow Street  
Bangor, ME 04401

- g. Proofs of Claim sent by facsimile, telecopy, or electronic transmission (other than via the Court's CM/ECF filing system) **will not** be accepted.
- h. The following persons or entities are **not** required to file a Proof of Claim on or before the Bar Date, solely with respect to the claims described below:

- i. Any person or entity whose claim is listed on MMA's schedules, provided that (i) the claim is not listed on MMA's schedules as "disputed," "contingent," or "unliquidated," (ii) the person or entity does not dispute the amount, nature, and priority of the claim as set forth in MMA's schedules, and (iii) the person or entity does not dispute that the claim is an obligation of MMA;
- ii. Any person or entity whose claim has been paid in full;
- iii. Any holder of a claim allowable under sections 503(b) and 507(a)(2) of the Bankruptcy Code as an administrative expense, **but excluding holders of claims under 11 U.S.C. §§ 503(b)(9) or 1171 who must file Proofs of Claim by the Bar Date (or if Derailment Claims, file in the Canadian Case as set forth above)**;
- iv. Any person or entity that holds a claim that heretofore has been allowed by Order of this Court entered on or before the Bar Date;
- v. Any holder of a claim for which a separate deadline has been fixed by this Court; or
- vi. Any person or entity who has already timely filed a Proof of Claim against MMA.

**B. Consequences of Failure to File a Proof of Claim**

20. Pursuant to Bankruptcy Rule 3003(c)(2), the Trustee requests that any holder of a claim against MMA who is required to file a Proof of Claim, but who fails to do so (or is not deemed to do so) on or before the Bar Date or the Rejection Bar Date (if applicable), be forever barred, estopped, and enjoined from asserting such claim against MMA (or filing a Proof of Claim or application for payment of administrative claim with respect thereto), and MMA and its property shall be forever discharged from any and all indebtedness or liability with respect to such claim.

**C. Notice of the Bar Date**

21. Within **ten (10) business days** of entry of an order granting the relief requested in this Motion, the Trustee shall cause to be mailed (i) Official Form 10 and (ii) a Bar Date Notice to the following parties or their counsel:

- i. The U.S. Trustee;
- ii. All known holders of claims listed on MMA's schedules at the addresses stated therein or as updated pursuant to a request by the creditor or by returned mail from the post office with a forwarding address;
- iii. All parties actually known to the Debtor or the Trustee as having potential claims against MMA and/or MMA Canada;
- iv. All counterparties to MMA's executory contracts and unexpired leases listed on MMA's schedules at the addresses stated therein or as updated pursuant to a request by the counterparty or by returned mail from the post office with a forwarding address;
- v. The attorneys of record to all parties to pending litigation against MMA, as well as the pending litigation that is the subject of the Trustee's motion under 28 U.S.C. § 157(b)(5);
- vi. All applicable federal, state, and local taxing authorities;
- vii. All parties who have sent correspondence to the Court and are listed on the Court's electronic docket;
- viii. All parties who have requested notice pursuant to Bankruptcy Rule 2002;
- ix. Counsel to the Official Committee of Derailment Victims; and
- x. Such additional persons and entities as deemed appropriate by the Trustee.

22. The Trustee intends to supplement notice of the Bar Date by providing notice by publication. Such notice is appropriate for: (i) those creditors to whom no other notice was sent and who are unknown or not reasonably ascertainable by the Trustee or the Debtor; (ii) known

creditors with addresses unknown by the Trustee or the Debtor; and (iii) creditors with potential claims unknown by the Trustee or the Debtor. Accordingly, the Trustee proposes to publish the Bar Date Notice, in English and with any necessary modifications for ease of publication, once in each of: (i) the Bangor Daily News; (ii) the Portland Press Herald; and (iii) the Wall Street Journal, subject to applicable publication deadlines, at least **thirty (30) calendar days** prior to the Bar Date. The Trustee also requests authority, in his sole discretion, to publish the Bar Date Notice in additional newspapers, trade journals, or similar publications.<sup>1</sup>

