

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

In re: *
*
Montréal, Maine & Atlantic *
Railway, Ltd. *
*
Debtor *

Chapter 11
Case No. 13-10670

**OBJECTION TO 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**

NOW COME Sabrina Nadeau (“Ms. Nadeau”), Joel Rochon and Daniel R. LaRochelle (the “Canadian Attorneys”), and object to the 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 (the “Motion to Expedite”) as follows:

FIRST DEFENSE

1-5. Ms. Nadeau and the Canadian Attorneys (collectively, the “Respondents”) admit the allegations set forth in ¶¶ 1-5 of the Motion to Expedite.

6. The Respondents assert that documents in addition to the Confirmed Plan established the distribution mechanism and the WD Trust. The Respondents admit the remaining allegations set forth in the first two sentences of paragraph 6 of the Motion to Expedite. The Respondents lack knowledge or information sufficient to form a belief as

to the truth of the remaining allegations set forth in ¶ 6 of the Motion to Expedite, and, therefore, deny the same.

7. The Respondents deny that any motion that they filed in the Canadian Court was “unlawful”. The Respondents state that the Nadeau Motion was served upon the WD Trustee by e-mail on May 27, 2016 and admit the remaining allegations set forth in ¶ 7 of the Motion to Expedite.

8. The Respondents admit the allegations set forth in ¶ 8 of the Motion to Expedite. The Respondents further state that the WD Trustee has filed a memorandum dated June 30, 2016 with the Canadian Court dealing with jurisdictional and other issues.

9-10. The Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in ¶¶ 9-10 of the Motion to Expedite, and, therefore, deny the same.

11-12. The Respondents admit the allegations set forth in ¶¶ 11-12 of the Motion to Expedite.

13. The Respondents deny the allegations set forth in the first and last sentences of ¶ 13 of the Motion to Expedite. The Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in ¶ 13 of the Motion to Expedite, and, therefore, deny the same.

14-15. The Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in ¶¶ 14-15 of the Motion to Expedite, and, therefore, deny the same.

SECOND DEFENSE

16. The period within which a motion may be heard before this Court can be reduced only “for cause shown”. See Fed. R. Bankr. P. 9006(c)(1). In exercising its discretion to shorten the period for hearing the Motion of Family Members for Order: (I) Enforcing Confirmed Chapter 11 Plan, (II) Holding Contemnors in Civil Contempt, and (III) Imposing Sanctions (the “Contempt Motion”), this Court must consider the prejudice to the Respondents and weigh this against the reasons given by the Family Members for hearing the Contempt Motion on an expedited basis. See In re Phila. Newspapers, LLC, 690 F.3d 161, 171 (3d Cir. 2012); Shader v. Brattleboro Sav. & Loan Assn., 2014 U.S. Dist. LEXIS 171978, at *25 (D. Vt. Dec. 12, 2014).

17. The Family Members have, in essence, provided no reason for an expedited hearing upon the Contempt Motion. The Canadian Court required the WD Trustee to file a response to the Nadeau Motion by July 1, 2016, and the WD Trustee has done so. No response to the Nadeau Motion has been required of any other party prior to August 1, 2016, with a hearing on that Motion to be held before the Canadian Court on August 30, 2016. Thus, there is no danger of prejudice to the Family Members if the hearing upon the Contempt Motion were to be held on a non-expedited basis. Additionally, the Canadian Court held an initial hearing on the Nadeau Motion on May 30, 2016, but the Family Members did not file the Contempt Motion with this Court until almost one month later. Even with this unexplained delay, there is no reason that a hearing upon the Contempt Motion cannot and should not be held in the ordinary course.

18. Shortening the time period within which a hearing is to be held upon the Contempt Motion will, for several reasons, prejudice the Respondents. First, co-lead Canadian Class counsel, and one of the lawyers for Ms. Nadeau, and a named party to the Contempt Motion, Joel Rochon, is engaged in mediation sessions involving victims of Volkswagens' fraudulent representations concerning its diesel vehicles, which mediation sessions will continue for the rest of the current week and may continue into next week as well. His absence from many of the discussions concerning the subject matter of the Contempt Motion prejudices the Respondents' ability to respond to that Motion within the shortened time period requested by the Family Members. Second, simultaneous proceedings in both this Court and the Canadian Court on the issues raised in the Contempt Motion introduce a danger of inconsistent rulings between those courts which could be avoided if both this Court and the Canadian Court had an opportunity to coordinate and consult with one another as, for example, is contemplated in the Cross-Border Insolvency Protocol signed by this Court in connection with this case and the Canadian Court in connection with the insolvency case of the Montréal, Maine & Atlantic Canada Co. Holding a hearing on the Contempt Motion in the ordinary course would provide time for such communications to occur prior to any such hearing. Third, a minimal delay here would give an important party, the WD Trustee, an opportunity to respond to and/or join in the Contempt Motion. Finally, holding a hearing on the Contempt Motion in the ordinary course would provide time for interested parties to discuss the issues and, perhaps, resolve some or all of them on a consensual basis.

WHEREFORE, the Respondents pray that this Court deny the relief sought in the Motion to Expedite.

Dated at Portland, Maine this 5th day of July, 2016.

/s/ F. Bruce Sleeper
F. Bruce Sleeper
Attorney for Respondents

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CERTIFICATE OF SERVICE

I certify that, on July 5, 2016, all parties listed on the Notice of Electronic Filing in this case were served electronically with a copy of the above Objection.

/s/ F. Bruce Sleeper
F. Bruce Sleeper
Attorney for Respondents