Hughes Walker Solicitors Ltd

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Ince & Co
Aldgate Tower
2 Leman Street
LONDON
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Date : 28 June 2016
Solicitor Ref : 61356 / 45463 / 76909
Your Ref : AA DJB 6629 8747

Dear Sirs,

Assignment / Lien/ Inducement of Breach of Contract etc.
Your clients: Ryanair

Without Prejudice

Thank you for your letter of 17/06/16. We should like to say straight away that we would welcome an open dialogue with you/ your clients to find a mutually acceptable way forward which we firmly believe if found, will benefit the passengers concerned and your clients. We have previously attempted to open such dialogue but our approaches have been rebuffed.

Letters of claim

We respectfully disagree with the suggestion that our clients are obliged to submit their claims directly against Ryanair:

1.Your client's commercial interests are diametrically opposed to the interests of our client - we call this a conflict of interest. It is simply not possible for Ryanair to provide our clients with impartial, independent information to enable our clients to ascertain whether or not they are entitled to compensation and, if so, how much they are entitled to.

2.Consistently the airline industry has proved that it opposes its passengers' rights to compensation under Article 7. For example we refer to Dawson, Huzar, Van der Lans, Drew, Goel etc. The airline industry has repeatedly shown inexhaustible ingenuity and tenacity in its attempts to defeat passenger rights under the Regulation. It is clear that passengers who present claims to an airline directly will only ever hear one side of the story, i.e. the airline's side. To take a recent example, we have noted that your client has written to some of our clients directly explaining that they do not have a valid claim on the basis that a flight was delayed due to a 'lightning strike'. Naturally, your client did not reveal the decision of HHJ Clarke in Monarch –v- Evans, they did not point out that that this was a developing and arguable point of law and critically they did not suggest that the passengers might wish to seek independent legal advice.

3 Claims for Flight Compensation are legally complex. Such claims often require the interpretation of complex European law when applying a Regulation that was never drafted to provide compensation for delay. Novel scenarios and questions continuously present themselves for resolution. In Ryanair's case for example its business model involves very intense use aircraft with tight turnaround schedules with the same aircraft flying

multiple different sectors in any one day. Inevitably this method of operating results in frequent "knock-on" delays & cancellations often caused by Ryanair re-sequencing its flight operations when such eventualities occur. Ryanair cases more than any other airline, often involve difficult questions about the extent of an airline's lability for knock-on delays and cancellation where the original delay/ cancellation was caused by an Extraordinary Circumstances (which is aside from the problem of characterising whether any particular event is "extraordinary" for the purposes of the Regulation). We also see "hidden manufacturing defences" where complex technical evidence can sometimes be required to ascertain if a problem is due to manufacturing issues and whether it was "hidden" at the time of the delay/ cancellation. In Ryanair cases an additional layer of complexity can sometimes be added by questions of jurisdiction and applicable law. We have seen many Ryanair defences plead Irish law to be applicable. We have seen "flavour of the month" defences come and go with different airlines. Unrepresented litigant are clearly at a considerable disadvantage and are likely to be overwhelmed by the resources and knowledge of an Airline's specialised lawyers / legal department. In contrast, time and again, legally represented passengers have succeeded in the face of determined opposition from Airlines including Ryanair.

3.It is ridiculous to suppose that passengers can look to Ryanair for independent advice. You appear to be suggesting that lawyers and claims companies should only take on defended cases only. Passengers instruct firms like us so that the claim can be dealt with quickly and advice is available about liability and quantum if and when the airline responds and so that if the airline does not respond proceedings can be started to progress the case speedily. It also affords the client a means to take legal action if their claim is denied and relieves them of the burden of dealing with the airline. This is no small matter as taking legal proceedings is a burdensome undertaking and our clients find it re-assuring that when they instruct a company like ourselves, they are buying into a litigation service which is "there if necessary", rather perhaps like how Ryanair touts travel insurance to its customers?

