

VANCOUVER

17-Nov-25

COURT OF APPEAL
REGISTRY

COURT OF APPEAL FILE NO. CA51094
Air Passenger Rights v. WestJet Airlines Ltd.
Appellant's Appeal Book

COURT OF APPEAL

ON APPEAL FROM the order of the Honourable Madam Justice Sharma of the Supreme Court of British Columbia pronounced on the 30th day of October 2025.

BETWEEN:

AIR PASSENGER RIGHTS

APPELLANT
(Petitioner)

AND:

WESTJET AIRLINES LTD.

RESPONDENT
(Respondent)

AND:

CIVIL RESOLUTION TRIBUNAL

RESPONDENT
(Administrative Decision Maker)

APPELLANT'S APPEAL BOOK (Air Passenger Rights)

EVOLINK LAW GROUP 4388 Still Creek Drive, Suite 237 Burnaby, BC V5C 6C6 Tel: (604) 620-2666 Email: simonlin@evolinklaw.com SIMON LIN Counsel for the Appellant	ALEXANDER HOLBURN BEAUDIN + LANG LLP 2700 - 700 West Georgia Street Vancouver, BC V7Y 1B8 Tel: 604-484-1700 E-mail: mdery@ahbl.ca and kmcgoldrick@ahbl.ca MICHAEL DERY and KATHRYN MCGOLDRICK Counsel for the Respondent, WestJet Airlines Ltd.
	CIVIL RESOLUTION TRIBUNAL PO BOX 9239 STN PROV GOVT

	Victoria, BC V8W 9J1 Tel : 236-475-4597 E-mail : eliza.mccullum@crtbc.ca ELIZA MCCULLUM Counsel for the Respondent, Civil Resolution Tribunal
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**This is the 1st Affidavit
of Dr. Gábor Lukács in this proceeding
and was made on July 29, 2024**

No. Court File No. **NEW-S-S-254452**
New Westminster Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *JUDICIAL REVIEW PROCEDURE ACT*, RSBC 1996, c 241

BETWEEN

AIR PASSENGER RIGHTS

Petitioner

AND:

WESTJET AIRLINES LTD.

Respondent

Affidavit #1 of Dr. Gábor Lukács

I, Dr. Gábor Lukács, mathematician, of 6507 Roslyn Road, Halifax, Nova Scotia, AFFIRM THAT:

1. I am the founder, a director, and the President of the Petitioner, Air Passenger Rights. As such, I have personal knowledge of the matters to which I depose, except as to those matters stated to be on information and belief, which I believe to be true.

Background about the Petitioner, Air Passenger Rights

2. Air Passenger Rights [APR] is a non-profit organization, formed under the *Canada Not-for-profit Corporations Act*, SC 2009 on or about May 2019, to expand and continue the air passenger advocacy work that I have initiated in my personal capacity for the last fifteen years. Details of APR's and my air passenger advocacy work are briefly described below.
3. Since 2008, I have been volunteering my personal time as an air passenger rights

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advocate, using my knowledge and expertise on air travel, for the benefit of the travelling public, specifically air passengers. Since around 2012, my public interest advocacy work has been conducted under the banner "Air Passenger Rights," which was later formalized as a not-for-profit entity in May 2019, as described above. The non-profit entity APR continued the public interest advocacy work that I was conducting under the "Air Passenger Rights" banner.

4. A copy of APR's certificate and articles of incorporation are attached and marked as **Exhibit "A."** Within said articles of incorporation, the purpose of APR is declared as:

1. To educate air passengers and the public at large as to their rights and the means for the enforcement of these rights, by researching and making available the results of such research on the matter of the law relating to air passenger rights on domestic and international flights.

2. To act as a liaison between other public interest or citizens' groups engaged in public interest advocacy.

3. To assist in and promote the activity of public interest group representation throughout Canada and elsewhere.

4. To make representations to governing authorities on behalf of the public at large and on behalf of public interest groups with respect to matters of public concern and interest with respect to air passenger rights, and to teach public interest advocacy skills and techniques.

5. APR's mandate is to engage in public interest advocacy for the travelling public, continuing most of the four pillars of public interest advocacy work that I had previously performed under the banner "Air Passenger Rights," consisting of:

- a. **Enforcing Air Passenger Protections:** filing regulatory complaints with the Canadian Transportation Agency [CTA] to enforce the airlines' obligations under the laws or the airlines' tariffs, or initiating or intervening in judicial proceedings regarding airlines' obligations to passengers.
- b. **Advocating for Stronger Passenger Protections:** participating in consultations, and attending Parliamentary committees to give evidence to

assist Parliament in strengthening protections for air passengers.

- c. **Sharing Information on Passenger Rights:** offering a platform for passengers to obtain information and share their travel woes.
 - d. **Assisting Passengers in Enforcing Their Legal Rights:** assisting passengers pro bono by providing information and, for precedent setting matters, assisting passengers in court as permitted by the applicable rules.
6. I actively lead or supervise all of APR's work. APR operates on a non-profit basis and its directors, including myself, do not receive remuneration other than reimbursement for reasonable expenses incurred in the performance of duties. APR does not expect any remuneration for its public interest advocacy work. APR's only source of funding is small donations from a small number of passengers that appreciate APR's work or the work I performed through APR.

Mr. and Mrs. Boyd's Claim against WestJet for their May 2023 Trip to Italy

- 7. Mr. Robert Boyd and Ms. Anne Boyd have a claim against WestJet in relation to their trip to Rome, Italy on or about May 19, 2023, as detailed in the reported Civil Resolution Tribunal decision released on July 5, 2024 indexed as *Boyd v. WestJet Airlines Ltd.*, 2024 BCCRT 640.
- 8. During the dispute resolution process at the Civil Resolution Tribunal, APR was assisting Mr. and Mrs. Boyd and provided them with information to advance their claim, without any remuneration or expectation thereof. For greater certainty, this is not intended to be a waiver of any privilege including litigation privilege.
- 9. On July 24, 2024, Mr. Robert Boyd and Ms. Anne Boyd absolutely assigned their claims against WestJet to APR and APR accepted the assignment. A true copy of that assignment is attached and marked as **Exhibit "B."**
- 10. On July 29, 2024, written notice was given to WestJet Airlines Ltd. of the aforementioned assignment. A copy of the fax transmission report is attached and marked as **Exhibit "C."**

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Remote Commissioning of Affidavit

11. I am not physically present before the commissioner but was linked with the commissioner utilizing video technology and the process below was utilized.
12. While connected via Zoom:
 - a. I showed the commissioner the front and back of my current government-issued photo identification for the commissioner to take a screenshot of the front and back;
 - b. The commissioner and I reviewed each page of our respective paper copy of this affidavit and exhibits to verify that the pages are identical, and we each initialed each page; and
 - c. At the conclusion, the commissioner administered the oath to me and I signed my name on the signature line below.
13. After the commissioning of this affidavit, I will provide an electronic copy of this affidavit to the commissioner.

AFFIRMED by Dr. Gábor Lukács
before me in the City of Coquitlam, BC
on July 29, 2024



Commissioner for Taking Affidavits in the
Province of British Columbia

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Dr. Gábor Lukács

Simon Lin, Barrister & Solicitor
Evolink Law Group
4388 Still Creek Drive, Suite 237
Burnaby BC V5C 6C6





Innovation, Science and
Economic Development Canada
Corporations Canada

Innovation, Sciences et
Développement économique Canada
Corporations Canada

This is Exhibit "A" referred to in the
Affidavit of Dr. Gábor Lukács
sworn (or affirmed) before me at
Coquitlam, BC
this 29th day of July 2024.



A Commissioner for Taking Affidavits for British Columbia

Certificate of Incorporation

Canada Not-for-profit Corporations Act

Certificat de constitution

*Loi canadienne sur les organisations à but non
lucratif*

Air Passenger Rights

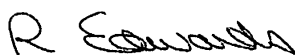
Corporate name / Dénomination de l'organisation

1143064-5

Corporation number / Numéro de
l'organisation

I HEREBY CERTIFY that the above-named
corporation, the articles of incorporation of which
are attached, is incorporated under the *Canada
Not-for-profit Corporations Act*.

JE CERTIFIE que l'organisation susmentionnée,
dont les statuts constitutifs sont joints, est
constituée en vertu de la *Loi canadienne sur les
organisations à but non lucratif*.



Raymond Edwards

Director / Directeur

2019-05-26

Date of Incorporation (YYYY-MM-DD)
Date de constitution (AAAA-MM-JJ)

Canada

44



Innovation, Science and
Economic Development Canada
Corporations Canada

Innovation, Sciences et
Développement économique Canada
Corporations Canada

Form 4001
Articles of Incorporation
Canada Not-for-profit Corporations
Act (NFP Act)

Formulaire 4001
Statuts constitutifs
Loi canadienne sur les
organisations à but non lucratif
(Loi BNL)

- 1 Corporate name
Dénomination de l'organisation
Air Passenger Rights
- 2 The province or territory in Canada where the registered office is situated
La province ou le territoire au Canada où est maintenu le siège
NS
- 3 Minimum and maximum number of directors
Nombres minimal et maximal d'administrateurs
Min. 3 Max. 9
- 4 Statement of the purpose of the corporation
Déclaration d'intention de l'organisation
See attached schedule / Voir l'annexe ci-jointe
- 5 Restrictions on the activities that the corporation may carry on, if any
Limites imposées aux activités de l'organisation, le cas échéant
See attached schedule / Voir l'annexe ci-jointe
- 6 The classes, or regional or other groups, of members that the corporation is authorized to establish
Les catégories, groupes régionaux ou autres groupes de membres que l'organisation est autorisée à établir
See attached schedule / Voir l'annexe ci-jointe
- 7 Statement regarding the distribution of property remaining on liquidation
Déclaration relative à la répartition du reliquat des biens lors de la liquidation
See attached schedule / Voir l'annexe ci-jointe
- 8 Additional provisions, if any
Dispositions supplémentaires, le cas échéant
See attached schedule / Voir l'annexe ci-jointe
- 9 **Declaration:** I hereby certify that I am an incorporator of the corporation.
Déclaration : J'atteste que je suis un fondateur de l'organisation.

Name(s) - Nom(s)

Original Signed by - Original signé par

Gabor Lukacs

Gabor Lukacs

Gabor Lukacs

A person who makes, or assists in making, a false or misleading statement is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both (subsection 262(2) of the NFP Act).

La personne qui fait une déclaration fautive ou trompeuse, ou qui aide une personne à faire une telle déclaration, commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de 5 000 \$ et un emprisonnement maximal de six mois ou l'une de ces peines (paragraphe 262(2) de la Loi BNL).

You are providing information required by the NFP Act. Note that both the NFP Act and the *Privacy Act* allow this information to be disclosed to the public. It will be stored in personal information bank number IC/PPU-049.

Vous fournissez des renseignements exigés par la Loi BNL. Il est à noter que la Loi BNL et la *Loi sur les renseignements personnels* permettent que de tels renseignements soient divulgués au public. Ils seront stockés dans la banque de renseignements personnels numéro IC/PPU-049.

SL

Schedule / Annexe

Purpose Of Corporation / Déclaration d'intention de l'organisation

1. To educate air passengers and the public at large as to their rights and the means for the enforcement of these rights, by researching and making available the results of such research on the matter of the law relating to air passenger rights on domestic and international flights.
2. To act as a liaison between other public interest or citizens' groups engaged in public interest advocacy.
3. To assist in and promote the activity of public interest group representation throughout Canada and elsewhere.
4. To make representations to governing authorities on behalf of the public at large and on behalf of public interest groups with respect to matters of public concern and interest with respect to air passenger rights, and to teach public interest advocacy skills and techniques.

Schedule / Annexe
Restrictions On Activities / Limites imposées aux activités de l'organisation

The Corporation shall have all the powers permissible by the Canada Not-for-profit Corporations Act, save as limited by the by-laws of the Corporation.

Nothing in the above purposes, however, shall be construed or interpreted as in any way empowering the Corporation to undertake functions normally carried out by barristers and solicitors.

Schedule / Annexe
Classes of Members / Catégories de membres

There shall be two classes of members: Ordinary Members and voting General Members. The criteria for admission to both classes shall be governed by the by-laws of the Corporation.

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to consist of two main parts, possibly initials or a name.

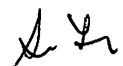
Schedule / Annexe

Distribution of Property on Liquidation / Répartition du reliquat des biens lors de la liquidation

Upon liquidation, the property of the Corporation shall be disposed of by being donated to an eligible donee, as defined in the Income Tax Act (Canada).

Schedule / Annexe
Additional Provisions / Dispositions supplémentaires

- a) Any amendment or repeal of the Corporation's By-Laws shall require confirmation by a Special Resolution of two-thirds of the General Membership prior to taking effect.
- b) The Corporation shall be carried on without the purpose of gain for its Members, and any profits or other accretions shall be used in furtherance of its purposes.
- c) Directors shall serve without remuneration, and no Director shall directly or indirectly receive any profit from his or her position as such, provided that Directors may be reimbursed for reasonable expenses incurred in the performance of their duties.

A handwritten signature in black ink, consisting of a stylized 'A' followed by a 'Z' and a flourish.



Form 4002

Formulaire 4002

**Initial Registered Office Address
and First Board of Directors**

**Adresse initiale du siège et
premier conseil d'administration**

*Canada Not-for-profit Corporations Act
(NFP Act)*

*Loi canadienne sur les organisations à
but non lucratif (Loi BNL)*

1 Corporate name
Dénomination de l'organisation

Air Passenger Rights

2 Complete address of the registered office
Adresse complète du siège

6507 Roslyn Road
Halifax NS B3L 2M8

3 Additional address
Autre adresse

4 Directors of the corporation
Administrateurs de l'organisation

Gabor Lukacs	6507 Roslyn Road, Halifax NS B3L 2M8, Canada
Simon Pak Hei Lin	4388 Still Creek Drive, Burnaby BC V5C 6C6, Canada
Judit Mihala	3420 Mary Claire Lane, Southaven MS 38672, United States

5 Declaration: I hereby certify that I am an incorporator of the new corporation or that I am a director or an authorized officer of the corporation continuing into or amalgamating under the NFP Act.
Déclaration : J'atteste que je suis un fondateur de la nouvelle organisation ou que je suis un administrateur ou un dirigeant autorisé de l'organisation se prorogeant ou se fusionnant en vertu de la Loi BNL.

Original signed by / Original signé par
Gabor Lukacs

Gabor Lukacs
647-724-1727

A person who makes, or assists in making, a false or misleading statement is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both (subsection 262(2) of the NFP Act).

La personne qui fait une déclaration fautive ou trompeuse, ou qui aide une personne à faire une telle déclaration, commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de 5 000 \$ et un emprisonnement maximal de six mois ou l'une de ces peines (paragraphe 262(2) de la Loi BNL).

You are providing information required by the NFP Act. Note that both the NFP Act and the *Privacy Act* allow this information to be disclosed to the public. It will be stored in personal information bank number IC/PPU-049.

Vous fournissez des renseignements exigés par la Loi BNL. Il est à noter que la Loi BNL et la *Loi sur les renseignements personnels* permettent que de tels renseignements soient divulgués au public. Ils seront stockés dans la banque de renseignements personnels numéro IC/PPU-049.

THIS ASSIGNMENT is dated for reference July 24, 2024

BETWEEN:

- (1) **ANNE BOYD and ROBERT BOYD**, residents of British Columbia ("**Assignors**"); and
- (2) **AIR PASSENGER RIGHTS**, a non-profit entity under the *Canada Not-for-profit Corporations Act* ("**Assignee**"), who are collectively the **Parties**.

BACKGROUND:

- A. The Assignors have a claim against WestJet Airlines Ltd. and their affiliates for a trip from Kelowna, B.C. to Rome, Italy on or about May 19, 2023 (the "**Claim**").
- B. The Assignors desire to absolutely assign their Claim, including any right of action, right of appeal, and right to seek judicial review, to the Assignee.
- C. The Assignee agrees to accept the absolute assignment from the assignors.

ABSOLUTE ASSIGNMENT TO ASSIGNEE:

1. The Assignor hereby assigns to the Assignee absolutely with full title of all their right, title and interest in respect of the Claim and the right to bring and defend legal proceedings (including actions, complaints, appeals and judicial reviews), and obtain and retain any relief recovered. For greater certainty, this assignment includes the right to seek judicial review of *Boyd v. WestJet Airlines Ltd.*, 2024 BCCRT 640 and the right to accept/deposit the \$355.53 payment from WestJet.
2. The Assignor agrees to reasonably assist the Assignee in pursuing the Claim.
3. If this Assignment is to any extent invalid or incapable of being enforced, then this Assignment shall be deemed replaced with a valid and enforceable assignment under section 36 of the *British Columbia Law and Equity Act* and that comes closest to expressing the intention of such invalid or unenforceable term.
4. This Assignment and any disputes in respect of it shall be governed by and construed in accordance with the laws of British Columbia, Canada

FOR THE ASSIGNORS:

Signed, sealed and delivered, on the date indicated above by Anne Boyd

Anne Boyd


Sealed

Anne Boyd

Signed, sealed and delivered, on the date indicated above by Robert Boyd

Robert Boyd


Sealed

Robert Boyd

FOR THE ASSIGNEE:

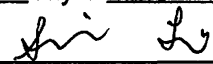
Signed, sealed and delivered, on the date indicated above by Air Passenger Rights

Dr. Gabor Lukacs

Per Dr. Gabor Lukacs, President of Air Passenger Rights


Sealed

This is Exhibit "**B**" referred to in the Affidavit of Dr. Gábor Lukács sworn (or affirmed) before me at Coquitlam, BC this 29th day of July, 2024.


A Commissioner for Taking Affidavits for British Columbia

TRANSMISSION VERIFICATION REPORT

TIME 07/29/2024 16:35
 NAME
 FAX
 TEL
 SER.# U63089H3N514759

DATE, TIME	07/29 16:33
FAX NO./NAME	14035488727
DURATION	00:01:11
PAGE(S)	02
RESULT	OK
MODE	FINE PC-FAX

07/29/2024 16:37

Page 1/2

This is Exhibit " **C** " referred to in the
 Affidavit of Dr. Gábor Lukács
 sworn (or affirmed) before me at
Coquitlam, BC
 this 29th day of July 2024.

6507 Roslyn Road
 Halifax, NS B3L 2M8

lukacs@AirPassengerRights.ca

AIR ✈ ✈
PASSENGER
 ✈ ✈ **RIGHTS**

[Signature]
 A Commissioner for Taking Affidavits for British Columbia

July 29, 2024

VIA FAX: (403) 648-8727

WestJet Airlines

ATTN: Angela Avery, KC, WestJet Group Executive Vice-President and Chief People, Corporate & Sustainability Officer

21 Aerial Place N.E..

Calgary, Alberta, Canada T2E 8X7

Dear Madam or Sir:

Re: Notice of Absolute Assignment of Claim

This is notice to WestJet Airlines Ltd. that Mr. Robert Boyd and Ms. Anne Boyd have absolutely assigned their claim to Air Passenger Rights.

Enclosed is a copy of the assignment for your reference.

[Signature]

**This is the 1st Affidavit
of Dr. Gábor Lukács in this proceeding
and was made on July 29, 2024**

No.
New Westminster Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *JUDICIAL REVIEW PROCEDURE ACT*, RSBC 1996, c 241

BETWEEN

AIR PASSENGER RIGHTS

Petitioner

AND:

WESTJET AIRLINES LTD.

Respondent

Affidavit #1 of Dr. Gábor Lukács

I, Dr. Gábor Lukács, mathematician, of 6507 Roslyn Road, Halifax, Nova Scotia, AFFIRM THAT:

1. I am the founder, a director, and the President of the Petitioner, Air Passenger Rights. As such, I have personal knowledge of the matters to which I depose, except as to those matters stated to be on information and belief, which I believe to be true.

Background about the Petitioner, Air Passenger Rights

2. Air Passenger Rights [APR] is a non-profit organization, formed under the *Canada Not-for-profit Corporations Act*, SC 2009 on or about May 2019, to expand and continue the air passenger advocacy work that I have initiated in my personal capacity for the last fifteen years. Details of APR's and my air passenger advocacy work are briefly described below.
3. Since 2008, I have been volunteering my personal time as an air passenger rights

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advocate, using my knowledge and expertise on air travel, for the benefit of the travelling public, specifically air passengers. Since around 2012, my public interest advocacy work has been conducted under the banner “Air Passenger Rights,” which was later formalized as a not-for-profit entity in May 2019, as described above. The non-profit entity APR continued the public interest advocacy work that I was conducting under the “Air Passenger Rights” banner.

4. A copy of APR’s certificate and articles of incorporation are attached and marked as **Exhibit “A.”** Within said articles of incorporation, the purpose of APR is declared as:

1. To educate air passengers and the public at large as to their rights and the means for the enforcement of these rights, by researching and making available the results of such research on the matter of the law relating to air passenger rights on domestic and international flights.

2. To act as a liaison between other public interest or citizens’ groups engaged in public interest advocacy.

3. To assist in and promote the activity of public interest group representation throughout Canada and elsewhere.

4. To make representations to governing authorities on behalf of the public at large and on behalf of public interest groups with respect to matters of public concern and interest with respect to air passenger rights, and to teach public interest advocacy skills and techniques.

5. APR’s mandate is to engage in public interest advocacy for the travelling public, continuing most of the four pillars of public interest advocacy work that I had previously performed under the banner “Air Passenger Rights,” consisting of:

- a. **Enforcing Air Passenger Protections:** filing regulatory complaints with the Canadian Transportation Agency [CTA] to enforce the airlines’ obligations under the laws or the airlines’ tariffs, or initiating or intervening in judicial proceedings regarding airlines’ obligations to passengers.
- b. **Advocating for Stronger Passenger Protections:** participating in consultations, and attending Parliamentary committees to give evidence to

assist Parliament in strengthening protections for air passengers.

- c. **Sharing Information on Passenger Rights:** offering a platform for passengers to obtain information and share their travel woes.
 - d. **Assisting Passengers in Enforcing Their Legal Rights:** assisting passengers pro bono by providing information and, for precedent setting matters, assisting passengers in court as permitted by the applicable rules.
6. I actively lead or supervise all of APR's work. APR operates on a non-profit basis and its directors, including myself, do not receive remuneration other than reimbursement for reasonable expenses incurred in the performance of duties. APR does not expect any remuneration for its public interest advocacy work. APR's only source of funding is small donations from a small number of passengers that appreciate APR's work or the work I performed through APR.

Mr. and Mrs. Boyd's Claim against WestJet for their May 2023 Trip to Italy

7. Mr. Robert Boyd and Ms. Anne Boyd have a claim against WestJet in relation to their trip to Rome, Italy on or about May 19, 2023, as detailed in the reported Civil Resolution Tribunal decision released on July 5, 2024 indexed as *Boyd v. WestJet Airlines Ltd.*, 2024 BCCRT 640.
8. During the dispute resolution process at the Civil Resolution Tribunal, APR was assisting Mr. and Mrs. Boyd and provided them with information to advance their claim, without any remuneration or expectation thereof. For greater certainty, this is not intended to be a waiver of any privilege including litigation privilege.
9. On July 24, 2024, Mr. Robert Boyd and Ms. Anne Boyd absolutely assigned their claims against WestJet to APR and APR accepted the assignment. A true copy of that assignment is attached and marked as **Exhibit "B."**
10. On July 29, 2024, written notice was given to WestJet Airlines Ltd. of the aforementioned assignment. A copy of the fax transmission report is attached and marked as **Exhibit "C."**

Remote Commissioning of Affidavit

11. I am not physically present before the commissioner but was linked with the commissioner utilizing video technology and the process below was utilized.
12. While connected via Zoom:
 - a. I showed the commissioner the front and back of my current government-issued photo identification for the commissioner to take a screenshot of the front and back;
 - b. The commissioner and I reviewed each page of our respective paper copy of this affidavit and exhibits to verify that the pages are identical, and we each initialed each page; and
 - c. At the conclusion, the commissioner administered the oath to me and I signed my name on the signature line below.
13. After the commissioning of this affidavit, I will provide an electronic copy of this affidavit to the commissioner.

AFFIRMED by Dr. Gábor Lukács
before me in the City of Coquitlam, BC
on July 29, 2024

Commissioner for Taking Affidavits in the
Province of British Columbia

Simon Lin, Barrister & Solicitor
Evolink Law Group
4388 Still Creek Drive, Suite 237
Burnaby BC V5C 6C6

)
)
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)
) 
) Dr. Gábor Lukács
)
)





Innovation, Science and
Economic Development Canada
Corporations Canada

Innovation, Sciences et
Développement économique Canada
Corporations Canada

This is Exhibit "A" referred to in the
Affidavit of Dr. Gábor Lukács
sworn (or affirmed) before me at
Coquitlam, BC
this 29th day of July 2024.

A Commissioner for Taking Affidavits for British Columbia

Certificate of Incorporation

Canada Not-for-profit Corporations Act

Certificat de constitution

*Loi canadienne sur les organisations à but non
lucratif*

Air Passenger Rights

Corporate name / Dénomination de l'organisation

1143064-5

Corporation number / Numéro de
l'organisation

I HEREBY CERTIFY that the above-named
corporation, the articles of incorporation of which
are attached, is incorporated under the *Canada
Not-for-profit Corporations Act*.

JE CERTIFIE que l'organisation susmentionnée,
dont les statuts constitutifs sont joints, est
constituée en vertu de la *Loi canadienne sur les
organisations à but non lucratif*.

R Edwards

Raymond Edwards

Director / Directeur

2019-05-26

Date of Incorporation (YYYY-MM-DD)
Date de constitution (AAAA-MM-JJ)

GL Canada



Innovation, Science and
Economic Development Canada
Corporations Canada

Innovation, Sciences et
Développement économique Canada
Corporations Canada

Form 4001
Articles of Incorporation
Canada Not-for-profit Corporations
Act (NFP Act)

Formulaire 4001
Statuts constitutifs
Loi canadienne sur les
organisations à but non lucratif
(Loi BNL)

- 1 Corporate name
Dénomination de l'organisation
Air Passenger Rights
- 2 The province or territory in Canada where the registered office is situated
La province ou le territoire au Canada où est maintenu le siège
NS
- 3 Minimum and maximum number of directors
Nombres minimal et maximal d'administrateurs
Min. 3 Max. 9
- 4 Statement of the purpose of the corporation
Déclaration d'intention de l'organisation
See attached schedule / Voir l'annexe ci-jointe
- 5 Restrictions on the activities that the corporation may carry on, if any
Limites imposées aux activités de l'organisation, le cas échéant
See attached schedule / Voir l'annexe ci-jointe
- 6 The classes, or regional or other groups, of members that the corporation is authorized to establish
Les catégories, groupes régionaux ou autres groupes de membres que l'organisation est autorisée à établir
See attached schedule / Voir l'annexe ci-jointe
- 7 Statement regarding the distribution of property remaining on liquidation
Déclaration relative à la répartition du reliquat des biens lors de la liquidation
See attached schedule / Voir l'annexe ci-jointe
- 8 Additional provisions, if any
Dispositions supplémentaires, le cas échéant
See attached schedule / Voir l'annexe ci-jointe
- 9 **Declaration:** I hereby certify that I am an incorporator of the corporation.
Déclaration : J'atteste que je suis un fondateur de l'organisation.

Name(s) - Nom(s)

Original Signed by - Original signé par

Gabor Lukacs

Gabor Lukacs

Gabor Lukacs

A person who makes, or assists in making, a false or misleading statement is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both (subsection 262(2) of the NFP Act).

La personne qui fait une déclaration fautive ou trompeuse, ou qui aide une personne à faire une telle déclaration, commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de 5 000 \$ et un emprisonnement maximal de six mois ou l'une de ces peines (paragraphe 262(2) de la Loi BNL).

You are providing information required by the NFP Act. Note that both the NFP Act and the *Privacy Act* allow this information to be disclosed to the public. It will be stored in personal information bank number IC/PPU-049.

Vous fournissez des renseignements exigés par la Loi BNL. Il est à noter que la Loi BNL et la *Loi sur les renseignements personnels* permettent que de tels renseignements soient divulgués au public. Ils seront stockés dans la banque de renseignements personnels numéro IC/PPU-049.

Canada

IC 3419 (2008/04)

GL

Schedule / Annexe

Purpose Of Corporation / Déclaration d'intention de l'organisation

1. To educate air passengers and the public at large as to their rights and the means for the enforcement of these rights, by researching and making available the results of such research on the matter of the law relating to air passenger rights on domestic and international flights.
2. To act as a liaison between other public interest or citizens' groups engaged in public interest advocacy.
3. To assist in and promote the activity of public interest group representation throughout Canada and elsewhere.
4. To make representations to governing authorities on behalf of the public at large and on behalf of public interest groups with respect to matters of public concern and interest with respect to air passenger rights, and to teach public interest advocacy skills and techniques.

GL

Schedule / Annexe

Restrictions On Activities / Limites imposées aux activités de l'organisation

The Corporation shall have all the powers permissible by the Canada Not-for-profit Corporations Act, save as limited by the by-laws of the Corporation.

Nothing in the above purposes, however, shall be construed or interpreted as in any way empowering the Corporation to undertake functions normally carried out by barristers and solicitors.

GL

Schedule / Annexe
Classes of Members / Catégories de membres

There shall be two classes of members: Ordinary Members and voting General Members. The criteria for admission to both classes shall be governed by the by-laws of the Corporation.

GL

Schedule / Annexe

Distribution of Property on Liquidation / Répartition du reliquat des biens lors de la liquidation

Upon liquidation, the property of the Corporation shall be disposed of by being donated to an eligible donee, as defined in the Income Tax Act (Canada).

GL

Schedule / Annexe
Additional Provisions / Dispositions supplémentaires

- a) Any amendment or repeal of the Corporation's By-Laws shall require confirmation by a Special Resolution of two-thirds of the General Membership prior to taking effect.
- b) The Corporation shall be carried on without the purpose of gain for its Members, and any profits or other accretions shall be used in furtherance of its purposes.
- c) Directors shall serve without remuneration, and no Director shall directly or indirectly receive any profit from his or her position as such, provided that Directors may be reimbursed for reasonable expenses incurred in the performance of their duties.

GL



Innovation, Science and
Economic Development Canada
Corporations Canada

Innovation, Sciences et
Développement économique Canada
Corporations Canada

P. 12

Form 4002 Initial Registered Office Address and First Board of Directors <i>Canada Not-for-profit Corporations Act</i> <i>(NFP Act)</i>	Formulaire 4002 Adresse initiale du siège et premier conseil d'administration <i>Loi canadienne sur les organisations à</i> <i>but non lucratif (Loi BNL)</i>
--	--

- 1

Corporate name
Dénomination de l'organisation

Air Passenger Rights
- 2

Complete address of the registered office
Adresse complète du siège

6507 Roslyn Road
Halifax NS B3L 2M8
- 3

Additional address
Autre adresse
- 4

Directors of the corporation
Administrateurs de l'organisation

Gabor Lukacs	6507 Roslyn Road, Halifax NS B3L 2M8, Canada
Simon Pak Hei Lin	4388 Still Creek Drive, Burnaby BC V5C 6C6, Canada
Judit Mihala	3420 Mary Claire Lane, Southaven MS 38672, United States
- 5

Declaration: I hereby certify that I am an incorporator of the new corporation or that I am a director or an authorized officer of the corporation continuing into or amalgamating under the NFP Act.
Déclaration : J'atteste que je suis un fondateur de la nouvelle organisation ou que je suis un administrateur ou un dirigeant autorisé de l'organisation se prorogeant ou se fusionnant en vertu de la Loi BNL.

Original signed by / Original signé par
Gabor Lukacs

Gabor Lukacs
647-724-1727

A person who makes, or assists in making, a false or misleading statement is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both (subsection 262(2) of the NFP Act).

La personne qui fait une déclaration fautive ou trompeuse, ou qui aide une personne à faire une telle déclaration, commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de 5 000 \$ et un emprisonnement maximal de six mois ou l'une de ces peines (paragraphe 262(2) de la Loi BNL).

You are providing information required by the NFP Act. Note that both the NFP Act and the *Privacy Act* allow this information to be disclosed to the public. It will be stored in personal information bank number IC/PPU-049.

Vous fournissez des renseignements exigés par la Loi BNL. Il est à noter que la Loi BNL et la *Loi sur les renseignements personnels* permettent que de tels renseignements soient divulgués au public. Ils seront stockés dans la banque de renseignements personnels numéro IC/PPU-049.

THIS ASSIGNMENT is dated for reference July 24, 2024

BETWEEN:

- (1) **ANNE BOYD and ROBERT BOYD**, residents of British Columbia ("**Assignors**"); and
- (2) **AIR PASSENGER RIGHTS**, a non-profit entity under the *Canada Not-for-profit Corporations Act* ("**Assignee**"), who are collectively the **Parties**.

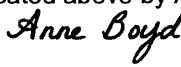
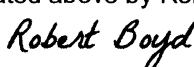
BACKGROUND:

- A. The Assignors have a claim against WestJet Airlines Ltd. and their affiliates for a trip from Kelowna, B.C. to Rome, Italy on or about May 19, 2023 (the "**Claim**").
- B. The Assignors desire to absolutely assign their Claim, including any right of action, right of appeal, and right to seek judicial review, to the Assignee.
- C. The Assignee agrees to accept the absolute assignment from the assignors.

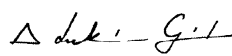
ABSOLUTE ASSIGNMENT TO ASSIGNEE:

- 1. The Assignor hereby assigns to the Assignee absolutely with full title of all their right, title and interest in respect of the Claim and the right to bring and defend legal proceedings (including actions, complaints, appeals and judicial reviews), and obtain and retain any relief recovered. For greater certainty, this assignment includes the right to seek judicial review of *Boyd v. WestJet Airlines Ltd.*, 2024 BCCRT 640 and the right to accept/deposit the \$355.53 payment from WestJet.
- 2. The Assignor agrees to reasonably assist the Assignee in pursuing the Claim.
- 3. If this Assignment is to any extent invalid or incapable of being enforced, then this Assignment shall be deemed replaced with a valid and enforceable assignment under section 36 of the *British Columbia Law and Equity Act* and that comes closest to expressing the intention of such invalid or unenforceable term.
- 4. This Assignment and any disputes in respect of it shall be governed by and construed in accordance with the laws of British Columbia, Canada

FOR THE ASSIGNORS:

Signed, sealed and delivered, on the date indicated above by Anne Boyd	)	Signed, sealed and delivered, on the date indicated above by Robert Boyd	)	
				
<u>Anne Boyd</u>	Sealed	<u>Robert Boyd</u>	Sealed	
Anne Boyd		Robert Boyd		

FOR THE ASSIGNEE:

Signed, sealed and delivered, on the date indicated above by Air Passenger Rights	)	
		
<u>Per Dr. Gabor Lukacs, President of Air Passenger Rights</u>	Sealed	

This is Exhibit "B" referred to in the Affidavit of Dr. Gábor Lukács sworn (or affirmed) before me at Coquitlam, BC this 29th day of July 2024.

A Commissioner for Taking Affidavits for British Columbia

TRANSMISSION VERIFICATION REPORT

TIME 07/29/2024 16:35
 NAME
 FAX
 TEL
 SER.# U63089H3N514759

DATE, TIME 07/29 16:33
 FAX NO./NAME 14035488727
 DURATION 00:01:11
 PAGE(S) 02
 RESULT OK
 MODE FINE PC-FAX

07/29/2024 16:37

Page 1/2

This is Exhibit "C" referred to in the
 Affidavit of Dr. Gábor Lukács
 sworn (or affirmed) before me at
Coquitlam, BC
 this 29th day of July 2024.

6507 Roslyn Road
 Halifax, NS B3L 2M8

lukacs@AirPassengerRights.ca

AIR ✈ ✈
PASSENGER
 ✈ ✈ **RIGHTS**

A Commissioner for Taking Affidavits for British Columbia

July 29, 2024

VIA FAX: (403) 648-8727

WestJet Airlines

ATTN: Angela Avery, KC, WestJet Group Executive Vice-President and Chief People, Corporate & Sustainability Officer

21 Aerial Place N.E.

Calgary, Alberta, Canada T2E 8X7

Dear Madam or Sir:

Re: Notice of Absolute Assignment of Claim

This is notice to WestJet Airlines Ltd. that Mr. Robert Boyd and Ms. Anne Boyd have absolutely assigned their claim to Air Passenger Rights.

Enclosed is a copy of the assignment for your reference.

GL

CERTIFICATE OF COMMISSIONER FOR TAKING AFFIDAVITS

I, Simon Lin, a Commissioner for taking Affidavits in British Columbia, certify that:

1. This certificate is provided in accordance with the *COVID-19 Notice No. 2* of the Supreme Court of British Columbia.
2. On July 29, 2024, I commissioned the Affidavit of Dr. Gabor Lukacs (the "**Deponent**") in this matter (the "**Affidavit**"). The Affidavit was commissioned remotely using Zoom video technology.
3. I was satisfied that the process was necessary because it was medically unsafe for reasons associated with COVID-19, for the Deponent and a commissioner to be physically present together.
4. While the commissioner and Deponent was connected via video technology:
 - a. The Deponent showed me the front and back of the Deponent's current government-issued photo identification (the "**ID**"), which I have retained screenshots of.
 - b. I compared the video image of the Deponent and the information on the ID and was satisfied that it was the same person.
 - c. The Deponent and I reviewed each page of our respective paper copy of the Affidavit and exhibit to verify that the pages were identical, and we each initialed each page in the lower right corner.
 - d. I administered the oath to the Deponent who affirmed/swore to the truth of the facts in the Affidavit and the Deponent applied their signature.
 - e. The Deponent provided me with an electronic copy of the initialed and signed Affidavit and exhibit.
 - f. I compared each page of the copy of the Affidavit received from the Deponent against the initialed copy that was before me in the video conference with the Deponent. Upon being satisfied that the two copies were identical, I affixed my name to the jurat. I have attached the two copies of the Affidavit to this certificate.
 - g. I also compared each page of the copy of the exhibit received from the Deponent against the initialed copy that was before me in the video conference with the Deponent. Upon being satisfied that the two copies were identical, I affixed my signature and initials to the copy sent to me by the Deponent, and included it with this filing.

Dated: July 29, 2024



Signature of Simon Lin
Commissioner for taking affidavits in
British Columbia



This is the 1st affidavit
of Ciarah Machado in this case
and was made on August 19, 2024

NO. S-S-254452
NEW WESTMINSTER

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

AIR PASSENGER RIGHTS

PETITIONER

AND

WESTJET AIRLINES LTD and CIVIL RESOLUTION TRIBUNAL

RESPONDENTS

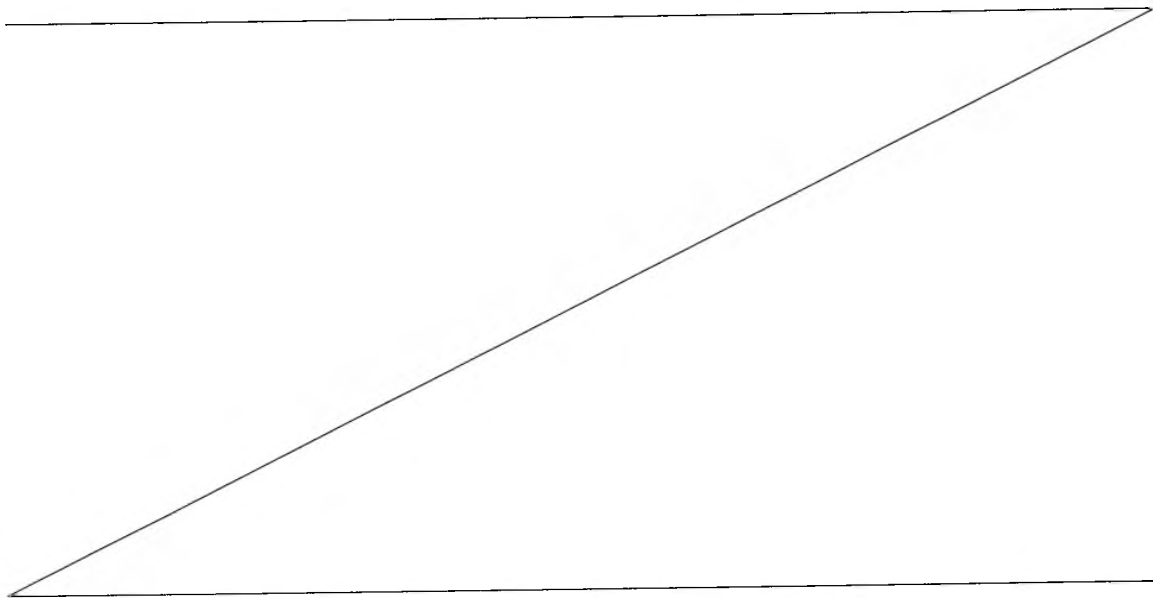
AFFIDAVIT

I, Ciarah Machado, of 2700 - 700 West Georgia Street, Vancouver, British Columbia, Legal Administrative Assistant, AFFIRM THAT:

1. I am a legal assistant employed by the law firm of Alexander Holburn Beaudin + Lang LLP, counsel for the Respondent WestJet Airlines Ltd. ("WestJet"), and as such have personal knowledge of the matters hereinafter deposed to, save where stated to be upon information and belief and where stated, I verily believe same to be true.
2. I have reviewed the documents in this matter and rely on those items in affirming this affidavit.
3. Attached to this affidavit and marked as **Exhibit "A"** is a true copy of the decision issued by the Civil Resolution Tribunal (the "Tribunal"), File: SC-2023-006891 on July 5, 2024.
4. Attached to this affidavit and marked as **Exhibit "B"** is a true copy of the order issued by the Tribunal, File: SC-2023-006891 on July 5, 2024.
5. Attached to this affidavit and marked as **Exhibit "C"** is a true copy of WestJet's International Tariff, submitted to the Tribunal, on March 28, 2024.

- 2 -

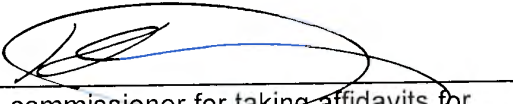
6. Attached to this affidavit and marked as **Exhibit “D”** is a true copy of the Air Line Pilots Association’s press release regarding the “72-hour strike notice” being issued to WestJet and the government, submitted to the Tribunal on March 28, 2024.
7. Attached to this affidavit and marked as **Exhibit “E”** is a true copy of the Canada Transportation Agency’s (the “Agency”) Air Passenger Protection Regulations – Regulatory Impact Analysis Statement, submitted to the Tribunal on March 28, 2024.
8. Attached to this affidavit and marked as **Exhibit “F”** is a true copy of the Agency’s statement providing important information for WestJet customers whose flights may have been affected by the labour dispute, submitted to the Tribunal on March 28, 2024.
9. Attached to this affidavit and marked as **Exhibit “G”** is a true copy of the written submissions of WestJet at the Tribunal, which was submitted to the Tribunal on or around March 28, 2024.
10. Attached to this affidavit and marked as **Exhibit “H”** is a true copy of the unreported decision, *Burym et al. v WestJet Airlines Ltd.*, detailing that the circumstance in question in the Petition is outside of carrier control, which was submitted to the Tribunal on March 28, 2024.



- 3 -

11. Attached to this affidavit and marked as **Exhibit "I"** is a true copy of the BC Supreme Court Notice to the Profession, the Public and the Media with respect to affidavits for use in court proceedings dated March 27, 2020, noting that only with the approval of the Law Society of British Columbia can accommodations be made or used in any proceeding to the Supreme Court.

SWORN BEFORE ME at Vancouver, British Columbia on August 19, 2024.


A commissioner for taking affidavits for British Columbia.

KATELYN CHAUDHARY
Barrister + Solicitor
ALEXANDER HOLBURN BEAUDIN + LANG LLP
2700 - 700 WEST GEORGIA ST.
VANCOUVER, BC CANADA V7Y 1B8


Ciarah Machado

SUBMISSIONS OF WESTJET

This is Exhibit “ G ” referred to in the affidavit of Ciaran Machado sworn before me at the City of Vancouver this 19 day of August, 20 24


A Commissioner for taking Affidavits
in and for the Province of British Columbia

Background

1. Anne Boyd and Robert Boyd (the “**Applicants**”) seek damages following a delay while travelling from Kelowna, British Columbia to Rome, Italy on May 18, 2023.
2. The Applicants seek \$2,277.25 in out-of-pocket expenses and compensation pursuant to the *Air Passenger Protection Regulations*, SOR/2019-150 (the “**APPR**”). The Applicants say that they are owed compensation for their out-of-pocket expenses, as well as compensation pursuant to s. 19(1) of the *APPR*.
3. WestJet submits that s. 19(1) of the *APPR* does not apply in these circumstances, as outlined below.
4. WestJet also submits that the Applicants and the Civil Resolution Tribunal (the “**CRT**”) are bound by the terms and conditions of the airline passenger tickets and WestJet’s International Tariff (the “**Tariff**”), which together comprise a Contract of Carriage and which also limit and/or proscribe the Applicants’ right of recovery against WestJet.

Respondent’s Evidence #1 – International Tariff

Facts

a) The travel delay

5. On May 18, 2023, the Applicants were scheduled to travel on the following flights:
 - (a) WS 3162 from Kelowna, British Columbia to Calgary, Alberta, which was scheduled to depart at 14:00 PDT and to arrive at 16:09 MDST; and
 - (b) WS 032 from Calgary, Alberta, to Rome, Italy, which was scheduled to depart at 18:05 MDST and to arrive at 11:55 CET.

Respondent’s Evidence #2 – Passenger Name Record

6. The Applicants travelled on WS 3162 from Kelowna to Calgary, as scheduled. Unfortunately, however, WS 032 was cancelled due to the ongoing labour disruption involving WestJet’s pilots.

Respondent’s Evidence #3 – Irregular Operations Report, WS 032

7. Due to the cancellation of WS 032, WestJet rescheduled the Applicants on a mix of flights operated by WestJet and other carriers, as follows:
 - (a) WestJet flight WS3628 from Calgary to Portland on May 19, 2023;
 - (b) Delta Airlines flight DL0178 from Portland to Amsterdam on May 20, 2023; and
 - (c) Italia Transporto Aero flight AZ0107 from Amsterdam to Rome on May 20, 2023

Applicants' Evidence #17 and #18

8. Ultimately, the Applicants arrived in Rome on May 20, 2023, over 24 hours later than scheduled.
9. As a result of the travel delay, the Applicants seek to recover:
 - (a) \$185.25 for a hotel in Calgary on the night of May 18, 2023;
 - (b) \$92.00 for meals purchased from May 18, 2023 to May 20, 2023; and
 - (c) \$2,000 (\$1,000 each) in compensation for their delay under s. 19(1) of the *APPR*.

b) The labour disruption

10. WestJet pilots are represented by the Air Line Pilots Association (the "**ALPA**"). In May 2023, the pilots and the ALPA were in the process of negotiating a new Collective Agreement with WestJet.
11. Pursuant to the Canada Labour Code, a 72-hour strike notice (the "**Strike Notice**") was formally issued on May 15, 2023. Upon the expiry of the 72-hour period in the Strike Notice, the pilots were authorized to strike, beginning at 3:00am MDT on May 19th, 2023.

Respondent's Evidence #4 – WestJet Pilots File 72-Hour Strike Notice

12. Ultimately, the pilots and WestJet came to an agreement at approximately 12:00am MDT on May 19, 2023.

Applicants' Evidence #4 - 7**Position on the Applicant's Claim**

13. As a result of the travel delay, the Applicants seek to recover \$2,277.25, comprised of the following:
 - (a) \$185.25 for a hotel in Calgary on the night of May 18, 2023;
 - (b) \$92.00 for meals purchased from May 18, 2023 to May 20, 2023; and
 - (c) \$2,000 (\$1,000 each) in compensation for their delay under s. 19(1) of the *APPR*.

a) Out of pocket expenses

14. WestJet does not take issue with the \$185.25 claimed for the hotel costs, or the \$92.00 claimed for meals.
15. However, WestJet submits that Neither the Tariff, Terms and Conditions, nor the *APPR* provide a basis for the \$2,000 in *APPR* compensation sought.

b) APPR compensation

16. The relief sought by the Applicants is subject to the *APPR*. The *APPR* are included in the Tariff, which comprise the contract of carriage between WestJet and the Applicant.

Respondent's Evidence #1 - International Tariff

17. The *APPR* limits WestJet's liability for compensation for delayed or cancelled flights based on the cause of the delay or cancellation.

Respondent's Evidence #5 - Air Passenger Protection Regulations, SOR/2019-150

18. The Applicants seek \$1,000.00 in compensation each for a delay of over 9 hours, pursuant to s. 19(1) of the *APPR*.
19. The *APPR* provides that airlines are obligated to provide compensation for inconveniences incurred due to delays or cancellations in certain circumstances. Eligibility for compensation depends on a) the cause of the delay/cancellation and b) the length of the resulting delay.
20. When a delay is within carrier control, s. 19 compensation is generally owed. However, when a delay is outside of carrier control, compensation under s. 19 is not owed.
21. Section 10(1) of the *APPR* states as follows:

This section applies to a carrier when there is delay, cancellation or denial of boarding due to situations outside the carrier's control, including but not limited to the following:

[...]

(j) a labour disruption within the carrier or within an essential service provider such as an airport or an air navigation service provider;

Respondent's Evidence #5 - Air Passenger Protection Regulations, SOR/2019-150

22. As such, WestJet submits that the cancellation of flight WS 032 was outside of carrier control, as it occurred due to a labour disruption. The *APPR* is clear that a labour disruption, even within the carrier, is outside of carrier control.
23. When section 10 applies to a cancellation/delay, s.19 does not apply, and compensation for delay is not owed.
24. However, the Applicants argue that, because there was no active picketing by the pilots at the time of the cancellation of WS 032, there was no "work stoppage", and no actual strike.
25. Respectfully, the *APPR* does not use the term "work stoppage" or "strike", but rather the broader "labour disruption".

26. The Canadian Transportation Agency (the “CTA”) was involving in the drafting of the *APPR*. The CTA has issued a Regulatory Impact Analysis Statement, which confirms that the intent behind specifying “labour disruptions” as being outside carrier control (rather than using alternative terms such as “strike”) was to avoid having the *APPR* be used as a tool to influence the collective bargaining process.

Respondent’s Evidence #6 - Regulatory Impact Analysis Statement

27. In the Regulatory Impact Analysis Statement, under the heading “Clarity regarding categorization of flight disruptions”, the CTA noted that:

Some stakeholders would like there to be greater specificity and clarity in the regulations as to the situations that would be considered "required for safety purposes" and "outside the carrier's control". As it is not possible or desirable to be completely prescriptive in regulation, CTA will address these comments using a combination of regulatory adjustments and guidance materials for air carriers.

Respondent’s Evidence #6 - Regulatory Impact Analysis Statement

28. In the following section under the same heading, the CTA addressed concerns of certain stakeholders regarding labour disruptions:

c) Labour disruptions

Air industry stakeholders feel that the regulations should explicitly indicate that labour disruptions within an airline are "outside the carrier's control" to avoid influencing collective bargaining processes. The CTA agrees that it would be appropriate to give clarity in this area and has adjusted the regulations to specify that disruptions resulting from labour disruptions within the carrier or at an essential service provider (e.g., an airport) are considered outside the carrier's control.

[Emphasis added]

29. Finally, on May 16, 2023, the CTA released a statement affirming that the WestJet labour disruption was outside of carrier control pursuant to s. 10 of the *APPR*. As such, it is WestJet’s position that the labour disruption fell within s. 10 of the *APPR*, and s. 19 compensation is not applicable in the circumstances.

Respondent’s Evidence #7 – CTA Statement, Important Information for WestJet Customers

30. In the recent decision of *Burym et al v WestJet Airlines Ltd.*, the Manitoba King’s Bench – Winnipeg Centre Court considered whether the May 2023 pilot’s strike was within or outside of carrier control. In that case, the Claimants were scheduled to travel from Maui to Winnipeg on May 18th, 2023. Their flight was cancelled due to the pilot’s strike.

Respondent's Evidence #8 - M. Burym v. WestJet Airlines Ltd. - MB Certificate of Decision at Hearing

31. The Claimants argued that, because there was no active picketing, the cancellation of their flight was not due to a labour disruption, and instead was within carrier control. The Court rejected this argument, finding that the formal announcement of a strike marked the onset of the labour disruption:

The assertion that the commencement of a strike equates to the onset of a labor disruption is predicated on the understanding that the formal announcement of a strike signified the beginning of altered labor dynamics. Contrary to the notion that picketing serves as the definitive starting point, the announcement of a strike constitutes the decisive moment when contractual obligations are suspended and labor activities are fundamentally disrupted. As such, any actions taken by the involved parties subsequent to the announcement are inherently shaped by the altered circumstances and legal ramifications arising from the declaration.

[...]

Ultimately, the Court's determination that the declaration of the strike marked the onset of the labor disruption. It is the announcement of the strike that heralds the suspension of contractual obligations and instigates a fundamental shift in labor relations thus establishing that a labor disruption was underway at the time of the claimants' flight cancellation, making it outside of the carrier's control. In light of the above findings, the claim is dismissed.

32. WestJet submits that there is no basis upon which to find that "labour disruptions" under s. 10 of the *APPR* requires "active picketing" or a "work stoppage" in order to apply.
33. On the contrary, a plain reading of the *APPR*, the CTA statements, and the *Burym v WestJet* decision support a finding that "labour disruptions" should be more broadly interpreted: the announcement of a strike constitutes the decisive moment when contractual obligations are suspended and labor activities are fundamentally disrupted.
34. It is not disputed that the cancellation of the Applicants' flight WS 032 occurred both after the Strike Notice was issued, and because of the ongoing labour dispute between the pilots and WestJet.
35. As such, WestJet submits that it is clear the cancellation was outside of carrier control, and s.19(1) compensation is therefore not due.

Summary

36. In summary, WestJet submits the following:
- (a) The Applicants experienced a delay while travelling from Kelowna, BC to Rome, Italy on May 18, 2023, with a layover in Calgary, Alberta;
 - (b) The Applicants flight from Calgary to Rome (WS 032) was cancelled due to an ongoing labour dispute between WestJet and WestJet pilots;
 - (c) WestJet does not dispute the Applicants' claim for \$185.25 for their hotel costs, or the \$92.00 claimed for meals;
 - (d) However, WestJet disputes the Applicants' claim for \$1,000 each, made under s. 19(1) of the *APPR*;
 - (e) Section 19(1) of the *APPR* only applies to delay/cancellation that is within carrier control. When a delay/cancellation occurs that is outside of carrier control, compensation is not owed;
 - (f) "Labour disruptions" are categorized as being outside of carrier control under s. 10(1) of the *APPR*;
 - (g) The term "labour disruption" is to be given a broader meaning than "strike", "work stoppage", or "active picketing". The CTA itself has confirmed that this was the intention of the drafters of the *APPR*;
 - (h) Further, pursuant to *Burym et al v WestJet*, the announcement of a strike constituted the decisive moment when contractual obligations are suspended, and labour activities are fundamentally disrupted;
 - (i) In this case, the disruption of the labour activities began on May 15, 2023, when the Strike Notice was issued; and
 - (j) At all material times, WestJet acted in compliance with the *APPR*, the Tariff, the Policy, and the terms of the contract with the Applicants.
37. WestJet therefore submits that the Applicants' claim for \$2,277.25 ought to be dismissed, and instead they be awarded a maximum of \$277.25.



This is the 1st affidavit of S Lawrence
in this case and was made on
12/September/2024

No. S-S-254452
New Westminster Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

AIR PASSENGER RIGHTS

PETITIONER

AND:

WESTJET AIRLINES LTD.

RESPONDENT

AFFIDAVIT

I, Samantha Lawrence, of 1175 Douglas Street, Victoria, British Columbia, AFFIRM
THAT:

1. I am the Director of Resolution Supports and Deputy Registrar of the Civil Resolution Tribunal ("CRT"). In my role, I am responsible for the leadership, management, and administration of the CRT dispute resolution process. As such, I have personal knowledge of the facts and matters set out in this affidavit, unless

such facts and matters are stated to be made on information and belief in which case I verily believe them to be true.

2. I have reviewed CRT dispute number SC-2023-006891, being a CRT small claims dispute between Anne and Robert Boyd (the “Applicants”), who are not parties to this petition, and the Respondent, WestJet Airlines Ltd. (together, the “CRT parties”).
3. On July 4, 2023, the Applicants applied to the CRT for dispute resolution. The CRT issued a Dispute Notice on July 31, 2023. Attached as **Exhibit “A”** is a copy of the Dispute Notice.
4. On August 30, 2023, the Respondent submitted its Dispute Response. Attached as **Exhibit “B”** is a copy of the Dispute Response.
5. As part of its intake process, CRT staff conducted a BC Registry company search for WestJet Airlines Ltd. Attached as **Exhibit “C”** is a copy of the BC Registry company search for WestJet Airlines Ltd.
6. The CRT parties were unable to resolve the dispute during the negotiation and facilitation stages of the case management process, stages offering parties the opportunity to explore settlement options.
7. Accordingly, CRT staff directed the CRT parties to develop a Tribunal Decision Plan (“TDP”) for adjudication of the dispute. The TDP contains a list of the evidence submitted by the parties in a dispute, as well as the parties’ written arguments, responses, and replies for each claim. Generally, applicants upload their evidence and arguments first, followed by the respondent uploading their evidence and argument, with a final reply by the applicant. Attached as **Exhibit “D”** is a copy of the TDP in this dispute.
8. Evidence #1 on the TDP is the Dispute Notice which has already been exhibited to this affidavit as Exhibit “A” and is therefore not reproduced. Evidence #2 of the TDP is a copy of the BC Registry company search conducted by CRT staff for WestJet Airlines Ltd. which has already been exhibited to this affidavit as Exhibit “C” and is therefore not reproduced.

9. Attached as **Exhibit "E"** are copies of the Applicants' evidence, recorded on the TDP as Evidence #3 through #20.
10. Attached as **Exhibit "F"** are copies of the Respondent's evidence, recorded on the TDP as Evidence #21 through #28.
11. The CRT parties' written arguments are included at pp. 29 – 35 of Exhibit "D" (the TDP).
12. The record of proceedings before the CRT consists of Exhibits "A" through "F".
13. The dispute was assigned to Tribunal Member Amanda Binnie for adjudication (the "Tribunal Member"). On July 5, 2024, the Tribunal Member issued a final decision (the "Final Decision"). On the same day, the CRT parties were notified via email. Attached as **Exhibit "G"** is a copy of the Final Decision and the notification email.

AFFIRMED BEFORE ME at)
Victoria, British Columbia)
on September 12, 2024)
)
)
_____)
Zara Rahman)
A Commissioner for taking)
affidavits for British Columbia)



SAMANTHA LAWRENCE

Civil Resolution Tribunal
PO Box 9239
Stn Prov Govt
Victoria, BC V8W 9J1

This is Exhibit A referred to in
the Affidavit of Samantha Lawrence
affirmed before me at Victoria,
British Columbia, this 12th day
of September 2024
Zahman

Zara Rahman

A Commissioner for taking Affidavits within British Columbia



Civil Resolution Tribunal

Dispute Notice

(Initiating notice under section 6 of the Civil Resolution Tribunal Act)

Dispute Number: SC-2023-006891

Application Submitted: July 04, 2023

Dispute Notice Issued: July 31, 2023

Notice To - Who the claim is against

These are the people or organizations the claims are against.

WESTJET AIRLINES LTD.

Initiated By - Who requested resolution

These are the people or organizations which have applied to the CRT for dispute resolution.

ANNE BOYD

ROBERT BOYD

INSTRUCTIONS

A request for dispute resolution has been made to the Civil Resolution Tribunal (CRT). If you are named in this dispute, the CRT may make a binding order against you, which is enforceable as a court order. This order may require you to do something, stop doing something, or pay money to the applicant. Before making any order, the CRT will carefully consider your arguments and evidence. For more information about the Civil Resolution Tribunal, visit www.civilresolutionbc.ca

HOW TO RESPOND TO THIS DISPUTE NOTICE

Each person this claim is against has 14 days to respond to this notice once it is delivered (30 days if outside of BC). If you do not respond, the CRT will continue to resolve the dispute and may make a decision without your participation.

You should have been provided with instructions for response with the Dispute Notice. If you have not received instructions for response please contact the CRT by phone at 1-844-322-2292, or by e-mail at RSC@crtbc.ca and include the Dispute Number on the top left corner of this document.

Initiator Contact

The CRT will provide a copy of your Dispute Response to:

ANNE BOYD

Email: raboyn@telusplanet.net

Phone: 7806147730

1102 Cameron Avenue

Unit 116

Kelowna, British Columbia

V1Y 0B2, Canada

Who the Claim is Against

These are the people or organizations that are identified as being responsible for the claim. For more details go to: civilresolutionbc.ca/tribunal-process/responding/

WESTJET AIRLINES LTD.**Type: Organization**

Type of business: Corporation

Phone: 4034442581

Address:

2700-700 WEST GEORGIA

VANCOUVER, British Columbia

V7Y1B8, Canada

Organization contact

COMPANY CONTACT

2700-700 WEST GEORGIA

VANCOUVER, British Columbia

V7Y 1B8, Canada

Dispute Information

This information has been provided by the person requesting resolution. It shows the claims they are making and what they are asking for.

Dispute Claim 1

Claim ID

C-157834

Claim summary

We are seeking compensation for a delay of over 9 hours in arrival at our final flight destination due to cancelled flight, and compensation for accommodation and meal expenses incurred as a result of this delay.

Claim description

On May 18, 2023, our Flight WS32 was cancelled by Westjet Airlines Ltd. and cited by the Airlines as cancelled "due to a strike or work stoppage". No strike action took place by the pilots. Westjet management did issue a Notice of Lockout and did act on it, thereby locking out pilots by cancelling flights. This was an action entirely within Westjet's control. An alternate flight with a different carrier was booked for us by Westjet Airlines Ltd. resulting in an arrival delay at our final destination of more than 9 hours from our scheduled time of arrival. We are seeking compensation for the delay pursuant to the Air Passenger Protection Regulations. We are also seeking reimbursement for accommodation and meal expenses incurred as a result of the flight cancellation as we were required to wait overnight in Calgary for our next flight. Compensation is sought pursuant to Sections 11(4)(b), 12(3), 14(1), 14(2) and 19(1)(a)(iii) of the Air Passenger Protection Regulations (SOR/2019-150). Westjet Airlines sent us email confirmation denying our claims for compensation stating the flight was cancelled due to a strike or work stoppage and outside of Westjet's control.

When the person requesting resolution became aware of the claim

May 18, 2023

Requested Resolution		Amount
1.	Compensation of \$1000 per person, for a total of \$2000, as the arrival delay at our final destination was more than 9 hours from our scheduled time of arrival.	\$2000.00
2.	Reimbursement of expenses incurred for accommodation and meals in the amount of \$277.25 as we were required to wait overnight for our next flight.	\$277.25
		Total: \$2277.25

Dispute Claim 2**Claim ID**

C-157842

Claim summary

Dispute-Related Fees & Expenses

Claim description

I want the respondent to pay for dispute-related fees paid to the CRT and other expenses and charges allowed under the CRT Rules and the CRT Act.

Requested Resolution

All dispute-related fees and expenses will be determined later in the tribunal process

This is Exhibit B referred to in
the Affidavit of Samantha Lawrence
affirmed before me at Victoria,
British Columbia, this 12th day
of September 2024
Zara Rahman

Zara Rahman

A Commissioner for taking Affidavits within British Columbia



Civil Resolution Tribunal

Dispute Response

This is the response by **WESTJET AIRLINES LTD.** to the claims in this dispute.

Dispute Number: SC-2023-006891

Response Submitted by: WESTJET AIRLINES LTD.

Response Submitted on: August 30, 2023

Dispute Initiated By - Who requested resolution

These are the people or organizations which applied to the CRT for dispute resolution.

Person	ANNE BOYD
Person	ROBERT BOYD

Who the claim is against

These are the people or organizations the claims are against.

Organization	WESTJET AIRLINES LTD. Dispute notice provided on August 15, 2023 Dispute response submitted on August 30, 2023
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Response Details

WESTJET AIRLINES LTD.

Type: Organization

Type of business: Corporation

Phone: (403) 512-3406

Address:

2700-700 WEST GEORGIA

VANCOUVER, British Columbia

V7Y1B8, Canada

Organization contact

Sean Hedley

Email: sean.hedley@westjet.com

Phone: (403) 512-3406

22 Aerial PI NE

Calgary, Alberta

T2E 3J1, Canada

Response to dispute and outcome, remedies and actions requested	
The following is the response to the claim description and outcomes, remedies and actions that were provided in the dispute notice.	
Dispute Claim 1	Claim ID C-157834
 Claim description in request for dispute resolution	 Response by WESTJET AIRLINES LTD.
On May 18, 2023, our Flight WS32 was cancelled by Westjet Airlines Ltd. and cited by the Airlines as cancelled "due to a strike or work stoppage". No strike action took place by the pilots. Westjet management did issue a Notice of Lockout and did act on it, thereby locking out pilots by cancelling flights. This was an action entirely within Westjet's control. An alternate flight with a different carrier was booked for us by Westjet Airlines Ltd. resulting in an arrival delay at our final destination of more than 9 hours from our scheduled time of arrival. We are seeking compensation for the delay pursuant to the Air Passenger Protection Regulations. We are also seeking reimbursement for accommodation and meal expenses incurred as a result of the flight cancellation as we were required to wait overnight in Calgary for our next flight. Compensation is sought pursuant to Sections 11(4)(b), 12(3), 14(1), 14(2) and 19(1)(a)(iii) of the Air Passenger Protection Regulations (SOR/2019-150). Westjet Airlines sent us email confirmation denying our claims for compensation stating the flight was cancelled due to a strike or work stoppage and outside of Westjet's control.	Disagrees with the 'Claim description'. It is not accurate. 1. The Respondent, WestJet Airlines Ltd. ("WestJet") denies each and every allegation in the Dispute Notice unless specifically admitted to herein and puts the Applicants to the strict proof thereof. 2. WestJet says that any flights the Applicants were scheduled passengers on were operated by WestJet, an Alberta Partnership. 3. WestJet denies that the Applicants suffered any loss, damage, or expense, as alleged or at all, and puts the Applicants to the strict proof thereof. 4. WestJet says that the Applicants are bound by the terms and conditions (the "Terms and Conditions") of the airline passenger ticket, and the terms and conditions of WestJet's International Tariff (the "Tariff"), which together comprise the contract of carriage and limit and or/ proscribe the Applicants' right of recovery against WestJet. 5. WestJet says that the Applicants were travelling in the course of "international carriage" as defined in the Convention for the Unification of Certain Rules for International Carriage by Air (the "Montreal Convention"), which is incorporated into Canadian law pursuant to Schedule VI of the Carriage by Air Act, R.S.C. 1985, c. C-26. 6. WestJet pleads and relies on the Montreal Convention, which proscribes and/or limits the Applicants' right of recovery against it, and in particular:

(a) Article 20, which provides that if the carrier proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, the carrier shall be wholly or partly exonerated from its liability to the passenger to the extent that such negligence or wrongful act or omission caused or contributed to the damage;

(b) Article 29, which provides that an action against a carrier, however founded, can only be brought subject to the conditions and limits of liability set out in the Montreal Convention, and that in any action, punitive, exemplary or any other non-compensatory damages shall not be recoverable; and

(c) Article 37, which provides that nothing in the Convention shall prejudice the questions whether a person liable for damage in accordance with its provision has a right of recourse against any other person.

