

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MÉGANTIC

(Class Action)
SUPERIOR COURT

File N° : 480-06-000001-132

**GUY OUELLET, SERGE JACQUES,
LOUIS-SERGE PARENT**

Plaintiffs

v.

**MONTREAL MAINE & ATLANTIC CANADA
COMPANY**

and

THOMAS HARDING

and

CANADIAN PACIFIC RAILWAY COMPANY

Defendants

and

ROBERT J. KEACH, solely in his capacity as the estate representative of Montreal, Maine & Atlantic Railway, Ltd., having a place of business at Bernstein, Shur, Sawyer & Nelson, P.A., 100 Middle Street, P.O. Box 9729, Portland, ME 04104-5029

and

RICHTER ADVISORY GROUP INC., in its capacity as Monitor in the proceedings of Montréal, Maine & Atlantic Canada Company pursuant to the *Companies' Creditors Arrangement Act* ("CCAA"), having a place of business at 1981 McGill College Ave, Montreal, Quebec, H3A 0G6

Third Parties

**APPLICATION BY CANADIAN PACIFIC RAILWAY COMPANY ("CP")
FOR PRESERVATION OF EVIDENCE AND COMMUNICATION OF
DOCUMENTS**

(Art. 20, 221 of the *Code of Civil Procedure* (CCP))

TO THE HONOURABLE JUSTICE MARTIN BUREAU, J.S.C., CP RESPECTFULLY SUBMITS THE FOLLOWING:

1. CP is being sued in a class action for a train derailment which occurred in Lac-Mégantic on July 6, 2013, as are also Defendants Montreal Maine & Atlantic Canada Company (“MMAC”) and Thomas Harding (“Harding”);
2. In its Plea dated June 1st, 2017, CP alleges that the faults which caused this derailment are well known and that none of these faults, even remotely, implicates CP. CP further alleges that the sole cause of the derailment is the negligence of Defendants MMAC, its employee, Defendant Harding and its parent company, Montreal Maine & Atlantic Railway Ltd. (“MMAR”, collectively and indistinctly referred to hereinafter with MMAC as “MMA”);
3. CP put MMA on notice to preserve all evidence relevant to these proceedings, following the above-mentioned train derailment, as appears from a letter sent on April 14, 2014 by CP’s counsels to MMA, attached hereto as **Exhibit P-1**;
4. On July 14, 2017, the parties advised the Court that they intend to begin the examinations on discovery early in 2018 and that they have elected to begin with MMA’s representatives, MMAC being a party in this matter subject to pre-trial examination, including with respect to documentary disclosure purposes;
5. In anticipation of the forthcoming examinations on discovery of MMA’s representatives, CP has, at this stage, identified a number of documents for the purposes of these examinations, as appears from the said request for documents, attached hereto as **Exhibit P-2**;
6. MMAC is not represented by counsel in the present matter and has not filed any Appearance. However, it is believed that MMA’s documents are currently in possession of and/or control of both Richter Advisory Group Inc., as the monitor acting in MMAC’s CCAA process, and Robert J. Keach, in his capacity as estate representative in MMAR’s bankruptcy;
7. Consequently, both Richter Advisory Group Inc. and Robert J. Keach are impleaded in this Application as third parties, for the sole reason that they are believed to be in possession and/or control of MMA’s documents;
8. CP therefore requests from this Court that the following orders be rendered, in order to facilitate having access to and obtaining communication of the documents enumerated in Exhibit P-2;

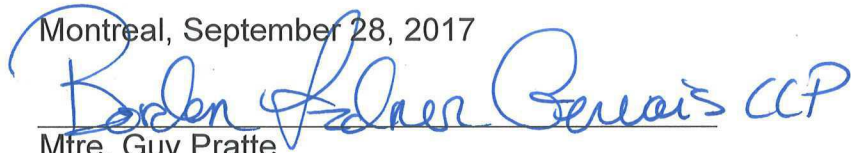
FOR THESE REASONS, CP RESPECTFULLY REQUESTS FROM THE COURT THAT IT:

- A. **ORDERS** Robert J. Keach, solely in his capacity as the estate representative of Montreal, Maine & Atlantic Railway, Ltd., and Richter Advisory Group Inc., in its capacity as Monitor in the proceedings of Montréal, Maine & Atlantic Canada