4.In the make-believe-World-of-Ryanair we are sure it would be delightful for Ryanair if all passengers were forced to submit their claims direct to the Airline, many such passengers would accept the Airline's denial at face value no doubt made in convincing terms (as many did when Ryanair took advantage of its customers by rejectin claims on such spurious grounds such as 2 years' time limits and extraordinary circumstances pre Huzar). We recognise that Ryanair might at the time have genuinely believed the denials it issued but the point if they lack the perspective to give honest and balanced advice to its passengers.

5.We enquire as to whether Ryanair have gone back through its previous denials to compensate unrepresented passengers whose claims they previously unlawfully rejected? We suspect not, and this illustrates one of the benefits of employing solicitors and claims companies because those lawyers etc keep abreast of developments and can revisit rejected claims when the law moves on. Perhaps we malign Ryanair by suggesting they have not have reviewed rejected previous claim but the point is that clients are not obliged to adopt arrangements which rely on the honesty and proactivity of the particular airlines in preference to arrangements with this firm designec to protect their interests; this is something we like to call consumer free-choice, which Mr O'Leary is an acknowledged champion of.

6.The business model proposed by your clients i.e. solicitors and claims management companies being "selected against" so that they run only "denied claims", would unfortunately not be economic. Most cases for most airlines are dealt with in the small claims court, either no or only minimal costs are awarded therein. Taking contested cases to a small claims hearing is expensive. Counsel's fee can be £250-£350, there are Court fees to fund, and the time commitment is often in the region of about 10-15 hours work ie a total cost per case probably of about £1560. Like buying airline tickets, the market determines the price customers are willing to pay for such services. We agree that typically the price is usually not more than 40% or so. This is because it is not worthwhile for a customer to bring a claim if the net reward is too low. Most Ryanair awards are €250-€400. Therefore potentially solicitors and claims management companies dealing only with defended case would receive say 40% of say €325= €130 per successful claim that might well have cost £1500 to bring to Court, and

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bear in mind that the outcome of such cases will depend on the Judge's decision "on the day". So for example if 40% of claims fail at trial, the effective payment per litigated case take would be about €130. It does not take an entrepreneurial genius of the stature of a Mr O'Leary to recognise that such a business model is heading quick-time to the bankruptcy court, so we can well see how that would suit the predatory instincts of your clients.

7.The concept of sharing risk across a caseload of willing clients is fundamental to how access to justice operates in a whole range of spheres such as CFAs, Legal Costs Insurance, trade Union legal funding etc. We appreciate the calculations are slightly skewed in Ryanair's case because some costs are sometimes allowed in the ESCP but that does not really alter the fundamental point a) because lost cases attract costs which need to be paid (those costs are always promptly paid when the client has instructed this firm) b) even in the ESCP costs are nominal and sometimes restricted to SCT fixed costs c) Ryanair cases are only a small proportion of the work claims companies and solicitors operating in this field undertake, and the business model would fail if solicitors and claims companies were restricted to dealing with only denied claims. This is aside from the fact that claims companies are not anyhow subject to the SRA code of conduct, so seeking to penalise solicitors would simply favour unregulated businesses to the detriment of consumer protection.

8.In any event we simply do not agree with your assertion that solicitors have a duty to refuse to take on clients on the basis that those could initially represent their own interests. The same argument if true would apply to all potentially litigious cases and has consistently been rejected. It would inevitably encourage anti-consumer behaviour by Airlines if there was some "O'Leary" Law that required consumers could not instruct a solicitor until a claim had been presented directly and rejected. Nobody forces Ryanair passengers to buy their tickets from Ryanair and nobody forces a client to sign up with a solicitor or claims company. Consumer legislation requires that price information is provided upfront (and unlike airlines, the charges have never been "hidden") , and also unlike for Ryanair, each client is given cooling off rights. Our work is sourced through legitimate advertising. Ryanair seems to be treating its passengers like naughty school children who must not be allowed to make their own mind up should they wish to instruct solicitors. A rule that says "clients must not seek legal representation until Ryanair permits it", is plainly wrong. Clients of this firm are perfectly free to present their own claims to Ryanair if they wish to do so, and they are equally free to instruct ourselves if that is their preference.