7. In answer to the whole of the Dispute Notice, if the Applicants suffered any loss or damage, as alleged or at all, which is denied, WestJet denies that such losses or damages were caused or contributed to by the breach of any duty, contractual or otherwise on the part of WestJet, its employees, servants or agents.

8. In the alternative, if the Applicants suffered any loss or damage, as alleged or at all, which is denied, such loss or damage was not caused or contributed to by WestJet or by its employees, servants or agents, but by the acts or omissions of others.

9. In the further alternative, if the Applicants suffered any loss, damage or expense as alleged or at all, which is denied, WestJet denies that such loss was caused or contributed to by WestJet and says that any loss, damage or expense, as alleged or at all, was caused by situations outside of the control of WestJet or situations within WestJet's control but required for safety purposes.

10. In further answer to the whole of the Dispute Notice, WestJet denies that it breached any requirements of the Air Passenger Protection Regulations, SOR/2019-150 (the "APPR") and denies that the Applicants are entitled to any compensation pursuant to the APPR.

	WHEREFORE WestJet submits that the Applicants' claim be dismissed with costs payable to WestJet.
 Requested outcomes, remedies or actions	 Response by WESTJET AIRLINES LTD.
1. Compensation of \$1000 per person, for a total of \$2000, as the arrival delay at our final destination was more than 9 hours from our scheduled time of arrival. (\$2000.00)	Disagree The applicants are not entitled to the remedy sought.
2. Reimbursement of expenses incurred for accommodation and meals in the amount of \$277.25 as we were required to wait overnight for our next flight. (\$277.25)	Disagree The applicants are not entitled to the remedy sought.
Dispute Claim 2	Claim ID C-157842
 Claim description in request for dispute resolution	 Response by WESTJET AIRLINES LTD.
I want the respondent to pay for dispute-related fees paid to the CRT and other expenses and charges allowed under the CRT Rules and the CRT Act.	Disagrees with the 'Claim description'. It is not accurate. See above for description for claim 1.
 Requested outcomes, remedies or actions	 Response by WESTJET AIRLINES LTD.
1. CRT Fees (amount to be determined) (\$0.00)	Disagree The applicants are not entitled to the remedy sought.
Plus fees paid by the Applicant to the CRT and other expenses and charges allowed under the CRT Rules and the CRT Act.	

This is Exhibit C referred to in
the Affidavit of Samantha Lawrence
affirmed before me at Victoria,
British Columbia, this 12th day
of September 2024
Z. Rahman

Zara Rahman

A Commissioner for taking Affidavits within British Columbia



**BC Registry
Services**

Mailing Address:
PO Box 9431 Stn Prov Govt
Victoria BC V8W 9V3
www.corporateonline.gov.bc.ca

Location:
2nd Floor - 940 Blanshard Street
Victoria BC
1 877 526-1526

Extraprovincial Company Summary

For
WESTJET AIRLINES LTD.

Date and Time of Search: July 19, 2023 03:19 PM Pacific Time

Currency Date: September 20, 2022

ACTIVE

Registration Number in BC: A0111945

Name of Extraprovincial Company: WESTJET AIRLINES LTD.

Business Number: N/A

Registration Date and Time: December 13, 2019 10:05 AM Pacific Time as a result of an Amalgamation

Last Annual Report Filed: Not Required

Receiver: No

FOREIGN JURISDICTION INFORMATION

Identifying Number in Foreign Jurisdiction:
2022343723

Name in Foreign Jurisdiction:
WESTJET AIRLINES LTD.

Date of Incorporation, Continuation or Amalgamation in Foreign Jurisdiction:

December 12, 2019

Foreign Jurisdiction:

ALBERTA

AMALGAMATING CORPORATION(S) INFORMATION

Name of Amalgamating Corporation

KESTREL BIDCO INC.

WESTJET AIRLINES LTD.

Registration Number in BC

Foreign Co

A0111934

HEAD OFFICE INFORMATION

Mailing Address:

525 - 8TH AVENUE SW SUITE 2400
CALGARY AB T2P 1G1
CANADA

Delivery Address:

525 - 8TH AVENUE SW SUITE 2400
CALGARY AB T2P 1G1
CANADA

ATTORNEY INFORMATION

Corporation or Firm Name:

AHBL CORPORATE SERVICES LTD.

Mailing Address:

2700 - 700 WEST GEORGIA
VANCOUVER BC V7Y 1B8
CANADA

Delivery Address:

2700 - 700 WEST GEORGIA
VANCOUVER BC V7Y 1B8
CANADA

DIRECTOR INFORMATION

Directors are not recorded for extraprovincial registration types. Go to the incorporating jurisdiction for director information.

This is Exhibit D referred to in
the Affidavit of Samantha Lawrence
affirmed before me at Victoria,
British Columbia, this 12th day
of September 2024
Z. Rahman

Zara Rahman

A Commissioner for taking Affidavits within British Columbia

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Notes for Tribunal Member

CP RSC 26/07/2023 - Payment completion date 04/07/2023. Primary applicant, AB, pronouns she/her/hers/Mrs., preferred first name Anne. Applicant RB, preferred pronouns he/him/his/Mr., preferred first name Rob. The importance of evidence discussed with parties (CM = CU Jan 24). Feb 22/24 - SM - Application fee paid on 04/07/2023 3:34 PM Feb 22/24 - SM - Respondent advised that preferred pronouns are he/him/his.

Party 1**Primary Applicant Party**

ANNE BOYD
1102 Cameron Avenue
Unit 116
Kelowna, British Columbia
Canada
V1Y 0B2
raboyd@telusplanet.net

Party 2**Other Applicant's Party**

ROBERT BOYD
1102 cameron
Unit 116
Kelowna, British Columbia
Canada
V1Y 0B2
raboyd@telusplanet.net

Party 3**Respondent's Party**

WESTJET AIRLINES LTD.
2700-700 WEST GEORGIA
VANCOUVER, British Columbia
Canada
V7Y1B8
claimsspecialist@westjet.com

Respondent's Party Contact

Carina chen
 22 Aerial Pl NE
 Calgary, Alberta
 Canada
 T2E 3J1
 claimsspecialist@westjet.com

Claim 1

Claim ID
 C-157834

Claim summary

We are seeking compensation for a delay of over 9 hours in arrival at our final flight destination due to cancelled flight, and compensation for accommodation and meal expenses incurred as a result of this delay.

Claim description

On May 18, 2023, our Flight WS32 was cancelled by Westjet Airlines Ltd. and cited by the Airlines as cancelled "due to a strike or work stoppage". No strike action took place by the pilots. Westjet management did issue a Notice of Lockout and did act on it, thereby locking out pilots by cancelling flights. This was an action entirely within Westjet's control. An alternate flight with a different carrier was booked for us by Westjet Airlines Ltd. resulting in an arrival delay at our final destination of more than 9 hours from our scheduled time of arrival. We are seeking compensation for the delay pursuant to the Air Passenger Protection Regulations. We are also seeking reimbursement for accommodation and meal expenses incurred as a result of the flight cancellation as we were required to wait overnight in Calgary for our next flight. Compensation is sought pursuant to Sections 11(4)(b), 12(3), 14(1), 14(2) and 19(1)(a)(iii) of the Air Passenger Protection Regulations (SOR/2019-150). Westjet Airlines sent us email confirmation denying our claims for compensation stating the flight was cancelled due to a strike or work stoppage and outside of Westjet's control.

Requested Resolution	Amount
1. Compensation of \$1000 per person, for a total of \$2000, as the arrival delay at our final destination was more than 9 hours from our scheduled time of arrival.	\$2000.00
2. Reimbursement of expenses incurred for accommodation and meals in the amount of \$277.25 as we were required to wait overnight for our next flight.	\$277.25
Total: \$2277.25	

Claim 2**Claim ID**

C-157842

Claim summary

Dispute-Related Fees & Expenses

Claim description

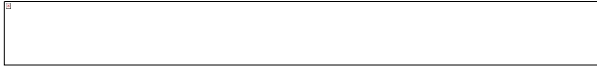
I want the respondent to pay for dispute-related fees paid to the CRT and other expenses and charges allowed under the CRT Rules and the CRT Act.

Requested Resolution**Amount**

1. CRT Fees (Online Intake Fee \$75 and TDP Fee \$50)

\$125.00

Total: \$125.00**Evidence 1****Evidence for Claim:** C-157834**Evidence Id:** DOC-382346**Evidence Title:** BOYD, BOYD → WESTJET AIRLINES LTD.**Date of Evidence:****Added by (partyname/CRT):****Type:****Last Updated:** Wed, Apr 17 2024 20:55 PM PDT**Evidence 2****Evidence for Claim:** C-157834**Evidence Id:** DOC-438135**Evidence Title:** Business Registry Search**Date of Evidence:****Added by (partyname/CRT):** ANNE BOYD**Type:** Other**Last Updated:** Thu, Feb 22 2024 14:19 PM PST



Evidence 3

Evidence for Claim: C-157834

Evidence Id: DOC-440107

Evidence Title: Pilot's Association Website - Strike Notice

Date of Evidence: Fri Dec 29 2023

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Sun, Mar 3 2024 15:19 PM PST

Evidence 4

Evidence for Claim: C-157834

Evidence Id: DOC-440108

Evidence Title: Westjet Website - Lockout Announcement

Date of Evidence: Tue Jan 2 2024

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Sun, Mar 3 2024 15:22 PM PST

Evidence 5

Evidence for Claim: C-157834

Evidence Id: DOC-440109

Evidence Title: Westjet Website - Lockout Announcement Page 2

Date of Evidence: Tue Jan 2 2024

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Sun, Mar 3 2024 15:24 PM PST

Evidence 6

Evidence for Claim: C-157834

Evidence Id: DOC-440110

Evidence Title: Westjet and Pilots reach agreement - news

Date of Evidence: Fri Dec 29 2023

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Sun, Mar 3 2024 15:25 PM PST

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Evidence 7

Evidence for Claim: C-157834

Evidence Id: DOC-440111

Evidence Title: Westjet and Pilots reach agreement - news

Date of Evidence: Fri Feb 16 2024

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Sun, Mar 3 2024 15:27 PM PST

Evidence 8

Evidence for Claim: C-157834

Evidence Id: DOC-440112

Evidence Title: Westjet & Pilots reach agreement-Pilot's Assoc. Website

Date of Evidence: Fri Feb 16 2024

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Mon, Mar 4 2024 10:52 AM PST

Evidence 9

Evidence for Claim: C-157834

Evidence Id: DOC-440113

Evidence Title: Westjet and Pilots reach agreement - Westjet Website

Date of Evidence: Fri Feb 16 2024

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Mon, Mar 4 2024 10:51 AM PST

Evidence 10

Evidence for Claim: C-157834

Evidence Id: DOC-440311

Evidence Title: Westjet Email Calgary-Rome Flight Cancelled citing Strike-Work Stoppag

Date of Evidence: Thu May 18 2023

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Mon, Mar 4 2024 13:32 PM PST



Evidence 11

Evidence for Claim: C-157834

Evidence Id: DOC-440313

Evidence Title: Westjet Email Calgary-Rome Flight Cancelled

Date of Evidence: Thu May 18 2023

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Mon, Mar 4 2024 13:36 PM PST

Evidence 12

Evidence for Claim: C-157834

Evidence Id: DOC-440314

Evidence Title: Westjet Email Denying Compensation for Anne

Date of Evidence: Wed Jun 14 2023

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Mon, Mar 4 2024 13:37 PM PST

Evidence 13

Evidence for Claim: C-157834

Evidence Id: DOC-440315

Evidence Title: Westjet Email Denying Compensation for Rob

Date of Evidence: Wed Jun 14 2023

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Mon, Mar 4 2024 13:39 PM PST

Evidence 14

Evidence for Claim: C-157834

Evidence Id: DOC-440317

Evidence Title: Westjet Email Denying Claim for hotel-meals

Date of Evidence: Fri Jun 30 2023

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Mon, Mar 4 2024 13:40 PM PST

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Evidence 15

Evidence for Claim: C-157834

Evidence Id: DOC-440320

Evidence Title: Hotel Accommodation Receipt

Date of Evidence: Thu May 18 2023

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Mon, Mar 4 2024 13:50 PM PST

Evidence 16

Evidence for Claim: C-157834

Evidence Id: DOC-440321

Evidence Title: Meal Receipt

Date of Evidence: Thu May 18 2023

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Mon, Mar 4 2024 13:51 PM PST

Evidence 17

Evidence for Claim: C-157834

Evidence Id: DOC-440322

Evidence Title: Westjet Original eTicket for May 18 Flight Calgary-Rome for Anne

Date of Evidence: Mon May 15 2023

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Mon, Mar 4 2024 13:53 PM PST

Evidence 18

Evidence for Claim: C-157834

Evidence Id: DOC-440323

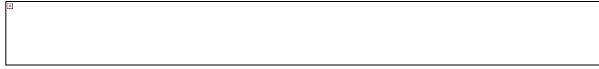
Evidence Title: Westjet Original eTicket for May 18 Flight Calgary-Rome for Ro

Date of Evidence: Mon May 15 2023

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Mon, Mar 4 2024 13:54 PM PST



Evidence 19

Evidence for Claim: C-157834

Evidence Id: DOC-440324

Evidence Title: Westjet New eTicket May 19-20 Calgary-Portland-Amsterdam-Rome, Anne

Date of Evidence: Thu May 18 2023

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Mon, Mar 4 2024 13:55 PM PST

Evidence 20

Evidence for Claim: C-157834

Evidence Id: DOC-440325

Evidence Title: Westjet New eTicket May 19-20 Calgary-Portland-Amsterdam-Rome,Rob

Date of Evidence: Thu May 18 2023

Added by (partyname/CRT): ANNE BOYD

Type: Text (screenshot)

Last Updated: Mon, Mar 4 2024 13:56 PM PST

Evidence 21

Evidence for Claim: C-157834

Evidence Id: DOC-447404

Evidence Title: Document 2 - PNR

Date of Evidence:

Added by (partyname/CRT): WESTJET AIRLINES LTD.

Type:

Last Updated: Thu, Mar 28 2024 12:12 PM PDT

Evidence 22

Evidence for Claim: C-157834

Evidence Id: DOC-447406

Evidence Title: Document 4 - WestJet Pilots File 72 Hour Strike Notice

Date of Evidence:

Added by (partyname/CRT): WESTJET AIRLINES LTD.

Type:

Last Updated: Thu, Mar 28 2024 12:12 PM PDT

--

Evidence 23

Evidence for Claim: C-157834

Evidence Id: DOC-447403

Evidence Title: Document 1 - International Tariff

Date of Evidence:

Added by (partyname/CRT): WESTJET AIRLINES LTD.

Type:

Last Updated: Thu, Mar 28 2024 12:12 PM PDT

Evidence 24

Evidence for Claim: C-157834

Evidence Id: DOC-447405

Evidence Title: Document 3 - IROPS - WS 032

Date of Evidence:

Added by (partyname/CRT): WESTJET AIRLINES LTD.

Type:

Last Updated: Thu, Mar 28 2024 12:12 PM PDT

Evidence 25

Evidence for Claim: C-157834

Evidence Id: DOC-447410

Evidence Title: Document 5 - Air Passenger Protection Regulations

Date of Evidence:

Added by (partyname/CRT): WESTJET AIRLINES LTD.

Type:

Last Updated: Thu, Mar 28 2024 12:15 PM PDT

Evidence 26

Evidence for Claim: C-157834

Evidence Id: DOC-447411

Evidence Title: Document 6 - CTA Statement

Date of Evidence:

Added by (partyname/CRT): WESTJET AIRLINES LTD.

Type:

Last Updated: Thu, Mar 28 2024 12:15 PM PDT

Evidence 27

Evidence for Claim: C-157834

Evidence Id: DOC-447413

Evidence Title: Document 7 - Important information for WestJet customers

Date of Evidence:

Added by (partyname/CRT): WESTJET AIRLINES LTD.

Type:

Last Updated: Thu, Mar 28 2024 12:17 PM PDT

Evidence 28

Evidence for Claim: C-157834

Evidence Id: DOC-447414

Evidence Title: Document 8 - M. Burym v. WestJet Airlines Ltd

Date of Evidence:

Added by (partyname/CRT): WESTJET AIRLINES LTD.

Type:

Last Updated: Tue, Apr 2 2024 14:50 PM PDT

Argument for Claim C-157834

Applicant/Claimant submission: On May 15, 2023, at 8:00 pm, the Westjet Pilots Union issued a 72 hour strike notice to Westjet Management and the government. In response to this strike notice, Westjet Airlines Ltd. issued a Lockout Notice. (See Evidence numbered 1. 2. 3.) The Westjet Pilots were in a position to begin lawful job action on May 19 at 3:00 am MT. As stated by Westjet Airlines, "A work stoppage could occur as early as May 19, 2023, at 3:00am MT" (See Evidence numbered 3.) Westjet Airlines and the Pilots Union remained at the bargaining table and negotiations continued with an agreement being reached, averting a strike prior to the job action deadline. On Thursday night, May 18, 2023, the carrier, Westjet Airlines Ltd., and the Westjet Pilots Union reached an agreement, averting a strike, prior to the May 19, 3:00 am MT deadline for lawful job action. There was no strike or work stoppage. (See Evidence numbered 4. 5. 6. 7.) Westjet Airlines cancelled our flight the morning of May 18, 2023, prior to the May 19 deadline for job action, resulting in our making a claim for compensation. Westjet Airlines denied our claim for compensation citing our "flight interruption was due to strike or work stoppage". (See Evidence numbered 8. 9. 10. 11. 12.) The cancellation of our flight was within the airline's control. The mere delivery of a strike notice, without a strike, is not a work stoppage. It's a fact that there was no actual strike and therefore our flight cancellation was not due to strike or work stoppage. Westjet Airlines' making the decision to lockout the Pilots was within the airline's control. Westjet Airlines' decision to lockout the pilots was in response to possible strike action. Cancelling flights in anticipation of a strike does not meet the requirements of a situation outside the carrier's control, as the pilots and crew were still available to operate our flight. Westjet Airlines chose to make an economic business decision to preemptively cancel flights.

Cancelling flights was not necessary as an agreement was reached prior to the 72 hours strike notice deadline. Cancelling flights was a matter of convenience for Westjet Airlines to ground planes in preferred cities. By Westjet's own admission on their website, the lockout notice was issued "in response to ALPA'S strike notification" and "A work stoppage could occur as early as May 19, 2023, at 3:00am MT." "Issuing notice does not mean a work stoppage will occur". (See Evidence numbered 2. 3.) On the morning of May 18, the day of our scheduled flight from Calgary to Rome, we were informed of the cancellation of our flight less than 12 hours, and less than 14 days, before the departure time indicated on our original ticket. This cancellation resulted in our incurring out-of-pocket accommodation and food expenses as we were forced to wait overnight in Calgary for alternate travel arrangements (a new flight). The arrival of the new flight at our destination was delayed by more than nine hours (over 26 hours) from the time indicated on our cancelled original ticket. (See Evidence numbered 13. 14. 15. 16. 17. 18.) For these reasons, we believe Westjet Airlines Ltd. is responsible and required to provide compensation, pursuant to Sections 12(3)(b) and 12(3)(d), 14(1)(a) and 14(2), and 19(1)(a)(iii), of the Air Passenger Protection Regulations (SOR/2019-150), and Article 19 of the Montreal Convention/International Carriage by Air. We believe our claim to receive compensation from the Respondent Airline, Westjet Airlines Ltd, is appropriate in the amounts stated in our Dispute Notice.

Argument for Claim C-157842

Applicant/Claimant submission: We are only claiming the \$125.00 - CRT Fees (Online Intake Fee \$75 and TDP Fee \$50). We are not claiming any further dispute related expenses.

Argument for Claim C-157834

Response: Background 1. Anne Boyd and Robert Boyd (the "Applicants") seek damages following a delay while travelling from Kelowna, British Columbia to Rome, Italy on May 18, 2023. 2. The Applicants seek \$2,277.25 in out-of-pocket expenses and compensation pursuant to the Air Passenger Protection Regulations, SOR/2019-150 (the "APPR"). The Applicants say that they are owed compensation for their out-of-pocket expenses, as well as compensation pursuant to s. 19(1) of the APPR. 3. WestJet submits that s. 19(1) of the APPR does not apply in these circumstances, as outlined below. 4. WestJet also submits that the Applicants and the Civil Resolution Tribunal (the "CRT") are bound by the terms and conditions of the airline passenger tickets and WestJet's International Tariff (the "Tariff"), which together comprise a Contract of Carriage and which also limit and/or proscribe the Applicants' right of recovery against WestJet. [Respondent's Evidence #1 - International Tariff] Facts a) The travel delay 5. On May 18, 2023, the Applicants were scheduled to travel on the following flights: (a) WS 3162 from Kelowna, British Columbia to Calgary, Alberta, which was scheduled to depart at 14:00 PDT and to arrive at 16:09 MDST; and (b) WS 032 from Calgary, Alberta, to Rome, Italy, which was scheduled to depart at 18:05 MDST and to arrive at 11:55 CET. [Respondent's Evidence #2 - Passenger Name Record] 6. The Applicants travelled on WS 3162 from Kelowna to Calgary, as scheduled. Unfortunately, however, WS 032 was cancelled due to the ongoing labour disruption involving

WestJet's pilots. [Respondent's Evidence #3 - Irregular Operations Report, WS 032] 7. Due to the cancellation of WS 032, WestJet rescheduled the Applicants on a mix of flights operated by WestJet and other carriers, as follows: (a) WestJet flight WS3628 from Calgary to Portland on May 19, 2023; (b) Delta Airlines flight DL0178 from Portland to Amsterdam on May 20, 2023; and (c) Italia Transporto Aero flight AZ0107 from Amsterdam to Rome on May 20, 2023 [Applicants' Evidence #17 and #18] 8. Ultimately, the Applicants arrived in Rome on May 20, 2023, over 24 hours later than scheduled. 9. As a result of the travel delay, the Applicants seek to recover: (a) \$185.25 for a hotel in Calgary on the night of May 18, 2023; (b) \$92.00 for meals purchased from May 18, 2023 to May 20, 2023; and (c) \$2,000 (\$1,000 each) in compensation for their delay under s. 19(1) of the APPR. b) The labour disruption 10. WestJet pilots are represented by the Air Line Pilots Association (the "ALPA"). In May 2023, the pilots and the ALPA were in the process of negotiating a new Collective Agreement with WestJet. 11. Pursuant to the Canada Labour Code, a 72-hour strike notice (the "Strike Notice") was formally issued on May 15, 2023. Upon the expiry of the 72-hour period in the Strike Notice, the pilots were authorized to strike, beginning at 3:00am MDT on May 19th, 2023. [Respondent's Evidence #4 - WestJet Pilots File 72-Hour Strike Notice] 12. Ultimately, the pilots and WestJet came to an agreement at approximately 12:00am MDT on May 19, 2023. [Applicants' Evidence #4 - 7] Position on the Applicants' Claim 13. As a result of the travel delay, the Applicants seek to recover \$2,277.25, comprised of the following: (a) \$185.25 for a hotel in Calgary on the night of May 18, 2023; (b) \$92.00 for meals purchased from May 18, 2023 to May 20, 2023; and (c) \$2,000 (\$1,000 each) in compensation for their delay under s. 19(1) of the APPR. a) Out of pocket expenses 14. WestJet does not take issue with the \$185.25 claimed for the hotel costs, or the \$92.00 claimed for meals. 15. However, WestJet submits that Neither the Tariff, Terms and Conditions, nor the APPR provide a basis for the \$2,000 in APPR compensation sought. b) APPR compensation 16. The relief sought by the Applicants is subject to the APPR. The APPR are included in the Tariff, which comprise the contract of carriage between WestJet and the Applicant. [Respondent's Evidence #1 - International Tariff] 17. The APPR limits WestJet's liability for compensation for delayed or cancelled flights based on the cause of the delay or cancellation. [Respondent's Evidence #5 - Air Passenger Protection Regulations, SOR/2019-150] 18. The Applicants seek \$1,000.00 in compensation each for a delay of over 9 hours, pursuant to s. 19(1) of the APPR. 19. The APPR provides that airlines are obligated to provide compensation for inconveniences incurred due to delays or cancellations in certain circumstances. Eligibility for compensation depends on a) the cause of the delay/cancellation and b) the length of the resulting delay. 20. When a delay is within carrier control, s. 19 compensation is generally owed. However, when a delay is outside of carrier control, compensation under s. 19 is not owed. 21. Section 10(1) of the APPR states as follows: This section applies to a carrier when there is delay, cancellation or denial of boarding due to situations outside the carrier's control, including but not limited to the following: [...] (j) a labour disruption within the carrier or within an essential service provider such as an airport or an air navigation service provider; [Respondent's Evidence #5 - Air Passenger Protection Regulations, SOR/2019-150] 22. As such, WestJet submits that the cancellation of flight WS 032 was outside of carrier control, as it occurred due to a labour disruption. The APPR is clear that a labour disruption, even within the carrier, is outside of carrier control. 23. When section 10 applies to a cancellation/delay, s.19 does not apply, and compensation for delay is not owed. 24. However, the Applicants argue that, because there was no active picketing by the pilots at the time of the cancellation of WS 032, there was no "work stoppage", and no actual strike. 25. Respectfully, the APPR does not use the term "work

stoppage" or "strike", but rather the broader "labour disruption". 26. The Canadian Transportation Agency (the "CTA") was involved in the drafting of the APPR. The CTA has issued a Regulatory Impact Analysis Statement, which confirms that the intent behind specifying "labour disruptions" as being outside carrier control (rather than using alternative terms such as "strike") was to avoid having the APPR be used as a tool to influence the collective bargaining process. [Respondent's Evidence #6 - Regulatory Impact Analysis Statement] 27. In the Regulatory Impact Analysis Statement, under the heading "Clarity regarding categorization of flight disruptions", the CTA noted that: Some stakeholders would like there to be greater specificity and clarity in the regulations as to the situations that would be considered "required for safety purposes" and "outside the carrier's control". As it is not possible or desirable to be completely prescriptive in regulation, CTA will address these comments using a combination of regulatory adjustments and guidance materials for air carriers. [Respondent's Evidence #6 - Regulatory Impact Analysis Statement] 28. In the following section under the same heading, the CTA addressed concerns of certain stakeholders regarding labour disruptions: c) Labour disruptions Air industry stakeholders feel that the regulations should explicitly indicate that labour disruptions within an airline are "outside the carrier's control" to avoid influencing collective bargaining processes. The CTA agrees that it would be appropriate to give clarity in this area and has adjusted the regulations to specify that disruptions resulting from labour disruptions within the carrier or at an essential service provider (e.g., an airport) are considered outside the carrier's control. 29. Finally, on May 16, 2023, the CTA released a statement affirming that the WestJet labour disruption was outside of carrier control pursuant to s. 10 of the APPR. As such, it is WestJet's position that the labour disruption fell within s. 10 of the APPR, and s. 19 compensation is not applicable in the circumstances. [Respondent's Evidence #7 - CTA Statement, Important Information for WestJet Customers] 30. In the recent decision of *Burym et al v WestJet Airlines Ltd.*, the Manitoba King's Bench - Winnipeg Centre Court considered whether the May 2023 pilot's strike was within or outside of carrier control. In that case, the Claimants were scheduled to travel from Maui to Winnipeg on May 18th, 2023. Their flight was cancelled due to the pilot's strike. [Respondent's Evidence #8 - *M. Burym v. WestJet Airlines Ltd.* - MB Certificate of Decision at Hearing] 31. The Claimants argued that, because there was no active picketing, the cancellation of their flight was not due to a labour disruption, and instead was within carrier control. The Court rejected this argument, finding that the formal announcement of a strike marked the onset of the labour disruption: The assertion that the commencement of a strike equates to the onset of a labor disruption is predicated on the understanding that the formal announcement of a strike signified the beginning of altered labor dynamics. Contrary to the notion that picketing serves as the definitive starting point, the announcement of a strike constitutes the decisive moment when contractual obligations are suspended and labor activities are fundamentally disrupted. As such, any actions taken by the involved parties subsequent to the announcement are inherently shaped by the altered circumstances and legal ramifications arising from the declaration. [...] Ultimately, the Court's determination that the declaration of the strike marked the onset of the labor disruption. It is the announcement of the strike that heralds the suspension of contractual obligations and instigates a fundamental shift in labor relations thus establishing that a labor disruption was underway at the time of the claimants' flight cancellation, making it outside of the carrier's control. In light of the above findings, the claim is dismissed. 32. WestJet submits that there is no basis upon which to find that "labour disruptions" under s. 10 of the APPR requires "active picketing" or a "work stoppage" in order to apply. 33. On the contrary, a plain reading of the APPR, the CTA

statements, and the *Burym v WestJet* decision support a finding that "labour disruptions" should be more broadly interpreted: the announcement of a strike constitutes the decisive moment when contractual obligations are suspended and labor activities are fundamentally disrupted. 34. It is not disputed that the cancellation of the Applicants' flight WS 032 occurred both after the Strike Notice was issued, and because of the ongoing labour dispute between the pilots and WestJet. 35. As such, WestJet submits that it is clear the cancellation was outside of carrier control, and s.19(1) compensation is therefore not due. Summary 36. In summary, WestJet submits the following: (a) The Applicants experienced a delay while travelling from Kelowna, BC to Rome, Italy on May 18, 2023, with a layover in Calgary, Alberta; (b) The Applicants flight from Calgary to Rome (WS 032) was cancelled due to an ongoing labour dispute between WestJet and WestJet pilots; (c) WestJet does not dispute the Applicants' claim for \$185.25 for their hotel costs, or the \$92.00 claimed for meals; (d) However, WestJet disputes the Applicants' claim for \$1,000 each, made under s. 19(1) of the APPR; (e) Section 19(1) of the APPR only applies to delay/cancellation that is within carrier control. When a delay/cancellation occurs that is outside of carrier control, compensation is not owed; (f) "Labour disruptions" are categorized as being outside of carrier control under s. 10(1) of the APPR; (g) The term "labour disruption" is to be given a broader meaning than "strike", "work stoppage", or "active picketing". The CTA itself has confirmed that this was the intention of the drafters of the APPR; (h) Further, pursuant to *Burym et al v WestJet*, the announcement of a strike constituted the decisive moment when contractual obligations are suspended, and labour activities are fundamentally disrupted; (i) In this case, the disruption of the labour activities began on May 15, 2023, when the Strike Notice was issued; and (j) At all material times, WestJet acted in compliance with the APPR, the Tariff, the Policy, and the terms of the contract with the Applicants. 37. WestJet therefore submits that the Applicants' claim for \$2,277.25 ought to be dismissed, and instead they be awarded a maximum of \$277.25.

Argument for Claim C-157842

Response: I will not be responding

Argument for Claim C-157834

Applicant/Claimant Reply: WestJet misstates the nature of the claim. We are advancing two separate and distinct claims: (a) Individual compensation for \$277.25 of out-of-pocket expenses pursuant to Article 19 of the Montreal Convention, which imposes a regime of strict liability for damages occasioned by delay of passengers in international carriage, and has the force of law pursuant to s. 2(2.1) of the Carriage by Air Act. (b) Standardized compensation for inconvenience in the amount of \$1,000 per passenger (for a total of \$2,000), pursuant to s. 19(1)(a)(iii) of the Air Passenger Protection Regulations (APPR), whose obligations are deemed to form part of the terms and conditions of carriage pursuant to s. 86.11(4) of the Canada Transportation Act. WestJet admitted liability for the \$277.25 of out-of-pocket expenses. WestJet disputes that standardized compensation for inconvenience is owed under the APPR, because WestJet says that "the cancellation of flight WS 032 was outside of carrier control," and

therefore the disruption falls within the scope of s. 10(1) of the APPR rather than ss. 12 and 19. WestJet's position is wholly unsupported by the evidence, and WestJet invites the Tribunal to adopt an interpretation of the APPR that could lead to absurd results. 1. FLIGHT WS 032 WAS NOT CANCELLED "DUE TO A LABOUR DISRUPTION" WestJet misrepresents its voluntary decision to cancel Flight WS 032 as if it had "occurred due to a labour disruption." WestJet failed to establish any causal link between its voluntary decision to cancel Flight WS 032 that was scheduled to depart on May 18, 2023 and the Strike Notice relating to a potential strike beginning a day later. In *Walsh v. Flair Airlines*, 2023 BCCRT 107, this Tribunal adopted the view that "because an airline was the only party with knowledge of the reasons for and circumstances surrounding a flight cancellation, fairness required the airline to demonstrate with evidence that it was justified in cancelling the flight and denying compensation under the APPR." WestJet was therefore required to tender evidence to establish the cause for Flight WS 032's cancellation. The only evidence tendered by WestJet in an effort to discharge this burden of proof is an Irregular Operations Report (#3), which only establishes the undisputed fact that Flight WS 032 was cancelled. Any self-serving statements contained therein as to the purported cause for the cancellation are no more than WestJet's own interpretation of the events and/or WestJet's say-so as to the reasons; however, they are not evidence. WestJet's submissions also failed to establish any causal or logical link between the cancellation of Flight WS 032 and a potential strike beginning a day later. In short, the cancellation of Flight WS 032 was a voluntary operational decision by WestJet, and was not necessitated by a labour disruption. 2. WESTJET MATERIALLY MISREPRESENTS THE CTA'S PUBLIC STATEMENT WestJet materially misrepresents the CTA's May 16, 2023 statement (#7). The CTA issued no legal decision or determination about the classification of WestJet's voluntary decision to cancel some of its flights on May 18, 2023. Public statements on the CTA's website, other than legally binding decisions or determinations, must be treated with great caution: they do not determine the rights of air passengers (*Air Passenger Rights v. Canada*, 2020 FCA 92 at paras. 23-25), and they may give rise to reasonable apprehension of bias (*Air Passenger Rights v. Canada*, 2021 FCA 201, paras. 3-6 and 24-26). 3. WESTJET'S PROPOSED INTERPRETATION OF SUBSECTION 10(1) COULD LEAD TO ABSURDITY WestJet invites the Tribunal to interpret "outside the carrier's control" and "labour disruption" so broadly as to encompass an airline's voluntary decision to cancel flights and/or lock out its pilots. We submit that paragraph 10(1)(j) of the APPR was not meant to relieve carriers of paying compensation for disruptions caused by the carrier's own operational decisions, actions, or inactions. First, the exceptions to the obligation to pay standardized compensation for passengers' inconvenience under the APPR must be interpreted narrowly, because the APPR are consumer protection legislation and as such "it should be interpreted generously in favour of consumers": *Seidel v. TELUS Communications Inc.*, 2011 SCC 15 at para. 37 (see also *Jiang v. Peoples Trust Company*, 2017 BCCA 119 at para. 53). Second, a carrier cannot rely on its own operational decisions, actions, or inactions as a basis for claiming that a flight disruption was outside its control. This principle has been recognized and frequently applied also by the CTA: • *Lubyk v. WestJet*, Decision No. 137-C-A-2022 at para. 9 • *Paridon v. Sunwing*, Decision No. 16-C-A-2022 at para. 5 • *Yanyk v. WestJet*, Decision No. 122-C-A-2022 at para. 20 • *Crawford v. Air Canada*, Decision No. 107-C-A-2022 at paras. 14 and 17 (leave to appeal denied by the Federal Court of Appeal in File No. 22-A-18), Third, and perhaps most importantly, accepting WestJet's argument could lead to an absurdity in enabling carriers to avoid the obligation to compensate passengers for flight cancellations caused by the carrier voluntarily deciding not to assign crew members to that flight or locking out crew



members who are scheduled to operate a flight, and thereby emptying the APPR from any practical meaning. As a matter of statutory interpretation, an interpretation that leads to absurd consequences should be rejected: *Richardson v. WestJet*, 2023 NSSM 56 at paras. 41-42. To summarize, Flight WS 032 was cancelled due to a voluntary decision by WestJet, and not due to any labour disruption. These circumstances do not meet the legal definition of "outside the carrier's control" within the meaning of s. 10(1) of the APPR, and instead fall within the scope of ss. 12 and 19 of the APPR. We ask the Tribunal to order WestJet to pay us, in addition to the undisputed amount of \$277.25 of out-of-pocket expenses, also lump sum compensation in the amount of \$1,000 per passenger, for a total of \$2,000, as required by the APPR

Fees for Party Contact C-135402

Payment For: \$100 fee for dispute resolution services, with a \$25 discount for online filing

Requested On:

Due On: Tue Jul 18 2023

Amount Owed: 75.00

Status: Completed / Paid

Fees for Party Contact C-135402

Payment For: \$50 fee for CRT Decision Process (hearing)

Requested On:

Due On: Wed Feb 21 2024

Amount Owed: 50.00

Status: Completed / Paid

This is Exhibit E referred to in
the Affidavit of Samantha Lawrence
affirmed before me at Victoria,
British Columbia, this 12th day
of September 2024
Zara Rahman

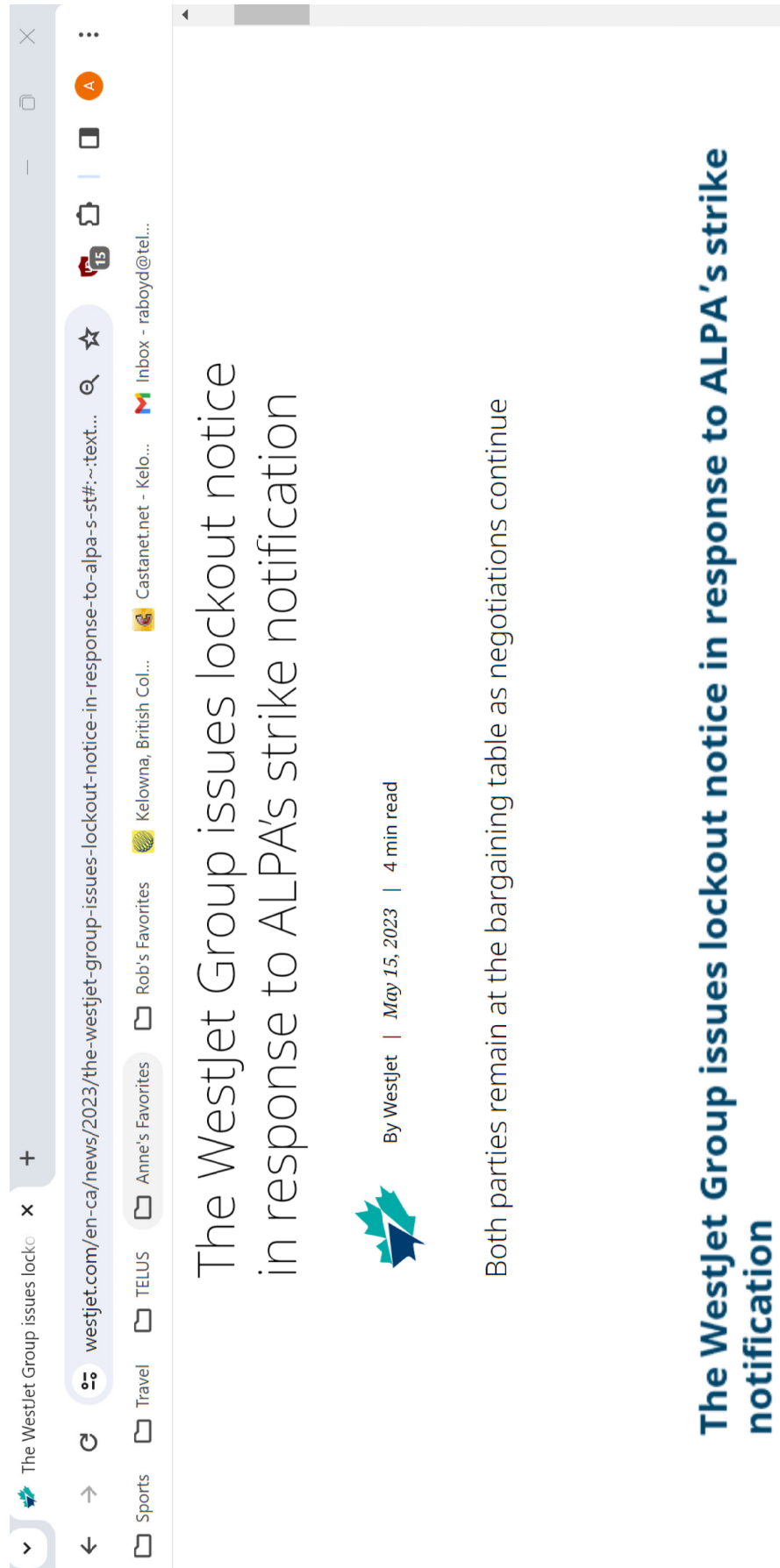
Zara Rahman

A Commissioner for taking Affidavits within British Columbia

Evidence #3 (DOC-440107)

The screenshot shows a web browser displaying the ALPA (Air Line Pilots Association, International) website. The address bar shows the URL: [alpa.org/news-and-events/news-room/2023-05-15-westjet-pilots-file-strike-notice#:~:text=Calgary%2C%20A...](https://www.alpa.org/news-and-events/news-room/2023-05-15-westjet-pilots-file-strike-notice#:~:text=Calgary%2C%20A...). The website header includes the ALPA logo and the text "AIR LINE PILOTS ASSOCIATION, INT'L" and "ADVANCING AVIATION SAFETY AND SECURITY SINCE 1931". A navigation bar contains links for "About ALPA", "Advocacy", "News & Events", and "Pilot Resources". A "Log In" button is in the top right. A sidebar on the left lists "Sports", "Travel", "TELUS", "Anne's Favorites", "Rob's Favorites", "Kelowna, British Col...", "Castanet.net - Kelo...", and "Inbox - raboyd@tel...". The main content area features a headline: "WestJet Pilots File 72-Hour Strike Notice" dated "May 15, 2023". Below the headline is a sub-headline: "Company Refuses to Recognize Pilots' Needs". The article text begins with: "Calgary, AB—At 8:00 p.m., May 15, WestJet pilots, represented by the Air Line Pilots Association, Int'l (ALPA), issued a 72-hour strike notice to WestJet management and the government. This starts the clock on a 72-hour countdown to negotiate a fair and equitable contract, before the pilots can legally utilize all the options available to them under the Canada Labour Code." A "News Room" sidebar on the left lists "White Papers", "Speeches & Testimony", and "ALPA NTSB Submissions". A "Disaster Away from Home" banner on the right says "Needing Pilots for Pilots. Donate Today!" with an airplane icon. The URL <https://www.alpa.org> is visible in the bottom right corner.

Evidence #4 (DOC-440108)



The screenshot shows a web browser window with the address bar displaying the URL: westjet.com/en-ca/news/2023/the-westjet-group-issues-lockout-notice-in-response-to-alpa-s-strike#:~:text=.... The browser's address bar also shows the domain "westjet.com" and the page title "The WestJet Group issues lockout notice in response to ALPA's strike notification". The browser's address bar also shows the domain "westjet.com" and the page title "The WestJet Group issues lockout notice in response to ALPA's strike notification".

The WestJet Group issues lockout notice in response to ALPA's strike notification

By WestJet | May 15, 2023 | 4 min read

Both parties remain at the bargaining table as negotiations continue

The WestJet Group issues lockout notice in response to ALPA's strike notification

Evidence #5 (DOC-440109)

The WestJet Group issues locko x + westjet.com/en-ca/news/2023/the-westjet-group-issues-lockout-notice-in-response-to-alpa-s-st#:~:text=... Inbox - raboyd@tel...

Sports Travel TELUS Anne's Favorites Rob's Favorites Kelowna, British Col... Castanet.net - Kelo...

Both parties remain at the bargaining table as negotiations continue

The WestJet Group today has issued a lockout notice to the Air Line Pilots Association (ALPA), the union that represents Westjet and Swoop pilots, in response to their strike notification. A work stoppage could occur as early as Friday, May 19, 2023, at 3 a.m. MT.

"The decision to issue a lockout notice, in response to the actions taken by the union today, was not one that was made lightly, and we sincerely regret the inconvenience and uncertainty this continues to cause for our guests," said Alexis von Hoensbroech, Westjet Group, Chief Executive Officer. "It is our responsibility to ensure the safety and complete control of our network at all times, to minimize the risk of stranding our guests, our crews and our aircraft. Our commitment and priority remains at the bargaining table, where we will continue to work around the clock to come to a reasonable agreement as soon as possible, in an effort to prevent labour action."

Issuing notice does not mean a work stoppage will occur. However, in the coming days, the WestJet Group will take all necessary actions to manage the impacts as much as possible, including:

- Beginning preparations to operate a reduced schedule – unfortunately, this will be a significant reduction from Westjet and Swoop's current networks.
- Proactively managing changes and cancellations, to ensure the ability to communicate with guests in advance of changes.
- Providing flexible change and cancel options for those who wish to make alternate arrangements.

Evidence #6 (DOC-440110)

← → ↻ vancouver.citynews.ca/2023/05/18/westjet-pilots-agreement-strike/

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About

Posted May 18, 2023 10:37 pm. Last Updated May 18, 2023 11:21 pm.

The union representing WestJet pilots says it has reached an agreement “in principle” with the company on a new contract.

The Air Line Pilots Association (ALPA) represents around 1,800 members, including some working for WestJet’s subsidiary airline, Swoop.

The agreement comes at the 11th hour, as members of the ALPA were set to be in a position to begin strike action as of 3 a.m. MT Friday.

→   skiesmag.com/news/westjet-group-pilots-reach-tentative-deal-avoiding-strike-action/

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WestJet Group and pilots reach tentative deal, avoiding strike action



BY SKIES MAGAZINE | MAY 19, 2023

Estimated reading time  4 minutes, 29 seconds.

At around 1 a.m. ET on May 19, the union representing WestJet and Swoop pilots — the Air Line Pilots Association, Int'l (ALPA) — shared an update on Facebook stating that its WestJet pilot leaders voted to approve a tentative agreement with the airline's management. The deal was reached just hours before WestJet pilots were set to begin strike action — which was to commence at 3 a.m. ET on May 19.

ALPA said a membership vote on the agreement will begin "in the coming days."

Evidence #8 (DOC-440112)

← → ↻ alpa.org/news-and-events/news-room/2023-05-19-westjet-agreement-in-principle

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 **AIR LINE PILOTS ASSOCIATION, INT'L** 🔍 Blog

ADVANCING AVIATION SAFETY AND SECURITY SINCE 1931 About ALPA Advocacy

May 19, 2023

WestJet Pilot Leaders Approve Agreement-In-Principle for Pilot Ratification Vote

CALGARY, AB—WestJet pilot leaders from the Air Line Pilots Association, Int'l (ALPA) today voted to approve an Agreement-In-Principle with WestJet management, following more than 9 months of negotiations on a new pilot contract. A membership vote on the agreement will begin in the coming days.

News Room

- ✈ White Papers
- ✈ Speeches & Testimony
- ✈ ALPA NTSB Submissions

Evidence #9 (DOC-440113)

← → ↺ westjet.com/en-ca/news/2023/the-westjet-group-and-alpa-reach-tentative-agreement-
 Sports Travel TELUS Anne's Favorites Rob's Favorites Kelowna, British Col... Castanet.net - Kelo... Inbox - raboyd@tel. 46

WESTJET

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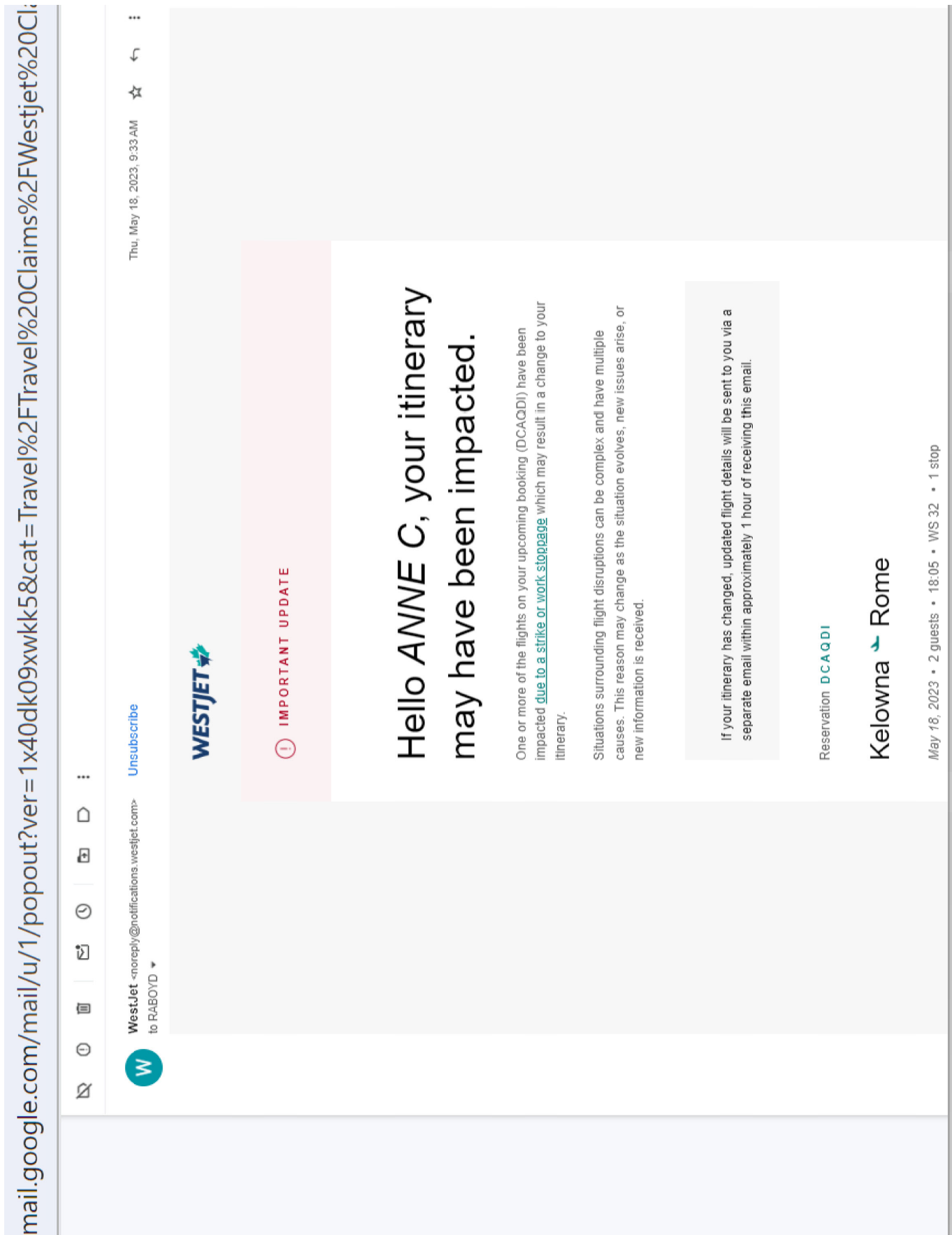
ARTICLE

The Westjet Group and ALPA reach tentative agreement

By Westjet | May 19, 2023 | 2 min read



Evidence #10 (DOC-440311)



Driver's nonlinear

Evidence #12 (DOC-440314)

3:22 PM Wed Feb 14

79%

**Appr Claim**

To: Anne Boyd >

2023-06-14

Re: APPR Claim

Thank you for contacting WestJet.
To ensure you receive emails from WestJet, please add us to your contacts.
Merci de contacter WestJet.
Afin de vous assurer de recevoir les courriels de WestJet, veuillez nous ajouter à vos contacts.



Hello Anne,

Reservation: DCAQDI
City Pairs: Kelowna, BC to Rome, Italy

Thank you for submitting a claim under the Air Passenger Protection Regulations (APPR).

We apologize for the interruption to your travel plans. It is never our intention to delay or cancel flights and we regret this was your experience. A review of your claim for compensation pursuant to the APPR has been completed taking the flight itinerary into consideration, which includes the original departure city to the final destination.

Upon review of your reservation, we are unable to approve your claim for compensation as the most significant factor for your flight interruption was due to a strike or work stoppage and outside of WestJet's control.

Under the Air Passenger Protection Regulations (APPR) a labour disruption within the carrier or within an essential service provider is considered outside of air carrier control. As a result, any disruption in travel plans due to work stoppage or strike are not eligible for compensation.

Situations surrounding flight disruptions can be complex and have multiple causes. This reason may change as the situation evolves, new issues arise, or new information is received.

For more information about your passenger rights, please visit www.westjet.com/guestrights, review the updated terms and conditions of carriage or read the full tariff. You can also visit the Canadian Transportation Agency website for additional information.

We appreciate your understanding and hope to welcome you on a future WestJet flight.

Regards,
Amna | On behalf of WestJet



48

Evidence #13 (DOC-440315)

3:21 PM Wed Feb 14

80%

**Appr Claim**

To: Anne Boyd >

2023-06-14

Re: APPR Claim

Thank you for contacting WestJet.

To ensure you receive emails from WestJet, please add us to your contacts.

Merci de contacter WestJet.

Afin de vous assurer de recevoir les courriels de WestJet, veuillez nous ajouter à vos contacts.



Hello Robert,

Reservation: DCAQDI

City Pairs: Kelowna, BC to Rome, Italy

Thank you for submitting a claim under the Air Passenger Protection Regulations (APPR).

We apologize for the interruption to your travel plans. It is never our intention to delay or cancel flights and we regret this was your experience. A review of your claim for compensation pursuant to the APPR has been completed taking the flight itinerary into consideration, which includes the original departure city to the final destination.

Upon review of your reservation, we are unable to approve your claim for compensation as the most significant factor for your flight interruption was due to a strike or work stoppage and outside of WestJet's control.

Under the Air Passenger Protection Regulations (APPR) a labour disruption within the carrier or within an essential service provider is considered outside of air carrier control. As a result, any disruption in travel plans due to work stoppage or strike are not eligible for compensation.

Situations surrounding flight disruptions can be complex and have multiple causes. This reason may change as the situation evolves, new issues arise, or new information is received.

For more information about your passenger rights, please visit www.westjet.com/guestrights, review the updated terms and conditions of carriage or read the full tariff. You can also visit the Canadian Transportation Agency website for additional information.

We appreciate your understanding and hope to welcome you on a future WestJet flight.

Regards,

Amna | On behalf of WestJet



Privacy policy / Politique de confidentialité



Evidence #14 (DOC-440317)

**Expense Delays**

To: Anne Boyd >

2023-06-30

Form submission for Submit Expenses

Thank you for contacting WestJet.
To ensure you receive emails from WestJet, please add us to your contacts.
Merci de contacter WestJet.
Afin de vous assurer de recevoir les courriels de WestJet, veuillez nous ajouter à vos contacts.



Hello Anne,

RE: DCAQDI

Thank you for contacting WestJet regarding your out-of-pocket expense(s).

Upon review of your reservation, we can confirm that [WS0032](#) with service from Calgary to Rome was canceled due to strike or work stoppage and is considered outside the airline's control. Essential out-of-pocket expenses are only considered by WestJet when a delay or cancellation is within the control of the airline.

We can suggest engaging your travel insurance or credit card provider for potential assistance with the expenses you incurred. If you require a letter from the airline to confirm the interruption, please visit the link below:

[INSURANCE LETTER REQUEST](#)

Thank you for your patience while we resolve your concerns.

Regards,

Arsalan | Guest Support

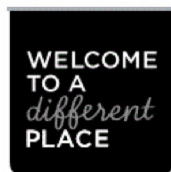


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50

Evidence #15 (DOC-440320)



Hyatt Place Calgary Airport
 10 Aero Crescent NE
 Calgary, AB T2E 7Y5
 Canada
 Tel: 587-747-1234

INFORMATION INVOICE

Robert Boyd
 1102 Cameron Ave
 Unit 116
 Kelowna BC V1Y 0B2
 Canada

Room No. 0431
 Arrival 05-18-23
 Departure 05-19-23
 Folio Window 1
 Folio No. 108100

Confirmation No. 537742401
 Group Name

Date	Description	Charges	Credits
05-18-23	Accommodation	165.00	
05-18-23	Destination Marketing Tax 3%	4.95	
05-18-23	Tourism Levy Tax 4%	6.80	
05-18-23	GST Tax 5%	8.50	
05-19-23	Master Card XXXXXXXXXXXXX7469 XX/XX		185.25
Total		185.25	185.25
Guest Signature		Balance	0.00

I agree that my liability for this bill is not waived and I agree to be held personally liable in the event that the indicated person, company or association fails to pay for any part or the full amount of these charges.

World of Hyatt Summary

No Membership to be credited

Join World of Hyatt today and start earning points for stays, dining and more.
 Visit www.worldofhyatt.com

WE HOPE YOU ENJOYED YOUR STAY WITH US!



Evidence #16 (DOC-440321)





eTicket Receipt

Prepared For
BOYD/ANNE C MRS [F]

[TICKET EXCHANGED]

RESERVATION CODE	DCAQDI
ISSUE DATE	15 May 23
TICKET NUMBER	8382176633092
ISSUING AIRLINE	WESTJET
ISSUING AGENT	WestJet/GVE
TOUR CODE	ITWBS10955883
FREQUENT FLYER NUMBER	WS547987495

Itinerary Details

TRAVEL DATE	AIRLINE	DEPARTURE	ARRIVAL	OTHER NOTES
18 May 23	WESTJET WS 3162	KELOWNA BC, CANADA	CALGARY INTL AB, CANADA	Cabin ECONOMY Seat Number 15C Baggage Allowance 0 PIECES Booking Status USED TO FLY Fare Basis KP7J2OES/CWE Not Valid Before 18 MAY 23 Not Valid After 18 MAY 23
	Operated by: WESTJET ENCORE	Time 14:00	Time 16:09	
18 May 23 - 19 May 23	WESTJET WS 32	CALGARY INTL AB, CANADA	ROME FIUMICINO, ITALY	Seat Number CHECK-IN REQUIRED Baggage Allowance 0 PIECES Booking Status EXCHANGED Fare Basis KP7J2OES/CWE Not Valid Before 18 MAY 23 Not Valid After 18 MAY 23
		Time 18:05	Time 11:55	

Payment/Fare Details

Fare Calculation Line	I-YLW WS X/YYC WS ROM372.57WS X/YYC WS YLW372.57NUC745.14END ROE1.3682
Exchanged Ticket	8382175074409
Fare	CAD 1020.00
Change Fee	CAD 0.00
Tax on change fee	CAD 0
Taxes/Fees/Carrier-Imposed Charges	CAD 675.00 YQI (OTHER AIR TRANSPORTATION CHARGES)
	CAD 1.25 XG9 (GOODS AND SERVICES TAX (GST))
	CAD 25.91 CA4 (AIR TRAVELLERS SECURITY CHARGE)
	CAD 25.00 SQ (AIRPORT IMPROVEMENT FEE (AIF))

Evidence #18 (DOC-440323)



eTicket Receipt

Prepared For
BOYD/ROBERT A MR [M]

[TICKET EXCHANGED]

RESERVATION CODE	DCAQDI
ISSUE DATE	15 May 23
TICKET NUMBER	8382176633611
ISSUING AIRLINE	WESTJET
ISSUING AGENT	WestJet/GVE
TOUR CODE	ITWBS10955883
FREQUENT FLYER NUMBER	WS537912196

Itinerary Details

TRAVEL DATE	AIRLINE	DEPARTURE	ARRIVAL	OTHER NOTES
18 May 23	WESTJET WS 3162	KELOWNA BC, CANADA	CALGARY INTL AB, CANADA	Cabin ECONOMY Seat Number 15D Baggage Allowance 0 PIECES Booking Status USED TO FLY Fare Basis KP7J2OES/CWE Not Valid Before 18 MAY 23 Not Valid After 18 MAY 23
	Operated by: WESTJET ENCORE	Time 14:00	Time 16:09	
18 May 23 - 19 May 23	WESTJET WS 32	CALGARY INTL AB, CANADA	ROME FIUMICINO, ITALY	Seat Number CHECK-IN REQUIRED Baggage Allowance 0 PIECES Booking Status EXCHANGED Fare Basis KP7J2OES/CWE Not Valid Before 18 MAY 23 Not Valid After 18 MAY 23
		Time 18:05	Time 11:55	

Payment/Fare Details

Fare Calculation Line	I-YLW WS X/YYC WS ROM148.65WS X/YYC WS YLW148.65NUC297.30END ROE1.3682
Exchanged Ticket	8382175074411
Fare	CAD 407.00
Change Fee	CAD 0.00
Tax on change fee	CAD 0
Taxes/Fees/Carrier-Imposed Charges	CAD 50.00 YQF (OTHER AIR TRANSPORTATION CHARGES)
	CAD 1.25 XG9 (GOODS AND SERVICES TAX (GST))
	CAD 337.50 YQI (OTHER AIR TRANSPORTATION CHARGES)
	CAD 25.91 CA4 (AIR TRAVELLERS SECURITY CHARGE)

54

Evidence #19 (DOC-440324)



eTicket Receipt

Prepared For
BOYD/ANNE C MRS [F]

RESERVATION CODE	DCAQDI
ISSUE DATE	18 May 23
TICKET NUMBER	8382176693004
ISSUING AIRLINE	WESTJET
ISSUING AGENT	WestJet/GVM
TOUR CODE	ITWBS10955883
FREQUENT FLYER NUMBER	WS547987495

Itinerary Details

TRAVEL DATE	AIRLINE	DEPARTURE	ARRIVAL	OTHER NOTES
19 May 23	WESTJET WS 3628	CALGARY INTL AB, CANADA	PORTLAND OR, OR	Cabin ECONOMY Seat Number 11A Baggage Allowance 0 PIECES Booking Status OK TO FLY Fare Basis KP7J2OES/CWE Not Valid Before 19 MAY 23 Not Valid After 19 MAY 23
	Operated by: WESTJET ENCORE	Time 11:25	Time 12:32	
19 May 23 - 20 May 23	DELTA AIR LINES INC. DL 178	PORTLAND OR, OR	AMSTERDAM, NETHERLANDS	Airline Reservation Code GY6L8E Cabin ECONOMY Seat Number 55C Baggage Allowance 0 PIECES Booking Status OK TO FLY Fare Basis KP7J2OES/CWE Not Valid Before 19 MAY 23 Not Valid After 19 MAY 23
		Time 14:10	Time 09:15	
20 May 23	ITALIA TRASPORTO AEREO S AZ 107	AMSTERDAM, NETHERLANDS	ROME FIUMICINO, ITALY	Cabin ECONOMY Seat Number CHECK-IN REQUIRED Baggage Allowance 0 PIECES Booking Status OK TO FLY Fare Basis KP7J2OES/CWE Not Valid Before 20 MAY 23 Not Valid After 20 MAY 23
		Time 11:55	Time 14:10 Terminal TERMINAL 1	

Payment/Fare Details

Fare Calculation Line	I-YLW WS X/YYC WS ROM372.57WS X/YYC WS YLW372.57NUC745.14END ROE1.36
Exchanged Ticket	8382176633092
Fare	CAD 1020.00
Change Fee	CAD 0.00
Tax on change fee	CAD 0

Evidence #20 (DOC-440325)



eTicket Receipt

Prepared For

BOYD/ROBERT A MR [M]

RESERVATION CODE	DCAQDI
ISSUE DATE	18 May 23
TICKET NUMBER	8382176693007
ISSUING AIRLINE	WESTJET
ISSUING AGENT	WestJet/GVM
TOUR CODE	ITWBS10955883
FREQUENT FLYER NUMBER	WS537912196

Itinerary Details

TRAVEL DATE	AIRLINE	DEPARTURE	ARRIVAL	OTHER NOTES
19 May 23	WESTJET WS 3628 Operated by: WESTJET ENCORE	CALGARY INTL AB, CANADA Time 11:25	PORTLAND OR, OR Time 12:32	Cabin ECONOMY Seat Number 11B Baggage Allowance 0 PIECES Booking Status OK TO FLY Fare Basis KP7J2OES/CWE Not Valid Before 19 MAY 23 Not Valid After 19 MAY 23
19 May 23 - 20 May 23	DELTA AIR LINES INC. DL 178	PORTLAND OR, OR Time 14:10	AMSTERDAM, NETHERLANDS Time 09:15	Airline Reservation Code GY6L8E Cabin ECONOMY Seat Number 55D Baggage Allowance 0 PIECES Booking Status OK TO FLY Fare Basis KP7J2OES/CWE Not Valid Before 19 MAY 23 Not Valid After 19 MAY 23
20 May 23	ITALIA TRASPORTO AEREO S AZ 107	AMSTERDAM, NETHERLANDS Time 11:55	ROME FIUMICINO, ITALY Time 14:10 Terminal TERMINAL 1	Cabin ECONOMY Seat Number CHECK-IN REQUIRED Baggage Allowance 0 PIECES Booking Status OK TO FLY Fare Basis KP7J2OES/CWE Not Valid Before 20 MAY 23 Not Valid After 20 MAY 23

Payment/Fare Details

Fare Calculation Line	I-YLW WS X/YYC WS ROM148.65WS X/YYC WS YLW148.65NUC297.30END ROE1.36
Exchanged Ticket	8382176633611
Fare	CAD 407.00
Change Fee	CAD 0.00
Tax on change fee	CAD 0

This is Exhibit F referred to in
the Affidavit of Samantha Lawrence
affirmed before me at Victoria,
British Columbia, this 12th day
of September 2024
Zahman

Zara Rahman

A Commissioner for taking Affidavits within British Columbia

Evidence #21 (DOC-447404)

<html>Remarks

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- 45. H-GUEST 1.1 TIMATIC REQUIREMENTS FOR FCO
- 46. H-/PASSPORT REQUIRED.
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- 58. H-/PASSPORT REQUIRED.