Company pursuant to the *Companies' Creditors Arrangement Act* ("CCAA"), to preserve all the documents in their possession and/or control concerning Montreal Maine & Atlantic Canada Company and Montreal Maine & Atlantic Railway, for the purposes of the present proceedings, up until these proceedings are officially concluded by final judgment;

- B. ORDERS** Robert J. Keach, solely in his capacity as the estate representative of Montreal, Maine & Atlantic Railway, Ltd., and Richter Advisory Group Inc., in its capacity as Monitor in the proceedings of Montréal, Maine & Atlantic Canada Company pursuant to the *Companies' Creditors Arrangement Act* ("CCAA"), to take all the appropriate measures to communicate to CP all the documents in their possession and/or control responsive to CP's request for documents (Exhibit P-2), within the delay as shall be determined by this Court;
- C. ORDERS** any other measures deemed appropriate to facilitate the process for the communication of the documents, as requested in Exhibit P-2;
- D. COSTS TO FOLLOW.**

Montreal, September 28, 2017



Mtre. Guy Pratte

Mtre. François Grondin

Mtre. Patrick Plante

Borden Ladner Gervais LLP

Attorneys for the Defendant

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Mtre. André Durocher

Fasken Martineau DuMoulin LLP

Counsel for the Defendant

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AFFIDAVIT

I, the undersigned, Patrick Plante, practising my profession as a lawyer with Borden Ladner Gervais LLP located at 1000 De La Gauchetière Street West, Suite 900, Montréal, Province of Québec, H3B 5H4, solemnly declare:


1. I am one of the lawyers for the Defendant Canadian Pacific Railway Company in the present case;
2. I have read the attached *Application by Canadian Pacific Railway Company for preservation of evidence and communication of documents* and all the facts set forth are true.

AND I HAVE SIGNED:



PATRICK PLANTE

Solemnly declared before me in
Montréal, this 28th day of September, 2017



Commissioner for Oaths for Québec



NOTICE OF PRESENTATION

TO: Mtre. Joël Rochon
Mtre. Remissa Hirji
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Defendant

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ADVISORY GROUP INC.*

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Lawyers for Plaintiffs

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Defendant

Mr. Robert J. Keach
BERNSTEIN, SHUR, SAWYER & NELSON,
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Portland, ME 04104-5029

Third Party

Mr. Gilles Robillard
Mr. Andrew Adessky
RICHTER ADVISORY GROUP INC.
1981 avenue McCill College
Montréal, Québec H3A 0G6


Third Party

TAKE NOTICE that the Defendant Canadian Pacific Railway Company's *Application by Canadian Pacific Railway Company for preservation of evidence and communication of*

documents will be submitted for adjudication before one of the Honourable Judges of the Superior Court sitting in Chambers in and for the District of Lac-Mégantic at the Lac-Mégantic Courthouse, located at 5527 Frontenac Street, Lac-Mégantic, on **October 24, 2017, at 9:00 a.m., in Room 300**, or as soon thereafter as counsel may be heard.

PLEASE GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, September 28, 2017


BORDEN LADNER GERVAIS LLP
Attorneys for the Defendant
Canadian Pacific Railway Company

Fasken Martineau DuMoulin LLP
Barristers and Solicitors
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**FASKEN
MARTINEAU** 

Enrico Forlini
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eforlini@fasken.com

April 14, 2014
File No.: 111372.27/10303

BY EMAIL

Montreal, Maine and Atlantic Railway, Ltd.
15 Iron Road,
Hermon, Maine, 04401, USA
c/o Mtre Pierre Legault and Mtre Patrice
Benoit, counsel of record for the CCAA
proceedings &
c/o Mtre Jean-Philippe Lincourt, counsel of
record for the Proposed Class Action

Montreal, Maine and Atlantic Canada Co.
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Halifax, Nova Scotia, B3J 2X2
c/o Mtre Pierre Legault and Mtre Patrice
Benoit, counsel of record for the CCAA
proceedings &
c/o Mtre Jean-Philippe Lincourt, counsel of
record for the Proposed Class Action

Montreal, Maine & Atlantic Corporation
15 Iron Road,
Hermon, Maine, 04401, USA
c/o Mtre Jean-Philippe Lincourt, counsel of
record for the Proposed Class Action

Dear Sirs:

Re: Preservation of documents relating to the Proposed Class Action

We are counsel for Canadian Pacific Railway Company (“CPR”).

