

September 13, 2022

**VIA EMAIL AND URGENT**

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

Dear Madam or Sir,

**RE: Air Passenger Rights v. AGC and CTA (A-102-20)**

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We are counsel for the Applicant. Please bring this letter to Gleason J.A.'s attention on an **urgent** basis. Her Ladyship is seized of all pre-hearing issues, pursuant to the Order of July 19, 2022. This responds to the CTA's letter dated today.

The Applicant agrees that the concern relating to item 9 (i.e., the redaction) would normally be resolved between counsel. However, it is unclear why the CTA is fiercely resisting a routine request to provide the document for counsel only, and now seeks to bring an informal motion for confidentiality. Of note, a confidentiality order **cannot** prevent a solicitor of record from accessing a confidential document, as part Rule 152(a). In other words, the CTA's request would *de facto* be providing the document on a "counsel's eyes only basis."


With respect to item 12, and the timing of any Directions or Order, the parties are in the Court's hands and the Applicant has nothing further to add to the letter of September 12, 2022.

Finally, the CTA's assertion that the Applicant is making allegations without evidence is baseless. There is no dispute that a clear and unequivocal undertaking was given. The CTA has not brought any motion to be relieved from the undertaking,<sup>1</sup> but rather employing "creative interpretation" to attempt to escape it. Whether undertakings were breached is a straightforward matter and the Court need not convert the enforcement of undertakings into an after-the-fact refusal motion.<sup>2</sup>

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

Yours truly,

**EVOLINK LAW GROUP**



SIMON LIN, Barrister & Solicitor

**Cc:** (1) Mr. Sandy Graham and Mr. Lorne Ptack, counsel for the Attorney General of Canada, and  
(2) Mr. Kevin Shaar, counsel for the Canadian Transportation Agency

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<sup>1</sup> [RE/MAX, LLC v. Save Max Real Estate, Inc.](#), 2021 CanLII 53761 (FC) at para. 11.

<sup>2</sup> *Ibid* at [para. 17](#).