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BY EMAIL WITH COPY TO COUNSEL

May 17, 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
Request for Directions and/or Special Management

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, with due regard for Rules 53, 54, 55, 380, and 383 of the *Federal Court Rules*, to request the Court's Direction in how to proceed with the conduct of cfn. A-102-20. If the Court of Appeal sees fit, I propose that this letter stand as an informal motion by the Respondent to request special management of this application per Rule 383. In the alternative should the Court of Appeal direct, the AGC will bring a formal motion.

At present, following on the December 2021 and April 2022 Orders and Reasons of the Court of Appeal, a number of matters are now outstanding between the parties, who appear to be at an impasse as to how best to move forward in compliance with the Court of Appeal's Orders to date.

The Intervener has in compliance with the Court's Orders produced additional documents and an affidavit. In turn, the Applicant has issued a Direction to Attend Examination upon the Intervener's affiant, which included additional document production demands which the Intervener disputes. Further to a May 2 2022 Direction from the Court, the Intervener has on May 12 2022 brought a Motion pursuant to Rule 94 to resolve that dispute.

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On May 16 2022, the Applicant brought their own motion, some 650 pages, seeking relief on a number of fronts, including their contempt proceeding which was previously adjourned by the Court of Appeal pending the outcome of the Intervener's additional document production, now the subject of the Intervener's Rule 94 motion.

Further, it appears that points raised by the Applicant's May 16 motion would be addressed by the Intervener's May 12 motion and might therefore be redundant and unnecessary.

As well, the Applicant has taken the position that the respondent AGC is required to argue privilege claims on behalf of the Intervener. While this was the process followed in compliance with the December 2021 Order and Reasons, the April 2022 Order and Reasons do not address this point, and it is not clear that this is the appropriate step in respect of the additional document productions. In any event, such argument, whether by the Intervener or the Respondent, might reasonably follow the resolution of the Intervener's Rule 94 motion, as additional documents subject to privilege claims may be in issue. The Court of Appeal's guidance on this procedural point would be of assistance.

This matter has been ongoing for some time and is at risk of being further delayed in moving to resolution by potentially redundant and/or unnecessary motions. Accordingly, the Court's guidance is requested, by case management conference, special management, and/or such Directions as the Court of Appeal deems appropriate.

Yours truly,



Lorne Ptack
Counsel for the Respondent

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