As you are aware, CPR is, along with Montreal, Maine & Atlantic Canada Co. (“MMAC”) and Montreal, Maine & Atlantic Railway, Ltd. (“MMAR”) (hereinafter collectively referred to as “MMA”) a named respondent in the *Motion to Authorize the Bringing of a Class Action & to Ascribe the Status of Representative* in the Superior Court of Quebec (No. 450-06-000001-135) (the “**Proposed Class Action**”).

The purpose of this letter is to formally request that you take all necessary measures to preserve any and all potential evidence relating to the Proposed Class Action.

MMA is hereby formally requested to ensure that all documents that are potentially relevant to the Proposed Class Action are preserved, kept secure and protected from destruction in the normal course of business or otherwise. Deletion, overwriting, or any other possible destruction of potentially relevant documents should be suspended until a final judgment or settlement is rendered disposing of the Proposed Class Action.

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“Documents” shall include not only hard copy documents, but also :

- All written or electronic documents, emails, instant messaging, word processing documents, databases, Internet usage files and all other electronic information, correspondence, notes, data, or any other documents or records;
- all audio recordings of phone and radio conversations regarding the movement of the train involved in the July 6, 2013 derailment (“the Train”), including communications between RTC and the crew of the Train;
- Train movement records and similar records that may govern the Train;
- Photographs pertaining to the derailment;
- Investigation notes and reports;
- Downloads from locomotive event recorders aboard the Train and the on-board video;
- Mechanical inspection reports of the railcars and locomotives making up the Train;
- Track inspection reports from December 24, 2002 to July 6, 2013;
- All documents related to the post-derailment investigation;
- All documents relating to the post-derailment clean-up and environmental response at the derailment site.

Moreover, would you please indicate the date on which MMA implemented a “litigation hold” procedure following the July 6, 2013 derailment?

Finally, in light of the impending sale of MMA’s assets, it is all the more imperative that Documents be preserved and be available post-closing.

Please confirm to the undersigned by April 17, 2014 at 17:00 EST that MMA will comply with all of the foregoing.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP



Enrico Forlini
EF/

cc: the Monitor, CCAA proceedings, Richter Advisory Group, Inc., c/o Gilles Robillard
Woods LLP, c/o Sylvain Vauclair, counsel of record for the Monitor
Marc-André Morin, McMillan
Wael Rostom, McMillan
Sidney Elbaz, McMillan

C A N A D A

PROVINCE OF QUÉBEC
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v.

**MONTREAL MAINE & ATLANTIC CANADA
COMPANY**

and

THOMAS HARDING

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CANADIAN PACIFIC RAILWAY COMPANY

Defendants

**REQUEST FOR DOCUMENTS ADDRESSED TO DEFENDANT MONTREAL MAINE
& ATLANTIC CANADA BY DEFENDANT CANADIAN PACIFIC RAILWAY COMPANY**

This request applies to documents of either Montreal Maine & Atlantic Canada Company or Montreal, Maine & Atlantic Railway, collectively referred to as MMA hereinunder. CP requests the following documents, in anticipation of the examinations of discovery to be held in the present matter. CP expressly reserves its right to request additional documents:

1. All the certificates of fitness issued by the Canadian Transportation Agency to MMA, effective July 6, 2013;
2. MMA's organization charts, employee lists, job lists or similar documents at the time of the Derailment;

