



TO : APPEAL REGISTRY

FROM : WEBB J.A.

DATE : November 13, 2020

RE : **A-102-20:**
Air Passenger Rights v. Canadian Transportation Agency

DIRECTION

The parties have submitted a number of letters related to a request made under Rule 317 of the *Federal Courts Rules*, SOR/98-106 by Air Passenger Rights (APR). APR requested material relevant to its judicial review application that is in the possession of the Canadian Transportation Agency (CTA). The CTA has objected to this request.

Rules 317 and 318 state:

317 (1) A party may request material relevant to an application that is in the possession of a tribunal whose order is the subject of the application and not in the possession of the party by serving on the tribunal and filing a written request, identifying the material requested.

(2) An applicant may include a request under subsection (1) in its notice of application.

(3) If an applicant does not include a request under subsection (1) in its notice of application, the applicant shall serve the request on the other parties.

318 (1) Within 20 days after service of

317 (1) Toute partie peut demander la transmission des documents ou des éléments matériels pertinents quant à la demande, qu'elle n'a pas mais qui sont en la possession de l'office fédéral dont l'ordonnance fait l'objet de la demande, en signifiant à l'office une requête à cet effet puis en la déposant. La requête précise les documents ou les éléments matériels demandés.

(2) Un demandeur peut inclure sa demande de transmission de documents dans son avis de demande.

(3) Si le demandeur n'inclut pas sa demande de transmission de documents dans son avis de demande, il est tenu de signifier cette demande aux autres parties.

318 (1) Dans les 20 jours suivant la

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| a request under rule 317, the tribunal shall transmit | signification de la demande de transmission visée à la règle 317, l'office fédéral transmet : |
| (a) a certified copy of the requested material to the Registry and to the party making the request; or | a) au greffe et à la partie qui en a fait la demande une copie certifiée conforme des documents en cause; |
| (b) where the material cannot be reproduced, the original material to the Registry. | b) au greffe les documents qui ne se prêtent pas à la reproduction et les éléments matériels en cause. |
| (2) Where a tribunal or party objects to a request under rule 317, the tribunal or the party shall inform all parties and the Administrator, in writing, of the reasons for the objection. | (2) Si l'office fédéral ou une partie s'opposent à la demande de transmission, ils informent par écrit toutes les parties et l'administrateur des motifs de leur opposition. |
| (3) The Court may give directions to the parties and to a tribunal as to the procedure for making submissions with respect to an objection under subsection (2). | (3) La Cour peut donner aux parties et à l'office fédéral des directives sur la façon de procéder pour présenter des observations au sujet d'une opposition à la demande de transmission. |
| (4) The Court may, after hearing submissions with respect to an objection under subsection (2), order that a certified copy, or the original, of all or part of the material requested be forwarded to the Registry. | (4) La Cour peut, après avoir entendu les observations sur l'opposition, ordonner qu'une copie certifiée conforme ou l'original des documents ou que les éléments matériels soient transmis, en totalité ou en partie, au greffe. |

A number of submissions have been made without first seeking the directions of the Court under Rule 318(3). It would appear (although it is not entirely clear) that the parties are seeking directions concerning how this issue between the parties should be resolved. The last correspondence (dated October 19, 2020) refers to the previous correspondence submitted by the parties collectively as the "Requests for Directions".

In this case, it would appear that APR wants to compel the CTA to produce some material and that the CTA is objecting to such production. APR should therefore bring a motion requesting an order to compel the production of the requested material.

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