**D. The Proposed Bar Date and Notice Procedures Are Reasonably Calculated to Provide Due and Proper Notice**

23. As set forth above, Bankruptcy Rule 2002(a)(7) requires the Trustee to provide at least twenty-one (21) days' notice of the time fixed for filing Proofs of Claim. Bankruptcy Rule 2002(p)(2) requires at least thirty (30) days' notice to creditors with a foreign address. Under the proposed Bar Date and notice procedures, the Trustee will be providing at least ninety (90) days' notice to all known creditors, more than is required under the Bankruptcy Code and the Bankruptcy Rules. Specifically, the Trustee will have ten (10) business days from the date of entry of the order on this Motion to complete the mailing of the Bar Date Notices. If the Court enters an order granting this Motion on February 12, 2014 (the day after the continued hearing on this Motion), the Trustee's mailing would be completed by February 27, 2014, which is 93 days prior to the proposed Bar Date. The Trustee anticipates that he could complete the mailing in less than ten business days, which would provide for a notice period of even greater than 93 days.

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<sup>1</sup> The CCAA Notices will be published in various Canadian publications, in French and English; to avoid confusion, the Trustee is not publishing separately in the Canadian press. Canadian creditors of MMA who hold claims other than Derailment Claims will be served directly by mail.

24. Accordingly, the Trustee submits that the proposed Bar Date and notice procedures provide sufficient time for all parties in interest, including foreign creditors, to assert their claims. Further, because the proposed notice procedures will provide notice to all known parties in interest by mail and notice to any unknown parties in interest by publication, the Trustee submits that the proposed notice procedures are reasonably calculated to provide notice to all parties that may wish to assert a claim in this Case. The Trustee further asserts that the due process rights of holders of Derailment Claims are met by use of procedures in the Canadian Case and allowing claims to be filed in the Canadian Case to be deemed filed in this case.

25. The Trustee submits that no further or other notice of the Bar Date is necessary and that the proposed notice procedures provide due and proper notice of the Bar Date.

**E. Objections to Claims and Reservation of Rights**

26. The Trustee reserves all rights and defenses with respect to any Proof of Claim, including, among other things, the right to object to any Proof of Claim on any grounds. The Trustee also reserves all rights and defenses to any claim listed on MMA's schedules, including, among other things, the right to dispute any such claim and assert any offsets or defenses thereto.

**V. NOTICE**

27. Notice of this Motion was served on the following parties on the date and in the manner set forth in the certificate of service: (1) the United States Trustee; (2) the Debtor's counsel; (3) the non-insider holders of the twenty (20) largest unsecured claims against the Debtor or, if applicable, the lawyers representing such holders; (4) applicable federal and state taxing authorities; (5) the holders of secured claims against the Debtor, or if applicable, the lawyers representing such holders; (6) counsel to MMA Canada; (7) the Monitor; (8) counsel to the Monitor; (9) counsel to the Official Committee of Derailment Victims; and (10) others who

have, as of the date of the Motion to Expedite, entered an appearance and requested service of papers in this case.

28. In light of the nature of the relief requested in the motion, the Trustee requests that the Court approve service of the Motion on the parties set forth above.

WHEREFORE, the Trustee respectfully requests entry of an order granting the relief requested in the Motion and such other and further relief as may be just.

Dated: January 27, 2014

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

By his attorneys:

/s/ Michael 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 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  
THERE TO AND APPROVING FORM AND MANNER OF  
NOTICE THEREOF**

This matter having come before the Court on the *Motion of Chapter 11 Trustee 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* (the “Bar Date Motion”),<sup>1</sup> filed by Robert J. Keach (the “Trustee”), the chapter 11 trustee in the above-captioned chapter 11 case of Montreal Maine & Atlantic Railway, Ltd. (“MMA”), pursuant to 11 U.S.C. §§ 105(a) and 502(b)(9), Rules 3002 and 3003(c)(3) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and D. Me. LBR 3003-1, for entry of an order (i) establishing **May 31, 2014 at 5:00 p.m. (Eastern Standard Time)** (the “Bar Date”) as the deadline for each person or entity (including, without limitation, individuals, partnerships, corporations, joint ventures, trusts, and governmental units (as defined in section 101(27) of the Bankruptcy Code)) to file a proof of claim (each, a “Proof of Claim”) in respect of a prepetition claim (as defined in section 101(5) of the Bankruptcy Code), and including, for the avoidance of doubt, secured claims, priority claims, and general unsecured claims against MMA and/or

