

Halifax, NS
lukacs@AirPassengerRights.ca



October 28, 2014

VIA FAX

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

Dear Madam or Sir:

**Re: Dr. Gábor Lukács v. Canadian Transportation Agency and British Airways Plc
Federal Court of Appeal File No.: A-366-14
Abandonment of the Agency's motion for an extension, dated October 7, 2014**

I am writing to respond to the Agency's letter of even date, advising that it withdraws its motion for an extension, dated October 7, 2014, and requesting that it be relieved from the obligation to pay the costs of the abandoned motion.

1. The Agency should comply with Rule 370(1) of the *Federal Courts Rules*, and file a Notice of Abandonment with respect to its motion.
2. Rule 402 of the *Federal Courts Rules* provides that, unless the Court orders otherwise, the moving party must pay the costs of an abandoned motion forthwith to the responding party. In the present case, there are no special circumstances warranting departure from this rule. On the contrary, there are a number of reasons to require the Agency to pay costs:
 - (a) the Agency's motion was brought unnecessarily, and it was devoid of any merit;
 - (b) although the Agency was served with the Memorandum of Fact and Law of British Airways on October 17, 2014, the Agency failed to abandon the motion promptly, but instead, on October 21, 2014, the Agency served its reply;
 - (c) on October 27, 2014, one day before abandoning the motion, counsel for the Agency refused to provide her availabilities for the hearing of the appeal on the basis that the Agency's motion for extension was pending before the Court (see email attached);

- (d) the Agency filed its reply only on October 27, 2014, four (4) days after the deadline provided by Rules 369(3) and 6(2) of the *Federal Courts Rules*;
 - (e) Rule 410(2) of the *Federal Courts Rules* provides that, unless the Court orders otherwise, a party seeking an extension must bear the costs of the motion; and
 - (f) the Agency made gratuitous allegations about my motives for opposing its motion.
3. In these circumstances, it is submitted that the Agency should be required to pay the costs of the motion forthwith, and that a lump sum award in the amount of \$400.00, inclusive disbursements, would be appropriate.

Sincerely yours,

Dr. Gábor Lukács
Appellant

Enclosed: Email of Ms. Odette Lalumière to Dr. Lukács, dated October 27, 2014

Cc: Ms. Odette Lalumière, counsel for the Canadian Transportation Agency
Ms. Carol McCall, counsel for British Airways

From Odette.Lalumiere@otc-cta.gc.ca Mon Oct 27 15:00:22 2014
Date: Mon, 27 Oct 2014 18:00:10 +0000
From: Odette Lalumiere <Odette.Lalumiere@otc-cta.gc.ca>
To: Gabor Lukacs <lukacs@airpassengerrights.ca>
Cc: Alexei Baturin <Alexei.Baturin@otc-cta.gc.ca>, Wendy Liston <Wendy.Liston@otc-cta.gc.ca>, Carol McCall <cmccall@pmlaw.com>
Subject: RE: Second follow-up: Requisition for Hearing (draft) -- your availabilities [Court File No. A-366-14 - Lukacs v. CTA and British Airways PLC]

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Mr. Lukacs

R. 317 of the Federal Courts Rules provides that the requisition for hearing is to be served and filed within ten days after service of the respondents' record or the expiration of time for doing so. There is still the Agency's Motion for an extension of time pending before the Federal Court of Appeal, therefore, I cannot provide you with my availabilities at this time.

Odette Lalumiere
Avocate principale/ Senior Counsel
Services juridiques/ Legal Services
Office des transports du Canada/ Canadian Transportation Agency
819 994-2226
odette.lalumiere@otc-cta.gc.ca

-----Original Message-----

From: Gabor Lukacs [mailto:lukacs@AirPassengerRights.ca]
Sent: October-27-14 1:50 PM
To: Odette Lalumiere
Cc: Alexei Baturin; Wendy Liston; Carol McCall
Subject: Second follow-up: Requisition for Hearing (draft) -- your availabilities [Court File No. A-366-14 - Lukacs v. CTA and British Airways PLC]

Ms. Lalumiere:

On October 21, 2014, I asked that you and Ms. McCall be so kind to provide me with your availabilities to allow me to file a Requisition for Hearing. While Ms. McCall responded to my request promptly, I received no response from you to my original request or my follow-up (below).

I reiterate my request that you provide me with your availabilities so that I will be able to file a Requisition for Hearing.

Sincerely yours,
Dr. Gabor Lukacs

On Wed, 22 Oct 2014, Gabor Lukacs wrote:

> Dear Ms. Lalumiere,
>
> I am writing to follow-up on my request that you be so kind to provide
> me with your availabilities. This information is required for the
> Requisition for Hearing.
>

> As you know, Ms. McCall has already provided the required information,
> and thus only your availabilities are missing from the Requisition for
> Hearing form.

>
> I would like to thank you in advance for your cooperation.

>
> Best wishes,
> Dr. Gabor Lukacs

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>
> On Tue, 21 Oct 2014, Gabor Lukacs wrote:

>
>> Dear Ms. Lalumiere and Ms. McCall,

>>
>> Enclosed please find a draft Requisition for Hearing for your review.
>> Kindly please confirm:

- >>
>> 1. that your contact information is correct on the Requisition; and
>>
>> 2. the dates when you are not available between now and February 2015.

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>> I would like to thank you in advance for your cooperation.

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>> Best wishes,
>> Dr. Gabor Lukacs

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