

SUPERIOR COURT

Class action

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MÉGANTIC

No.: 480-06-000001-132

DATE : October 26, 2017

PRESIDING: HONOURABLE MARTIN BUREAU, J.S.C.

GUY OUELLET, SERGE JACQUES, LOUIS-SERGE PARENT

Plaintiffs

vs.

MONTREAL, MAINE & ATLANTIC CANADA COMPANY

and

THOMAS HARDING

and

CANADIAN PACIFIC RAILWAY COMPANY

Defendants

and

ROBERT J. KEACH

Third Party

JUDGMENT

- [1] **WHEREAS** Canadian Pacific Railway Company (« CP ») served and *Amended Application for the Preservation of Evidence and Communication of Documents* ("Amended Application"), made presentable on October 24, 2017, in relation to MMA documents;
- [2] **WHEREAS** as appears from a letter dated October 23, 2017 from the attorneys representing Third Party, Robert J. Keach, Mr. Keach has possession and/or control of numerous MMA documents targeted by the Amended Application;
- [3] **WHEREAS** as appears from the said letter, Mr. Keach undertakes to preserve all documents in his possession and/or control relating to Montreal, Maine & Atlantic


Canada Company and Montreal, Maine & Atlantic Railway Ltd., according to the terms and conditions set forth therein;

- [4] **WHEREAS** the attorneys representing Mr. Keach indicated, insofar as the first conclusion of the Amended Application is concerned, that the latter “will not make any representation and will take no position with respect to “Conclusion A” of the Application”;
- [5] **WHEREAS** the agreement reached between the attorneys of CP and those of Mr. Keach could potentially render it unnecessary for CP to further proceed on the other conclusions of its Amended Application;
- [6] **WHEREAS** it is therefore appropriate to suspend all the other conclusions of the Amended Application and to postpone it indefinitely, while preserving all of CP’s rights to present and proceed on the said Amended Application at a later date should it fail to obtain all the documents listed in its *Request for Documents Addressed to Defendant Montreal Maine & Atlantic Canada by Defendant Canadian Pacific Railway Company* (Exhibit P-2);
- [7] **WHEREAS** Montreal, Maine & Atlantic Canada Company is a Defendant in the class action;

FOR THESE REASONS, THE COURT:

- [8] **GRANTS** partially the *Amended Application by Canadian Pacific Railway Company for preservation of evidence and communication of documents* (“Amended Application”);
- [9] **ORDERS** Montreal, Maine & Atlantic Canada to preserve all the documents in its possession and/or control concerning Montreal, Maine & Atlantic Canada Company and Montreal, Maine & Atlantic Railway Ltd., for the purposes of the present proceedings, until these proceedings are officially concluded by final judgment;
- [10] **ORDERS** Third Party, Robert J. Keach, solely in his capacity as estate representative of Montreal, Maine & Atlantic Railway, Ltd., to preserve all the documents in his possession and/or control concerning Montreal, Maine & Atlantic Canada Company and Montreal, Maine & Atlantic Railway Ltd., for the purposes of the present proceedings, until these proceedings are officially concluded by final judgment; if the US bankruptcy proceedings officially conclude prior to the present class action proceedings, the Court prays act of Third Party Robert J. Keach’s undertaking to provide Canadian Pacific Railway Company with a 120 days’ notice prior to the destruction of any documents,
- [11] **RESERVES** Canadian Pacific Railway company’s right to seize the Court to ask for an order providing for a longer period for the preservation of evidence or any other remedy deemed appropriate, should the US bankruptcy proceedings officially conclude prior to the present class action proceedings;

- [12] **SUSPENDS** the other conclusions of Canadian Pacific Railway Company's Amended Application and reserves CP's right to proceed at a later date on the said conclusions of the Amended Application, if needed;
- [13] **THE WHOLE** without costs.

A handwritten signature in black ink, appearing to read 'Martin Bureau', is written over a horizontal line.

MARTIN BUREAU, J.S.C.