9.Respectfully Ryanair needs to be very careful that it is not inducing breaches of contract if it is seeking to encourage or facilitate passengers from reneging on contractual commitments, including for example breach of obligations as to whom payment of awards should be directed. We are aware of letters being sent by Ryanair which undoubtedly encourage breach of contract, eg encouraging clients to sign authorities which are diametrically inconsistent with such obligations aforesaid. Furthermore your client must surely be aware that claims companies and solicitors will invariably make provision for payment of awards to be issued to themselves so that agreed fees can be deducted. This is standard practice within the industry and therefore your clients are implicitly on notice that asking their clients to sign payment authorities will invariably place such customers in breach of their contractual obligations, which is contrary to your clients professed wish to protect the interests of its passengers. We now place your clients on express notice that requests by Ryanair to clients that they should sign authorities for payment to be made direct to passengers will place those passengers in breach. For example all clients of this firm as a MINIMUM have agreed:

"Not to compromise or settle your claim without our written agreement ….and in any event not to accept paymer directly from the airline"

"You must agree that any damages or award is paid to [Hughes Walker Solicitors Ltd]……".

Very clearly writing to clients asking them to sign authorities for payment to be made direct to them is a flagrant breach of the foregoing and as stated this is the minimum that all clients have agreed to irrespective of sign-up date. Furthermore sending payments direct to clients or asking them whether they would like such payments to be

sent direct, facilitates and induces clients to breach their contractual obligations not to accept such payments.

10. We require your clients IMMEDIATELY desist from soliciting breach of contract and furthermore we require a written undertaking within 7 days to confirm they will desist from inducing breach of contract; failing which Ryanair must expect that injunctive proceedings will be issued to prohibit further breaches of contract without further reference.

11. Furthermore some of the letters sent by your clients to our clients, contain serious untruths, for example claims that entitlements under Article 7 have been assigned to this firm or that this firm is a claims management company. Some of the letters also contain scandalous allegations or imputations of professional impropriety on the part of this firm which are totally groundless and wholly unacceptable. Ryanair making untrue statements to its passengers in this way, is simply not acceptable.

12. In short, your client has considerable form for exhausting every opportunity possible to oppose valid claims under Regulation 261. Your clients sought to oppose claims en masse pending the outcome of Huzar/Van der Lans. They did so whilst simultaneously opposing claims en masse due to the alleged contractual two year limitation period. To compound matters, this came at a time when the public perception post-Dawson was that the courts had already decided the limitation period to be 6 years. Your client's position therefore had the effect of potentially luring unrepresented passengers into keeping their claims 'on hold' to await the outcome of Huzar/Van der Lans, thereby exposing them to the risk of passing the 'two year deadline' and thereafter being ambushed with a somewhat complex and technical argument in relation to the two year contractual limitation period. The point is simply that passengers are exposed to risk with the absence of legal representation. We reiterate it is the passengers' decision as to whether to take that risk and they make that decision at the time of instructing solicitors /claims companies.

13. We remind you that your client has a list of every flight that is delayed/cancelled, and they are obliged under Article 14.2 of the Regulation to inform passengers of their rights from the outset. It is therefore odd that so many passengers find it necessary to instruct companies like ourselves to submit claims against Ryanair. If your clients are genuinely concerned to honour their obligations under the Regulation, and to protect their customers from "unnecessarily" having to pay fees to claims companies or solicitors, then surely there is an easy solution to this. Ryanair should pay each and every customer who is due compensation immediately after each and every flight is delayed/ cancelled as the passenger is getting off the flight or at least before they have instructed representatives. For example we understand that Virgin Rail credits train-delay compensation to its customers bank account directly without requests being made ('Automatic Delay Repay' see https://www.virgintrains.co.uk/delayrepay); we look forward to the day that airlines adopt a similar policy. Equally Ryanair could obtain passenger lists from all historical delayed/cancelled flights and do the same now. Essentially, if Ryanair ensured full compliance with Article 14.2 of the Regulation, passengers would rarely feel the need to instruct companies like ourselves in the first place and we would be out of business, which is we assume the outcome Mr O'Leary seeks to achieve. We now publicly challenge Ryanair to pay every passenger on every historical flight over the last 6 years that they believe is entitled to compensation. If this is the moral crusade that Ryanair are campaigning for, then we look to them to practice as they preach.