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

MMA's subsidiary, Montreal, Maine & Atlantic Canada Co. ("MMA Canada"), and including claims asserted under 11 U.S.C. § 1171, (ii) approving the procedures proposed in the Bar Date Motion for filing Proofs of Claim, including a provision that the Derailment Claims<sup>2</sup> filed in the Canadian Case will be deemed filed in this case, (iii) approving the procedures proposed in the Bar Date Motion for notice of the Bar Date, and (iv) approving the form and manner of notice of the Bar Date Motion, and due and proper notice of the Bar Date Motion having been provided, and it appearing that no other or further notice need be provided, and the Court having found and determined that the relief sought in the Bar Date Motion is in the best interests of MMA, its creditors, its estate, and all parties in interest and after due deliberation and sufficient cause appearing therefor, it is hereby **ORDERED**, **ADJUDGED**, and **DECREED** that:

1. The Motion is granted.
2. The following procedures for filing Proofs of Claim are approved:
  - a. The Bar Date shall be **May 31, 2014 at 5:00 p.m. (EST)**.
  - b. Proofs of Claim, **other than Derailment Claims** (which may be filed in French or English in the Canadian Court), must: (i) be written in the English language; (ii) be denominated in lawful currency of the United States as of the Petition Date (using the exchange rate published by the Bank of Canada, if applicable, as of the Petition Date); (iii) for all claims **other than the Derailment Claims**, conform substantially to Official Bankruptcy Form No. 10 ("Official Form 10"); (iv) set forth with specificity the legal and factual basis for the alleged claim; (v) include supporting documentation for the claim or an explanation as to why such documentation is not available; and (vi) be signed by the claimant or an authorized agent of the claimant.
  - c. A holder of a Derailment Claim against both MMA (the Debtor in this case) and MMA Canada (the Debtor in the Canadian Case) has the option of filing a Derailment Claim both in this case and in the Canadian Case by submitting the CCAA Derailment Claim Form as directed in the Canadian

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<sup>2</sup> "Derailment Claims" shall mean any and all claims against MMA and/or MMA Canada arising out of or related to the Derailment, including, but not limited to, claims for wrongful death, personal injury, property damage, environmental damage, contamination and clean-up and contribution and/or indemnity claims of third parties that have been sued by victims of the Derailment, among others.

Case and indicating on that Form (by checking the appropriate box that appears on the CCAA Derailment Claim Form) that the derailment claim is being asserted against MMA as well as MMA Canada. By submitting the CCAA Derailment Claim Form (with the appropriate box checked) in the Canadian Case before the Bar Date, the holder will be deemed to have timely filed its Derailment Claim **against MMA and is not required to submit a separate Proof of Claim in this case.** By checking the box to assert a claim against MMA on the CCAA Derailment Claim Form, however, a claimant shall be deemed to have submitted to this Court's jurisdiction with respect to the allowance of his/her/its claims against MMA and related matters. A claimant who files a CCAA Derailment Claim Form but fails to check the box indicating his/her/its intention to assert a Derailment Claim against MMA and fails to file a Proof of Claim in this Case shall be forever barred from asserting such Derailment Claim against MMA. By agreement with the Monitor, the Monitor will provide to the Trustee, in English, a detailed list and accounting of Derailment Claims filed in the Canadian Case and also asserting claims against MMA (the "CCAA Derailment Claims List") and the Trustee will file the CCAA Derailment Claims List with this Court. The Monitor will also provide to the Trustee, on request, copies of individual Derailment Claims.

- d. Any person or entity that holds a claim arising from the rejection of an executory contract or unexpired lease must file a Proof of Claim on or before the **later** of (i) the date that is thirty (30) days after the entry of an order approving the rejection of the executory contract or unexpired lease or (ii) the Bar Date (the "Rejection Bar Date").
- e. If a claimant asserts a claim against both MMA and MMA Canada, other than a Derailment Claim, the claimant must file a separate Proof of Claim against each Debtor in each case in accordance with the procedures established by the relevant court and the rules governing each such case or proceeding.
- f. A Proof of Claim shall be deemed timely filed only if it is actually filed, via CM/ECF, or actually received by the Court, on or before the Bar Date, at the address listed below:

United States Bankruptcy Court, District of Maine  
c/o Alec Leddy, Clerk  
202 Harlow Street  
Bangor, ME 04401

- g. Proofs of Claim sent by facsimile, telecopy, or electronic transmission (other than via the Court's CM/ECF filing system) **will not** be accepted.

