



SUPERIOR COURT OF JUSTICE
COUR SUPÉRIEURE DE JUSTICE

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FAX COVER SHEET

Date: April 7, 2011

TO:

Heather Meredith

FAX NO.:

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FROM:

The Honourable Mr. Justice Morawetz

TOTAL PAGES (INCLUDING COVER PAGE): 2

MESSAGE: Amendment: Reasons in Skyservice. Please note that paragraph 113 has been amended due to a grammatical error in the previous copy. Mr. Justice Morawetz asks that you provide copies to all interested parties of this new page 32.

Please discard all previous copies.

Thank you.

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[110] Guidance on the appropriate terms is provided by Binnie J. in *Canada 3000*, at paragraphs 91 and 92, specifically that the judge can work out the terms, "provided that the object and purpose of the remedy (to ensure the unpaid user fees are paid) is fulfilled."

[111] As counsel to WAA points out, the comments of Binnie J. taken as a whole, do not afford the court discretion to refuse to grant a seizure order where the statutory prerequisites have been satisfied. Rather, the court is to grant the order and fashion the terms to ensure payment of unpaid fees. To do otherwise would frustrate the intent of the statutory provision.

[112] In the alternative, if there is a discretion conferred by statute not to grant a seizure order, I would decline to exercise such discretion in favour of the lessors for two reasons. First, I am satisfied that the conduct of the Airport Authorities and NAV Canada was not improper and, secondly, the denial of an effective remedy would run counter to the opinion of the Supreme Court of Canada as set out in *Canada 3000*.

VII DISPOSITION

[113] The Applications of the GTAA, OMCIAA and NAV Canada for aircraft seizure and detention orders are not affected by the stay, are granted and are enforceable up to the full amount owing to GTAA, OMCIAA and NAV Canada.

[114] The motions brought by the Aircraft lessors for the requested declaration in respect of the entitlements of the Airport Authorities and NAV Canada are dismissed.

[115] Issues relating to quantum can be addressed at a 9:30 a.m. appointment, if necessary.