14. The above points aside, your client most likely misses the point that the majority of passengers instruct companies like ourselves because they have tried to claim directly against the airline but have either been ignored or rejected. Alternatively, many passengers instruct such companies purely to avoid the time and hassle of having to conduct a claim on their own, it being their prerogative to instruct an agent to act on their behalf and their fundamental right to seek independent legal representation (Mrs. Janet Bettle is a perfect example as detailed below).

We make no apologies for accepting instructions from Ryanair's unpaid passengers and acting on their express

instructions to recover monies owed to them by the Airline.

Customer Complaints

Your client makes a number of references to "customer complaints" which appear to be generic in nature and not specifically aimed at this firm. For example, you refer to claims being submitted on behalf of passengers after 'making an enquiry' but without giving instructions to act. We can perfectly accept that this may be an issue for your client in relation to some unscrupulous companies, but we do not accept that this is a genuine issue in relation to any claims submitted by Hughes Walker. All clients for whom claims have been submitted by Hughes Walker solicitors have completed a full sign-up process. We do not in any circumstances make speculative claims on behalf of people we become aware of on a booking for whom we have not received instructions and it is deeply offensive and resented if it is being suggested that our business practice is to deliberately bring claims knowing we do not have instructions from the passengers in question. Certainly your client has never contacted us previously indicating that they have been experiencing such problems which in itself leads us to believe that this is actually a problem associated with other companies. Naturally we share your client's disdain for any company that would deliberately act in such a fashion so as to knowingly present claims for passengers for whom they are not instructed, and indeed this has caused difficulties for ourselves when our clients have had their claims rejected to a duplicate claim being presented elsewhere by a bogus company. We do, however, trust that your client would not tar all firms with the same brush.

You also refer to complaints from customers in relation to fees charged of up to 40% to our clients. Firstly, fees charged are, as stated made clear and prominent prior to sign-up. This is a baseless complaint, rather like Ryanair making an official complaint that EasyJet's or BA's passengers are paying too much because it would be cheaper to fly with Ryanair, when that is the decision of the customer concerned to make. The fees charged are NOT in breach of 'consumer protection' principles. As stated the legal costs required to take a claim to final hearing inevitably far exceeds the amount of costs payable by the airline. We therefore believe that the fees charged are entirely justified, represent excellent value for money and are fully compliant with any applicable rules and regulations. It is, however, not necessary to justify to Ryanair, the fees charged. This is purely a matte for the clients in question.

We do find it odd that your client would receive complaints in relation to fees that they have incurred with claims companies. If the issue is the amount charged then surely these complaints would be made to the claims companies themselves rather than to your client? We speculate perhaps the nature of these complaints stems from the fact that their customers are frustrated that, due to your client's historical form for opposing claims 'by all means possible', they have been forced to instruct a solicitor and thereby incur fees. Alternatively, perhaps they are frustrated about having received a payment directly, having cashed the payment in good faith and having assumed (however naïve it may sound to your client) that any fees owed would have been taken care of by Ryanair, only to later receive an invoice for charges from the relevant claims company, by which time they may well have spent the monies received (or the moneys may have disappeared into an overdrawn current account). B its inappropriate actions, your clients are thrusting financial hardship on to its passengers by deliberately engineering a situation where passengers are forced to account to their solicitor/claims company for fees due, in many cases leading to debt litigation and additional costs. We can only assume these are deliberate tactics by Ryanair attempting to disrupt the cash flow and viability of solicitors handing Ryanair cases, if so it is very foolish policy for them to have adopted as the passengers who are victims of this conduct are likely to place the blame where it should lie for engineering a situation of default and needless debt litigation. Certainly we will not be shy in explaining to our relevant clients how Ryanair's unique policy has brought about such difficulties. Your clients' goodwill is likely to be permanently damaged if they do not change their business practice in line with every other major airline. Frankly in our opinion, Ryanair should desist from these tactical games for perceived short term advantage given the harm it can cause to the passengers whose interests it professes to be so concerned about protecting.

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There are very good policy reasons why the Courts have consistently enforced equitable protective liens in the face of such conduct. Ryanair's conduct is clearly designed to strike at the instruments of justice. Be in doubt it will not be tolerated any further.

Incidentally, we note that our client Janet Bettle submitted a formal complaint to your client as a consequence of being contacted directly. She explained that she did not wish to deal directly with your client, hence she had instructed us to act, and requested that your client direct all communications to ourselves. Despite the complaint being made, she received no response from your client other than to acknowledge the complaint and, moreover, Ryanair then continued to contact her husband directly. Mrs. Bettle has expressed her dissatisfaction towards your client on several occasions. Some would say this is two-faced, your client claims to be crusading for customer satisfaction yet, if her case is anything to go by, the reality is that they actually fail to reply to customer complaints at all or pay any heed to it. The only inference that can be drawn is that Ryanair is only interested in protecting perceived consumer rights when it suits Ryanair's interests and not when it doesn't.

We are also reminded of the case of Denise McDough –v- Ryanair C-12/11. Perhaps a case your clients would prefer to forget about? If so, let us remind them it was a case in which they stoutly denied the consumer rights of Denise McDough under the Regulation. Are we now being asked to believe that the redoubtable Mr O'Leary if given his chance again, would have embraced Denise McDough with open and generous arms rather than force her to take her claim for €1294.41 for her necessary, appropriate and reasonable accommodation and travel costs all the way to the highest court in Europe? We wonder if Denies McDough felt "highly satisfied" about the way she was treated by Ryanair, doubtless she was blown over by Ryanair's unequalled commitment to honouring its obligations under the Regulation, and one is left wondering why she ever felt it necessary to instruct lawyers in the first place.

We do not believe the reason for your client paying our clients directly has anything whatsoever to do with a crusade to ensure 'customer satisfaction' as portrayed in your recent letter, if it is then respectfully your clients are misguided.

Fees incurred with Hughes Walker

In respect of the fees charged by Hughes Walker solicitors, we are at a loss as to the relevance of the comparison being made to 'fixed costs' prescribed by the CPR (Fixed costs which incidentally have not been increased since April 1999). The CPR does not interfere with the level of costs clients incur with a solicitor. The CPR merely limits the amount of costs recoverable against a Defendant by a Claimant. Furthermore, the said 'fixed costs' do not apply in the majority of claims proceeding against your client as per CPR 78.14. Moreover, it is the role of the court to assess the amount of costs that are 'proportionate' and 'necessarily incurred' and, as you are fully aware, the courts regularly assess those costs in the region of £200-£300. Given that the courts regularly assess costs at such amounts we are prepared to negotiate at the 'going rate' and indeed until recently we had a broad agreement with your client to agree costs in the sum of £250 (including VAT and court fee) on most cases, with reductions where there is more than 1 passenger on the same booking. At some point in time, however, your client simply pulled the plug on any dialogue or negotiation and instead appear to have adopted a policy of leaving every single case for the court to asses on the papers. We daresay that the courts may not be impressed with the burden placed upon them given that the parties previously had no difficulty negotiating amicable terms for costs, we sincerely hope that it will be possible to reach sensible agreement on issues such as this not least so we can minimise the amount of time the Courts are having to spend on such cases.

You have made a proposal that any legal costs recoverable from your client be offset against fees incurred by our clients. This goes without saying, i.e for instance if a client has contractually incurred charges of £500, and £200 is recovered from your client, then naturally there is only a balance of £300 due from the client, but £300 does not come magically nil, simply because we have managed to recover from Ryanair some of our legal costs incurred in order to resolve the claim. This would be like a passenger having booked a flight with Ryanair trying

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to renegotiate the agreed price. Quite properly Ryanair of course does not accept cancelations at the whim of its customers, such being the terms on which it does business and likewise there is no basis by which Ryanair should expect to intervene in the terms agreed between solicitors and claim companies on the one hand and their clients on the other. It would be like us imperiously demanding that from now on Ryanair must give a 50% reduction to its customers if we say so!