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72. H-SSDW/20230518 0014 CHECKIN COMPLETE
73. H-IROP REACCOM EMAIL NOTIFICATION ATTEMPTED
74. H-IROP REACCOM EMAIL NOTIFICATION ATTEMPTED
75. ¥YOUR REFUND HAS BEEN PROCESSED
76. ¥YOUR REFUND HAS BEEN PROCESSED
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113. H-SSDW/20230518 2201 CHECKIN COMPLETE
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ERINE

<html>2. WS SSR DOCS

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DREW JAMES

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(2.1-BOYD/ROBERT A MR)

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(2.1-BOYD/ROBERT A MR)

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-CONSENT FOR AZ

<html>32. WS SSR ADTK WS TO AZ BY 19MAY 0436 ZZZ TIME ZONE OTHERWISE WILL BE XLD

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Evidence #22 (DOC-447406)



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Release #: WJA 23.03

May 15, 2023

WestJet Pilots File 72-Hour Strike Notice

Company Refuses to Recognize Pilots' Needs

Calgary, AB—At 8:00 p.m., May 15, WestJet pilots, represented by the Air Line Pilots Association, Int'l (ALPA), issued a 72-hour strike notice to WestJet management and the government. This starts the clock on a 72-hour countdown to negotiate a fair and equitable contract, before the pilots can legally utilize all the options available to them under the Canada Labour Code.

The union could have filed the notice over the weekend, but in a bid to keep the airline operating, agreed to extend negotiations. This sign of good faith was to allow enough time to review additional proposals put forth by both parties. While progress was made on most non-cost items, both sides have been unable to reach an agreement that will serve the best interests of all parties involved.

"After nine months of negotiating, management still fails to understand today's labour market



Log In

more will follow if this agreement does not meet our pilots' needs," said Capt. Bernard Lewall, chair of the WestJet ALPA Master Executive Council (MEC). "Without the economic and job security improvements our pilots require, WestJet will be parking planes, as they will not have enough pilots to operate them or accomplish its own growth strategy."

As of 3:00 a.m. MT on May 19, the WestJet pilots plan to begin lawful job action, which could include grounding all aircraft and effectively shutting down operations.

"Flight disruptions are never an ideal outcome, especially given the tremendous support our guests have shown us, and we want to continue being a major contributor to our company's success by helping WestJet realize its growth strategy," noted Lewall. "However, WestJet pilots will withdraw our services to secure a contract that will fix many of the airline's labour problems and make it a career destination for pilots once again."

On average, a WestJet Group of Companies pilot leaves every 18 hours—mostly to fly for WestJet's competitors. Negotiators continue to make proposals that will go a long way to rectifying WestJet's pilot attraction and retention crisis by seeking better job security, industry-standard pay, and more flexible schedules to allow for a better work life balance—consistent with collective agreements that other ALPA-represented pilot groups are signing with their employers. ALPA's more than 69,000 pilots stand behind the WestJet pilots as they ready themselves for possible legal job action.

"We are hopeful today's strike notice filing will provide management with the incentive to recognize just how dire the situation is and reach an agreement with us," continued Lewall. "That's why we will continue to make our negotiators available 24/7 during the remainder of the 72-hour strike notice period."

Founded in 1931, ALPA is the largest airline pilot union in the world and represents more than 69,000 pilots at 39 U.S. and Canadian airlines. Visit ALPA.org or follow us on Twitter [@ALPAPilots](https://twitter.com/ALPAPilots).

-###-

CONTACT: ALPA Media, 703-481-4440 or Media@alpa.org

We're All Just a Disaster Away from Needing Pilots for Pilots.

Donate Today!



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Evidence #23 (DOC-447403)

Tariff: WS1 - CTA No. 518 DOT No. 874
Carrier: WestJet - WS

Document Version No. 32

Issue Date: December 05, 2022

Effective Date: December 06, 2022

Issue and Effective Dates noted are applicable to the entirety of the tariff except as noted within specific Rule(s). Rule(s) applicable exclusively within the USA or points between the USA and Area 1/2/3 are effective immediately.

Title Page

Airline Tariff Publishing Company, Agent
International Passenger Rules and Fares

Tariff No. WS1

containing
Local Rules, Fares & Charges
on behalf of

WestJet

Applicable to the
Transportation of Passengers and Baggage
between points in

United States/Canada
And points in
Area 1/2/3
and
between the US
and points in Canada

For list of participating carriers, see IPGT-1, DOT:581, CTA:373

This tariff is governed, except as otherwise provided herein, by Maximum Permitted Mileage Tariff No. MPM-1, DOT:424, CTA:239; Aircraft Type Seating Configuration Tariff No. TS-2, DOT:220, CTA:111; and International Passenger Governing Tariff No. IPGT-1, DOT:581, CTA:373 issued by Airline Tariff Publishing Company, Agent, supplements thereto and reissues thereof.

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Issued by:
 Alex Zoghlin, President
 Airline Tariff Publishing Company, Agent

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Rule 1 Definitions

In this tariff, the following words shall have meanings set out below:

Adjacent seating means seats that are immediately beside one another;

Air crew means the flight crew and one (1) or more persons who, under the authority of the Carrier, perform in-flight duties in the Passenger cabin of and aircraft of the Carrier;

Air service includes a live flight and a ferry flight;

Air transportation contract means with respect to international service, a contract entered into between the Passenger and the Carrier for the provision of air service to the Passenger and its goods in the form of a reservation and confirming itinerary issued by the Carrier or an agent of the Carrier authorized for that purpose.

Air transportation regulations (ATR) means the regulations respecting air transportation, SOR/88-58 as amended from time to time, and any substitute regulations prescribed in relation to the subject-matter therein;

All-in pricing means displays of flight prices inclusive of all applicable taxes, fees, and charges.

Ambulatory means a person who is able to move about within an aircraft unassisted;

Applicable adult fare means the fare which would be applicable to an adult for the transportation to be used except those special fares which would be applicable due to adult's status (such as senior citizens fare, etc.);

Applicable full fare means the full adult fare for the class of service designated in the Carrier's official general schedule for the aircraft, or compartment of the aircraft used by the Passenger;

APPR means the Canadian Air Passenger Protection Regulations, SOR/2019-150 and SOR/2022-134;

Attendant means a support person who is 18 years of age or older who is capable of and needed to provide assistance to a person with a disability, who because of the nature of their disability requires assistance (after departure and before arrival) with eating meals, taking medication, using the toilet, transferring to and from a passenger seat, orientation, or communication, or physical

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assistance in the event of an emergency, including in the event of an evacuation or decompression;

Assistive device means any medical device, mobility aid, communication aid or other aid that is specially designed to assist a person with a disability with a need related to their disability;

ATPDR means the Accessible Transportation for Persons with Disabilities Regulations;

Baggage means luggage or such articles, effects and other personal property of the Passenger as are necessary or appropriate for wear, use, comfort, or convenience in connection with the Passenger's trip;

Baggage check means those portions of the ticket which provide for the carriage of Passenger(s) checked baggage and which are issued by the Carrier as a receipt for the Passenger(s) checked baggage;

Baggage tag means a document issued by the Carrier solely for identification of checked baggage, one (1) portion of which is attached by the Carrier to a particular article of checked baggage and the other portion of which is given to the Passenger;

Bank of seats means passenger seats that are immediately adjacent to each other and does not include passenger seats that are across the aisle;

Barrier means anything, including anything physical, architectural, technological or attitudinal, anything that is based on information or communications or anything that is the result of a policy or a practice - that hinders the full and equal participation in society of persons with disabilities, including a physical, mental, intellectual, cognitive, learning, communication or sensory disability or a functional limitation;

Cabin means the following: compartment of the aircraft in which the Passenger is entitled to be transported pursuant to the general schedule of the carrier.

- (i) Economy: For Passengers who purchase a Basic, Econo or Econoflex fare. Economy seats have food and beverage options for purchase.
- (ii) Premium: For Passengers who purchase a Premium or Premiumflex fare or an upgrade (or complimentary upgrade). Premium seats include food and beverage options.
- (iii) Business: For Passengers who purchase a Business or Businessflex fare or an upgrade (or complimentary upgrade). Business seats are lie-flat and include meal services and beverages.

Canada means the ten provinces of Canada, the Yukon territory, the districts, and islands comprising the Northwest Territories of Canada and Nunavut;

Canada Transportation Act or CTA means the Canada

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Transportation Act, 1996 as amended from time to time;

Carrier means WestJet, a body corporate licensed to provide domestic air services, international air services and non-scheduled international air services under the CTA, and having its head office at 22 Aerial Place NE, Calgary, Alberta, Canada. T2E 3J1;

Circle trip means any trip, the ultimate destination of which is the point of origin, but which includes, at least, a stop at one other point, and which is not made via the same routing in both directions;

Class of service means the compartment of the aircraft in which the Passenger is entitled to be transported pursuant to the general schedule of the Carrier;

Code-share means a marketing arrangement in which two or more airlines i.e. marketing carrier(s) or contracting carriers(s) sell seats using their own airline code on a flight that one of them operates (i.e. the operating or actual carrier);

Connection means a stop at an intermediate point on the route to be travelled where a change of planes is made by the Passenger, or additional Passengers enplane or deplane an aircraft, and which does not fall within the definition of a stopover;

Denial of boarding means when a carrier is unable to permit a Passenger to occupy a seat on board a flight because the number of seats that may be occupied on the flight is less than the number of Passengers who have checked in by the required time, hold a confirmed reservation and valid travel documentation and are present at the boarding gate at the required boarding time;

Department of transportation means U.S. Department of Transportation.

Destination means the point of which the Passenger(s) to be transported on a flight is bound, and including stopover destinations, but does not include a connection;

Disability means any impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment – or a functional limitation – whether permanent, temporary or episodic in nature, or evident or not, that, in interaction with a barrier, hinders a person's full and equal participation in society;

Emotional support dog is a dog which is used to provide support or comfort.

Event of force majeure means situations outside the Carrier's control, including but not limited to any unforeseeable circumstances beyond the Carrier's control, the consequences of which could not have been avoided even if all due care had been exercised including, but without limitation, meteorological

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and geological conditions, natural disasters, acts of god, pandemics, epidemics, strikes, riots, civil commotions, embargoes, war or political instability, illegal acts or sabotage, instructions from air traffic control, a notam, a security threat, airport operation issues, a medical emergency, a collision with wildlife, a labor disruption within the Carrier or within an essential service provider such as airport or an air navigation service provider, a manufacturing defect in an aircraft that reduces the safety of Passengers and that was identified by the manufacturer of the aircraft concerned, or by a competent authority, an order or instruction from an official of a state or a law enforcement agency or from a person responsible for airport security, laws/rules/proclamations/regulations/orders/declarations/interruptions or requirements of or interference by any government or governmental agency or official thereof, actions of third parties such as acts of government or air traffic control, airport authorities, security agencies, law enforcement or customs and immigration officials, national emergency, invasion, insurrection, riots, strikes, picketing, boycott, lockouts or other civil disturbances, interruption of flying facilities/navigational aids or other services, damage/destruction or loss of use of an aircraft, confiscation, nationalization, seizure, detention, theft or hijacking of an aircraft, hostilities, disturbances, unsettled international conditions, and shortage of fuel or facilities.

Fare means the rate charged to a Passenger in respect of a particular class of domestic/international & transborder service offered by the Carrier, from time to time;

Fare class means the fare established for a specific class of service;

Fare type refers to one of the tiered packages that set forth the applicable options that the Passenger is entitled to and the associated fees, respectively.

Fee, charge, or surcharge means an amount of money collected by the Carrier from the Passenger, distinct from the fare, and either in respect of transportation services or services ancillary to transportation services. Fees and surcharges may be collected by the Carrier on its' own behalf or pursuant to an obligation imposed or authorization received from a thirdparty;

Fare component means a portion of an itinerary between two consecutive fare construction points - the point of origin and the point of destination of the journey are fare construction points;

Fare construction points means the terminal points of a fare component (also referred to as fare break points - the destination where a given fare begins or ends);

Ferry flight means the movement of an aircraft without Passengers or goods to position the aircraft to perform a flight or upon completion of a flight to position the aircraft to a point required by the Carrier;

Goods means anything that can be transported by air,

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including animals, other than in plane-load and baggage;

Group means 10 or more Passengers travelling together on the same flight from a common point of origin to a common destination;

Guardian means an adult over the age of 18 who is responsible for the care and safety of the child(ren) they are transporting;

Hidden city/point beyond ticketing means the purchase of a fare from a point before the Passenger's actual origin or to a point beyond the Passenger's actual destination;

Immediate family means aunt/uncle, child, executor, grandchild, grandparent, parent, sibling, niece/nephew, adopted child, great grandparent, great-grandchildren, brother/sister (incl. half brother/sister), parent (common law or in-law), spouse (common law/married/same-sex), brother/sister (common law or in-law) mother/father-in-law, legal guardian/spouse of legal guardian step-brother/sister/parent/child;

Infant means children under the age of two (2) years at the commencement of travel and carried free of charge by an adult over the age of 16 or their parent and sharing the same seat as the infant. Proof of age must be provided and is restricted to one infant per adult Passenger;

International service means scheduled or non-scheduled air services (excluding charters) for the transportation of Passengers and goods between, from and to points within Canada on the one hand and points outside of Canada on the other hand;

Interline related definitions can be found in Rule 115;

Itinerary means, a schedule setting forth the name of the relevant Passenger(s), the flight, flight number, class of flight, flight times, as well as the origin and destination of the flight issued to a Passenger on payment of the appropriate rates and charges in respect of that flight;

Large Carrier APPR means a carrier that has transported a worldwide total of two million Passengers or more during each of the two preceding calendar years;

Large Carrier ATPDR means a carrier that has transported a worldwide total of one million Passengers or more during each of the two preceding calendar years;

Live flight means the movement of an aircraft with Passengers or goods from the point of take-off at the origin to a point or points of landing thereafter, inclusive of the point of landing at the destination (immediate technical or fuel landings excepted);

Marketing carrier or contracting carrier means a carrier that sells seats using its own airline code for a flight that another carrier operates (the operating or actual carrier);

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Mobility aid means any manual or electric wheelchair, scooter, boarding chair, walker, cane, crutch, prosthesis or other aid that is specifically designed to assist a person with a disability with a need related to mobility;

Montreal convention means the convention for the unification of certain rules for international carriage by air, signed at Montreal, May 28, 1999;

A no show means a Passenger who:

- (a) fails to check-in for a flight before the check-in cut-off times;
- (b) fails to arrive at a departure gate before the boarding cut-off time; or
- (c) does not initiate, and is not approved for, a same-day change before the flight departure.

Operating carrier or actual carrier means the carrier that operates the actual flight;

Origin means the point from which a flight commences with the Passengers to be transported;

Participating carrier(s) include both the selecting carrier and the downline carriers who have been identified as providing interline transportation to the Passenger by virtue of the Passenger's ticket;

Passenger means any person, except members of the crew, carried or to be carried in an aircraft with the consent of the Carrier pursuant to an agreement (a valid contract of carriage);

Person means an individual, firm, corporation, association, partnership, or other legal entity, as the context requires or otherwise permits;

Person with a disability means a person with any impairment, including a physical, mental, intellectual, cognitive, learning, communication, or sensory impairment - or a functional limitation - whether permanent, temporary or episodic in nature, or evident or not, that, in interaction with a barrier, hinders a person's full and equal participation in society;

Prepaid ticket advice means the notification between offices of a Carrier or between Carriers that a person in one location has purchased and requested issuance of prepaid transportation as described in the authority to another person in another location;

Required for safety purposes means required by law in order to reduce risk to Passenger safety and includes required by safety decisions made within the authority of the pilot of the aircraft or any decision made in accordance with a safety management system as defined in subsection 101.01(1) of the Canadian Aviation Regulations but does not include scheduled maintenance in compliance with legal requirements;

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Reservation is a record, either in paper form or in electronic form, of the accommodation held by a Passenger on a given flight. The reservation would specify the date and times of travel, flight number and the class of service to be provided the Passenger;

Round trip means any trip, the ultimate destination of which is the point of origin, and which is made via the same routing in both directions;

Routing establishes the points via which travel may take place for a specific fare;

Same-day travel means flights booked within 24 hours of the scheduled time of departure;

A same-day change is a confirmed flight change requested between 24 hours before departure and departure, where the only change requested is a different departure time on the same calendar day.

SDR means special drawing rights as defined by the International Monetary Fund;

Selected carrier means the carrier whose baggage rules apply to the entire interline itinerary;

Selecting carrier means the carrier identified on the first flight segment of the Passenger's ticket at the beginning of an interline itinerary issued on a single ticket whose origin or ultimate destination is in Canada;

Self-reliant means that a person does not require services related to a disability beyond that normally provided by the Carrier, or beyond that which applicable rules or regulations require the Carrier to provide;

Service dog means a dog that has been trained to do work or perform tasks for the benefit of a qualified individual with a disability;

Severe allergy means an allergy to an allergen that may cause a person to experience significant physical distress if they are directly exposed to the allergen;

Single ticket means a document that permits travel from origin to destination. It may include interline/code-share segment. It may also include end-to-end combinations (i.e. stand-alone fares that can be bought separately but combined together to form one price);

Stopover means for the purposes of fare construction and establishing the applicable fare or fares which apply to a Passenger's itinerary, a deliberate break of a journey initiated by the Passenger and agreed to in advance by the Carrier at a point between the place of departure and the place of ultimate destination. The deliberate break in the journey:

- (i) must be for a purpose other than changing aircraft,
- (ii) must be for a period of time greater than 24 hours,
- (iii) will allow Passengers to retrieve checked baggage (if

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- applicable), and
 (iv) will be comprised of multiple fare construction points which may result in a calculation of additional charges as set out in the corresponding fare rules. A stopover does not constitute a connection;

Tariff means a tariff of terms and conditions of carriage applicable to the provision of international and ancillary services thereto;

Tax means an amount of money collected by the Carrier from the Passenger pursuant to an obligation imposed by governmental authority;

Ticket means the electronic confirmation generated by the Carrier's central reservations system, or confirmation number, baggage check and accompanying notices that incorporate this contract of carriage;

Traffic means any Passengers, goods or mail that are transported by air;

Travel Credit means credits provided by the Carrier to a Passenger resulting from non-refundable Ticket changes, cancellations, or for other service reasons. Travel Credits are non-refundable deposits.

Ultimate destination means the ultimate stopping place according to the tariff/contract of carriage as shown on the ticket/itinerary. In round trip itineraries, the ultimate destination and the origin are the same;

Warsaw convention means the convention for the unification of certain rules relating to international carriage by air, signed at Warsaw, November 12, 1929, as amended, but not including the Montreal convention as defined above;

Working dog means a dog that locates people or items (search, rescue, avalanche, or tracking dogs) performing specific tasks for the military or police (detection, scout, sentry) or other highly specialized skills.

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Rule 5 Currency†

All rates and charges published in this tariff are published in the lawful currency of Canada in Canada unless otherwise specified. Where payment is made in any currency other than Canadian dollars (CAD) or United States dollars (USD), such payment shall be the equivalent of the Canadian currency amounts on the basis of local banker's rates of exchange (For the purchase of such foreign currency), as calculated on the date of the transaction.

- (A) Currency for reservations or other payments
- (1) Fees are determined based on the point of sale for reservations made through the Carrier's reservation centre and travel agencies using an external reservation system (For example, Sabre or Apollo).
 - (2) Fees are determined based on the departure city of the first flight for reservations made through the Carrier's website.

For example, a reservation made for travel from Las Vegas to Calgary would be charged in CAD currency through the Carrier's reservation centre or a Canadian travel agent, however, if reserved through the Carrier's website by a travel agent or a Passenger, the fare would be charged in U.S. currency unless another currency is selected.

- (B) Currency for Baggage fees
- (1) Fees are charged in CAD or USD per direction, depending on the point of departure.
 - (2) Fees are based on the location of the fee payment, conversion to the local currency may occur. The currency conversion occurs on the particular day of the transaction. As such, the conversion rates can vary.

- (C) Currency for Change fees
- (1) The location that a change is made in (point of sale) dictates the currency that the fees are charged in. As a result, change fees may be charged in a different currency than the initial reservation. If no changes are made by the Passenger before travel, the Carrier guarantees that the fare paid at the time of booking shall be honoured

For example, for a reservation purchased in Canada for travel from Calgary to Las Vegas is charged in CAD. If a change is made in Las Vegas, for the return flight segment from Las Vegas to Calgary, the fee is charged in USD.

† Tracked changes applicable to/from Canada and annotated throughout the entirety of Rule 5 are effective December 6, 2022, pursuant to Order No. 2021-A-3 of the CTA.

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Rule 10 Mileage Determination

For the purposes of computing all rates and charges under the tariff, the mileage to be used, including both live flight and ferry flight mileage, will be the shortest Mileage covering the actual airport to airport great circle distance of the applicable flight, using the following sources in the order set out below or in combination:

- (A) Air distance manual published jointly by the International Air Transport Association and International Aeradio Limited
- (B) IATA mileage manual published by the International Air Transport Association;
- (C) and/or combination thereof of (A) and (B) above;
- (D) Sabre flight planning system

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Rule 12 Application of Tariff

(A) Application

This tariff shall apply to the traffic and transportation of Passengers and goods using aircraft operated by the Carrier in respect of:

- (1) An international and transborder service
- (2) This tariff contains the conditions of carriage and practices upon which the Carrier transports and agrees to transport and are expressly agreed to by the Passenger to the same extent as if such rules were included as conditions in the contract of carriage. Transportation is subject to the rules, fares, and charges in effect on the date on which such transportation commences at the point of origin designated on the tickets.
- (3) References to pages, rules, items, and notes are continuous and include revisions, supplements thereto and reissues thereof.
- (4) The Carrier will be responsible for the furnishing of transportation only over its own lines. When any carrier undertakes to issue a ticket, check baggage, or make any other arrangements for transportation over the lines of any other carrier (whether or not such transportation is part of a through service), such carrier will act only as agent for such other carrier and will assume no responsibility for the acts or omissions of such other carrier.
- (5) No agent, employee, or representative of the Carrier has authority to alter, modify or waive any provisions of the contract of carriage or of this tariff unless authorized in writing by an officer of the Carrier.
- (6) International fares and fare rules filed with ATPCO under tariff NTA(a) no. 518 and C.A.B. no. 874 are governed by this tariff.

(B) Air transportation contract requirement

No international service shall be furnished by the Carrier under the terms of this tariff unless an appropriate written air transportation contract, in the form prescribed by the Carrier, is executed by the Passenger and the Carrier in respect of an international service.

(C) Incorporation of tariff into air transportation Contract

The contents of this tariff shall form part of any air transportation contract between the Carrier and a Passenger (including with respect to the Passenger's goods), and if there is a conflict between this tariff and that contract, this tariff shall prevail.

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- (D) Conditions of application
 Unless otherwise specified herein, all international services provided by the Carrier under this tariff shall be subject to the rules, rates and charges published or referred to in this tariff in effect, from time to time, by virtue of the effective date on each page, on the date of signing of an air transportation contract.
- (E) Self-identification
 APPR – Air Passenger Protection Regulations
 For the purposes of establishing obligations toward Passengers under the APPR, the Carrier declares that it is a Large Carrier.
- ATPDR – Accessibility for Persons with Disabilities Regulations
 For the purposes of establishing obligations toward Passengers with disabilities under the ATPDR or otherwise, the Carrier declares that it is a Large Carrier pursuant to the ATPDR and that it has included a statement on its website indicating that it is subject to the ATPDR.
- (F) To the extent permitted by law, any dispute or matter arising from connected with or relating to this tariff, or any related matters, must be resolved before the Canadian courts sitting in the City of Calgary in the Province of Alberta and the parties and each of them hereby irrevocably submit and attorn to the original and exclusive jurisdiction of this court in respect of any dispute or matter related to this tariff.
- (G) Claims and Third-Party Representatives
- (1) A Passenger must submit claims directly to the Carrier and allow the Carrier 30 days or such time as prescribed by applicable law (whichever is the shorter time period) to respond directly to the Passenger before engaging third parties to claim on the Passenger's behalf.
 - (2) The Carrier will not consider or process claims submitted by a third party if the Passenger concerned has not submitted the claim directly to the Carrier and allowed the Carrier time to respond, in accordance with (1) above.
 - (3) If a Passenger does not have the capacity or the ability to submit a claim personally, the legal guardian or a representative of said Passenger may submit a claim to the Carrier on the Passenger's behalf. The Carrier may request evidence that the legal guardian or the representative has authority to submit a claim on the Passenger's behalf.
 - (4) A Passenger may submit a claim to the Carrier on behalf of other Passengers on the same booking. The Carrier may request evidence that the Passenger has the consent of other Passengers on the booking to submit a claim on their behalf.
 - (5) The Carrier will not consider or process claims submitted by a third party unless the claim is accompanied by appropriate documentation duly evidencing the authority of the third party to act on behalf of the Passenger.

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- (6) Passengers are not prohibited by this clause from consulting legal or other third-party advisers before submitting their claim directly to the Carrier.
- (7) Any payment or refund will be made by the method used for the original payment and to the person who purchased the ticket or additional service.

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Rule 15 Rates and Charges-International Service†

(A) Payment terms

- (1) Payment – outside of the Hold the Fare program
 Unless the fare is purchased under the “Hold the Fare” program, all fares are due and payable on or by twelve o'clock midnight (mountain time) on the date on which the reservation is made.
- (2) Payment – purchases made using the Hold the Fare program
 All fares under this program are due and payable on or within three days (72 hours) after the payment of the Hold the Fare fee.

Hold the Fare Purchase Terms

- (a) Available for online purchase only. Persons with disabilities may contact the Carrier by phone to use this service if they are unable to use the carrier's website.
- (b) Only flights operated by the Carrier departing more than 30 days in the future are available under the Hold the Fare Program.
- (c) A maximum of 10 seats on any HTF-eligible flight will be available to be “held” under this program.
- (d) Each Passenger is charged a \$10 .00 – 11.80 CAD/USD non-refundable fee to hold the fare price. Upon payment of the fee, confirmed space is held on the flight.
- (e) If full payment is not received before the end of the three-day (72 hour) period, the flight is not ticketed and the fare and space on the flight are cancelled.
- (f) Reservations under the Hold the Fare program cannot be changed until full payment has been received by the Carrier. Once ticketed, the flight is subject to the change and cancellation terms outlined in Rule 15.

Fees are charged per Passenger and per fare component per Passenger. For example, if the Passenger(s) were to cancel one leg of the itinerary and then cancel the remaining reservation at a different time, the fee would be charged in both instances.

- (B) When a ticket is cancelled within 24 hours of purchase, and the flight departure is greater than 24-hour from the time of purchase, a full refund to original form or purchase including refundable taxes, fees and charges, without penalty can be obtained. Outside of 24 hours, for a non-refundable ticket, the Carrier does not refund any payment, including fare, taxes, fees, charges, or surcharges collected unless required by law or where such taxes were collected in error.

(1) Cancellations

- (a) Cancellations – within 24 hours of booking

Applicable to all destinations but excluding flights

† Tracked changes applicable to/from Canada and annotated throughout the entirety of Rule 15 are effective December 5, 2022, pursuant to Order No. 2021-A-3 of the CTA.

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departing within 24 hours.

Basic	\$0
Econo	\$0
EconoFlex	\$0
Premium	\$0
PremiumFlex	\$0
Business	\$0
BusinessFlex	\$0

- (b) Applicable to tickets purchased on or before August 31, 2022:
 Cancellations - travel departing in more than 60 days

Basic Fares are non-refundable. No changes are permitted.
 Any unused Ticket amount is not available as a Travel Credit.

All flights except flights to or from Europe or the United Kingdom.

Econo	\$50
EconoFlex	\$25
Premium	\$50
PremiumFlex	\$0 for all flights
Business	\$100
BusinessFlex	\$0 for all flights

Flights to and from Europe or the United Kingdom

Econo	\$100 CAD or 68 Euro or 56 Pounds
EconoFlex	\$100 CAD or 68 Euro or 56 Pounds
Premium	\$100 CAD or 68 Euro or 56 Pounds
PremiumFlex	\$0 for all flights
Business	\$600 CAD or 396 Euro or 336 Pounds
BusinessFlex	\$0 for all flights

- (c) Applicable to tickets purchased on or before August 31, 2022:
 Cancellations - travel departing within 60 days and
 Flight departures within 24hrs of booking

Basic Fares are non-refundable. No changes are permitted.
 Any unused Ticket amount is not available as a Travel Credit.

All flights except flights to or from Europe or the United Kingdom.

Econo	\$100
EconoFlex	\$100
Premium	\$100
PremiumFlex	\$0 for all flights
Business	\$100
BusinessFlex	\$0 for all flights

Flights to and from Europe or the United Kingdom

Econo	\$250 CAD or 165 Euro or 138 Pounds
EconoFlex	\$250 CAD or 165 Euro or 138 Pounds
Premium	\$250 CAD or 165 Euro or 138 Pounds

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PremiumFlex \$0 for all flights
 Business \$600 CAD or 396 Euro or 336 Pounds
 BusinessFlex \$0 for all flights

- (d) Applicable to tickets purchased on or after September 1, 2022:
 Cancellations - up to 2 hours before flight departure and flight departures within 24hrs of booking

Basic Fares are non-refundable. No changes are permitted.
 Any unused Ticket amount is not available as a Travel Credit.

All flights except flights to or from Europe, the United Kingdom, or Asia.

Econo \$100
 EconoFlex \$0 for all flights
 Premium \$100
 PremiumFlex \$0 for all flights
 Business \$100
 BusinessFlex \$0 for all flights

Flights to and from Europe or the United Kingdom
 Econo \$150 CAD/USD or 99 Euro or 83 Pounds
 EconoFlex \$0 for all flights
 Premium \$300 CAD/USD or 228 Euro or 192 Pounds
 PremiumFlex \$0 for all flights
 Business \$600 CAD/USD or 396 Euro or 336 Pounds
 BusinessFlex \$0 for all flights

Flights to and from Asia
 Econo \$150 CAD/USD or 15,794 JPY
 EconoFlex \$0 for all flights
 Premium \$300 CAD/USD or 31,587 JPY
 PremiumFlex \$0 for all flights
 Business \$600 CAD/USD or 63,174 JPY
 BusinessFlex \$0 for all flights

- (e) Cancellations - Balance to original form of payment

Basic Fares are non-refundable. No changes are permitted.
 Any unused Ticket amount is not available as a Travel Credit.

Econo / EconoFlex / Premium / Business
 Not available

PremiumFlex / BusinessFlex
 \$0

- (2) Changes

For all bookings made more than 24 hours before the beginning of a scheduled Itinerary, the booking(s) can be changed (name or travel changes) or cancelled within 24 hours of booking for no fee; however, any difference in fare will apply. For all bookings made within 24 hours before the beginning of a scheduled

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Itinerary, change fees and fare rules will apply. Fees for changes or cancellations made more than 24hrs from the time of booking are outlined in 2(b) below.

(a) Name changes

Basic fares are non-refundable. No changes are permitted. Any unused Ticket amount is not available as a Travel Credit.

All flights except flights to or from Europe, the United Kingdom or Asia

Econo	\$100
EconoFlex	\$100
Premium	\$100
PremiumFlex	\$0 for all flights
Business	\$100
BusinessFlex	\$0 for all flights

Flights to and from Europe or the United Kingdom

Econo	\$150 CAD or 99 Euro or 83 Pounds
EconoFlex	\$150 CAD or 99 Euro or 83 Pounds
Premium	\$150 CAD or 99 Euro or 83 Pounds
PremiumFlex	\$0 for all flights
Business	\$ 150 CAD or 99 EURO or 83 Pounds
BusinessFlex	\$0 for all flights

Flights to and from Asia

Econo	\$150 CAD/USD or 15,794 JPY
EconoFlex	\$150 CAD/USD or 15,794 JPY
Premium	\$150 CAD/USD or 15,794 JPY
PremiumFlex	\$0 for all flights
Business	\$150 CAD/USD or 15,794 JPY
BusinessFlex	\$0 for all flights

(b) Changes to an Itinerary

with the exception of changes made within 24-hours of Booking (see above), passengers:

- (i) making changes to a higher fare product or flight shall, in addition to the change fee, pay the difference in fare and applicable taxes, fees, and charges;
- (ii) making changes to a lower fare product or flight, the applicable change fee will apply and any remaining difference will be refunded to a Travel Credit, except for Premiumflex and Businessflex, which are available to be refunded to original form of payment; or
- (iii) booked under a Basic fare are not permitted changes, and will forfeit all amounts paid.

(c) Changes to Itineraries made within 24 hours of booking with the exception of flights departing within 24 hours which are charged applicable fees as outlined in (e) below

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Basic	\$0
Econo	\$0
EconoFlex	\$0
Premium	\$0
Premium Flex	\$0
Business	\$0
Business Flex	\$0

- (d) Applicable to tickets purchased on or before August 31, 2022:
 Change to Itineraries departing in more than 60 days

Basic fares are non-refundable. No changes are permitted.
 Any unused Ticket amount is not available as a Travel Credit.

All flights except flights to or from Europe or the United Kingdom.

Econo	\$50
EconoFlex	\$25
Premium	\$50
PremiumFlex	\$0 for all flights
Business	\$100
BusinessFlex	\$0 for all flights

Flights to and from Europe or the United Kingdom

Econo	\$100 CAD or 68 Euro or 56 Pounds
EconoFlex	\$100 CAD or 68 Euro or 56 Pounds
Premium	\$100 CAD or 68 Euro or 56 Pounds
PremiumFlex	\$0 for all flights
Business	\$400 CAD or 264 Euro or 224 Pounds
BusinessFlex	\$0 for all flights

- (e) Applicable to tickets purchased on or before August 31, 2022:
 Change to Itineraries departing within 60 days and flight departures within 24hrs of booking

Basic fares are non-refundable. No changes are permitted.
 Any unused Ticket amount is not available as a Travel Credit.

All flights except flights to or from Europe or the United Kingdom.

Econo	\$100
EconoFlex	\$100
Premium	\$100
PremiumFlex	\$0 for all flights
Business	\$100
BusinessFlex	\$0 for all flights

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Flights to and from Europe or the United Kingdom

Econo	\$250 CAD or 165 Euro or 138 Pounds
EconoFlex	\$250 CAD or 165 Euro or 138 Pounds
Premium	\$250 CAD or 165 Euro or 138 Pounds
PremiumFlex	\$0
Business	\$400 CAD or 264 Euro or 224 Pounds
BusinessFlex	\$0 for all flights

- (f) Applicable to tickets purchased on or after September 1, 2022:
 Change to Itineraries up to 2 hours before flight departure and flight departures within 24hrs of booking

Basic fares are non-refundable. No changes are permitted. Any unused Ticket amount is not available as a Travel Credit.

All flights except flights to or from Europe, the United Kingdom or Asia

Econo	\$100
EconoFlex	\$0 for all flights
Premium	\$100
PremiumFlex	\$0 for all flights
Business	\$100
BusinessFlex	\$0 for all flights

Flights to and from Europe or the United Kingdom

Econo	\$150 CAD/USD or 99 Euro or 83 Pounds
EconoFlex	\$0 for all flights
Premium	\$300 CAD/USD or 228 Euro or 192 Pounds
PremiumFlex	\$0 for all flights
Business	\$500 CAD/USD or 381 Euro or 321 Pounds
BusinessFlex	\$0 for all flights

Flights to and from Asia

Econo	\$150 CAD/USD or 15,794 JPY
EconoFlex	\$0 for all flights
Premium	\$300 CAD/USD or 31,587 JPY
PremiumFlex	\$0 for all flights
Business	\$500 CAD/USD or 52,645 JPY
BusinessFlex	\$0 for all flights

- (C) In any case where, in accordance with this rule, a Passenger is entitled to a non-refundable Travel Credit that includes all amounts paid by the Passenger, in association with the fare, taxes, fees, charges or surcharges. The non-refundable Travel Credit shall be valid for one year from the date of the credit's creation and may be used towards the purchase of a future air-only booking with the carrier. Any unused ticket amount, including all taxes fees and charges, is not available for future Travel Credit.
- (D) Notwithstanding the above, the carrier reserves the right to waive, in whole or part, the payment by any Passenger of a change fee.

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(E) Same-Day changes

where a passenger has requested, and been approved for a Same-day change as outlined in Rule 105(B)(2)(d), the following fees shall apply:

Flights between Canada and all destinations except Europe, the United Kingdom, or Asia.

Econo	\$150-177 CAD/USD
EconoFlex	No fee
Premium	\$100-118 CAD/USD
PremiumFlex	No fee
Business	No fee
BusinessFlex	No fee

Flights to and from Europe or the United Kingdom

Econo	\$150-177 CAD/USD
EconoFlex	No fee
Premium	\$150-177 CAD/USD
PremiumFlex	No fee
Business	No fee
BusinessFlex	No fee

Flights to and from Asia

Econo	\$150-177 CAD/USD
EconoFlex	No fee
Premium	\$150-177 CAD/USD
PremiumFlex	No fee
Business	No fee
BusinessFlex	No fee

(F) Contact centre fee:

For basic economy bookings, a fee of \$15 per booking will apply. The fee will be waived for any Passenger who is not able to use an available self-serve options to make the booking. The fee is non-refundable.

(G) Group fares

- (1) To qualify for a group fare, 10 or more Passengers must travel together on a common flight destination.
- (2) The Carrier requires a \$100 CAD/USD deposit per person at the time of booking. The deposit is not applicable toward final payment and once final payment is received the deposit will be refunded to the original form of payment.
- (3) Payment in full is required for all group bookings 30 days before departure.
- (4) Name changes made within 24 hours before departure shall be assessed a change fee of \$100 CAD/USD per name changed.
- (5) A cancellation fee of \$100 CAD/USD will be charged for any cancellation made within 30 days of departure. Remaining funds will be placed in a non-refundable credit.
- (6) 20 percent of the group may be released (i.e.: cancel) without loss of deposit up to the final

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- payment due date.
- (7) Notwithstanding the above, the Carrier reserves the right to refund or provide a credit, in whole or part, for the deposit made by or for any Passenger.
- (H) GST and HST exemptions
 The GST/HST exemption rules for federal and provincial government departments have been agreed upon by the federal and provincial government bodies. The rules currently provide an exemption to the GST/HST for certain "listed entities" in the provinces of Quebec, Manitoba, Saskatchewan, Alberta, Northwest Territories, and the Yukon. Information on listed entities can be obtained by calling the Canada Revenue Agency at 1-800-959-8287. The exemption from GST/HST is only valid if the supply is sold to a listed entity for the official business of that entity and the purchase is paid for with "crown funds". Employees of listed entities purchasing travel for official business with their personal credit cards are not exempt. It is the Passenger's responsibility to ensure that tax exemptions provided adhere to the exemption rules specific to the tax being exempted at any particular time and to ensure they are aware of the applicable rules at the time of granting any exemption.
- (I) Hidden city/point beyond ticketing
- (1) The Carrier specifically prohibits the practices commonly known as hidden city/point beyond ticketing. Accordingly, a Passenger shall not purchase one or more tickets or fares in order to obtain a lower fare than could otherwise be applicable. A ticket is invalid if used for travel to a destination other than that specified on the ticket.
- (2) Where a ticket is not valid as the result of the Passenger's non-compliance with any term or condition of sale, with this rule or applicable fare rule, or where one or more tickets have been issued in furtherance of a prohibited practice, the Carrier has the right in its sole discretion to:
- (a) cancel any remaining portion of the Passenger's itinerary or ticket;
 - (b) refuse to board the Passenger or check-in the Passenger or the Passenger's baggage; or
 - (c) assess the Passenger for the reasonable remaining value of the ticket, which shall be no less than the difference between the fare actually paid and the lowest fare applicable to the Passenger's itinerary.

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Rule 25 Transportation of a Passenger with a Disability

(A) Application

- (1) This rule applies to the transportation of persons with disabilities by the carrier, which is a Large Carrier ATPDR, on its international transportation services.
- (2) Pursuant to Rule 12 (a)5, this rule applies to the transportation of all persons with disabilities on all flights operated by the carrier. In the case of flights operated by another carrier (i.e.: a code-share flight), Passengers are advised that the rules to their transportation are those of the carrier identified on the ticket and not of the carrier operating the flight.
- (3) The carrier will provide services identified in this rule at no additional fare except for the provision of additional adjacent seating, for which the carrier requires the purchase of an additional fare.

(B) Acceptance for carriage

- (1) The carrier will accept the determination made by or on behalf of a person with a disability as to their self-reliance, unless doing so would impose undue hardship on the carrier, for example, if it would jeopardize security, health or safety.
- (2) The carrier will not refuse to transport a person with a disability unless the transportation of the person would impose an undue hardship on the carrier, for example, if transportation of the person would jeopardize health or safety.
- (3) If the carrier refuses to transport a person with a disability for reasons related to their disability, it will, at the time of the refusal, inform the person of the reasons for the refusal. In addition within 10 days of the refusal, the carrier will provide the person with a written notice setting out the reasons for the refusal including:
 - (a) the evidence of undue hardship, such as a medical report, an expert opinion, or an engineering report that demonstrates that the risk is significant enough that it would be unreasonable to waive or modify a requirement;
 - (b) any relevant rule, policy, procedure or regulation; and,
 - (c) the duration of the refusal and the conditions, if any, under which the carrier would accept the person for transport.

Refer to: Rule 30, Refusal to transport.

(C) Reservations and online services

- (1) If a person with a disability identifies the nature of their disability when making a reservation directly through the carrier, the carrier will:

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- (a) discuss with the person their needs in relation to their disability and the services offered by the carrier in relation to those needs;
 - (b) inform the person of the seats that are available in the class of service that the person has requested and that have equipment and facilities that best meet the accessibility needs of that person, such as wheelchair-accessible washroom or a passenger seat that has additional legroom, a larger seat pitch or movable armrests; and,
 - (c) inform the person of any safety-related rules or regulations whereby a person with a disability may be restricted from occupying a specific seat, such as a seat in an emergency exit.
 - (d) in assigning a passenger seat to a person with a disability, take into account the persons opinion with respect to which seats would best meet the accessibility needs of that person.
- (2) The Carrier will advise the person if information and/or documents are required to assess their request, as per (F)(3) below. The Carrier will also advise the person that the information and or documents must be received a minimum of 48 hours before flight departure and that the assessment process may take up to two business days after the information and or documents are received. Should the information or documentation require validation, or consultation (in the case of a medical request), the Carrier will advise the Passenger of any delay and make every reasonable effort to accommodate.
- (3) As an alternative means to using the Carrier's website to make or modify a reservation, the Carrier will offer to a person with a disability, the following means of communication: TTY service by calling 1-877-952-0100.
- (D) Written confirmation of services
 - (1) The Carrier will, without delay, indicate in the record of a person's travel reservation the services that the Carrier will provide to the person.
 - (2) The Carrier will include a written confirmation of the reserved services in the itinerary issued to the person.
 - (3) If a service is confirmed only after the itinerary is issued, the Carrier will provide, without delay, confirmation in writing.
- (E) Services for which no advance notice is required
 - (1) The services identified in (3) below will be provided at no additional fare or charge.
 - (2) The Carrier will not require a person with a disability to file information and/or documents, including medical certificates, to support any request for services identified in (3) below.
 - (3) Regardless of when a person with a disability makes the request for the following services, the Carrier will:
 - (a) assist the person with checking in at the check-in counter;
 - (b) permit the person, if they are unable to use the automated self-service kiosk to advance to the front of the line at the check-in counter;

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- (c) if the person is in a wheelchair, a boarding chair or any other device in which they are not independently mobile while waiting at a terminal for departure after check in or in order to transfer to another segment of their trip, provide the person with a place to wait that is close to personnel who are available to provide assistance to the person and who will periodically inquire about the persons needs and attend to those needs;
- (d) assist the person in storing and retrieving their carry-on baggage or retrieving their checked baggage.
- (e) in the case of a person who is blind or has any other visual impairment,
 - (i) before departure, or as soon after departure as possible, describe the layout of the aircraft, including the location of washrooms, exits and the location and operation of any controls at the person's seat;
 - (ii) describe to the person, any food or beverage options offered onboard, all the food and beverages offered for consumption or providing a menu in large print or in Braille;
- (f) assist the person in accessing any entertainment content that is offered on-board;
- (g) before departure, provide the person with an individualized safety briefing and demonstration;
- (h) assist the person in moving between their passenger seat and a washroom, including by assisting them in transferring between their passenger seat and an on-board wheelchair;
- (i) provided it is safe to do so, permit a person to use the washroom that has the most amount of space regardless of where the washroom is located in any part of the aircraft, if the person needs an on-board wheelchair or the assistance of an Attendant person or Service dog to use a washroom;
- (j) if a meal is served on board to the person, assist the person with the meal by opening packages, identifying food items and their location, and cutting large food portions;
- (k) if a person is unable to use the call button to request assistance, periodically inquire about the person's needs; and
- (l) at participating airports, provide gate passes to allow a person assisting a person with a disability to accompany the person to the gate.

Note: For Carrier responsibilities related to disembarkation of persons with disabilities when a flight is delayed on the tarmac at an airport in Canada, see Rule 100.

(F) Services for which advance notice is required

- (1) The services identified in (3) below will be provided at no additional fare or charge, except for 3(b), the provision of an additional adjacent seat, for which the Carrier will require an additional fare to be purchased.

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Reasonable effort

- (2) In all instances, the Carrier will make every reasonable effort to provide a service requested by a person with a disability even if the person does not comply with any requirements in this section to provide advance notice or to provide information and/or documents to permit the Carrier to assess the request.

Services - 48 hours advance notice

- (3) Subject to the Carrier's requirement for a person with a disability to provide information and/or documents identified in (4) below, the Carrier will provide the following services if requested by a person with a disability at least 48 hours before the scheduled time of departure of the person's flight:
- (a) assigning a passenger seat to a person with a disability, taking into account the person's opinion with respect to which seats would best meet the accessibility needs of that person;
 - (b) provide additional adjacent seats, in the following three situations;
 - (i) when the person with a disability must travel with an Attendant for transport if, because of the nature of their disability, the person with a disability after departure and before arrival, needs:
 - (a) assistance with eating meals, taking medication, using the washroom;
 - (b) assistance with transferring to and from a passenger seat;
 - (c) assistance with orientation or communication; or
 - (d) physical assistance in the event of an emergency including the event of an evacuation or decompression;
 - (ii) when the size of a Service dog belonging to a person with a disability is such that the person's seat does not provide sufficient floor space for the dog to lie down at the person's feet in a manner that ensures the safety and well-being of the dog and the person; or
 - (iii) when a person with a disability needs more than one seat because of the nature of their disability, for example, if they are a person who has a fused limb or who is disabled by severe obesity.
 - (c) accept for transportation and mobility aid and/or other assistive device as per section (G) below;
 - (d) accept for transportation a Service dog, as per section (H) Acceptance of Service dogs;
 - (e) assist the person in proceeding to the boarding area after check-in;
 - (f) assist the person in proceeding through any security screening process at the terminal, including by
 - (i) providing personnel to assist the person through the process, or
 - (ii) collaborating with the relevant security authority to permit a person who is not traveling with a

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person with a disability to have access to the security screening checkpoint so that they may assist the person with a disability to proceed through the process per Rule 25 (E)(3)(1).

- (g) Before boarding, transfer the person between the person's own mobility aid and a mobility aid provided by the Carrier;
 - (h) Permit the person to board in advance of other Passengers if:
 - (i) the person requests assistance with boarding, locating their passenger seat or cabin, transferring between a mobility aid and their passenger seat or storing carry-on baggage;
 - (ii) in the case where the person is blind or has any other visual impairment, the person requests a description of the layout or of the aircraft or of the location and operation of the controls at their seat; or
 - (iii) in the case where the person is disabled due to a severe allergy, and the person requests to clean their seat to remove any potential allergens;
- Note: The Carrier requires Passengers to be present at the time of the pre-boarding call in order to use this service. In the case of requests (i) and (ii) the Carrier may require the Passenger to be boarded after other Passengers.
- (i) Assist the person in boarding and disembarking;
 - (j) Before departure and on arrival at the destination, transferred the person between a mobility aid and the person's passenger seat;
 - (k) Provide the person with an onboard wheelchair;
 - (l) Provide the person with assistance accessing the onboard entertainment system via their personal device
 - (m) Establish a buffer zone around the passenger seat of a person who has a disability due to a severe allergy, by providing the person with the passenger seat that is in a bank of seats other than the bank of seats in which the source of the allergen is located;
 - (n) when requested by a person with a disability, the Carrier will ensure that any public announcement made on board is made in an audio format or a visual format.
 - (o) Assist the person in proceeding through border clearance (immigration and Customs)
 - (p) Assist the person in retrieving their checked baggage;
 - (q) Assist the person after disembarkation, in proceeding to the general public area;
 - (r) Assist the person after disembarkation, in proceeding to a location where they may receive assistance from either:
 - (i) an member of the terminal operator's personnel, who may assist the person in proceeding to the curbside zone, or
 - (ii) an member of the receiving Carrier's personnel who may transfer the person to another segment of their trip within the same airport

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Services – information and/or documents requirements:

(4) Documentation required

- (a) A medical certificate is required and additional documentation may be required to support a request for:
 - (i) adjacent seating for an attendant per (F)(3)(b)(i); or
 - (ii) adjacent seating to a person who has a fused or immobile limb per section (F)(3)(b)(iii); or
 - (ii) a buffer zone required by a person with a severe disabling allergy per (F)(3)(m).
- (b) Detailed verbal information/credible assurance is required to support requests for
 - (i) a Service dog to travel with a person with a disability, including disclosure of the task or service provided to the person
 - (ii) adjacent seating for Service dog per section (F)(3)(b)(ii) to confirm the animal's weight and dimensions;
 - (iii) instruction on the disassembling and assembling of mobility aids per Rule 25 (G)(4)

(5) Notwithstanding (4) above, the Carrier retains the right to require information and/or documents to assess any other requests for services to be provided, and to substantiate the fitness to travel of persons with disabilities, with the exception of those services identified in (E)(3) above.

(6) Where the Carrier requires medical information, verbal information, or supporting documentation for a request for services identified in (4) above, the person must provide all requested documentation to the Carrier at least 48 hours, before the scheduled time of departure of the person's flight to ensure that the Carrier has sufficient time to assess the request and confirm as required.

(7) The Carrier may not provide the services identified in (3) and (4) above if the Carrier has required information and/or documents and:

- (a) any of the conditions referred to in (5) or (6) above are not met or the information and/or documents provided are not reasonably sufficient to permit the Carrier to assess the request;
- (b) the Carrier cannot confirm the information provided by another party completing the information, for example, a physician in the case of a medical certificate
- (b) the Carrier has made every reasonable effort to provide the service but cannot do so.

(8) If, on the request of the Carrier, a person with a disability provides the Carrier with documentation in relation to a request for service, the Carrier will offer to retain an electronic copy of the documentation for a period of at least three years to permit the Carrier to use the documentation for the provision of the same service.

(G) Acceptance of mobility aids and other assistive devices

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Mobility aids

- (1) The Carrier will, on request, carry, free of charge and as priority baggage, a person with a disability's mobility aid, and will permit the person to retain their mobility aid until it becomes necessary to store it for carriage.
- (2) The Carrier will make every reasonable effort to permit a person with a disability who uses a walker or manual wheelchair to store it on board the aircraft, provided that the device can be stowed in an approved location without exceeding the weight limit for the most appropriate area of the aircraft, and the device does not obstruct access to safety equipment, exits or the aisle.
- (3) Where the aircraft can transport the mobility aid, the Carrier will:
 - (a) disassemble and package, where necessary, the aid for transportation and unpackage and reassemble the aid upon arrival; and
 - (b) return the aid promptly upon arrival.
- (4) Where the mobility aid needs to be disassembled and reassembled in order for it to be transported with the person who needs it, the Carrier will require that the person:
 - (a) provide the Carrier with instructions for the disassembly and reassembly of the mobility aid; and
 - (b) provide any specialized tools needed for assembling or disassembling the mobility aid
 - (c) allow sufficient time to handle and prepare the mobility aid for transport. The Carrier recommends that the Passenger check in thirty minutes before the recommended check in time.
- (5) Notwithstanding (4) above, the Carrier will make every reasonable effort to transport the mobility aid even if instructions for disassembly and reassembly are not provided by the person with a disability or the aforementioned times are not met.
- (6) The Carrier will refuse to transport a mobility aid where:
 - (a) the weight or size of the mobility aid exceeds the capacity of lifts or ramps,
 - (b) the doors to baggage compartments are too small for the mobility aid, or
 - (c) transportation of the mobility aid would jeopardize aircraft airworthiness or violate safety regulations.
- (7) When the Carrier refuses to transport a mobility aid for any of the reasons above, it will:
 - (a) at the time of the refusal, tell the person with a disability why their mobility aid was not accepted and provide the reason in writing within 10 days; and
 - (b) inform the person with a disability of alternative trips operated by the Carrier to the same destination on which their mobility aid can be transported, and offer to book this for the person at the lesser of the fare for the original trip and the fare for the alternative trip.

Note: For provisions related to limitations of liability regarding loss of, damage to, or delay in delivering mobility aids, refer to Rule 60 (I).

Other assistive devices

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- (8) The Carrier will permit a person with a disability to bring on-board and to retain any small assistive device that the person needs during travel, including a cane, crutches, a communication device, an orthotic positioning device or a portable oxygen concentrator, except to the extent that the presence or use of such a device jeopardizes security, health or safety.

(H) Acceptance of service and emotional support dogs

The Carrier does not accept emotional support dogs for transport.

- (1) The Carrier will, on request, accept for transportation a Service dog, and will permit the Service dog to accompany the person on board subject to:
 - (a) any advance notice requirements contained in (F)(3) or,
 - (b) the time limits set out in (F)(6) and (7) where the Carrier requires the filing of additional information and/or documents and
 - (c) any requirements in (2) and (3) below.
 - (d) the provision of verbal credible assurance as required in (F)(4)(b)(i).
 - (e) the person must use appropriate control measures (defined as a harness or collar with a leash/tether) and the dog's control measure must have stitching or labelling that identifies the dog as a "Service Animal" or "Service dog".
 - (i) for all flights except flights to/from the U.S, the dog has been individually trained by an organization or individual specializing in Service dog training.
 - (ii) for flights to/from the U.S., the dog has been individually trained to do work or perform tasks for the benefit of a qualified individual with a disability.
- (2) Transport of a Service dog accompanying a person with a disability will be free of charge (including both fees and fares) except in the case of (F)(3)(b)(ii), where the provision of an additional adjacent seat requires an additional fare to be paid to accommodate the size of the the Service dog.
- (3) The Carrier will make every reasonable effort to accept a Service dog for carriage if requested by a person with a disability even if the person does not provide advance notice or any information.
- (4) When travel involves more than one carrier, it is the responsibility of the person to verify the policy of each carrier involved in the itinerary and ensure that the requirements of each carrier have been met and that each carrier is aware of and has agreed to carry the service dog on its own aircraft.
- (5) The person is responsible for complying with all laws, regulations, orders, demands, and travel requirements of countries to be flown from, into or through, in respect of the Service dog. In particular, the person is responsible for obtaining valid health and vaccination certificates, entry permits and other documents required by countries, states or territories for entry or transit of any service dog that is to accompany the person.

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- (6) The Carrier may refuse to transport a Service dog if the person with a disability fails to have in their possession documentation at the time of check-in which demonstrates that the dog has all the necessary valid health and vaccination certificates, entry permits and other documents required by each country, state or territory to be entered or transited.
- (7) The Carrier may refuse to transport a Service dog if the dog is not under the person's control, if it exhibits prohibited behaviours as outlined in Rule 30 (A)(9) or if the dog requires additional floor space and an additional fare was not paid for in advance. The Carrier will make every reasonable effort to accommodate the dog.
- (8) Except as may otherwise be provided for in this tariff, the Carrier will not be responsible in the event of injury, sickness and or death of a Service dog.
 Exception: Should an injury to or death of a Service dog result from the negligence of the Carrier's representatives, the Carrier's liability will be limited to expeditiously providing, at its own expense, for the medical care, and if necessary, replacement of the dog.

Note: For more information, see Rule 30, Refusal to Transport.

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Rule 30 Refusal to Transport

(A) Applicability

- (1) A refusal to transport a Passenger only occurs in situations when the Carrier operates a flight on which the Passenger had a confirmed reservation but that specific Passenger is not permitted to continue their journey on that flight due to any reasons specified in the sections below. Refusal to transport can occur at the start of any journey or while the Passenger is enroute to their destination.
- (2) Flight delay, flight cancellation and denial of boarding do not constitute a situation of refusal to transport.

(B) Refusal to transport – removal of Passenger

- (1) The Carrier will refuse to transport or will remove any Passenger at any point for any of the following reasons:
 - (a) whenever it is necessary or advisable to:
 - (i) comply with any government regulation;
 - (ii) comply with any governmental request for emergency transportation; or
 - (iii) address events of force majeure.
 - (b) Search of Passenger and property when the Passenger refuses to permit a search of their person or property for explosives or for concealed, prohibited, deadly or dangerous weapon(s) or article(s); or
 - (c) Proof of identity/age when the Passenger refuses a request to produce government-issued identification to demonstrate proof of identity.

Note: The Carrier is required to screen each Passenger by looking at the Passenger, and in particular the Passenger's entire face, to determine if they appear to be 18 years of age or older.

The Carrier is also required to screen each Passenger who appears to be 18 years of age or older by comparing the Passenger, and in particular the Passenger's entire face, against one piece of government-issued photo identification that shows the Passenger's name and date of birth.

- (d) Immigration or other similar considerations when the Passenger is to travel across any international boundary, if:
 - (i) The travel documents of the Passenger are damaged, torn, delaminated or otherwise not in order; or,
 - (ii) For any reason the Passenger's embarkation, transit through, or entry into any country from, through, or to which the Passenger desires transportation would be unlawful or would otherwise not be permitted.
- (2) The Carrier will refuse to transport any Passenger that fails or refuses to comply with

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rules and regulations of the Carrier as stated in this tariff.

(a) Check-in and Boarding Time Limits

The recommended and required times shown below are the number of minutes before the scheduled departure time of the flight.

(i) Recommended times

The Carrier recommends that all Passengers follow the times outlined below.

Airport arrival	150 minutes
Baggage drop-off	90 minutes
Boarding gate arrival time	40 minutes

(ii) Required (cut-off) times

Checked baggage	60 minutes
Check-in	
- Calgary, Edmonton	
- Toronto, Vancouver	75 minutes
- All other locations	60 minutes
Boarding	
- 787 Dreamliner	15 minutes
- All other aircraft types	10 minutes

Note 1: Baggage will be accepted up to three (3) hours before the scheduled time of flight departure at most locations. Checked Baggage is accepted until the Check-in Cut-Off Time.

Note 2: Passengers travelling with a pet in the cabin should allow an additional 30 minutes before check-in cut-off time.

Note 3: Passengers travelling with a pet in checked baggage must check-in 90* minutes before the scheduled departure time. * Some international airports will not check pets in more than 60 minutes before scheduled departure and U.S. airports will not check pets in more than 120 minutes before scheduled departure.

Note 4: Passengers travelling with oversized or overweight Baggage must check-in 30 minutes before the Check-in cut-off time.

Note 5: Passengers requiring the use of a wheelchair (their own or using a Carrier provided wheelchair) are recommended to check-in an additional 30 minutes before the check-in cut off times.

Note 6: Guests who no show will be refused transport.

(3) Passenger condition

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- (a) When the Passenger's actions or inactions prove to the Carrier that their mental, cognitive, or physical condition is such as to render them incapable of caring for themselves without assistance or medical treatment enroute unless:
 - (i) The Passenger is accompanied by an attendant who will be responsible for assisting with the Passenger's needs enroute such as assistance with eating, using the washroom facilities or administering medication, which are beyond the range of services that are normally offered by the Carrier; and
 - (ii) The Passenger complies with requirements of Rule 25, Transportation of a Passenger with a Disability.
 Exception: The Carrier will accept the determination made by or on behalf of a person with a disability as to self-reliance, except where accepting the person could jeopardize security, health or safety as per Rule 25(B), acceptance for carriage.
 Note if the Passenger is accompanied by an attendant and the Passenger is refused transport, then the attendant will also be refused transport and the two will be removed from the aircraft together.
 - (iii) When the Passenger has a contagious disease.
 - (iv) When the Passenger has an offensive odor.
 - (iv) When the Passenger presents a biohazard risk to Carrier employees and/or other Passengers due to emesis (vomit), urine, feces, or other bodily fluids.

(4) Medical clearance

When the Carrier determines, in good faith and using its reasonable discretion, that a Passenger's medical or physical condition involves an unusual hazard or risk to their self or other persons (including, in the case of expectant mothers, unborn children) or property. The Carrier can require the Passenger to provide a medical certificate that then may be assessed by the Carrier's own medical officer as a condition of the Passenger's acceptance for subsequent travel. The Carrier may refuse transportation to the person posing such hazard or risk. All fees or charges by third parties for the completion of medical forms or certificates will be the responsibility of the Passenger.

Note: Pregnant Passengers

- (i) An expectant mother with a complication-free pregnancy can travel on the Carrier's flights up to the 36th week of pregnancy or up to four weeks before the expected due date

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- without a medical certificate.
 - (ii) The Carrier recommends that expectant mothers who are in or beyond the 36th week of pregnancy check with their physician to ensure air travel is advisable. Expectant mothers may choose to carry a medical certificate, stating that their physician has examined her and found her to be physically fit for travel by air and her estimated delivery date.
- (5) Failure to provide a suitable escort
 - when the Passenger requires an escort due to a mental health condition and under care of a psychiatric institution or in the custody of law enforcement personnel or other responsible authority and the necessary arrangements have not been made with the Carrier in advanced of the departure of the flight, the Passenger will be refused transport. However, the Carrier will accept escorted Passengers under the following conditions when the Passenger has a mental health condition and is under care of a psychiatric institution or in custody of law enforcement personnel or other responsible authority:
 - (a) Medical authority furnishes assurance, in writing, that an escorted person with a mental health condition can be transported safely.
 - (b) Only one high security or two medium security or two low security Passengers will be permitted on a flight. No more than two Passengers in any combination of the 3 risk rated scenarios is permitted on any flight (with a maximum of 1 high risk Passenger in all situations).
 - (c) Request for carriage is made at least 48 hours before scheduled departure.
 - (d) The escort must accompany the escorted Passengers at all times.
 - (e) Acceptance is applicable to transportation on flights marketed and operated by the Carrier only.
- (6) Service dog – Failure to Present Documentation, Inadequate Notice and Prohibited Conduct
 - Service dogs will be refused transport if:
 - (a) the person with a disability fails to have in their possession documentation at the time of check-in which demonstrates that the dog has all the necessary valid health and vaccination certificates, entry permits and other documents required by countries, states or territories for entry or transit.
 - (b) the Service dog is over the size allowance for a single Passenger seat and additional space was not requested in advance and cannot be arranged due to flight capacity limitations or in time to meet the Check In Cut-Off Time and Boarding Cutoff Time Limits in Rule 30 (B)(2).
 - (c) the person does not have the required control measures for the dog, or the control measures do not identify the dog as a “Service animal” or “Service dog”.

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- (d) the Service dog was running freely.
- (e) the Service dog was barking or growling repeatedly at other persons
- (f) the Service dog bit another Passenger, an employee or contractor of the Carrier, or another person at the airport or onboard the aircraft.
- (g) the Service dog was jumping on people.
- (h) the Service dog urinated or defecated in the cabin or gate areas.
- (i) the Service dog was causing significant disruption in the cabin or at an airport gate area.
- (C) Passenger's conduct - refusal to transport- prohibited conduct and sanctions
 - (1) Prohibited conduct

without limiting the generality of the preceding provisions, the following constitutes prohibited conduct where it may be necessary, in the reasonable discretion of the Carrier, to take action to ensure the physical comfort or safety of the person, other passengers (in the future and present) and/or the Carrier's employees; the safety of the aircraft; the unhindered performance of the air crew members in their duty onboard the aircraft; or safe and adequate flight operations:

 - (a) The person, in the reasonable judgment of the Carrier is under the influence of alcohol or drugs (except a patient under medical care).
 - (b) The person's conduct, or condition is or has been known to be abusive, offensive, threatening, intimidating, violent or otherwise disorderly, and, in the reasonable judgment of the Carrier, there is a possibility that the person would cause disruption or serious impairment to the physical comfort or safety of other Passengers or Carrier's employees, interfere with an air crew member in the performance of their duties, or otherwise jeopardize safe and adequate flight operations.
 - (c) The person's conduct involves any hazard or risk to their self or other persons (including travel involving pregnant Passengers or unborn children) or to property.
 - (d) The person fails to observe the instructions of the aircraft crew, including instructions to stop any prohibited conduct.
 - (e) The person is unable or unwilling to sit-in their assigned seat with the seat belt fastened.
 - (f) The person smokes or attempts to smoke in the aircraft.
 - (g) The person uses or continues to use a cellular phone, a laptop computer or another electronic device onboard the aircraft after being advised to stop such use by a member of the air crew.
 - (h) The person is filming, photographing, or

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- recording images or data, by any electronic means, of other Passengers and/or cabin crew or flight crew without the express consent of the person(s) being filmed, photographed or recorded, or continuing to film, photograph, or record the image of other Passengers and/or cabin/flight crew after being advised to cease such conduct by a member of the cabin/flight crew.
- (i) The person is barefoot.
 - (j) The person is inappropriately dressed.
 - (k) The person has a prohibited article or concealed or unconcealed weapons(s). however, the Carrier will carry law enforcement or armed forces personnel who meet the qualifications and conditions established under governmental authority.
 - (l) The person has resisted or may reasonably be believed to be capable of resisting escorts.
- (2) Carrier response to prohibited conduct where, in the exercise of its reasonable discretion, the Carrier decides that the Passenger has engaged in prohibited conduct described above, the Carrier may impose any combination of the following sanctions:
- (a) Removal of the Passenger at any point.
 - (b) Probation: At any time, the Carrier may stipulate that the Passenger is to follow certain probationary conditions, such as to not engage in prohibited conduct, in order for the Carrier to provide transport to the Passenger. Such probationary conditions may be imposed for any length of time which, in the exercise of the Carrier's reasonable discretion, is necessary to ensure the Passenger continues to avoid prohibited conduct.
 - (c) Refusal to transport the Passenger: the length of this refusal to transport may range from a one-time refusal to a longer period determined at the reasonable discretion of the Carrier in light of the circumstances. such refusal will be for a period appropriate to the nature of the prohibited conduct and until the Carrier is satisfied that the Passenger no longer constitutes a threat to the safety of other Passengers, air crew or the aircraft or to the comfort of other Passengers or air crew; the unhindered performance of the air crew members in their duty onboard the aircraft; or safe and adequate flight operations.
 - (d) The following conduct will automatically result in a refusal to transport, up to a possible lifetime ban:
 - (i) The person continues to interfere with the performance of an air crew member's duties despite verbal warnings by the air crew to stop such behavior.
 - (ii) The person injures an air crew member or other Passenger or subjects an air crew

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- member or other Passenger to a credible threat of injury.
- (iii) The person displays conduct that requires an unscheduled landing and/or the use of restraints such as ties and handcuffs.
 - (iv) The person repeats a prohibited conduct after receiving a notice of probation as mentioned in (2) above.
- These remedies are without prejudice to the Carrier's other rights and recourses, namely to seek recovery of any damage resulting from the prohibited conduct or as otherwise provided in the Carrier's tariff, including recourses provided in the Carrier's frequent flyer program or the filing of criminal or statutory charges.
- (3) Costs resulting from prohibited conduct the Passenger(s) who engage in any of the prohibited conduct described above (including the conduct listed in Rule 30(C)(2)(d)(i) to (iv)) shall be liable to the Carrier for any and all claims, damages, losses, fines, penalties, liabilities, judgments, costs and expenses of any kind or nature whatsoever (including but not limited to interest, court costs and attorney's fees), which in any way arises out of or result from the prohibited conduct, including but not limited to injury to or death of any person, damage to or destruction of any property, real or personal, and liability or obligations under or with respect to any violation of law or regulation.
- (D) Recourse of the Passenger/limitation of liability
- (1) The Carrier's liability is subject to Rule 105 in case of refusal to transport a Passenger for a specific flight or removal of a Passenger en route for any reason specified in the foregoing paragraphs, the liability of the Carrier will be limited to the recovery of the refund value of the unused portion of the Passenger's ticket.
 - (2) A person who is refused carriage for a period of time, up to a lifetime ban, or to whom a probation notice is served may provide to the Carrier, in writing, the reasons why they believe they no longer pose a threat to the safety or comfort of Passengers or air crew, or to the safety of the aircraft. Such document may be sent to the address provided in the refusal to carry notice or the notice of probation.
 - (3) The Carrier will respond to the Passenger within a reasonable period of time providing Carrier's assessment as to whether it remains necessary to continue the ban or maintain the probation period.
 - (4) Except as otherwise provided for in this rule and to the extent permitted by law, the Carrier shall not be liable to any Passenger or other person for refusing to board or transport that Passenger or any person on any aircraft at any point in the

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flight; nor shall the Carrier be liable to any of the Passengers or other person for exercising its discretion not to refuse to board or transport or remove any Passenger or other person on or from the aircraft.

