

November 30, 2022

**VIA EMAIL**

Judicial Administrator, Federal Court of Appeal  
90 Sparks Street, 5th floor  
Ottawa, Ontario K1A 0H9

Dear Madam or Sir,

**RE: Air Passenger Rights v. AGC and CTA (A-102-20)**

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We are counsel for the Applicant. Please bring this letter to Gleason J.A.'s attention. Her Ladyship is seized of all pre-hearing issues, pursuant to the Order of July 19, 2022.

We enclose the Applicant's Reply submissions to the CTA's written representations. Furthermore, we respectfully request the Court to accept this letter as an informal motion to file the Supplementary Affidavit of Dr. Gabor Lukacs affirmed on November 29, 2022.

The supplementary affidavit attaches two exhibits from Entrust, the provider of the CTA's encryption keys. These exhibits are relevant to the Applicant's motion on whether it is possible to open documents that were encrypted by a former CTA personnel. These exhibits will ensure that the Court has before it all that is necessary for the motion and the CTA will suffer no prejudice.<sup>1</sup>

At the time of filing the motion, the Applicant could not know the provider of the encryption keys since Ms. Cuber made no inquiries about and had no expertise on the topic of encryption.<sup>2</sup> This information could only be confirmed *after* the CTA filed the affidavit of its IT manager stating that the CTA follows the Treasury Board guidelines, which had screenshots of Entrust for encryption.<sup>3</sup>

Cross-examination of the CTA's IT manager would likely have been a futile exercise since the affiant was silent on the topic of retrieving or recovering encryption keys from the manufacturer. It would lead to a further round of motions for refusals on this straightforward topic.

Should the Court have any directions, we would be pleased to comply.

Yours truly,

**EVOLINK LAW GROUP**

SIMON LIN, Barrister &amp; Solicitor

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<sup>1</sup> [Air Passenger Rights v. Canada \(A.G.\)](#), 2021 FCA 201 at paras. 14-18.

<sup>2</sup> Cuber Cross-Examination, Q289-Q303 (Applicant's Motion Record, Tab 9, pp. 365-369).

<sup>3</sup> Affidavit of Jonathan Guindon on Nov. 24, 2022 at paras. 7-8 (CTA's Motion Record, Tab 3, pp. 52-53).

**Encls:** (1) Applicant's Reply to the CTA's Written Representations; (2) Affidavit of Dr. Gabor Lukacs on November 29, 2022

**Cc:** Mr. Sandy Graham and Mr. Lorne Ptack, counsel for the Attorney General of Canada, and Ms. Barbara Cuber, counsel for the Canadian Transportation Agency.