3. The personal files of Thomas Harding, Richard Labrie, Jean Demaître, Jean-Noël Busque as well as the personal file of the rail traffic controller on duty in Farnham July 5, 2013 (during the day), as well as the personal files of the rail traffic controllers who were on duty during the day and the night in Bangor, Maine, on July 5, 2013, dealing with training, safety and disciplinary records;
4. In relation to enforcement mechanisms under the *Railway Safety Act*:
 - a) Any notices, letters of concern, letters of non-compliance and orders from a railway safety inspector sent to MMA concerning the safety or security of its operations pursuant to Section 31 of the *Railway Safety Act*, if any;
 - b) Any request for review of an order contained in a notice or a railway safety violation or pursuant to section 31.1(1) of the *Railway Safety Act*, if any, as well as any documents filed in support thereof;
 - c) Any consideration by the Minister of transport pursuant to sections 31.1(4), 31.2(3) and 31.2(4) of the *Railway Safety Act*, if any;
 - d) Any Ministerial Orders issued to MMA by the Minister of Transport pursuant to sections 32 and 32.01 of the *Railway Safety Act*, if any;
 - e) Any appeal filed by MMA before the Transportation Appeal Tribunal of Canada, pursuant to section 31.2(1) of the *Railway Safety Act*, if any;
 - f) Any Emergency Directive sent by the Minister of Transport to MMA pursuant to section 33 of the *Railway Safety Act*, if any;
 - g) Any filing of any order with the registrar of the Federal Court of Canada pursuant to Section 34(3) of the *Railway Safety Act*, if any;
 - h) Any orders issued to MMA by the Minister of Transport pursuant to section 36 of the *Railway Safety Act*, if any;
 - i) Any exemption from a security measure granted to MMA by the Minister of Transport pursuant to section 39.1(3) of the *Railway Safety Act*, if any;
 - j) Any statement given by MMA to the Minister of Transport pursuant to section 40 of the *Railway Safety Act*, including any statement made in the course of an inquiry into the Lac-Mégantic train Derailment of July 6, 2013;
 - k) Any administrative monetary penalty paid by MMA pursuant to sections 40.1 to 40.22 of the *Railway Safety Act*, including any notices of violation, requests for determination, determinations and appeals;
 - l) Any complaint of information against MMA pursuant to sections 41 to 43 of the *Railway Safety Act*, including any judgments.
5. In relation to the *Railway Freight and Passenger Train Brake Inspection and Safety Rules Train Brake Rules* ("**Train Brake Rules**"):
 - a) The names of all "certified car inspectors", "qualified persons" and "persons in charge" under Rules 3.12 and 4.3 (certified inspector), 3.25 (person in charge), 3.30 and 5.1 (qualified inspector) of the *Train Brake Rules* enacted under the *Railway Safety Act*, at the time of the Derailment;

- b) The names of all safety inspection locations under Rule 3.36 of the *Train Brake Rules* enacted under the *Railway Safety Act*, at the time of the Derailment;
 - c) All books, manuals or documents respecting the train brake status system under Rule 3.40 of the *Train Brake Rules* enacted under the *Railway Safety Act*, effective at the time of the Derailment;
 - d) All documents pertaining to the training and qualification of the “car inspectors” and qualified person under the *Train Brake Rules*, including the full description of the training program (which was effective on July 6, 2013), criteria and all amendments thereto forwarded to the Department of Transport pursuant to Rules 4.2 and 5.3 of the *Train Brake Rule* enacted under the *Railway Safety Act*;
 - e) All non-compliance reports issued by a railway safety inspector to MMA and a copy of the corrective action forwarded to the Department of Transport under Rule 9.1 of the *Train Brake Rule* enacted under the *Railway Safety Act*;
 - f) All the proceedings, work instructions and amendments thereto in respect of all matters referred to in Part IV, Rule 23.2, of the *Train Brake Rule* enacted under the *Railway Safety Act*.
6. Any document, including all recorded conversations and their transcripts, respecting all the communications that took place on July 5 and 6, 2013 within MMA, including those between Thomas Harding and the rail traffic controller based in Farnham during the day before the Derailment as well as with Richard Labrie, the rail traffic controller based in Farnham during the night and Dave [unknown family name], the rail traffic controller based in Derby, Maine, in charge of train movement east of Megantic Station;
7. Any document, including all recorded conversations and their transcripts, respecting all the communications that took place on July 5 and 6, 2013 between MMA employees or representatives and first respondents, such as police, the Nantes fire department, the Sûreté du Québec and any other emergency services;
8. Any documents, such as general special instructions or others respecting the duties of a locomotive engineer in case of an abnormal condition such as noise, smoke or odour coming from the engine of a locomotive, including all policies, procedures and communications issued, adopted, followed or received by MMA dealing with these issues, effective at the time of the Derailment;
9. Any documents such as general special instructions or others respecting train securement operations in general and in Nantes in particular, including all policies, procedures and communications issued, adopted, followed or received by MMA dealing with these issues, effective at the time of the Derailment;