- (5) For services departing the European Union (EU), the Carrier will apply the provisions of EC Regulation no. 1107/2006.
- (6) For services departing Mexico, the Carrier will apply the provisions of the civil aviation law, Passenger rights.

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Rule 35 Acceptance of Children†

- (A) Accompanied
 Children under five (5) years of age will be accepted for transportation when accompanied by their parent or a Passenger who is at least 16 years of age. Children over the age of 5 and under 12 years of age are accepted for transportation when accompanied on the same flight and in the same compartment by a Passenger at least 12 years of age.
- (B) Unaccompanied
 The Carrier does not offer unaccompanied minor service on international flights.
- (C) Infants
 An infant under 2 years of age not occupying a seat and accompanied by a Passenger at least 16 years of age or their parent will be transported without charge. A birth certificate is required for all infants under the age of two, other documents such as letter of travel consent signed by parent(s) or guardian(s) may also be required. If a lap held infant turns two years old within 30 days of the return flight, a fare must be purchased for the child.
- (D) Guardian fare policy and procedures
 The Carrier offers a discounted guardian fare which allows a Passenger to accompany a child to a destination and return at a later time to collect the child. The specific terms and conditions applicable to the discounted guardian fare follow.
 - (1) A guardian qualifies for a discounted fare under this program, provided they are at least 18 years of age. The child(ren) may be between two and 11 years of age.
 - (2) This program is not available for travel on code-share flights.
 - (3) All reservations are based upon availability.
 - (4) The guardian (or guardians) must be assigned at the time of booking and will be fully responsible for the transportation of the child(ren).
 - (5) The fare for children traveling on the guardian fare program is based on the rate available at time of booking.
 - (6) The guardian will receive a fifty percent reduction off the lowest fare available at the time of their reservation.
 - (7) The guardian fare is only valid for one person travelling with the child(ren).
 - (8) The guardian may travel with more than one child.
 - (9) Two separate people may be designated as guardians at the time of travel - one person travelling on the outbound flight, and a different person traveling on the return flight.
 - (10) The scheduled departure time for the return flight

† Tracked changes applicable to/from Canada and annotated throughout the entirety of Rule 35 are effective December 5, 2022, pursuant to Order No. 2021-A-3 of the CTA.

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must be within 24 hours of the original flight (based on the time of the original departure city). If the next available flight is not within this 24-hour time restriction, the guardian fare will not be booked, no exceptions.

- (11) The guardian's reservation is created under a separate reservation code from the child(ren).
- (12) Guardian fare bookings can only be made and modified through the Carrier's reservation centre.
- (13) Once the outbound portion of the flight(s) has been taken, any cancellation of additional flights on the guardian's reservation will result in a full loss of the remaining fare, taxes, fees, charges and surcharges associated. No compensation will be issued in any form.

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Rule 55 Limitation of Liability - Passengers

- (A) For travel governed by the Montreal Convention
 For the purpose of international carriage governed by the Montreal Convention, the liability rules set out in the Montreal Convention are fully incorporated herein and shall supersede and prevail over any provisions of this tariff which may be inconsistent with those rules.
- (B) For travel governed by the Warsaw Convention
 Carriage hereunder may be subject to the rules and limitations relating to liability established by the Warsaw Convention, or such convention as amended, unless such carriage is not "international carriage" as defined by the Warsaw Convention.
- (C) For travel governed by either the Montreal Convention or the Warsaw Convention
 Nothing herein shall be deemed to affect the rights and liabilities of the Carrier with regard to any person who has willfully caused damage which resulted in death, wounding, or other bodily injury of a Passenger. the Carrier does not maintain, operate or provide ground transportation between airports, or between airports and city centres. Any such services are performed by independent contractors who are not, and shall not be deemed to be the agents of employees of the Carrier. The Carrier shall not be liable for the acts or omissions of any such independent contractors.
- (D) The Carrier will not be responsible for errors or omissions in this tariff or in other representations of schedules, fares, or other terms and conditions.
- (E) The Carrier will not be responsible or liable for a Passenger missing a connection that is not included in the itinerary set out in the ticket.
- (F) The Carrier will not be responsible or liable for a Passenger missing a cruise, rail journey, or any other booking not made with the Carrier by reason of an insufficient amount of time between the scheduled arrival of a flight included in the itinerary set out in the ticket and the scheduled departure of the cruise, rail journey, or any other booking not made with the Carrier.

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Rule 60 Limitation of Liability for Baggage or Goods

- (A) If the Passenger's baggage does not arrive on the same flight as the Passenger, the Carrier will take steps to deliver the baggage to the Passenger's residence/hotel as soon as possible. The Carrier will take steps to inform the Passenger on the status of the baggage and will ensure the Passenger has their incidentals covered or an overnight kit as required. Incidental authorization is CAD 100 for the first 48 hours then an additional CAD 150 after 48 hours. This does not limit or reduce the Passenger's right to claim damages, if any, under the applicable convention or law.
- (B) For travel governed by the Montreal Convention the liability rules set out in the Montreal Convention are fully incorporated herein and shall supersede and prevail over any provisions of this tariff which may be inconsistent with those rules.
- (C) For travel governed by the Warsaw Convention Carrier liability for the loss of, damage to or delay in the delivery of any personal property, including baggage which are carried as checked baggage and goods, is limited to the sum of, a maximum of 17 SDRs per kilogram for checked baggage and 332 SDRs for carry-on baggage, except for mobility aids, unless the Passenger at the time of presenting such baggage or goods for transportation, has declared a higher value and paid an additional charge in accordance with this rule.
 In the case of loss, damage or delay of part of property carried as checked baggage, the weight to be taken into consideration in determining the amount to which the Carrier's liability is limited shall be only the total weight of the property lost, damaged or delayed. Nevertheless, when the loss, damage or delay of a part of the property affects the value of other property covered by the same baggage check, the total weight of the property covered by the baggage check shall also be taken into consideration in determining the limit of liability.
- (D) The rate for converting special drawing rights into Canadian dollars shall be the rate prevailing on the date on which the amount of any damage to be paid by the Carrier is ascertained by a court or, in the event a settlement is agreed between Carrier and claimant, on the date settlement is agreed.
- (E) For travel governed by either the Montreal Convention or the Warsaw Convention
 If the Passenger does elect to declare a higher-value an additional charge shall be payable and the Carrier's liability will not exceed the higher value declared. The additional charge shall be calculated as follows:

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- (1) The amount of the Carrier's basic liability for itineraries governed by the Montreal Convention set out above shall be up to 1,288 SDRs including incidental expenses unless excess valuation has been purchased;
 - (2) No charge shall be payable on that part of the declared value which does not exceed basic Carrier liability;
 - (3) For that part of the declared value which does exceed basic Carrier liability (excess valuation), a charge shall be payable at the rate of USD/CAD \$10.00 to a maximum total liability of USD/CAD \$3,000.00 including basic Carrier liability.
 - (4) The liability limit does not apply if it is proved that the damage resulted from an act or omission of the Carrier, its servants or agents, done with intent to cause damage provided that in the case of the agent or servant it is proved that such servant or agent was acting within the scope of its employment.
 no action will be taken against the Carrier in case of loss or delay in the delivery of checked and unchecked baggage unless the Passenger complains in writing to the Carrier within:
 - (a) 21 days from the date on which the baggage has been placed at the Passenger's disposal (in the case of delay); or,
 - (b) 21 days from the date on which the baggage should have been placed at the Passenger's disposal (in the case of loss).
- (F) In the case of damage to checked baggage, the Passenger must complain to the Carrier immediately after discovery of damage, and at the latest, within seven days from receipt of the baggage. Any claim against a Carrier will be extinguished unless an action is brought within two years reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped. In the carriage of baggage, the liability of the Carrier in the case of destruction, loss, damage or delay is limited to the liability amounts set out above for each Passenger, not per bag.

Exception: If the Passenger makes a special declaration and has paid the applicable excess valuation fee, the Passenger will be provided with the relevant coverage rather than what is outlined above.

In any event, the Carrier shall not have any liability under this tariff for any loss or claim where Passenger has made a misrepresentation regarding proof of amount of loss or the circumstances regarding submission of proof of amount of loss. In the

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case of damage caused by delay the liability of the Carrier is determined per Passenger, not per bag.

- (G) In no case shall the Carrier's liability exceed the actual loss reasonably suffered by the Passenger. All claims for loss or damage to baggage or goods are subject to proof of amount of loss. The Carrier is entitled to disallow claims where a Passenger fails to provide proof of loss in the form of receipts unless other sufficient proof of loss is provided.
- (H) For travel that is not governed by the Montreal Convention or the Warsaw Convention, Carrier liability for the loss of, damage to or delay in the delivery of any personal property, including baggage which are carried as checked baggage and carry-on baggage is limited to a maximum of 1,288 special drawing rights per Passenger.
- (I) Refund of baggage fees
 If a Passenger's baggage is damaged or lost, the Carrier will refund the fees paid for that baggage.
- (J) Mobility aids
 If a mobility aid of a person with a disability is not retained by the person during carriage and it is damaged, destroyed, or lost during transport, the Carrier will:
 - (i) provide the person with a temporary replacement mobility aid that meets their needs in relation to their mobility and that they are permitted to use until their mobility aid is returned to them or is repaired or replaced or until they are reimbursed by the Carrier for the loss of the mobility aid;
 - (ii) reimburse the person the person for expenses they have incurred because the mobility aid was damaged, destroyed or lost;
 - (iii) in the case of a damaged mobility aid, arrange for the repair of the mobility aid and return it to the person without delay or, in the case of a damaged mobility aid that cannot be adequately repaired,
 - (a) replace the damaged mobility aid with the same model of mobility aid or if the same model is not available, a model that has equivalent features and qualities of the damaged mobility aid and that meets the persons needs in relation to their mobility, or
 - (b) reimburse the person for the full replacement cost of the mobility aid
 - (iv) In the case of a destroyed mobility aid or mobility aid that is not returned to the person within 96 hours after their arrival at their destination:
 - (a) replace the destroyed or lost mobility aid with the same model of mobility aid or if the same model is not available, a model that has equivalent features and qualities as the destroyed or lost mobility aid and that meets the person's needs in relation to their mobility, or
 - (b) reimburse the person for the full replacement cost of the mobility aid.

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Rule 65 Tickets

- (A) No person shall be entitled to transportation except upon presentation of a valid confirmation number and acceptable photo identification.
- (B) Tickets are not transferable and the Carrier is not liable to the owner of the ticket for honouring or refunding such ticket when presented by another person.
- (C) The Carrier does not accept paper tickets generated by any other air Carrier or its agent.

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Rule 70 Confirmation of Reserved Space[†]

A reservation of space on a given flight is valid when the availability and allocation of such space is confirmed by the Carrier to a person subject to payment or other satisfactory credit arrangements. A Passenger with a valid confirmation number reflecting reservations for a specific flight and date on the Carrier is considered confirmed, unless the reservation was cancelled due to one of the reasons indicated in Rule 15(B). The Carrier does not guarantee any specific seat.

(A) Passenger's responsibility

- (1) The Passenger or Passenger's agent (examples: travel agent, other carrier, etc.) must provide the Carrier with the Passenger's e-mail address and/or telephone number at the time of booking and shall update the Carrier with changes to ensure communications can be received by the Passenger before or during travel.
- (2) It is the responsibility of the Passenger to accept receipt of the Carrier's emailed schedule change notifications or notifications from the entity where they booked (example: travel agent, other Carrier, etc.) to ensure they are aware of their itinerary and can adjust their plans accordingly as schedules are subject to change.
- (3) Pursuant to Rule 30 Refusal to Transport (B)(2), the Passenger must arrive at the airport with sufficient time to complete check-in, government formalities, security clearance and the departure process while meeting the time limits of the Carrier. Flights will not be delayed for Passengers who have not completed these pre-boarding Requirements and the Passenger will be considered a No show.
- (4) The Carrier will not be liable for loss or expense due to the Passenger's failure to comply with A(3), above. Any amounts paid for the ticket, including fare, fee, charge, surcharge, and tax paid by a Passenger or Passengers are forfeited in the event the Passenger(s) fail(s) to meet the check-in cut-off times or boarding cut-off times, and is considered a No show.

(B) Seat selection - Policy and procedures

Terms and conditions of seat selection are as follows:

- (1) Availability of seats is determined by the type of aircraft operating a selected flight and the fare level purchased.
- (2) Seat selection may not be offered on some flights based on operational restrictions.
- (3) Some seats will be unavailable due to operational requirements.
- (4) Seat selection is an option available to all Passengers; However this option may not be

[†] Tracked changes applicable to/from Canada and annotated throughout the entirety of Rule 70 are effective December 5, 2022, pursuant to Order No. 2021-A-3 of the CTA.

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- available through some reservation channels. Not all seats will be available to all fare types.
- (5) Passengers with disabilities may request a seat by contacting the Carrier's call centre.
 - (6) **Seat** selection for a fee is an option available up until two (2) hours before flight departure through the Carrier's website, and up until 60 minutes before flight departure through the Carrier's reservation centre (with the exception of the premium and business fare type which have the option of selecting a seat at no additional charge).
 - (7) Within 24 hours of flight departure, standard seat selection is available at no charge through the Carrier's website. A fee may be charged for preferred or exit row seat selection.
 - (8) Seat selection is not guaranteed and may be subject to change/cancellation based on operational requirements.
- (C) Seat selection fees
- (1) Seat selection fees are shown in Canadian dollars, and may be payable in the currency of the reservation as per Rule 5.
 - (2) Seat selection fees are calculated per segment (i.e. as identified by a change in flight number) for each direction of travel from the origin point to the destination point.
 - (3) For round -trip reservations, seat selection fees are charged for each direction of travel. For multi-segment flights, the fees are charged per segment. Different seat fees apply based on seat type.
 - (4) The addition of a seat selection to a new or existing reservation is not considered a change to the reservation, and therefore will not incur a change fee. Changes to seat type - Passengers who have purchased a regular seat and request a move to an emergency exit row seat will be required to pay any increase in the fee; a refund or credit will be issued for a decrease in fee amount. where taxes are applicable to the flight, they shall also be applicable for seat selection fees.

with the purchase of a Basic fare, seating will be charged as follows:

A regular seat	\$10-200
A preferred seat	\$10-200
An exit row seat	\$10-200
A seat in Premium/Business	Excluded

with the purchase of an Econo fare, seating will be charged as follows:

A regular seat	\$5-200
A preferred seat	\$5-200
An exit row seat	\$5-200
A seat in Premium/Business	\$20-5000

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with the purchase of an EconoFlex fare, seating will be charged as follows:

A regular seat	\$5-200
A preferred seat	\$5-200
An exit row seat	\$5-200
A seat in Premium/Business	\$20-5000

Premium/Business seats fees are included in the purchase of A Premium/Business Fare.

Preferred seat - A seat that may have extra leg room, or is otherwise located in front of the wing but behind the designated premium rows. Otherwise a row can be considered preferred if it is located in front of the wing.

Upgrades to Premium or Business may be purchased at check in - if available.

- (D) Changes and cancellations to an advance seat selection. This section only deals with changes or cancellations made to a reservation where a seat selection fee is present.
- (1) Changes to a seat selection on a reservation will not incur a change fee.
 - (2) The Carrier reserves the right to cancel or change the selected seat(s) on any segment(s) for which fees have paid, at any time, for any reason, without notice to any Passengers affected thereby and, in connection therewith, the Carrier may provide a refund as required by the APPR, or a credit to any Passenger in respect of such cancellation or change.
 - (3) Notwithstanding the above, the Carrier reserves the right to accommodate the Passenger with seating in a comparable seat, or the best seat available at the time, or to provide a refund in the form of a non-refundable credit or refund for the fees associated with the seat.
- (E) The Carrier will make reasonable efforts to ensure that children are seated with their accompanying parent or guardian. The Carrier provides Passengers the option to pre-purchase seat selection (Rule 70) up to 24 hours before departure but there is no obligation to do so.
- (1) In order to facilitate the assignment of a seat to a child or minor who is under the age of 14 years in close proximity to a parent, guardian or tutor, the Carrier will, when possible, assign a seat before check-in to the child or minor that is in close proximity to their parent, guardian or tutor at no extra cost.
 - (2) If the Passenger is assigned a seat that is in a lower class of service than their ticket provides, the Carrier will reimburse the difference in price between the classes of service, but if the Passenger chooses a seat that is in a higher class of service than the ticket provides, the Carrier will request supplementary payment representing the price

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- difference between the classes of service.
- (3) If the Carrier is unable to assign seats before check in, the Carrier will facilitate seat assignment at the time of check-in or at the boarding gate and will make all reasonable attempts to do so.
 - (4) If the Carrier is unable to assign seats at the time of check in, the Carrier will ask for volunteers to change seats at the time of boarding. If there are no volunteers, the Carrier will once again ask for volunteers to change seats before take-off.
 - (5) In the case of a child who is four years of age or younger, the Carrier will facilitate the assignment of a seat that is adjacent to their parent, guardian or tutor's seat.
 - (6) In the case of a child who is 5 to 11 years of age, the Carrier will facilitate the assignment of a seat that is separated from the parent, guardian or tutor's seat by no more than one seat.
 - (7) In the case of a minor who is 12 or 13 years of age, the Carrier will facilitate the assignment of a seat that is separated from the row of their parent, guardian or tutor's seat by no more than one row.

Notwithstanding the above, the Carrier reserves the right to accommodate affected Passenger(s) with seating in a comparable seat(s), or the best seat(s) available at the time, or to provide a refund in the form of a non-refundable credit or refund for the fees associated with the seat(s).

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Rule 75 Schedule Irregularities

(A) General

Schedules are not guaranteed. Flight schedules are subject to change without notice, and the times shown on the Carrier's published schedules, tickets, timetable and advertising are not guaranteed and form no part of this contract. The Carrier will not be responsible for errors or omissions either in timetables or other representation of schedules. No employee, agent or representative of the Carrier is authorized to bind the Carrier by any statement of representation regarding the dates or times of departure or arrival, or of the operation of any flight. The Carrier will give priority assistance to any person with a disability

(B) Definitions

- (1) "Schedule irregularities" means any change of schedules, flight times, routing, stops, equipment, and/or service that is not governed by the APPR (see Rule 100).

(C) Change in schedule

- (1) The Carrier will make all reasonable efforts to transport the Passenger and their baggage at the times indicated in its published schedules and timetables.
- (2) The Carrier will make all reasonable efforts to inform Passengers of schedule changes and, to the extent possible, the reason for the change.
- (3) Subject to the APPR, the Carrier shall not be liable for damage occasioned by denial of boarding or cancellation if the Carrier proves that it, and its employees and agents, took all measures that could reasonably be required to avoid the damage or if it was impossible for the Carrier, and its employees or agents to take such measures. The Carrier will take all measures that can reasonably be required to avoid or mitigate the damage caused by the advance flight departure, overbooking and cancellation.
- (4) Downgrade refunds will be limited to the fare difference between classes of service.
 - (a) The Passenger will also have the option to cancel booking and refund to original form of payment. The cancellation fee will be waived.
 - (b) A downgrade refund will be determined once travel is complete.

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Rule 80 Application of Fares and Routings

- (A) General
The price of transportation shall be disclosed at the time of confirmation, however, fares are subject to change without notice.
- (B) Currency
All fares and charges are stated in the currency of the country from which the Passenger will initiate travel.
- (C) Fare changes
The Carrier's fares are changed from time to time.
- (D) Connecting flights
When an area is served by more than one airport and a Passenger arrives at one airport and departs from another airport, transportation between those airports must be arranged by and at the expense of the Passenger.
- (E) Routing
A fare applies only to:
 - (1) Transportation via the routing specified by the Carrier in reference to that fare. Any other routing may subject the Passenger to an additional charge.
 - (2) Transportation between the airports. Tickets may not be issued or accepted for transportation that will either originate or terminate at an airport other than the airport for which the fares are published.
- (F) Infants
One infant under two (2) years of age not occupying a seat and accompanied by their parent or a Passenger at least 16 years of age will be transported without charge. A birth certificate is required for all infants under age two (2).
- (G) Guardian fare
The guardian fare will allow parents or guardians 18 years of age or older to escort child Passengers between two (2) and 11 years of age, at a discounted rate, to their destination and then return immediately to their city of origin.

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Rule 85 Acceptance of Baggage †

(A) Acceptance of carry-on baggage

All carry-on baggage must be stored in an overhead bin or placed completely under the seat directly in front of the Passenger.

The Carrier can accept one (1) carry on item per fare paying Passenger and one (1) personal item per fare paying Passenger on flights to all destinations. In all cases, the items may not exceed the applicable measurements outlined below:

- (1) Carry-on item: maximum size of
 53 cm x 23 cm x 38 cm
 (21 inches X 9 inches X 15 inches)
- (2) Personal item: maximum size of
 41 cm x 15 cm x 33 cm
 (16 inches X 6 inches X 13 inches)

In the interest of Passenger safety within the cabin, the Carrier also reserves the right to check any carry-on baggage that does not fit due to bulkouts within the cabin.

Any item larger than the carry-on baggage size and any item exceeding the carry-on and personal item allowance will be checked to the Passenger's destination.

A gate checked baggage fee of \$100 CAD will apply.

(B) Acceptance of checked baggage

Checked Baggage is accepted until the check-in cut-off time limit outlined in Rule 30(B)(2) and provided that there is available space as follows:

- (1) Checked baggage up to 23kg (50lbs) with combined dimensions, defined as length plus width plus height, of 157 cm (62 inches).
- (2) A first, second, third or fourth piece of checked baggage within the weight and size limits defined in (B)(1) above will be charged according to the fee tables below with the exception of Passengers (excluding infants) travelling with WestJet Encore which has a limit of three (3) total checked bags or, Passengers travelling to/from Cuba, Jamaica or Trinidad and Tobago, where a maximum of two (2) checked bags are permitted.
- (3) Oversized baggage in excess of the combined dimensions of 157 cm (62 inches) but not exceeding 203 cm (80 inches) will be accepted to/from all destinations (except Cuba, Jamaica or Trinidad and Tobago as oversized baggage is not permitted), subject to the fees in the tables below. Baggage with combined dimensions exceeding 203 cm (80 inches) will not be accepted for transport.

† Tracked changes applicable to/from Canada and annotated throughout the entirety of Rule 85 are effective December 5, 2022, pursuant to Order No. 2021-A-3 of the CTA.

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- (4) Overweight baggage: more than 23 kg (50 lbs) but not exceeding 45 kg (100 lbs) will be accepted to all destinations (except flights to and from all destinations in Europe where the maximum weight must not exceed 32 kg (70 lbs)), subject to the fees in the tables below. Baggage over 45 kg (100 lbs) will not be accepted for transport.
- (5) Combined excesses: An item of baggage that exceeds the baggage allowance, is oversize or overweight will be subject to all applicable combinations of fees.
- (a) The Carrier will not check baggage to a final destination other than the one indicated on the Passenger's reservation.
 - (b) All baggage must have a baggage tag attached with the Passenger's current name, address and contact telephone.
 - (c) Passengers travelling with an infant or child will be permitted to bring one diaper bag or a personal item for the child/infant and may be permitted additional infant equipment (such as a car seat, stroller, etc.) at no charge as follows:

	Carry-on baggage	Car seat for use onboard	Infant equipment (E.g. car seat, stroller playpen etc.)
Infant: lapheld or in an extra seat	Not permitted	Not permitted	Two items, plus one item in checked baggage OR Two items in checked baggage
Infant or child in a purchased seat	One	One	One item door delivered OR One item in checked baggage

- (C) Checked baggage fees:
 Baggage fees are charged as outlined and noted below (unless exemptions are stated):

Definitions

Airport check-in baggage fees are defined as baggage fees paid at an Airport within 24hrs of scheduled flight departure.

Check-in baggage fees are defined as baggage fees paid for during check-in, either online or at the airport within 24 hours of scheduled flight departure.

Pre-paid baggage fees are defined as baggage fees paid at time of booking or post booking up until 24 hours before scheduled flight departure.

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Self-Serve check-in baggage fees are defined as baggage fees paid online through a self-serve check-in channel, within 24hrs of scheduled flight departure.

Baggage fees are refundable to the original form of payment in the event of an itinerary cancellation. All baggage fees are otherwise non-refundable and non-creditable, with the exception of any refunds required under Rule 60 (J).

All flights except flights to or from Europe, the United Kingdom, or Asia.

Pre-paid baggage fees:

Fare Type	First Note 2/3	Second Note 2/3	Third Note 2/3/4
Currency	CAD	CAD	
Basic	\$30	\$50	\$100 (Per item)
Econo Fare Note 6	\$30	\$50	\$100 (Per item)
Econo Flex Fare Note 6	\$0	\$50	\$100 (Per item)
Premium, Premiumflex, Business, Businessflex Fare Note 6	\$0	\$0	\$100 (Per item)
WestJet Vacations Note 6/7	\$30	\$50	\$100 (Per item)
WestJet RBC World Elite Master Card Primary Card Holders	\$0	\$50	\$100 (Per item)
Delta Silver Members Note 8	\$0	\$50	\$100 (Per item)
Excess Valuation \$10 (per item)			

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Check-in bag fees for tickets purchased before 27 April 2022:

Fare Type	First Note 2/3 CAD	Second Note 2/3 CAD	Third Note 2/3/4
Basic	\$30	\$50	\$100 (Per item)
Econo Fare Note 6	\$30	\$50	\$100 (Per item)
Econo Flex Fare Note 6	\$0	\$50	\$100 (Per item)
Premium, Premiumflex, Business, Businessflex Fare Note 6	\$0	\$0	\$100 (Per item)
WestJet Vacations Note 6/7	\$30	\$50	\$100 (Per item)
WestJet RBC World Elite Master Card Primary Card Holders	\$0	\$50	\$100 (Per item)
Delta Silver Members Note 8	\$0	\$50	\$100 (Per item)
Excess valuation \$10 (per item)			

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Check-in bag fees for tickets purchased on or after April 27 2022 and until January 16 2023 for travel anytime:

Fare Type	First Note 2/3	Second Note 2/3	Third Note 2/3/4
Currency	CAD	CAD	CAD
Basic	\$40	\$60	\$100 (Per item)
Econo Fare Note 6	\$40	\$60	\$100 (Per item)
Econo Flex Fare Note 6	\$0	\$60	\$100 (Per item)
Premium, Premiumflex, Business, Businessflex Fare Note 6	\$0	\$0	\$100 (Per item)
WestJet Vacations Note 6/7	\$40	\$60	\$100 (Per item)
WestJet RBC World Elite Master Card Primary Card Holders	\$0	\$60	\$100 (Per item)
Delta Silver Members Note 8	\$0	\$60	\$100 (Per item)

Excess valuation \$10 (per item)

Check-in bag fees for tickets purchased on or after 17 January 2023, for travel anytime:

For travel to/from Canada and/or the U.S.:

A. Self-Serve Check-in baggage fees:

Fare Type	First Note 2/3	Second Note 2/3	Third Note 2/3/4
Currency	CAD	CAD	CAD
Basic	\$40	\$60	\$100 (Per item)
Econo Fare Note 6	\$40	\$60	\$100 (Per item)
Econo Flex	\$0	\$60	\$100 (Per item)

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Fare
 Note 6

Premium, Premiumflex, Business, Businessflex Fare Note 6	\$0	\$0	\$100 (Per item)
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WestJet Vacations Note 6/7	\$40	\$60	\$100 (Per item)
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WestJet RBC World Elite Master Card Primary Card Holders	\$0	\$60	\$100 (Per item)
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Delta Silver Members Note 8	\$0	\$60	\$100 (Per item)
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Excess Valuation \$10 (per item)

B. Airport Check-in baggage fees:

Fare Type	First Note 2/3 CAD	Second Note 2/3 CAD	Third Note 2/3/4 CAD
Basic	\$50	\$70	\$110 (Per item)
Econo Fare Note 6	\$50	\$70	\$110 (Per item)
Econo Flex Fare Note 6	\$0	\$70	\$110 (Per item)
Premium, Premiumflex, Business, Businessflex Fare Note 6	\$0	\$0	\$110 (Per item)
WestJet Vacations Note 6/7	\$50	\$70	\$110 (Per item)
WestJet RBC World Elite	\$0	\$70	\$110 (Per item)

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Master Card
 Primary Card
 Holders

Delta Silver Members Note 8	\$0	\$70	\$110 (Per item)
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Excess Valuation \$10 (per item)

For Travel to/from Mexico and Latin Caribbean:

A. Self-Serve Check-in baggage fees:

Fare Type	First Note 2/3	Second Note 2/3	Third Note 2/3/4
Currency	CAD	CAD	CAD
Basic	\$40	\$60	\$150 (Per item)
Econo Fare Note 6	\$40	\$60	\$150 (Per item)
Econo Flex Fare Note 6	\$0	\$60	\$150 (Per item)
Premium, Premiumflex, Business, Businessflex Fare Note 6	\$0	\$0	\$150 (Per item)
WestJet Vacations Note 6/7	\$40	\$60	\$150 (Per item)
WestJet RBC World Elite Master Card Primary Card Holders	\$0	\$60	\$150 (Per item)
Delta Silver Members Note 8	\$0	\$60	\$500 (Per item)

Excess Valuation \$10 (per item)

B. Airport Check-in baggage fees:

Fare Type	First	Second	Third
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Currency	Note 2/3 CAD	Note 2/3 CAD	Note 2/3/4 CAD
Basic	\$50	\$70	\$160 (Per item)
Econo Fare Note 6	\$50	\$70	\$160 (Per item)
Econo Flex Fare Note 6	\$0	\$70	\$160 (Per item)
Premium, Premiumflex, Business, Businessflex Fare Note 6	\$0	\$0	\$160 (Per item)
WestJet Vacations Note 6/7	\$50	\$70	\$160 (Per item)
WestJet RBC World Elite Master Card Primary Card Holders	\$0	\$70	\$160 (Per item)
Delta Silver Members Note 8	\$0	\$70	\$160 (Per item)
Excess Valuation \$10 (per item)			

An additional handling fee of \$50 CAD/USD will be charged for:

- bikes
- firearms
- kiteboards
- paddleboards
- surfboards
- wakeboards
- wave skis

Flights to and from Europe or the United Kingdom.

Pre-paid baggage fees:

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 Carrier: WestJet - WS

Pre-paid baggage fees for tickets issued on or before 16 January 2023:

Fare Type	First Note 2/3	Second Note 2/3	Third Note 2/3/4
Currency	CAD	CAD	CAD
Basic	\$60	\$90	\$100 (Per item)
Econo Fare Note 6	\$30	\$50	\$100 (Per item)
Econo Flex Fare Note 6	\$0	\$50	\$100 (Per item)
Premium, Premiumflex, Business, Businessflex Fare Note 6	\$0	\$0	\$100 (Per item)
WestJet Vacations Note 6/7	\$30	\$50	\$100 (Per item)
WestJet RBC World Elite Master Card Primary Card Holders	\$0	\$50	\$100 (Per item)
Delta Silver Members Note 8	\$0	\$50	\$100 (Per item)
Excess Valuation	\$10 (per item)		

Pre-paid baggage fees for tickets issued on or after 17 January 2023:

Fare Type	First Note 2/3	Second Note 2/3	Third Note 2/3/4
Currency	CAD	CAD	CAD
Basic	\$70	\$100	\$150 (Per item)
Econo Fare Note 6	\$30	\$100	\$150 (Per item)
Econo Flex Fare Note 6	\$0	\$100	\$150 (Per item)
Premium,	\$0	\$0	\$150 (Per item)

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 Carrier: WestJet - WS

Premiumflex,
 Business,
 Businessflex
 Fare
 Note 6

WestJet Vacations Note 6/7	\$30	\$100	\$150 (Per item)
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WestJet RBC World Elite Master Card Primary Card Holders	\$0	\$100	\$150 (Per item)
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Delta Silver Members Note 8	\$0	\$100	\$150 (Per item)
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Excess Valuation	\$10 (per item)		
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Check-in bag fees for tickets purchased before 27 April 2022:

Fare Type	First Note 2/3	Second Note 2/3	Third Note 2/3/4
Currency	CAD	CAD	CAD

Basic	\$60	\$90	\$100 (Per item)
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Econo Fare Note 6	\$30	\$50	\$100 (Per item)
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Econo Flex Fare Note 6	\$0	\$50	\$100 (Per item)
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Premium, Premiumflex, Business, Businessflex Fare Note 6	\$0	\$0	\$100 (Per item)
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WestJet Vacations Note 6/7	\$30	\$50	\$100 (Per item)
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WestJet RBC World Elite Master Card Primary Card Holders	\$0	\$50	\$100 (Per item)
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Delta	\$0	\$50	\$100 (Per item)
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Tariff: WS1 - CTA No. 518 DOT No. 874
 Carrier: WestJet - WS

Silver
 Members
 Note 8

Excess Valuation \$10 (per item)

Check-in bag fees for tickets purchased on or after 27 April 2022 to 16 January 2023, for travel anytime:

Fare Type Currency	First Note 2/3 CAD	Second Note 2/3 CAD	Third Note 2/3/4 CAD
Basic	\$70	\$100	\$100 (Per item)
Econo Fare Note 6	\$40	\$60	\$100 (Per item)
Econo Flex Fare Note 6	\$0	\$60	\$100 (Per item)
Premium, Premiumflex, Business, Businessflex Fare Note 6	\$0	\$0	\$100 (Per item)
WestJet Vacations Note 6/7	\$40	\$60	\$100 (Per item)
WestJet RBC World Elite Master Card Primary Card Holders	\$0	\$60	\$100 (Per item)
Silver Members Note 8	\$0	\$60	\$100 (Per item)

Excess Valuation \$10 (per item)

Check-in bag fees for tickets purchased on or after 17 January 2023, for travel anytime:

(A) Self-Serve Check-in baggage fees:

Fare Type Currency	First Note 2/3 CAD	Second Note 2/3 CAD	Third Note 2/3/4 CAD
Basic	\$80	\$110	\$150 (Per item)

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 Carrier: WestJet - WS

Econo Fare Note 6	\$40	\$110	\$150 (Per item)
Econo Flex Fare Note 6	\$0	\$110	\$150 (Per item)
Premium, Premiumflex, Business, Businessflex Fare Note 6	\$0	\$0	\$150 (Per item)
WestJet Vacations Note 6/7	\$40	\$110	\$150 (Per item)
WestJet RBC World Elite Master Card Primary Card Holders	\$0	\$110	\$150 (Per item)
Silver Members Note 8	\$0	\$110	\$150 (Per item)
Excess Valuation \$10 (per item)			

(B) Airport Check-in baggage fees:

Fare Type	First Note 2/3	Second Note 2/3	Third Note 2/3/4
Currency	CAD	CAD	CAD
Basic	\$90	\$120	\$160 (Per item)
Econo Fare Note 6	\$40	\$120	\$160 (Per item)
Econo Flex Fare Note 6	\$0	\$120	\$160 (Per item)
Premium, Premiumflex, Business, Businessflex Fare Note 6	\$0	\$0	\$160 (Per item)
WestJet Vacations Note 6/7	\$40	\$120	\$160 (Per item)
WestJet RBC	\$0	\$120	\$160 (Per item)

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World Elite
 Master Card
 Primary Card
 Holders

Silver Members	\$0	\$120	\$160 (Per item)
Note 8			

Excess Valuation \$10 (per item)

An additional handling fee of \$50 CAD/USD will be charged for: -
 bikes

- firearms
- kiteboards
- paddleboards
- surfboards
- wakeboards
- wave skis

Flights to and from Asia

Pre-paid baggage fees:

Fare Type	First Note 2/3 CAD	Second Note 2/3 CAD	Third Note 2/3/4 CAD
Basic	\$70	\$100	\$150 (Per item)
Econo Fare Note 6	\$0	\$100	\$150 (Per item)
Econo Flex Fare Note 6	\$0	\$100	\$150 (Per item)
Premium, Premiumflex, Business, Businessflex Fare Note 6	\$0	\$0	\$150 (Per item)
WestJet Vacations Note 6/7	\$0	\$100	\$150 (Per item)
WestJet RBC World Elite Master Card Primary Card Holders	\$0	\$100	\$150 (Per item)
Delta	\$0	\$100	\$150 (Per item)

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 Carrier: WestJet - WS

Silver
 Members
 Note 8

Excess Valuation \$10 (per item)

Check-in baggage fees:

(A) Self-Serve Check-in baggage fees:

Fare Type Currency	First Note 2/3 CAD	Second Note 2/3 CAD	Third Note 2/3/4 CAD
Basic	\$80	\$110	\$150 (Per item)
Econo Fare Note 6	\$0	\$110	\$150 (Per item)
Econo Flex Fare Note 6	\$0	\$110	\$150 (Per item)
Premium, Premiumflex, Business, Businessflex Fare Note 6	\$0	\$0	\$150 (Per item)
WestJet Vacations Note 6/7	\$0	\$110	\$150 (Per item)
WestJet RBC World Elite Master Card Primary Card Holders	\$0	\$110	\$150 (Per item)
Silver Members Note 8	\$0	\$110	\$150 (Per item)
Excess Valuation \$10 (per item)			

(B) Airport Check-in baggage fees:

Fare Type Currency	First Note 2/3 CAD	Second Note 2/3 CAD	Third Note 2/3/4 CAD
Basic	\$90	\$120	\$160 (Per item)
Econo Fare Note 6	\$0	\$120	\$160 (Per item)

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Econo Flex Fare Note 6	\$0	\$120	\$160 (Per item)
Premium, Premiumflex, Business, Businessflex Fare Note 6	\$0	\$0	\$160 (Per item)
WestJet Vacations Note 6/7	\$40	\$120	\$160 (Per item)
WestJet RBC World Elite Master Card Primary Card Holders	\$0	\$120	\$160 (Per item)
Silver Members Note 8	\$0	\$120	\$160 (Per item)

Excess Valuation \$10 (per item)

An additional handling fee of \$50 CAD/USD will be charged for: -
 bikes

- firearms
- kiteboards
- paddleboards
- surfboards
- wakeboards
- wave skis

Fees are charged based on the least restrictive

Passenger type

Note 1: In the event that a bag is lost, Passengers will be reimbursed for their baggage fee (not including excess valuation) in addition to settlement for the loss of baggage.

Note 2: In addition to any other applicable baggage fee, each overweight bag will be charged a fee of and \$100 CAD/USD.

Note 3: In addition to any other applicable baggage fee, any oversize baggage will be charged a fee \$100 CAD/USD. Only one oversize golf bag with clubs permitted to/from Jamaica or Trinidad and Tobago.

Note 4: A third or fourth piece is not permitted on for flights to/from Jamaica or Trinidad and Tobago.

Note 5: A fourth piece is not permitted on flights operated by WestJet encore

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Note 6: Includes group fares.

Note 7: A first bag will be charged for WestJet vacations booking for flights to/from International destinations (Caribbean, Central America, Europe and Mexico).

Note 8: The fee will be waived for the WestJet Rewards member and up to eight companions travelling on the same reservation; the eligible member's WestJet ID must be on the reservation at the time of check-in.

- (1) The Carrier collects fees for checked sporting equipment in excess of the free checked baggage limits. Additional oversize and overweight fees will apply with the following exceptions. In all cases, the bags must contain the equipment noted in order to be exempt.

Sporting equipment	Oversize	Overweight
Fishing rods	Exempt	\$100 CAD/USD
Golf clubs	Exempt	\$100 CAD/USD
Ski/snowboard	Exempt	\$100 CAD/USD
Hockey equipment	Exempt	Exempt
Football equipment	Exempt	Exempt
Ringette	Exempt	Exempt
Lacrosse	Exempt	Exempt

- (2) The following items will be considered one piece of baggage:

- one sleeping bag or bed roll
- one rucksack/knapsack/backpack
- one duffle type bag
- one golf bag containing golf clubs and one pair of golf shoes
- one pair of snow skis with one pair of ski poles and one pair of ski boots
- one carton of fruit (such as pineapples, oranges)
- one bicycle
- one scuba diving equipment (scuba tanks must be empty)

- (3) Articles of baggage or goods will not be carried when such articles are likely to endanger the aircraft, persons or property are likely to be damaged by air carriage, are unsuitably packed, or the carriage of which would violate the laws, regulations, or orders of countries or possessions to be flown from, into, or over.

- (4) If the weight, size or character renders it unsuitable for carriage on the aircraft, the Carrier, before departure of the flight, will refuse to carry the Passenger's baggage or goods or any part thereof. The following articles will be carried only with prior consent of the Carrier: firearms of any description - firearms for sport purposes will be carried as baggage provided required entry permits are in the possession of the Passenger for the country of destination and provided that such firearms are disassembled or

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packed in a suitable case. The provisions of this paragraph do not apply to officers of the law travelling in the line of duty and carrying legally prescribed sidearms or other similar weapons. Passengers accept that when traveling with a firearm they must contact all operating airlines on the itinerary at least 72 hours before departure; failure to do so may result in being denied travel at any stage of the itinerary. The Passenger will be wholly responsible for any costs incurred resulting from this omission of advisement.

- (5) Live animals are accepted provided all conditions and requirements found in Rule 90 are met.

- (6) Musical instruments

Provided it is safe to do so, the Carrier may accept properly packaged musical instruments as either checked or carry-on baggage, depending on the instrument's weight or dimension.

- (a) Carry-on:

Seats cannot be purchased for musical instruments; however small musical instruments may be permitted as a Passenger's carry-on baggage allowance provided that:

- (i) It meets the Carrier's current carry-on requirements; Rule 85(A) and
- (ii) It fits under the seat in front or the overhead bin.

Due to cabin storage space limitations, the Carrier cannot guarantee that a musical instrument can be accommodated on board. storage is provided on a "first-come, first-serve" basis.

If there is no space available in the cabin to securely store the musical instrument, or if deemed required by airline staff, the musical instrument may need to be checked at the gate and transported as checked baggage.

- (b) Checked baggage:

If musical instruments are checked in separately, the instrument counts as one piece of baggage towards the maximum number of checked bags allowed by fare type. If a Passenger's baggage count (musical instrument plus number of other bags to be checked) exceeds the maximum number of items allowed by fare type, additional checked baggage charges will apply. If the musical instrument weighs more than 23kg (50lbs), overweight baggage charges will apply. The maximum weight of musical instruments the Carrier can carry is 32kg (70lbs). A musical instrument cannot exceed a combined length + width + height dimension of 157 cm (62 inches). musical instruments must always be packaged in a rigid/hard shell container designed to ship such items. For string instruments, Passengers are responsible for ensuring that the strings are loosened so that tension is reduced on the top and neck of the

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instrument.

In the event of aircraft substitution preventing the transportation of a musical instrument in the cabin, the Carrier will use reasonable efforts to (i) gate-check the instrument, or (ii) check the instrument on the next available flight.

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Rule 90 Acceptance of Live Animals

With respect to terms and conditions related to the transport of any Service dog used to assist persons with disabilities please refer to Rule 25(H), Acceptance of service dog and emotional support dogs.

(A) Application

The Carrier will agree to carry animals subject to the following provisions:

(B) General

- (1) Advance arrangements must be made with the Carrier before any animal will be accepted for carriage.
- (2) Before any animal is accepted for carriage, the Passenger must make all necessary arrangements to obtain valid health and vaccination certificates, entry permits and other documents required by countries, states or territories for entry or transit. In the absence of such documentation, the animal will not be accepted for carriage, and the Carrier will not be responsible in the event any animal is refused entry into or passage through or exit from any country.
- (3) In the event the animal is denied for travel into the United States and the Passenger wants to continue to travel, the Passenger will be responsible for obtaining care or alternative transportation for the animal.
- (4) When travel involves more than one carrier, the Passenger should verify the policy of each carrier involved in the itinerary and ensure that the requirements of each carrier have been met and that each carrier is aware of and has agreed to carry the animal on its own aircraft.
- (5) The Carrier will not accept an animal for carriage if the animal is less than eight weeks old, pregnant or in-heat.
- (6) Animals under sedation must be presented with a veterinarian's note at check-in.
- (7) The animal must be confined in a kennel subject to inspection and approval by the Carrier. The Carrier reserves the right to deny transportation of any animal if the kennel is unsuitable (see kennel requirements), if the animal is aggressive, offensive (odour), unwell, or requires attention during transit.
- (8) Passengers must present the kennel at check in according to the times outlined in Rule 30.
- (9) Except as many otherwise be provided for in this tariff, WestJet will not be responsible in the event of injury, sickness and or death of a working dog or pet animal.
 Exception: Should an injury to or death of such animal result from the negligence of the carrier's representatives, the carrier's liability will be limited to expeditiously providing, at its own expense, for medical care, and if

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necessary, replacement of the working dog pet animal.

(C) working dogs

- (1) working dogs which are properly harnessed will be permitted in the Passenger cabin of the aircraft if there is enough space to accommodate the dog.
- (2) Documentation may not be needed; however, the Carrier can and will request documentation if deemed necessary and has the right to refuse boarding if indicators lead the Carrier's employee to believe the dog is not a working dog.
- (3) If at any time the safety of crew or Passengers is jeopardized the dog will be denied boarding or removed from the aircraft.
- (4) The working dog must be accompanied by a trainer or handler transporting the animal for duty. The animal must remain on the floor at the handler's seat.
- (5) Fees will be charged according to the carry-on pet fees outlined in (D)(4)(j) below.
- (6) The Carrier, in consultation with the working dog's handler, will determine where the handler will be seated to ensure that adequate space is provided to the handler and the dog. Additional seating must be purchased if required.
- (7) Working dogs are not permitted on WestJet Vacations package bookings.
- (8) Working dogs are not accepted in Business on the 787.
- (9) If the conditions of transport as indicated in this rule are not met, the dog will be required to travel in the baggage compartment.
- (10) Working dog will not be carried unless proper permits are obtained for entry into the countries of transit/final destination, and permits are presented before commencement of travel.

(D) Pets

- (1) The provisions in this section are not applicable to Service dogs and may not apply to working dogs.
- (2) The Carrier will accept for carriage animals as pets in checked or carry-on baggage provided the animal(s) is/are accompanied by a Passenger, in compliance with the IATA Live Animal Regulations.
- (3) Pet animals travelling as checked baggage
 - (a) The number of animals carried in checked baggage is limited by aircraft type.
 - (b) Birds, cats, chinchillas, dogs, guinea pigs, hedgehogs and rabbits will be accepted subject to restrictions, regulations or the custom and import or export requirements of the destination country, state or territory.
 - (c) Due to climatic conditions, or high volumes of baggage, animals will not be accepted during certain periods of the year or to certain destinations year round and will be accepted subject to restrictions, regulations or the custom and import or export requirements of the

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- destination country, state or territory. These restrictions will be posted on the Carrier's website and are available by contacting the Carrier.
- (d) Animals must be contained in a clean, leak proof and escape proof kennel provided by the owner. The Carrier does not provide a kennel rental or purchase service.
 - (e) Kennels requirements for checked baggage:
 Kennel must:
 - i. Be hard sided and have the wheels removed
 - ii. Be airline approved
 - iii. Be secure
 - iv. Be well ventilated
 - v. Be lined with absorbent material like a towel
 - vi. Be secured with the device originally intended by the manufacturer
 - vii. Be marked with "Live Animal"
 - viii. Be marked with directional "This way Up" arrows on two sides and should be marked with the pet's name
 - ix. Have food and water containers
 - x. Have devices for lifting the kennel
 - xi. Have a 3/4" protecting rim
 - xii. Have a solid bottom and roof
 Kennel must not:
 - i. Be made of welded or wire mesh
 - ii. Be collapsible
 - iii. Have a plastic door
 Maximum Size
 91 cm long x 61 cm wide x 66 cm high
 36 in. long x 24 in. wide x 26 in. high
 Maximum Weight (combined weight of pet and kennel)
 45 kg
 100 lbs
 - (f) If the kennel exceeds the size and/or weight restrictions mentioned in (D)(e) above, the Passenger may make arrangements with the Carrier's cargo operations.
 - (g) The Carrier will not be responsible in the event of loss, delay, injury, sickness and or death of an animal, except as may otherwise be provided for in this tariff.
 - (h) Charges:
 The charge for transportation of an animal (except for Service dogs) and kennel will be as follows:
 - i. Between Canada and the U.S. \$100 CAD/USD
 - ii. Between Canada and international destinations outside the U.S. \$200 CAD/USD
- (4) Pet animals travelling as carry-on baggage
- (a) The number of animals accepted in carry-on baggage is limited by aircraft type.
 - (b) Only one pet is accepted per Passenger, per kennel.
 - (c) Birds, cats, dogs, and rabbits will be accepted.
 - (d) The pet in-cabin and kennel will be considered as one piece of carry-on baggage.
 - (e) The kennel must be stored under the seat directly

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- in front of the Passenger.
- (f) The animal must remain in the kennel for the entire duration of the journey.
- (g) The Carrier may require a Passenger with a pet in cabin to change seats after boarding to accommodate other Passengers. The Carrier will reimburse seat selection fees or other additional charges related to class of service differences as applicable.
- (h) Kennels requirements for carry-on baggage:
 - kennel must:
 - i. be soft-sided
 - ii. be airline approved
 - iii. leak proof
 - iv. secure
 - v. well-ventilated
 - kennel must not:
 - i. allow the animal's head to stick out
 - ii. be a duffle bag, gym bag or other type of non-kennel bag
 - iii. be hard-sided
 - Maximum Size
 - 40 cm long x 44 cm wide x 21.5 cm high
 - 16 in. long x 17.5 in. wide x 8.5 in. high
- (i) If the kennel exceeds the size and/or weight restrictions mentioned in 3(e), the kennel will be accepted as checked baggage provided all restrictions are met and space is available.
- (j) Charges:
 - The charge for transportation of an animal (excluding Service dogs) and kennel will be as follows:
 - i. Between Canada and the U.S. \$50 CAD/USD
 - ii. Between Canada and international destinations outside the U.S. \$100 CAD/USD

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 Carrier: WestJet - WS

Rule 100 APPR Provisions

(A) General

- (1) The Carrier will inform Passengers of delays, cancellations, and denials of boarding and the reason for the delay, cancellation, or denial of boarding.
- (2) A delay, cancellation or denial of boarding that is directly attributable to an earlier delay or cancellation that is due to situations outside of the Carrier's control, is considered to also be due to situations outside of the Carrier's control when all reasonable measures to mitigate the impact of the earlier delay or cancellation have been taken.
- (3) A delay, cancellation or denial of boarding that is directly attributable to an earlier delay or cancellation that is due to situations within the Carrier's control but required for safety purposes, is considered to also be within that Carrier's control but required for safety purposes when all reasonable measures to mitigate the impact of the earlier delay or cancellation have been taken.
- (4) When the Carrier is unable to permit a Passenger to occupy a seat on board a flight because the number of seats that may be occupied on the flight is less than the number of Passengers who have checked in by the required time, hold a confirmed reservation and valid travel documentation and are present at the boarding gate at the required boarding time, pursuant to Rule 30(B)(2)(a) the Carrier will follow the provisions of this rule.

(B) Communications

- (1) In order to ensure timely receipt of communications, Passengers must make their best effort to ensure that they, or their travel arranger, have provided the Carrier with their WestJet Rewards ID, a current email address, and/or a current telephone number. Passengers will be contacted via email or phone if no email address is provided. Passengers will also be able to receive delay or cancellation information:
 - (a) via the Carrier websites;
 - (b) at the airport during check-in;
 - (c) at the airport by departure and arrival screens;
 - (d) at the airport by Carrier announcements; and
 - (e) on the aircraft.

(C) Tarmac delays

- (1) In the event that a flight operated by the Carrier is delayed on the tarmac after the doors of the aircraft are closed for take-off or after the flight has landed, the Carrier will provide access to lavatories in working order if equipped, proper ventilation, heating and cooling of the aircraft, food and drink in reasonable quantities, and the means to communicate with people outside the aircraft, when feasible.
- (2) During a tarmac delay, the Carrier will facilitate access to medical assistance in the event that a

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- Passenger requires urgent medical assistance.
- (3) In the event that a flight operated by the Carrier is delayed on the tarmac, while at an airport in Canada, the Carrier will provide Passengers the opportunity to disembark after three hours of the aircraft doors being closed for take-off or three hours after landing, unless it is likely that take-off will occur less than three hours and 45 minutes after the aircraft doors are closed for takeoff and the Carrier is able to continue to provide access to lavatories in working order if equipped, proper ventilation, heating and cooling of the aircraft, food and drink in reasonable quantities, and the means to communicate with people outside the aircraft, when feasible.
 - (4) The Carrier will not allow Passengers on a flight to disembark if not possible, including if it is not possible for reasons related to safety and security or due to directions by air traffic control or customs control.
 - (5) If the Carrier allows Passengers to disembark, priority will be given to Passengers with disabilities and their attendant and/or service dog if any, when feasible.
- (D) Delays, cancellations or denial of boarding outside of the control of the Carrier
- (1) This section applies to a delay, cancellation or denial of boarding, due to situations outside the Carrier's control, which include but are not limited to the following:
 - (a) meteorological conditions, natural disasters or geological conditions that make the safe operation of the aircraft impossible;
 - (b) acts of god;
 - (c) pandemics;
 - (d) epidemics;
 - (e) civil commotions, including riots, strikes, picketing, boycotting, lockouts, insurrection, invasion, national emergencies, or other civil disturbances;
 - (f) embargoes;
 - (g) war or political instability;
 - (h) illegal acts or sabotage;
 - (i) a NOTAM as defined in subsection 101.01(1) of the Canadian Aviation Regulations;
 - (j) a security threat;
 - (k) airport operation issues, the interruption of flying facilities/navigational aids or other services;
 - (l) a medical emergency;
 - (m) collision with wildlife;
 - (n) a labour disruption within the Carrier or within an essential service provider such as airport or an air navigation service provider;
 - (o) a manufacturing defect in an aircraft that reduces the safety of Passengers and that was identified by the manufacturer of the aircraft concerned, or by a competent authority;
 - (p) an order or instruction from an official of a state or a law enforcement agency or from a person responsible for airports security;
 - (q) laws, rules, proclamations, regulations, orders, declarations, interruptions;

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- (r) requirements of or interference by any government or governmental agency or official thereof;
 - (s) actions or instructions of third parties such as acts of government or air traffic control, airport authorities, security agencies, law enforcement or customs and immigration officials;
 - (t) damage/destruction or loss of use of an aircraft directly or indirectly caused by agents or third parties;
 - (u) confiscation, nationalization, seizure, detention, theft or hijacking of an aircraft;
 - (v) hostilities, disturbances, unsettled international Conditions; and
 - (w) shortage of fuel or facilities directly or indirectly caused by agents or third parties.
- (2) When a delay, cancellation or denial of boarding has occurred and is due to situations outside of the Carrier's control, the Carrier will provide Passengers with the reason for the delay, cancellation or denial of boarding, provide information related to compensation to which Passengers may be entitled to, provide information regarding the standard of treatment for Passengers, if any, and provide information regarding the recourse available against the Carrier, including recourse to the Canadian Transportation Agency.
- (3) The Carrier will communicate new information to Passengers as soon as feasible and will provide updates to Passengers every 30 minutes until a new departure time is set or alternative travel arrangements have been made. The method of communication will be provided in the method preferred by a Passenger, if indicated, and in a method that is compatible with adaptive technologies intended to assist persons with disabilities.
- (E) Delays, cancellations or denial of boarding within the Carrier's control but required for safety purposes
- (1) The Carrier will provide Passengers with the reason for the delay, cancellation or denial of boarding, provide information related to compensation to which Passengers may be entitled to, provide information regarding the standard of treatment for Passengers, if any, and provide information regarding the recourse available against the Carrier, including recourse to the Canadian Transportation Agency.
 - (2) The Carrier will communicate new information to Passengers as soon as feasible and will provide updates to Passengers every 30 minutes until a new departure time is set or alternative travel arrangements have been made. The method of communication will be provided in the method preferred by a Passenger, if indicated, and in a method that is compatible with adaptive technologies intended to assist persons with disabilities.
 - (3) The Carrier will not deny boarding due to situations within the Carrier's control but required for safety purposes, unless the Carrier has asked all Passengers if they are willing to give up their seat. The Carrier will not deny boarding to a Passenger who was already on board the aircraft, unless the denial of boarding is required for

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- safety.
- (4) In situations involving a denial of boarding, the Carrier may offer a benefit in exchange for a Passenger willingly giving up their seat and will provide written confirmation of the benefit if accepted by the Passenger before the flight departs.
 - (5) If denial of boarding is necessary, the Carrier will select Passengers who will be denied boarding, giving priority in the following order:
 - (a) a person with a disability and their Attendant and/or Service dog;
 - (b) Passengers boarded and seated on the aircraft;
 - (c) Passengers travelling with their family members;
 - (d) Passengers previously denied boarding on the same ticket;
 - (e) Passengers travelling due to death or illness of a family member;
 - (f) WestJet Groups Passengers including the tour conductor of the group;
 - (g) Passengers who are part of a WestJet Vacations package;
 - (h) Partner airline Passengers;
 - (i) Premium fare (W, O, or R) or Business fare (J, D, or C) Passengers;
 - (j) any Passenger where denied boarding would cause undue hardship; and
 - (k) all other Passengers, based on itinerary, the status of loyalty program membership, and fare paid or time of check-in.
 - (6) Space and weight limitations
 Passengers will only be carried within the space and weight limitations of the Carrier's aircraft, and the Carrier reserves the right to deny boarding or transport to any person in order to comply with such limitations. If this policy results in a Passenger being denied boarding on an aircraft for which such Passenger has paid a fare, then the following shall apply:
 - (a) If the Passenger has not checked in within the required cut-off times outlined in Rule 30, the Passenger shall forfeit his or her right to obtain a refund of any fare paid in respect of the flight;
 - (b) If the Passenger is denied boarding after checking in and arriving at the gate to board within the appropriate time limit before planned departure, such Passenger will be entitled to compensation.
 - (F) Delays, cancellations or denial of boarding within the Carrier's control
 - (1) When a delay, cancellation or denial of boarding has occurred and is due to situations within the Carrier's control, the Carrier will provide Passengers with the reason for the delay, cancellation or denial of boarding, provide information related to compensation to which Passengers may be entitled to, provide information regarding the standard of treatment for Passengers, if any, and provide information regarding the recourse available against the Carrier, including recourse to the Canadian Transportation Agency.
 - (2) The Carrier will communicate new information to

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Passengers As soon as feasible and will provide updates to Passengers every 30 minutes until a new departure time is set or alternative travel arrangements have been made. The method of communication will be provided in the method preferred by a Passenger, if indicated, and in a method that is compatible with adaptive technologies intended to assist persons with disabilities.

- (3) The Carrier will not deny boarding due to situations within the Carrier's control unless the Carrier has asked all Passengers if they are willing to give up their seat. The Carrier will not deny boarding to a Passenger who is Already on board the aircraft, unless the denial of boarding is required for safety.
 - (4) In situations involving a denial of boarding, the Carrier may offer a benefit in exchange for a Passenger willingly giving up their seat and will provide written confirmation of a benefit if accepted by a Passenger before the flight departs.
 - (5) If denial of boarding is necessary, the Carrier will select Passengers who will be denied boarding according to subsection (E)5 above.
- (G) Passenger options – re-rerouting or refund
- (1) In the event of a delay due to situations outside the Carrier's control pursuant to subsection (D) above, that results in a delay of 3 hours or more, the Carrier will provide the following upon request by a Passenger:
 - (a) The Carrier will provide alternative travel arrangements free of charge to ensure that Passengers complete their itinerary as soon as feasible. The Carrier will provide a confirmed reservation on the next available flight operated by the Carrier or on a flight operated by a Carrier with which the original Carrier has a commercial agreement, if the next available flight is travelling on a reasonable air route from the airport at which the Passenger is located to the destination that is indicated on the Passenger's original ticket, and departs within 48 hours of the departure time on the original ticket.
 - (b) If the Carrier cannot provide such a confirmed reservation, at the passenger's choice, the Carrier will refund any unused portion of the ticket or the Carrier will provide a confirmed reservation for a flight operated by any Carrier travelling on any reasonable air route from the airport at which the Passenger is located, or another airport that is within a reasonable distance of that airport, to the destination that is indicated on the Passenger's original ticket. Transportation will be provided from the airport that the Passenger is located to the new departure airport,
 - (c) The Carrier will, to the extent possible, provide comparable travel arrangements to the original ticket, and will not request supplementary payment if the alternative travel arrangements provide for a higher class of service. If the class of service is lower than the original ticket, The Carrier will refund the difference in the cost of the applicable portion of the ticket.

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- (d) If the alternative travel arrangements do not meet the Passenger's needs, the Carrier will refund the unused portion on the ticket. If the Passenger is no longer at the point of origin and the travel no longer serves a purpose because of the delay, the Carrier will refund the ticket and provide a confirmed reservation for a flight that is to the point of origin. Refunds will be paid by the method used for the original payment and to the person who purchased the ticket.
- (2) In the event of a flight cancellation or denial of boarding due to situations outside the Carrier's control, pursuant to subsection (D) above, the Carrier will provide the following:
 - (a) The Carrier will provide alternative travel arrangements free of charge to ensure that Passengers complete their itinerary as soon as feasible. The Carrier will provide a confirmed reservation on the next available flight operated by the Carrier or on a flight operated by a Carrier with which the original Carrier has a commercial agreement, if the next available flight is travelling on a reasonable air route from the airport at which the Passenger is located to the destination that is indicated on the Passenger's original ticket, and departs within 48 hours of the departure time on the original ticket.
 - (b) If the Carrier cannot provide such a confirmed reservation, at the passenger's choice, provide a refund of any unused portion of the ticket, or the Carrier will provide a confirmed reservation for a flight operated by any Carrier travelling on any reasonable air route from the airport at which the Passenger is located, or another airport that is within a reasonable distance of that airport, to the destination that is indicated on the Passenger's original ticket. Transportation will be provided from the airport that the Passenger is located to the new departure airport.
 - (c) The Carrier will, to the extent possible, provide comparable travel arrangements to the original ticket, and will not request supplementary payment if the alternative travel arrangements provide for a higher class of service. If the class of service is lower than the original ticket, The Carrier will refund the difference in the cost of the applicable portion of the ticket.
 - (d) Pursuant to Rule 105, refunds will be provided for any additional services purchased by a Passenger in connection with the original ticket if the Passenger did not receive those services on the alternate flight or the Passenger paid for those services a second time. Refunds will be paid by the method used for the original payment and to the person who purchased the ticket or additional service.
 - (e) If the alternative travel arrangements do not meet the Passenger's needs, the Carrier will refund the unused portion on the ticket. If the Passenger is no longer at the point of origin and the travel no longer serves a purpose because of the delay, the Carrier will refund the

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ticket and provide a confirmed reservation for a flight that is to the point of origin. Refunds will be paid by the method used for the original payment and to the person who purchased the ticket.

- (3) In the event of a delay of three (3) hours or more due to situations within the Carrier's control or within the Carrier's control but required for safety purposes pursuant to subsection (E) above, the Carrier will provide the following where a Passenger desires:
- (a) The Carrier will provide alternative travel arrangements free of charge to ensure that Passengers complete their itinerary as soon as feasible. The Carrier will provide a confirmed reservation on the next available flight operated by the Carrier or on a flight operated by a Carrier with which the original Carrier has a commercial agreement, if the next available flight is travelling on a reasonable air route from the airport at which the Passenger is located to the destination that is indicated on the Passenger's original ticket, and departs within nine (9) hours of the departure time that is located on the original ticket.
 - (b) If the Carrier cannot provide such a confirmed reservation, the Carrier will provide a confirmed reservation for a flight operated by any Carrier travelling on any reasonable air route from the airport at which the Passenger is located that departs within 48 hours of the departure time that is indicated on the original ticket.
 - (c) If the Carrier cannot provide such a confirmed reservation, the Carrier will provide transportation to another airport that is within a reasonable distance of the airport at which the Passenger is located and a confirmed reservation for a flight that is operated by any Carrier on any reasonable air route from that other airport to the destination that is indicated on the Passenger's original ticket.
 - (d) The Carrier will, to the extent possible, provide comparable travel arrangements to the original ticket, and will not request supplementary payment if the alternative travel arrangements provide for a higher class of service. If the class of service is lower than the original ticket, The Carrier will refund the difference in the cost of the applicable portion of the ticket.
 - (e) Pursuant to Rule 105, refunds will be provided for any additional services purchased by a Passenger in connection with the original ticket if the Passenger did not receive those services on the alternate flight or the Passenger paid for those services a second time. Refunds will be paid by the method used for the original payment and to the person who purchased the ticket or additional service.
 - (f) If the alternative travel arrangements do not meet the Passenger's needs, the Carrier will refund the unused portion on the ticket. If the Passenger is no longer at the point of origin and the travel no longer serves a

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purpose because of the delay, the Carrier will refund the ticket and provide a confirmed reservation for a flight that is to the point of origin and accommodates the Passenger's travel needs. refunds will be paid by the method used for the original payment and to the person who purchased the ticket or additional service.

- (4) In the event of a flight cancellation or denial of boarding within the Carrier's control or a flight cancellation or denial of boarding within the Carrier's control but required for safety purposes pursuant to subsection (E), the Carrier will provide the following:
- (a) The Carrier will provide alternative travel arrangements free of charge to ensure that Passengers complete their itinerary as soon as feasible. The Carrier will provide a confirmed reservation on the next available flight operated by the Carrier or on a flight operated by a carrier with which the original Carrier has a commercial agreement, if the next available flight is travelling on a reasonable air route from the airport at which the Passenger is located to the destination that is indicated on the Passenger's original ticket, and departs within nine (9) hours of the departure time that is located on the original ticket.
 - (b) If the Carrier cannot provide such a confirmed reservation, the Carrier will provide a confirmed reservation for a flight operated by any carrier travelling on any reasonable air route from the airport at which the Passenger is located that departs within 48 hours of the departure time that is indicated on the original ticket.
 - (c) If the Carrier cannot provide such a confirmed reservation, the Carrier will provide transportation to another airport that is within a reasonable distance of the airport at which the Passenger is located and a confirmed reservation for a flight that is operated by any carrier on any reasonable air route from that other airport to the destination that is indicated on the Passenger's original ticket.
 - (d) The Carrier will, to the extent possible, provide comparable travel arrangements to the original ticket, and will not request supplementary payment if the alternative travel arrangements provide for a higher class of service. If the class of service is lower than the original ticket, The Carrier will refund the difference in the cost of the applicable portion of the ticket.
 - (e) Refunds will be provided for any additional services purchased by a Passenger in connection with the original ticket if the Passenger did not receive those services on the alternate flight or the Passenger paid for those services a second time. Refunds will be paid by the method used for the original payment and to the person who purchased the ticket or additional service.
 - (f) If the alternative travel arrangements do not meet The Passenger's needs, the Carrier will refund the unused portion on the ticket. If the Passenger is no longer at the point of origin and the travel no longer serves a purpose because of the delay, the Carrier will refund the

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ticket and provide a confirmed reservation for a flight that is to the point of origin and accommodates the Passenger's travel needs. Refunds will be paid by the method used for the original payment and to the person who purchased the ticket or additional service.

(H) Right to care

- (1) In the event of delay or flight cancellation within the Carrier's control or within the Carrier's control but required for safety purposes, in which a Passenger is informed of the delay less than 12 hours before the schedule departure time indicated on the original ticket, and the Passenger has waited two (2) hours after the departure time indicated on the ticket, or the delay has resulted in a flight cancellation and the Passenger was informed of the cancellation less than 12 hours before the departure time indicated on the ticket, a Passenger will be offered the following.
 - (a) Food and drink in reasonable quantities (which may include vouchers), taking into account the length of the wait, the time of day and the location of the Passenger.
 - (b) Access to a means of communication if possible.
 - (c) If the Carrier expects that the Passenger will be required to wait overnight for their original flight or a reserved flight as part of alternative travel arrangements, the Carrier will offer, free of charge, hotel or other comparable accommodation as well as transportation to and from the accommodation, taking into consideration the location of the Passenger.
 - (d) The Carrier may limit or refuse to provide any of the above standards of treatment if providing the treatment would further delay the Passenger.
- (2) In the event of a denied boarding due to situations within the Carrier's control or within the Carrier's control but required for safety purposes, a Passenger will be offered the following.
 - (a) Before a Passenger boards a flight reserved as part of an alternate travel arrangement, the Carrier will provide the Passenger a meal voucher and access to a means of communication.
 - (b) If the Carrier expects that the Passenger will be required to wait overnight for their original flight or a reserved flight as part of alternative travel arrangements, the Carrier will offer, free of charge, hotel or other comparable accommodation as well as transportation to and from the accommodation, taking into consideration the location of the Passenger.
 - (c) The Carrier may limit or refuse to provide any of the above standards of treatment if providing the treatment would further delay the Passenger.

I) Compensation for denial of boarding due to situation within the Carrier's control.

In addition to the applicable requirements set out above, the following will apply:

- (1) Conditions of payment
 - (a) the Passenger holding a confirmed and ticketed reservation must present themselves for carriage in accordance with this tariff: having complied fully with

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- the Carrier's applicable reservation, ticketing, check-in and boarding requirements within the time limits; and,
- (b) the Carrier must not have been able to accommodate the passenger on the flight on which they held confirmed and ticketed reservations and the flight departed without the Passenger.
- (2) A Passenger will not be eligible for compensation under the following conditions and will be treated in accordance with Rule 30 - Refusal to Transport:
- (a) the Passenger who checks-in after the Carrier's check-in cut-off time or presents themselves at the boarding area after the Carrier's boarding cut-off time as indicated in Rule 30(B)(2)(a) will not receive denied boarding compensation and will have their reservations cancelled.
- (3) Amount of compensation:
- (a) The carrier will provide compensation in the amounts set out below to Passengers who are denied boarding due to situations within the carrier's control and who have not accepted a benefit in exchange for willingly giving up their seat. Compensation will be paid as soon as operationally feasible, and no later than 48 hours after the denial of boarding. If compensation cannot be provided to the Passenger before the boarding of the flight as part of alternative travel arrangements, the carrier will provide written confirmation of what is owed.
 - (b) The amount of compensation will be determined based on the estimated arrival time of the flight reserved as part of alternative travel arrangements. Adjustment will be made to the amount of compensation if the expected time of arrival and the actual time of arrival are different. Arrival means that one of the doors of the aircraft has been opened after landing to allow Passengers to leave the aircraft.
 - (c) Regardless of the fare paid, Passengers are entitled to monetary compensation as follows:
 - (i) \$900 CAD, if the arrival of the Passenger at the destination that is indicated on the original ticket is delayed by less than six (6) hours;
 - (ii) \$1,800 CAD, if the arrival of the Passenger at the destination that is indicated on the original ticket is delayed by six (6) hours or more, but less than nine (9) hours; and
 - (iii) \$2,400 CAD, if the arrival of the Passenger at the destination that is indicated on the original ticket is delayed by nine (9) hours or more.
- (4) The carrier will compensate the Passenger in the form of money unless it offers compensation in another form that has a greater monetary value than the applicable amounts referred to in this section, the Passenger has been informed of the monetary value in writing and the alternative form of compensation does not expire. The Passenger must confirm in writing that the Passenger has been informed of the right to monetary compensation and has chosen to accept the alternative form of compensation.

(J) Applicability

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- (1) This rule applies to all Passengers irrespective of the type of ticketed fare.
- (2) A Passenger who fails to check-in or present themselves at the boarding area within the Carrier's check-in cut-off time and/or boarding cut-off time as specified in Rule 30(B)(2)(a), check-in time limits, will not receive compensation, will at the Carrier's discretion have their reservations cancelled and will be subject to the terms and conditions associated with the fare on which they are travelling.
- (3) Subject to applicable law, Passengers will not be compensated by the Carrier twice (i.e. double compensation) for the same event.
- (4) Safe travel
 - (a) The Carrier is not responsible for events of Force majeure or the acts of third parties. The Carrier is legally obligated to maintain the highest standards of aviation safety and cannot be encouraged to fly when it is not safe to do so. Similarly, the Carrier cannot be held responsible for inclement weather or the actions of third parties such as acts of government or air traffic control, airport authorities, security agencies, law enforcement or customs and immigration officials.
 - (b) There is nothing more important to the Carrier than the safety of its Passengers and employees. WestJet, WestJet Encore Ltd. and WestJet Link will never knowingly put anyone at risk for any reason. If there ever is, or we suspect there is, any situation that might put anyone in harm's way we will make decisions and take actions to remove the risk. As such, the Carrier will neither depart nor fly if it is not safe to do so nor attempt an arrivals approach if it is not safe to do so.
- (5) Compensation for inconvenience resulting from delays or cancellations within the control of the Carrier if a Passenger is informed 14 days or less before the departure time on their ticket that the arrival of their flight at the destination that is indicated on their ticket will be delayed by at least three hours, and the delay is caused by a situation under the Carrier's control, compensation will be provided if a Passenger files a request for compensation with the Carrier before the first anniversary of the day on which the flight delay occurred.

within 30 days from the date on which the Carrier receives the request, the Carrier will provide the compensation or an explanation why the compensation is not payable.

The Carrier will provide compensation in the following amounts to Passengers who are delayed due to delay or cancellation and when that delay is within the control of the Carrier and when the Passenger was informed 14 days or less about the delay. Regardless of the fare paid, Passengers are entitled to a monetary compensation as follows:

- (a) no compensation if the delay is less than three hours;
- (b) \$400, if the delay is three hours or more but less

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- than six hours;
- (c) \$700, if the delay is more than six hours but less than nine hours; and
- (d) \$1000, if the delay is more than nine hours.

If a Passenger is informed 14 days or less before the departure time on their ticket that the arrival of their flight at the destination that is indicated on their ticket will be delayed and the Passengers ticket is refunded, the Carrier will compensate the Passenger in the amount of \$400, if compensation is requested by the Passenger.

The Carrier will compensate the Passenger in the form of money unless it offers compensation in another form that has a greater monetary value than the applicable amounts referred to in this section, the Passenger has been informed of the monetary value in writing and the alternative form of compensation does not expire. The Passenger must confirm in writing that the Passenger has been informed of the right to monetary compensation and has chosen to accept the alternative form of compensation.

- (K) For services departing the European Union the Carrier is also subject to the provisions of EC Regulation No. 261 / 2004. If a Passenger's flight is delayed or cancelled in a jurisdiction other than Canada where another passenger rights regime applies, the Passenger can only submit a compensation claim under one of the two regimes. Passengers may not receive compensation under one regime if they have already received compensation under another passenger rights regime for the same event.

From time to time, Passengers may incur personal expenses which are a direct result of an unsatisfactory delivery of passenger transportation and/or related ancillary services. This may include hotel accommodations, charges for communications, ground transfer services or meals other than those served on board an aircraft. On a case-by-case basis, the Carrier will reimburse Passengers reasonable expenses arising from the delay. The Passenger will be required to provide receipts as proof of the expense incurred. If the Carrier reimburses the Passenger, a portion of the amount paid is on account of tax. This policy is not intended to supersede, or conflict with, requirements under applicable passenger protection regulations.

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Rule 105 Refunds

(A) General

- (1) For Tickets purchased directly from the Carrier, the Carrier will make a refund to the person who purchased the Ticket. A Passenger has one year from the scheduled flight to request a refund for transportation services purchased but not used.
- (2) The Passenger must present to the Carrier or its authorized agent the unused Flight coupons of a Ticket, an Itinerary/Receipt, a record locator, or a Reservation number as satisfactory proof that the passenger has unused portions of a Ticket which are eligible for refund.
- (3) The Carrier will make refunds available through the Carrier's contact centres, at certain airports or its webpage, depending on the refund type and when the refund request is made.
- (4) For Tickets purchased through a travel agency or another airline, refund requests will be processed through such travel agency or airline to the person who purchased the ticket.
- (5) For tickets purchased directly from the Carrier, the Carrier will refund the Fare, if applicable, to the person who purchased the ticket, to the original form of payment or as a Travel Credit depending on the fare rule pursuant to Rule 15. The forgoing shall not apply to refunds owing pursuant to the APPR.
- (6) Refund of Tickets shall be made in the currency used to purchase the Ticket, whenever possible. However, Canadian dollar refunds or refunds in the currency of the country where the Passenger-initiated refund is requested may be made at the request of the Passenger, provided a refund in such currency is not prohibited by local government foreign exchange control regulations
- (7) In any case where a Passenger is entitled to a refund in the form of a Travel Credit towards the purchase of a future flight, the Travel Credit shall include all amounts paid by the Passenger in association with the fare, including refundable fees (from unused services such as seat selection fees or kennel fees, charges, surcharges or taxes). The Travel Credit shall be valid for one (1) year from the date of the Travel Credit's issuance and may be used towards the purchase of a future air-only booking with the Carrier.
- (8) Subject to requirements under the APPR, Basic tickets are entirely non-refundable and hold no credit for future travel. Refer to Rule 15 for applicable fare rule details.
- (9) Seat selection fees
 - (a) Seat selection fees are refundable to the original form of payment up until 24 hours before the scheduled time of departure.
 - (b) In the event of a Passenger-initiated cancellation of all flights on the reservation and seat cancellations are made more than two hours before the originally scheduled time of departure, the seat fee will be included in the cancellation funds to the original form of payment.
- (10) Subject to the applicability of the APPR, the Montreal Convention, and the Warsaw Convention, acceptance of a

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refund by the Passenger will release the Carrier from further liability.

(B) General Refunds

(1) Passenger-initiated cancellations

If a Passenger decides not to use the ticket and cancels the reservation, the Passenger may not be entitled to a refund, depending on any refund condition attached to the applicable fare.

- (a) When a ticket is cancelled within 24 hours of purchase, and the flight departure is greater than 24 hours from the time of purchase, a full refund to the original form of payment including refundable taxes, fees, and charges, without penalty can be obtained.
 - (b) After 24 hours from the time of purchase, for a Basic non-refundable ticket, the Carrier does not provide a refund of the fare paid, any taxes, fees, charges or surcharges collected unless required by law or where such taxes were collected in error.
 - (c) After 24 hours from the time of purchase, for tickets other than Basic non-refundable tickets, cancellation of the entire or partial itinerary is available up until 2 hours before departure.
 - (i) When permitted by the refund condition attached to the applicable fare and the ticket is fully unused, the amount of the refund is the fare paid and any refundable fees and charges paid less the cancellation fee set out in Rule 15.
 - (ii) When permitted by the refund condition attached to the applicable fare and the ticket is partially used, the amount of the cancellation refund will be the difference, if any, between the fare, refundable taxes and fees paid and the fare prorated by mileage, taxes fees and charges applicable for the flight taken, less any applicable cancellation fees as set out in Rule 15.
 - (iii) A refund in the form of a Travel Credit will be provided in cases of cancellation of Econo, Econoflex, Premium and Business fares in accordance with the conditions set out in (e) below.
- Exception: PremiumFlex and BusinessFlex fares can be cancelled (with applicable fees) and refunded to original form of payment
- (d) within two (2) hours of flight departure, a cancellation cannot be made and refunds including taxes fees and charges are not available. If a Passenger does not cancel before two hours before departure, any unused or unflown portion of the ticket is non-refundable and holds no credit for future travel.

(2) Passenger-initiated changes

If a Passenger decides to make changes to the reservation, the Passenger may not be entitled to a refund, depending on the conditions attached to the applicable fare.

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- (a) when a ticket is changed within 24 hours of purchase, and the flight departure is more than 24 hours from the time of purchase, a refund will be provided without penalty to the original form of payment for any difference between the fare paid and will include refundable taxes, fees and charges.
- (b) After 24 hours from the time of purchase, for a non-refundable ticket, the Carrier does not permit changes as set out in Rule 15 and will not refund any taxes, fees, charges or surcharges collected unless required by law or where such taxes were collected in error.
- (c) After 24 hours from the time of purchase for refundable tickets, changes to the entire or partial itinerary are available up until two (2) hours before departure:
 - (i) when the ticket is fully unused the amount of the refund is the fare paid and any refundable fees and charges paid less the change fee according to applicable fare rule as set out in Rule 15.
 - (ii) when the ticket is partially used, the amount of the change refund will be the difference if any between the fare prorated by mileage, refundable taxes, fees and charges paid and the fare, taxes fees and charges applicable for the flight taken, less any applicable change fees as set out in Rule 15.
 - (iii) A Travel Credit will be provided for Econo, Econoflex, Premium and Business fares in accordance with 1(e) above
 - (iv) Exception: PremiumFlex and BusinessFlex fares can be changed and any applicable difference in fares, refundable taxes, fees and charges as set out in Rule 15 can be refunded to the original form of payment.
- (d) Same-day change requests

Passengers may request a Same-day change to a confirmed flight. Changes are done for a fee as outlined in Rule 15, and can be completed only when:

 - (i) the flight is from the same origin to the same destination;
 - (ii) the flight is on the same calendar day as the original departure;
 - (iii) the flight is operated by the Carrier
 - (iv) the fare purchased is: Econo, EconoFlex, Premium, PremiumFlex, Business, BusinessFlex or Member Exclusive (Economy, Premium or Business);
 - (v) there is a seat available in the same cabin as originally booked;

Note: when flight is part of a Carrier vacation package booking, same-day changes will apply to the flight only. WestJet and WestJet Vacations are not responsible for any impact to other planned or reserved activities, including but not limited to transfers, hotel reservations, excursions, etc. Any unused components will be forfeited.

Note: changes to an earlier flight must be requested before the new flight's check-in cut-off time and the guest must not have already checked in their

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baggage. Changes to a later flight can be requested up until the standard departure time of the original flight.

Note: Same-day changes are not available for:

- (i) basic fare tickets;
- (ii) group bookings or charter flights;
- (iii) codeshare or interline flights; or
- (iv) flights on a different calendar day (if the

Passenger's

scheduled flight is the only one available that calendar day).

(3) Refusal to transport refunds

Subject to Involuntary Refunds in subsection (4) below, in the event a refund is required because of a refusal to transport,

- (a) If, no portion of a ticket has been used, the amount of refund will be equal to the Fare, refundable taxes, fees and charges paid; or
- (b) If, a portion of the ticket has been used, the amount refunded to the purchaser will be the difference between the Fare paid and the fare for transportation actually used or to be used.

(4) Involuntary Refunds

For the purposes of this paragraph, an Involuntary Refund is a refund owed as a result of a delay, cancellation, or denied boarding pursuant to Rule 100 or a downgrade pursuant to Rule 75, or that is made due to any reason within the Carrier's control in the event the Passenger is prevented from using all or a portion of their ticket, including a substitution to a lower class of service by the Carrier (i.e. a downgrade), a missed connection due to a Schedule Irregularity, or a Refusal to Transport pursuant to Rule 30.

Exception: No Involuntary Refund is owed if Rule 30 - Refusal to Transport applies and the Guest was refused transport for failing to comply with any government regulation or engaging in prohibited conduct within the meaning of Rule 30(B)(1).

- (a) Involuntary refunds are not subject to any restrictions contained in the applicable Fare rule as set out in Rule 15.
- (b) If no portion of the ticket has been used, the refund will be equal to the Fare refundable taxes, fees, and charges paid; or
- (c) If a portion of the ticket has been used, the amount Refunded to the purchaser will be the difference between the Fare paid and the Fare for transportation actually used or to be used.
- (d) Refunds owed as a result of an obligation under the APPR and pursuant to Rule 100 will be provided by the Carrier 30 days after the passenger requests the refund.

(C) Jury duty

In the event a Passenger is called for jury duty, a full refund to the original form of payment and a waiver of cancellation fees will apply upon presentation of the jury summons. Redacted copies of the summons will be accepted as

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long as the Passenger's name, address and date of jury duty are visible. The Passenger must make the request for a refund before the date of travel.

(D) Refund in case of death

Refunds in the case of death are not subject to any restrictions contained in the applicable fare rules when transportation is cancelled due to death of a Passenger, a member of the Passenger's immediate family as defined in Rule 1, or of a travelling companion.

- (1) The following conditions must be met in order for these provisions to apply:
 - (a) The death occurs after the purchase of the ticket but before the commencement of travel or;
 - (b) After commencement of travel.
- (2) Before commencement of travel the refund will consist of full refund of the fare, refundable taxes, fees, charges, and surcharges paid
- (3) After commencement of travel the refund of any unused portion will be the difference, if any, between the fare, refundable taxes, fees, and surcharges paid and the fare, taxes, fees, charges and surcharges applicable for transportation used. No cancellation/change fee or penalty will be assessed. If a change or cancellation has already been made and the fee applied, cancellation/change fee will be refunded upon request.
- (4) In the event of death of the Passenger, refundable and non-refundable tickets will be refunded to such Passenger's estate or to the original form of payment.
- (5) Documentation providing proof of death must be submitted for a refund.
- (6) Refund will only be made upon presentation of applicable documents which may include the following:
 - (a) If a spouse request is made, a marriage certificate may be required.
 - (b) The reservation code, flight date and Passenger name on the reservation; and
 - (c) Proper documentation providing proof of the death of the immediate family member or of the Passenger, such as a copy of the death certificate, funeral director's statement, or acknowledgement of registration issued by a governmental authority is required. Documents or copies thereof must be issued and executed by the duly authorized authority in the country in which the death occurred, i.e. those designated by the laws of the country concerned.
- (d) Copy of the page of the Last will and Testament that determines the Executor or a letter from the probate attorney.

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Rule 115 Interline Baggage Acceptance

For travel to or from the United States, when travelling with one of the Carrier's code-share or interline partners, Passengers are encouraged to familiarize themselves with the baggage allowances and fees of the code-share or interline carrier as they may be different from the Carrier's baggage allowances and fees. The Carrier will comply with applicable regulations to ensure the appropriate baggage allowances and fees apply throughout the Passenger's entire journey.

(A) Applicability

This rule is applicable to all interline itineraries issued on a single ticket whose origin or ultimate ticketed destination is in Canada. It establishes how WS will determine which carrier's baggage rules apply to any Passenger's entire interline itinerary.

(B) General

For the purposes of interline baggage acceptance:

- (1) The carrier whose designator code is identified on the first segment of the Passenger's interline ticket will be known as the selecting carrier.
- (2) Any carrier who is identified as providing interline transportation to the Passenger by virtue of the Passenger's ticket will be known as a participating carrier.

(C) Baggage rule determination by selecting carrier

(1) Checked baggage

The selecting carrier will:

- (a) Select and apply its own baggage rules as set out in its tariff to the entire interline itinerary; or
- (b) Select the most significant carrier, as determined by IATA resolution 302 and conditioned by the Canadian Transportation Agency, in order for that carrier's baggage rules, as established in its tariff, to apply to the entire interline itinerary.

The carrier identified by means of (a) or (b) will be known as the selected carrier.

(2) Carry-on baggage

Each operating carrier's carry-on baggage allowances will apply to each flight segment in an interline itinerary. Notwithstanding, the carry-on baggage charges that will apply to the entire interline itinerary will be those of the selected carrier.

(D) Baggage rule application by participating carrier where WS is not the selected carrier on an interline itinerary but is a participating carrier that is providing transportation to the Passenger based on the ticket issued, WS will apply as its own the baggage rules of the selected carrier throughout the interline itinerary.

(E) Disclosure of baggage rules

Summary page at the end of an online purchase and

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e-ticket disclosure

- (1) For baggage rules provisions related to a Passenger's 1st and 2nd checked bag and the Passenger's carry-on baggage (i.e. the Passenger's "standard" baggage allowance), when the carrier sells and issues a ticket for an interline itinerary, it will disclose to the Passenger on any summary page at the end of an online purchase and on the Passenger's itinerary/receipt and e-ticket at the time of ticketing the baggage information relevant to the Passenger itinerary as set out in paragraph 2 below. The disclosed information will reflect the baggage rules of the selected carrier.
- (2) The Carrier will disclose the following information:
 - (a) Name of the Carrier whose baggage rules apply;
 - (b) Passenger's free baggage allowance and/or applicable fees;
 - (c) Size and weight limits of the bags, if applicable;
 - (d) Terms or conditions that would alter or impact a Passenger's standard baggage allowances and charges (e.g. frequent flyer status, early check-in, pre-purchasing baggage allowances with a particular credit card);
 - (e) Existence of any embargoes that may be applicable to the Passenger's itinerary; and,
 - (f) Application of baggage allowances and charges (i.e. whether they are applied once per direction or if they are applicable at each stopover point).
- (3) The Carrier will provide this information in text format on the Passenger's e-ticket confirmation. any fee information provided for carry-on bags and the first and second checked bag will be expressed as specific charges (i.e., not a range).

web site disclosure

The Carrier will disclose on its web site, in a convenient and prominent location, a complete and comprehensive summary of all the Carrier's own baggage rules, including information concerning:

- (a) The maximum weight and dimensions of Passenger bags, if applicable, both checked and unchecked;
- (b) The number of checked and unchecked Passenger bags that can be transported and the applicable charges;
- (c) Excess and oversized baggage charges;
- (d) Charges related to check in, collection and delivery of checked baggage;
- (e) Acceptance and charges related to special items, e.g. surf boards, pets, bicycles, etc.;
- (f) Baggage provisions related to prohibited or unacceptable items, including embargoes;
- (g) Terms or conditions that would alter or impact the baggage allowances and charges applicable to

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Passengers (e.g. Frequent flyer status, early check in, pre-purchasing baggage allowances with a particular credit card); and,

- (h) Other rules governing treatment of baggage at stopover points, including Passengers subject to special baggage allowances or charges etc.

(F) Definitions

"Airline designator code"

An identification code comprised of two-characters which is used for commercial and traffic purposes such as reservations, schedules, timetables, ticketing, tariffs and airport display systems. airline designators are assigned by IATA. When this code appears on a ticket, it reflects the carrier that is marketing the flight, which might be different from the carrier operating the flight.

"Baggage rules"

The conditions associated with the acceptance of baggage, services incidental to the transportation of baggage, allowances and all related charges. for example, baggage rules may address the following topics:

- The maximum weight and dimensions of Passenger bags, if applicable, both checked and unchecked;
- The number of checked and unchecked Passenger bags that can be transported and the applicable charges;
- Excess and oversized baggage charges;
- Charges related to check-in, collection and delivery of checked baggage;
- Acceptance and charges related to special items, e.g. surfboards, pets, bicycles, etc.;
- Baggage provisions related to prohibited or unacceptable items, including embargoes;
- Terms or conditions that would alter or impact the baggage allowances and charges applicable to Passengers (e.g. frequent flyer status, early check-in, pre-purchasing baggage allowances with a particular credit card); and,
- Other rules governing treatment of baggage at stopover points, including Passengers subject to special baggage allowances or charges, etc.

"Interline agreement":

An agreement between two or more carriers to co-ordinate the transportation of Passengers and their baggage from the flight of one air carrier to the flight of another air carrier (through to the next point of stopover).

"Interline itinerary":

All flights reflected on a single ticket involving multiple air carriers. Only travel on a single ticket is subject to the agency's approach provided the origin or the ultimate ticketed destination is a point in Canada.

"Interline travel":

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Travel involving multiple air carriers listed on a single ticket that is purchased via a single transaction.

"Single ticket":

A document that permits travel from origin to destination. It may include interline/code-share and intra-line segments. It may also include end-to-end combinations (i.e., stand-alone fares that can be bought separately but combined together to form one price).

"Summary page at the end of an online purchase":

A page on a carrier's website which summarizes the details of a ticket purchase transaction just after the Passenger has agreed to purchase the ticket from the carrier and has provided a form of payment.

"Ultimate ticketed destination":

In situations where a Passenger's origin is a non-Canadian point and the itinerary includes at least one stop in Canada, as well as at least one stop outside Canada. If the stop in Canada is the farthest checked point and the stop is more than 24 hours, the agency would consider the ultimate ticketed destination to be Canada.

Carrier definitions (various)

"Down line carrier":

Any carrier, other than the selecting carrier, who is identified as providing interline transportation to the Passenger by virtue of the Passenger's ticket.

"Marketing carrier":

The carrier that sells flights under its code.

"Most significant carrier (MSC)":

Is determined by a methodology, established by IATA (resolution 302), which establishes, for each portion of a Passenger's itinerary where baggage is checked through to a new stopover point, which carrier will be performing the most significant part of the service. For travellers under the resolution 302 system, the baggage rules of the MSC will apply. For complex itineraries involving multiple checked baggage points, there may be more than one MSC, resulting in the application of differing baggage rules through an itinerary.

"Most significant carrier (MSC)-IATA resolution 302 as conditioned by the agency":

In this instance, the MSC is determined by applying IATA resolution 302 methodology as conditioned by the agency. The agency's reservation has stipulated that only a single set of baggage rules may apply to any given interline itinerary. The aim of the agency's reservation is to allow the selecting carrier to use the MSC methodology to determine which carrier's baggage rules apply to an international interline itinerary to or from Canada, while reinforcing the role of tariffs in the determination of which carrier's rules apply.

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"Operating carrier":

The carrier that operates the actual flight.

"Participating carrier(s)":

Includes both the selecting carrier and down line carriers who have been identified as providing interline transportation to the Passenger by virtue of the Passenger's ticket.

"Selected carrier":

The carrier whose baggage rules apply to the entire interline itinerary.

"Selecting carrier":

The carrier whose designator code is identified on the first segment of the Passenger's ticket at the beginning of an itinerary issued on a single ticket whose origin or ultimate destination is in Canada.

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Rule 145 Currency Applications

Local currency fares and charges

- (1) Fares and related charges are expressed in the local currency of the country of commencement of transportation (COC), except those countries listed below which are expressed (A) in US dollars or (B) in Euro:

(A)

Afghanistan	Lebanon
Angola	Liberia
Anguilla	Madagascar
Antigua and Barbuda	Malawi
Argentina	Maldives
Bahamas	Mexico
Bangladesh	Mongolia
Barbados	Montserrat
Belize	Nicaragua
Bermuda	Nigeria
Bolivia	Palestinian Territory
Bonaire	Panama
Brazil	Paraguay
Burundi	Peru
Cambodia	Philippines
Cayman Islands	Rwanda
Chile	Saba
Colombia	Saint Eustatius
Congo, Dem. Rep. of	Saint Kitts
Costa Rica	and Nevis
Cuba	Saint Lucia
Dominica	Saint Vincent and
Dominican Republic	The Grenadines
Ecuador	Sao Tome and
El Salvador	Principe
Eritrea	Sierra Leone
Ethiopia	Somalia
Gambia	Suriname
Ghana	Tanzania, United
Grenada	Republic of
Guatemala	Timor Leste
Guinea	Trinidad and
Guyana	Tobago
Haiti	Uganda
Honduras	Ukraine
Indonesia	United States
Iraq	and U.S. Territories
Israel	Uruguay
Jamaica	Venezuela
Kenya	Viet Nam
Laos	Zambia
	Zimbabwe

(B)

Albania
 Armenia
 Austria

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Azerbaijan
 Belarus
 Belgium
 Bosnia and Herzegovina
 Bulgaria
 Cape Verde
 Croatia
 Cyprus
 Estonia
 Finland
 France except French Polynesia
 (including Wallis and Futuna)
 New Caledonia (including Loyalty Islands)
 Georgia
 Germany
 Greece
 Ireland
 Italy
 Kyrgyzstan
 Latvia
 Lithuania
 Luxembourg
 Macedonia (FYROM)
 Malta
 Moldova, Republic of Monaco
 Montenegro
 Netherlands
 Portugal
 Romania
 Russia
 Serbia
 Slovakia
 Slovenia
 Spain
 Tajikistan
 Turkey
 Turkmenistan
 Uzbekistan

- (2) All add-ons shall be established in the currency of the country concerned, or where agreed, in U.S. dollars or in Euro or in any other currency.

Combination of local currency fares

To combine two or more local currency fares, convert all local currency fares into the currency of the country of commencement of transportation.

Step 1: (a) Establish the NUC amount for each local currency fare by dividing the local currency fare by the applicable IATA Rate of Exchange (ROE) shown in the Currency Conversion Table below for the country in which the currency is denominated.

(b) Calculate the resultant amount to two decimal places, ignoring any further decimal places.

Step 2: Add the resultant NUC amounts for the sectors involved.

Step 3: (a) Established the through local currency

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- fare by multiplying the total NUC amounts (derived from Steps 1, 2, and 3 above) by the IATA Rate of Exchange (ROE) shown in the currency conversion table below for the country of commencement of travel.
- (b) Calculate the resultant amount of one decimal place beyond the number of decimal places shown next to the local currency in the conversion table below, ignoring any further decimal places.
 - (c) Round up to the next higher rounding unit shown next to the local currency in the currency conversion table, unless otherwise indicated.

Exception: When an international ticket is comprised of all domestic fare components, but within different countries, the provisions outlines above shall apply.

Other Charges

Other charges shall be separately converted to the currency of the country of sale using the Bankers' Selling Rate using the rounding units shown next to other charges in the currency conversion table.

MCOs for unspecified transportation and PTAs.

MCOs for unspecified transportation and PTAs when honored for payment of Air transportation shall be subject to the provisions of Rule 75 (Currency of Payment). The country of payment of the PTA or MCO shall be considered the country of original issue and determine construction Rules to apply.

Currency Table

For IATA Rate of Exchange (ROE) currency conversion table see pages 259-275.

Local Currency Rounding Table

For those countries where fares are expressed in USA and the USD is not the local currency; see pages 280-Q thru 282.

Currency Table

Abu Dhabi

(See United Arab Emirates)

Afghanistan

US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1

Albania

Euro	EUR	ROE:.908104	Note -
Round Up: Local Currency - 1			Other Charges - 0.01

Algeria

Algerian Dinar	DZD	ROE:120.675876	Note -
Round Up: Local Currency - 1			Other Charges - 1

American Samoa

US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1

Angola

US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1

Anguilla

US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1

Antigua and Barbuda

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US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Argentina			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Armenia			
Euro	EUR	ROE:.908104	Note E
Round Up: Local Currency - 1			Other Charges - 0.1
Aruba			
Aruban Guilder	AWG	ROE:1.8000000	Note -
Round Up: Local Currency - 1			Other Charges - 1
Australia			
Australian Dollar	AUD	ROE:1.468910	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Austria			
Euro	EUR	ROE:.908104	Note -
Round Up: Local Currency - 1			Other Charges - 0.01
Azerbaijan			
Euro	EUR	ROE:.908104	Note E
Round Up: Local Currency - 1			Other Charges - 0.1
Bahamas			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Bahrain			
Bahraini Dinar	BHD	ROE:.376100	Note -
Round Up: Local Currency - 1			Other Charges - 1
Bangladesh			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Barbados			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Belarus			
Euro	EUR	ROE:.908104	Note E
Round Up: Local Currency - 1			Other Charges - 0.1
Belgium			
Euro	EUR	ROE:.908104	Note -
Round Up: Local Currency - 1			Other Charges - 0.01
Belize			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Benin, Rep. Of			
CFA Franc	XOF	ROE:595.677380	Note -
Round Up: Local Currency - 100			Other Charges - 100
Bermuda			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Bhutan			
NGULTRUM	BTN	ROE:71.969032	Note -
Round Up: Local Currency - 1			Other Charges - 1
Bolivia			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Bonaire			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Bosnia and			

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 Carrier: WestJet - WS

Herzegovina			
Euro	EUR	ROE:.908104	Note E
Round Up: Local Currency - 1			Other Charges - 0.01
Botswana			
PULA	BWP	ROE:11.113232	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Brazil			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
British Virgin Islands			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Brunei			
Darussalam			
Brunei Dollar	BND	ROE:1.385105	Note -
Round Up: Local Currency - 1			Other Charges - 1
Bulgaria			
Euro	EUR	ROE:.908104	Note E
Round Up: Local Currency - 1			Other Charges - 0.01
Burkina Faso			
CFA Franc	XOF	ROE:595.677380	Note -
Round Up: Local Currency - 100			Other Charges - 100
Burundi			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Cambodia			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 1.0
Cameroon			
CFA Franc	XAF	ROE:595.677380	Note -
Round Up: Local Currency - 100			Other Charges - 100
Canada			
Canadian dollar	CAD	ROE:1.323867	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Cape Verde			
Euro	EUR	ROE:.908104	Note E
Round Up: Local Currency - 1			Other Charges - 0.1
Cayman Islands			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Central African Republic			
CFA Franc	XAF	ROE:595.677380	Note -
Round Up: Local Currency - 100			Other Charges - 100
Chad			
CFA Franc	XAF	ROE:595.677380	Note -
Round Up: Local Currency - 100			Other Charges - 100
Chile			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
China			
Yuan Renminbi	CNY	ROE:7.145291	Note -
Round Up: Local Currency - 10			Other Charges - 1
Chinese Taipei			
Dollar	TWD	ROE:31.279394	Note -
Round Up: Local Currency - 1			Other Charges - 0.5
Colombia			

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US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Comoros			
Comoro			
Franc	KMF	ROE:446.758035	Note -
Round Up: Local Currency - 100			Other Charges - 50
Congo (Brazzaville)			
CFA Franc	XAF	ROE:595.677380	Note -
Round Up: Local Currency - 100			Other Charges - 100
Congo (Kinshasa)			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Cook Islands			
New Zealand			
Dollar	NZD	ROE:1.568442	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Costa Rica			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Cote d'Ivoire			
CFA Franc	XOF	ROE:595.677380	Note -
Round Up: Local Currency - 100			Other Charges - 100
Croatia			
Euro	EUR	ROE:.908104	Note E
Round Up: Local Currency - 1			Other Charges - 0.01
Cuba			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Curacao			
Netherlands			
Antilles			
Guilder	ANG	ROE:1.790000	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Cyprus			
Euro	EUR	ROE:0.908104	Note -
Round Up: Local Currency - 1			Other Charges - 0.05
Czech			
Republic			
Czech Koruna	CZK	ROE:23.484744	Note -
Round Up: Local Currency - 1			Other Charges - 1
Denmark			
DANISH KRONE	DKK	ROE:6.773884	Note -
Round Up: Local Currency - 5			Other Charges - 1
Djibouti			
Djibouti Franc	DJF	ROE:177.721000	Note -
Round Up: Local Currency - 100			Other Charges - 100
Dominica			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Dominican			
Republic			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Ecuador			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Egypt			
EGYPTIAN Pound	EGP	ROE:16.560000	Note -

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Round Up: Local Currency - 1	Other Charges - 1
El Salvador	
US Dollar USD ROE:1.0	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Equatorial Guinea	
CFA franc XAF ROE:595.677380	Note -
Round Up: Local Currency - 100	Other Charges - 100
Eritrea	
US Dollar USD ROE:1.0	Note D
Round Up: Local Currency - 1	Other Charges - 0.1
Estonia	
euro EUR ROE:.908104	Note -
Round Up: Local Currency - 5	Other Charges - 0.1
Ethiopia	
US Dollar USD ROE:1.0	Note D
Round Up: Local Currency - .	Other Charges - 0.1
Eswatini	
Lilangeni SZL ROE:15.071386	Note -
Round Up: Local Currency - 10	Other Charges - 1
European M. Union	
Euro EUR ROE:.908104	Note -
Round Up: Local Currency - 1	Other Charges - 0.5
Falkland Islands	
Falkland Islands Pound FKP ROE:.818146	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Faroe Islands	
Danish Krone DKK ROE:6.773884	Note -
Round Up: Local Currency - 5	Other Charges - 0.1
Fiji	
Fiji Dollar FJD ROE:2.204261	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Finland	
Euro EUR ROE:.908104	Note -
Round Up: Local Currency - 1	Other Charges - 0.01
France	
Euro EUR ROE:.908104	Note -
Round Up: Local Currency - 1	Other Charges - 0.01
French Guiana	
Euro EUR ROE:.908104	Note -
Round Up: Local Currency - 1	Other Charges - 0.01
French Polynesia	
CFP Franc XPF ROE:108.365631	Note -
Round Up: Local Currency - 5	Other Charges - 1
Gabon	
CFA Franc XAF ROE:595.677380	Note -
Round Up: Local Currency - 100	Other Charges - 100
Gambia	
US Dollar USD ROE:1.0	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Georgia	
Euro EUR ROE:.908104	Note E
Round Up: Local Currency - 1	Other Charges - 0.1
Germany	
Euro EUR ROE:.908104	Note -
Round Up: Local Currency - 1	Other Charges - 0.01
Ghana	
US Dollar USD ROE:1.0	Note D
Round Up: Local Currency - 1	Other Charges - 0.1

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Gibraltar			
Gibraltar			
Pound	GIP	ROE:.818146	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Greece			
Euro	EUR	ROE:.908104	Note -
Round Up: Local Currency - 100			Other Charges - 10
Greenland			
Danish Krone	DKK	ROE:6.773884	Note -
Round Up: Local Currency - 5			Other Charges - 1
Grenada			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Guadeloupe			
Euro	EUR	ROE:.908104	Note -
Round Up: Local Currency - 1			Other Charges - 0.01
Guam			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Guatemala			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Guinea			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Guinea-Bissau			
CFA Franc	XOF	ROE:595.677380	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Guyana			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 1
Haiti			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Honduras			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Hong Kong			
Hong Kong Dollar	HKD	ROE:7.841150	Note -
Round Up: Local Currency - 10			Other Charges - 1
Hungary			
Forint	HUF	ROE:299.756829	Note -
Round Up: Local Currency - 10			Other Charges - 10
Iceland			
Iceland Krone	ISK	ROE:126.754430	Note -
Round Up: Local Currency - 100			Other Charges - 10
India			
Indian Rupee	INR	ROE:71.969032	Note -
Round Up: Local Currency - 5			Other Charges - 1
Indonesia			
Indonesian Rupiah	IDR	ROE:14126.800000	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Iran, Islamic Republic of			
Iranian Rial	IRR	ROE:112807.000000	Note -
Round Up: Local Currency - 100			Other Charges - 100
Iraq			
Iraq Dinar	IQD	ROE:1199.765150	Note D

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Round Up: Local Currency - 0.1	Other Charges - 0.05
Ireland	
Euro EUR ROE:.908104	Note -
Round Up: Local Currency - 1	Other Charges - 0.01
Israel	
US Dollar USD ROE:1.0	Note D
Round Up: Local Currency - 1	Other Charges - 0.1
Italy	
Euro EUR ROE:.908104	Note -
Round Up: Local Currency - 1	Other Charges - 0.01
Jamaica	
US Dollar USD ROE:1.0	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Japan	
YEN JPY ROE:106.608770	Note -
Round Up: Local Currency - 100	Other Charges - 10
Jordan	
Jordanian Dinar JOD ROE: .709000	Note -
Round Up: Local Currency - 1	Other Charges - 0.05
Kazakhstan	
Tenge KZT ROE:387.166000	Note D
Round Up: Local Currency - 1	Other Charges - 0.1
Kenya	
US Dollar USD ROE:1.0	Note D
Round Up: Local Currency - 1	Other Charges - 0.1
Kiribati	
Australian Dollar AUD ROE:1.468910	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Korea, Democratic People's Republic of	
North Korean Won KPW ROE:107.250000	Note -
Round Up: Local Currency - 1	Other Charges - 1
Korea, Republic of	
Korean Won KRW ROE:1201.730079	Note -
Round Up: Local Currency - 100	Other Charges - 100
Kuwait	
Kuwait Dinar KWD ROE:.304751	Note -
Round Up: Local Currency - 1	Other Charges - 0.05
Kyrgyzstan	
Euro EUR ROE:.908104	Note E
Round Up: Local Currency - 1	Other Charges - 0.1
Laos, People's Democratic Republic of	
US Dollar USD ROE:1.0	Note D
Round Up: Local Currency - 1	Other Charges - 0.1
Latvia	
Euro EUR ROE:.908104	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Lebanon	
US Dollar USD ROE:1.0	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Lesotho	

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LOTI	LSL	ROE:15.071386	Note -
Round Up: Local Currency - 10			Other Charges - 0.1
Liberia			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Libyan Arab			
Jamahiriya			
Libyan Dinar	LYD	ROE:1.431813	Note -
Round Up: Local Currency - 0.1			Other Charges - 0.05
Lithuania			
Euro	EUR	ROE:.908104	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Luxembourg			
Luxembourg			
Euro	EUR	ROE:.908104	Note -
Round Up: Local Currency - 1			Other Charges - 0.01
Macao			
Pataca	MOP	ROE:8.076385	Note -
Round Up: Local Currency - 10			Other Charges - 1
Madagascar			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 100			Other Charges - 50
Malawi			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Malaysia			
Malaysian			
Ringgit	MYR	ROE:4.194384	Note -
Round Up: Local Currency - 1			Other Charges - 1
Maldives			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Mali			
CFA Franc	XOF	ROE:595.677380	Note -
Round Up: Local Currency - 100			Other Charges - 100
Malta			
Euro	EUR	ROE:.908104	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Marshall Islands			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Martinique			
Euro	EUR	ROE:.908104	Note -
Round Up: Local Currency - 1			Other Charges - 0.01
Mauritania			
Ouguiya	MRO	ROE:37.391920	Note -
Round Up: Local Currency - 20			Other Charges - 10
Mauritius			
Mauritius Rupee	MUR	ROE:37.445118	Note -
Round Up: Local Currency - 5			Other Charges - 1
Mayotte			
Euro	EUR	ROE:.908104	Note -
Round Up: Local Currency - 1			Other Charges - 0.01
Mexico			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Micronesia			
US Dollar	USD	ROE:1.00	Note -

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Round Up: Local Currency - 1	Other Charges - 0.1
Moldova, Republic of	
Euro EUR ROE:.908104	Note E
Round Up: Local Currency - 1	Other Charges - 0.1
Monaco	
Euro EUR ROE:.908104	Note -
Round Up: Local Currency - 1	Other Charges - 0.01
Mongolia	
US Dollar USD ROE:1.0	Note D
Round Up: Local Currency - 1	Other Charges - 0.1
Montenegro	
Euro EUR ROE:.908104	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Montserrat	
US Dollar USD ROE:1.0	Note D
Round Up: Local Currency - 1	Other Charges - 0.1
Morocco	
Moroccan Dirham MAD ROE:9.756254	Note -
Round Up: Local Currency - 5	Other Charges - 1
Mozambique	
Metical MZM ROE:62.046000	Note -
Round Up: Local Currency - 10000	Other Charges - 10000
Myanmar	
Kyat MMK ROE:1546.704423	Note D
Round Up: Local Currency - 1	Other Charges - 1
Namibia	
Namibian Dollar NAD ROE:15.071386	Note -
Round Up: Local Currency - 10	Other Charges - 1
Nauru	
Australian Dollar AUD ROE:1.468910	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Nepal	
Nepalese Rupee NPR ROE:115.150452	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Netherlands	
Netherlands	
Euro EUR ROE:.908104	Note -
Round Up: Local Currency - 1	Other Charges - 0.01
Netherlands	
Antilles	
Netherlands	
Antillean	
Guilder ANG ROE:1.790000	Note -
Round Up: Local Currency - 1	Other Charges - 1
New Caledonia	
CFP Franc XPF ROE:108.365631	Note -
Round Up: Local Currency - 100	Other Charges - 10
New Zealand	
New Zealand Dollar NZD ROE:1.568442	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Nicaragua	
US Dollar USD ROE:1.0	Note D
Round Up: Local Currency - 1	Other Charges - 0.1
Niger	
CFA Franc XOF ROE:595.677380	Note -

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Round Up: Local Currency - 100	Other Charges - 100
Nigeria	
US Dollar USD ROE:1.0	Note D
Round Up: Local Currency - 1	Other Charges - 0.1
Niue	
New Zealand Dollar NZD ROE:1.568442	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Norfolk Island	
Australian Dollar AUD ROE:1.468910	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Northern Mariana Islands	
US Dollar USD ROE:1.0	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Norway	
Norwegian Krone NOK ROE:9.026063	Note -
Round Up: Local Currency - 5	Other Charges - 1
Occupied Palestinian Territory	
US Dollar USD ROE:1.0	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Oman	
Rial Omani OMR ROE: .384500	Note -
Round Up: Local Currency - 1	Other Charges - 1
Pakistan	
Pakistan Rupee PKR ROE:156.955904	Note -
Round Up: Local Currency - 10	Other Charges - 1
Palau	
US Dollar USD ROE:1.0	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Panama	
US Dollar USD ROE:1.0	Note D
Round Up: Local Currency - 1	Other Charges - 0.1
Papua New Guinea	
KINA PGK ROE:3.487872	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Paraguay	
US Dollar USD ROE:1.0	Note D
Round Up: Local Currency - 1	Other Charges - 0.1
Peru	
US Dollar USD ROE:1.0	Note D
Round Up: Local Currency - 1	Other Charges - 0.1
Philippines	
US Dollar USD ROE:1.0	Note D
Round Up: Local Currency - 1	Other Charges - 0.1
Poland	
PLN PLN ROE:3.948006	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Portugal	
Portuguese	
Euro EUR ROE:.908104	Note -
Round Up: Local Currency - 1	Other Charges - 0.01
Puerto Rico	
US Dollar USD ROE:1.0	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Qatar	
Qatari Rial QAR ROE:3.640000	Note -
Round Up: Local Currency - 10	Other Charges - 10
Reunion	

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Euro	EUR	ROE:.908104	Note -
Round Up: Local Currency - 1			Other Charges - 0.01
Romania			
Euro	EUR	ROE:.908104	Note E
Round Up: Local Currency - 1			Other Charges - 0.01
Russian Federation			
Euro	EUR	ROE:.908104	Note E
Round Up: Local Currency - 1			Other Charges - 0.01
Rwanda			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Saba			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Saint Helena			
Saint Helena			
Pound	SHP	ROE: 0.818146	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Saint Kitts and Nevis			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Saint Lucia			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Saint Maarten			
Guilder Netherlands Antilles	ANG	ROE:1.790000	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Saint Pierre and Miquelon			
Euro	EUR	ROE:.908104	Note -
Round Up: Local Currency - 0.01			Other Charges - 0.01
Saint Vincent and The Grenadines			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Samoa			
Tala	WST	ROE:2.758274	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Sao Tome and Principe			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Saudi Arabia			
Saudi Riyal	SAR	ROE:3.750000	Note -
Round Up: Local Currency - 1			Other Charges - 1
Senegal			
CFA Franc	XOF	ROE:595.677380	Note -
Round Up: Local Currency - 100			Other Charges - 100
Serbia			
Euro	EUR	ROE:.908104	Note E
Round Up: Local Currency - 1			Other Charges - 0.1
Seychelles			
Seychelles			
Rupee	SCR	ROE:14.552957	Note -
Round Up: Local Currency - 1			Other Charges - 1

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Sierra Leone			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Singapore			
Singapore Dollar	SGD	ROE:1.385105	Note -
Round Up: Local Currency - 1			Other Charges - 1
Slovakia			
Euro	EUR	ROE:.908104	Note -
Round Up: Local Currency - 1			Other Charges - 1
Slovenia			
Euro	EUR	ROE:.908104	Note -
Round Up: Local Currency - 100			Other Charges - 1
Solomon Islands			
Solomon Islands Dollar	SBD	ROE:8.494263	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Somalia			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
South Africa			
Rand	ZAR	ROE:15.071386	Note -
Round Up: Local Currency - 10			Other Charges - 1
South Sudan			
South Sudanese Pound SSP		ROE:159.403000	Note G
Round Up: Local Currency - 1			Other Charges - 1
Spain			
Euro	EUR	ROE:.908104	Note -
Round Up: Local Currency - 1			Other Charges - 0.01
Sri Lanka			
SRI LANKA RUPEE	LKR	ROE:181.346000	Note -
Round Up: Local Currency - 100			Other Charges - 1
Sudan			
Sudanese Dinar	SDG	ROE:45.225000	Note G
Round Up: Local Currency - 1			Other Charges - 1
Suriname			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Sweden			
Swedish Krone	SEK	ROE:9.726038	Note -
Round Up: Local Currency - 5			Other Charges - 1
Switzerland			
SWISS Franc	CHF	ROE:.987367	Note -
Round Up: Local Currency - 1			Other Charges - 0.5
Syrian Arab Republic			
Syrian Pound	SYR	ROE:436.000000	Note G
Round Up: Local Currency - 1			Other Charges - 1
Tajikistan			
Euro	EUR	ROE:.908104	Note E
Round Up: Local Currency - 1			Other Charges - 0.1
Tanzania, United Republic of			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Thailand			
Baht	THB	ROE:30.821100	Note -
Round Up: Local Currency - 5			Other Charges - 5

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Timor - Leste			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 5			Other Charges - 0.1
Togo			
CFA Franc	XOF	ROE:595.677380	Note -
Round Up: Local Currency - 100			Other Charges - 100
Tonga			
Pa'anga	TOP	ROE:2.385951	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Trinidad and Tobago			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Tunisia			
Tunisian Dinar	TND	ROE:2.918174	Note -
Round Up: Local Currency - 0.5			Other Charges - 0.5
Turkey			
Turkish			
Lira	TRY	ROE:5.715780	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Turkmenistan			
New Manat	TMT	ROE:3.500000	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Turks and Caicos Islands			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Tuvalu			
Australian Dollar	AUD	ROE:1.468910	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Uganda			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Ukraine			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
United Arab Emirates (Comprised of Abu Dhabi, Ajman, Dubai, Fujairah, Ras-el-Khaimah, Sharjah, Umm Al Qaiwain)			
UAE Dirham	AED	ROE:3.672750	Note -
Round Up: Local Currency - 10			Other Charges - 10
United Kingdom			
Pound Sterling	GBP	ROE:0.818146	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
United States			
US Dollar	USD	ROE:1.0	Note -
Round Up: Local Currency - 1			Other Charges - 0.1
Uruguay			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local Currency - 1			Other Charges - 0.1
Uzbekistan			
Euro	EUR	ROE:.908104	Note E
Round Up: Local Currency - 1			Other Charges - 0.1

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Vanuatu			
Vatu	VUV	ROE:114.140000	Note -
Round Up: Local	Currency - 100		Other Charges - 10
Venezuela			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local	Currency - 1		Other Charges - 0.1
Vietnam			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local	Currency - 1		Other Charges - 0.1
Wallis and Futuna Islands			
CFP Franc	XPF	ROE:108.365631	Note -
Round Up: Local	Currency - 100		Other Charges - 10
Yemen, Republic of			
Yemini Rial	YER	ROE:250.000000	Note G
Round Up: Local	Currency - 1		Other Charges - 0.1
Zambia			
US Dollar	USD	ROE:1.0	Note D
Round Up: Local	Currency - 1		Other Charges - 0.1
Zimbabwe			
Zimbabwe Dollar	USD	ROE:1.0	Note -
Round Up: Local	Currency - 1		Other Charges - 0.1

Notes:

- D International Fares from this country are published in US Dollars. This rate of exchange is to be used solely to convert local currency domestic fares to US Dollars. This will allow combination of domestic fares and international fares from this country on the same ticket and provide a common industry base.
- E International Fares from this country are published in Euro. This rate of exchange is to be used solely to convert local currency domestic fares to Euro. This will allow combination of domestic fares and international fares from this country on the same ticket and provide a common industry base.
- G This rate of exchange is established by Government Order and does not result from the application of Resolution 024c.

Local Currency Rounding Table

For those countries where fares are expressed in USD and the USD is not the local currency, and when payment is tendered in the local currency, the amounts shall be rounded up to next unit as per the following table, unless otherwise shown:

Afghanistan			
Afghani	AFA		Note -
Round Up: Local	Currency - 1		Other Charges - 1
Albania			
Lek	ALL		Note -
Round Up: Local	Currency - 1		Other Charges - 1
Angola			
KWANZA	AOK		Note -
Round up: Local	Currency - 1000000		Other Charges - 0.1
Kwanza			
Reajustado	AOR		Note -
Round Up: Local	Currency - 100		Other Charges - 100

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Anguilla		
EC Dollar	XCD	Note 3
Round Up: Local Currency - 1		Other Charges - 0.1
Antigua and Barbuda		
EC Dollar	XCD	Note -
Round Up: Local Currency - 1		Other Charges - 0.1
Argentina		
Argentine Peso	ARS	Note 1,3
Round Up: Local Currency - 1000		Other Charges -
1000		
Armenia		
Armenian Dram	AMD	Note -
Round Up: Local Currency - 100		Other Charges - 10
Azerbaijan		
Azerbaijani		
Manat	AZM	Note -
Round Up: Local Currency - 100		Other Charges - 10
Bahamas		
Bahamian Dollar	BSD	Note -
Round Up: Local Currency - 1		Other Charges - 0.1
Bangladesh		
Taka	BDT	Note -
Round Up: Local Currency - 1		Other Charges - 1
Barbados		
Barbados Dollar	BBD	Note -
Round Up: Local Currency - 1		Other Charges - 0.1
Belarus		
Belarussian		
Ruble	BYB	Note -
Round Up: Local Currency - 100		Other Charges - 10
Belize		
Belize Dollar	BZD	Note 1
Round Up: Local Currency - 1		Other Charges - 0.1
Bermuda		
Bermudian		
Dollar	BMD	Note 3
Round Up: Local Currency - 1		Other Charges - 0.1
Bolivia		
Boliviano	BOB	Note 1
Round Up: Local Currency - 1		Other Charges - 0.1
Bosnia and Herzegovina		
Dinar	BAD	Note -
Round Up: Local Currency - 1		Other Charges - 1
Brazil		
Brazilian Real	BRL	Note 1,2
Round Up: Local Currency - 1		Other Charges - 1
Burundi		
Burundi Franc	BIF	Note -
Round Up: Local Currency - 10		Other Charges - 5
Bulgaria		
Lev	BGL	Note -
Round Up: Local Currency - 1		Other Charges - 1
Cambodia		
Riel	KHR	Note -
Round Up: Local Currency - 10		Other Charges - 10
Cape Verde		

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Cape Verde		
Escudo	CVE	Note -
Round Up: Local Currency	- 100	Other Charges - 100
Cayman Islands		
Cayman Island		
Dollar	KYD	Note 3
Round Up: Local Currency	- 0.1	Other Charges - 0.1
Chile		
Chilean Peso	CLP	Note 1
Round Up: Local Currency	- 1	Other Charges - 1
Colombia		
Colombian Peso	COP	Note 1
Round Up: Local Currency	- 100	Other Charges - 100
Costa Rica		
Costa Rican		
Colon	CRC	Note 1
Round Up: Local Currency	- 10	Other Charges - 10
Croatia		
Croatian Kuna	HRK	Note 3
Round Up: Local Currency	- 1	Other Charges - 1
Cuba		
Cuban Peso	CUP	Note -
Round Up: Local Currency	- 1	Other Charges - 0.1
Dominica		
EC Dollar	XCD	Note -
Round Up: Local Currency	- 1	Other Charges - 0.1
Dominican Republic		
Dominican Peso	DOP	Note -
Round Up: Local Currency	- 1	Other Charges - 0.1
Ecuador		
Sucre	ECS	Note 1,3
Round Up: Local Currency	- 1	Other Charges - 0.1
El Salvador		
El Salvador		
Colon	SVC	Note -
Round Up: Local Currency	- 1	Other Charges - 1
Eritrea		
Ethiopian Birr	ETB	Note -
Round Up: Local Currency	- 1	Other Charges - 1
Estonia		
Kroon	EEK	Note -
Round Up: Local Currency	- 1	Other Charges - 0.1
Ethiopia		
Ethiopian Birr	ETB	Note -
Round Up: Local Currency	- 1	Other Charges - 1
Gambia		
Dalasi	GMD	Note -
Round Up: Local Currency	- 1	Other Charges - 0.1
Georgia		
Lari	GEL	Note -
Round Up: Local Currency	- 100	Other Charges - 10
Ghana		
Cedi	GHC	Note -
Round Up: Local Currency	- 1	Other Charges - 0.1
Grenada		
EC Dollar	XCD	Note -

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Round Up: Local Currency - 1	Other Charges - 0.1
Guatemala	
Quetzal GTQ	Note 3
Round Up: Local Currency - 1	Other Charges - 0.1
Guinea	
Guinea Franc GNF	Note -
Round Up: Local Currency - 100	Other Charges - 100
Guyana	
Guyana Dollar GYD	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Haiti	
Gourde HTG	Note -
Round Up: Local Currency - 1	Other Charges - 0.5
Honduras	
Lempira HNL	Note 1
Round Up: Local Currency - 1	Other Charges - 0.2
Indonesia	
Rupiah IDR	Note -
Round Up: Local Currency - 100	Other Charges - 100
Israel	
Shekel ILS	Note 3
Round Up: Local Currency - 1	Other Charges - 1
Jamaica	
Jamaican Dollar JMD	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Kazakhstan	
Kazakhstan	
Tenge KZT	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Kenya	
Kenyan Shilling KES	Note -
Round Up: Local Currency - 5	Other Charges - 5
Kyrgyzstan	
Som KGS	Note -
Round Up: Local Currency - 1	Other Charges - .1
Laos, People's	
Democratic	
Republic of	
Kip LAK	Note -
Round Up: Local Currency - 10	Other Charges - 10
Latvia	
Latvian Lats LVL	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Lebanon	
Lebanese Pound LBP	Note -
Round Up: Local Currency - 100	Other Charges - 100
Liberia	
Liberian Dollar LRD	Note -
Round Up: Local Currency - 100	Other Charges - 100
Lithuania	
Lithuanian Litas LTL	Note -
Round Up: Local Currency - 1	Other Charges - 0.1
Macedonia, The	
Former Yugoslav	
Republic of	
Dener MKD	Note 3
Round Up: Local Currency - 1	Other Charges - 1
Madagascar	

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Tariff: WS1 - CTA No. 518 DOT No. 874
 Carrier: WestJet - WS

Malagasy Franc	MGF	Note -
Round Up: Local Currency	-1000	Other Charges - 50
Malawi Kwacha	MWK	Note -
Round Up: Local Currency	- 1	Other Charges - 0.1
Maldives Rufiyaa	MVR	Note 1
Round Up: Local Currency	- 1	Other Charges - 1
Mexico Mexican Peso	MXN	Note -
Round Up: Local Currency	- 1	Other Charges - 1
Moldova, Republic of Moldovan Leu	MDL	Note -
Round Up: Local Currency	- 1	Other Charges - 0.1
Mongolia Tugrik	MNT	Note -
Round Up: Local Currency	- -	Other Charges - -
Montserrat EC Dollar	XCD	Note 3
Round Up: Local Currency	- 1	Other Charges - 0.1
Nepal Nepalese Rupee	NPR	Note -
Round Up: Local Currency	- 1	Other Charges - 1
Nicaragua Cordoba Oro	NIO	Note 1
Round Up: Local Currency	- 1	Other Charges - 1
Nigeria Naira	NGN	Note -
Round Up: Local Currency	- 1	Other Charges - 0.1
Panama Balboa	PAB	Note -
Round Up: Local Currency	- 1	Other Charges - 0.1
Paraguay Guarani	PYG	Note 1
Round Up: Local Currency	- 1000	Other Charges - 1000
Peru Nuevo Sol	PES	Note -
Round Up: Local Currency	- 0.1	Other Charges - 0.1
Philippines Philippine Peso	PHP	Note -
Round Up: Local Currency	- 1	Other Charges - 1
Poland Zloty	PLN	Note -
Round Up: Local Currency	- 1	Other Charges - 0.1
Romania Leu	ROL	Note -
Round Up: Local Currency	- 1	Other Charges - 1
Russian Federation Belarussian Ruble	BYB	Note -
Round Up: Local Currency	- 100	Other Charges - 10
Rwanda Rwanda France	RWF	Note -
Round Up: Local Currency	- 10	Other Charges - 5
Saint Kitts		

Tariff: WS1 - CTA No. 518 DOT No. 874
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and Nevis		
EC Dollar	XCD	Note -
Round Up: Local Currency - 1		Other Charges - 0.1
Saint Lucia		
EC Dollar	XCD	Note -
Round Up: Local Currency - 1		Other Charges - 0.1
Saint Vincent and The Grenadines		
EC Dollar	XCD	Note -
Round Up: Local Currency - 1		Other Charges - 0.1
Sao Tome and Principe		
Dobra	STD	Note -
Round Up: Local Currency - 10		Other Charges - 10
Sierra Leone		
Leone	SLL	Note -
Round Up: Local Currency - 1		Other Charges - 0.1
Somalia		
Somali Shilling	SOS	Note -
Round Up: Local Currency - 1		Other Charges - 1
Surinam		
Surinam Guilder	SRG	Note -
Round Up: Local Currency - 1		Other Charges - 1
Tajikistan		
Tasik Ruble	TJR	Note -
Round Up: Local Currency - 100		Other Charges - 10
Tanzania, United Republic of		
Tanzanian Shilling	TZS	Note -
Round Up: Local Currency - 10		Other Charges - 10
Trinidad and Tobago		
Trinidad and Tobago Dollar	TTD	Note -
Round Up: Local Currency - 1		Other Charges - 0.1
Turkey		
Turkish Lira	TRL	Note -
Round Up: Local Currency - 1000		Other Charges - 100
Turkmenistan		
Turkmenistan Manat	TMM	Note -
Round Up: Local Currency - 1		Other Charges - 0.1
Uganda		
Uganda Shilling	UGX	Note -
Round Up: Local Currency - 1		Other Charges - 1
Ukraine		
Hryvnia	UAH	Note -
Round Up: Local Currency - 1		Other Charges - 0.1
Uruguay		
Uruguayan Peso	UYU	Note -1,3
Round Up: Local Currency - 100		Other Charges - 100
Uzbekistan		
Uzbekistan Sum	UZS	Note -
Round Up: Local Currency - 100		Other Charges - 10
Venezuela		

Tariff: WS1 - CTA No. 518 DOT No. 874
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Bolivar	VEB	Note -
Round Up: Local Currency	- 10	Other Charges - 10
Viet Nam		
Dong	VND	Note -
Round Up: Local Currency	- 1	Other Charges - 1
Yemen,		
Republic of		
Yemeni Rial	YER	Note -
Round Up: Local Currency	- 1	Other Charges - 1
Yugoslavia		
New Dinar	YUM	Note 4
Round Up: Local Currency	- 1	Other Charges - 1
Zaire		
New Zaire	ZRN	Note -
Round Up: Local Currency	- 1	Other Charges - 0.05
Zambia		
Kwacha	ZMK	Note -
Round Up: Local Currency	- 1	Other Charges - 5

Notes:

1. For documents issued in the local currency of this country, refunds shall only be made in this country and in the currency of this country.
2. No rounding is involved, all decimals beyond two shall be ignored.
3. Rounding of fares and other charges shall be to the nearest rounding unit.
4. Rounding shall be accomplished by dropping amounts of 50 paras and less and increasing amounts of more than 50 paras to the next higher New Dinar.

