

Court File No.:

FEDERAL COURT OF APPEAL

BETWEEN:

DR. GÁBOR LUKÁCS

Appellant

– and –

**CANADIAN TRANSPORTATION AGENCY and
DELTA AIR LINES, INC.**

Respondents

NOTICE OF APPEAL

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears on the following page.

THIS APPEAL will be heard by the Federal Court of Appeal at a time and place to be fixed by the Judicial Administrator. Unless the court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard in **Halifax, Nova Scotia**.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341A prescribed by the *Federal Courts Rules* and serve it on the appellant's solicitor, or where the appellant is self-represented, on the appellant, WITHIN 10 DAYS of being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the judgment appealed from, you must serve and file a notice of cross-appeal in Form 341B prescribed by the *Federal Courts Rules* instead of serving and filing a notice of appearance.

Copies of the *Federal Courts Rules*, information concerning the local offices of the court and other necessary information may be obtained on request to the Administrator of this court at Ottawa (telephone 613-996-6795) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: March 12, 2015

Issued by: _____

Address of
local office: Federal Court of Appeal
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**Counsel for the Respondent,
Delta Air Lines, Inc.**

APPEAL

THE APPELLANT APPEALS to the Federal Court of Appeal from a decision made by the Canadian Transportation Agency (the “Agency”) dated November 25, 2014 and bearing decision no. 425-C-A-2014 (“Decision Under Appeal”), in which the Agency dismissed the Appellant’s complaint on the basis of lack of standing.

THE APPELLANT ASKS that:

1. the Decision Under Appeal be set aside, and the matter be returned to the Agency for hearing and determination of the complaint on its merits (that is, determination of whether Delta Air Lines’ practices are “unduly discriminatory,” contrary to section 111 of the *Air Transportation Regulations*, S.O.R./88-58), by a differently constituted panel;
2. the Appellant be awarded a moderate allowance for the time and effort he devoted to preparing and presenting his case, and reasonable out-of-pocket expenses incurred in relation to the appeal; and
3. this Honourable Court grant such further and other relief as is just.

THE GROUNDS OF APPEAL are as follows:

1. The Agency erred in law and rendered an unreasonable decision by:
 - (a) failing to give effect to the intent of Parliament that “any person” may invoke the Agency’s jurisdiction to eliminate unreasonable or unduly discriminatory terms or conditions of airlines;
 - (b) failing to recognize that the right to be subject to terms and conditions that are not unreasonable or unduly discriminatory is a collective right of the public at large; and
 - (c) failing to recognize that the Agency is a quasi-judicial regulator whose mandate is different than the mandate of the courts.

2. The Agency erred in law, applied the wrong legal principles, and fettered its discretion with respect to public interest standing by:
 - (a) misquoting the Supreme Court of Canada and holding that public interest standing can be granted only in “cases in which constitutionality of legislation or the non-constitutionality of administrative action is contested” (para. 74); and
 - (b) failing to assess all three factors of the tripartite test for public interest standing.

Statutes and regulations relied on

3. *Air Transportation Regulations*, S.O.R./88-58, and in particular, ss. 110, 111, 113, and 113.1.

4. *Canada Transportation Act*, S.C. 1996, c. 10, and in particular, ss. 5, 37, 41, 67, 67.1, 67.2, and 86.
5. Such further and other grounds as the Appellant may advise and the Honourable Court permits.

March 12, 2015

DR. GÁBOR LUKÁCS

Halifax, Nova Scotia

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Appellant