

May 14, 2021

VIA EMAILFederal Court of Appeal
90 Sparks Street, 5th floor
Ottawa, Ontario K1A 0H9

Dear Registry Officer,

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

We are counsel for the Applicant, Air Passenger Rights. Please kindly bring this letter to Gleason J.A.'s attention. Her Ladyship is seized with the Applicant's Rule 41 and 318 Motion to Compel Documents from the Respondent, the Canadian Transportation Agency (Doc. 52). We write in response to the Agency's letter dated May 14, 2021.

On April 15, 2021, the Applicant simply brought to this Court's attention a case released after the parties provided their submissions. Bringing newly released decisions to the Court's attention is standard practice across Canada and part of counsel's professional duty. In any event, the Agency did not object in a timely manner.

The email chain provided to the Court on May 12, 2021 is not "new," but rather a less redacted version of an email chain filed as Exhibit "W" of the Affidavit of Dr. Gabor Lukacs affirmed on January 3, 2021 (see Applicant's Motion Record, pp. 151-153). The more heavily redacted version of the same email chain is already before the Court, and there could be no prejudice to the Agency.

The Applicant appreciates that the Court's powers under the Rules are usually exercised by motion. However, a "motion upon motion approach" will delay the judicial review, undermine the proportionality principle in this circumstance, and is not in the interest of justice (*Sport Maska Inc. v. Bauer Hockey Ltd.*, 2019 FCA 204 at paras. 36-37).

Should the Court have any directions, we would be pleased to comply.

Yours truly,

EVOLINK LAW GROUPSIMON LIN
Barrister & Solicitor

Cc: Ms. Barbara Cuber, counsel for the Respondent, Canadian Transportation Agency; and
Mr. Sandy Graham, counsel for the Attorney General of Canada