We have also made suggestions to resolve the issue of "direct payments" and your client's obvious resentment at paying costs under CPR 78.14 by means pro quid pro and we remain very open to constructive dialogue in this regard should your clients be interested albeit we have been rebuffed in the past.

Spurious Claims

Firstly we entirely share your clients wish to weed out invalid claims. They are as much a waste of our time as your clients' time. Indeed a valuable service which solicitors and claim companies can provide for airlines is helping to sift out poor claim and to provide independent advice that when an Airline validly denies a claim the case ought to be dropped rather bringing futile proceedings.

If Ryanair were to maintain a database of cancelled and delayed flights made available to solicitors and claims companies, this would greatly assist in reducing the number of non-valid claims. We suggest that when a claim is first presented to Ryanair by any passenger whether represented or not, it should be investigated by the Airline and thereafter Ryanair could notify on the database whether liability is accepted, if not the reason and relevant evidence supporting the denial. Then when another claim arises in respect of the same flight, relevant solicitors and claims companies or for that matter your unrepresented passengers, could quickly ascertain if the claim is likely to be valid and accepted by the company. This might also help your clients achieve their objective of making it easier and more appealing for passenger to deal with claims themselves.

However we are not sure what your client's current definition of a 'spurious claim' is but we expect it may differ from ours. For example we wonder what their definition of a spurious claim would have been two years ago? Would they have agreed to pay a claim for delay caused by a technical fault? Would they have paid a claim for a flight over 2 years ago? It is only as a consequence of mass litigation that your clients and several other airlines have been forced to 'reassess their definition of what is and is not a valid claim.

In any event, please note that extensive vetting procedures are applied to our cases in order to weed out flights that are not delayed over 3 hours or that are likely to have been delayed due to extraordinary circumstances. We have access to a substantial database to assist in this regard and this is updated regularly. We are not sure to what extent other CMC's or firms are able to do this but we daresay that they are unlikely to be as comprehensive as those employed by ourselves. With the best will in the world, however, it is not possible to identify every 'valid defence' in advance. In many cases only your client is privy to the exact arrival times of an aircraft or the exact cause of any delay. We often find information held by clients is often partial or inaccurate. This is especially problematic when the delay is caused by a delay to an incoming flight. This is why we call upon your clients to introduce better system for pre-claim disclosure. We are certainly not convinced that 40% of claims presented by this firm are 'spurious' but in any event we would emphasise that:

1.Under Article 5(3) the burden of proof rests on your client, not our client, to demonstrate that they have a valid EC defence; furthermore our clients are entitled to see evidence of any valid defence so that the defence is genuinely made out.
2.Simply because your client may or may not have a an arguable defence does not make a claim 'spurious';
3.Again, your client has recently written to some of our clients directly explaining that they do not have a valid claim on the basis that a flight was delayed due to a 'lightning strike'. We, of course, rely on the decision of HHJ Clarke in Monarch –v- Evans. Does your client consider these to be 'spurious claims'? The delicious irony

of directing our clients that they do not require legal representation whilst flatly rejecting the claim in question is presumably lost on Ryanair?
4. We assume that your client equally continues to deny claims due to 'bird strikes'. We note that your client has filed an appeal on such a matter. These are contentious claims. They are not 'spurious claims'.
5. Whilst we generally accept 'bad weather' to be a valid defence as you are aware there is an unresolved issue as to the 'proximity' between the event and the 'flight concerned'. You are probably aware of decisions being made in our clients' favour in this regard but we appreciate these are not binding decisions. These claims caused by the 'knock on effect' potentially account for a large number of claims. These are not 'spurious claims' and ultimately require guidance from either the CJEU or the higher courts.

However we would wish to stress that we are committed to doing all we can to improve the process of sifting out invalid claims prior to litigation, we are more than happy to cooperate with your clients. We do for example have a secure online portal which several major airlines utilise; we find this process very much improves the efficiency of dealing with claims under the regulation. The airline in question can see at a glance all cases they have ongoing with ourselves and can easily mark-up each claim where there is a valid defence. We are also more than happy to discuss with airlines relevant parameters for handling claims pre-issue. First and foremost we want to achieve a situation where as many claims as possible are resolved effectively without court proceedings.

