



**TO:** Registry

**FROM:** Gleason J.A.

**DATE:** February 19, 2021

**RE:** *Air Passenger Rights v. Canadian Transportation Agency*  
A-102-20

---

### DIRECTION

The Court is seized with a motion from the applicant, seeking documentary disclosure, and is concerned that it may be inappropriate that the Canadian Transportation Agency (the CTA), as opposed to the Attorney General of Canada, has been named as the respondent in this file. It is not an appeal under section 41 of the *Canada Transportation Act*, S.C. 1996, c. 10, but, rather, an application for judicial review under section 28 of the *Federal Courts Act*, R.S.C. 1985, c. F-7. By virtue of paragraph 303(1)(a) and subsection 303(2) of the *Federal Courts Rules*, SOR/98-106, it would appear that the Attorney General, not the CTA, ought to have been named as the respondent.

The Court would like submissions from the parties on the issue of whether the Attorney General should be substituted for the CTA as respondent, addressing the question not only generally, but also more specifically addressing the propriety of the CTA's appearing and taking positions in an application seeking an order prohibiting the members of the Agency from hearing claims for refunds for flights cancelled due to the COVID-19 pandemic based on allegations that there is a reasonable apprehension of bias flowing from public statements that were posted on the CTA's website. Parts of the CTA's submissions made in response to the applicant's disclosure

motion set out the CTA's position on the scope of the issues the Court will be called upon to address in its examination of the bias allegations.

The parties are requested to file their submissions on these issues within 30 days of the date of this direction. They shall be no more than ten (10) pages in length and may be filed via email, sent to the Registry of the Court. Each party will have ten (10) days from receipt of the opposing party's submissions to respond to the opposing party's submissions. Responses, if any, shall likewise be sent to the Registry via email and shall be no more than five (5) pages in length.

The Registry is requested to send a copy of this Direction to the Attorney General of Canada. Should the Attorney General wish the opportunity to make submissions on the issue of the proper respondent, he shall forthwith serve and file a Notice of Appearance and shall make his submissions in accordance with the deadlines and maximum length for submissions, described above.

After receipt of the parties' submissions, or, if none are made, after the expiry of the time for making them, this file shall be returned to the undersigned for determination of these issues.

\_\_\_\_\_  
"Mary J.L. Gleason"

J.A.