

**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 THE FIRST INTERIM APPLICATION FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR KUGLER KANDESTIN, LLP, AS SPECIAL COUNSEL TO THE TRUSTEE, ROBERT J. KEACH, FOR THE PERIOD FROM AUGUST 26, 2013 THROUGH MAY 22, 2014**

Robert J. Keach, the chapter 11 trustee (the “Trustee”) in the above-captioned chapter 11 case of Montreal Maine & Atlantic Railway, Ltd. (the “Debtor”), by and through his undersigned counsel, hereby moves this Court for an expedited hearing, shortened objection period and limited notice (the “Motion to Expedite”) with respect to the First Interim Application for Compensation and Reimbursement of Expenses for Kugler Kandestin, LLP, as Special Counsel to the Trustee, for the Period from August 26, 2013 through May 22, 2014 (the “Fee Application”). In support of this 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 to Expedite is predicated upon 11 U.S.C. §§ 105(a) and 105(d), Rule 9013-1(i) 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 Debtor filed a voluntary petition for relief under chapter 11 of 11 U.S.C. § 101 *et seq.* (the “Bankruptcy Code”), in the United States Bankruptcy Court for the District of Maine. 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.

4. On August 27, 2013, the Trustee filed his *Application for Order, Pursuant to Sections 327 and 328 of the Bankruptcy Code, Authorizing the Employment of Kugler Kandestin, LLP as Special Counsel for the Trustee* [D.E. 103] (the “Retention Application”). Thereafter, on August 28, 2013, the Trustee filed his *Amended Application for Order, Pursuant to Sections 327 and 328 of the Bankruptcy Code, Authorizing the Employment of Kugler Kandestin, LLP as Special Counsel for the Trustee* [D.E. 108] (the “Amended Retention Application”).

5. Thereafter, on August 29, 2013 the Court entered an order granting the relief sought in the Amended Retention Application [D.E. 122]. On September 3, 2013, the Court entered the amended order authorizing the employment of Kugler Kandestin, LLP (“Kugler Kandestin”) as special counsel to the Trustee pursuant to sections 327 and 328 of the Bankruptcy Code [D.E. 143] (the “Amended Retention Order”).

6. In that capacity, Kugler Kandestin has provided essential services to the Trustee for the benefit of the Debtor and the creditors of the Debtor’s estate. As described more fully in the Fee Application, Kugler Kandestin now interim seeks allowance of compensation for professional services in the amount of CDN256,982.50 and reimbursement of expenses incurred in rendering such services in the amount of CDN2,392.27.

7. The Court has already scheduled hearings for July 24, 2014 at 10:00 a.m. with respect to several matters in the Case. In light of this scheduling, the interim nature of the Fee

Application, and the fact that Kugler Kandestin has not received any compensation for its work in the Case, the Trustee seeks a hearing on the Fee Application on an expedited basis.

**RELIEF REQUESTED**

8. By this Motion to Expedite, the Trustee requests that the Court: (a) schedule a hearing on the Fee Application for July 24, 2014 at 10:00 a.m.; (b) set a shortened objection deadline for July 23, 2014; and (c) approve service of the Motion to Expedite and the Fee Application in a manner set forth herein.

**BASIS FOR RELIEF**

9. Absent a request for an expedited hearing, a movant seeking the type of relief set forth in the Fee Application 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, and D. Me. LBR 9013-1(i).

10. The Court has already scheduled hearings for July 24, 2014 at 10:00 a.m. with respect to several matters in the Case. As such, the Trustee requests that a hearing on the Fee Application be scheduled for the same date and time to allow expedited consideration of the relief sought by the Trustee while minimizing cost and inconvenience to interested parties who might already be in attendance on that date.

**NOTICE**

11. A copy of this Motion to Expedite and notice of hearing on this Motion to Expedite and the Fee Application was served on the following parties on the date and in the manner set forth in the certificate of service: (i) the Trustee; (ii) counsel to the Trustee; (iii) the United States Trustee; (iv) the Debtor's counsel; (v) the non-insider holders of the twenty (20) largest unsecured claims against the Debtor or, if applicable, the lawyers representing such holders; (vi) applicable federal and state taxing authorities; (vii) the holders of secured claims

against the Debtor or, if applicable, the lawyers representing such holders; and (viii) others who have entered an appearance and requested service of papers in the Chapter 11 Case or filed proof of claims against the Debtor's estate (collectively, the "Notice Parties").

**CONCLUSION**

WHEREFORE, the Trustee requests that this Court enter an Order: (a) finding that service of the Motion to Expedite and the Fee Application 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 hearing on the Fee Application for July 24, 2014 at 10:00 a.m. and a shortened objection deadline for July 23, 2014; and (d) granting such other and further relief as the Court deems just and equitable under the circumstances.

Dated: July 10, 2014

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

By his attorneys:

/s/ Michael A. Fagone

Michael A. Fagone, Esq.

