

Court File No.:

FEDERAL COURT OF APPEAL

BETWEEN:

DR. GÁBOR LUKÁCS

Appellant

– and –

**CANADIAN TRANSPORTATION AGENCY and
BRITISH AIRWAYS PLC**

Respondents

NOTICE OF APPEAL

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears on the following page.

THIS APPEAL will be heard by the Federal Court of Appeal at a time and place to be fixed by the Judicial Administrator. Unless the court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard in **Halifax, Nova Scotia**.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341A prescribed by the *Federal Courts Rules* and serve it on the appellant's solicitor, or where the appellant is self-represented, on the appellant, WITHIN 10 DAYS of being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the judgment appealed from, you must serve and file a notice of cross-appeal in Form 341B prescribed by the *Federal Courts Rules* instead of serving and filing a notice of appearance.

Copies of the *Federal Courts Rules*, information concerning the local offices of the court and other necessary information may be obtained on request to the Administrator of this court at Ottawa (telephone 613-996-6795) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: August 11, 2014

Issued by: _____

Address of
local office: Federal Court of Appeal
1801 Hollis Street, Suite 1720
Halifax, Nova Scotia, B3J 3N4

TO: **CANADIAN TRANSPORTATION AGENCY**
15 Eddy Street
Gatineau, Quebec J8X 4B3

Ms. Cathy Murphy, Secretary
Tel: 819-997-0099
Fax: 819-953-5253

AND TO: **PATERSON MACDOUGALL LLP**
1 Queen Street East Suite 900
Toronto, ON M5C 2W5

Carol McCall

Tel: (416) 643-3309
Fax: (416) 366-3743

**Counsel for the Respondent,
British Airways Plc**

APPEAL

THE APPELLANT APPEALS to the Federal Court of Appeal from:

1. a decision made by the Canadian Transportation Agency (the “Agency”) dated May 26, 2014 and bearing decision no. 201-C-A-2014 (the “Final Decision”); and if and to the extent necessary,
2. decisions made by the Agency dated April 16, 2014 and bearing decision no. LET-C-A-25-2014, and dated May 2, 2014 and bearing decision no. LET-C-A-29-2014 (the “Procedural Decisions”).

THE APPELLANT ASKS that:

1. the Final Decision be set aside, and the matter be returned to the Agency for redetermination based on the existing record, by a differently constituted panel, with the direction that the Agency is to establish a tariff rule governing denied boarding compensation on all flights of British Airways;
2. the Procedural Decisions be set aside to the extent that they direct the Appellant to delete portions of his submissions to the Agency;
3. the Appellant be awarded a moderate allowance for the time and effort he devoted to preparing and presenting his case, and reasonable out-of-pocket expenses incurred in relation to the appeal; and
4. this Honourable Court grant such further and other relief as is just.

THE GROUNDS OF APPEAL are as follows:

1. The Agency erred in law and rendered an unreasonable decision.
 - (i) The Final Decision is inconsistent with the requirements set out in subsection 122(c)(iii) of the *Air Transportation Regulations* (the “*ATR*”), because:
 - (a) pursuant to subsection 122(c)(iii) of the *ATR*, carriers must clearly state their policies with respect to denied boarding compensation in their tariffs, and thus the tariff must address denied boarding compensation for departing:
 - (1) from Canada to destinations abroad; and
 - (2) from abroad to Canada;
 - (b) the Final Decision imposes on British Airways a tariff rule that is confined to denied boarding compensation on flights from Canada to the European Union, but it is silent about all other flights, including flights from the European Union to Canada.
 - (ii) The Final Decision creates a legal loophole that undermines the ability of passengers bumped from British Airways flights departing from abroad to Canada to commence an action for denied boarding compensation in Canada.
2. The Agency breached its duty to observe procedural fairness by making Procedural Decisions that ordered the Moving Party to delete the vast majority of his submissions to the Agency.

Statutes and regulations relied on

3. Sections 108, 110, 111, 113, and 122 of the *Air Transportation Regulations*, S.O.R./88-58.
4. Sections 41, 55, and 86 of the *Canada Transportation Act*, S.C. 1996, c. 10.
5. Such further and other grounds as the Appellant may advise and the Honourable Court permits.

August 11, 2014

DR. GÁBOR LUKÁCS

Halifax, Nova Scotia

lukacs@AirPassengerRights.ca

Appellant