10. Any document with respect to train securement procedure on a descending grade, including all policies, procedures and communications issued, adopted, followed or received by MMA dealing with these issues, effective at the time of the Derailment;
11. Any document with respect to the procedure for hand brake effectiveness training, including all policies, procedures and communications issued, adopted, followed or received by MMA dealing with these issues, effective at the time of the Derailment;
12. All documents respecting the single-person train operations ("SPTO") including all policies, procedures and communications issued, adopted, followed or received by MMA in respect of SPTO;
13. All documents relating to or concerning MMA's operational test and inspections program, for the period between July 6, 2012 and July 6, 2013;
14. Copy of the General Special Instructions, First Edition, March 1, 2012;
15. Copy of the Safety Rules, Second Edition, October 31, 2010;
16. All general operating instructions, timetables, special bulletins and operating bulletins relating to MMA's operations, effective at the time of the Derailment;
17. All document respecting the bad order information system concerning the engine brakes of the main engine MMA 5017, General Electric Company (GE) C30-7, engine MMA 5026 GE C30-7, engine CITX 3053 General Motors (GM) 50-40, engine MMA 5023 GE C30-7 and engine CEFX 3166 SD-40, between July 6, 2012 and July 6, 2013;
18. All records respecting the safety inspections in respect of the above-mentioned locomotives, between July 6, 2012 and July 6, 2013;
19. In relation to the *Locomotive Safety Rules*:
 - a) All internal documents, policies and procedures adopted by MMA to comply with Rule 4.1 of the *Locomotive Safety Rules* enacted under the *Railway Safety Act*, if any, effective at the time of the Derailment;
 - b) A list of all the safety defects identified by MMA on the above-mentioned locomotives, between July 6, 2012 and July 6, 2013;
 - c) The pre-departure inspection report of lead locomotive MMA-5017 by the locomotive operator or other qualified person that took place on July 5, 2013 in Farnham pursuant to Rule 8.1 of the *Locomotive Safety Rules*;
 - d) All the information records by the event recorder on Lead locomotive MMA-5017 pursuant to Rule 12 of the *Locomotive Safety Rules*.

20. All communications, emails, faxes, letters, questionnaires, agendas and minutes of meetings between MMA and the Transportation Safety Board of Canada in respect of the MMA train Derailment in Lac-Mégantic;
21. Transcript from the locomotive event recorder (LER) (also known as “black box”) for July 5 and 6, 2013 including data downloaded from the event recorder and reproduced in a document, as well as any records of the locomotive camera recording in relation to Train MMA-002;
22. Record of repairs to the Locomotive MMA 5026, including the non-standard repairs that have been applied to the quick release brake valve’s release mechanism;
23. All documents respecting the repair of the engine of locomotive MMA 5017 including those at the MMA Derby, Maine, shop on or after October 7, 2012;
24. All documents respecting the repair or inspections of railcars used on Train MMA-002, including inspections performed in Farnham on July 5, 2013;
25. All documents pertaining to MMA’s tracks inspections, including tracks geometry inspection reports, between 2010 and 2013 inclusive;
26. Copy of Montreal, Maine & Atlantic Railway Summary Operating Bulletin No. 2-276 (Effective 01 July 2013, (V) Six Axle C-30-.7);
27. In relation to *Track Safety Rules*:
 - a) All designations of excepted tracks between Farnham and Lac-Mégantic that were forwarded to Transport Canada pursuant to Rule 5.1(e)(iii) of the *Track Safety Rules*, still in effect at the time of the Derailment;
 - b) All risk assessment reports forwarded to Transport Canada with respect to excepted track status of the track between Farnham and Lac-Mégantic Station pursuant to Rule 5.1(e)(vii) of the *Track Safety Rules* enacted under the *Railway Safety Act*, between July 6, 2012 and July 6, 2013;
 - c) Safety guidelines and procedures and amendments thereto pursuant to Rule 35.2 of the *Locomotive Safety Rules* enacted under the *Railway Safety Act*;
 - d) The annual reports for the years 2010, 2011, 2012 and 2013 filed with the Department of Transport pursuant to Rule 35.3 of the *Locomotive Safety Rules* enacted under the *Railway Safety Act*;
 - e) The full description of the training program and criteria set up by MMA pursuant to Rule 35.4 of the *Locomotive Safety Rules* enacted under the *Railway Safety Act*;
 - f) Any testing and operating procedures in respect of advances in technology / operational improvements to locomotives that may have been