Tariff: WS1 - CTA No. 518 DOT No. 874
 Carrier: WestJet - WS

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Evidence #24 (DOC-447405)

WS0032 YYCFCO T910 18MAY2023

XK – Cancelled due Outside Carrier Control Other

Flight was cancelled because of the schedule reduction during the negotiations between the WestJet Pilot group and ALPA.

SPOT – Flight Cancellations:

5/18/2023	5/18/2023	5/19/2023	32	10	910	787-9	YYC	FCO	XK	CXL	OUTSIDE CARRIER CONTROL	OTHER
-----------	-----------	-----------	----	----	-----	-------	-----	-----	----	-----	-------------------------	-------

Flight WS 0032		Last Updated Date and Time May 18, 2023 16:20
Flight Status Cancelled XK - Outside Carrier Control - Others	Delay Code Status -	Compensable No
Origin YYC Calgary	Destination FCO Rome	Date 2023/05/18
Scheduled Departure Time 18:05 (L)	Scheduled Arrival Time 11:55 (L)	Guests Booked -
Actual Departure Time (Blank)	Actual Arrival Time (Blank)	Guests Boarded -
Delays in Minutes 0	Marketing Carrier (Blank)	Flight Leg ID 7975754

Timeline of Events

Time (UTC)	Date	Events
16:20	2023/05/18	Flight Cancelled
15:50	2023/05/18	Aircraft Changed

APPR Delays

Delay Minutes	APPR Category
---------------	---------------

Evidence #25 (DOC-447410)



Air Passenger Protection Regulations, SOR/2019-150

Current version: in force since Sep 8, 2022

Link to the latest
version : <https://canlii.ca/t/97f2>

Stable link to this
version : <https://canlii.ca/t/55khs>

Citation to this
version: Air Passenger Protection Regulations, SOR/2019-150,
<<https://canlii.ca/t/55khs>> retrieved on 2024-01-17

Currency: This regulation is current to 2023-11-27 according to the [Justice Laws Web Site](#)

Air Passenger Protection Regulations

SOR/2019-150

CANADA TRANSPORTATION ACT

Registration 2019-05-22

Air Passenger Protection Regulations

P.C. 2019-584 2019-05-21

Whereas, pursuant to [subsection 36\(2\)](#) of the *Canada Transportation Act*^a, the Canadian Transportation Agency has given the Minister of Transport notice of the annexed Regulations;

^aS.C. 1996, c. 10

Whereas, pursuant to [subsection 86.11\(1\)](#)^b of the *Canada Transportation Act*^a, the Canadian Transportation Agency has consulted with the Minister of Transport with respect to the annexed Regulations;

^bS.C. 2018, c. 10, s. 19

And whereas, pursuant to [subsection 86.11\(2\)^b](#) of the *Canada Transportation Act^a*, the Minister of Transport has given the *Direction Respecting Tarmac Delays of Three Hours or Less^c*;

^cSOR/2019-110

Therefore, the Canadian Transportation Agency, pursuant to [subsection 86\(1\)^d](#), section 86.1^e and [subsections 86.11\(1\)^b](#) and [177\(1\)^f](#) of the *Canada Transportation Act^a*, makes the annexed *Air Passenger Protection Regulations*.

^dS.C. 2018, c. 10, s. 18

^eS.C. 2007, c. 19, s. 27

^fS.C. 2007, c. 19, ss. 49(1) and (2)

Gatineau, April 30, 2019

Le président et premier dirigeant de l'Office des transports du Canada,

Scott Streiner

Chairperson and Chief Executive Officer, Canadian Transportation Agency
La vice-présidente de l'Office des transports du Canada,

Elizabeth C. Barker

Vice-Chairperson, Canadian Transportation Agency

Her Excellency the Governor General in Council, on the recommendation of the Minister of Transport, pursuant to [subsection 36\(1\)](#) of the *Canada Transportation Act^a*, approves the annexed *Air Passenger Protection Regulations*, made by the Canadian Transportation Agency.

Definitions and Interpretation

Definitions — Part II of Act

1 (1) The following definitions apply in Part II of the Act.

mechanical malfunction means a mechanical problem that reduces the safety of passengers but does not include a problem that is identified further to scheduled maintenance undertaken in compliance with legal requirements. (*défaillance mécanique*)

required for safety purposes means required by law in order to reduce risk to passenger safety and includes required by safety decisions made within the authority of the pilot of the aircraft or any decision made in accordance with a safety management system as defined in [subsection 101.01\(1\)](#) of the [Canadian Aviation Regulations](#) but does not include scheduled maintenance in compliance with legal requirements. (*nécessaire par souci de sécurité*)

Definitions — Regulations

(2) The following definitions apply in these Regulations.

Act means the [Canada Transportation Act](#). (*Loi*)

arrival means the time when one of the doors of an aircraft is opened after it lands to allow passengers to leave the aircraft. (*arrivée*)

large carrier means a carrier that has transported a worldwide total of two million passengers or more during each of the two preceding calendar years. (*gros transporteur*)

small carrier means any carrier that is not a large carrier. (*petit transporteur*)

Denial of boarding

(3) For the purpose of these Regulations, there is a denial of boarding when a passenger is not permitted to occupy a seat on board a flight because the number of seats that may be occupied on the flight is less than the number of passengers who have checked in by the required time, hold a confirmed reservation and valid travel documentation and are present at the boarding gate at the required boarding time.

Obligations of small carriers

(4) For the purpose of these Regulations, a small carrier has the same obligations as a large carrier towards a passenger that it carries on behalf of a large carrier under a commercial agreement with that carrier.

General

Carrier liability

2 (1) The carrier operating a flight is liable to passengers with respect to the obligations set out in [sections 7 to 22](#) and [24](#), or, if they are more favourable to those passengers, the obligations on the same matter that are set out in the applicable tariff.

Joint liability

(2) However, if one carrier carries passengers on behalf of another carrier under a commercial agreement, the carriers are jointly and severally, or solidarily, liable to those passengers with respect to the obligations set out in [sections 7, 22 and 24](#), or, if they are more favourable to those passengers, the obligations on the same matter that are set out in the applicable tariff.

Tickets

(3) The issuing carrier of a ticket is liable to passengers for the obligations set out in [sections 5 and 6](#), or, if they are more favourable to those passengers, the obligations on the same matter that are set out in the applicable tariff.
[SOR/2022-134, s. 1\(F\)](#).

Persons with disabilities

3 (1) These Regulations do not limit a carrier's legal obligations with respect to persons with disabilities.

Carrier's right of action

(2) For greater certainty, these Regulations do not remove a carrier's right of action against any other person.

Other regimes

(3) Subject to [subsection 86.11\(3\)](#) of the [Act](#), a passenger must not be refused compensation in accordance with these Regulations for an event on the grounds that they are also eligible for compensation for the same event under a different passenger rights regime.

Application to charter flights

4 (1) In the case of a charter flight, [sections 2 to 24](#) apply

(a) to a charter flight within Canada if one or more seats on that flight are purchased for resale to the public; or

(b) to a charter flight to or from Canada if one or more passengers began their itinerary in Canada and one or more seats on that flight are purchased for resale to the public.

Licensee obligations

(2) A licensee must include the obligation to comply with these Regulations in its contracts with a charterer with respect to flights referred to in subsection (1).

Simple, clear and concise communication

5 (1) A carrier must make its terms and conditions of carriage that apply in the following circumstances available in simple, clear and concise language:

- (a)** flight delay, flight cancellation and denial of boarding;
- (b)** lost or damaged baggage; and
- (c)** the assignment of seats to children who are under the age of 14 years.

Means of communication

(2) The terms and conditions referred to in subsection (1) must be made available on all digital platforms that the carrier uses to sell tickets and on all documents on which the passenger's itinerary appears.

Information on treatment, compensation and recourse

(3) A carrier must provide information on the treatment of passengers and minimum compensation owed by the carrier and the recourse against the carrier available to passengers, including their recourse to the Agency, in simple, clear and concise language on all digital platforms that it uses to sell tickets and on all documents on which the passenger's itinerary appears.

Hyperlink

(4) For the purpose of subsections (2) and (3), a digital platform or a document that contains a hyperlink is considered to contain the information that is contained on the web page to which that hyperlink leads.

Notice

(5) The following notice must be made available on all digital platforms that the carrier uses to sell tickets and on all documents on which the passenger's itinerary appears:

"If you are denied boarding, your flight is cancelled or delayed for at least two hours, or your baggage is lost or damaged, you may be entitled to certain standards of treatment and compensation under the *Air Passenger Protection Regulations*. For more information about your passenger rights please contact your air carrier or visit the Canadian Transportation Agency's website.

Si l'embarquement vous est refusé, ou si votre vol est annulé ou retardé d'au moins deux heures ou si vos bagages sont perdus ou endommagés, vous pourriez avoir droit au titre du *Règlement sur la protection des passagers aériens*, à certains avantages au titre des normes de traitement applicables et à une indemnité. Pour de plus amples

renseignements sur vos droits, veuillez communiquer avec votre transporteur aérien ou visiter le site Web de l'Office des transports du Canada.”

Persons with disabilities

(6) If the information referred to in subsection (1) or (3) or the notice set out in subsection (5) is provided in a digital format, that format must be compatible with adaptive technologies intended to assist persons with disabilities and if that information or notice is provided in a paper format, the carrier must, on request, provide it in large print, Braille or a digital format.

[SOR/2019-150, s. 35.](#)

Person authorized to sell tickets

6 The carrier must take reasonable measures to ensure that anyone authorized to sell tickets in the carrier's name complies with [section 5](#).

Notice at airport

7 (1) A carrier operating a flight to or from an airport in Canada must display, in a visible manner at the check-in desk, self-service machines and boarding gate, a notice containing the following text:

“If you are denied boarding, your flight is cancelled or delayed for at least two hours, or your baggage is lost or damaged, you may be entitled to certain standards of treatment and compensation under the *Air Passenger Protection Regulations*. For more information about your passenger rights please contact your air carrier or visit the Canadian Transportation Agency's website.

Si l'embarquement vous est refusé, ou si votre vol est annulé ou retardé d'au moins deux heures ou si vos bagages sont perdus ou endommagés, vous pourriez avoir droit au titre du *Règlement sur la protection des passagers aériens*, à certains avantages au titre des normes de traitement applicables et à une indemnité. Pour de plus amples renseignements sur vos droits, veuillez communiquer avec votre transporteur aérien ou visiter le site Web de l'Office des transports du Canada.”

Persons with disabilities

(2) If the notice is provided in a digital format, that format must be compatible with adaptive technologies intended to assist persons with disabilities and if the notice is provided in a paper format, the carrier must, on request, provide it in large print, Braille or a digital format.

[SOR/2019-150, s. 36.](#)

Delay, Cancellation and Denial of Boarding

Tarmac delay obligations

8 (1) If a flight is delayed on the tarmac after the doors of the aircraft are closed for take-off or after the flight has landed, the carrier must provide passengers with the following, free of charge:

- (a) if the aircraft is equipped with lavatories, access to those lavatories in working order;
- (b) proper ventilation and cooling or heating of the aircraft;
- (c) if it is feasible to communicate with people outside of the aircraft, the means to do so; and
- (d) food and drink, in reasonable quantities, taking into account the length of the delay, the time of day and the location of the airport.

Urgent medical assistance

(2) If a passenger requires urgent medical assistance while the flight is delayed on the tarmac after the doors of the aircraft are closed for take-off or after the flight has landed, the carrier must facilitate access to that assistance.

Passenger disembarkation

9 (1) If a flight is delayed on the tarmac at an airport in Canada, the carrier must provide an opportunity for passengers to disembark

- (a) three hours after the aircraft doors have been closed for take-off; and
- (b) three hours after the flight has landed, or at any earlier time if it is feasible.

Take-off imminent

(2) However, a carrier is not required to provide an opportunity for passengers to disembark if it is likely that take-off will occur less than three hours and 45 minutes after the doors of the aircraft are closed for take-off or after the flight has landed and the carrier is able to continue to provide the standard of treatment referred to in [section 8](#).

Priority disembarkation

(3) A carrier that allows passengers to disembark must, if it is feasible, give passengers with disabilities and their support person, service animal or emotional support animal, if any, the opportunity to disembark first.

Exceptions

(4) This section does not apply if providing an opportunity for passengers to disembark is not possible, including if it is not possible for reasons related to safety and security or to air traffic or customs control.

Obligations — situations outside carrier's control

10 (1) This section applies to a carrier when there is delay, cancellation or denial of boarding due to situations outside the carrier's control, including but not limited to the following:

- (a)** war or political instability;
- (b)** illegal acts or sabotage;
- (c)** meteorological conditions or natural disasters that make the safe operation of the aircraft impossible;
- (d)** instructions from air traffic control;
- (e)** a NOTAM, as defined in [subsection 101.01\(1\)](#) of the *Canadian Aviation Regulations*;
- (f)** a security threat;
- (g)** airport operation issues;
- (h)** a medical emergency;
- (i)** a collision with wildlife;
- (j)** a labour disruption within the carrier or within an essential service provider such as an airport or an air navigation service provider;
- (k)** a manufacturing defect in an aircraft that reduces the safety of passengers and that was identified by the manufacturer of the aircraft concerned, or by a competent authority; and
- (l)** an order or instruction from an official of a state or a law enforcement agency or from a person responsible for airport security.

Earlier flight disruption

(2) A delay, cancellation or denial of boarding that is directly attributable to an earlier delay or cancellation that is due to situations outside the carrier's control, is considered to also be due to situations outside that carrier's control if that carrier took all reasonable measures to mitigate the impact of the earlier flight delay or cancellation.

Obligations

(3) When there is delay, cancellation or denial of boarding due to situations outside the carrier's control, it must

(a) provide passengers with the information set out in [section 13](#);

(b) in the case of a delay of three hours or more, provide alternate travel arrangements or a refund, in the manner set out in [section 18](#), to a passenger who desires such arrangements;

(c) in the case of a cancellation, provide alternate travel arrangements or a refund, in the manner set out in [section 18](#); and

(d) in the case of a denial of boarding, provide alternate travel arrangements in the manner set out in [section 18](#).

[SOR/2022-134, s. 2.](#)

Obligations when required for safety purposes

11 (1) Subject to [subsection 10\(2\)](#), this section applies to a carrier when there is delay, cancellation or denial of boarding that is within the carrier's control but is required for safety purposes.

Earlier flight disruption

(2) A delay, cancellation or denial of boarding that is directly attributable to an earlier delay or cancellation that is within that carrier's control but is required for safety purposes, is considered to also be within that carrier's control but required for safety purposes if that carrier took all reasonable measures to mitigate the impact of the earlier flight delay or cancellation.

Delay

(3) In the case of a delay, the carrier must

(a) provide passengers with the information set out in [section 13](#);

(b) if a passenger is informed of the delay less than 12 hours before the departure time that is indicated on their original ticket, provide the standard of treatment set out in [section 14](#); and

(c) if the delay is a delay of three hours or more, provide alternate travel arrangements or a refund, in the manner set out in [section 17](#), to a passenger who desires such arrangements.

Cancellation

(4) In the case of a cancellation, the carrier must

- (a)** provide passengers with the information set out in [section 13](#);
- (b)** if a passenger is informed of the cancellation less than 12 hours before the departure time that is indicated on their original ticket, provide the standard of treatment set out in [section 14](#); and
- (c)** provide alternate travel arrangements or a refund, in the manner set out in [section 17](#).

Denial of boarding

(5) In the case of a denial of boarding, the carrier must

- (a)** provide passengers affected by the denial of boarding with the information set out in [section 13](#);
- (b)** deny boarding in accordance with [section 15](#) and provide the standard of treatment set out in [section 16](#) to passengers affected by the denial of boarding; and
- (c)** provide alternate travel arrangements or a refund, in the manner set out in [section 17](#).

Obligations when within carrier's control

12 (1) Subject to [subsection 10\(2\)](#), this section applies to a carrier when there is delay, cancellation or denial of boarding that is within the carrier's control but is not referred to in subsections 11(1) or (2).

Delay

(2) In the case of a delay, the carrier must

- (a)** provide passengers with the information set out in [section 13](#);
- (b)** if a passenger is informed of the delay less than 12 hours before the departure time that is indicated on their original ticket, provide them with the standard of treatment set out in [section 14](#);
- (c)** if the delay is a delay of three hours or more, provide alternate travel arrangements or a refund, in the manner set out in [section 17](#), to a passenger who desires such arrangements; and
- (d)** if a passenger is informed 14 days or less before the departure time on their original ticket that the arrival of their flight at the destination that is indicated on

that original ticket will be delayed, provide the minimum compensation for inconvenience in the manner set out in [section 19](#).

Cancellation

(3) In the case of a cancellation, the carrier must

- (a)** provide passengers with the information set out in [section 13](#);
- (b)** if a passenger is informed of the cancellation less than 12 hours before the departure time that is indicated on their original ticket, provide the standard of treatment set out in [section 14](#);
- (c)** provide alternate travel arrangements or a refund, in the manner set out in [section 17](#); and
- (d)** if a passenger is informed of the cancellation 14 days or less before the departure time that is indicated on their original ticket, provide the minimum compensation for inconvenience in the manner set out in [section 19](#).

Denial of boarding

(4) In the case of a denial of boarding, the carrier must

- (a)** provide passengers affected by the denial of boarding with the information set out in [section 13](#);
- (b)** deny boarding in accordance with [section 15](#) and provide the standard of treatment set out in [section 16](#) to passengers affected by the denial of boarding;
- (c)** provide alternate travel arrangements or a refund, in the manner set out in [section 17](#); and
- (d)** provide the minimum compensation for inconvenience for denial of boarding in the manner set out in [section 20](#).

[SOR/2022-134, s. 3](#).

Information — cancellation, delay, denial of boarding

13 (1) A carrier must provide the following information to the passengers who are affected by a cancellation, delay or a denial of boarding:

- (a)** the reason for the delay, cancellation or denial of boarding;
- (b)** the compensation to which the passenger may be entitled for the inconvenience;
- (c)** the standard of treatment for passengers, if any; and

(d) the recourse available against the carrier, including their recourse to the Agency.

Communication every 30 minutes

(2) In the case of a delay, the carrier must communicate status updates to passengers every 30 minutes until a new departure time for the flight is set or alternate travel arrangements have been made for the affected passenger.

New information

(3) The carrier must communicate to passengers any new information as soon as feasible.

Audible and visible announcement

(4) The information referred to in subsection (1) must be provided by means of audible announcements and, upon request, by means of visible announcements.

Method of communication

(5) The information referred to in subsection (1) must also be provided to the passenger using the available communication method that they have indicated that they prefer, including a method that is compatible with adaptive technologies intended to assist persons with disabilities.

Standards of treatment

14 (1) If paragraph 11(3)(b) or (4)(b) or 12(2)(b) or (3)(b) applies to a carrier, and a passenger has waited two hours after the departure time that is indicated on their original ticket, the carrier must provide the passenger with the following treatment free of charge:

(a) food and drink in reasonable quantities, taking into account the length of the wait, the time of day and the location of the passenger; and

(b) access to a means of communication.

Accommodations

(2) If paragraph 11(3)(b) or (4)(b) or 12(2)(b) or (3)(b) applies to a carrier and the carrier expects that the passenger will be required to wait overnight for their original flight or for a flight reserved as part of alternate travel arrangements, the air carrier must offer, free of charge, hotel or other comparable accommodation that is reasonable in relation to the location of the passenger, as well as transportation to the hotel or other accommodation and back to the airport.

Refusing or limiting treatment

(3) The carrier may limit or refuse to provide a standard of treatment referred to in subsection (1) or (2) if providing that treatment would further delay the passenger.

Denial of boarding — request for volunteers

15 (1) If [paragraph 11\(5\)\(b\)](#) or [12\(4\)\(b\)](#) applies to a carrier, it must not deny boarding to a passenger unless it has asked all passengers if they are willing to give up their seat.

Passenger on aircraft

(2) The carrier must not deny boarding to a passenger who is already on board the aircraft, unless the denial of boarding is required for reasons of safety.

Confirmation of benefit

(3) If a carrier offers a benefit in exchange for a passenger willingly giving up their seat in accordance with subsection (1) and a passenger accepts the offer, it must provide the passenger with a written confirmation of that benefit before the flight departs.

Priority for boarding

(4) If denial of boarding is necessary, the carrier must select the passengers who will be denied boarding, giving priority for boarding to passengers in the following order:

- (a)** an unaccompanied minor;
- (b)** a person with a disability and their support person, service animal, or emotional support animal, if any;
- (c)** a passenger who is travelling with family members; and
- (d)** a passenger who was previously denied boarding on the same ticket.

Treatment when boarding is denied

16 (1) If [paragraph 11\(5\)\(b\)](#) or [12\(4\)\(b\)](#) applies to a carrier, it must, before a passenger boards the flight reserved as part of an alternate travel arrangement, provide them with the following treatment free of charge:

- (a)** food and drink in reasonable quantities, taking into account the length of the wait, the time of day and the location of the passenger; and
- (b)** access to a means of communication.

Accommodations

(2) If the carrier expects that the passenger will be required to wait overnight for a flight reserved as part of alternate travel arrangements, the carrier must offer, free of charge, hotel or other comparable accommodation that is reasonable in relation to the location of the passenger, as well as transportation to the hotel or other accommodation and back to the airport.

Refusing or limiting treatment

(3) The carrier may limit or refuse to provide a standard of treatment referred to in subsection (1) or (2) if providing that treatment would further delay the passenger.

Alternate arrangements — within carrier's control

17 (1) If paragraph 11(3)(c), (4)(c) or (5)(c) or 12(2)(c), (3)(c) or (4)(c) applies to a carrier, it must provide to the passenger, free of charge, the following alternate travel arrangements to ensure that the passenger completes their itinerary as soon as feasible:

(a) in the case of a large carrier,

(i) a confirmed reservation for the next available flight that is operated by the original carrier, or a carrier with which the original carrier has a commercial agreement, is travelling on any reasonable air route from the airport at which the passenger is located to the destination that is indicated on the passenger's original ticket and departs within nine hours of the departure time that is indicated on that original ticket,

(ii) a confirmed reservation for a flight that is operated by any carrier and is travelling on any reasonable air route from the airport at which the passenger is located to the destination that is indicated on the passenger's original ticket and departs within 48 hours of the departure time that is indicated on that original ticket if the carrier cannot provide a confirmed reservation that complies with subparagraph (i), or

(iii) transportation to another airport that is within a reasonable distance of the airport at which the passenger is located and a confirmed reservation for a flight that is operated by any carrier and is travelling on any reasonable air route from that other airport to the destination that is indicated on the passenger's original ticket, if the carrier cannot provide a confirmed reservation that complies with subparagraphs (i) or (ii); and

(b) in the case of a small carrier, a confirmed reservation for the next available flight that is operated by the original carrier, or a carrier with which the original

carrier has a commercial agreement, and is travelling on any reasonable air route from the airport at which the passenger is located to the destination that is indicated on the passenger's original ticket.

Refund

(2) If the alternate travel arrangements offered in accordance with subsection (1) do not accommodate the passenger's travel needs, the carrier must

(a) if the passenger is no longer at the point of origin that is indicated on the original ticket and the travel no longer serves a purpose because of the delay, cancellation or denial of boarding, refund the ticket and provide to the passenger, free of charge, a confirmed reservation for a flight to that point of origin that accommodates the passenger's travel needs; and

(b) in any other case, refund the unused portion of the ticket.

Comparable services

(3) To the extent possible, the alternate travel arrangements must provide services that are comparable to those of the original ticket.

(4) [Repealed, SOR/2022-134, s. 4]

Higher class of service

(5) If the alternate travel arrangements provide for a higher class of service than the original ticket, the carrier must not request supplementary payment.

(6) [Repealed, SOR/2022-134, s. 4]

(7) [Repealed, SOR/2022-134, s. 4]

SOR/2022-134, s. 4.

Delay or cancellation — outside carrier's control

18 (1) If paragraph 10(3)(b) or (c) applies to a carrier, it must provide to the passenger, free of charge, a confirmed reservation for the next available flight that is operated by the original carrier, or a carrier with which the original carrier has a commercial agreement, is travelling on any reasonable air route from the airport at which the passenger is located to the destination that is indicated on the passenger's original ticket and departs within 48 hours of the departure time that is indicated on that ticket.

Passenger's choice

(1.1) If a carrier cannot provide a confirmed reservation in accordance with subsection (1), it must, at the passenger's choice, refund any unused portion of the ticket or provide the following alternate travel arrangements, free of charge:

(a) in the case of a large carrier, a confirmed reservation for the next available flight that is operated by any carrier and is travelling on any reasonable air route from the airport at which the passenger is located, or another airport that is within a reasonable distance of that airport, to the destination that is indicated on the passenger's original ticket and, if the new departure is from an airport other than the one at which the passenger is located, transportation to that other airport; or

(b) in the case of a small carrier, a confirmed reservation for the next available flight that is operated by the original carrier, or a carrier with which the original carrier has a commercial agreement, and is travelling on any reasonable air route from the airport at which the passenger is located to the destination that is indicated on the passenger's original ticket.

Return to point of origin

(1.2) However, if a passenger who chooses to be refunded is no longer at the point of origin that is indicated on the original ticket and the travel no longer serves a purpose because of the delay or cancellation, the carrier must refund the ticket and provide to the passenger, free of charge, a confirmed reservation for a flight to that point of origin that accommodates the passenger's travel needs.

Refund

(1.3) A passenger who is eligible to be refunded under subsection (1.1) may choose a refund at any time prior to being provided with a confirmed reservation.

Denial of boarding — outside carrier's control

(1.4) If [paragraph 10\(3\)\(d\)](#) applies to a carrier, it must provide to the passenger, free of charge, the following alternate travel arrangements to ensure that the passenger completes their itinerary as soon as feasible:

(a) in the case of a large carrier, the arrangements specified in subsection (1) or, if it cannot provide such arrangements, a confirmed reservation in accordance with paragraph (1.1)(a); or

(b) in the case of a small carrier, a confirmed reservation in accordance with paragraph (1.1)(b).

Comparable services

(2) To the extent possible, the alternate travel arrangements must provide services that are comparable to those of the original ticket.

Higher class of service

(3) If the alternate travel arrangements provide for a higher class of service than the original ticket, the carrier must not request supplementary payment.

[SOR/2022-134, s. 5.](#)

Refund of additional services

18.1 (1) A carrier must refund the cost of any additional services purchased in connection with a passenger's original ticket if the passenger has been provided with alternate travel arrangements under [section 17](#) or [18](#) and

(a) the passenger did not receive those services; or

(b) those services were paid for a second time.

Refund for lower class of service

(2) If the alternate travel arrangements provide for a lower class of service than the original ticket, the carrier must refund the difference in the cost of the applicable portion of the ticket.

[SOR/2022-134, s. 6.](#)

Method used for refund

18.2 (1) All refunds provided under these Regulations must be paid to the person who purchased the ticket or additional service and must be paid using the method used for the original payment, unless

(a) the person has been informed in writing of the monetary value of the original ticket or additional service and the availability of a refund by the method used for the original payment;

(b) the refund is offered in another form that does not expire; and

(c) the person confirms, in writing, that they have been informed of their right to receive the refund by the method used for the original payment and have chosen to receive the refund in another form.

Refund deadline

(2) Refunds must be provided by a carrier within 30 days after the day on which the carrier becomes obligated to provide the refund.

[SOR/2022-134, s. 6.](#)

Compensation for delay or cancellation

19 (1) If [paragraph 12\(2\)\(d\)](#) or [\(3\)\(d\)](#) applies to a carrier, it must provide the following minimum compensation:

(a) in the case of a large carrier,

(i) \$400, if the arrival of the passenger's flight at the destination that is indicated on the original ticket is delayed by three hours or more, but less than six hours,

(ii) \$700, if the arrival of the passenger's flight at the destination that is indicated on the original ticket is delayed by six hours or more, but less than nine hours, or

(iii) \$1,000, if the arrival of the passenger's flight at the destination that is indicated on the original ticket is delayed by nine hours or more; and

(b) in the case of a small carrier,

(i) \$125, if the arrival of the passenger's flight at the destination that is indicated on the original ticket is delayed by three hours or more, but less than six hours,

(ii) \$250, if the arrival of the passenger's flight at the destination that is indicated on the original ticket is delayed by six hours or more, but less than nine hours, or

(iii) \$500, if the arrival of the passenger's flight at the destination that is indicated on the original ticket is delayed by nine hours or more.

Compensation in case of refund

(2) Despite subsection (1), if [paragraph 12\(2\)\(d\)](#) or [\(3\)\(d\)](#) applies to a carrier and the passenger's ticket is refunded in accordance with [subsection 17\(2\)](#), the carrier must provide a minimum compensation of

(a) \$400, in the case of a large carrier; and

(b) \$125, in the case of a small carrier.

Deadline to file request

(3) To receive the minimum compensation referred to in paragraph (1) or (2), a passenger must file a request for compensation with the carrier before the first anniversary of the day on which the flight delay or flight cancellation occurred.

Deadline to respond

(4) The carrier must, within 30 days after the day on which it receives the request, provide the compensation or an explanation as to why compensation is not payable. [SOR/2022-134, s. 7](#).

Compensation for denial of boarding

20 (1) If [paragraph 12\(4\)\(d\)](#) applies to a carrier, it must provide the following minimum compensation:

- (a)** \$900, if the arrival of the passenger's flight at the destination that is indicated on the original ticket is delayed by less than six hours;
- (b)** \$1,800, if the arrival of the passenger's flight at the destination that is indicated on the original ticket is delayed by six hours or more, but less than nine hours; and
- (c)** \$2,400, if the arrival of the passenger's flight at the destination that is indicated on the original ticket is delayed by nine hours or more.

Payment

(2) The carrier must provide the compensation to the passenger as soon as it is operationally feasible, but not later than 48 hours after the time of the denial of boarding.

Estimated arrival time

(3) If the compensation is paid before the arrival of the flight reserved as part of alternate travel arrangements at the destination that is indicated on their ticket, that compensation is determined based on the flight's expected arrival.

Written confirmation

(4) If it is not possible to provide the compensation before the boarding time of the flight reserved as part of alternate travel arrangements, the carrier must provide the passenger with a written confirmation of the amount of the compensation that is owed.

Adjustment

(5) If the arrival of the passenger's flight at the destination that is indicated on their original ticket is after the time it was expected to arrive when the compensation was paid or confirmed in writing and the amount that was paid or confirmed no longer reflects the amount due in accordance with subsection (1), the carrier must adjust the amount of the compensation accordingly.

Compensation for inconvenience

21 A carrier who is required to provide compensation must do so in the form of money, unless

- (a) it offers compensation in another form that has a greater monetary value than the minimum monetary value of the compensation that is required under these Regulations;
- (b) the passenger has been informed in writing of the monetary value of the other form of compensation;
- (c) the other form of compensation does not expire; and
- (d) the passenger confirms in writing that they have been informed of their right to receive monetary compensation and have chosen the other form of compensation.

Assignment of Seats to Children under the Age of 14 Years

Assigning seats

22 (1) In order to facilitate the assignment of a seat to a child who is under the age of 14 years in close proximity to a parent, guardian or tutor in accordance with subsection (2), a carrier must, at no additional charge

- (a) assign a seat before check-in to the child that is in close proximity to their parent, guardian or tutor; or
- (b) if the carrier does not assign seats in accordance with paragraph (a), do the following:
 - (i) advise passengers before check-in that the carrier will facilitate seat assignment of children in close proximity to a parent, guardian or tutor at no additional charge at the time of check-in or at the boarding gate,
 - (ii) assign seats at the time of check-in, if possible,
 - (iii) if it is not possible to assign seats at the time of check-in, ask for volunteers to change seats at the time of boarding, and
 - (iv) if it is not possible to assign seats at the time of check-in and no passenger has volunteered to change seats at the time of boarding, ask again for volunteers to change seats before take-off.

Proximity to adult's seat

(2) The carrier must facilitate the assignment of a seat to a child who is under the age of 14 years by offering, at no additional charge,

- (a) in the case of a child who is four years of age or younger, a seat that is adjacent to their parent, guardian or tutor's seat;

(b) in the case of a child who is 5 to 11 years of age, a seat that is in the same row as their parent, guardian or tutor's seat, and that is separated from that parent, guardian or tutor's seat by no more than one seat; and

(c) in the case of a child who is 12 or 13 years of age, a seat that is in a row that is separated from the row of their parent, guardian or tutor's seat by no more than one row.

Difference in price

(3) If a passenger is assigned a seat in accordance with subsection (2) that is in a lower class of service than their ticket provides, the carrier must reimburse the price difference between the classes of service, but if the passenger chooses a seat that is in a higher class of service than their ticket provides, the carrier may request supplementary payment representing the price difference between the classes of service.

Baggage

Lost or damaged baggage

23 (1) If a carrier admits to the loss of baggage, or if baggage is lost for more than 21 days or is damaged, the carrier must provide compensation equal to or greater than the sum of

(a) the fees paid for that baggage,

(b) in cases where the *Carriage by Air Act* applies, the compensation payable in accordance with that Act, and

(c) in cases where the *Carriage by Air Act* does not apply, the amount that would be payable by the carrier in accordance with the Convention for the Unification of Certain Rules for International Carriage by Air set out in Schedule VI to that Act, if the carrier were conducting international carriage of baggage within the meaning of paragraph 1 of Article 1 of that Convention.

Temporary loss

(2) If baggage is lost for 21 days or less, the carrier must provide compensation equal to or greater than the sum of

(a) the fees paid for that baggage,

(b) in cases where the *Carriage by Air Act* applies, the compensation payable in accordance with that Act, and

(c) in cases where the *Carriage by Air Act* does not apply, the amount that would be payable by the carrier for delay in the carriage of baggage in accordance with the Convention for the Unification of Certain Rules for International Carriage by Air set out in Schedule VI to that Act, if the carrier were conducting international carriage of baggage within the meaning of paragraph 1 of Article 1 of that Convention.

Musical instruments

24 (1) A carrier must establish terms and conditions with regard to

(a) musical instruments that may be carried in the cabin or that must be checked, including

(i) restrictions with respect to size and weight,

(ii) restrictions with respect to quantity, and

(iii) the use of stowage space in the cabin;

(b) fees for transporting instruments; and

(c) passenger options if, because a flight will occur on a different aircraft than expected, there is insufficient stowage space in the cabin.

Obligation to carry

(2) A carrier must accept musical instruments as checked or carry-on baggage, unless accepting an instrument is contrary to general terms and conditions in the carrier's tariff with respect to the weight or dimension of baggage or to safety.

Advertising

Definitions

25 The following definitions apply in this section and [sections 27 to 31](#).

air transportation charge means, in relation to an air service, every fee or charge that must be paid upon the purchase of the air service, including the charge for the costs to the carrier of providing the service, but excluding any third party charge. (*frais du transport aérien*)

third party charge means, in relation to an air service or an optional incidental service, any tax or prescribed fee or charge established by a government, public or airport authority or agent or mandatary of a government or public or airport authority, that upon the purchase of the service is collected by the carrier or other seller of the service on behalf of the government, public or airport authority or the agent or mandatary for remittance to it. (*somme perçue pour un tiers*)

total price means

- (a) in relation to an air service, the total of the air transportation charges and third party charges that must be paid to obtain the service; and
- (b) in relation to an optional incidental service, the total of the amount that must be paid to obtain the service, including all third party charges. (*prix total*)

Subsection 86.1(2) of the Act

26 For the purposes of subsection 86.1(2) of the Act and sections 25 to 31, a prescribed fee or charge is one that is fixed on a per person or *ad valorem* basis.

Application

27 (1) Subject to subsection (2), sections 28 to 31 apply to advertising in all media of prices for air services within, or originating in, Canada.

Exception

(2) Sections 28 to 31 do not apply to an advertisement that relates to

- (a) an air cargo service;
- (b) a package travel service that includes an air service and any accommodation, surface transportation or entertainment activity that is not incidental to the air service; or
- (c) a price that is not offered to the general public and is fixed through negotiation.

Medium to advertise

(3) Sections 28 to 31 do not apply to a person who provides another person with a medium to advertise the price of an air service.

Information in advertisement

28 (1) A person who advertises the price of an air service must include the following information in the advertisement:

- (a) the total price that must be paid to the advertiser to obtain the air service, expressed in Canadian dollars and, if it is also expressed in another currency, the name of that currency;
- (b) the point of origin and point of destination of the service and whether the service is one-way or round-trip;
- (c) any limitation on the period during which the advertised price will be offered and any limitation on the period for which the service will be provided at that price;

- (d) the name and amount of each tax, fee or charge relating to the air service that is a third party charge;
- (e) each optional incidental service offered for which a fee or charge is payable and its total price or range of total prices; and
- (f) any published tax, fee or charge that is not collected by the advertiser but must be paid at the point of origin or departure by the person to whom the service is provided.

Third party charges

(2) A person who advertises the price of an air service must set out all third party charges under the heading "Taxes, Fees and Charges" unless that information is only provided orally.

Air transportation charges

(3) A person who makes a reference to an air transportation charge in an advertisement must set the charge out under the heading "Air Transportation Charges" unless that information is only provided orally.

One direction of round-trip service

(4) A person who advertises the price of one direction of a round-trip air service is exempt from the application of paragraph (1)(a) if the following conditions are met:

- (a) the advertised price is equal to 50% of the total price that must be paid to the advertiser to obtain the service;
- (b) it is clearly indicated that the advertised price relates to only one direction of the service and applies only if both directions are purchased; and
- (c) the advertised price is expressed in Canadian dollars and, if it is also expressed in another currency, the name of that other currency is specified.

Readily obtainable information

(5) A person is exempt from the requirement to provide the information referred to in paragraphs (1)(d) to (f) in their advertisement if the following conditions are met:

- (a) the advertisement is not interactive; and
- (b) the advertisement mentions a location that is readily accessible where all the information referred to in subsection (1) can be readily obtained.

Total price readily determinable

29 A person must not provide information in an advertisement in a manner that could interfere with the ability of anyone to readily determine the total price that must be paid for an air service or for any optional incidental service.

Distinction — tax and charges

30 A person must not set out an air transportation charge in an advertisement as if it were a third party charge or use the term “tax” in an advertisement to describe an air transportation charge.

Name of third party charge

31 A person must not refer to a third party charge in an advertisement by a name other than the name under which it was established.

Administrative Monetary Penalties

Designation

32 The provisions, requirements and conditions set out in column 1 of the schedule are designated for the purposes of [subsection 177\(1\)](#) of the [Act](#).

Maximum amount payable

33 The maximum amount payable in respect of a contravention of a provision, requirement or condition set out in column 1 of the schedule is the amount

(a) in respect of a corporation, set out in column 2; and

(b) in respect of an individual, set out in column 3.

Transitional Provisions

Subsection 2(1)

34 (1) Subsections 2(1) and (2) do not apply in respect of [section 22](#) before December 15, 2019.

Delay and cancellation

(2) Subsections 2(1) and (2), paragraphs 10(3)(b) and (c), 11(3)(b) and (c) and (4)(b) and (c), 12(2)(b) to (d) and (3)(b) to (d) and 13(1)(b) to (d) and sections 17 and 18 do not apply in respect of a delay or cancellation of a flight before December 15, 2019.

Amendments to these Regulations

35 [Amendments]

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36 [Amendments]

Consequential Amendments

Air Transportation Regulations

37 [Amendments]

38 [Amendments]

39 [Amendments]

40 [Amendments]

41 [Amendments]

42 [Amendments]

43 [Amendments]

Canadian Transportation Agency Designated Provisions Regulations

44 [Amendments]

45 [Amendments]

Coming into Force

July 15, 2019

46 (1) Subject to subsections (2) and (3), these Regulations come into force on July 15, 2019.

December 15, 2019

(2) Sections 14, 19, 22, 35 and 36 come into force on December 15, 2019.

Schedule

(3) Items 28 to 30, 54 to 62 and 70 to 72 of the schedule come into force on December 15, 2019.

SCHEDULE

(Sections 32 and 33)

Administrative Monetary Penalties

Item	Column 1	Column 2	Column 3
	Provision, Requirement or Condition	Maximum Amount Payable — Corporation (\$)	Maximum Amount Payable — Individual (\$)
1	Subsection 4(2)	25,000	5,000
2	Paragraph 5(1)(a)	25,000	5,000
3	Paragraph 5(1)(b)	25,000	5,000
4	Paragraph 5(1)(c)	25,000	5,000
5	Subsection 5(2)	25,000	5,000
6	Subsection 5(3)	25,000	5,000
7	Subsection 5(5)	25,000	5,000
8	Subsection 5(6)	25,000	5,000
9	Section 6	25,000	5,000
10	Subsection 7(1)	25,000	5,000
11	Subsection 7(2)	25,000	5,000
12	Paragraph 8(1)(a)	25,000	5,000
13	Paragraph 8(1)(b)	25,000	5,000
14	Paragraph 8(1)(c)	25,000	5,000
15	Paragraph 8(1)(d)	25,000	5,000
16	Subsection 8(2)	25,000	5,000
17	Paragraph 9(1)(a)	25,000	5,000
18	Paragraph 9(1)(b)	25,000	5,000
19	Subsection 9(3)	25,000	5,000
20	Paragraph 13(1)(a)	25,000	5,000
21	Paragraph 13(1)(b)	25,000	5,000
22	Paragraph 13(1)(c)	25,000	5,000
23	Paragraph 13(1)(d)	25,000	5,000
24	Subsection 13(2)	25,000	5,000
25	Subsection 13(3)	25,000	5,000
26	Subsection 13(4)	25,000	5,000
27	Subsection 13(5)	25,000	5,000
28	Paragraph 14(1)(a)	25,000	5,000
29	Paragraph 14(1)(b)	25,000	5,000
30	Subsection 14(2)	25,000	5,000
31	Subsection 15(1)	25,000	5,000
32	Subsection 15(2)	25,000	5,000
33	Subsection 15(3)	25,000	5,000
34	Subsection 15(4)	25,000	5,000
35	Paragraph 16(1)(a)	25,000	5,000
36	Paragraph 16(1)(b)	25,000	5,000
37	Subsection 16(2)	25,000	5,000

Item	Column 1	Column 2	Column 3
	Provision, Requirement or Condition	Maximum Amount Payable — Corporation (\$)	Maximum Amount Payable — Individual (\$)
38	Subparagraph 17(1)(a)(i)	25,000	5,000
39	Subparagraph 17(1)(a)(ii)	25,000	5,000
40	Subparagraph 17(1)(a)(iii)	25,000	5,000
41	Paragraph 17(1)(b)	25,000	5,000
42	Paragraph 17(2)(a)	25,000	5,000
43	Paragraph 17(2)(b)	25,000	5,000
44	Subsection 17(3)	25,000	5,000
45	[Repealed, SOR/2022-134, s. 8]		
46	Subsection 17(5)	25,000	5,000
47	Subsection 18(1)	25,000	5,000
48	Subsection 18(1.1)	25,000	5,000
49	Subsection 18(1.2)	25,000	5,000
50	Paragraph 18(1.4)(a)	25,000	5,000
51	Paragraph 18(1.4)(b)	25,000	5,000
52	Subsection 18(2)	25,000	5,000
53	Subsection 18(3)	25,000	5,000
53.1	Paragraph 18.1(1)(a)	25,000	5,000
53.2	Paragraph 18.1(1)(b)	25,000	5,000
53.3	Subsection 18.1(2)	25,000	5,000
53.4	Subsection 18.2(1)	25,000	5,000
53.5	Subsection 18.2(2)	25,000	5,000
54	Subparagraph 19(1)(a)(i)	25,000	5,000
55	Subparagraph 19(1)(a)(ii)	25,000	5,000
56	Subparagraph 19(1)(a)(iii)	25,000	5,000
57	Subparagraph 19(1)(b)(i)	25,000	5,000
58	Subparagraph 19(1)(b)(ii)	25,000	5,000
59	Subparagraph 19(1)(b)(iii)	25,000	5,000
60	Paragraph 19(2)(a)	25,000	5,000
61	Paragraph 19(2)(b)	25,000	5,000
62	Subsection 19(4)	25,000	5,000
63	Paragraph 20(1)(a)	25,000	5,000
64	Paragraph 20(1)(b)	25,000	5,000
65	Paragraph 20(1)(c)	25,000	5,000
66	Subsection 20(2)	25,000	5,000
67	Subsection 20(4)	25,000	5,000
68	Subsection 20(5)	25,000	5,000
69	Section 21	25,000	5,000

Item	Column 1	Column 2	Column 3
	Provision, Requirement or Condition	Maximum Amount Payable — Corporation (\$)	Maximum Amount Payable — Individual (\$)
70	Subsection 22(1)	25,000	5,000
71	Subsection 22(2)	25,000	5,000
72	Subsection 22(3)	25,000	5,000
73	Subsection 23(1)	25,000	5,000
74	Subsection 23(2)	25,000	5,000
75	Paragraph 24(1)(a)	25,000	5,000
76	Paragraph 24(1)(b)	25,000	5,000
77	Paragraph 24(1)(c)	25,000	5,000
78	Subsection 24(2)	25,000	5,000
79	Paragraph 28(1)(a)	25,000	5,000
80	Paragraph 28(1)(b)	25,000	5,000
81	Paragraph 28(1)(c)	25,000	5,000
82	Paragraph 28(1)(d)	5,000	1,000
83	Paragraph 28(1)(e)	5,000	1,000
84	Paragraph 28(1)(f)	5,000	1,000
85	Subsection 28(2)	5,000	1,000
86	Subsection 28(3)	5,000	1,000
87	Section 29	5,000	1,000
88	Section 30	5,000	1,000
89	Section 31	5,000	1,000

[SOR/2022-134, s. 8](#); [SOR/2022-134, s. 9](#); [SOR/2022-134, s. 10](#).

Evidence #26 (DOC-447411)

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Air Passenger Protection Regulations - Regulatory Impact Analysis Statement

Executive summary

Issues: Currently, Canada does not have a standardized passenger protection regime for air travel. While the *Air Transportation Regulations* (ATR) establish the terms and conditions that air carriers operating in Canada must address in their tariffs, air carriers are permitted to establish their own policies in these areas. This approach has not always resulted in transparent, clear, fair, and consistent policies regarding the treatment of passengers. Regulations are required to establish air carrier obligations that achieve these objectives.

Description: The Air Passenger Protection Regulations (APPR) define requirements with respect to clear communication, delayed or cancelled flights, denied boarding, tarmac delays over three hours, the seating of children under the age of 14, damaged or lost baggage, and the transportation of musical instruments. These regulations ensure clearer, more consistent passenger rights by establishing minimum requirements, standards of treatment, and in some situations minimum levels of compensation that all air carriers must provide to passengers. The regulations also address other consumer-related issues such as the transportation of minors and a housekeeping change related to air services price advertising.

Rationale: The *Canada Transportation Act* (Act), as amended in May 2018, requires the Canadian Transportation Agency (CTA) to create new air passenger protection regulations and sets a framework for these regulations. In order to develop regulations that are robust, fair and balanced, the CTA considered feedback from the public and stakeholders, as well as best practices and lessons learned in other jurisdictions.

Issues

The CTA, in consultation with the Minister of Transport, is defining in regulation air carriers' requirements to communicate clearly, as well as obligations toward passengers when issues arise, such as delayed or cancelled flights, denied boarding, tarmac delays, and damaged or lost baggage. The regulations also establish requirements regarding the seating of children under the age of 14 and require policies on the transportation of musical instruments. The new regulations ensure clearer, more consistent passenger rights by establishing minimum requirements, standards of treatment, and in some situations minimum levels of compensation that all air carriers must provide to passengers. The regulations also address other consumer-related issues such as the transportation of minors and a housekeeping change related to air services price advertising.

Background

Air travel is an integral part of modern life. While typically it goes to plan, when there is a problem, the experience can be disruptive. It is important that passengers receive key information, are aware of their rights and know where to turn for assistance or recourse.

Currently, air carriers are required to set out their terms and conditions of carriage in documents called *tariffs*. While there are requirements regarding the topics that must be addressed in these documents, air carriers are permitted to establish their own policies in these areas. The CTA ensures that air carriers have tariffs, apply their tariffs, and, in certain circumstances, determine whether tariff terms are reasonable. Without regulations, this approach has not always resulted in a transparent, clear, fair, and consistent regime.

The CTA's mandate to create the regulations comes from the amendments to the Act that received royal assent on May 23, 2018 and from a Ministerial Direction that was registered on April 26, 2019.

The parameters for the regulations are as follows:

1. Clear communication: Require conditions of carriage and information regarding recourse to be made readily available to passengers in language that is simple, clear and concise.
2. Delays, cancellations and denied boarding: Establish carrier obligations toward passengers based on level of carrier control:
 - *Situations within carrier's control* : set minimum standards of treatment and minimum compensation for inconvenience, require completion of passenger itinerary.
 - *Situations within carrier's control but required for safety* : set minimum standards of treatment, require completion of passenger itinerary.
 - *Situations outside the carrier's control* (e.g. natural phenomena, security events): require completion of passenger itinerary.
3. Tarmac delay: Set carrier obligations for disembarkation in the case of tarmac delays over three hours, and establish minimum standards of treatment for all tarmac delays.
4. Lost or damaged baggage: Prescribe minimum compensation for lost or damaged baggage.
5. Seating of children: Set carrier obligation to facilitate assignment of seats to children under the age of 14 in close proximity to a parent, guardian, or tutor at no additional cost.
6. Transportation of musical instruments: Require carrier to establish terms and conditions on this subject.

In addition to the obligations set out in the Act, the development of the new regulations provides an opportunity for the CTA to address other consumer-related issues.

The CTA undertook a consultation process to receive input from the public, consumer advocates, the air industry and other interested parties. The consultations began on May 28, 2018, and were completed on August 28, 2018.

Objectives

The objective of this initiative is to create new air passenger protection regulations that

1. Are world-leading and feature robust, simple, clear, and consistent passenger rights;
2. Reflect operational realities of carriers and allow for carrier innovation, where appropriate; and
3. Align with international agreements, and apply best practices from lessons learned from other jurisdictions, where appropriate.

Description

Scope

The *Air Passenger Protection Regulations* (APPR) apply to all flights to, from and within Canada, including connecting flights. This includes certain charter flights on which one or more seats are for resale to the public, namely charter flights within Canada and flights to and from Canada that are a part of a charter that originated in Canada.

In certain elements of the regulations, there is a distinction made between large and small carriers. For these purposes, large carriers are considered to be carriers that have transported at least two million passengers worldwide in each of the two preceding years. All other carriers are considered to be small. Carriers will have to identify themselves in their tariffs as large or small for the purposes of the APPR. A smaller carrier transporting a passenger on behalf of a large carrier will be subject to the obligations of a large carrier.

The requirements regarding flight disruptions (flight delays, cancellations, tarmac delays and denied boarding) will be the responsibility of the carrier operating the affected flight. The carrier issuing the ticket will be responsible for providing the passenger with the required information on travel documents and platforms it uses to sell tickets. Joint and several liability among carriers will only be applied to the remaining APPR requirements in cases where a carrier is transporting a passenger on behalf of another carrier (e.g., a code-share).

Clear communication

The regulations ensure that passengers are aware of their rights and are kept informed during a flight disruption (delay, cancellation or denial of boarding). Carriers are required to provide passengers with information on key terms and conditions of carriage on all digital platforms they use to sell tickets, and on all itinerary-related documents the carrier issues to the passenger. They must also include a written notice with prescribed text regarding standards of treatment and compensation under the APPR and directing passengers to the carrier or the CTA's website. Information other than the prescribed text may be provided through hyperlinks. Carriers are also expected to ensure third parties selling tickets on their behalf provide passengers with this information, where feasible. For flights to and from Canada, the carrier must post the written notice described above at certain key locations in the airport.

In the event of a delay, cancellation or denial of boarding, carriers must notify passengers as soon as possible and provide regular status updates (every 30 minutes following the original scheduled departure time until a new takeoff time is confirmed or an alternative travel arrangement is booked). They are also

required to advise the passengers of the applicable standards of treatment and compensation in these cases through the method that the passenger indicated that they prefer, as well as through an auditory announcement and, upon request, a visible announcement.

Air carriers must ensure that communication is accessible. All electronic or digital communication must be accessible to persons with disabilities using adaptive technology. If information is provided in physical format, the carrier will have to, upon request, provide it in large print, Braille or digital format.

Delays, cancellations and denied boarding

The Act stipulates that a carrier's obligations toward passengers are dependent on the level of control the carrier has over the situation, as outlined below.

- Situations within the carrier's control: provide minimum standards of treatment, provide minimum compensation for inconvenience, and ensure passengers complete their itinerary to the destination on their ticket.
- Situations within the carrier's control but required for safety: provide minimum standards of treatment, and ensure passengers complete their itinerary to the destination on their ticket.
- Situations outside the carrier's control: ensure passengers complete their itinerary to the destination on their ticket.

Flight disruption categories

- Situations within the carrier's control but required for safety purposes are those legally required to reduce risk to passengers, not including scheduled maintenance required to comply with legal requirements. This category also includes mechanical malfunction (a mechanical problem that reduces the safety of passengers, but not one identified during scheduled maintenance), decisions based on a carrier's Safety Management System and pilot discretion.
- Situations outside the carrier's control include war or political instability; illegal acts or sabotage; meteorological conditions or natural disasters that make the safe operation of the aircraft impossible; instructions from air traffic control; a notice to airmen (as defined in the *Canadian Aviation Regulations*); a security threat; airport operation issues; a medical emergency; a collision with wildlife; a labour disruption at the air carrier or essential service provider such as an airport or an air navigation service provider; a manufacturing defect that reduces the safety of passengers and that was identified by the manufacturer or a competent authority, or an instruction from an official of a state, a law enforcement agency or a person responsible for airport security.
- Situations within the carrier's control are those that cannot be shown to fall into the other two categories.

Completion of itinerary, rebooking and refund

Under the Act, for all delays and cancellations, the carrier is required to complete the passenger's itinerary. More specifically, under these regulations, the carrier must rebook the passenger after a delay of three hours or more and also after a cancellation. The passenger will be entitled to be rebooked on the carrier's

next available flight from the airport indicated on the ticket using a reasonable route.

For delays and cancellations within a carrier's control, if the next available flight would depart nine hours or more after the original scheduled departure time, large carriers will have to rebook the passenger on another (competing) carrier. If the carrier is unable to rebook the passenger on its own or a competitor's flight leaving the airport on the ticket within 48 hours of the original departure time, it will have to transport the passenger to a nearby airport, where available, and book them on flight from that airport using a reasonable route.

Rebooking must be done under comparable conditions (e.g. same class of service). If the rebooking is made in a lower class of service, the carrier must refund the difference in the cost of the applicable portion of the ticket. If the rebooking is made in a higher level of service, the air carrier cannot request any supplementary payment.

If the offered rebooking does not meet the passenger's travel needs, the passenger will be entitled to a refund. The passenger will, in addition to a refund, also be entitled to a lump sum payment reflecting the applicable minimum compensation for delays of at least three hours but less than six hours (see "Minimum levels of compensation," below).

For delays or cancellations outside the carrier's control, if the carrier's next available flight would not depart within 48 hours, large carriers will have to rebook the passenger on another (competing) air carrier, including those departing a nearby airport.

Standards of treatment

The APPR establish minimum standards of treatment for all flight delays and cancellations that are either (1) within the carrier's control, or (2) within the carrier's control but required for safety purposes, where the passenger has been informed of the delay fewer than 12 hours before departure time.

First, once a departure has been delayed by two hours, air carriers must provide access to a means of communication. They must also provide passengers with food and drink in reasonable quantities taking into account the length of the delay, time of day, and the location of the delay.

If a delay is expected to extend overnight, the air carrier is required to provide, free of charge, hotel or other reasonable accommodation, if needed, and free transportation to and from the accommodation.

Minimum levels of compensation

Under the legislation, compensation for inconvenience must be required for delays and cancellations in situations within the carrier's control that are not required for safety. More specifically, where a passenger is informed of a delay or cancellation 14 or fewer days before departure, the regulations set the amount payable by the carrier operating the disrupted flight to the passenger based on the length of the delay upon arrival at the passenger's destination.

Large carriers are subject to the following compensation requirements:

- 3 or more hours, but less than 6 hours: CAN\$400

- 6 or more hours, but less than 9 hours: CAN\$700
- 9 or more hours: CAN\$1,000

This will cover the vast majority of passengers travelling to, from and within Canada, including those being transported by a small carrier on behalf of a large carrier.

Small carriers are subject to the following compensation requirements:

- 3 or more hours, but less than 6 hours: CAN\$125
- 6 or more hours, but less than 9 hours: CAN\$250
- 9 or more hours: CAN\$500

Compensation must be offered in cash or equivalent, but passengers could choose to accept other forms of compensation, which must be of greater value and cannot expire.

Upon receipt of a passenger's claim for compensation (made within one year of the incident), the air carrier that operated the disrupted flight has 30 days to respond and to pay the compensation owed or explain why compensation is not owed. A carrier may not refuse a passenger's claim based on the passenger's eligibility for compensation under a different passenger rights regime. However, passengers would only be able to receive compensation under these regulations if they have not already received compensation for the same event under a different regime.

Denied boarding

Denied boarding occurs in situations when a passenger is not permitted to occupy a seat on the plane because the number of passengers who checked in by the required time hold a confirmed reservation and valid travel documentation and are present at the boarding gate in time for boarding is greater than the number of seats that may be safely occupied.

If denial of boarding is necessary due to situations within the carrier's control or within the carrier's control but required for safety purposes, the carrier must first ask all passengers if any would be willing to give up their seat in exchange for mutually agreed-upon benefits, which must be presented to the passenger in writing.

If a volunteer cannot be found, passengers denied boarding for reasons within the carrier's control and within the carrier's control but required for safety purposes are entitled to the same standards of treatment for delays and cancellations in general. They are also entitled to the rebooking and refund requirements immediately (at the passenger's choice).

If the denial of boarding is within the carrier's control and not required for safety, carriers must pay compensation to the passenger based on delay at arrival, as follows:

- Less than 6 hours: CAN\$900
- 6 or more hours, but less than 9 hours: CAN\$1,800
- 9 or more hours: CAN\$2,400

The compensation must be issued as soon as is operationally feasible, but no later than within 48 hours after boarding is denied. If the carrier cannot provide compensation before the passenger's new departure time, it must provide written confirmation of the amount owed. The carrier must adjust the amount of compensation accordingly, should the passenger arrives at their destination later than anticipated.

If a denial of boarding is necessary, carriers must establish and follow a priority boarding list (including persons with disabilities and their support person, service animal or emotional support animal; families; anyone previously denied boarding on the same ticket; and unaccompanied minors).

Finally, these regulations prohibit carriers from subjecting passengers already on the aircraft to denial of boarding other than for safety reasons.

Tarmac delays

In addition to the standards of treatment outlined above (which apply to any delay within the carrier's control or within the carrier's control but required for safety), the regulations establishes robust standards of treatment in respect of tarmac delays. These include access to working lavatories, proper ventilation, heating and/or cooling; the provision of food and drink in reasonable quantities; the ability to communicate with people outside of the aircraft free of charge; and access to medical assistance, if needed.

The APPR also require that for tarmac delays at Canadian airports, the carrier provide an opportunity for disembarkation after three hours and to give the opportunity for persons with disabilities to disembark first, where operationally feasible.

In order to prioritize the objective of ensuring passengers reach their destination, the regulations allow air carriers the discretion to stay on the tarmac for one additional 45-minute window, should takeoff be imminent and the air carrier be able to continue providing standards of treatment. This will help mitigate the risk of avoidable flight cancellations that could result from a rigid disembarkation rule and, in turn, will minimize further passenger inconvenience.

Lost or damaged baggage

The Montreal Convention sets the maximum liability for damages for baggage lost, damaged or delayed during international travel at 1,131 special drawing rights (approximately CAN\$2,100). However, these provisions do not currently apply to domestic travel.

The APPR extend the application of this regime to domestic travel covered in these regulations. In addition, the regulations require the reimbursement of any baggage fees.

Transportation of musical instruments

The APPR require carriers to establish terms and conditions of carriage regarding the transportation of musical instruments in its tariff. The topics that the tariff must address include the acceptance of musical instruments as carry-on and checked baggage in accordance with weight, dimension and safety restrictions, as well as additional fees.

Seating of children under the age of 14 years

The regulations require air carriers to facilitate, at the earliest opportunity, the seating of children under the age of 14 in close proximity to their parent, guardian, or tutor at no extra cost. The proximity requirement depends on the age of the child, as follows:

- under the age of 5: in a seat directly adjacent to their parent, guardian or tutor
- aged 5 to 11: in the same row and separated by no more than a seat from their parent, guardian or tutor
- aged 12 or 13: at least within two rows as the parent, guardian or tutor

Unaccompanied minors

For international travel, Canada is a signatory to the Convention on International Civil Aviation, which is managed and administered by the International Civil Aviation Organization (ICAO). New standards regarding the transportation of unaccompanied minors have been incorporated into the Convention. These standards specify that aircraft operators must establish a program for the transportation of unaccompanied minors, and that they cannot allow minors under the age of 5 to travel without an accompanying adult.

The regulations incorporate into the ATR the new standards regarding the transportation of unaccompanied minors for international travel that Canada, as a signatory to the Convention, is required to adopt. Air carriers will be required to establish a policy for unaccompanied minors and prohibit minors under the age of 5 from travelling without an accompanying person.

Air services price advertising

In 2012, regulatory requirements with respect to air services price advertising (ASPAR) were introduced to help consumers easily determine the total price of advertised air services and the components of the total price, and encourage fair competition among advertisers of air services. The rules state that air price advertising directed at the public must include the total price, inclusive of all taxes, fees and charges that a consumer must pay to obtain the air service, as well as charges for optional services. These regulations move these requirements from the ATR to the APPR to reflect their consumer focus.

Enforcement

Contravention of any of the APPR requirements will be subject to administrative monetary penalties (AMPs). These could reach \$5,000 per offence for individuals and \$25,000 for corporations, depending on the type of penalty and contravention. The regulations also account for the power given to the CTA (through the May 2018 amendments to the Act) to apply an APPR-related decision (in response to a written complaint about an international flight) to all passengers on that flight. This aligns with the CTA's existing powers related to domestic flights.

Regulatory development

Consultation

The CTA conducted extensive consultations with the public, consumer advocates, the air industry and other interested stakeholders to inform the development of the draft APPR and during the comment period following pre-publication of the regulations.

Consultations – May to August 2018

On May 28, 2018, the CTA launched its public consultations with the public and key stakeholders. The consultation process provided multiple channels for input and resulted in extensive engagement by Canadians and stakeholders. There was a dedicated, air passenger protection website that included a discussion paper, questionnaire and platform to upload comments. There were eight public consultation sessions that took place across Canada — Toronto, Winnipeg, Vancouver, Calgary, Yellowknife, Halifax, Montréal and Ottawa. A survey was conducted in 11 Canadian airports. There were also bilateral consultation meetings with consumer advocacy groups, air carriers and industry associations, officials from other governments, and other experts.

At the conclusion of the consultations, the CTA had received 30 874 website visits; 4 923 completed online questionnaires; 534 comments submitted online; 203 registrants for the in-person/call-in consultations; 930 completed airport surveys; 39 bilateral consultation meetings; and 104 formal written submissions. The input was summarized in a [What We Heard](#) report which was published on the CTA's website on October 16, 2018.

There is general consensus among individual travellers that

- Clear, concise, accurate and regular communication from air carriers is important to ensure that passengers know their rights at various stages of the travel process, particularly when issues arise.
- Compensation should be fair, reflect losses and inconvenience and deter the practice of overbooking.
- Tarmac delays beyond three hours should not be permitted, and air carriers should be required to provide necessities such as food, water, lavatories and proper ventilation before three hours have elapsed.
- Children under 14 should be seated near their parent or guardian at no extra charge; proximity should be age-dependent.
- Complaints processes should be simple, clear and consistent and there should be penalties for air carrier non-compliance.
- The regulations should be developed taking into account the accessibility-related needs of persons with disabilities.

Consumer advocates generally agree that:

- Air carrier obligations should be equivalent to or exceed requirements in other jurisdictions (e.g. EU, United States) and not conflict with the Montreal Convention.
- Communication of passenger rights must be done in simple, concise and clear language.
- Compensation should reflect the length of flight delay, with cash as the primary payment form.

- Non-compliance must be addressed through clear, simple, fair and effective complaint and enforcement mechanisms.

The following are key views and comments generally raised by air carriers and their representatives:

- Air carriers are only one of many players impacting flights (others include airport authorities, security, customs, air navigation services, extraordinary circumstances). The regulations should reflect this complex system and not solely penalize air carriers for disruptions attributable to others or multiple factors.
- The proposed regulations should not apply to situations outside of Canadian jurisdiction (e.g. a tarmac delay in an airport outside of Canada) or flights operated by foreign carriers originating outside of Canada and should recognize the exclusivity of the Montreal Convention for international travel.
- The regime should not hinder the ability of air carriers to innovate, compete and distinguish themselves in the marketplace.
- Potential unintended consequences of prescriptive regulations, including flow-through costs to passengers, should be considered.
- Application of the new regime to all types of air carriers would ensure consistency but could reduce the viability of small, low-cost, regional, remote and northern air carriers.
- Air carriers should be given the opportunity to comment on the regulations themselves, including cost implications. They should also have sufficient lead time to make the necessary adjustments to their IT systems, training, and processes before having to comply with the new regulations.

All input provided was taken into account in the development of the draft regulations, which are meant to provide robust passenger protection, while taking into account the operational realities of air carriers.

Prepublication in Part I of the *Canada Gazette* (CG1) – December 2018

On December 22, 2018, draft regulations were published CGI, with a 60-day comment period to allow interest persons and stakeholders to submit comments. The CTA received thousands of comments from individuals, 62 written submissions from stakeholders, and met with 20 key stakeholders, including industry and their representatives, and consumer advocates. Key comments on the CG1 proposal include:

1. Implementation

Many air industry stakeholders have indicated that, due to the systems and operational changes required, they would not be able to comply with all of the new requirements by the July 1, 2019 coming-into-force date. Some consumer advocates have also expressed concern that the timeline for implementation is too short and could result in non-compliance.

In light of this feedback, these regulations will be implemented in two stages. Requirements related to communication, tarmac delays, denied boarding, lost and damaged baggage and the transportation of musical instruments provisions (along with applicable AMPs) will come into force on July 15, 2019. The more complex requirements related to seating, delays and cancellations (along with applicable AMPs) will come into effect December 15, 2019.

2. Scope and application

a) Scope

Air industry stakeholders have expressed concerns about the broad scope of the regulation, as established in the legislation – specifically the application of the regulations to flights that did not originate in Canada. They indicate that because this approach does not align with other air passenger protection regimes, it would create confusion by allowing multiple regimes to apply to the same flight and could not be practically implemented.

