

VIA EMAIL

May 4, 2020

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

Dear Registry Officer:

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

We are counsel for the Applicant. We write in relation to the Agency's letter sent to the Court on the evening of May 1, 2020 withdrawing their request for Directions.

In its letter, the Agency erroneously asserted that "*the Applicant now indicates that it does not wish to cross-examine the Agency's affiant*". We enclose the Applicant's letter from May 1, 2020 for the Court's ease of reference.

The Applicant has reserved all rights in respect of the cross-examination, particularly the Agency's failure to produce their affiant for the cross-examination. As indicated in the Applicant's letter, the Applicant will address this matter to the motions judge in the Applicant's Reply.

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

Yours truly,

EVOLINK LAW GROUP


SIMON LIN

Encls: Letter to the Court from May 1, 2020 regarding Agency's Request for Directions

VIA EMAIL

May 1, 2020

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

Dear Registry Officer:

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

We are counsel for the Applicant. We write to inform the Court of developments that occurred *subsequent* to the Applicant's letter in the morning of May 1, 2020.

We regretfully inform the Court that the Agency's affiant did not attend the cross-examination today. Accordingly, the Agency's request for directions to postpone the court-ordered timeline has become **academic and moot**. The Agency's primary basis for seeking directions was to seek leave to make further submissions on new evidence that may arise from cross-examination of their own affiant. As a result of the Agency's conduct, unfortunately, there could be no "new evidence" for the Agency to make submissions on.

The Applicant will proceed expeditiously with its motion and will file its Reply by May 7, 2020, the date ordered by the Court. Consistent with usual practice on motions, the Applicant will address any implications and/or inferences arising from the non-attendance, as part of its Reply.

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

Yours truly,

EVOLINK LAW GROUP



SIMON LIN

Encls: Certificate of Non-Attendance

FEDERAL COURT OF APPEAL

B E T W E E N :

AIR PASSENGER RIGHTS

Applicant

- and -

CANADIAN TRANSPORTATION AGENCY

Respondent

CERTIFICATE OF NON-ATTENDANCE

This is to certify that an appointment was issued for the Cross-Examination of Meredith Desnoyers, via Zoom video conferencing, on, Friday, May 1st, 2020 at the hour of one o'clock in the afternoon.

Simon Lin, acting for the Applicant herein, appeared at 1:00 p.m. and waited until 1:35 p.m., at which time the Direction to Attend as served, was produced, upon which this Certificate is issued.

Meredith Desnoyers did not attend the video conference via Zoom at any time between 1:00 p.m. and 1:35 p.m. on the 1st day of May 2020.

DATED AT OTTAWA, ONTARIO, THIS 1ST DAY OF MAY 2020.

GILLESPIE REPORTING SERVICES

CERTIFICATE OF NON-ATTENDANCE
ISSUED BY GILLESPIE REPORTING
SERVICES AT OTTAWA, ONTARIO
200-130 SLATER STREET

PER:

