

**THE QUEEN'S BENCH
Winnipeg Centre**

BETWEEN:

NEWLEAF TRAVEL COMPANY INC.

Plaintiff,

- and -

**GABOR LUKACS and the said GABOR LUKACS, operating as AIR PASSENGER
RIGHTS,**

Defendant.

STATEMENT OF CLAIM

JUL 15 2016

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STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a Manitoba lawyer acting for you must prepare a statement of defence in form 18A prescribed by the Queen's Bench Rules, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Manitoba.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN
AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

July 15, 2016

D. CHAMPAGNE
DEPUTY REGISTRAR
Issued by COURT OF QUEEN'S BENCH
Deputy Registrar ~~TOBIA~~

Address of court office:
100C 408 York Avenue
Winnipeg, Manitoba
R3C 0P9

TO: Gabor Lukacs
Halifax, NS

CLAIM

1. The Plaintiff claims against the Defendant:

- a. Damages for defamation;
- b. Damages for injurious falsehood;
- c. Damages for intentional interference with economic relations;
- d. Damages for false and/or negligent misrepresentation;
- e. A permanent injunction;
- f. An interim or interlocutory injunction;
- g. Aggravated, punitive and/or exemplary damages;
- h. Pre-judgment interest and post-judgment interest;
- i. Costs of this action on a solicitor and client basis; and,
- j. Such further and other relief as the Plaintiff may request and this Honourable Court may deem just.

2. The Plaintiff, NewLeaf Travel Company Inc. ("NewLeaf"), is a federally incorporated body, which is extra-provincially registered in the Province of Manitoba with its head office in the City of Winnipeg, and carries on business as a reseller of domestic air services through a contractual relationship with Flair Airlines Inc. ("Flair"), wherein Flair supplies the aircraft and has full control over flight operations. Flair is a holder of a license issued by the Canadian Transportation Agency ("CTA") for domestic scheduled service and holds a Canadian Aviation Document issued by Transport Canada.

3. The Defendant, Gabor Lukacs, is an individual residing in the City of Halifax, in the Province of Nova Scotia, who holds himself out as an air passenger's rights advocate across Canada through an organization, which advertises through a website and is entitled "Air Passenger Rights".

4. On or about January 6, 2016, NewLeaf announced that it would begin selling flights through its contractual arrangement with Flair and began accepting reservations from customers for flights starting in February, 2016.

5. On or about December 21, 2015, the CTA began a formal consultation process with its stakeholders for the purpose of reconsidering its past approach for resellers and indirect service providers ("ISPs").

6. On or about January 18, 2016, out of an abundance of caution and of its own volition, NewLeaf decided to suspend the commencement of flights and to offer a refund to all customers who had purchased tickets. This decision was not mandated by the CTA. In fact, the CTA specifically indicated that the consultation would not require NewLeaf to suspend sales or operations until a final determination had been made.

7. On or about March 29, 2016, the CTA issued a decision confirming the result of its consultation. The CTA decision found that ISPs and resellers are not operating air services and should not be required to hold a license pursuant to the Canada Transportation Act, SC 1996, c.10 (the "Act"), provided that they do not hold themselves out as air carriers (the "NewLeaf Decision"). As a result, the legality of NewLeaf's business model was confirmed by the CTA, and NewLeaf is allowed by the CTA to carry on its business operations without requiring a license under the Act.

8. The Defendant sought leave to appeal the NewLeaf Decision. Leave was granted by the Federal Court of Appeal on June 9, 2016. The Defendant filed his Notice of Appeal on June 28, 2016.

9. On June 24, 2016, NewLeaf again commenced operations and began taking reservations for flights.

10. Since that time the Defendant has instituted an unrelenting, aggressive and malicious attack targeted at NewLeaf and at NewLeaf's potential and existing customers in particular through false and/or misleading information posted largely through social media.

DEFAMATION

11. On or about June 23, 2016, the Defendant through a Facebook account he operates also titled "Air Passenger Rights" published the following false and malicious statements of and concerning NewLeaf:

Don't buy if you want to fly

In 2016, this business model failed twice. Its legality is dubious and before the courts. Do you really want to risk your money?

Two Canadian failures in six months

- In January 2016, mere days after its launch, NewLeaf suspended sales and cancelled its tickets due to concerns about its lack of a license.
- In May 2016, only weeks before its first scheduled flight, GoSarvaq shut down, citing unfavourable market conditions.

A common feature of these ventures is the partnership with Flair Air, which was to provide the aircraft and the crew.

Legality of NewLeaf's business is up in the air.

In order to lawfully run an air service in Canada, one must get a license from the Canadian Transportation Agency (CTA). NewLeaf does not hold

any license, but the CTA decided that NewLeaf can operate without one anyway.

The court ruling means that the CTA's decision is not the last word about the legality of NewLeaf's business, and the decision may be overturned later this year.

Does NewLeaf have enough cash flow to take off?

The licensing requirements for running a service within Canada include financial requirements to ensure that the company has enough money to operate for the first 90 days.

Since NewLeaf is unlicensed, no one knows whether NewLeaf has adequate financing for operating the service.

In light of the bankruptcy of SkyGreece, which left thousands of passengers stranded and fending for themselves, one should be concerned that NewLeaf may not have sufficient cash flow to operate the flights on which it sells seats.

12. The statements contained in paragraph 11 are false and defamatory in their plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that:

- (a) NewLeaf suspended operations in January 2016 due to a failure of its business plan and a lack of a license;
- (b) NewLeaf's contractual relationship with Flair creates additional risk to booking with NewLeaf;
- (c) NewLeaf is operating illegally;
- (d) NewLeaf is required to hold a license to operate as a reseller;
- (e) NewLeaf is holding itself out as an air carrier;

- (f) NewLeaf has not received regulatory approval to operate as a reseller;
- (g) the Federal Court of Appeal made adverse comments as to the requirement of NewLeaf to hold a license, or
- (h) otherwise by implication made a preliminary ruling against NewLeaf in connection therewith; and
- (i) NewLeaf is, or is about to become, insolvent.

13. On or about June 23, 2016, the Defendant, through a Twitter account he operates also titled "Air Passenger Rights" ("Lukacs' Twitter Account"), published the following false and malicious statement of and concerning NewLeaf:

NewLeaf may need a license, three appellate judges have unanimously ruled:

#Dont #GoNewLeaf

14. The statement contained in paragraph 13 is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that:

- (a) the Federal Court of Appeal made adverse comments as to the requirement of NewLeaf to hold a license, or
- (b) otherwise by implication made a preliminary ruling against NewLeaf in connection therewith.

15. On or about June 24, 2016, the Defendant, through Lukacs' Twitter Account, published the following false and malicious statement of and concerning NewLeaf:

@natemapp Operating an air service without a license is a summary conviction offense
#Dont #GoNewLeaf #TWWT

16. The statement contained in paragraph 15 is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that NewLeaf:

- (a) is operating illegally in a criminal or quasi-criminal manner;
- (b) is required to hold a license to operate as a reseller;
- (c) is holding itself out as an air carrier; and,
- (d) has not received regulatory approval to operate as a reseller.

17. On or about June 24, 2016, the Defendant, through Lukacs' Twitter Account, published the following false and malicious statement of and concerning NewLeaf:

1/3 @natemapp NewLeaf has to get a license as everyone else does, because that is the law in Canada. #Dont #GoNewLeaf

18. The statement contained in paragraph 17 is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that NewLeaf:

- (a) is operating illegally;
- (b) is required to hold a license to operate as a reseller;
- (c) is holding itself out as an air carrier; and,
- (d) has not received regulatory approval to operate as a reseller.

19. On or about June 24, 2016, the Defendant, through Lukacs' Twitter Account, published the following false and malicious statement of and concerning NewLeaf:

NewLeaf owes over \$130K in unpaid bills according to several consultants who contacted us.

Tell NewLeaf to pay its bills. #Dont #GoNewLeaf

20. The statement contained in paragraph 19 is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that NewLeaf:

- (a) does not pay its employees, staff, agents and vendors in the ordinary course of its business;
- (b) owes over \$130,000 to third parties or otherwise has an undisputed debt obligation in that regard; and,
- (c) is, or is about to become, insolvent.

21. On or about June 25, 2016, the Defendant, through Lukacs' Twitter Account, published the following false and malicious statement of and concerning NewLeaf:

- 1. To the bank, to pay your unpaid bills.
- 2. Back to the CTA, to get a license.

#Dont #GoNewLeaf #TWWT

22. The statement contained in paragraph 21 is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that NewLeaf:

- (a) does not pay its employees, staff, agents and vendors in the ordinary course of its business;
- (b) has outstanding debt obligations which it does not dispute;
- (c) is, or is about to become, insolvent;
- (d) is operating illegally;
- (e) is required to hold a license to operate a reseller;
- (f) is holding itself out as an air carrier; and,
- (g) has not received regulatory approval to operate as a reseller.