- h. The following persons or entities are **not** required to file a Proof of Claim on or before the Bar Date, solely with respect to the claims described below:
- i. Any person or entity whose claim is listed on MMA's schedules, provided that (i) the claim is not listed on MMA's schedules as "disputed," "contingent," or "unliquidated," (ii) the person or entity does not dispute the amount, nature, and priority of the claim as set forth in MMA's schedules, and (iii) the person or entity does not dispute that the claim is an obligation of MMA;
  - ii. Any person or entity whose claim has been paid in full;
  - iii. Any holder of a claim allowable under sections 503(b) and 507(a)(2) of the Bankruptcy Code as an administrative expense, **but excluding holders of claims under 11 U.S.C. §§ 503(b)(9) or 1171 who must file Proofs of Claim by the Bar Date (or if Derailment Claims, file in the Canadian Case as set forth above)**;
  - iv. Any person or entity that holds a claim that heretofore has been allowed by Order of this Court entered on or before the Bar Date;
  - v. Any holder of a claim for which a separate deadline has been fixed by this Court; or
  - vi. Any person or entity who has already timely filed a Proof of Claim against MMA and/or MMA Canada.

3. Pursuant to Bankruptcy Rule 3003(c)(2), any holder of a claim against MMA who is required to file a Proof of Claim, but who fails to do so (or is not deemed to do so) on or before the Bar Date or the Rejection Bar Date (if applicable), shall be forever barred, estopped, and enjoined from asserting such claim against MMA (or filing a Proof of Claim or application for payment of administrative claim with respect thereto), and MMA and its property shall be forever discharged from any and all indebtedness or liability with respect to such claim.

4. The proposed notice of the Bar Date, substantially in the form attached to the Bar Date Motion as Exhibit B (the “Bar Date Notice”), is approved.

5. The following notice procedures are approved as providing due and sufficient notice of the Bar Date to all creditors of MMA and parties in interest in the above-captioned case:

Within **ten (10) business days** of entry of this Order, the Trustee shall cause to be mailed (i) Official Form 10 and (ii) a Bar Date Notice to the following parties or their counsel:

- a. The U.S. Trustee;
  - b. All known holders of claims listed on MMA’s schedules at the addresses stated therein or as updated pursuant to a request by the creditor or by returned mail from the post office with a forwarding address;
  - c. All parties actually known to the Debtor or the Trustee as having potential claims against MMA and/or MMA Canada;
  - d. All counterparties to MMA’s executory contracts and unexpired leases listed on MMA’s schedules at the addresses stated therein or as updated pursuant to a request by the counterparty or by returned mail from the post office with a forwarding address;
  - e. The attorneys of record to all parties to pending litigation against MMA, as well as the pending litigation that is the subject of the Trustee’s motion under 28 U.S.C. § 157(b)(5);
  - f. All applicable federal, state, and local taxing authorities;
  - g. All parties who have sent correspondence to the Court and are listed on the Court’s electronic docket;
  - h. All parties who have requested notice pursuant to Bankruptcy Rule 2002;
  - i. Counsel to the Official Committee of Derailment Victims; and
  - j. Such additional persons and entities as deemed appropriate by the Trustee.
6. The Trustee shall publish the Bar Date Notice, in English and with any necessary modifications for ease of publication, once in each of: (i) the Bangor Daily News; (ii) the

Portland Press Herald; and (iii) the Wall Street Journal, subject to applicable publication deadlines, at least **thirty (30) calendar days** prior to the Bar Date.

7. The Trustee may, in his sole discretion, publish the Bar Date Notice in additional newspapers, trade journals, or similar publications.

8. The Trustee is authorized and empowered to take such steps and perform such acts as may be necessary to implement and effectuate the terms of this Order.

9. Notification of the relief granted by this Order as provided herein is fair and reasonable and will provide good, sufficient, and proper notice to all creditors of their rights and obligations in connection with any claims they may have against MMA in this case.

10. Nothing in this Order shall prejudice the rights of the Trustee or any other party in interest to dispute or assert offsets or defenses to any claim reflected in MMA's schedules or otherwise.

Dated:

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The Honorable Louis H. Kornreich  
United States Bankruptcy Judge