filed with the Department of Transport pursuant to the *Locomotive Safety Rules* enacted under the *Railway Safety Act*.

28. The railway operating certificate issued to MMA by the Minister of Transport pursuant to Section 17.4(1) of the *Railway Safety Act* and any variation thereto, including any suspension and cancellation;
29. Any exemption granted to MMA by the Minister of Transport under Sections 17.21 and 22.1 of the *Railway Safety Act*;
30. Any request for review filed by MMA under Section 17.6 of the *Railway Safety Act*;
31. In relation to safe railway operations:
 - a) The list of all positions deemed critical to safe railway operations under Section 18(1)(b) of the *Railway Safety Act*, in force at the time of the Derailment;
 - b) All the orders issued by the Minister of Transport requiring MMA to formulate rules respecting safe railway operations in the security of railway transportation pursuant to Section 19(1) of the *Railway Safety Act*;
 - c) Any request for amendment to terms and conditions made by MMA pursuant to Section 19(4.1) of the *Railway Safety Act*;
 - d) Any formulation or revision of safety rules made by MMA and filed with the Minister of Transport pursuant to Section 20(1) of the *Railway Safety Act*;
 - e) Any document of MMA recording any visit of a railway safety inspector has entered any place pursuant to Section 28(1)(a) of the *Railway Safety Act*;
 - f) Any document of MMA recording the fact that a railway safety inspector has required any MMA employee to produce any document pursuant to Section 28(1)(a.1) of the *Railway Safety Act*;
 - g) Any document of MMA recording the fact that a railway safety inspector has seized any property or submitted that property to a test pursuant to Section 28(1)(b) of the *Railway Safety Act*;
 - h) Any document of MMA recording the fact that a railway safety inspector has required the attendance of persons whom the inspector deemed relevant to the carrying out of his or her functions, and the fact that the inspector has questioned this person pursuant to Section 28(1)(c) of the *Railway Safety Act*;
 - i) A copy of any warrant given to MMA and executed by a railway safety inspector in the course of the exercise of his or her power under Section 21 of the *Railway Safety Act*;
 - j) Any notice of a safety railway inspector to MMA concerning the safety or security of its operations sent to MMA pursuant to Section 31 of the *Railway Safety Act*;

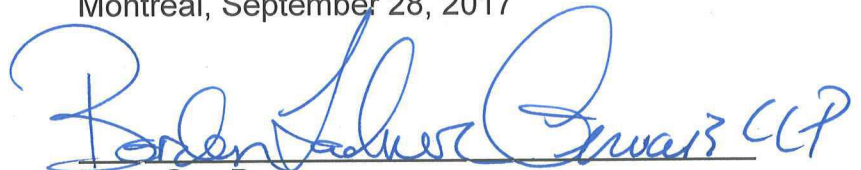
- k) Corporate safety goals and initiatives set up by MMA since 2010;
 - l) A copy of the risk management process including the identification of the safety issues and concerns; the names of the operating officers who were responsible for identifying safety risks and the internal safety audit and evaluation, since 2012;
 - m) All safety management systems as required under the *Railway Safety Act* and the regulations enacted thereunder relation to MMA operation of the Train or the carriage of petroleum crude oil, including MMA's safety policy and annual safety performance targets and the associated safety initiatives to achieve the targets, as approved by a senior company officer and communicated to employees, since 2010;
 - n) All documents relation to performance or safety data submitted by MMA to the Minister of Transport as required under section 3 of the Canadian Railway Safety Management System Regulations, SOR/2001-37, for the time period between January 1, 2012 and July 6, 2013;
 - o) All MMA's policies and procedures for involving MMA's employees and their representatives in the development and implementation of MMA's safety management system effective July 6, 2013;
 - p) All MMA's submissions to the Minister of Transport as required under section 4 of the Canadian Railway Safety Management System Regulations, SOR/2001-37, for the time period between January 1, 2012 and July 6, 2013;
 - q) The resolutions of the board of directors designating the members of the safety committee at the time of the Derailment;
 - r) The minutes of the meetings of the Safety Committee since January 1, 2012;
 - s) The operating meetings of MMA management (daily and weekly) during which safety issues and the performance of each department were discussed, between January 1, 2012 and July 6, 2013;
 - t) Safety information on accidents issued internally by MMA, in force as of July 6, 2013.
32. The Safety Management System Manual, effective July 6, 2013 within MMA;
33. All documents, including policies, pertaining to risk-assessment performed by MMA, including any risk-assessment performed in relation to single person train operations and train operations, between 2010 and 2013 inclusive;
34. List of the documents respecting the handbrake effectiveness that a locomotive engineer must have on board, effective on July 6, 2013 at MMA;
35. Daily operating bulletins for Train MMA-002 for July 5 and July 6, 2013 within MMA;

