

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670  
Chapter 11

**MOTION FOR EXPEDITED HEARING, SHORTENED OBJECTION PERIOD AND LIMITED NOTICE WITH RESPECT TO TRUSTEE'S MOTION PURSUANT TO 11 U.S.C. §§ 105(a) AND 105(d), AND D. ME. LBR 9045-1 TO CONTINUE AND RESCHEDULE STATUS CONFERENCE ON MOTION TO ESTABLISH A MORATORIUM ON PLAN PROCEEDINGS**

Robert J. Keach, the chapter 11 trustee in the above-captioned case (the "Trustee"), hereby moves this Court for an expedited hearing, shortened objection period and approval of limited notice (the "Motion to Expedite") with respect to the *Trustee's Motion Pursuant to 11 U.S.C. §§ 105(a) and 105(d), and D. Me. LBR 9045-1 to Continue and Reschedule Status Conference on Motion to Establish a Moratorium on Plan Proceedings* (the "Motion") seeking to continue and reschedule the status conference (the "Status Conference") to be heard on June 10, 2014 at 10:00 a.m. in Bangor, Maine. In support of the Motion to Expedite, the Trustee states as follows:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction to entertain the Motion to Expedite pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The relief requested in this Motion is predicated upon 11 U.S.C. §§ 105(a) and 105(d), Rules 9013-1(i) and 9045-1 of the Local Bankruptcy Rules for the United States

Bankruptcy Court for the District of Maine (the “Local Rules”), and the Court’s inherent authority to control its docket.

### **BACKGROUND**

3. On August 7, 2013 (the “Petition Date”), Montreal Maine & Atlantic Railway, Ltd., the above-captioned debtor (the “Debtor”) filed a voluntary petition for relief under chapter 11 of 11 U.S.C. § 101 *et seq.* (the “Bankruptcy Code”). [D.I. 1].

4. Also on August 7, 2013, the Debtor’s wholly-owned subsidiary, Montreal Maine & Atlantic Canada Co. (“MMA Canada” and together with the Debtor, the “Sellers”) filed for protection under Canada’s Companies’ Creditors Arrangement Act (the “Canadian Case”). On August 21, 2013, the United States Trustee appointed the Trustee to serve in the Debtor’s Chapter 11 Case (the “Case”) pursuant to 11 U.S.C. § 1163. [D.I. 64].

5. On February 14, 2014, the Trustee filed the Moratorium Motion, requesting that this Court enter an order establishing: (a) a bar date and cross-border claims process; (b) certain procedures with respect to the plan and confirmation process, including establishment of a 120-day moratorium on further plan activity; and (c) a settlement process and mandatory good faith negotiation of resolution of claims in and to the proceeds of the XL Policy, as well as a global resolution of all claims arising out of or related to the derailment, including claims by or against third parties asserting contribution and indemnity claims against the Debtor and MMA Canada.

6. The Trustee thereafter withdrew, without prejudice, all aspects of the Moratorium Motion, except for the request for a 120-day moratorium on further plan activity. On April 11, 2014, the Court entered the Moratorium Order, granting the requested moratorium through and including June 30, 2014, and, at the request of counsel for the Official Committee of Victims,

scheduled the Status Conference for May 22, 2014 to review the status of settlement talks and any further plan proceedings.

7. The Trustee and counsel for the Official Committee of Victims have been engaged in ongoing talks regarding the Case, and both parties agree that additional time for further engagement will be greatly beneficial to parties in interest.

**RELIEF REQUESTED**

8. By this Motion to Expedite, the Trustee requests that the Court: (a) schedule a telephonic hearing on the Motion for **May 22, 2014 at 1:00 p.m.**; (b) set a shortened objection deadline for **May 21, 2014**; and (c) approve service of the Motion to Expedite and the Motion in the manner set forth herein.

**BASIS FOR REQUESTED RELIEF**

9. Absent a request for an expedited hearing, a movant seeking the type of relief set forth in the Motion must provide twenty-one days' notice of, and a response date must be set more than seven calendar days prior to, a final hearing date. *See* Fed. R. Bankr. P. 2002, 4001(c)(2); Local Rule 9013-1(d)(5).

10. However, pursuant to Local Rule 9045-1, the Trustee requires the relief requested in the Motion on an expedited basis to ensure that the Trustee and counsel for the Official Committee of Victims have sufficient time to make meaningful progress before the Status Conference, to maximize the productiveness of such a conference for all parties involved. For the reasons stated above, failure to obtain the relief requested in the Motion within an expedited timeframe may immediately and irreparably harm the Debtor by interrupting the progress of the settlement and plan discussions that are the subject of the Status Conference, to the detriment of all creditors.

11. Enabling the Trustee and counsel for the Official Committee of Victims to continue discussions related to the plan moratorium and settlement before the Status Conference will maximize the value of the Debtor's estate for the benefit of creditors. The Trustee filed the Motion and this Motion to Expedite as soon as possible after obtaining agreement from counsel for the Official Committee of Victims, and submits that no parties will be prejudiced should the Motion be heard on an expedited basis.

12. The Court has indicated that it has availability for a telephonic hearing on this Motion to Expedite on **May 22, 2014 at 1:00 p.m.** The Trustee requests that a telephonic hearing on the Motion be scheduled for that date and time to allow expedited consideration of the relief sought by the Trustee.

#### **NOTICE**

13. Notice of this Motion, the relief requested herein and the hearing on the Motion shall be served by the Trustee on (a) the United States Trustee; (b) Debtor's counsel; (c) the non-insider holders of the twenty (20) largest unsecured claims against the Debtor or, if applicable, the lawyers representing such holders; (d) applicable federal and state taxing authorities; (e) the holders of secured claims against the Debtor, or if applicable, the lawyers representing such holders; and (f) others who have, as of the date of the Motion, entered an appearance and requested service of papers in the chapter 11 case. Under the circumstances, the notice given by the Trustee of the Motion, the relief requested herein and the hearing thereon constitutes due and sufficient notice thereof and complies with Bankruptcy Rules 9013 and 9014 and Local Rules 9013-1, and 9014-1, and no further notice is necessary or required.

**CONCLUSION**

WHEREFORE, the Trustee respectfully requests that this Court enter an Order: (a) finding that service of the Motion to Expedite and the Motion in the manner described herein was sufficient to all parties in interest under the circumstances of this case; (b) granting the Motion to Expedite; (c) setting a telephonic hearing on the Motion for **May 22, 2014 at 1:00 p.m.** and a shortened objection deadline for **May 21, 2014**; and (d) granting such other and further relief as the Court deems just and equitable under the circumstances.

Dated: May 19, 2014

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

By his attorneys:

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