

Your ref

Our ref LWIL/B3332-957272 (MWEL)

# Kennedys

By Post and Email: [davidrichard.smith@yahoo.com](mailto:davidrichard.smith@yahoo.com)

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lisa.williams@kennedyslaw.com  
26 September 2019

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Dear Sir

**MR DAVID RICHARD SMITH V BRITISH AIRWAYS PLC  
CLAIM NO: F01ED769 - APPLICATION HEARING 10:30AM ON 18 DECEMBER 2019 AT THE  
COUNTY COURT AT EDMONTON**

We write further to the above referenced matter and confirm that we have been instructed to act on behalf of the Defendant and enclose by way of service the Notice of Change and confirm the same has been filed with Court. We ask that all future correspondence be directed to ourselves regarding this matter.

By way of a preliminary issue, can you clarify if you have solicitors on record for you as it is unclear from the Application. There is correspondence from Nathan Paralegals & Company attached to the Application however your details are on the Application Notice as to the address to which documents should be sent. Please let us know if we should be corresponding with your legal representatives rather than yourself in this matter.

Turning to the Application, you seek disclosure of the following:

1. Records for the passenger who sat next to you on flight BA105 to Dubai;
2. Cabin crew incident logs recording the incident with the Claimant and Defendant's inflight catering trolley.

Further to our client's GDPR obligations, disclosure of special category data is prohibited pursuant to Article 9. Our client may only disclose special category data where processing

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is “*necessary for the establishment, exercise or defence of legal claims or whenever Courts are acting in their judicial capacity*” (Article 9.2(f)). We do not consider that electronic and/or paper documents for the passenger who booked to travel in the seat next to you is necessary for the establishment of your legal claim. Therefore, we do not consider that our client would benefit from an exclusion under Article 9(2) GDPR or that the Court will permit lawful disclosure.

In any event, the electronic and/or paper documents for the passenger booked to travel in the seat next to you may not identify the person who was actually sat next to you. We cannot guarantee that it would be the same person named in flight records since passengers can move around on flights.

We presume that the purpose of your request is to obtain the contact details for the person sat next to you. However, the passenger records will only identify the name of the person booked in the seat next to you. BA may not necessarily hold on record any contact details for that person, especially if their booking is made via a travel agent or someone else, for example.

In relation to the cabin crew incident logs, in your previous communications to British Airways you have already confirmed that you were not provided with an Incident Report form to fill in and that one was not completed. Therefore, we do not understand the reason for your request.

In addition, you have previously been informed in communications with BA and via the claim you have already brought with CEDR, that no such Incident Report exists.

For the sake of clarity, we enclose a print out from our client’s incident reporting system, known as Ebasis, showing a search of any reports concerning flight BA105 between 21 and 23 February 2018. No results were found. In other words, no Incident Report exists.

It is with this that we request that you withdraw your Application as there are no grounds for the same and your Application holds not merit. We put you on notice that should you continue with the Application then our client will be seeking their costs of having to respond to the same.

We look forward to hearing from you.

Yours faithfully



**Kennedys**

# Notice of change of legal representative

**Note:**

You should tick either box A or B as appropriate and box C. Complete details as necessary.

In the County Court at Edmonton	Claim No. F01ED769
Name of Claimant (including ref.) Mr David Richard Smith	
Name of Defendant British Airways Plc	

X(We) give notice that

A  my legal representative (insert name and address)

has ceased to act for me and I shall now be acting in person.

B  we (insert name of legal representative)

Kennedys Law LLP

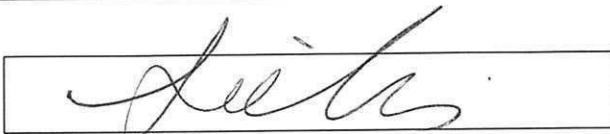
have been instructed to act on behalf of the ~~XXXXXX~~ (defendant) in this claim  
~~XXXXXX~~

C  X(we) have served notice of this change on every party to the claim ~~XXXXXX~~

Address to which documents about this claim should be sent (including any reference)

Kennedys Law LLP 25 Fenchurch Avenue London          Postcode <input type="text" value="E"/> <input type="text" value="C"/> <input type="text" value="3"/> <input type="text" value="M"/> <input type="text" value="5"/> <input type="text" value="A"/> <input type="text" value="D"/>	If applicable	
	Telephone no.	020 7667 9667
	Fax no.	020 7667 9777
	DX no.	766 London City
	Your ref.	MWEL/LWIL/957272

E-mail	<input type="text" value="lisa.williams@kennedyslaw.com"/>
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Signed   
~~XXXXXX~~ (Defendant)(’s legal representative)  
~~XXXXXX~~

Position or office held   
If signing on behalf of firm or company

Date

# eBASIS



Home New Incident My Lists My Stream Incident List Filters Charts Admin Logoff Help

Search for:  Go **Incidents (excl. Paracetamol) (s) (0) - Where Operator and Flight Number Is Equal To " BA105 " And Incident Date Between " 21-Feb-18 " and " 23-Feb-18 "**

**No results were found for the requested search**

- Edit Filter
- Print List
- Close
- Refresh