



Department of Justice
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Ministère de la Justice
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WITH COPY TO COUNSEL BY EMAIL

November 25, 2022

Our File Number: LEX-500074803

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

Re: Air Passenger Rights v The Attorney General of Canada
Court File No.: A-102-20
Applicant's Motion Filed November 14, 2022

Dear Administrator:

I would be grateful if this letter were brought to the attention of the Honourable Justice Gleason at your earliest convenience.

I write further to the Court of Appeal's September 2, 2022 Order and the November 14, 2022 Motion Record served and filed by the Applicant. Please note that nothing below or attached hereto reflects any position taken to date or in the future by the Intervener *Canadian Transportation Agency*.

In the November 14, 2022 Motion Record, the Applicant seeks a 'document preservation order' against Transport Canada. This letter is to serve as a response to that portion of the Applicant's Motion Record.

I raise the following for the Court of Appeal's consideration:

1. Transport Canada is not a party to cfn A-102-20. Transport Canada has been involved in one instance where documents being disclosed by the Interferer may have

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engaged information of concern to Transport Canada and the department requested an extension of time to determine whether that was the case;

2. The Court's September 2, 2022 Order contemplates motions by the Applicant in respect of refusals raised during the Intervener's affiant's examination, and/or motions under Rule 41 of the *Rules*. No provision is made for any form of 'document preservation order', nor for the addition of third parties to the proceeding;
3. The Notice of Motion raises the *Access to Information Act*. Cfn T-102-20 does not involve any proceeding under that Act. Further, that Act has procedures, with which the Applicant is well familiar, to raise any concerns with the provision of documents thereunder. It is inappropriate that the Applicant seek to do so here.

Accordingly, it is the Respondent's position that the portion of the Applicant's motion in respect of Transport Canada is inappropriate, outside of the *Rules*, and merits no fulsome response nor consideration by the Court of Appeal.

Should the Court of Appeal require further information or submissions, or make any Direction in respect of this matter, counsel for the Respondent will be pleased to respond.

Yours truly,



Lorne Ptack
Counsel for the Respondent

c.c. Simon Lin, Counsel for the Applicant
Kevin Shaar, Counsel for the Intervener