

Court File Number: CV-14-10532-00CC

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Lloyds Bank Commercial Finance

Plaintiff(s)

AND

Air Canada

Defendant(s)

Case Management Yes No by Judge: _____

Counsel	Telephone No:	Facsimile No:
<i>A. Ross</i>		
<i>J. Portes E. Cobb. Trustee</i>		

- Order Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)
- Adjourned to: _____
- Time Table approved (as follows):

<i>Timetable Approved - as attached.</i>

August 26, 2014
Date

[Signature]
Judge's Signature

Additional Pages _____

1. The Trustee delivers a statement of claim in respect of its claim (the "preference proceeding"), particularizing the Trustee's claim under section 95 of the BIA.

By August 25, 2014

2. Air Canada agrees that it will not bring any motions to strike, or interlocutory motions relating to particulars, in respect of the statement of claim delivered by the Trustee or the statement of claim delivered by Lloyds in its proceeding (the "inter-creditor proceeding").
3. Air Canada delivers statements of defence in the inter-creditor proceeding and in the preference proceeding.

October 15, 2014

4. Lloyds to deliver a reply, if any, in the inter-creditor proceeding.

By October 31, 2014

5. Air Canada brings any motions for security for costs.

By October 31, 2014

6. All parties reserve any and all rights in respect of any other motions brought after the pleadings stage. Specifically, all parties reserve their rights to not only oppose any such motion at a hearing, but to argue at a scheduling hearing or otherwise that such a motion should not be heard.

7. Contemporaneously:

- a. Exchange of affidavits of documents between Lloyds and Air Canada in the inter-creditor proceeding, prepared in accordance with an agreed plan for documentary discovery.
- b. Exchange of lists of any relevant documents not already produced in the preference proceeding by the Trustee and Air Canada, prepared in accordance with an agreed plan for documentary discovery.

By January 31, 2015

8. In respect of the inter-creditor proceeding, Lloyds may conduct an examination for discovery of a representative of Air Canada; and Air Canada may conduct an examination for discovery of a representative of Lloyds.

By February 28, 2015

9. In respect of the preference proceeding,
 - a. Air Canada may conduct an examination of a witness put forward on behalf of the Trustee and the Trustee may conduct an examination of a witness put forward on behalf of Air Canada, which examinations will be conducted in the same timeframe as those in the inter-creditor proceeding.
 - b. The examination of Air Canada's representative will be limited to matters that were not the subject of Lloyd's examination for discovery.
 - c. The examinations conducted by both Air Canada and the Trustee will be limited to matters that were first raised or disclosed on or after October 12, 2010, which will include without limitation questions arising from:
 - i. the answers to undertakings given during past cross-examinations,
 - ii. new issues or facts raised by the parties or Lloyds in their pleadings or raised during these examinations, whether during the examination or in response to a request for an undertaking; or
 - iii. documents produced for the first time after the past cross-examinations, including Trustee's reports, documents listed in the Lloyds' affidavit of documents or the Trustee's list of relevant documents described above, or documents produced during these examinations, including in response to a request for an undertaking.
 - d. The transcripts of past cross-examinations will be treated as discovery transcripts.

By February 28, 2015

10. A hearing will take place in respect of the preference proceeding and the inter-creditor proceeding. The manner in which the hearing(s) will proceed shall be determined by the trial judge or judge having carriage of the matter; however, the parties agree to propose that the two matters be heard at the same time, or one after another, or in such other manner as may avoid duplication and promote efficiency. The parties will consider the use of existing affidavit evidence to the extent possible.
11. The parties will schedule a case conference in early March 2015 after the completion of the examinations for discovery to schedule the next steps in the proceedings or the hearing(s) referenced above.