



By Email: Information@fca-caf.gc.ca

April 14, 2020

The Judicial Administrator
Federal Court of Appeal
90 Sparks Street, 5th Floor
Ottawa, Ontario
K1A 0H9

Dear Sir/Madam:

Re: *Air Passenger Rights v Canadian Transportation Agency*
Court File No.: A-102-20

We acknowledge receipt of the Notice of Application and the Motion Record dated April 7, 2020, seeking interim and interlocutory injunctions. We also acknowledge the Court's Decision and Direction dated April 9, 2020.

As the Court is aware, the COVID-19 pandemic has had a significant impact on the operations of private business and government across the country, including those of the Canadian Transportation Agency ("Agency"). Agency employees, including Counsel, have been directed to work remotely where feasible, and request leave where it is not feasible. The bridges between Ottawa, Ontario, where many Agency employees reside, and Gatineau, Québec, where the Agency's offices are located, have been closed to all non-essential travel. The Agency's offices are essentially closed. While normal operations are being maintained as much as possible, the Agency has ordered the suspension of all dispute adjudication activities involving air carriers until June 30, 2020.

While the Applicant has asked the Court to issue an Order validating service, in the circumstances, we hereby accept service of the Notice of Application and the Motion Record pursuant to Rule 134 of the *Federal Courts Rules*, SOR/98-106 ("*Federal Courts Rules*").

Pursuant to the Court's Notices to the Profession dated March 19, 2020 and April 2, 2020, the calculation of time pursuant to the *Federal Courts Rules* does not run during the period from March 16, 2020 to May 15, 2020 ("Suspension Period"). These Directions recognize the seriousness of the COVID-19 pandemic and its effect on the ability of parties to prepare filings and meet deadlines. This is true for Counsel for the Agency who are working remotely without access to the resources of a formal office.

As a result of the Court's Directions, the calculation of time for the Agency's response does not include the Suspension Period.

This is not a case of urgency such that it should be exempted from the application of the Suspension Period. Assuming that judicial review of a statement on the Agency's website, which the Applicant

contents is not a decision, is available, it has already been widely publicized. It is unclear what benefit would be achieved by proceeding with the motion during the Suspension Period, instead of delaying it temporarily as contemplated by the Court's Directions. The Applicant seeks interlocutory relief which would have the same effect if granted a few weeks later than if the Suspension Period did not apply.

In the Agency's submission, the Court's Order and Direction dated April 9, 2020, demonstrates that the Applicant's motion lacks the necessary urgency.

In short, the Court's Directions recognize that the current health crisis severely limits the ability of parties to comply with the deadlines set out in the *Federal Courts Rules*. This case is a clear example of this. The Agency would suffer significant prejudice if required to file a response in the normal course. An exception should not be made in this case, and the Court's resources should be focused instead on cases of "genuine urgency".

Yours truly,

A handwritten signature in black ink, appearing to read "AMT", followed by a period.

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