

Halifax, NS

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July 21, 2016

VIA EMAIL

Judicial Administrator
Federal Court of Appeal
Ottawa, ON K1A 0H9

Dear Madam or Sir:

**Re: Dr. Gábor Lukács v. Canadian Transportation Agency
Federal Court of Appeal File No.: A-39-16
Motion for an extension to respond to the Agency's motion to strike
Reply to the Agency's letter of July 18, 2016**

I am writing to correct the most blatant misstatements by Mr. Matte, counsel for the Agency:

1. On July 18, 2016, less than a week after filing the Appeal Book, I filed my Memorandum of Fact and Law in the appeal in File No. A-242-16. Consequently, that appeal (and thus the present application) is held up for only two reasons:
 - (a) Mr. Meronek, counsel for NewLeaf, requested to have three (3) weeks to prepare his memorandum; and
 - (b) Mr. Matte insists on delaying filing his memorandum until August 12, 2016.

Correspondence received from opposing counsels is attached.

2. Similarly, due to the unavailabilities of Mr. Meronek and Mr. Matte, the earliest possible dates for the hearing of the appeal and the present application are September 20-23, 2016.
3. In these circumstances, unfortunately, it makes no difference whether I file my responding motion record to the Agency's motion to strike on August 15, 2016 (proposed by the Agency) or August 25, 2016 (proposed by myself). Indeed, even if I were to file my responding record by August 15, 2016, it is unlikely that a Panel would be available anytime before September to consider the Agency's motion to strike.

4. With respect to the reasons for seeking the extension:
- (a) The court record will confirm that in addition to filing my memorandum on July 18, 2016, I also filed a motion record of over 400 pages today in File No. A-242-16.
 - (b) As acknowledged by the Agency, during the last week of July and the first week of August, I am scheduled to speak at two academic conferences, and I am a session organizer at one of them. As a result, I will be unable to prepare an extensive responding motion record in the coming weeks.
 - (c) The Agency's argument that the application should be struck because leave to appeal was granted is a rather unusual one, and I was unable to find authorities on it using the tools that are available to me while I am away from Canada (my own collection of caselaw, CanLII, etc.). So far, the only authority I found was the November 30, 2012 Order of Trudel, J.A in File No. A-386-12, where the application was kept in abeyance, but not struck.

Respectfully, it is not unreasonable to ask for two days after my return to Canada to have an opportunity to conduct a thorough, in-person research at the Dalhousie Law Library.

5. The Agency failed to demonstrate a prejudice that is recognized at law. On an application (unlike an action), the general rule is that a party must argue all issues at the hearing, and not by way of a preliminary motion to strike. The Agency has no right to have the application dismissed on a preliminary motion; such a discretionary order is an extraordinary remedy.
6. The Agency will suffer no prejudice nor will it result in waste of judicial resources even if the Honourable Court is unable to decide the Agency's motion before the hearing on the merits, because the parties will anyway be present before the Court for the purpose of the hearing of the appeal in File No. A-242-16.

Sincerely yours,

Dr. Gábor Lukács
Applicant

Enclosed: Letter of Mr. Brian J. Meronek, dated July 13, 2016
Email of Mr. Allan Mate, dated July 13, 2106

Cc: Mr. Allan Matte, counsel for the Canadian Transportation Agency
(Allan.Matte@otc-cta.gc.ca)
Mr. Brian J. Meronek, counsel for NewLeaf (bmeronek@DarcyDeacon.com)
Mr. Ian McIvor, counsel for NewLeaf (imcivor@darcydeacon.com)

July 13, 2016

Via Email

REFERENCE NO:

123736-0032

PLEASE REPLY TO:

Brian J. Meronek Q.C.

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bmeronek@darcydeacon.com

Dr. Gábor Lukács

Halifax, NS

Canadian Transportation Agency

15 Eddy Street, 19th Floor

Gatineau, QC K1A 0N9

Attention: Allan Matte

Dear Gabor and Allan:

**Re: Dr. Gabor Lukacs v. Canadian Transportation Agency and
NewLeaf Travel Company Inc. (Court File No. A-242-16)**

LEGAL ASSISTANT:

Marion Parsons

DIRECT LINE:

204-975-2534

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mparsons@darcydeacon.com

In response to Gabor's email of July 12, 2016, based on a Memorandum filing date of July 22, we can have our Memorandum filed by August 12, 2016. If the Memorandum is filed earlier, then we will back date our filing date accordingly.

In terms of the hearing, we wish to have an oral hearing. We are open to the venue being either Winnipeg, Halifax or Ottawa. It does not matter to us. In terms of dates, I am available for the weeks of September 19 (except September 19) and 26; any day in the months of October and December is available as well. I am unavailable during the months of August and November.

Services provided by:

Brian Meronek Law Corporation

o also of the Alberta Bar

Gabor, I am advised from my assistant Marion that you require a Consent to an Extension to File the Notice of Appearance which you have consented to give. I am attaching a Consent and would ask that it be signed by both of you immediately so that it can be filed promptly.

Yours truly,

D'ARCY & DEACON LLP

Per:



BRIAN J. MERONEK Q.C.

BJM/mp

Att.

BRANCH OFFICE - CALGARY

From Allan.Matte@otc-cta.gc.ca Wed Jul 13 19:42:31 2016
Date: Wed, 13 Jul 2016 17:42:23 +0000
From: Allan Matte <Allan.Matte@otc-cta.gc.ca>
To: "lukacs@AirPassengerRights.ca" <lukacs@airpassengerrights.ca>, Brian J. Meronek <bmeronek@darcydeacon.com>
Cc: Marion Parsons <mparsons@darcydeacon.com>, Alexei Baturin <Alexei.Baturin@otc-cta.gc.ca>
Subject: CTA et al ats. Lukacs

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Gentlemen;

This is in response to Mr. Meronek's letter of today's date. We have executed the requested Consent.

In terms of timelines, we agree with those suggested in Mr. Meronek's letter and propose that the Agency's Memorandum be filed on or before August 12, 2016 as well. I am away on holidays the week of July 25 and therefore would like to keep the August 12 date fixed.

We also agree that the requisition for hearing will indicate that the hearing will take place in either Halifax, Ottawa or Winnipeg and that Dr. Lukacs will appear by videoconference if he is unable to attend in person. In terms of the timing of the filing of the requisition, I am unsure about what is being proposed. August 19 would seem reasonable if not sooner.

I am not available the weeks of August 22, August 29, September 26, October 24 and November 28.

Regards,

Allan Matte

Avocat/Counsel

Direction des services juridiques /Legal Services Directorate

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