23. On or about June 25, 2016, the Defendant, through Lukacs' Twitter Account, published the following false and malicious statement of and concerning NewLeaf:

NewLeaf does not pay its bills. Do not risk your money. #Winnipeg #Dont #GoNewLeaf #TWWT

24. The statement contained in paragraph 23 is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that NewLeaf:

- (a) does not pay its employees, staff, agents and vendors in the regular course of business;
- (b) has outstanding debt obligations which it does not dispute;
- (c) is a risky enterprise; and,
- (d) is, or is about to become, insolvent.

25. On or about June 27, 2016, the Defendant, through Lukacs' Twitter Account, published the following false and malicious statement of and concerning NewLeaf:

Do not buy your flight at a casino.

Edmontonjournal.com/business/cnw/r...

#Dont #GoNewLeaf #TWWT

26. The statement referenced in paragraph 25 above on Lukacs' Twitter Account cites a link to an article titled, "NewLeaf Travel Announces Financial Partnership With First Nations" which was published by the Edmonton Journal on its website. This article references the fact that Manitoba First Nations, who are investing in NewLeaf, have also invested in a casino property.

27. The statement contained in paragraph 25, including the reference to the article cited in paragraph 26, is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean the following:

- (a) That booking a flight through NewLeaf is tantamount to gambling; and,
- (b) A partnership with a First Nation which operates a casino increases the risk to booking a flight through NewLeaf.

28. On or about June 27, 2016, the Defendant, through Lukacs' Twitter Account, published the following false and malicious statement of and concerning NewLeaf:

When things go wrong in the air service industry, they go terribly wrong.

Financialpost.com/conquest+Vacat...

#Dont #GoNewLeaf #TWWT

29. The statement referenced in paragraph 28 above on Lukacs' Twitter Account cites a link to an article titled, "Conquest Vacations Shuts its Doors" which was published by the Financial Post on its website (www.financialpost.com). This article references the closure of Conquest Vacations Inc., which was alleged in the article to have left thousands of travelers uncompensated after the closure.

30. The statement contained in paragraph 28, including the reference to the article cited in paragraph 29 above, is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that:

- (a) NewLeaf is likely to declare bankruptcy as was the case with Conquest Vacations Inc.;
- (b) There are similarities between the situation referenced above and NewLeaf; and
- (c) NewLeaf would not properly protect customers.

31. On or about June 27, 2016, the Defendant, through Lukacs' Twitter Account, published the following false and malicious statement of and concerning NewLeaf:

Do not take your business to a company with unpaid bills. #Dont
#GoNewLeaf #TWWT

32. The statement contained in paragraph 31 is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that:

- (a) NewLeaf does not pay its employees, staff, agents and vendors in the ordinary course of its business;
- (b) NewLeaf has outstanding debt obligations which it does not dispute;
- (c) The public should not do business with NewLeaf for fear of not being compensated; and,
- (d) NewLeaf is, or is about to become, insolvent.

33. On or about June 27, 2016, the Defendant, through Lukacs' Twitter Account, published the following false and malicious statement of and concerning NewLeaf:

We are concerned that NewLeaf is gambling with passengers' money,
@kynaeus #Dont #GoNewLeaf #TWWT

34. The statement contained in paragraph 33 is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that NewLeaf:

- (a) is taking unnecessary and reckless risks;
- (b) customers are at risk of losing their money;
- (c) is, or is about to become, insolvent; and,
- (d) is likely to declare bankruptcy.

35. On or about June 28, 2016, the Defendant, through Lukacs' Twitter Account, published the following false and malicious statement of and concerning NewLeaf::

@Shindico Tell NewLeaf to settle its unpaid bills before selling any tickets
#Dont #GoNewLeaf #TWWT

36. The statement contained in paragraph 35 is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that:

- (a) NewLeaf does not pay its employees, staff, agents and vendors in the ordinary course of its business;
- (b) NewLeaf has undisputed debt obligations;
- (c) Shindico should not do business with NewLeaf; and,
- (d) NewLeaf is, or is about to become, insolvent.

37. On or about June 29, 2016, the Defendant, through Lukacs' Twitter Account, published the following false and malicious statement of and concerning NewLeaf:

Likely, because NewLeaf may no longer be in business then. They have unpaid bills. #Dont #GoNewLeaf #TWWT

38. The statement contained in paragraph 37 is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that:

- (a) NewLeaf does not pay its employees, staff, agents and vendors in the ordinary course of its business;
- (b) NewLeaf has outstanding debt obligations which it does not dispute;

- (c) The public should not do business with NewLeaf for fear of not being compensated;
- (d) NewLeaf is, or is about to become, insolvent; and,
- (e) NewLeaf is likely to declare bankruptcy.

