

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE

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

**RESPONSE OF WHEELING AND LAKE ERIE RAILWAY COMPANY IN  
OPPOSITION TO THE ESTATE REPRESENTATIVE’S MOTION TO STAY  
PROCEEDINGS AND DISCOVERY IN RELATION TO OBJECTION TO PROOFS OF  
CLAIM FILED BY NEW BRUNSWICK SOUTHERN RAILWAY COMPANY AND  
MAINE NORTHERN RAILWAY COMPANY LIMITED ON THE BASIS THAT  
CERTAIN OF SUCH CLAIMS ARE DUPLICATIVE OF OTHERS, AND SUCH  
OTHERS ARE IMPROPERLY ASSERTED AS ADMINISTRATIVE AND/OR  
PRIORITY CLAIMS**

Wheeling & Lake Erie Railway Company (“Wheeling”) respectfully submits this response (the “Response”) in opposition to the *Estate Representative’s Motion To Stay Proceedings And Discovery In Relation To Objection To Proofs Of Claim Filed By New Brunswick Southern Railway Company And Maine Northern Railway Company Limited On The Basis That Certain Of Such Claims Are Duplicative Of Others, And Such Others Are Improperly Asserted As Administrative And/Or Priority Claims* [D.E. 2285] (the “Motion”), filed by Robert J. Keach in his capacity as the estate representative (the “Estate Representative”) for the post-effective date estate of Montreal Maine & Atlantic Railway, Ltd. (“MMA”).<sup>1</sup>

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<sup>1</sup> Wheeling does not object to the Estate Representative’s request to shorten the period for filing a response to his Motion except insofar as his motion to expedite proposes to set the objection deadline at 4 p.m. As the Court is aware, and as discussed by the Local Rules Committee at its meeting on June 14, 2016, “the Court’s Administrative Order indicates that midnight is the default filing deadline in instances where the Local Rules do not otherwise establish a time deadline.” D. Me. LBR 9013-1(i) does not contain and authorization to limit the time for filing objections to 4 p.m., as the Estate Representative as requested.

**WHEELING'S RESPONSE**

1. Wheeling concurs and joins in the responses to the Motion [D.E. 2298 & 2299] filed by New Brunswick Southern Railway Company Limited and Maine Northern Railway Company (the "Irving Railroads") and incorporates their arguments herein.

2. In particular, Wheeling points out that the resolution of the District Court Litigation, as that term is defined in the Irving Railroads' responses, depends in substantial part on the *prior* resolution in this Court of the litigation between the Estate Representative and the Irving Railroads. Specifically, if it is determined in this Court that the Irving Railroads have no claims, or limited claims, against the Estate Representative, then that determination would be dispositive, in whole or in part, of the District Court Litigation. That is because the District Court Litigation turns on whether or not the Irving Railroads have any claims available for setoff with respect to the claims of MMA against them now asserted by Wheeling.

3. To be sure, there are possible outcomes in the District Court Litigation that could resolve or partially resolve the litigation between the Irving Railroads and the Estate Representative in this Court. Indeed, as a theoretical matter, the District Court could itself determine whether the Irving Railroads have any claims against the Estate Representative that are amenable to be setoff. But that determination would not be binding on the Estate Representative. It would be a waste of judicial resources for the District Court to address this critical issue. On the whole, it is far more likely that a prior adjudication in this Court will advance the litigation in the District Court than the other way around.

**CONCLUSION**

For the foregoing reasons, Wheeling respectfully requests that (i) this Court deny the Estate Representative's Motion seeking to stay discovery and other proceedings related to the Claim Objection, and (ii) grant such other and further relief as the Court deems just and proper.

Dated: February 8, 2017

/s/ George J. Marcus

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**CERTIFICATE OF SERVICE**

I, Holly C. Pelkey, hereby certify that I am over eighteen years old and that I caused a true and correct copy of the above document to be served upon the parties electronically at the addresses set forth on the Service List below on 8<sup>th</sup> day of February, 2017.

/s/ Holly C. Pelkey

Holly C. Pelkey  
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