The regulations apply the scope set out in the legislation approved by Parliament.

b) Joint and several liability

Carriers also indicated that the application of joint and several liability for the regime amongst all carriers on a passenger's itinerary would compound the issues identified regarding scope by making it possible for a carrier to be held responsible for a disruption on a flight it did not operate. Carriers believe this would create a disincentive for commercial arrangements such as interlining, which are meant to help passengers.

Considering the potential unintended consequences of the CGI proposal, the CTA has specified in the regulations that the carrier operating the affected flight is responsible for all obligations related to flight disruptions (delay/cancellation/denial of boarding/tarmac delays). The carrier issuing the ticket will be responsible for providing the passenger with the required information on travel documents and platforms it uses to sell tickets. Explicitly establishing the responsible carrier will ensure that there is clarity for the passenger and that they will receive the treatment and/or compensation owed. Joint and several liability among carriers will only be applied to the remaining APPR requirements in cases where a carrier is transporting a passenger on behalf of another carrier (e.g., a code-share).

c) Northern operations

Northern air carriers submitted that they should be exempted from the regulations due to their unique operations.

The CTA has considered the comments provided and believe that the regulations recognize the unique operating realities of northern and remote air carriers while still ensuring passengers have robust and consistent passenger rights. Instead of limiting the scope of the regulations to mitigate northern carriers' concerns, the regulations establish lower compensation levels and rebooking requirements for small air carriers and flexible requirements concerning food, drink, accommodation and communication that take into account the location of the delay.

3. Two-tier approach**a) Distinction between large and small carrier obligations**

Some consumer advocates and air industry stakeholders disagree with establishing different requirements for small and large carriers, arguing that these do not support the objective of consistency and could give certain airlines an unfair advantage over their competition. The CTA has considered these views, but has determined that the two-tier approach is an important feature of the regime that strikes an important

balance between establishing robust passenger protection and ensuring small carriers are still able to provide diverse service offerings to passengers (including ultra-low cost travel, and transportation to and from remote, regional and northern areas).

b) Definition

Low cost carriers indicated that setting a one million passenger threshold will not allow new market entrants sufficient time to develop before subjecting them to "large carrier" obligations. After assessing stakeholder comments and industry data, it has been determined that the policy intent to address viability concerns for new market entrants would be best achieved by increasing the threshold in the definition of "large carrier" from 1 million to 2 million passengers in each of the preceding two years.

4. Clarity regarding categorization of flight disruptions

Some stakeholders would like there to be greater specificity and clarity in the regulations as to the situations that would be considered "required for safety purposes" and "outside the carrier's control". As it is not possible or desirable to be completely prescriptive in regulation, CTA will address these comments using a combination of regulatory adjustments and guidance materials for air carriers.

a) Definition of "required for safety purposes"

Many stakeholders believe that the definition of "required for safety purposes" does not provide sufficient certainty as to the type of disruptions that it would cover. The wording of this definition is meant to be broad enough to include any flight disruption that a carrier must incur in order to ensure the safe operation of the aircraft. The CTA will provide further guidance through guidance material.

Air industry stakeholders expressed concern that the definition's focus on legal requirements would exclude safety decisions made by the pilot based on Safety Management Systems (SMS). This was not the intent, and to address this concern, the CTA has clarified the definition for "required for safety purposes" to include SMS and pilot discretion.

b) Manufacturing defects

Stakeholders have questions why, unlike the EU regime, the CG1 proposed regulations did not recognize that safety issues identified by the manufacturer or government authority that ground the aircraft are outside of the carrier's control, as they are not inherent in the normal exercise of the carrier's activity (e.g., manufacturer recall).

In considering the stakeholder comments, the CTA has included "manufacturing defects" and instructions from state officials to the list of situations outside of the carrier's control.

c) Labour disruptions

Air industry stakeholders feel that the regulations should explicitly indicate that labour disruptions within an airline are "outside the carrier's control" to avoid influencing collective bargaining processes. The CTA agrees that it would be appropriate to give clarity in this area and has adjusted the regulations to specify that disruptions resulting from labour disruptions within the carrier or at an essential service provider (e.g., an airport) are considered outside the carrier's control.

d) "Crew Time Out"

Many stakeholders requested that the CTA explicitly state the category of flight disruption a crew time out would fall into. It is not possible to do so in regulation; however, as the root situation that brought about the crew hitting their duty time limit would have to be considered. These could vary greatly – e.g., crew illness, adverse weather event, poor scheduling by the carrier. The CTA will instead offer guidance for carriers on this subject in an interpretation note.

e) Knock-on effects

Many industry stakeholders indicated that the CG1 regulations do not reflect the impacts a weather delay has on the next flight(s) scheduled to use the delayed aircraft (situations outside of the carrier's control). In particular, northern carriers and industry associations expressed a significant concern regarding impacts on multi-leg journeys that occur frequently in the north. Consumer advocates feel that the regulations should be more explicit regarding the extent to which knock-on effects could be attributed to categories in which no compensation is owed by carriers, viewing this as a potential loophole.

In considering the significant concern regarding knock-on effects, the CTA has added greater clarity in the regulations – recognizing knock-on effects but creating reasonable limits. The APPR indicate that when a flight is disrupted for safety reasons or situations outside the carrier's control, these designations could also be applied to a disruption experienced on a subsequent flight. However, this could only be done if that subsequent disruption is directly attributable to the first one and if the carrier took all reasonable measures to recover its schedule after the original flight disruption.

5. Tarmac delays

The enabling legislation required the CTA to make regulations respecting the carrier's obligations in the case of tarmac delays over three hours, in addition to standards of treatment for general delays and cancellations. The public and many consumer advocates feel that it is unreasonable not to require certain standards of treatment for passengers during a tarmac delay before the three-hour mark. The feedback received suggests that the enabling legislation may lack clarity on the issue of standards of treatment for passengers during tarmac delays under three hours. The Minister of Transport has addressed this through a Direction to the CTA to apply standards of treatment to all tarmac delays. The CTA welcomed this direction, and has made adjustments to the regulations to implement it. Standards of treatment during tarmac delays include access to means of communication, lavatories, ventilation, heating and cooling, food and drink in reasonable quantities, and medical attention, where needed.

6. Denied boarding**a) Definition**

Consumer advocates and members of the public expressed concerns that the definition of denied boarding implies that the onus would be on the passenger to prove that they had been denied boarding by a carrier. They also indicated that this concept should not be limited to instances of overbooking by the airline.

The CTA has determined that no change to the regulations is required. As written, the definition of denied boarding covers any instance when there are more passengers present for boarding than seats available. This could be due to overbooking, issues with seating or aircraft weight requirements, or a carrier switching

to a smaller aircraft. The carrier will be expected to follow the requirements for denied boarding and will bear the burden of proof.

b) Removal of passenger on board

Stakeholders expressed confusion as to whether the requirement prohibiting carriers from denying boarding to a passenger already on board would preclude a carrier from exercising obligations to remove a passenger from the plane for safety reasons. This is not the intent and the CTA has clarified in the regulations that the provision does not preclude a carrier from removing a passenger from the aircraft for safety reasons.

c) Volunteers

Consumer advocates and members of the public expressed concern that the CG1 proposal did not provide enough consumer protection in the volunteer negotiation process. The CTA has identified this as a gap that can be addressed by these regulations and has added a requirement that, prior to departure, a carrier must present mutually agreed-upon terms of compensation in writing and the volunteer must willingly accept these in exchange for relinquishing their confirmed reserved space.

7. Compensation for inconvenience

a) Levels

Many air industry stakeholders believe the compensation levels are punitive, and that the levels should reflect the fare paid by the passenger instead of being linked to compensation levels in the EU.

The CTA acknowledges industry concerns related to the cost associated with the minimum compensation levels; however, the intent of these regulations is to establish a world leading passenger protection regime. It is therefore important to ensure that passengers in the Canadian regime are entitled to levels of compensation that are similar to those in other jurisdictions. Basing compensation amounts on the length of delay achieves the objective of compensating passenger inconvenience, as inconvenience does not change depending on the fare a passenger paid or the distance of their flight. Finally, the payment of compensation only being required for situations within the carrier's control means that carriers will be able to avoid this additional cost.

b) Time limits

Consumer advocates have expressed concern with the 120 day time limit for passengers to file a request for compensation with the carrier. They have indicated that it would not allow sufficient time for passengers to consult flight data that will be made public by Transport Canada. In order to account for their comments, the CTA has increased the time limit to one year. Having one year to file a claim allow passengers sufficient time to access necessary flight data while also providing carriers with certainty.

c) Indexation

Some air industry stakeholders are of the view that the CG1 proposal to index compensation amounts to inflation is a punitive measure that does not recognize that air fares are generally stagnant (or decreasing). Instead of automatically indexing the minimum compensation amounts to inflation, the CTA will undertake

a review of the APPR, including compensation provisions, after a three year period.

8. Rebooking

Air industry stakeholders were concerned that the APPR requirements to rebook a passenger on the airline's next available flight or, after 9 hours, on the flight of a competitor, would extend to flights out of another airport, or flights using circuitous routes. Carriers expressed concern about the undue burden associated with this, which would particularly affect carriers with low flight frequency.

The CTA acknowledges that the regulations should be clear on this point and should balance the operational needs of carriers with the overall objective of ensuring the passenger reaches their destination as soon as possible after a delay. The final regulations specify that, for the first 48 hours, the rebooking must be on a reasonable route out of the same airport as on the original ticket. If the carrier is unable to rebook the passenger on a flight leaving the same airport within 48 hours of the original departure time, the carrier should offer rebooking out of an airport within reasonable proximity.

9. Communication

a) Communication on travel documents

Air carriers expressed concern that the requirement to provide information regarding standards of treatment, compensation and passenger recourses on travel documents (e.g., tickets and boarding passes) will make those documents unwieldy.

The intention was to permit carriers to provide this detailed information via hyperlink, a fact that the CTA has clarified in the regulations. The combination of standardized notices digital platforms and itinerary related documents and hyperlinks to more detailed information will ensure that passengers have access to all key information when booking a flight.

b) Third party resellers

Carriers indicated that while they support the policy intention of ensuring third party ticket resellers provide passengers with key information, putting the onus of ensuring this on the carrier does not recognize that carriers have little or no control over the practices of third party resellers. They indicate it would not be fair to punish a carrier for the inaction of a third party.

The CTA has taken this into account by requiring carriers to take all reasonable measures to ensure that third-party resellers share information with passengers.

c) Communication on tarmac

Air industry stakeholders indicated the CG1 proposal requiring carriers to provide access to communication during a tarmac delay is too strict, as carriers may be unable to provide means of communication (e.g., wi-fi) during a tarmac delay for safety reasons.

The APPR are not intended to preclude any safety requirements or measures. The CTA has therefore clarified in the regulations that the air carrier must provide access to communication where feasible during a tarmac delay.

10. Seating of children

a) Interpretation

Some stakeholders expressed concern with the wording of the seating of children provision as it could be interpreted as requiring seat selection free of charge for child and parent (e.g., selection of a seat in a particular area of the aircraft). In order to clarify the interpretation the CTA has adjusted the wording to make it clear that carriers are required to facilitate, free of charge, the seating of a parent and child in close proximity. This does not include having to offer seat selection free of charge.

b) Compensation

Consumer advocates expressed that the seating of children requirements are unclear, are too heavily reliant on volunteers to change seats, and/or represent a step backward from airlines' current policies. Some have indicated that there should be compensation required if a carrier cannot seat a child and parent together.

The seating of children provisions align with the legislative framework by requiring airlines to facilitate the seating of children in close proximity to parents. The legislation does not indicate that the regulations should absolutely require carriers to seat children with their parents. Ensuring best efforts is appropriate, given the differing seat selection and assignment processes carriers have. There is also no legislative authority to require compensation related to the seating of children.

11. Musical instruments

The Canadian Federation of Musicians expressed concern that the wording of the provision regarding the transportation of musical instruments could permit a carrier to refuse carriage of musical instruments. Recognizing this gap, the regulations have been adjusted to reinforce that carriers will be required to carry musical instruments as checked or carry-on baggage unless prevented by safety, weight or dimension requirements.

12. Cost-Benefit Analysis (CBA)

Many carriers and industry representatives believe that the CBA does not appropriately capture the cost to carriers associated with the APPR. Specific concerns include:

- a) The CBA does not reflect the cumulative costs of multiple new requirements being placed on the air industry at once or the potential impacts of this proposal on industry competitiveness.
 - While it is recognized that there are a number of recent and forthcoming regulatory changes impacting the air industry, the objective of the CBA is to determine the incremental costs to industry as a result of the APPR. It therefore cannot account for all costs to industry related to all government intervention.
- b) The CBA understates the cost of IT changes, training, and additional staff to handle claims and complaints.
 - The CBA must only assess incremental costs directly related to the APPR. Carriers have not clearly identified which IT and training costs they feel are understated and if those are directly related to the

APPR. Some carriers have pointed to IT costs related to the proposed changes to other proposed regulations and IT projects already underway.

- It is important that the CBA consider only the portion of training costs related to staff being made familiar with new requirements, and not regular ongoing training cost that a carrier would incur regardless of the regulatory proposal coming into force.
- Carriers currently address a large volume of complaints and claims related to the passenger experience. The CBA assumed that the additional burden of increased complaint volumes would be offset to a certain degree by having clearer and more consistent obligations, which should make the complaint resolution process less complex.
- The CTA believes that the costs have been fairly reflected and that the sensitivity analysis appropriately accounts for the level of uncertainty in the calculations.

c) Costs related to compensation are underestimated, as they are based on passenger segments rather than passenger trips.

- The CTA ensured that its approach to determining the proportion of passengers expected to be owed compensation was balanced and accounted for data restrictions. The CTA believes it erred on the side of overstating this proportion. While it is true the data available to the CTA did not consider connecting passengers, the CBA also included a wider scope for disruptions within a carrier's control than the one in the regulations, which offset this issue.
- The sensitivity analysis performed on the percentage of passengers that would due compensation allowed for scenarios where up to 34% of all delayed passengers were considered to be delayed based on an event under the carriers control. This is considered to be a conservative estimate.

d) The cost per passenger of \$2.75 is underestimated and could be up to 10 times higher

- This metric is not meant to be an exact estimate of the impact of the APPR on a single ticket. It was included in the CBA to provide a notional idea of the cost per passenger on a per segment basis.
- Carriers have not provided their own substantiated estimates of incremental costs that are directly related to the requirements of the APPR.

Instrument choice

The Act, as amended in May 2018, provides a framework for the APPR and requires the CTA to develop the specific regulatory provisions within the established parameters, including standards of treatment and minimum compensation levels. Therefore, no other instruments were considered.

The input provided during consultations, and best practices and lessons learned from other jurisdictions were considered in developing the regulations.

Regulatory analysis

Benefits and costs

The cost-benefit analysis (CBA) estimates the incremental net benefit to society of the APPR. The incremental benefit is determined as the difference between the net benefit of the regulation scenario and the baseline scenario. The APPR are estimated to result in present value costs to Canadian carriers and the CTA of \$1.424B, present value benefits to Canadian passengers of \$1.510B and a net present benefit of \$86.10 million, expressed in 2012 Canadian dollars, over a 10-year period following the coming into force of the regulations. On an annualized basis, the cost to carriers represents around \$2.73 per passenger segment.

The regulations establish minimum standards for the following:

Table 1: Regulatory Provisions

Provision	Compensation	Standard of Treatment	Establish Process/Policy
Delay	Yes (WCC) ¹	Yes	Yes
Cancellation	Yes (WCC)	Yes	Yes
Denied boarding	Yes (WCC)	Yes	Yes
Assignment of seats to children under the age of 14	N/A	N/A	Yes
Tarmac delay	Yes (WCC)	Yes	Yes
Lost and damaged baggage	Yes	N/A	N/A
Musical instruments	N/A	N/A	Yes
Unaccompanied minors	N/A	N/A	Yes
Communication	N/A	N/A	Yes

Affected stakeholders

The following stakeholders will be impacted by the APPR:

- Air carriers — Costs to Canadian carriers are considered
- Passengers — Benefits to Canadian passengers are considered
- Government (CTA)

Baseline scenario

Currently, carriers set out the terms and conditions of carriage in their tariffs. These tariffs form the contract between a passenger and a carrier when a ticket is purchased. A carrier's tariff will cover its obligations in all types of events including delays, cancellations, tarmac delays, lost or damaged baggage and seating of children, among other things.

Because each carrier is, for the most part, responsible for setting its own tariff, there can often be differences in the treatment of passengers in different types of events. The objective of the APPR is to normalize the minimum standard across all carriers operating in Canada to ensure that the obligations on carriers are clear, concise and easily understood by carriers and passengers.

In order to establish the baseline for this CBA, the tariffs of carriers operating in Canada were analyzed on an issue-by-issue basis. Further, responses to the CTA's CBA survey to industry were taken into account. It is assumed that in the absence of the APPR, carriers would continue operating according to their current tariffs for the duration of the study period.

As there are hundreds of Canadian carriers in Canada, a sample of carriers was analyzed for this study and was assumed to be representative of the population. The baseline for non-Canadian carriers was assumed to be similar to that of Canadian carriers flying internationally. While this assumption may be wrong in any given instance, it is expected to be realistic on average, as some jurisdictions ensure consumer protection in the form of compensation, while others do not. Furthermore, it is expected that in many instances, Canadians flying into jurisdictions with compensation schemes similar to that of the European Union are often unaware that they are entitled to compensation and would therefore often not claim it. Carriers were categorized into large, medium and small based on the number of employees. Markups were applied to the sample costs of each carrier category in order to arrive at the total cost to industry.

The number of passengers from 2017 was used as the starting point for the baseline. That number is expected to increase at an average annual rate of 3.1% over the 10-year study period. The growth rate is assumed to be the same under both the baseline and the regulation scenarios.

Methodology, data sources and assumptions

Study period

This analysis examines costs and benefits over a 10-year period (2019–2028). A real discount rate of 7% is used to establish the net present value of the regulations for non-compensation provisions. A nominal discount rate of 9% (the real discount rate plus an assumed inflation rate of 2%) is used to establish the net present value of compensation provisions. Values are expressed in 2012 constant dollars.

Number of passengers

The number of passengers for 2017 is estimated using the number of enplaned and deplaned passengers. ² The number of domestic enplaned and deplaned passengers is divided by two to arrive at an estimate of the number of passenger segments on domestic flights.

Table 2: Enplaned and deplaned passengers in 2017

Passengers	Enplaned and Deplaned Passengers	Estimated Number of Passengers
Domestic	88 229 824	44 114 912
International	61 411 848	61 411 848
Total	149 641 672	105 526 760

Source: Air passenger traffic at Canadian airports, annual, Statistics Canada, Table: 23-10-0253-01 (formerly CANSIM 401-0044).

Use of U.S. data

Air carriers do not currently report data in Canada for many of the provisions covered by the regulations, such as rates of involuntary denied boarding, delayed or cancelled flights, lost or damaged baggage or tarmac delays. Therefore, for the purpose of this CBA, these values were extrapolated from data reported by U.S. carriers and published by the U.S. Department of Transportation.³ In circumstances where carriers provided estimates of their own operations, these estimates were used to adjust the average rates reported by U.S. carriers.

Further, in instances where the United States introduced similar consumer protections, potentially altering carrier behaviour, data prior to the introduction of such protections were considered to inform the baseline scenario, and data post-introduction of such protections were considered to inform the APPR scenario.

Carrier market shares

Market shares are determined on the basis of available seat miles from 2017 using data purchased from Flight Global. As many of the small carriers do not report flight movement records to Flight Global, small carriers are assumed to make up 1% of market shares.

Cost of accommodation

The cost of accommodation for one passenger (2018 CAN\$/night) is \$145.56. This amount was determined by taking an average of nightly rates from hotels within close proximity to airports across Canada and applying an assumed corporate discount of 15%.

Proportion of passengers accepting accommodation

It is assumed that 55.5% of passengers eligible for accommodation (in both the baseline and APPR scenarios) will not accept accommodation as they would choose to stay at home or with friends or family or share a room with a travel companion.

Cost of food and drink

The value of a meal voucher (2018 CAN\$) is assumed to be between \$8 (the price of a combo at a fast food establishment found in many Canadian airports) and \$25 (the highest level of food voucher reported to be provided by carriers for a single meal), with an expected value of \$16.50.

Valuation of passengers' travel time

In this analysis, the value of time refers to the dollar amount associated with the opportunity cost of the time spent travelling by air. The value of time depends on the passenger's travel purposes, which are broadly categorized as either for non-business or business purposes. Non-business purposes account for leisure and other personal motives for travelling. Typically, business travellers' value of time is based on their hourly wage (the median wage is used in this study), whereas non-business travellers' value of time is based on their revealed and stated preferences.⁴ However, for a matter of simplicity, the methodology prescribed by the "Revised Departmental Guidance on Valuation of Travel Time in Economic Analysis" of the United States Department of Transportation (USDOT) is used to determine the value of time of a Canadian passenger. Based on this methodology, the value of one hour of air travel of a Canadian passenger (VOT) is estimated at \$18.49 in 2017 dollars (\$17.25 in 2012 Canadian dollars).

Premiums for enhanced quality of passengers' time

Flight disruptions (e.g. flight delays, cancellations and lost baggage) can be stressful and uncomfortable for passengers.⁵ The APPR will improve passengers' experience during air travel by imposing obligations on carriers that will reduce stress and discomfort during flight disruptions. Together, reduction in anxiety levels and improved sense of comfort during extended wait periods are fostered by the design of the APPR, which will create benefits to passengers. For instance, awareness of clear procedures in case of flight disruptions will decrease the level of anxiety to passengers, while the obligation to ensure a minimum level of standard of treatment to passengers guarantees a better flight quality experience, increasing comfort.

Similar to the methodology employed by the USDOT's cost and benefit analysis on the "Final Rule — Enhancing Airline Passenger Protections," the estimates of decreased anxiety and increased comfort to the passengers are based on a premium applied to the value of passengers' time.⁶

- Premium for increased comfort (food and drink) = 0.34
- Premium for increased comfort (deplaning and hotel accommodation) = 0.66
- Premium for reduced anxiety = 0.01

Proportion of passengers considered to be Canadian

Based on Statistics Canada data, the percentage of Canadian residents travelling on international flights is 64.91%.⁷ There are currently no data on passenger nationality for domestic flights; therefore, the percentage of passengers considered Canadian residents on domestic flights is assumed to be 82.5%. This is the mid-point between the percentage of Canadians travelling on international flights and 100%.

Claim rates

For the purposes of this CBA, the claim rates of compensation by individuals in various scenarios are assumed to be the following:

Table 3: Claim rates of compensation

Passenger Type	Claim Rate
Canadian, baseline	30%
Foreign, baseline	30%
Canadian, APPR	80%
Foreign, APPR	70%
Denied boarding	100%

Details of the costs and benefits for each regulatory provision can be found in the full CBA document, which is available from the CTA upon request. The following provides a brief description of the incremental benefits and costs of the regulations.

Altering scheduled flight times

It should be noted that it is possible that carriers could extend their scheduled flying times to reduce the probability of paying compensation on chronically delayed flights. However, this analysis does not take this into account. It is assumed that carriers' scheduled flight times will remain unaltered in the APPR scenario.

Benefits

Compensation

Currently, passengers are compensated for flight disruption within a carrier's control either based on criteria described in a carrier's tariff or at the discretion of a carrier. The APPR establishes minimum levels of compensation, tied to the length of delay to a passenger, to be paid in the event of flight delays, delays to passengers resulting from cancellations and denied boarding. Further, carriers will be required to compensate passengers for lost or damaged baggage on domestic flights, commensurate with the value of lost or damaged baggage, and refund baggage fees.

In both the APPR and baseline scenarios, the benefit of compensation is determined by first estimating the number of Canadian passengers that would be expected to be entitled to compensation and claim compensation under each scenario and then multiplying the number of passengers by the amount of compensation due under each scenario. Summing this compensation yields the total benefit of compensation to Canadian passengers under both the baseline and APPR scenarios. The difference represents the incremental benefit to Canadian passengers of the regulatory provisions.

The present value of the incremental benefits to compensation under the APPR scenario is \$1.228 billion, with an annualized benefit of \$191 million.

Increased comfort — Food and drink

Currently, passengers are provided with food and drink (or food vouchers for use in an airport) during flight disruptions either based on criteria described in a carrier's tariff or at the discretion of a carrier. The APPR set a time threshold according to which carriers must provide passengers with food and drink during a flight disruption.

In both the APPR and baseline scenarios, the benefit to passengers of being provided with food and drink is determined by first estimating the number of Canadian passengers who would be delayed under the various passenger delay scenarios for which carriers provide food and drink. Based on the number of passengers estimated to be experiencing delay, the average delay to passengers can be determined for each scenario. The benefit to passengers can then be estimated by multiplying the total number of hours of delay during which passengers would have the benefit of waiting with food and drink by the value of a traveller's time and the premium for increased comfort (food and drink).

The present value of the incremental benefits to "Increased comfort — Food and drink" under the APPR scenario is \$93 million, with an annualized benefit of \$13 million.

Increased comfort — Accommodation

Currently, passengers are provided with accommodation during flight disruptions either based on criteria described in a carrier's tariff or at the discretion of a carrier. The APPR require carriers to provide passengers with accommodation during a flight disruption when the delay is expected to occur overnight.

In both the APPR and baseline scenarios, the benefit to passengers of being provided with accommodation is determined by first estimating the number of Canadian passengers who would be delayed under the various passenger delay scenarios for which carriers would be required to provide accommodation. Based on the passengers estimated to be experiencing delay, the average delay to passengers can be determined for each scenario. The benefit to passengers can then be estimated by multiplying the total number of hours of delay during which passengers would have the benefit of waiting in an accommodation by the value of a traveller's time and the premium for increased comfort (accommodation).

The present value of the incremental benefits to "Increased comfort — Accommodation" under the APPR scenario is \$166 million, with an annualized benefit of \$24 million.

Increased comfort — Disembarkation

Currently, passengers are provided with the opportunity to disembark during a tarmac delay based on criteria described in a carrier's tariff or at the discretion of a carrier. The APPR generally require carriers to return to the gate to disembark after three hours of delay on a tarmac.

In both the APPR and baseline scenarios, the benefit to passengers of deplaning is determined by first estimating the number of Canadian passengers who would be expected to experience tarmac delays greater than three hours. Based on this number, the average delay to passengers can be determined for each scenario. The benefit to passengers can then be estimated by multiplying the total number of hours of delay during which passengers would have the benefit of waiting in an airport, rather than in an airplane, by the value of a traveller's time and the premium for increased comfort (disembarkation).

The present value of the incremental benefits to “Increased comfort — Disembarkation” under the APPR scenario is \$3.97 million, with an annualized benefit of \$0.57 million.

Decreased anxiety

Under the APPR scenario carriers will be required to provide updates on causes of disruptions, type of disruption and expected length of disruption. Further, carriers will be required to communicate the recourse available to a passenger in the event of a disruption. Having a clear understanding of what is going on and of what recourse is available is expected to reduce anxiety for passengers experiencing flight disruptions.

Passengers travelling with children would be expected to experience less anxiety since the regulations require the seating of children within close proximity to a parent or guardian, free of charge. Finally, domestic passengers experiencing lost or damaged baggage are expected to experience less anxiety as a result of clear expectations for compensation.

In the APPR scenario, the benefit to passengers of decreased anxiety is determined by first estimating the number of Canadian passengers who would be expected to experience reduced anxiety as a result of the regulations. The average time during which a passenger is expected to experience reduced anxiety is then determined for each scenario. The benefit to passengers can then be estimated by multiplying the total number of hours during which passengers would be expected to experience reduced anxiety by the value of a traveller’s time and the premium for decreased anxiety.

The present value of the incremental benefits to “Decreased anxiety” under the APPR scenario is \$15.4 million, with an annualized benefit of \$2.2 million.

Time savings

In the case of involuntary denied boarding, the amounts of compensation are designed to help encourage carriers to seek volunteers. This expected reduction in involuntary denied boarding is expected to translate into time savings for Canadian passengers.

The time savings (in hours) to Canadian passengers is determined by multiplying the difference between the number of passengers expected to be involuntarily denied boarding in the baseline and APPR scenarios by the average delay to a passenger involuntarily denied boarding. The benefit is determined by multiplying the total time savings by the value of a passenger’s time.

The present value of the incremental benefits to time savings under the APPR scenario is \$1.1 million, with an annualized benefit of \$0.162 million.

Non-monetized benefits

Requiring carriers to facilitate the seating of children near their parent or guardian could result in a safety benefit in the event of an evacuation, as parents would not be trying to locate their children when the plane is being evacuated. The APPR also benefit musicians, as carriers will be required to state their policy for carrying musical instruments in their tariffs. This would help provide more certainty to musicians travelling with musical instruments.

Costs

Compensation

The cost to carriers of compensation is determined in the same manner as the benefit of compensation. However, instead of multiplying by the number of Canadian passengers entitled to and expected to claim compensation, the multiplication is done by the total number of passengers travelling with Canadian carriers who are entitled to compensation and who would be expected to claim compensation. The incremental cost is determined as the difference between compensation costs in the baseline and APPR scenarios.

The present value of the incremental costs to compensation under the APPR scenario is \$1.220 billion, with an annualized cost of \$190 million.

Providing food and drink

The cost to carriers of providing passengers with food and drink in both the APPR and baseline scenarios is determined by multiplying the number of passengers travelling on Canadian carriers who would be entitled to food and drink in the various scenarios by the cost of providing food and drink under each scenario.

The present value of the incremental costs to providing food and drink under the APPR scenario is \$78 million, with an annualized cost of \$11 million.

Providing accommodation

The cost to carriers of providing passengers with accommodation in both the APPR and baseline scenarios is determined by multiplying the number of passengers travelling on Canadian carriers who would be entitled to accommodation in the various scenarios by the cost of providing accommodation under each scenario.

The present value of the incremental costs of providing accommodation under the APPR scenario is \$70 million, with an annualized cost of \$10 million.

Tarmac delay — Disembarkation

The only cost estimated in the case of deplaning is the fuel cost. Under both the baseline and APPR scenarios, the estimated number of Canadian carriers' flights being delayed on the tarmac for more than three hours that would be expected to taxi back to the gate is multiplied by the average fuel cost per minute and the average number of minutes for taxiing back to the gate. Further, only half of international flights are considered, as the majority of tarmac delays occurring in other jurisdictions would be subject to the disembarkation requirements of that jurisdiction.

The present value of the incremental costs of deplaning under the APPR scenario is \$111,000, with an annualized cost of \$16,000.

Training

The regulations require carriers to invest in developing and offering training to their employees to ensure that the carrier is operating within the requirements of the regulations. The cost of training is expected to be fully assumed in the first year of the coming into force of the regulations.

The cost of developing training programs is estimated by multiplying the number of hours of each employee type involved in the development of the training by the average wage for each employee type. The hours estimated to be required to develop training programs are assumed to be higher for large carriers than for small carriers.

The cost of having the required employees take the training is estimated by multiplying the number of employees in the pilot and co-pilot, other flight personnel, management and administration and other carrier personnel categories employed in Canada by their respective hourly wages and the assumed number of hours required for training.

The present value of the incremental costs of developing and providing training under the APPR scenario is \$18.5 million, with an annualized cost of \$2.6 million.

Communication

The regulations require carriers to clearly communicate certain information to passengers at the time of reservation and in the event of a flight disruption. The costs to carriers to meet the requirements of the communication aspects of the regulations include upfront implementation costs and ongoing operating costs. Since the ongoing costs of communicating with passengers would be assumed in both the baseline and APPR scenarios, carriers are not expected to require any additional employees to perform communication in the APPR scenario. Ongoing costs are therefore assumed to be negligible and only one-time implementation costs are monetized.

To estimate the costs of implementing the provisions, the IT, legal and business administrative costs are calculated for each communication provision. Since it is assumed that the resources required to estimate costs for large, medium and small carriers are different, costs are estimated for each carrier type. They are then totalled to estimate the one-time implementation costs of the communication provision.

The present value of the incremental costs of communication under the APPR scenario is \$24.9 million, with an annualized cost of \$3.5 million.

Changes to reservation systems

The provision requiring carriers to seat children within close proximity to a parent or guardian was estimated based on responses from carriers to the CTA's CBA survey and is expected to result in one-time, upfront costs related to changes to carriers' reservation systems. Costs were only considered for carriers that do not already guarantee seating within close proximity to a parent or guardian, free of charge.

The present value of the incremental costs of making changes to reservation systems under the APPR scenario is \$260,000, with an annualized cost of \$37,000.

Administrative costs to industry

The regulations are likely to result in an administrative cost to carriers in issuing compensation, meal vouchers and accommodation, and rebooking passengers in the event of flight disruptions. The APPR also rely on the carrier to make an initial determination of the cause of cancellations and delays. In many cases, there may be multiple causes, which could be the subject of a dispute between passengers and air carriers.

However, these additional costs are expected to be minimal. Currently, carriers offer various forms of compensation in the event of a breach of tariff. The regulations may result in increased volumes of passengers claiming compensation; however, the uniform nature of the compensation requirements are expected to streamline the issuing of compensation for carriers. For the purpose of this CBA, these costs were not monetized.

Cost to Government

The CTA is responsible for the consumer protection of air travellers. It discharges this mandate by facilitating, mediating and adjudicating disputes between air travellers and air carriers. It also has a responsibility for ensuring that carriers' tariffs are reasonable.

The CTA is also responsible for issuing licences to scheduled and chartered air carriers operating in Canada and for the monitoring and enforcement of the carriers' obligations and adherence to CTA orders and decisions. The CTA anticipates an initial increase in all of these activities after the coming into force of these regulations.

The present value of the incremental costs to Government of administering the APPR is \$9.7 million, with an annualized cost of \$1.4 million.

Cost-benefit statement

A. Quantified impacts (2012 price level)

Table 4: Quantified impacts (base year 2018)

Cost-Benefits	First Year 2019 (\$, Millions)	Final Year 2028 (\$, Millions)	Total Present Value (\$, Millions)	Annualized Average (\$, Millions)
Benefits to Canadians	209.0	264.9	1,509.6	231.1
Costs to Air carriers	238.3	241.3	1,413.8	217.3
Costs to Government of Canada	2.8	0.4	9.7	1.4
Net benefits			86.1	12.4

B. Qualitative benefits

- Increased certainty for musicians travelling with musical instruments
- Increased safety in the event of evacuation

Note: Costs and benefits are analyzed over a 10-year period (2019–2028) at a 7% discount rate. Compensation for inconvenience costs and benefits are analysed at a discount rate of 9%.

Sensitivity analysis

Uncertainty has been taken into account in this cost-benefit analysis by assigning probability distributions to several variables. The results of the cost-benefit analysis summarized in Table 2, above, is the middle value calculated using the median of probabilistic inputs. The low and high values were determined by changing one variable at a time to determine the lowest and highest possible combination of outcomes. It should be noted that the lowest/highest possible net benefit is not derived by taking the difference between the lowest/highest possible costs and benefits, as in some cases, the value of an input that generated the lowest/highest cost may not be the same value that generates the lowest/highest benefit.

Finally, it should be noted that the extreme outcomes, determined through this sensitivity analysis would be extremely unlikely to occur as they would require several already unlikely outcomes to occur simultaneously. The probability of all extreme values occurring simultaneously is $0.2^{20} = 1.04858E^{-14}$.

The percentage of passengers on domestic flights who are Canadian, the percentage of passengers who claim compensation under the APPR scenario, and the value of a traveller's time have the largest impact on the net present value (NPV). Setting all of these variables to their maximum probable values increases the NPV by \$348 million. Setting them all at their minimum probable values decreases the NPV by \$302 million.

The table below summarizes the highest, lowest and most likely outcomes, derived through the sensitivity analysis.

Table 5 : Low, middle, and high values based on sensitivity analysis

Cost-Benefit	Low (\$, Millions)	Middle (\$, Millions)	High (\$, Millions)
Benefits to Canadian public	987.5	1,509.6	2,254.8
Costs to carriers	928.7	1,413.8	1,957.4
Costs to Government	9.7	9.7	9.7
Total cost to all stakeholders (including Government)	938.7	1,413.8	1,967.1
Net benefit	-48.7	86.1	287.7

Note: Values in this table are presented as the present value using a real 7% discount rate. Compensation for inconvenience costs and benefits are analysed at a nominal discount rate of 9%.

Small business lens

Although most of the Canadian commercial air operators do not meet the definition of the small and medium business category when using the gross revenue criteria to determine whether a business is small, the CTA has determined that 378 air carriers are considered small businesses using the criteria of

having 100 employees or fewer.

Costs to small businesses are associated directly with compliance with the regulations, including compensation paid to passengers in the event of flight disruption, expenses (e.g. IT systems) assumed to comply with communication provisions, and costs related to developing new training programs and delivering training to all relevant employees on the new processes and provisions.

The estimated annualized increase in total cost is \$4,324,986 (in 2012 dollars) for all affected small businesses and the average cost per small business is \$11,442 (in 2012 dollars). The estimated present value of total costs and cost per small business over the 10-year period are valued at \$30,376,893 (in 2012 dollars) and \$80,362(in 2012), respectively.

In the initial option, the APPR requirements would be applied to air carriers equally, regardless of their business size. However, to take into account concerns regarding impacts on the viability of small carriers, the CTA has put forward a flexible option in which small carriers would be subject to lower compensation requirements and would not be required to rebook using competing carriers.

Initial Option

Short description: Apply the APPR to carriers regardless of their business size

Number of small businesses impacted: 378

Table 6: Initial Option Costs and Risks

Costs/Risk considerations	Annualized Average (\$)	Present Value (\$)
Compliance costs	4,848,419	34,053,268
Administrative costs	0	0
Total costs (all small businesses)	4,848,419	34,053,268
Total cost per small business	12,827	90,088
Risk considerations	N/A	N/A

Flexible Option

Short description: Two-tiered approach to compensation and rebooking requirements

Number of small businesses impacted: 378

Table 7: Flexible Option Costs and Risks

Costs/Risk considerations	Annualized Average (\$)	Present Value (\$)
Compliance costs	4,324,986	30,376,893

Costs/Risk considerations	Annualized Average (\$)	Present Value (\$)
Administrative costs	0	0
Total costs (all small businesses)	4,324,986	30,376,893
Total cost per small business	11,442	80,362
Risk considerations	N/A	N/A

“One-for-One” Rule

As the regulations do not impose incremental administrative costs on businesses, the “One-for-One” Rule does not apply.

Regulatory cooperation and alignment

The EU has put in place a passenger protection regime including communication requirements, minimum standards of treatment, rebooking and reimbursement, and in some cases minimum compensation for flight disruptions. Current U.S. rules to strengthen air passenger rights address communication with passengers, set standards of treatment and disembarkation requirements during tarmac delays, and establish compensation for denied boarding due to overbooking. These requirements are in addition to those under the Montreal Convention, an international treaty to which the EU, U.S. and Canada are all party.

The CTA considered best practices and lessons learned from these other jurisdictions, while tailoring the regulations to Canadian needs. As a result, the APPR ensure that passengers travelling to, from and within Canada have rights that are comparable to those in other jurisdictions and that unintended consequences experienced in other jurisdictions can be mitigated.

In addition, the requirements related to the transportation of minors are intended to implement in Canadian regulation the new ICAO standards in this area. This is a requirement, as Canada is a signatory to the Convention on International Civil Aviation.

Gender-based analysis plus (GBA+)

The regulations are intended to benefit the travelling public generally. The only targeted regulation relates to the seating of children under 14 years of age next to their parent or guardian at no additional cost. These regulations will result in a positive impact for travelling parents in general and, potentially to a greater extent, for women. Based on information from Statistics Canada, women are four times more likely to be lone parents (1.26 million) than men (0.35 million).

During consultations, some carriers indicated that compliance with the new regulations could involve financial requirements that hamper the viability of smaller airlines and those with already thin financial margins, including ultra-low-cost airlines serving a wide range of travellers and those serving northern and

remote areas.

These risks are mitigated in the regulations through the two-tier approach to compensation and rebooking requirements. Requirements related to hotel accommodations, provision of food and communication take into account the operating environments of carriers serving northern and remote communities (where amenities are often limited).

Rationale

The CTA has developed these regulations in alignment with statutory requirements and the framework set out in the Act.

The CTA considered all input received through the consultations and CGI comment period to develop and finalize the regulations. The CTA has also considered best practices and lessons learned from air passenger protection regimes in other jurisdictions, including the European Union (EU) and the United States, as well as the Montreal Convention, an international treaty to which Canada is party (along with the United States and the EU).

Scope and application

The scope of the regulations aligns with Parliament's intent that the regulations apply to "all flights to, from and within Canada, including connecting flights." The regime applies as broadly as possible to travellers in Canada to ensure as much consistency as possible.

Identifying the operating carrier as responsible for the requirements related to flight disruptions achieves the objective of ensuring a passenger understands where they can turn for redress without exposing carriers to undue liability or disincentivizing commercial arrangements between carriers.

The scope and application recognizes viability concerns of small carriers and new market entrants. Instead of limiting the scope of the regulations by carving certain carriers out, the regulations set different compensation and rebooking requirements for large and small carriers and creates flexibility within standards of treatment requirements (food, drink, accommodation) that account for unique operating environments. In this way, the regulations strike a balance between establishing robust passenger protections and ensuring Canada's these small carriers are still able to provide diverse service offerings to passengers, including ultra-low-cost travel, and transportation to and from remote, regional and northern areas.

The CTA will monitor the effects of these regulations on the growth of small and medium-sized carriers and new entrants into the market and reassess if needed.

Clear communication

The regulations reflect the general agreement among the public, consumer advocacy groups, and industry stakeholders that passengers should be given clear information — regarding terms and conditions of carriage and during flight disruptions — in plain language through a range of methods.

The regulations are aimed at maximizing opportunities for passengers to receive key information throughout the travel process by, for example, requiring different methods of communication, and by requiring carriers to ensure information is shared by third parties authorized to sell tickets in the carrier's name. It is also designed to ensure that the needs of persons with disabilities are met.

The regulations also take into account some operational issues raised by air carriers, such as their limited control of signage at airports and third party resellers, and potential difficulty for front-line staff in immediately determining the precise cause of a delay.

Standards of treatment

The standards of treatment and rebooking requirements are comparable to those established in the EU regime, and generally align with comments provided by the public and consumer advocates. Specifically, requiring standards of treatment to be provided starting two hours after the delay at departure aligns with the EU regime.

Avoiding prescribed dollar values for food and drink requirements reflects the wide range of possible delay circumstances and operational realities of different airport locations. The food and drink requirements are dependent on the time of day, duration of the delay and location to take into account cost variances at different airport locations and limited amenities in some remote areas. Accommodation requirements are similarly linked to the location of the delay.

Completion of itinerary

The requirements related to rebooking and refunds protect the interests of passengers, while taking into account the operational considerations of carriers. Rebooking parameters reflect the aim of ensuring that the passengers arrive at their destination as soon as possible by rebooking them on the carrier's next possible flight or, in the case of large carriers, rebooked on a competitor flight if the carrier does not have an available flight leaving within nine hours of the original departure time.

Starting the rebooking and refund requirements after a flight delay of three hours allows time for a carrier to recover the flight from the delay before having to rebook, which can be a complex process that diverts resources from delay recovery.

Large carriers are also allowed a reasonable opportunity to make other arrangements for the affected passengers before having to take on the financial implications of last-minute rebooking on a competing carrier or transporting a passenger to another airport. Setting the threshold for rebooking on another carrier at nine hours reflects the lower frequency of certain flights, as well as hours of operation restrictions at some airports.

Exempting small air carriers from the requirement to rebook passengers on other carriers takes into account that many small air carriers have infrequent flights and/or do not have commercial or partnership arrangements with other air carriers.

Minimum compensation levels

The CTA received a range of suggestions regarding the appropriate amount of compensation for delays and cancellations — from \$0 to \$9,000. The amounts for large carriers are comparable to those established in the EU regime (which range from EUR 250 to EUR 600, or approximately CAN\$375 to CAN\$900). These amounts also reflect input from public and consumer advocacy groups that compensation amounts should reflect inconvenience. They also reflect the policy intent that the Canadian regime be world leading.

Certain air carriers are of the view that compensation should be linked to the price of the ticket purchased or at least not surpass it. However, the objective of the regulations is to compensate for the inconvenience experienced by the passenger, which does not change depending on the price of a ticket. Basing compensation amounts on the length of delay instead of the individual fare (or flight distance, as is used in the EU) achieves that objective. This is also the clearest and most administratively straightforward option and reflects input received from the public during consultations.

Some stakeholders and members of the public recommended that the same compensation requirements apply to all carriers, regardless of size. However, the two-tier approach takes into account concerns that costs could impact the viability of small carriers, many of which serve remote communities, and ensures that air travel is accessible for Canadians.

The specific time frames for compensation (three or more hours, but less than six hours; six or more hours, but less than nine hours; and nine or more hours) align with the EU regime, in which compensation for delays is required for delays of three hours or more.

The regulations reflect consumer views that it is important to be offered compensation in the form of cash. It also provides the flexibility, supported by both carriers and consumers, to offer other forms of compensation (e.g. travel vouchers, seat upgrades, and points towards loyalty programs). Making cash the primary form of compensation, with passenger discretion to accept other forms of greater, non-expiring compensation, ensures that carriers can tailor compensation to passenger needs, provided passengers are aware of all options.

Denied boarding

During consultations, the public expressed particular concern regarding denied boarding due to factors entirely within carrier control, such as overbooking. While carriers advised against punitive compensation requirements, establishing compensation that is significantly higher than general delay and cancellation compensation — while also leaving carriers with flexibility to negotiate with potential volunteers — is intended to reduce the number of passengers moved to later flights against their will. The APPR will not prevent carriers from innovating in their methods of seeking volunteers (e.g. through an auction). Specifying that negotiated terms are mutually agreed upon and provided in writing to the passengers will protect consumer interests in this process.

The regulations establish requirements for immediate compensation (i.e. starting at a delay of 0 hours) for denied boarding, reflecting the heightened inconvenience associated with being denied boarding against one's will. Immediate payment for denied boarding aligns with the U.S. regime and reflects the low

administrative complexity of processing these payments.

Tarmac delays

The regulations increase passenger comfort during any tarmac delay by requiring that carriers provide a range of necessities recommended by the public and consumer advocates during consultations.

At airports in Canada, carriers will generally return to the gate for disembarkation after three hours — the earliest time permitted by the Act. The timing of disembarkation also draws from international best practices, namely the tarmac delay rules in the United States.

However, in order to mitigate further delay and passenger discomfort, the regulations allow air carriers the discretion to stay on the tarmac for one additional 45-minute window, should takeoff be imminent. While there may be public objections to allowing a plane to stay on the tarmac for longer than three hours, this is intended to account for operational considerations and lessons learned expressed by air carriers, in particular the increase in flight cancellations experienced in the United States following the implementation of a strict disembarkation rule.

Lost or damaged baggage

Under the regime, liability limits (and related processes, timelines and exceptions) established under the Montreal Convention for international travel will also apply to domestic flights, which will ensure consistency for travellers. This approach also recognizes that the regime cannot conflict with the Montreal Convention, which provides an exclusive scheme for international travel, a consideration that was emphasized by stakeholders generally. The regulations also reflect the view expressed by many members of the public that baggage fees should be reimbursed in instances of damage, loss or temporary loss.

Seating of children under the age of 14

Some members of the air industry are of the view that the seating of children free of charge is not an area in which government intervention is needed. However, this is clearly mandated by the legislation. It is important to note, however, that the regulations do not require carriers to offer seat selection free of charge. The airline will be required to facilitate the seating of a child near their parent or guardian at no additional charge.

The regulations reflect public and consumer advocate views that children should be seated near their parent or guardian at no extra charge, and, generally, that proximity should depend on the age of the child. In the CTA's public survey at airports, 79% of respondents indicated that children under 5 years of age should be seated adjacent to their parent, guardian or tutor. Results also suggest that it would be reasonable to allow for slightly greater separation between older children and their parent, guardian or tutor, with the greatest latitude for children aged 12 to 14.

By basing seating requirements on the age of the child and requiring that air carriers facilitate the seating of children *at the earliest opportunity*, the regulations recognize the complexity of assigned seating processes while ensuring that carriers take measures at every point to facilitate the seating. Facilitation could be done at the time of booking, at check-in, at the gate, and on the aircraft.

Transportation of musical instruments

Generally, stakeholders support providing clear policies on the transportation of musical instruments. The regulations also reflect musician advocate views that carriers should transport musical instruments as carry-on or checked baggage in accordance with the same safety, dimension and weight policies as other baggage.

Air carriers, however, believe that competition in this area generates the best results. The regulations align with the legislation, which stipulates that regulations must require carriers to establish terms and conditions for the carriage of musical instruments without being prescriptive in terms of the content of the requirements.

Other consumer-related provisions

The provisions relating to the transportation of unaccompanied minors are intended to incorporate into the ATR the new standards regarding the transportation of unaccompanied minors, which Canada is required to adopt, as a signatory to the Convention on International Civil Aviation.

Moving the ASPAR into the APPR is a logical step, given that they are both oriented toward consumers.

Implementation, compliance and enforcement, and service standards

Requirements related to communication, tarmac delays, denied boarding, lost and damaged baggage, and the transportation of musical instruments provisions (along with applicable AMPs) will come into force on July 15, 2019. The more complex requirements related to seating, delays and cancellations (along with applicable AMPs) will come into effect December 15, 2019.

The CTA's ongoing monitoring of the air industry includes inspections and investigations, and the CTA's existing air passenger complaints processes and dispute resolution services would apply to the new obligations. Enforcement officers conduct periodic inspections of air carriers to ensure that operating requirements are met, and they would do targeted investigations if they suspect an air carrier is not meeting their operating requirements.

Following an application for air passenger travel dispute resolution under the existing tariff-based regime, timelines are 65 business days for facilitation, 20 business days for mediation (when no extension has been requested), , and 85 business days for adjudication (for complex cases, 65 business days after close of pleadings).

Once the regulations are registered, the CTA will issue guidance and tools for the public and air carriers to help ensure that this new regime is implemented smoothly and that passengers know their rights.

Endnotes

- 1 (WCC) : Passenger is only entitled to compensation if the disruption is within the carriers control.
 - 2 Statistics Canada. Table 23-10-0253-01 Air passenger traffic at Canadian airports, annual
 - 3 <https://www.transportation.gov/airconsumer/air-travel-consumer-reports>
 - 4 The National Academies of Sciences, Engineering, and Medicine, “Passenger Value of Time, Benefit-Cost Analysis and Airport Capital Investment Decisions, Volume 1: Guidebook for Valuing User Time Savings in Airport Capital Investment Decision Analysis”, 2015, p. 1.
 - 5 Hsiangting Shatina Chen, “Travel well, road warriors: Assessing business travelers’ stressors”, Tourism Management Perspectives , Volume 22, April 2017, p. 1-6.
 - 6 United States Department of Transportation, “Final Regulatory Impact Analysis of Rulemaking on Enhanced Airline Passenger Protections”, <https://www.regulations.gov/document?D=DOT-OST-2007-0022-0256>, 2009, p. 21-22.
 - 7 Statistics Canada. Table 24-10-0041-01 International travellers entering or returning to Canada, by type of transport
-

Evidence #27 (DOC-447413)

[Home](#) → [News](#)

Important information for WestJet customers

Here is some important information for passengers whose flights may have been affected by the labour disruption at WestJet.

The [Air Passenger Protection Regulations](#) state the following:

Obligations — situations outside carrier's control

This section applies to a carrier when there is delay, cancellation or denial of boarding due to situations outside the carrier's control, **including but not limited to a labour disruption within the carrier, or within an essential service provider such as an airport or an air navigation service provider.**

When a flight disruption is caused by a situation outside the airline's control, the airline (large or small) must **rebook** passengers on its next available flight or on the flight of an airline with which it has a commercial agreement. The flight must depart within **48 hours** after the passenger's original departure time. If the airline cannot rebook the passenger within 48 hours, the airline must, at the passenger's choice:

- Provide a refund; or
- Make alternate travel arrangements, free of charge.

Related content

- [Know your rights](#)
- [Flight delays and cancellations](#)
- [Air Passenger Protection Regulations](#)

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Date modified:
2023-05-16

Evidence #28 (DOC-447414)

WESTJET AIRLINES LTD.
C/O FILLMORE RILEY
1700-360 MAIN STREET
WINNIPEG, MANITOBA R3C 3Z3

File # SC23-01-44117

Page: 1 of 2

**THE KING'S BENCH
Winnipeg Centre**

BETWEEN:

MARIANNE BURYM AND ABBY KLIPPENSTIEN AND BROCK KLIPPENSTEIN AND RONALD KLIPPENSTEIN,

CLAIMANT(S),

-AND-

WESTJET AIRLINES LTD.,

DEFENDANT(S).

CERTIFICATE OF DECISION AT HEARING - DECISION OF COURT OFFICER

THIS IS TO CERTIFY that this Small Claim was heard by a court officer under *The Court of King's Bench Small Claims Practices Act* on February 8, 2024, in the presence of;

MARIANNE BURYM, ABBY KLIPPENSTIEN, BROCK KLIPPENSTEIN, RONALD KLIPPENSTEIN
WESTJET AIRLINES LTD.

and the following decision was made:

The claim against WESTJET AIRLINES LTD. was dismissed without costs.

Filing Date: February 29, 2024

LAMONICA, B.
Deputy Registrar

NOTICE

1. This decision made by a court officer may be appealed to a judge of the Court of King's Bench only on a question of law or jurisdiction with leave of a judge. See section 12(1) of *The Court of King's Bench Small Claims Practices Act*.
2. If you wish to appeal this decision, you must file an Application for Leave to Appeal and Notice of Appeal (Form 76K) in the Court of King's Bench within 30 days after the filing date shown on this certificate. You must also serve the Application for Leave to Appeal and Notice of Appeal on all other parties not later than 20 days after filing it. The

WESTJET AIRLINES LTD.
C/O FILLMORE RILEY
1700-360 MAIN STREET
WINNIPEG, MANITOBA R3C 3Z3

File # SC23-01-44117
Page: 2 of 2

**THE KING'S BENCH
Winnipeg Centre**

decision of the judge on application for leave to appeal is final and cannot be further appealed.

3. If leave to appeal is granted, a Court of King's Bench judge will provide directions to all parties as to the conduct of the appeal.
4. If you are the defendant and you did not appear at the hearing and judgment was given against you, you may apply to a court officer to have the decision set aside (Form 76I). You will also be required to pay security for costs. The decision may only be set aside if the court officer is satisfied that
 - (a) you did not wilfully or deliberately fail to appear at the hearing;
 - (b) you filed your application to set aside this decision as soon as reasonably possible after learning of the decision on the claim, or you have a satisfactory explanation for any delay in filing your application;and
 - (c) it is fair and just in the circumstances to set aside the decision.

The decision made at the set aside hearing is final and cannot be appealed.

If you require further information contact the court office at (204) 945-3138.

SUMMARY OF REASONS

The claimants are seeking compensation under the Air Passenger Protection Regulations (hereinafter known as the "APPR") for the cancellation of their flight as a result of a pilot strike within WestJet Airlines. Counsel for the defendant maintains that the circumstance in question was outside of the airline's control and the claimants are as a result, not entitled to compensation as stated in the APPR.

In a small claim such as this, the claimant bears the burden of proof on a balance of probabilities. Both parties provided evidence and made submissions in support of their respective positions. I have thoroughly reviewed all of the party's submissions, focusing solely on the evidence and arguments that I deem pertinent to establish the context for my decision.

WestJet pilots, who are represented by the Air Line Pilots Association ("ALPA"), were in the process of negotiating a new Collective Agreement. In compliance with the Canada Labour Code, a 72-hour strike notice was formally issued on May 15th, 2023. This notice conveyed the pilots' intent to strike upon the lapse of the specified 72-hour period, resulting in the grounding of all WestJet aircraft and the cessation of WestJet operations. The pilots were authorized to strike as early as 3:00 a.m. Mountain Daylight Time on Friday, May 19th, 2023, being midnight in Hawaii. In the end, the pilots reached a tentative agreement just after 12:00 a.m. MDT on May 19th, 2023 and WestJet began rebooking passengers whose flights had been cancelled.

The claimants, travelling from Maui to Winnipeg on Thursday, May 18th, for their return journey home, encountered a disruption to their travel plans. The initial segment of their flight was canceled, which was scheduled for departure at 10:45 p.m (Hawaiian Standard Time). This was conveyed to them on May 18th around 5:45 p.m. HST. An email notification from WestJet attributed the disruption to a strike or work stoppage, prompting a change of their itinerary. Shortly thereafter, another email instructed them to contact WestJet for flight options. Subsequently, they invested several hours in finding alternative arrangements. Despite being offered a flight to Seattle through one of WestJet's partner airlines, the claimants deemed this option unsuitable. Consequently, they opted to rebook the same flight, originally canceled, albeit for the following day. In the end, the delay extended to a duration of 26 hours from the originally slated departure time until their arrival at home.

The claimants are seeking compensation in the amount of \$1,000.00 per person, in

airlines are obligated to provide compensation for inconveniences incurred due to delays or cancellations that are fully within the airline's control. Eligibility for compensation is contingent upon being informed of the delay or cancellation 14 days or less prior to the original departure time, experiencing a delay of 3 hours or more upon arrival at the final destination, and submitting a formal request for compensation to the airline within one year of the incident. Given the delay exceeding 9 hours, the passengers maintain their entitlement to the aforementioned compensation amount.

Counsel for the airline directed the Court to Section 10 (1) (j) of the APPR which states:

“This section applies to a carrier when there is delay, cancellation or denial of boarding due to situations outside the carriers control, including but not limited to the following :

(j) a labor disruption within the carrier or within an essential service provider such as an airport or an air navigation service provider”

The defendant maintains that, as per the clear provisions within the applicable regulations, labor disruptions are deemed to be beyond the carrier's control. And consequently, argues that the claimants are not entitled to the compensation they are seeking.

The claimant's fundamental point rests on the observation that there is no active picketing by the pilots, implying the absence of an ongoing strike at the moment the flight was to take off. As a result, the claimants argued that there was at the time of departure, no labor disruption.

The Court was informed of the absence of a legally defined concept of "labour disruption" and neither statutory provisions nor jurisprudence offer a definitive description. Hence, the onus falls upon the Court to ascertain, on a case-by-case basis, whether a given set of circumstances qualifies as such. While not aiming for a comprehensive characterization, the Court, in this instance, is tasked with determining whether the pilot strike in question constituted a labor disruption.

The assertion that the commencement of a strike equates to the onset of a labor disruption is predicated on the understanding that the formal announcement of a strike signifies the beginning of altered labor dynamics. Contrary to the notion that picketing serves as the definitive starting point, the announcement of a strike constitutes the decisive moment when contractual obligations are suspended and labor activities are fundamentally disrupted. As such, any actions taken by the involved parties subsequent

to the announcement are inherently shaped by the altered circumstances and legal ramifications arising from the declaration.

The airline fulfilled its duty of care to affected passengers by providing timely notice of the flight cancellations. By giving passengers advance notice, the airline enabled them to make alternative travel arrangements as stated in Section 10 (3) of the APPR which explains that the airline is obligated to arrange for rebooking passengers on the next available flight operated by a partner airline with which it has a commercial agreement. This subsequent flight must depart within 48 hours of the original departure time. If the airline is unable to rebook within this timeframe, the option to request a refund or alternative travel arrangements at no additional cost is available.

Ultimately, the Court's determination is that the declaration of the strike marked the onset of the labor disruption. It is the announcement of the strike that heralds the suspension of contractual obligations and instigates a fundamental shift in labor relations thus establishing that a labor disruption was underway at the time of the claimants' flight cancellation, making it outside of the carrier's control. In light of the above findings, the claim is dismissed. Parties to bear their own costs.

Guide to Appealing a Small Claims Decision

Can I appeal a decision of a Small Claims Court Officer?

An appeal of a Small Claims Court Officer's decision is only available in limited situations. In order to appeal, you must get "leave" (permission) from a judge of the Court of King's Bench by satisfying them that the Court Officer made an "**error of law**" or an "**error of jurisdiction**", not an "**error of fact**" or a "**mixed error of law and fact**".

Most people want to appeal because they think the Court Officer should have decided things differently. But you **cannot** appeal for that reason. In other words, you **will not** get "*leave to appeal*" (i.e. permission from the judge) just because:

- you do not agree with the Court Officer's decision
- you did not bring all the documents the Court Officer needed to decide the case properly
- you did not bring witnesses that would have helped the Court Officer make a decision
- the Court Officer thought the evidence of the other side was more believable than yours

An "**error of law**" or "**error of jurisdiction**" is a very hard thing to prove. It requires you to know what the correct law is to apply to your case. It is a good idea to be represented by a lawyer or to ask a lawyer whether such a mistake was made before you file an appeal.

Be aware: If the judge rejects your request for "*leave to appeal*", or dismisses your actual appeal, you might be ordered to pay costs (money) to the other parties.

What is an "error of law"?

An "**error of law**" is when the Court Officer makes a mistake when interpreting the law, uses the wrong legal test or fails to consider a relevant issue when applying the correct legal test.

- **Example:** You entered into a loan agreement on October 1, 2022. On November 30, 2022, you breached the agreement by failing to make payments. Three years later, on December 1, 2025, the loan company files a claim against you for monies owing under the loan. You argue that the loan company is past the two-year limitation period to bring the claim and it should be dismissed. The Court Officer finds that you breached the loan agreement and makes an order against you. You have grounds to appeal because the Court Officer made an error in law by failing to consider that *The Limitations Act* provides a two-year limitation period on the claim and the loan company could not bring a claim against you three years after the breach.

What is an "error of jurisdiction"?

An "**error of jurisdiction**" is when the Court Officer makes a mistake about their legal authority or power to make the decision. *The Court of King's Bench Small Claims Practices Act* (Manitoba) states what is, and what is not, within the jurisdiction of the Small Claims Court to decide.

- **Example:** You sue the contractor for unfinished renovations on your home that you paid for in full. The Court Officer decides that you win and awards you \$20,000 for your claim, plus interest and costs. The contractor has grounds to appeal this decision because the Court Officer ordered an amount of money that was not within their power to order as *The Court of King's Bench Small Claims Practices Act* limits claims to \$15,000, plus interest and costs.

What is an "error of fact"?

An "**error of fact**" is different and occurs when the Court Officer has the wrong facts or interprets them incorrectly, but applies the correct law to those facts. **You cannot appeal for an "error of fact"**.

- **Example 1:** You sue your mechanic because they didn't do the repairs on your vehicle properly. After listening to both sides, the Court Officer rules for the mechanic, deciding that the evidence shows that repairs were completed and done properly and something else was wrong with your car. You disagree because you feel the mechanic really did mess up the job. You will not be granted leave to appeal because this is a factual disagreement.
- **Example 2:** You file a claim for money owed to you under a verbal agreement. There was a witness, but on the day of the hearing, the person who heard you make the deal did not show up. You also told the Court Officer there were calls and texts afterwards that proved the agreement but you did not bring copies. The Court Officer decided you did not have enough evidence to prove there was an agreement, and dismissed your claim. You will not be granted leave to appeal because the Court Officer applied the law correctly and decided the facts you presented to the Court did not prove your claim.

What is a “mixed error of fact and law”?

A “mixed error of fact and law” occurs when the facts are admitted or proven and the rule of law is undisputed but the Court Officer applies the legal test incorrectly to your set of facts. **You cannot appeal for a “mixed error of fact and law”.**

- **Example:** You sue your local grocery store for slipping and falling in the aisle. At the hearing, it is admitted by the store owner that you fell on the wet floor that day and that a “Wet Floor” sign had not been put out. Although the legal test of *negligence* was correctly chosen by the Court Officer, they decide that the store is not responsible because the mop had been left out in the aisle so people could see that it had just been cleaned. You will not be granted leave to appeal the decision even though you feel the store did not do enough to warn its customers and did not satisfy the appropriate *standard of care*.

How to Appeal?

If you think you can prove an “error in law” or “error of jurisdiction”:

- Fill out an “*Application for Leave to Appeal and Notice of Appeal*” (**Form 76K**) and file it at the Court of King’s Bench court office within 30 days from the filing date on your *Certificate of Decision*. You must also file the transcript of the proceedings before the court officer or proof that the transcript has been ordered.
- Pay the filing fee.
- When you file your application and the transcript or proof that the transcript has been ordered, the court will schedule an appointment (including the date, time and place) for the hearing of your *leave application*.
- Serve a copy of your application (with the date, time and place indicated) and a copy of the transcript, on all the other parties involved within 20 days of filing the application. If the transcript is not available when the application is served, the transcript must be later served on the other parties as soon as possible. Additional time to file and/or serve the application can be requested by filing a motion to a judge.
- Once you have served all parties, file a “*Declaration of Service*” (**Form 76B**) with the court for each party that was served so that the Court knows they have been notified of the application.
- After filing your application, all steps taken to enforce the decision of the Court Officer are “stayed” (stopped) and the “stay” continues until your application for *leave to appeal* is dismissed or, if your *leave to appeal* is granted, until the Court makes a decision on your appeal. In other words, nobody has to pay any amount owing until a final decision is made.

What happens next?

- Show up at Court at the time, date and location you were told. Your hearing will be on a list where the judge is dealing with a number of *applications for leave to appeal*, including yours.
- At the hearing of your *application for leave to appeal*, you will be required to set out before the judge how, in your view, the Court Officer made an “error of law” or an “error of jurisdiction”.
- If your *leave to appeal* is granted, the judge will set another date and time for the actual hearing of your appeal and may also give directions as to how the appeal will be conducted.
 - You must go to the hearing of your appeal. The appeal judge may agree with the decision of the Court Officer, or make any decision the Court Officer could have made.
 - A Certificate of Decision will be mailed to all of the parties that shows the Judge’s decision- it is a judgment of the Court and may be enforced.
 - The appeal decision is final and cannot be appealed further.

For more information on the Small Claims Appeal Process, please see: <https://www.manitobacourts.mb.ca/court-of-queens-bench/frequently-asked-questions/small-claims/>.

Appealing a Decision of a Judge of the Court of King’s Bench

- If your Small Claims hearing was with a judge of the Court of King’s Bench (not a Court Officer) and you want to appeal, you must get permission from a judge of the Manitoba Court of Appeal. But again, you may only do so on an “error of law” or an “error of jurisdiction” as set out above.
- For further information on the Court of Appeal process, see: <http://www.manitobacourts.mb.ca/court-of-appeal> or call the Court of Appeal at 204-945-2647.