39. On or about July 1, 2016, the Defendant, through Lukacs' Twitter Account, published the following false and malicious statement of and concerning NewLeaf:

NewLeaf (@newleaftravel) has not paid this invoice for \$76,485 for 13 months. #Dont #GoNewLeaf #TWWT #insolvency

40. The statement contained in paragraph 39 is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that NewLeaf:

- (a) does not pay its employees, staff, agents and vendors in the ordinary course of its business;
- (b) owes \$76,485 to a third party or otherwise has an undisputed debt obligation in that regard; and,
- (c) is, or is about to become, insolvent.

41. On or about July 1, 2016, the Defendant, through Lukacs' Twitter Account, published the following false and malicious statement of and concerning NewLeaf:

Licensed #Canadian airlines must prove their #financial #fitness

NewLeaf is unlicensed #Dont #GoNewLeaf #TWWT

42. The statement contained in paragraph 41 is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that NewLeaf:

- (a) does not pay its employees, staff, agents and vendors in the ordinary course of its business;
- (b) is, or is about to become, insolvent;
- (c) is operating illegally;
- (d) is required to hold a license to operate as a reseller;
- (e) is holding itself out as an air carrier; and,
- (f) has not received regulatory approval to operate as a reseller.

43. On or about July 1, 2016, the Defendant, through Lukacs' Twitter Account, published the following false and malicious statement of and concerning NewLeaf:

@ACTAAIbertaNWT Do not gamble with your clients' vacation. NewLeaf is high #risk

#Dont #GoNewLeaf #TWWT

44. In addition to the statement in paragraph 43 above, a link to an article titled "Don't buy if you want to fly" (which is cited in paragraph 11 above) is also referenced.

45. The statement contained in paragraph 43, including the reference to paragraph 44 above, is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that:

- (a) There is somehow a substantial risk of loss to customers in booking a flight through NewLeaf;
- (b) NewLeaf is, or is about to become, insolvent; and,
- (c) NewLeaf is likely to declare bankruptcy.

46. On or about July 5, 2016, the Defendant, through Lukacs' Twitter Account, published the following false and malicious statement of and concerning NewLeaf:

#Dont #GoNewLeaf #TWWT #risk #insolvency #Ontario411 #NovaScotia411 #Manitoba411 #Alberta411 #NB411

47. The statement contained in paragraph 46 is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that:

- (a) There is somehow a substantial risk of loss to customers in booking a flight through NewLeaf;
- (b) NewLeaf is, or is about to become, insolvent; and,
- (c) NewLeaf is likely to declare bankruptcy.

48. On or about July 5, 2016, the Defendant was quoted in an article titled "NewLeaf accused of not paying vendors" which was published on the web page for CTV News Winnipeg, as having made the following false and malicious statement of and concerning NewLeaf:

For a respectable company that does business as an airline, 130 thousand dollars should be small change [...] If paying 130 thousand

dollars to the people who built this brand is an issue, then the company is very close to insolvency.

49. The statement contained in paragraph 48 is false and defamatory in its plain and ordinary meaning and in the innuendos contained therein in that they mean and were understood to mean that NewLeaf:

- (a) is not a respectable company;
- (b) NewLeaf has outstanding debt obligations which it does not dispute;
- (c) is, or is about to become, insolvent; and,
- (d) is likely to declare bankruptcy.

50. The statements made in paragraphs 11, 13, 15, 17, 19, 21, 23, 25, 28, 31, 33, 35, 37, 39, 41, 43, 46 and 48 were totally false and malicious at the time they were made and remain totally false and malicious in fact and are defamatory to and concerning the Plaintiff. Further, to the extent that said statements are opinion, they were malicious, made in bad faith and are defamatory.

51. The Plaintiff alleges that the Defendant intentionally or recklessly instilled conscious and subconscious biases and shaped a negative opinion against the Plaintiff by anyone who would have read the above postings or publications.

52. The Plaintiff alleges that said acts of defamation have transcended political commentary of public interest and have taken on the form of biased attacks against the Plaintiff that are intended to intentionally or recklessly and unfairly distill distrust in the eyes of the public generally and to potential or existing customers specifically.

53. The Plaintiff states that, by reason of the publication and broadcast of the statements referenced in paragraph 50 above, the Plaintiff has been severely injured in its goodwill, credit, character and reputation and has been adversely impacted in its business interests in a substantial way.

