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**Challenge to secrecy of the Canadian Transportation Agency to proceed,
Federal Court of Appeal rules**

Halifax, September 22, 2014 – In a ruling released late Friday, the Federal Court of Appeal ordered that a challenge to secretive practices of the Canadian Transportation Agency (CTA) will proceed to a hearing. The challenge concerns the right of the public to view the CTA’s case files pursuant to the constitutionally protected “open court principle.”

The CTA adjudicates commercial and consumer transportation-related disputes, such as complaints of passengers against airlines. Being a quasi-judicial tribunal that operates like a court, the CTA is required to allow the public and the media to view case files, unless such access is restricted by a confidentiality order. According to the CTA’s own official rules, documents filed by parties must be placed on “public record.”

In practice, however, the CTA only allows viewing of redacted documents, citing privacy concerns, even when no confidentiality order applies. Information redacted from such documents includes the name and workplace contact information of lawyers acting on behalf of industry players, such as Air Canada, and portions of evidence submitted by parties to disputes.

Gábor Lukács, a Halifax air passenger rights advocate, challenges this practice on the basis that it violates the open court principle. “CTA proceedings must be transparent. The public and the media can adequately criticize the CTA’s work only if they have access to complete, unredacted case files,” Lukács says. His argument is simple: “everything that is not confidential is public.”

Since 2008, Lukács has won more than two dozen complaints about airlines’ policies before the CTA. However, he believes that when airlines do not follow their policies, the cards are stacked against the passenger: “When it comes to fact-finding, the CTA accepts the word of the airline without analyzing the evidence. This might explain the desire to keep documents under wraps.”

The open court principle has been hailed by the Supreme Court of Canada as “one of the hallmarks of a democratic society” and held to be tied to the freedom of expression and press guaranteed by section 2(b) of *The Canadian Charter of Rights and Freedoms*. It is frequently invoked by the media to gain access to court documents.

A copy of the ruling and related court documents are available online:

<http://docs.AirPassengerRights.ca/FCA/A-218-14/2014-09-19-FCA-REASONS.pdf>

http://docs.AirPassengerRights.ca/Federal_Court_of_Appeal/A-218-14/

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