Timothy J. McKeon, Esq.

BERNSTEIN, SHUR, SAWYER & NELSON, P.A.

100 Middle Street

P.O. Box 9729

Portland, ME 04104

Telephone: (207) 774-1200

Facsimile: (207) 774-1127

E-mail: mfagone@bernsteinshur.com

E-mail: tmckeon@bernsteinshur.com

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670

Chapter 11

**ORDER GRANTING MOTION FOR EXPEDITED HEARING, SHORTENED  
OBJECTION PERIOD AND LIMITED NOTICE WITH RESPECT TO THE FIRST  
INTERIM APPLICATION FOR COMPENSATION AND REIMBURSEMENT OF  
EXPENSES FOR KUGLER KANDESTIN, LLP, AS SPECIAL COUNSEL TO THE  
TRUSTEE, ROBERT J. KEACH, FOR THE PERIOD FROM AUGUST 26, 2013  
THROUGH MAY 22, 2014**

This matter having come before the Court on the *Motion for Expedited Hearing, Shortened Objection Period and Limited Notice with respect to the First Interim Application for Compensation and Reimbursement of Expenses for Kugler Kandestin, LLP, as Special Counsel to the Trustee, for the Period from August 26, 2013 through May 22, 2014* (the “Motion to Expedite”), filed by Robert J. Keach, the chapter 11 trustee in the above-captioned case, with respect to the *First Interim Application for Compensation and Reimbursement of Expenses for Kugler Kandestin, LLP, as Special Counsel to the Trustee, for the Period from August 26, 2013 through May 22, 2014* (the “Fee Application”), and upon consideration of all responses to the Motion to Expedite (if any), it is hereby **ORDERED**, **ADJUDGED** and **DECREED** as follows:

1. The Motion to Expedite is granted.
2. Notice and service of the Motion to Expedite and the Fee Application were sufficient in light of the nature of the relief requested.

3. An expedited hearing on the Motion shall be held on July 24, 2014 at 10:00 a.m.  
in Bangor, Maine.

4. The deadline to object to the Motion is July 23, 2014.

Dated:

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The Honorable Louis H. Kornreich  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670

Chapter 11

**NOTICE OF HEARING**

Robert J. Keach, the duly appointed chapter 11 trustee (the “Trustee”) in the above-captioned case, has filed a Motion for Expedited Hearing, Shortened Objection Period and Limited Notice (the “Motion to Expedite”) with respect to the First Interim Application for Compensation and Reimbursement of Expenses for Kugler Kandestin, LLP, as Special Counsel to the Trustee, for the Period from August 26, 2013 through May 22, 2014 (the “Fee Application”).

By the Fee Application, Kugler Kandestin, LLP (“Kugler Kandestin”) seeks a total amount of CDN259,374.77, which includes CDN256,982.50 for payment of professional fees and CDN2,392.27 for reimbursement of expenses incurred during the period from August 26, 2013 through May 22, 2014. Kugler Kandestin seeks an order authorizing and approving its compensation for fees and expenses incurred throughout the course of the above-captioned bankruptcy action on an interim basis. The Fee Application is the first interim fee application filed by Kugler Kandestin. Kugler Kandestin has not previously been paid for its services rendered in this case, and did not receive a retainer.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one. If you do not have an attorney, you may wish to consult one.**

If you do not want the Court to approve the Motion to Expedite or the Fee Application, then on or before **July 23, 2014**, you or your attorney must file with the Court a response or objection explaining your position. If you are not able to access the CM/ECF Filing System, then your response should be served upon the Court at:

Alec Leddy, Clerk  
United States Bankruptcy Court for the District of Maine  
202 Harlow Street  
Bangor, Maine 04401

-and-

Robert J. Keach, Esq.  
Bernstein, Shur, Sawyer & Nelson, P.A.  
100 Middle Street, PO Box 9729  
Portland, Maine 04101-5029

If you do have to mail your response to the Court for filing, then you must mail it early enough so that the Court will receive it **on or before July 23, 2014**.

You may attend the hearing with respect to the Motion to Expedite scheduled to be held at the Bankruptcy Court, 202 Harlow Street, Bangor, Maine on **July 24, 2014 at 10:00 a.m.** If the Motion to Expedite is granted at that time, the Court may immediately thereafter conduct hearings to consider, and may grant some or all of the relief sought by the Fee Application.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion to Expedite or the Fee Application and may enter an order granting the requested relief without further notice or hearing.

Dated: July 10, 2014

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

By his attorneys:

/s/ Michael A. Fagone  
Michael A. Fagone, Esq.  
Timothy J. McKeon, Esq.  
BERNSTEIN, SHUR, SAWYER & NELSON, P.A.  
100 Middle Street  
P.O. Box 9729  
Portland, ME 04104  
Telephone: (207) 774-1200  
Facsimile: (207) 774-1127  
E-mail: mfagone@bernsteinshur.com