INJURIOUS FALSEHOOD

54. The Plaintiff states that the Defendant should be held liable for damages arising from injurious falsehood.

55. The Plaintiff states that the Defendant clearly knew the statements made in paragraphs 11, 13, 15, 17, 19, 21, 23, 25, 28, 31, 33, 35, 37, 39, 41, 43, 46 and 48 were false; and further that:

(a) he published these statements with the intention of reflecting adversely on the Plaintiff's economic and business interests;

(b) they were made maliciously without just cause or excuse; and,

(c) they were calculated to induce the public to not deal with the Plaintiff.

56. The Defendant has utilized the falsehoods referenced in paragraph 55 above to cause damage to the Plaintiff by targeting potential and existing customers and expounding to them the illegality, risk and general unsuitability of NewLeaf. In particular, the Defendant posted or published statements referenced in paragraph 43 above specifically targeting a travel agent association and urging it not to use the Plaintiff's service. The net result of said falsehoods is that NewLeaf has suffered damages in terms of loss of business and damage to its goodwill, credit, character and reputation.

INTENTIONAL INTERFERENCE WITH ECONOMIC RELATIONS

(UNLAWFUL MEANS TORT)

57. Further, or in the alternative, NewLeaf states that the Defendant's actions amount to an unlawful means tort, for which the Defendant should be held liable.

58. The Defendant has held himself out as an air passenger rights advocate and as such owed a duty of care not to make false and misleading statements about NewLeaf to the public in general and to potential and existing customers of NewLeaf specifically.

59. In breach of said duty, the Defendant has repeatedly and deliberately posted or published false and/or misleading statements to the public and to potential and existing customers of NewLeaf which are part of a larger campaign by the Defendant to interfere with NewLeaf's business and economic interests. The Defendant has gone out of his way to post or publish these statements on social media in an attempt to directly target potential and existing customers of NewLeaf in an effort to intimidate and dissuade the public and said customers from dealing with NewLeaf. The specific instances of these falsehoods and misrepresentations can be found at paragraphs 11, 13, 15, 17, 19, 21, 23, 25, 28, 31, 33, 35, 37, 39, 41, 43, 46 and 48.

60. The interference referred to in paragraphs 57 – 59 above on the part of the Defendant was intentional in an effort to stop NewLeaf from being able to operate in the Canadian market as an end in itself, through such unlawful conduct.

61. The Plaintiff states that the tactics employed by the Defendant in pursuit of his intention to halt NewLeaf operations as stated above are actionable by an independent cause of action at the instance of potential or existing customers who have or may

suffer losses in the form of higher air fare costs as a result acting on said threats and false and/or negligent misrepresentations.

INJUNCTION

62. The Plaintiff submits that the Defendant has persistently and relentlessly pursued his intention of halting NewLeaf's operations which has caused, and will continue to cause, damage to NewLeaf's credit, goodwill and reputation, as well as financial loss.

63. The Plaintiff also seeks a permanent injunction directing the Defendant to refrain from persisting in posting, publishing or otherwise communicating said false and misleading statements concerning NewLeaf.

DAMAGES

64. The statements and conduct complained of in paragraphs 11, 13, 15, 17, 19, 21, 23, 25, 28, 31, 33, 35, 37, 39, 41, 43, 46 and 48 were deliberate, callous, highhanded, wanton and reckless and have caused NewLeaf to be subjected to unwarranted scrutiny, cynicism, and adverse publicity, thereby causing NewLeaf to have to defend said specious allegations published in the media; which is especially damaging to a start-up business.

65. NewLeaf has had to defend against such media headlines as "Unpaid bills raise fears over NewLeaf's viability" published in the Financial Post on July 5, 2016 and in the Calgary Herald on July 6, 2016, among other newspapers, and 'NewLeaf accused of not paying vendors' posted on the webpage of CTV News Winnipeg on July 5, 2016. Said actions and conduct of the Defendant are outrageous and merit exemplary, aggravated and/or punitive damages against the Defendant.

66. The Plaintiff has suffered and will continue to suffer damage to its goodwill, credit, character, as well as financial loss and reputation as a result of said defamation, unlawful means torts, injurious falsehood and false and/or misrepresentations committed by the Defendant.

67. The Plaintiff states that the conduct of the Defendant is egregious and should be sanctioned with an order of solicitor and client costs throughout these proceedings.

68. The Plaintiff therefore claims the relief sought in paragraph 1 hereof.

69. This Statement of Claim is served without leave of the Court pursuant to Manitoba Queen's Bench Rule 17.02 (f), (g), (h) and (i).

July 15, 2016

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