36. All the documents specified by MMA that must be accessible by the locomotive engineer or the conductor or both while on duty in accordance with General Rule A(ii) of the Canadian Rail Operating Rules, effective July 6, 2013 at MMA;
37. Letter sent by MMA to Transport Canada in July 2009 respecting the implementation of SPTO on the Maine-Québec border and Lac-Mégantic and all the correspondence exchanged between MMA and Transport Canada on this matter;
38. Agendas and minutes of meetings with Transport Canada between April 2001 and June 2012 referred to in the Transportation Safety Board of Canada report at page 116;
39. All documents respecting Transport Canada's determination that MMA's procedures for conducting internal audits were incomplete as referred to in the Transportation Safety Board of Canada report at page 120;
40. All MMA documents respecting the 2009 and 2013 extensions for training and requalification that were granted to Thomas Harding as mentioned in the Transportation Safety Board of Canada report at page 121 including all documents referring to the permission that was granted to him in 2013 to complete his exams at home;
41. A copy of the requalification exams that Thomas Harding had to answer as referred to in the Transportation Safety Board of Canada report at page 121;
42. All MMA documents respecting its oversight program as referred to in the Transportation Safety Board of Canada report at page 122;
43. A copy of the request from Transport Canada to MMA for a formal risk assessment respecting the implementation of SPTO as referred to in the Transportation Safety Board of Canada report at page 123;
44. The documentation that MMA submitted to Transport Canada respecting risk management in 2003 referred to in the Transportation Safety Board of Canada report at page 123;
45. All agreements between MMA and the World Fuel Services Corporation, World Fuel Services Inc., and Western Petroleum Company (the "WFS Entities") or any of their affiliates, and any communications sent or received by MMA from such entities concerning, referring or relating to Train MMA-002 or its Derailment;
46. All agreements between MMA and the World Fuel Services Corporation, World Fuel Services Inc., and Western Petroleum Company (the "WFS Entities") or any of their affiliates, and any communications sent or received by MMA from such entities concerning, referring or relating to the transportation of petroleum crude oil by train between New Town, North Dakota, and Saint John, New Brunswick, between July 6, 2012 and July 6, 2013;