Lien

As requested, we can confirm that we have a lien over damages and costs incurred with all of our passenger clients. We also have a lien over any damages and costs incurred by Flight Delays in relation to any claims that have been assigned to them although that is academic in the sense that if your clients issue payment direct to Flight Delays that is unlikely to cause any issues. Of course if your clients make payment to client's direct in assigned cases then that will first and foremost be a breach of the assignment and your client will remain liable to the assignee. In relation to contested assignments we hold instructions and liens on behalf of both assignor and assignee.

Concessions

We note your client's agreement not to send payment to our clients directly on litigated claims, this is welcome development and we very much hope it augurs well for sensible resolution of all outstanding issues. We infer from this that Ryanair have taken advice and realised the validity and enforceability of our lien over our clients' damages and costs. By refusing to extend this to claims Pre-Action, however, seems to do nothing more than giving us an incentive and invitation to issue proceedings on every single claim as soon as possible in order to protect our position. Logically the concession should now be extended to pre-issue cases in order to stem the tide of litigation against your client.

Despite your client's alleged commitment to paying valid claims pre-action without the need for legal representation, the reality is that for the vast majority of the time that we have been handling claims under Regulation 261 they have refused to settle ANY claims Pre-Action, yet bizarrely operated a policy of settling claims amicably after proceedings were issued. It is quite telling that some 50% of settled claims against Ryanair to date were litigated. Furthermore, of the remaining 50% of claims that were not litigated it is clear that your client has only opted to settle such claims following a claim being litigated for a related passenger on the same flight, and following a further demand for payment to avoid the same fate (which in many cases still lead to further proceedings). If, however, your client is sincere in their assertion that they are now committed to making serious attempts to settle claims amicably Pre-Action, then we can likewise confirm that we are equally committed to work with them to explore ways to achieve this. We fully agree that mass litigation should be avoided if possible and our ability to achieve a much higher percentage of pre-action settlements with other airlines, and yielding such a low percentage of litigated claims, is testament to this.

Therefore, notwithstanding the above, we appreciate that your client now appears willing to enter into dialogue with a view to our respective clients' trying to find an amicable way to resolve claims under Regulation

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261/2004. We do feel that such dialogue is important in order to avoid what we fear is otherwise likely to lead to the parties being forever embroiled in mass litigation. Put simply, we have an excellent working relationships with other major airlines as a result of which the extent of litigation is relatively minimal, despite the fact that we are dealing with large volumes of claims (and on a much larger scale than we are dealing with against Ryanair).

If your client wishes to enter sensible discussions to resolve the current impasse, we are at the table and we are listening with an open mind. May we suggest the following terms going forward:

1.Your client to agree to send all payments pre-action or post-action to Hughes Walker Solicitors, not to our passenger clients directly. Failure to do so will inevitably lead to further action being taken in order to preserve our lien and we can only see this escalating into a sideshow when really the parties ought to be focusing on identifying which claims are good, which are bad, and settling them Pre-Action.

2.The parties to resume dialogue in relation to the large volume of existing litigated claims. There is no need for these to be assessed 'on the papers' by the courts. They can and should be agreed between the parties. Without prejudice, we would be prepared to agree £175 costs on each of these claims where Judgment is pending (inclusive of court fee and VAT) and payment of the court fee only where we accept a valid substantive defence is made out and the claim discontinued. Your client should also indicate which clients have already been paid compensation directly. As mentioned we are also willing to discuss pro quid quo arrangements to voluntarily limit costs under CPR 78.14.

3.Flight Delays will hereafter agree to stop seeking assignments from passengers as these will be unnecessary given (1), and as a gesture of goodwill would even be prepared to surrender assignments on non-issued cases. Just to be clear assignments are not taken as a matter of course by Flight Delays, it is an arrangement unique to their dealings with Ryanair. It is a step forced upon them by your client's guerrilla-warfare tactics.

