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Via E-mail: sylvie.giroux@otc-cta.gc.ca

Canadian Transportation Agency
Air and Accessible Transportation Branch
Air & Marine Investigation Division
Ottawa, Ontario
K1A 0N9

Attention: Sylvie Giroux, Analyst

Dear Sirs/Mesdames:

**RE: File No. M4120-3/13-01696
Decision: LET-C-A-67-2013
Complaint by the Nawrots Family against
Sunwing Airlines
Our File No. 213062**

We write further to the Canadian Transportation Agency (“the Agency”) decision LET-C-A-67-2013 of April 26, 2013 and our subsequent letter of the same date with respect to reconsideration by the Agency of its decision having regard to Sunwing Airline Inc.’s (“Sunwing”) submissions in its Answer to the Complainants’ Notice of Motion.

Please find attached both a redacted and a non-redacted version of the documents attached as Exhibits “H”, “I”, “K” and “L” to the Affidavit of Joanne Dhue sworn April 17, 2013; which, we file in accordance with s. 23(4)(a) and (b) of the *Canadian Transportation Agency General Rules*.

Pursuant to s. 23 of the *General Rules*, Sunwing makes a claim for confidentiality in respect of the redacted names of individuals contained in the above listed documents. Sunwing does not object to the *redacted* documents being placed on the public record.

In support of its claim for confidentiality, Sunwing repeats and relies on its submissions contained in its April 26, 2013 Answer to the Complainants’ April 23, 2013 Notice of Motion (copy attached).

In addition to those submissions, Sunwing submits that the law with respect to privacy considerations limiting the discovery obligations of a party is settled law and is codified by s. 24(2) and (3) of the *General Rules*. That is, relevancy is the

prime and threshold consideration with respect to disclosure of confidential documents or portions thereof.

We refer the Agency to the leading decision of the Supreme Court of Canada :

...everyone owes a general duty to give evidence relevant to the matter before the courts, so that the truth may be ascertained. To this fundamental duty, the law permits certain exceptions, known as privileges, where it can be shown that they are required by a “public good transcending the normally predominant principle of utilizing all rationale means for ascertaining truth.”: *Trammel v. United States*, 445 U.S. 40 (1980), at p. 50.

...

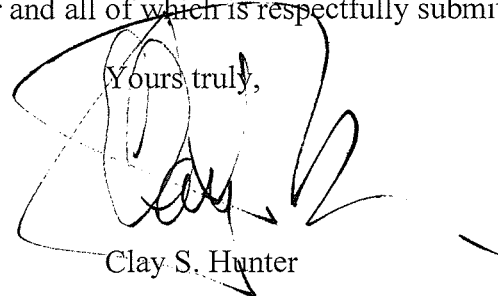
A document relevant to a defence or claim may be required to be disclosed, notwithstanding the high interest of the plaintiff in keeping it confidential. On the other hand, documents of questionable relevance or which contain information available from other sources may be declared privileged. The result depends on the balance of the competing interests of disclosure and privacy in each case. It must be borne in mind that in most cases, the majority of communications between a psychiatrist and her patient will have little or not bearing on the case at bar and can safely be excluded from production. Fishing expeditions are not appropriate where there is a compelling privacy interest at stake, even at the discovery stage.

M.(A.) v. Ryan [1997] 1. S.C.R. 157, 1997 CanII 403 (SCC); at paras. 19 and 37.

We have not provided the Complainants with a copy of the above non-redacted documents pending the decision of the Agency with respect to Sunwing’s claim for confidentiality.

We trust the above is in order and all of which is respectfully submitted.

Yours truly,

A handwritten signature in black ink, appearing to read 'Clay S. Hunter', is written over the typed name. The signature is stylized and somewhat cursive.

Clay S. Hunter

CSH/
encl.