47. All agreements and communications between MMA and the Irving Oil Company, or any of its affiliates that shipped, caused to be shipped or received petroleum crude oil, concerning, referring or relating to Train MMA-002 or its Derailment;
48. All agreements and communications between MMA and the Irving Oil Company, or any of its affiliates that shipped, caused to be shipped or received petroleum crude oil, concerning, referring or relating to the transportation of petroleum crude oil by train between New Town, North Dakota, and Saint John, New Brunswick, between July 6, 2012 and July 6, 2013;
49. All communications that MMA sent or received from any person or entity concerning, referring or related to Train MMA-002 or its Derailment;
50. All documents or communications from any governmental entity (Canadian or U.S.) concerning, referring or related to Train MMA-002, its Derailment or the transportation of petroleum crude oil by train between New Town, North Dakota, and Saint John, New Brunswick, between July 6, 2012 and July 6, 2013;
51. All policies, procedures and communications pertaining to the operation of trains transporting petroleum crude oil within MMA, effective July 6, 2013;
52. All recordings or transcripts of recordings of any and all communications between any and all of MMA rail traffic control and the Train MMA-002;
53. All annual insurance filings done by MMA for the years 2010 to 2013 inclusive, before the Canadian Transportation Agency and all communications between MMA and/or its insurance brokers and the Agency dealing with the issue of insurance coverage, for the same period;
54. All certificates of fitness issued by the Canadian Transportation Agency to MMA after the Derailment and all communications between MMA and the Agency concerning same, including any communications with respect to the issue of MMA's insurance coverage and other issues relating to its ability to obtain insurance coverage including any communications between MMA and MMA's insurance brokers and between MMA and/or its insurance brokers with the Agency, for the same period;
55. Any document dealing with CP's embargo in July 2013, including all the correspondence exchanged between MMA and the Canadian Transportation Agency concerning same;
56. Any agreements between MMA and New Brunswick Southern Railway or any of its affiliates, concerning, referring or relating to train MMA-002 or its Derailment, as well as all communications exchanged concerning same;

57. All agreements between MMA and New Brunswick Southern Railway, or any of its affiliates, concerning, referring or related to the transportation of petroleum crude oil by train between New Town, North Dakota and Saint John, New Brunswick, between July 6, 2012 and July 6, 2013;
58. All agreements between MMA and Eastern Maine Railway, or any of its affiliates, concerning, referring or related to train MMA-002 or its Derailment, and all communications exchanged between these parties on the subject;
59. All agreements between MMA and Eastern Maine Railway, or any of its affiliates, concerning, referring or related to the transportation of petroleum crude oil by train between New Town, North Dakota and Saint John, New Brunswick, between July 6, 2012 and July 6, 2013;
60. Any records or data from any train control system of MMA with respect to Train MMA-002, including ABS (Automatic Block System), OCS (Occupation Control System) and MBS (Manual Blocking System), or any other train control system for Train MMA-002;
61. All records, notes, communications, agenda and minutes of health and safety meetings at MMA and health and safety bulletins, from 2010 to 2013 inclusive;
62. All records, notes and other communications about the safety briefings that were conducted by MMA in relation to Train MMA-002 and all notes taken by any of the MMA crews involved in the transportation of Train MMA-002;
63. All train documents, including any applicable EDI, train list, compressed waybills, outbound wheel reports and marshalling reports for Train MMA-002;
64. Any complaints filed to the Canada Industrial Relations Board dealing with scheduling, single person train operations, work rest rules, operating practices or any other safety issues and any documents exchanged concerning same, from 2010 to 2013 inclusive;

Montréal, September 28, 2017

A large, stylized handwritten signature in blue ink, which appears to read "Borden Ladner Gervais LLP". The signature is written over a horizontal line.

Mtre. Guy Pratte

Mtre. François Grondin

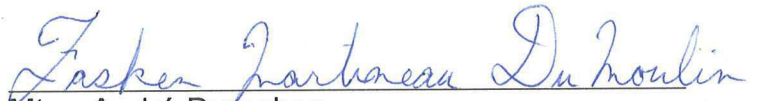
Mtre. Patrick Plante

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Mtre. André Durocher

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SUPERIOR COURT

Class action

District of Mégantic

File No.: 480-06-000001-132

GUY OUELLET *et al*

Plaintiffs

vs.

**MONTREAL MAINE & ATLANTIC CANADA
COMPANY *et al***

Defendants

and

ROBERT J. KEACH, solely in his capacity as the
estate representative of Montreal, Maine & Atlantic
Railway, Ltd.

and

RICHTER ADVISORY GROUP INC., in its capacity
as Monitor in the proceedings of Montréal, Maine &
Atlantic Canada Company pursuant to the *Companies
Creditors Arrangement Act (CCAA)*

Third Parties

**APPLICATION BY CANADIAN PACIFIC
RAILWAY COMPANY FOR PRESERVATION
OF EVIDENCE AND COMMUNICATION OF
DOCUMENTS AND EXHIBITS P-1 AND P-2**

Amount: \$

Nature:

Code:

COPY FOR NOTIFICATION

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