4.The parties to address the 200+ claims that have recently been issued by Flight Delays based on assignments. It is in neither parties' interests to become embroiled in a long running and costly dispute as to the niceties of the law of champerty. Counsel's advice has been obtained and we have every reason to believe that the assignments to be perfectly valid- you will appreciate that Flight Delays would not have embarked on this course of action without careful consideration of the legal position. Without prejudice, to expedite these claims we would agree to accept the court fee and CPR 45 equivalent fixed costs on any claims that your client wishes to settle. If there are claims denied for valid reasons (arrival time/EC defence etc) they can simply provide us with a list of such claims and we can look to discontinue these claims on a no order to costs basis before your client incurs unnecessary costs to file defences etc.

5.If your client feels burdened by 'invalid claims' we will gladly speak to them at length to investigate what measures could be put in place to minimise the volume of such claims being presented. It is neither in our interests or theirs to be dealing with any claims other than those with genuine prospects of settlement. We also have better ways to spend our time than to file countless Replies to Defence seeking our client's costs or no order as to costs on the basis that your client is in breach of the pre-action Practice Direction for failing to give any/any proper reply pre-action. Your client will, of course, have to appreciate that there will inevitably be claims where we must agree to disagree (lightning strikes, bird strikes etc) and for which litigation will be required.

6.If your client requires a certain length of time to investigate claims pre-action before coming to a decision feel free to let us know. To date, however, we note that your client is in fact well equipped to deal with the volume of claims they receive, and to their credit, they are able to do so promptly. As far as we are aware, this is not therefore an issue for your client.

7.Our previous invitations to your client to trial our online portal remains open for acceptance. The purpose of the portal is to minimise the need for litigation wherever possible. Three of the UK's major airlines subscribe to

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the use of the portal. Your client would be able to view every claim online. There would be no need to send a letter of claim or any correspondence by post or e-mail. All communications are made online using a text based service. Your client can simply mark each claim as 'DENIED' or 'AGREED'. Where they deny, they must briefly state the reason why. Where they agree, they can pay claims within X days by way of a single batch payment. The use of the portal we believe will offer many benefits to both parties. However, if our portal is not suitable for your clients' needs, we are confident that with goodwill on both sides it ought to be perfectly possible to find common ground to enable us to dispose of claims amicably pre-action with or without the use of the portal and in a manner that suits your client's legitimate interests.

8.We are in touch with several other firms of solicitors who are equally concerned by your client's policy of paying clients directly and are keen to discuss how this can be resolved. We would therefore agree to keep the terms of any broad agreement entirely confidential between ourselves and Ryanair. We would also agree to refrain from any discussion with other companies as to the possibilities open to them to assign claims, assign Judgment debts or giving notice of lien. Conversely absent agreement, litigation will simply draw attention to the numerous methodologies being developed to overcome Ryanair's tactical diversion of awards, and indeed dialogue will be opened with like-minded companies acting in this sphere to co-develop such strategies.

9.If your client is in agreement to these terms in principle, we will agree to suspend the issue of any further proceedings against Ryanair for say 28 days. We do, however, act for thousands of Ryanair clients who have been waiting for some time for their claims to be resolved and it is likely that substantial litigation will follow in the near future unless your client makes serious steps towards furthering this dialogue.

We are genuinely prepared to try and reach an amicable solution going forward which avoids mass litigation. As stated earlier, we have excellent working relationships with the majority of airlines including the major carriers, such that litigation is relatively minimal. We will continue to be instructed by many thousands of Ryanair claimants each year and we will continue to represent their interests in obtaining EU 261 compensation. We would rather do so without the need for mass litigation if possible and we will of course also produce this communication to the court to demonstrate our efforts to avoid unnecessary litigation and we will point out to the courts in no uncertain terms that, of all the airlines we deal with, it is only Ryanair who seek to encourage mass litigation.

We await your reply within 14 days. In the meantime we still also wait for your client to confirm the date upon which they introduced the clause in their terms and conditions to prohibit the assignment of claims.

If phoning to discuss this letter, please ask for our Nicholas Parkinson (Nicholas.Parkinson@Hughes-Walker.co.uk).

Yours faithfully

Hughes Walker Solicitors

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