

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20211015**

**Docket: A-102-20**

**Ottawa, Ontario, October 15, 2021**

**Present: GLEASON J.A.**

**BETWEEN:**

**AIR PASSENGER RIGHTS**

**Applicant**

**and**

**THE ATTORNEY GENERAL OF CANADA**

**Respondent**

**and**

**THE CANADIAN TRANSPORTATION AGENCY**

**Intervener**

**ORDER**

**UPON** informal motion of the applicant to file an additional affidavit in respect of its disclosure motion;

**AND UPON** motion of the applicant for an order under Rules 317 and 318 of the *Federal Courts Rules*, SOR 98/106, requiring the Canadian Transportation Agency (the CTA) to disclose the documents described in the applicant's Notice of Motion;

**AND UPON** motion of the CTA for leave to intervene in this application and other consequential orders;

**AND UPON** reading the materials filed;

**THIS COURT ORDERS** that:

1. The motions are granted on the terms set out below;
2. The additional affidavit from Dr. Gábor Lukács, sworn May 12, 2021, may be filed, effective the date it was received by the Court;
3. Within 60 days of the date of this Order, the CTA shall disclose to the applicant:
  - a. all non-privileged documents sent to or by a member of the CTA (including its Chairperson or Vice-Chairperson) between March 9 and March 25, 2020 concerning the statement on vouchers posted on the CTA's website on March 25, 2020;
  - b. all non-privileged documents sent to a third party by the CTA or received from a third party by the CTA between March 9 and March 25, 2020 concerning the statement on vouchers posted on the CTA's website on March 25, 2020; and

- c. all non-privileged documents related to any meeting attended by a CTA member (including its Chairperson or Vice-Chairperson) between March 9 and March 25, 2020 where the statement on vouchers posted on the CTA's website on March 25, 2020 was discussed;
4. The foregoing disclosure shall be made electronically;
5. Within 60 days of the date of this Order, the AGC shall submit to the Court for a ruling on privilege all documents over which privilege is asserted that would otherwise fall within paragraph 3 of this Order, the whole in accordance with the Reasons for this Order;
6. Within the same timeframe, the AGC shall serve and file a redacted version of its submissions, from which details of the contents of the documents are deleted;
7. The applicant shall have 30 days from receipt of the forgoing submissions to make responding submissions, if it wishes;
8. The materials related to claims for privilege shall then be submitted to the undersigned for a ruling on privilege;
9. Within 30 days of receipt of a ruling on the privilege claims, the applicant shall file any additional affidavit(s) it intends to rely on in support of its application;
10. The time for completion of all subsequent steps for perfection of this application shall be governed by the *Federal Courts Rules*;

11. The CTA is granted leave to intervene and to file an affidavit and a memorandum of fact and law of no more than 10 pages, the whole in accordance with the Reasons for this Order;
12. The style of cause is amended to add the CTA as an intervener and it shall be served with all materials the parties intend to file;
13. The issues of whether the CTA will be permitted to make oral submissions and of costs in respect of its intervention are remitted to the panel of this Court seized with hearing this application on its merits; and
14. No costs are awarded in respect of these motions.

"Mary J.L. Gleason"

---

J.A.