Need more help?

If you need more information regarding appealing a Small Claims decision, you can contact the **Legal Help Centre** for assistance. The Centre provides free information to people who meet their eligibility requirements. Call 204-258-3096 or visit <http://legalhelpcentre.ca/> to see if you are eligible or to obtain more information.

This is Exhibit G referred to in
the Affidavit of Samantha Lawrence
affirmed before me at Victoria,
British Columbia, this 12th day
of September 2024
Zahman

Zara Rahman

A Commissioner for taking Affidavits within British Columbia



Civil Resolution Tribunal

Date Issued: July 5, 2024

File: SC-2023-006891

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Boyd v. WestJet Airlines Ltd.*, 2024 BCCRT 640

B E T W E E N :

ANNE BOYD and ROBERT BOYD

APPLICANTS

A N D :

WESTJET AIRLINES LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Amanda Binnie

INTRODUCTION

1. This dispute is about a disrupted flight. The applicants, Anne Boyd and Robert Boyd, say the defendant airline WestJet Airlines Ltd. (WestJet), cancelled a part of their flight and rebooked them on a flight that arrived a day later. The Boyds claim \$2,000 in compensation for the delay, and \$277.25 for a hotel stay and meal they required

because of the delay. WestJet agrees it cancelled the flight but said it did so due to a labour dispute, which is a situation outside of its control.

2. The Boyds are self-represented. Westjet is represented by a claims specialist, CC.

JURISDICTION AND PROCEDURE

3. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). Section 2 of the CRTA states that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness.
4. Section 39 of the CRTA says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice. This is because in this case, the parties do not disagree on what happened, only on how the law applies to the facts.
5. Section 42 of the CRTA says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court.
6. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.

ISSUES

7. The issues in this dispute are:
 - a. Are the Boyds entitled to \$2,000 in compensation for the delayed flight?

- b. Are the Boyds entitled to reimbursement of \$277.25 for their hotel stay and meals?

EVIDENCE AND ANALYSIS

- 8. In a civil proceeding like this one, the Boyds must prove their claims on a balance of probabilities, which means more likely than not. I have read all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to provide context for my decision.
- 9. The parties largely agree on the facts of this dispute, which I find are:
 - a. The Boyds bought tickets from WestJet to fly from Kelowna to Rome, Italy. They were to leave Kelowna on May 18, 2023 at 2:00 pm, and arrive in Rome on May 19 at 11:55 am. This included a stopover in Calgary of approximately 2 hours the evening of May 18.
 - b. On May 15 the Air Line Pilot's Associate (ALPA) issued a 72-hour strike notice. Under this notice, WestJet's pilots would be authorized to strike beginning 3:00 am MDT on May 19.
 - c. Also on May 15, WestJet issued a lockout notice, which would have been effective as early as 3:00 am MDT on May 19.
 - d. At around 1:00 am ET on May 19, the ALPA and WestJet came to a tentative agreement and the strike and lockout were averted.
 - e. The Boyds made the initial flight to Calgary.
 - f. The Boyds were advised by email the morning of May 18 that their flights to Rome had been cancelled.
 - g. WestJet provided alternative flights to Rome through both WestJet and other airlines.

- h. The Boyds arrived in Rome May 20, over 24 hours after their intended arrival.
 - i. Due to this delay, the Boyds stayed in a hotel in Calgary overnight and had dinner at the hotel's restaurant. The Boyds spent \$92 on dinner and \$185.25 on the hotel.
10. WestJet provided a screenshot of a statement on the CTA's website about this strike, where it refers to the strike as being "outside the carrier's control". The Boyds refer to 2 Federal Court of Appeal (FCA) cases which say statements on the CTA's website do not determine air passengers' rights (*Air Passenger Rights v. Canada*, 2020 FCA 92 at paras. 23-25 and *Air Passenger Rights v. Canada*, 2021 FCA 201, paras. 3-6 and 24-26). I accept the Boyds' argument that this is not determinative of this dispute.

Are the Boyds entitled to \$2,000 in compensation for the delayed flight?

11. As mentioned above, the parties dispute whether this cancellation was within WestJet's control or not. If the cancellation was under WestJet's control, the parties agree the Boyds would generally be entitled to compensation under section 19 of the *Air Passenger Protection Regulations* (APPR). If the flight cancellation was not within WestJet's control, section 10 of the APPR says the airline must rebook the Boyds within 48 hours, but no compensation is payable.
12. Section 10(1) of the APPR states a "labour disruption within the carrier" is not within the airline's control. The parties agree this dispute turns on whether a strike notice and lockout notice qualify as a "labour dispute". If so, the Boyds' flight delay was not in WestJet's control.
13. The Boyds say because issuing a lockout notice was within WestJet's control and the pilot strike had not begun, WestJet cannot rely on this exception. WestJet says that "labour disruption" cannot be so narrowly interpreted to mean only if there is a work stoppage or actual strike going on.

14. The long-standing rule of statutory interpretation is that the legislature's chosen words are "to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament" (see *Rizzo & Rizzo Shoes Ltd. (Re)*, 1998 CanLII 837 (SCC)).
15. Related to this, section 8 of the *Interpretation Act* says that "every enactment must be construed as remedial, and must be given such a fair, large and liberal construction and interpretation as best ensures the attainment of its objects".
16. The Canadian Transportation Agency (CTA) created the APPR. WestJet has provided the "Air Passenger Protection Regulations – Regulatory Impact Analysis Statement" (CTA statement), which the CTA issued following consultation with various stakeholders before the APPR's creation in 2019. I find the CTA statement provides insight into the intentions of the regulation's drafters, and more specifically the wording "labour dispute".
17. The CTA statement refers to concerns around "influencing the collective bargaining process" as a reason for including "labour disruption" as being outside an airline's control. There is no explicit mention of strikes or lockout orders. I find this supports WestJet's argument that "labour disruptions" should not be interpreted only as an active strike. Even on a plain reading of section 10 of the APPR, I find I cannot accept that "labour disruptions" should be as narrowly interpreted as the Boyds submit.
18. So, does a 72-hour strike notice qualify as a "labour disruption"? I find that it does. With or without the lockout notice, WestJet was not in control of the strike. I also find the mention of "bargaining process" in the CTA statement supports that "labour disruption" includes the time after a strike notice was issued.
19. Based on the above, I find the reason for the delay outside of WestJet's control. So, APPR section 10(1)(j) says if the delay is outside the airline's control, the airline's responsibilities are set out under section 18. Section 18 says the airline was required to provide a reasonable route to the Boyds' destination within 48 hours. It is undisputed that it did so, and I find WestJet met its obligation under the APPR and

the Boyds are not entitled section 19 compensation. I dismiss their claim for \$2,000 compensation.

Are the Boyds entitled to reimbursement of \$277.25 for their hotel stay and meals?

20. The parties agree that the *Montreal Convention* applies to the Boyds' flight. As their flights were international, I find that it does. The *Montreal Convention* was incorporated into the domestic law of Canada through the federal *Carriage by Air Act*. When an international convention is incorporated into domestic law this means it acquires the status and force of domestic legislation (see *Thibodeau v. Air Canada*, 2011 FC 876 (CanLII)).
21. The *Montreal Convention* limits the scope and type of claim that a person can make for disputes about international air travel, including flight delays. Article 19 of the *Montreal Convention* states a carrier is not liable for damages caused by delay if the carrier provides that it and its agents took all measures that could reasonably be required to avoid the damage or that it was impossible to take such measures.
22. I have found that the flight delay was outside of WestJet's control. However, WestJet did not provide any evidence of the steps it took in securing alternative flights for the Boyds. It does not say there were no earlier flights or flights that would have avoided a hotel stay. Significantly, it does not dispute the Boyds' claims for hotel and meal. So, I find the Boyds are entitled to reimbursement of \$92 for their meal and \$185.25 for their hotel stay.
23. The *Court Order Interest Act* applies to the CRT. The Boyds are entitled to pre-judgment interest on the \$277.25 from May 18, 2023, the date of the invoices, to the date of this decision. This equals \$15.78.
24. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. As the Boyds were partially successful, I find they are entitled to reimbursement of

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\$62.50, which is half of their CRT fees. Neither party claimed any dispute-related expenses.

ORDERS

25. Within 30 days of the date of this order, I order WestJet to pay the Boyds a total of \$355.53, broken down as follows:

- a. \$277.25 in debt,
- b. \$15.78 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$62.50 in CRT fees.

26. The Boyds are entitled to post-judgment interest, as applicable.

27. I dismiss the Boyds' remaining claims.

28. This is a validated decision and order. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of British Columbia. Once filed, a CRT order has the same force and effect as an order of the Provincial Court of British Columbia.



Amanda Binnie, Tribunal Member



Civil Resolution Tribunal

Date Issued: July 5, 2024

Order: DO- SC-2023-006891

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Boyd v. WestJet Airlines Ltd.*, 2024 BCCRT 640

B E T W E E N :

ANNE BOYD and ROBERT BOYD

APPLICANTS

A N D :

WESTJET AIRLINES LTD.

RESPONDENT

ORDER

Tribunal Member:

Amanda Binnie

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The following order was made by Civil Resolution Tribunal member Amanda Binnie:

1. Within 30 days of the date of this order, I order WestJet Airlines Ltd. to pay the Boyds a total of \$355.53, broken down as follows:
 - a. \$277.25 in debt,
 - b. \$15.78 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$62.50 in CRT fees.
2. The Boyds are entitled to post-judgment interest, as applicable.
3. I dismiss the Boyds' other claims.



Amanda Binnie, Tribunal Member

This is a validated order. Under the *Civil Resolution Tribunal Act*, section 58.1, a validated CRT order in a small claims dispute may be enforced by filing it in the BC Provincial Court. When you file a CRT order with the Provincial Court, the order has the same force and effect as if it were a judgment of that court.

For more information about enforcing CRT orders, please go to the CRT website:
<https://civilresolutionbc.ca/help-category/after-a-decision/>

From: [CRT Decisions CRT:EX](#)
To: raboyd@telusplanet.net; claimsspecialist@westjet.com
Subject: CRT Dispute SC-2023-006891 Notification of Decision and Order
Date: Friday, July 5, 2024 12:09:12 PM
Attachments: [image001.png](#)
[SC-2023-006891 - Decision L.pdf](#)
[SC-2023-006891 - Order L.pdf](#)

Dear ANNE BOYD, ROBERT BOYD, and WESTJET AIRLINES LTD. - Carina Chen,

Reason for this message

The Civil Resolution Tribunal (CRT) has made a final decision and a copy is attached.

- Emailed decisions are considered received 24 hours after they are sent.
- Decisions cannot be changed after they are made, except to correct an accidental mistake, such as a typographical or mathematical error
- The CRT cannot re-open a decision because of new evidence or arguments.
- Do not contact a tribunal member directly about the decision.

Payment of order

If payment is ordered as part of the decision:

- Arrangements to make the payment must be made between the parties themselves.
- If the payment has not been made as ordered, the successful party may enforce the order through the Provincial Courts.

If you disagree with the decision

If you disagree with the CRT decision, you can make an application for judicial review.

An application for judicial review is when you ask the BC Supreme Court to review whether the CRT's decision was reasonable or correct. The court can also look at whether the CRT's decision-making process was fair.

If you apply for judicial review, you are required to serve the CRT as explained here:

[What is a judicial review.](#)

An application for judicial review must usually be made within 60 days from the date of the CRT decision. The BC Supreme Court can decide whether to give you more time to apply. If you are not successful in court, you might be ordered to pay costs to the other parties.

If you need help interpreting the decision or legal advice you may wish to seek independent counsel or contact the [Dial a law](#) service.

For information about enforcing an order or applying for judicial review, visit: [How the Process Ends.](#)

Thank you,
Kasia
Member Support and Decision Processing Clerk
Civil Resolution Tribunal

www.civilresolutionbc.ca



CONFIDENTIALITY NOTICE -- This email is intended only for the person(s) named in the message header. It may contain information that is confidential, privileged and/or exempt from disclosure under applicable law. If you have received this message in error, please notify the sender of the error and delete the message.

The Civil Resolution Tribunal gratefully and respectfully acknowledges that our work spans across the traditional territories of 198 First Nations and 38 Métis chartered communities in British Columbia



This is the 2nd affidavit
of Ciarah Machado in this case
and was made on October 25, 2024

NO. S-S-254452
NEW WESTMINSTER

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

AIR PASSENGER RIGHTS

PETITIONER

AND

WESTJET AIRLINES LTD.

RESPONDENT

AFFIDAVIT

I, Ciarah Machado, of 2700-700 West Georgia Street, in the City of Vancouver, in the Province of British Columbia, Legal Administrative Assistant, AFFIRM THAT:

1. I am a Legal Administrative Assistant employed by the law firm of Alexander Holburn Beaudin + Lang LLP ("AHBL"), counsel for the Respondent, WestJet Airlines Ltd. ("WestJet"), and as such have personal knowledge of the matters hereinafter deposed to, save where stated to be upon information and belief where stated, I verily believe same to be true.
2. I have reviewed the documents in this matter and in the matter of *Alexandra Fox v. WestJet*, Court File No. VLC-S-S-244546 in the Vancouver Registry, brought under the *Class Proceedings Act*, R.S.B.C. 1996, c.50 (the "*Fox Class Action*") and rely on those items in affirming this affidavit.
3. Evolink Law Group, counsel for the Petitioner, acts as counsel for the Plaintiff in the *Fox Class Action*, which relates to a labour dispute between WestJet and the Aircraft Mechanics Fraternal Association in June 2024. Attached to this affidavit and marked as **Exhibit "A"** is a true copy of the Notice of Civil Claim filed in the *Fox Class Action* and served upon WestJet on August 12, 2024.

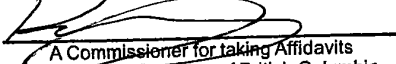
- AFFIRMED BEFORE ME at Vancouver,)
British Columbia on October 25, 2024)

A Commissioner for taking affidavits for
British Columbia.

Cmachado
Ciarah Machado

KATELYN CHAUDHARY
Barrister + Solicitor
ALEXANDER HOLBURN BEAUDIN + LANG LLP
2700 - 700 WEST GEORGIA ST.
VANCOUVER, BC CANADA V7Y 1B8



This is Exhibit " A " referred to in
the affidavit of Ciara Machado
sworn before me at the City of Vancouver
this 25 day of October 20 24

A Commissioner for taking Affidavits
in and for the Province of British Columbia

1

Court File No. **VLC-S-S-244546**
No.
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

ALEXANDRA FOX

PLAINTIFF

AND

WESTJET AIRLINES LTD.

DEFENDANT

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

TIME FOR RESPONSE TO CIVIL CLAIM

A response to civil claim must be filed and served on the plaintiff,

- (a) if you were served with a notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIMS OF THE PLAINTIFF

Part 1: STATEMENT OF FACTS

Overview of this Action

1. This is a proposed class proceeding seeking compensation for inconvenience, reimbursement of out-of-pocket expenses, and/or refund on behalf of passengers affected by flight cancellations initiated by WestJet in June 2024, prior to actual work stoppage by the employees of the Aircraft Mechanics Fraternal Association. WestJet's published statements state that about 10,000 passengers were affected.
2. At the heart of this class action is a legal question of whether flight cancellations initiated by WestJet after receiving a strike notice, but before any work stoppage, would constitute a situation outside of the air carrier's control under the *Air Passenger Protection Regulations* (the "**APPR**"). The Plaintiff submits that the cancellations are WestJet's business decisions to save costs and are within WestJet's control.
3. Section 86.11(4) of the *Canada Transportation Act* provides that the *APPR* are deemed to form part of the contracts of carriage (the "**tariffs**") between WestJet and its passengers, and can be enforced as a contractual obligation.

4. Passengers' right to standardized compensation for inconvenience for flight cancellations within a carrier's control is provided for in s. 19 of the *APPR*, ranging from \$400-\$1,000 depending on the length of the delay (i.e., \$400 for delays of 3 hours or more; \$700 for delays of 6 hours or more; and \$1,000 for delays of 9 hours or more). If the passenger elects a refund, the passenger is still entitled to \$400.
5. Aside from compensation for inconvenience of the cancellation, passengers are entitled to reimbursement of out-of-pocket losses due to the flight cancellations pursuant to the *APPR*. For international flights, the *Carriage by Air Act*, RSC 1985, c. C-26, Schedule VI the *Convention for the Unification of Certain Rules for International Carriage by Air* ("**Montreal Convention**") provides a further basis for reimbursement.
6. WestJet refused to provide Class Members with the standard compensation for inconvenience, the reimbursement of out-of-pocket losses, and/or refund to original payment form, claiming that the cancellations were beyond WestJet's control despite no work stoppage. This class action seeks to enforce the Class Members' legal rights.

Parties

7. The Plaintiff, Alexandra Fox, is a resident of British Columbia, and has an address for service in this action at 237-4388 Still Creek Drive, in the City of Burnaby, in the Province of British Columbia.
8. WestJet Airlines Ltd. is a company formed under the laws of Alberta and has nominated an agent in British Columbia upon whom process may be served generally at c/o AHBL Corporate Services Ltd., 2700 – 700 West Georgia Street, Vancouver (hereafter "**WestJet**"). WestJet also has a place of business in British Columbia in the Vancouver International Airport at 3211 Grant McConachie Way, Richmond, BC.
9. WestJet is a commercial airline that operates domestic passenger flights within Canada and international passenger flights to/from Canada, pursuant to the *Canada Transportation Act*, SC 1996, c. 10 and related enactments.
10. WestJet is a large carrier under the provisions of the *APPR*.

The WestJet Initiated Flight Cancellations in June 2024

11. In the month of June 2024, WestJet engaged in collective bargaining with the Aircraft Mechanics Fraternal Association ("**AMFA**") for the union's first collective agreement.
12. On June 17, 2024, the AMFA issued a notice under the *Canada Labour Code* to inform WestJet that work stoppage would start 72-hours later on June 20, 2024 at 7 p.m. MDT (the "**First Notice**"). There was no work stoppage before this time.
13. Shortly after the First Notice, WestJet announced on June 18, 2024 that:

In response to WestJet's request, AMFA issued a 72-hour strike notification, indicating intent for a work stoppage as early as Thursday, June 20 at 7:00 p.m. MT. This 72-hour notice does not mean travel disruption will occur.

[emphasis added]

14. Later on June 18, 2024 WestJet announced that it decided to park some of their aircraft in the next 48-hours resulting in around forty (40) cancellations between June 18 to 19, 2024, impacting approximately 6,500 passengers. The parking of aircraft before work stoppage was a business decision and was within WestJet's control.
15. At or around 1 p.m. MST on June 19, 2024, WestJet announced that the cancellations were "*in preparation for labour action*" and published a list of flights that would be cancelled on June 19 and 20, 2024.
16. On June 19, 2024, AMFA rescinded the First Notice and work stoppage did not occur in accordance with the First Notice. The parties returned to the bargaining table.
17. On June 25, 2024, the AMFA issued a notice under the *Canada Labour Code* to inform WestJet that work stoppage would start 72-hours later on June 28, 2024 at 5:30 p.m. MDT (the "**Second Notice**"). There was no work stoppage before this time.
18. On June 26, 2024, shortly after the Second Notice, WestJet announced that it has decided to park some of their aircraft in the next 48-hours resulting in approximately twenty-five (25) cancellations between June 27 to June 28, 2024, impacting

approximately 3,300 passengers. The parking of aircraft before work stoppage was a business decision and was within WestJet's control.

19. The parties were unable to reach a collective agreement and a strike started on June 28, 2024 at 5:30 p.m. MDT. A collective agreement was reached a few days later.
20. This proposed class action does not relate to any flight cancellations that occurred after work stoppage pursuant to the Second Notice. This proposed class action relates to all cancellations initiated by WestJet between June 17-20, 2024 and June 25-28, 2024 before any actual work stoppage occurred.
21. The number of flight cancellations affected by WestJet's business decision to park their aircrafts, after receiving the First Notice or Second Notice, is greater than the sixty-five (65) flights that WestJet publicly announced.
22. The actual number of flight cancellations affected by WestJet's business decision is within WestJet's exclusive knowledge and will be further particularized after discovery

The Plaintiff's Circumstances

23. On or about May 27, 2024, the Plaintiff booked a trip to Calgary, Alberta with booking reference FBLGVP as follows: (a) June 14, 2024 from Vancouver to Calgary on WS 122; and (b) June 19, 2024 from Calgary to Vancouver on WS 131.
24. The Plaintiff flew to Calgary on WS 122 on June 14, 2024.
25. On the evening of June 18, 2024, the Plaintiff was informed by email that her return flight to Vancouver was cancelled and that she was rebooked on the next available flight which was an early morning flight on June 20, 2024. As compared to her original flight, this new flight would have resulted in a delay of more than 9 hours.
26. The Plaintiff preferred an afternoon flight and changed to a 1:00 p.m. flight on June 20, 2024.

27. On June 22, 2024, the Plaintiff submitted a claim pursuant to the *APPR* seeking the \$1,000 standardized compensation for inconvenience and reimbursement of out-of-pocket losses due to the delay. As a result of the delay, the Plaintiff lost one day's worth of wages/salaries.

28. On July 5, 2024, WestJet rejected the Plaintiff's claim on the basis that:

Upon review of your reservation, we are unable to approve your claim for compensation as the most significant reason for your flight interruption was due to a strike or work stoppage and outside of WestJet's control.

29. There was no actual strike or work stoppage on June 19, 2024.

30. On July 20, 2024, the Plaintiff responded to WestJet's email indicating that there was no actual strike on the day of her flight. WestJet did not respond.

The Class Members and their Circumstances.

31. The Plaintiff brings this proposed class action on her own behalf and on behalf of:

All persons, residing anywhere in the world, who had a confirmed reservation on a WestJet operated flight scheduled to depart between June 17-20, 2024 or June 25-28, 2024 that was cancelled including, but not limited:

(a) flights that were cancelled, in whole or in part, to park an aircraft before potential work stoppage; **or**

(b) flights where WestJet represented in writing to a passenger of such flights, whether at the time of cancellation or later on, that the flight was cancelled due to strike, lockout, work stoppage, or labour disruption.

(the "**Class**" or "**Class Member(s)**").

32. Based on WestJet's announcements, there are around 10,000 affected passengers.

The actual number of affected passengers are within WestJet's knowledge.

33. The Class Members are in the same or similar circumstances as the Plaintiff;

a. WestJet represented to the Class Members, whether at the time of the cancellation or when the Class Members contacted WestJet to make a

claim, that the flights were cancelled due to a strike, work stoppage, lockout, and/or labour disruption.

- b. WestJet refused to provide the Class Members the standard compensation for inconvenience under section 19 of the *APPR*.
- c. Class Members suffered out-of-pocket losses including but not limited to: hotel accommodations, meals, cell phone roaming charges, missed prepaid events, costs of alternative transportation, and/or loss of income.
- d. There was no actual strike or work stoppage during the seventy-two (72) hours immediately after the First Notice or Second Notice.
- e. WestJet refused to make whole the Class Members that incurred loss from WestJet's business decision to cancel flights.
- f. For Class Members that did not travel, WestJet has not voluntarily refunded the unused tickets.

34. WestJet sent emails to the Class, at the time of cancellation and thereafter, claiming that the cancellations were due to strike or work stoppage when it was not true. These emails were sent to cause passengers to believe that no compensation is owed.

35. All of the affected passengers are affected by at least three central legal questions that are at the heart of this proposed class proceeding:

- a. Whether decisions to cancel flights after receiving a strike notice but before work stoppage, constitutes a situation beyond control under the *APPR*.
- b. If the cancellations were not beyond WestJet's control, what are the Class Members' legal entitlements under the *APPR* and/or contract of carriage.
- c. Even if the cancellations were beyond WestJet's control, for passengers with international flights, whether WestJet is liable for out-of-pocket losses for WestJet's decision to cancel flights after receiving a strike notice.

Part 2: RELIEF SOUGHT

1. The Plaintiff claims, on her own behalf and on behalf of the Class Members the following relief.
2. An order pursuant to applicable provisions of the *Class Proceedings Act*, RSBC 1996, c 50 ("**CPA**") including, but not limited to, ss. 2, 4 and 5-8:
 - a. certifying this action as a class proceeding;
 - b. defining the class as provided in paragraph 31 of Part 1 above, or other class definition that the Plaintiff may propose and that this Court approves;
 - c. appointing the Plaintiff as the representative plaintiff for the Class;
 - d. specifying that the period for opting-out shall be thirty (30) days;
 - e. deeming the initial service of this Notice of Civil Claim as a sufficient request for compensation under s. 19(3) of the *APPR* for Class Members that do not opt-out;
 - f. specifying the relief sought by the Class is monetary compensation and/or restitution for flights cancelled before work stoppage; and/or
 - g. setting out the common issues as specified in the Plaintiff's notice of application for class action certification.
3. A declaration that WestJet:
 - a. has breached the terms of the contracts with the Class Members;
 - b. is liable for the loss and/or damages suffered by the Class Members including liability under Article 19 of the *Montreal Convention*;
 - c. is liable to the Class Members for standardized compensation under s. 19 of the *APPR*;

- d. is liable to refund the unused tickets for Class Members that have not travelled; and/or
 - e. breached ss. 52 and 52.01 of the *Competition Act*, RSC 1985, c C-34 (the "**Competition Act**") when WestJet sent e-mails to the Class stating that cancellations were due to strike or work stoppage;
4. An Order for monetary compensation and/or restitution to the Class for:
- a. the standard compensation for inconvenience in s. 19 of the *APPR*;
 - b. reimbursement of all out-of-pocket losses or expenses arising from the flight cancellations that are the subject of this action;
 - c. refund to original payment form for Class Members that did not travel;
 - d. damages for breach of the duty of honest contractual performance;
 - e. damages under s. 171 of the *Business Practices and Consumer Protection Act*, SBC 2004, c. 2 [**BPCPA**];
 - f. damages, loss, and all legal and investigation costs under section 36 of the *Competition Act*;
 - g. nominal damages for breach of contract; and/or
 - h. punitive damages;
5. An Order pursuant to s. 29 for the *CPA* for the aggregate recovery of any monetary relief (including standard compensation for inconvenience in s. 19 of the *APPR*, refunds to some Class Members, damages for breach of duty of good faith, nominal damages, and/or punitive damages), and use of any statistical evidence if necessary and permitted, and distribution to the Class.
6. An Order pursuant to s. 27 of the *CPA* directing that the determinations of the Class Members' out-of-pocket losses or expenses be determined in the most expeditious

and just manner, with all necessary directions relating to the procedures to be followed in conducting such determinations.

7. Pursuant to s. 172 of the *BPCPA*:

- a. a declaration under s. 172(1)(a) of the *BPCPA* that WestJet has engaged in “deceptive acts or practices”;
 - b. an interim injunction under s. 172(1)(b) of the *BPCPA* restraining WestJet from further engaging in “deceptive acts or practices” and in particular to refrain from referring to the flight cancellations between June 17-20, 2024 and June 25-28, 2024 as cancellations due to strike, work stoppage, lockout and/or labour disruption;
 - c. a permanent injunction under s. 172(1)(b) of the *BPCPA* restraining WestJet from engaging in “deceptive acts or practices” and in particular to refrain from referring to any flight cancellations during the 72-hour notice period before a strike or lockout as cancellations due to strike, work stoppage, lockout and/or labour disruption;
 - d. an order under s. 172(3)(c) of the *BPCPA* that WestJet, at its own cost, advertise the particulars of this Court’s judgment and injunction(s) including but not limited to sending an email, fax, or registered mail to notify the Class Members; and/or
 - e. an order under s. 172(3)(a) of the *BPCPA* that WestJet restore monies to the Class Members;
8. An Order pursuant to s. 13 of the *CPA* and/or s. 10 of the *Law and Equity Act* that any action, claim proceeding, and/or complaint filed by a Class Member in any court, tribunal, or regulatory body regarding the subject flight cancellation shall be stayed pending determination of this class proceeding.
9. An Order that WestJet, in communications with a Class Member in respect of the subject matter of this proceeding, shall clearly advise the Class Member of the

existence of this proposed class proceeding.

10. An Order that WestJet pay the costs of administering the plan for distribution of the monetary recovery in this proceeding.
11. An Order for pre-judgment and post-judgment interest.
12. Such further and other relief as this Honourable Court deems just.

Part 3: LEGAL BASIS

1. It is settled law that “[a] party is required to include in the pleading a summary of the material facts, but it is not necessary to plead the legal result of those facts. The pleading party may raise any argument to be made from those facts.”

Canned Heat Marketing Inc. v. CFM International Inc., 1998 CanLII 6575 (BC SC) at para. 9
Battrum v. MacKenzie, 2008 BCSC 829 at paras. 29-30
Gill Tech Framing Ltd. v. Gill, 2012 BCSC 1913 at para. 256
MacKinnon v. National Money Mart Company, 2007 BCSC 348 at para. 28

2. As such, the legal grounds stated in this section is intended only to be illustrative and not exhaustive. The Plaintiff reserves the right to raise any legal argument from the aforementioned pleaded facts.

British Columbia Court's Jurisdiction over WestJet

3. WestJet is ordinarily resident in the province of British Columbia, having nominated an agent in British Columbia upon whom process may be served generally and also having a place of business in the province of British Columbia.

Court Jurisdiction and Proceedings Transfer Act, SBC 2003, c. 28, s. 7(b)(ii) and (c).

4. The courts in British Columbia have territorial competence over a person that is ordinarily resident in British Columbia.

Court Jurisdiction and Proceedings Transfer Act, SBC 2003, c. 28, s. 3(d).

5. This Court has certified class actions involving airline passengers that are subject to the same or similar tariff terms, irrespective of the passengers' residency.

Bergen v WestJet Airlines Ltd., 2021 BCSC 12 at paras. 57-60; upheld in *Trotman v. WestJet Airlines Ltd.*, 2022 BCCA 22

Standardized Compensation for Inconvenience under Section 19 of the APPR

6. Section 19 of the *APPR* provides that compensation for inconvenience be paid to passengers that experience a flight disruption.
7. Under the *APPR*, flight disruptions are categorized in three ways: (a) situations outside carrier's control; (b) situations within carrier's control but required for safety; and (c) situations inside carrier's control.
8. The Defendant bears the burden to proving the reason for cancelling a flight.

*44. The APPR does not set out a procedural framework for matters to be adjudicated under it, but because the only party with knowledge of the reasons for and circumstances surrounding a cancellation is the Defendant, fairness requires **the burden to shift to the Defendant to demonstrate, through evidence, that it was justified in cancelling the flight and denying compensation under the APPR.** It would not be fair, especially in interpreting legislation that is designed to provide consumer protection for airline passengers, for a claimant to be required prove anything about the reasons for a cancellation.*

Geddes v. Air Canada, 2021 NSSM 27 at para. 44, upheld *Geddes v. Air Canada*, 2022 NSSC 49
Welsh v. Flair Airlines Ltd., 2023 BCCRT 107 at para. 18
 see also s. 85.07(2) of the *Canada Transportation Act*

9. For large carriers, such as WestJet, the standardized compensation would be:
 - a. \$400 for Class Members that are delayed more than three hours but less than six hours;
 - b. \$700 for Class Members that are delayed more than six hours but less than nine hours;
 - c. \$1,000 for Class Members that are delayed more than nine hours; and
 - d. \$400 for Class Members that choose to obtain a refund and not travel with that airline.
10. The length of time any Class Member was delayed, or if the Class Member elected a refund, can be determined by reference to WestJet's records.

Compensation and/or Restitution for Out-of-Pocket Losses or Expenses

11. For cancellations within WestJet's control, s. 14 of the *APPR* provides that WestJet would be liable for meals, a means of communication, and hotel accommodations.
12. The *APPR* applies to both domestic and international flights.
13. In addition to the *APPR*, Article 19 of the *Montreal Convention* applies to international flights and provides that the airline is liable for all damages due to the delay:

Article 19 – Delay

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo. Nevertheless, the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures.

[emphasis added]

14. Liability under Article 19 of the *Montreal Convention* does not use the three categorizations in the *APPR*. It is possible for a cancellation beyond the air carrier's control under the *APPR* to still attract liability under the *Montreal Convention*.

Boyd v. WestJet Airlines Ltd., 2024 BCCRT 640 (judicial review to BCSC pending)

Refund for Class Members that Elect Not to Travel

15. Irrespective of whether the cancellations are situations within WestJet's control or not, the Class Members that elect not to travel are entitled to a refund for service not rendered. The refund must be made to the original form of payment.
16. For domestic and international flights, respectively, sections 107(1)(n)(iii) and 122(c)(xii) of the *Air Transport Regulations* requires WestJet to state in its tariffs the terms for refund for services purchased but not used, whether in whole or in part,

either as a result of the Class Members' unwillingness or inability to continue or WestJet's inability to provide the service for any reason.

17. The *APPR* also stipulates that a refund is owed to Class Members.

Breach of Sections 52 and 52.01 of the *Competition Act*

18. WestJet's emails to the Class Members, at the time of the cancellation or at a later date in response to a Class Members' request for compensation, asserting that the cancellations were due to work stoppage or strike was not true. Such representations are false and misleading in a material respect and was made knowingly or recklessly.

19. WestJet made the false and misleading representation to further its own business interest (i.e., avoiding payment to Class Members).

20. WestJet has breached sections 52 and/or 52.01 of the *Competition Act*.

21. The Class Members are entitled to recover under section 36 of the *Competition Act*.

WestJet's Representations are a Deceptive Act or Practice under the *BPCPA*

22. WestJet's representations to the Class Members that their flight cancellations were due to strike, work stoppage, lockout, and/or labour disruption is a "deceptive act or practice" that has the capability, tendency, or effect of deceiving or misleading passengers about the true reason for those cancellations.

23. WestJet bears the burden of proving that it has not engaged in a deceptive act or practice.

BPCPA, s. 5(2).

24. The Class Members have a right to seek damages against WestJet under:

- a. section 171 of the *BPCPA*;
- b. the *Montreal Convention*;
- c. breach of contract including the contractual terms being the incorporated provisions of the *APPR*; and/or
- d. breach of the duty of honest contractual performance (*C.M. Callow Inc. v. Zollinger*, 2020 SCC 45),

25. The Class Members have an interest in the funds retained by WestJet when WestJet failed to fully compensate the Class Members. As a result, this Court could make a restoration order under s. 172(3)(a) of the *BPCPA* to restore the monies that are owing to the Class Members.

Ileman v. Rogers Communications Inc., 2015 BCCA 260 at para. 60.

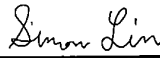
Plaintiff's address for service: Evolink Law Group
ATTN: Simon Lin
237-4388 Still Creek Drive
Burnaby, BC V5C 6C6

Email address for service: simonlin@evolinklaw.com

Place of trial: Vancouver, BC

The address of the registry is: 800 Smithe Street
Vancouver, BC

Dated: August 12, 2024



Signature of lawyer for plaintiff, Simon Lin

Rule 7-1(1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

- (a) prepare a list of documents in Form 22 that lists

- (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
- (b) serve the list on all parties of record.

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

A class action for breach of contract and/or breach of the *Air Passenger Protection Regulations* and/or *Montreal Convention*.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- ☐ a motor vehicle accident
- ☐ medical malpractice
- ☐ another cause

A dispute concerning:

- ☐ contaminated sites
- ☐ construction defects
- ☐ real property (real estate)
- ☐ personal property
- ☒ the provision of goods or services or other general commercial matters
- ☐ investment losses
- ☐ the lending of money
- ☐ an employment relationship
- ☐ a will or other issues concerning the probate of an estate
- ☐ a matter not listed here

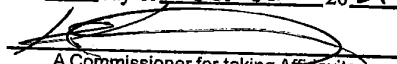
Part 3: THIS CLAIM INVOLVES:

- ☒ a class action
- ☐ maritime law
- ☐ Aboriginal law
- ☐ constitutional law
- ☐ conflict of laws
- ☐ none of the above
- ☐ do not know

Part 4:

1. *Court Order Interest Act*, R.S.B.C. 1996, c. 79
2. *Air Passenger Protection Regulations*, SOR/2019-150
3. *Carriage by Air Act*, R.S.C. 1985, c. C-26



This is Exhibit " 6 " referred to in
the affidavit of Ciaran Machado
sworn before me at the City of Vancouver
this 25 day of October 20 24

A Commissioner for taking Affidavits
in and for the Province of British Columbia

19

NO. S244546
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ALEXANDRA FOX

PLAINTIFF

AND:

WESTJET AIRLINES LTD.

DEFENDANT

Brought under the *Class Proceedings Act*, R.S.B.C.1996, c. 50

RESPONSE TO CIVIL CLAIM

Filed by: WESTJET AIRLINES LTD. ("WestJet")

Part 1: RESPONSE TO NOTICE OF CIVIL CLAIM FACTS

Division 1 – Defendant's Response to Facts

1. The facts alleged in none of the paragraphs of Part 1 of the Notice of Civil Claim are admitted.
2. The facts alleged in paragraphs 1 to 6, 8 to 25, and 27 to 35 of Part 1 of the Notice of Civil Claim are denied.
3. The facts alleged in paragraph 7 and 26 of Part 1 of the Notice of Civil Claim are outside the knowledge of WestJet.

Division 2 – Defendant's Version of Facts

4. In response to paragraphs 1 and 2 of Part 1 of the Notice of Civil Claim, WestJet says that the issuance of a strike notice pursuant to the *Canada Labour Code* constituted a "labour disruption" outside the control of WestJet within the meaning of section 10 of the *Air Passenger Protection Regulations*.
5. In response to paragraph 3 of Part 1 of the Notice of Civil Claim, WestJet admits only that the Plaintiff is bound by the terms and conditions (the "Terms and Conditions") of the airline passenger ticket, and the Terms and Conditions of

- 2 -

WestJet's Domestic Tariff, which together comprise the contract of carriage (collectively, the "Contract of Carriage") and limit and/or proscribe the Plaintiff's right of recovery against WestJet.

6. In response to paragraphs 4 to 6 of Part 1 of the Notice of Civil Claim, WestJet denies that the Plaintiff or any proposed class members are entitled to compensation under the APPR or the Montreal Convention, as alleged or at all, and puts the Plaintiff to the strict proof thereof.
7. In response to paragraphs 8 and 9 of Part 1 of the Notice of Civil Claim, WestJet denies that it is a commercial airline and denies that it operates domestic or international passenger flights. WestJet, an Alberta partnership, in which WestJet is a partner, is licensed to provide Domestic Air Services, International Air Services, and non-scheduled Domestic and International Air Services by the Canadian Transportation Agency (the "Agency").
8. In response to paragraph 10 of Part 1 of the Notice of Civil Claim., WestJet admits only that WestJet, an Alberta partnership, is a large carrier under the provisions of the APPR.
9. In response to paragraphs 11 to 16 of Part 1 of the Notice of Civil Claim, WestJet admits only that on June 17, 2024, the Aircraft Mechanics Fraternal Association ("AMFA") issued a strike notice to WestJet under the *Canada Labour Code* (the "First Strike Notice"). WestJet says that the issuance of the First Strike Notice constituted a "labour disruption within the carrier or within an essential service provider" within the meaning of section 10(1)(j) of the APPR.
10. In response to paragraphs 17 to 19 of Part 1 of the Notice of Civil Claim, WestJet admits only that on June 25, 2024, AMFA issued a strike notice to WestJet under the *Canada Labour Code* (the "Second Strike Notice"). WestJet says that the issuance of the Second Strike Notice constituted a "labour disruption within the carrier or within an essential service provider" within the meaning of section 10(1)(j) of the APPR.
11. In response to paragraphs 20 to 22 of Part 1 of the Notice of Civil Claim, WestJet says that any flights cancellations after the issuance of the First Strike Notice or the Second Strike Notice were outside of the control of WestJet.
12. In response to paragraphs 23 to 25 of Part 1 of the Notice of Civil Claim, WestJet admits only that on May 27, 2024, the Plaintiff booked an itinerary (PNR: FBLGVP) consisting of the following flights:
 - (a) WS122 from Vancouver to Calgary on June 14, 2024; and
 - (b) WS115 from Calgary to Vancouver on June 20, 2024 ("WS115").
13. In further to response to paragraph 25 of Part 1 of the Notice of Civil Claim, WestJet says that on June 18, 2024, WS115 was cancelled due to the labour disruption caused by the issuance of the First Strike Notice, which was still in effect at the time of the cancellation of WS115.

- 3 -

14. In response to paragraph 27 of Part 1 of the Notice of Civil Claim, WestJet denies that the Plaintiff is entitled to compensation under the APPR as the cancellation of WS115 was due to a reason outside the control of WestJet. In further response, WestJet denies that the Plaintiff suffered any loss, damage or expense, as alleged or at all, and puts the Plaintiff to the strict proof thereof. WestJet further says that compensation for allegedly lost wages/salaries are not recoverable under the APPR or WestJet's Domestic Tariff.
15. In response to paragraphs 28 to 30 of Part 1 of the Notice of Civil Claim, WestJet says that the Plaintiff's claim was properly denied as the reason for the cancellation of WS115 was due to a labour disruption outside of WestJet's control.
16. In response to paragraph 33a. of Part 1 of the Notice of Civil Claim, WestJet says that the flights of the proposed class members were cancelled due to situations outside of the control of WestJet.
17. In response to paragraph 33b. of Part 1 of the Notice of Civil Claim, WestJet denies that the proposed class members are entitled to compensation for inconvenience under section 19 of the APPR.
18. In response to paragraph 33c. of Part 1 of the Notice of Civil Claim, WestJet denies that the proposed class members are entitled to out-of-pocket expenses for hotel accommodations, meals, cell phone roaming charges, missed prepaid events, costs of alternative transportation, and/or loss of income. WestJet further says that missed prepaid events and loss of income are not recoverable under the APPR, in a breach of contract claim against an air carrier, or under the Montreal Convention.
19. In response to paragraph 33d. of Part 1 of the Notice of Civil Claim, WestJet denies that the definition of a "labour disruption" in section 10(1)(f) of the APPR is limited to an actual strike or work stoppage and puts the Plaintiff to the strict proof thereof.
20. In response to paragraph 33e. of Part 1 of the Notice of Civil Claim, WestJet denies that it owed any of the proposed class members an obligation to "make them whole".
21. In response to paragraph 33f. of Part 1 of the Notice of Civil Claim, WestJet denies that refunds are owed to proposed class members that chose not to travel.
22. In response to the whole of Part 1 of the Notice of Civil Claim, WestJet denies that the Plaintiff or proposed class members are entitled to compensation under the APPR, under the terms of WestJet's Domestic or International Tariff, or under the Montreal Convention, as alleged or at all, and puts the Plaintiff to the strict proof thereof.
23. In response to the whole of Part 1 of the Notice of Civil Claim, WestJet says that this action does not constitute an "action" under the Montreal Convention and that the Plaintiff has failed to plead the material facts necessary to constitute an action under the Montreal Convention.

Division 3 – Additional Facts

1. WestJet says that on May 16, 2023, the Canadian Transportation Agency issued a statement confirming that the issuance of a Strike Notice on May 15, 2023 to WestJet by the Air Line Pilots Association, Int'l ("ALPA") representing WestJet pilots constituted a "labour disruption" within WestJet, within the meaning of section 10(1)(j) of the APPR.

Part 2: RESPONSE TO RELIEF SOUGHT

1. WestJet consents to the granting of the relief sought in none of the paragraphs of Part 2 of the Notice of Civil Claim.
2. WestJet opposes the granting of the relief sought in all of the paragraphs of Part 2 of the Notice of Civil Claim.
3. WestJet takes no position on the granting of the relief sought in paragraphs NIL of Part 2 of the Notice of Civil Claim.

Part 3: LEGAL BASIS

4. WestJet denies each and every allegation as set out in Part 3 of the Notice of Civil Claim and puts the Plaintiff to the strict proof thereof.
5. In response to the whole of Part 3 of the Notice of Civil Claim, WestJet says that the Canadian Transportation Agency has confirmed that the issuance of a Strike Notice constitutes a "labour disruption" outside of the control of the carrier within the meaning of section 10(1)(j) of the APPR.
6. In response to paragraphs 1 to 2 of Part 3 of the Notice of Civil Claim, WestJet submits that these paragraphs are improper and should be struck.
7. In response to paragraphs 3 to 5 of Part 3 of the Notice of Civil Claim, WestJet denies that its conduct is governed by the *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2 ("*BPCPA*") irrespective of where a consumer resides. WestJet says that the *BPCPA* does not apply to transactions between WestJet and consumers that occurred outside of British Columbia and non-residents of British Columbia are not entitled to claim under the *BPCPA*.
8. In response to paragraphs 6 to 10 of Part 3 of the Notice of Civil Claim, WestJet denies that the Plaintiff or any proposed class members are entitled to compensation under the APPR and puts the Plaintiff to the strict proof thereof. WestJet says that the onus of proof set out in section 85.07(2) exclusively applies to a complaint filed with the Agency pursuant to section 85.04 of the *Canada Transportation Act*, S.C. 1996, c. 10. It does not govern the burden of proof in a civil proceeding. The Small Claims Court decisions cited in the Notice of Civil Claim are not binding on the British Columbia Supreme Court, nor are they persuasive.

- 5 -

9. In response to paragraphs 11 to 12 of Part 3 of the Notice of Civil Claim, WestJet denies that the Plaintiff or any proposed class members are entitled to compensation pursuant to section 14 of the APPR and puts the Plaintiff to the strict proof thereof.
10. In response to paragraphs 13 and 14 of Part 3 of the Notice of Civil Claim, WestJet says that the within action does not constitute an action as defined in the Montreal Convention. WestJet further says that claims resulting from flight cancellations are not governed by the Montreal Convention. In the alternative, WestJet denies that the Plaintiff or any proposed class members are entitled to compensation pursuant to the Montreal Convention and pleads and relies on the Montreal Convention, including:
 - (a) Article 19, which provides that the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures;
 - (b) Article 29, which provides that in the carriage of passengers, baggage and cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and such limits of liability as are set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights and that in any such action, punitive, exemplary or any other non-compensatory damages shall not be recoverable;
 - (c) Article 33, which provides that an action for damages must be brought, at the option of the plaintiff, in the territory of one of the States Parties, either before the court of the domicile of the carrier or of its principal place of business, or where it has a place of business through which the contract has been made or before the court at the place of destination; and
 - (d) Article 35, which provides that the right to damages shall be extinguished if an action is not brought within a period of two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.
11. In response to paragraph 15 to 17 of Part 3 of the Notice of Civil Claim, WestJet denies that any proposed class members that elected not to travel are entitled to a refund and puts the Plaintiff to the strict proof thereof.
12. In response to paragraphs 18 to 20 of Part 3 of the Notice of Civil Claim, WestJet denies that it made any false or misleading representations, as alleged or at all, and puts the Plaintiff to the strict proof thereof.
13. In response to paragraph 21 of Part 3 of the Notice of Civil Claim, WestJet says that the Plaintiff's claim pursuant to section 36 of the *Competition Act*, R.S.C. 1985, c. C-34 is bound to fail as the Plaintiff has failed to plead that the Plaintiff and proposed class members suffered any loss or damage as a result of any conduct contrary to Part VI of the *Competition Act*.

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14. In response to paragraph 22 of Part 3 of the Notice of Civil Claim, WestJet denies that any alleged representations to any proposed class members constituted deceptive acts or practices as defined in the *BPCPA*.
15. In further response to paragraph 22 and in response to paragraph 23 of Part 3 of the Notice of Civil Claim, WestJet says that the Plaintiff has failed to plead the necessary facts to establish that WestJet is a "supplier" under the *BPCPA*, or that the proposed class members are "consumers" under the *BPCPA* and that the claim as pleaded is bound to fail.
16. In further response to paragraphs 22 to 23 of Part 3 of the Notice of Civil Claim, WestJet says that the Plaintiff has failed to plead the required elements of a "deceptive act or practice" as section 5 of the *BPCPA* only prohibits deceptive acts in the context of "consumer transactions", such that the claim as pleaded is bound to fail.
17. In response to paragraph 24a. of Part 3 of the Notice of Civil Claim, WestJet denies that the Plaintiff or any of the proposed class members have a right to seek damages under section 171 of the *BPCPA* as the Plaintiff has failed to plead that she, or any of the proposed class members suffered damage or loss due to a contravention of the *BPCPA*. WestJet further says that the Plaintiff's failure to plead reliance on any alleged deceptive act or practice is fatal to any claim under section 171 of the *BPCPA*.
18. In response to paragraph 24b. of Part 3 of the Notice of Civil Claim, WestJet says that the within action does not constitute an "action" under the Montreal Convention. WestJet further says that the Plaintiff has failed to plead the material facts necessary to establish a claim under the Montreal Convention. WestJet says that the Plaintiff and proposed class members do not have a claim under the Montreal Convention.
19. In response to paragraphs 24c. and d. of Part 3 of the Notice of Civil Claim, WestJet says that the Plaintiff has failed to plead the material facts necessary to establish a claim in breach of contract or in breach of the duty of honest contractual performance. WestJet denies that the Plaintiff or any proposed class member have a claim in breach of contract or in breach of the duty of honest contractual performance and put the Plaintiff to the strict proof thereof.
20. In response to paragraph 25 of Part 3 of the Notice of Civil Claim, WestJet denies that a restoration order under section 172(3)(a) of the *BPCPA* for refunds is available in this action.
21. In further response to paragraph 25 of Part 3 of the Notice of Civil Claim, and in the alternative, WestJet says that there are four prerequisites for a restoration order under section 172(3) of the *BPCPA*;
 - (a) the court must make a declaration or injunctive order under section 172(1) before it can make an order under section 172(3);
 - (b) the supplier must have acquired something ("money or other property or thing") because of a contravention of the legislation;

- 7 -

- (c) the beneficiary of an order under section 172(3) must have been the source of money or some other thing acquired by the supplier; and the beneficiary must have an interest in the thing to be restored.

WestJet says the Notice of Civil Claim fails to plead sufficient facts required for (ii) and (iii), and (iv) and that a restoration order with regard to out-of-pocket losses and/or loss of wages/salary cannot be granted as there is no pleading that WestJet has acquired anything from the proposed beneficiary of the proposed restoration order. WestJet denies that it acquired anything from any proposed beneficiary. WestJet further denies that any proposed beneficiary has an interest in anything sought to be restored.

22. WestJet pleads and relies upon the provisions of the:

- (a) *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, and any amendments thereto;
- (b) *Canada Transportation Act*, S.C. 1996, c. 10;
- (c) *Competition Act*, R.S.C. 1985, c. C-34;
- (d) *Air Passenger Protection Regulations*, SOR/2019-150;
- (e) *Carriage by Air Act*, R.S.C. 1985, c. C-26;
- (f) *Interpretation Act*, R.S.B.C. 1996, c. 238;
- (g) *Air Transportation Regulations*, SOR/88-58;
- (h) any amendments to the above noted legislation; and such other legislation as counsel may advise.

WestJet asks that the Plaintiff's action against it be dismissed with costs.

WestJet's address for service: Alexander Holburn Beaudin + Lang LLP
Barristers and Solicitors
2700 - 700 West Georgia Street
Vancouver, BC V7Y 1B8

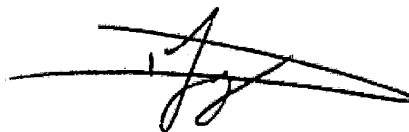
Attention: Michael Dery

Fax number address for service: 604-484-9700

E-mail address for service (if any): eaquiar@ahbl.ca, mdery@ahbl.ca,
npimentel@ahbl.ca

- 8 -

Dated: October 4, 2024

A handwritten signature in black ink, appearing to read 'Michael Dery', is written over a horizontal line.

Signature of MICHAEL DERY
Lawyer for WestJet Airlines Ltd.

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.



**This is the 1st Affidavit
of Brittany Dieno in this proceeding
and was made on November 18, 2024**

No. NEW-S-S-254452
New Westminster Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *JUDICIAL REVIEW PROCEDURE ACT*, RSBC 1996, c 241

BETWEEN

AIR PASSENGER RIGHTS

Petitioner

AND:

WESTJET AIRLINES LTD.

Respondent

Affidavit #1 of Brittany Dieno

I, Brittany Dieno, paralegal, of 101-5553 16th Avenue, in the City of Delta, in the Province of British Columbia, SOLEMNLY AFFIRM THAT:

1. I am Brittany Dieno, contract paralegal to Simon Lin, (counsel for the petitioner) and as such I have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and belief and, where so stated, I verily believe those matters to be true.
2. Attached and marked as **Exhibit "A"** is a copy of an email from Simon Lin to Valerie Lagace enclosing a copy of the Petition and supporting Affidavit in this matter, sent on July 30, 2024.
3. Attached and marked as **Exhibit "B"** is a copy of an email from Valerie Lagace to Simon Lin thanking Mr. Lin for bringing the matter to their attention, sent on July 30, 2024.
4. Attached and marked as **Exhibit "C"** is a copy of a letter from Simon Lin to Mr. Michael Dery at Alexander Holburn Beaudin + Lang LLP, regarding the Response to Petition, dated September 19, 2024.

5. Attached and marked as **Exhibit “D”** is a copy of a letter from Mr. Michael Dery at Alexander Holburn Beaudin + Lang LLP, to Simon Lin responding to Mr. Lin’s letter of September 19, 2024, dated October 15, 2024.
6. Attached and marked as **Exhibit “E”** is a copy of an email from Simon Lin to Michael Dery, Zara Rahman, Katelyn Chaudhary and Elisa Aguiar, serving Affidavit #2 of C. Machado, sent on October 28, 2024.
7. Attached and marked as **Exhibit “F”** is a copy of a letter from Simon Lin to Mr. Michael Dery at Alexander Holburn Beaudin + Lang LLP, regarding Affidavit #2 of Ms. Ciarah Machado, dated October 28, 2024.
8. Attached and marked as **Exhibit “G”** is a copy of an email thread between Simon Lin, Michael Dery, Ciarah, Machado, Zara Rahman, Katelyn Chaudhary and Elisa Aguiar, regarding Affidavit #2 of C. Machado, from October 28, 2024, to November 4, 2024.
9. Attached and marked as **Exhibit “H”** is a copy of a letter from Simon Lin to Mr. Michael Dery at Alexander Holburn Beaudin + Lang LLP, regarding Affidavit #2 of C. Machado, dated November 4, 2024.
10. Attached and marked as **Exhibit “I”** is a copy of an email from Simon Lin to Michael Dery, Ciarah Machado, Zara Rahman, Katelyn Chaudhary and Elisa Aguiar, regarding West Jet not relying on Ms. Machado’s second affidavit, sent on November 13, 2024.
11. Attached and marked as **Exhibit “J”** is a copy of an email from Mr. Michael Dery to Simon Lin, Ciarah Machado, Zara Rahman, Katelyn Chaudhary and Elisa Aguiar, advising of their instructions to bring an application to cross-examine Gabor Lukacs on his affidavit and to admit Ms. Machado’s second affidavit into the record, sent on November 13, 2024.
12. Attached and marked as **Exhibit “K”** is a copy of a letter from Simon Lin to Mr. Michael Dery at Alexander Holburn Beaudin + Lang LLP, responding to Mr. Dery’s email of November 13, 2024, dated November 14, 2024.

16. Attached and marked as **Exhibit “O”** is a copy of the article titled “Air Canada Prepares for Orderly Shutdown to Mitigate Customer Impact Resulting from Labour Disruption”, from Air Canada’s official website, dated September 9, 2024.

Doc ID: 115424913112892411b58b1dbe6cd79f1f5b8de2

This is **Exhibit “A”** to the Affidavit of Brittany Dieno
affirmed before me on November 18, 2024

A handwritten signature in black ink, appearing to read "Simon Lin", is written over a horizontal line.

Simon Lin



Simon Lin <simonlin@evolinklaw.com>

BC Supreme Court Judicial Review Courtesy Copy

Simon Lin <simonlin@evolinklaw.com>
To: Valerie.Lagace@otc-cta.gc.ca

Tue, Jul 30, 2024 at 8:53 AM

Dear Ms. Lagacé,

Enclosed please find a courtesy copy of a petition and supporting affidavit filed in the Supreme Court of British Columbia, seeking judicial review of a BC Civil Resolution Tribunal decision involving WestJet.

Please do not hesitate to contact our office if there are any questions.

Thank you.

Kind Regards,

Simon Lin
Barrister & Solicitor



Evolink Law Group
237-4388 Still Creek Drive, Burnaby, B.C. V5C 6C6
T: 604-620-2666
F: 778-805-9830 (our fax number has changed as of May 12, 2023)

www.evolinklaw.com

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2 attachments

Petition to the Court.pdf
502K



Affidavit of Dr. Gabor Lukacs.pdf
2234K

This is **Exhibit “B”** to the Affidavit of Brittany Dieno
affirmed before me on November 18, 2024

A handwritten signature in black ink, appearing to read "Simon Lin", is written above a horizontal line.

Simon Lin



Simon Lin <simonlin@evolinklaw.com>

BC Supreme Court Judicial Review Courtesy Copy

Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
To: Simon Lin <simonlin@evolinklaw.com>

Thu, Aug 1, 2024 at 8:26 AM

Dear Mr. Lin,

Thank you for bringing this matter to my attention.

Regards

Valérie Lagacé

Avocate générale principale et Secrétaire de l'Office, Direction générale des services juridiques et du secrétariat
Office des transports du Canada / Gouvernement du Canada

Valerie.Lagace@otc-cta.gc.ca

Tél. : 613-719-9670 / ATS.: 1-800-669-5575

Senior General Counsel and Secretary, Legal Services and Secretariat Branch
Canadian Transportation Agency / Government of Canada

Valerie.Lagace@otc-cta.gc.ca

Tel. : 613-719-9670 / TTY.: 1-800-669-5575

De : Simon Lin <simonlin@evolinklaw.com>
Envoyé : 30 juillet 2024 11:53
À : Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Objet : BC Supreme Court Judicial Review Courtesy Copy

Dear Ms. Lagacé,

Enclosed please find a courtesy copy of a petition and supporting affidavit filed in the Supreme Court of British Columbia, seeking judicial review of a BC Civil Resolution Tribunal decision involving WestJet.

Please do not hesitate to contact our office if there are any questions.

Thank you.

Kind Regards,

Simon Lin
Barrister & Solicitor

Appeal Book P. 353

11/14/24, 10:13 AM

Evolink Law Group Mail - BC Supreme Court Judicial Review Courtesy Copy

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This is **Exhibit “C”** to the Affidavit of Brittany Dieno
affirmed before me on November 18, 2024

A handwritten signature in black ink, appearing to read "Simon Lin", is written above a horizontal line.

Simon Lin



Evolink Law Group
4388 Still Creek Drive, Suite 237
Burnaby, BC V5C 6C6

p. 604 620 2666
info@evolinklaw.com
www.evolinklaw.com

September 19, 2024

VIA EMAIL

Alexander Holburn Beaudin + Lang LLP

ATTN: Michael Dery

2700-700 West Georgia
Vancouver BC, V7Y 1B8

Dear Mr. Dery,

RE: Air Passenger Rights v. WestJet Airlines Ltd., NEW-S-S-254452

We write in regards to WestJet's Response to Petition filed on August 19, 2024 (hereafter the "**WestJet Response**"). Upon our review, it appears that the WestJet Response contains positions that appear on its face erroneous in fact or law, contains serious allegations without any factual support, or bald assertions.

We hope to bring the four issues below to your attention in advance of the Petition hearing on November 21, 2024 with the aim of informally resolving them in advance:

1. WestJet's objection regarding the remote commissioning of the Petitioner's affidavit is clearly erroneous (paragraphs 94-98 of the WestJet Response).
2. WestJet's objection regarding the absolute assignment is contrary to established case law on statutory assignments (paragraphs 47-56 of the WestJet Response).
3. WestJet's objection on standing falls alongside WestJet's erroneous position on the statutory assignment (paragraphs 36-46 of the WestJet Response).
4. WestJet made bald assertions that the Petitioner presented new evidence and new arguments on judicial review (paragraphs 91-93 of the WestJet Response).

Below, we detail why WestJet's position on the four issues is clearly erroneous or unsupported. Please advise by no later than **October 15, 2024** if WestJet would rectify some or all of these issues. If WestJet refuses to address these issues, the Petitioner will bring an application under Rule 9-5 to be heard alongside the Petition on November 21, 2024. That application would be to strike those paragraphs from the WestJet Response and we will seek special costs as expressly permitted under Rule 9-5.

We reserve the right to bring this letter to the Court's attention.



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WestJet's Affidavit Objections is Clearly Erroneous

At paragraphs 96-97 of the WestJet Response, WestJet appears to be claiming that counsel must request approval from the Law Society, and receive express approval from the Law Society, before commissioning each and every affidavit remotely under the Court's *Covid-19 Notice No. 2 (Notice to the Public Regarding Affidavits for Use in Court Proceedings)* (hereafter the "**COVID Affidavit Practice Directions**").

In the past four years since the COVID Affidavit Practice Directions were in force, we are not aware of any court or counsel, or even the Law Society, stating that express approval must be requested and received for each and every affidavit. WestJet's position is extraordinary and would render almost all remotely commissioned affidavits filed in every B.C. court in the past four years invalid.

We understand WestJet's position that "approval" being required may have been gleaned from the fourth paragraph of the COVID Affidavit Practice Directions stating that:

With the approval of the Law Society of British Columbia, until further notice, the following accommodations will be made for affidavits used in any proceeding...

The aforementioned "approval" clearly refers to the Court adopting new practice directions with the Law Society's "approval" to concurrently relax Appendix A in the *Code of Professional Conduct* that previously required in-person witnessing. The "approval" is not suggesting that individual lawyers must seek Law Society approval for each affidavit. This is plain from the Law Society's release in March 2020 in the midst of the pandemic.¹

In addition, WestJet's position that Appendix A somehow prohibits remote commissioning is clearly **outdated**. The Petitioner's affidavit was commissioned on July 29, 2024. One week earlier, on July 22, 2024, the Law Society already issued a notice to the legal profession advising that Appendix A of the *Code of Professional Conduct* had been further amended going forward to expressly permit remote commissioning.²

We also note that the Lieutenant Governor in Council already signed the Order in Council on July 2, 2024 to update the *Supreme Court Civil Rules* in that regard.³ The Order in

¹ [COVID-19 update: Commissioning affidavits and information from the courts.](#)

² [Law Society E-Brief: July 2024.](#)

³ [Order in Council No. 378.](#)



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Council overtakes the COVID Affidavit Practice Directions, and renders the COVID Affidavit Practice Directions no longer necessary.

We are aware that you may have been on vacation while the WestJet Response was prepared and Ms. Chaudhary may have been the primary lawyer preparing the WestJet Response. The aforementioned background to the COVID Affidavit Practice Directions may not be within Ms. Chaudhary's knowledge as she was just called to the bar recently in 2024.

However, it appears that you signed the WestJet Response. It is deeply concerning that serious allegations were made in the WestJet Response alleging that the undersigned had commissioned an affidavit in violation of the *Code of Professional Conduct*, when WestJet's position is clearly unsupported and erroneous. We trust that you will **forthwith** withdraw those allegations and confirm in writing that they were erroneous.

On another note, we note that Ms. Machado's affidavit that was commissioned by Ms. Chaudhary is improper and inadmissible. We note that on page 1 of Ms. Machado's affidavit she stated she was affirming her affidavit. However, the jurat states that she is swearing the affidavit. It is improper when the affidavit does not specify if it was affirmed or sworn.⁴ Applying the same reasoning in para. 98 of WestJet's Response, WestJet's Response should be struck in its entirety since there is no valid supporting affidavit.

WestJet's Assignment Submissions are Clearly Without Merit and Wrong at Law

It appears that WestJet overlooked the leading authority in relation to statutory assignments under s. 36 of the *Law and Equity Act*. We draw your attention to [Argo Ventures Inc. v Choi](#), 2019 BCSC 86 [**Argo Ventures**] at paras. 11-27.

Argo Ventures at paras. 24-25 is very clear that a claim for debt or a claim for damages for breach of contract is assignable as a legal chose of action pursuant to a statutory assignment (i.e., s. 36 of the *Law and Equity Act*) and could not be champertous. It is clear that the APPR compensation in the present case is a claim for debt or damages for breach of the contract, WestJet's own tariff being the subject contract.

⁴ [British Columbia v. Adamson](#), 2016 BCSC 584 at para. 19 (per Chief Justice Hinkson).



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With respect to WestJet’s “personal contract” concern, it is similarly addressed in para. 17 of *Argo Ventures*. While a contract for a flight ticket itself could arguably be a “personal contract”, that contract was not being assigned. Rather, it is the cause of action for damages arising out of an executed contract that was being assigned. It is apparent by the time that the Petitioner received the assignment that the flight has completed and the underlying contract has become an executed contract.

All in all, the Court squarely rejected the champerty defense in *Argo Ventures* as completely lacking merit and was “bound to fail.”

WestJet’s Submissions on Standing Falls Alongside the Assignment Issue

It is apparent that WestJet’s position on the assignment is wholly without merit.

The Petitioner is not relying on public interest standing and is relying solely on private interest standing as the assignee of the statutory assignment. The Petitioner is clearly entitled to be substituted as the plaintiff of the underlying judgment as an assignee.⁵

WestJet’s Objection Regarding New Issue and New Arguments on Judicial Review

We have reviewed WestJet’s Response and the affidavits. It appears that WestJet has baldly asserted at paragraph 91(a) of the WestJet Response that the Petitioner has somehow filed new evidence for the judicial review. The Petitioner’s affidavit merely deals with the assignment and has not presented any new evidence going to the merits of the underlying legal question (i.e., is the strike notice period considered a labour disruption?).

We would be obliged if WestJet can clarify what it meant by “new evidence.”

In addition, we note that paragraph 91(b) of the WestJet Response under the heading “*No New Arguments*” is not supported by the three authorities cited immediately below it. All those authorities state that the issue should be raised before the tribunal below. In this case, the “issue” regarding the legal interpretation of the term “labour disruption” was squarely raised in the Civil Resolution Tribunal, and decided. It is unclear how the

⁵ [Cozzella v Tri Star Group Inc](#), 2024 CanLII 15081 (ON SCSCM).



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Petitioner would be raising a “new argument” when disputing the correctness of the underlying statutory interpretation issue.

Please advise by no later than **October 15, 2024** if WestJet would withdraw some or all of the four objections noted above.

Yours truly,
EVOLINK LAW GROUP

A handwritten signature in cursive script that reads "Simon Lin".

SIMON LIN
Barrister & Solicitor
simonlin@evolinklaw.com

Cc: Zara Rahman, counsel for the Civil Resolution Tribunal

This is **Exhibit “D”** to the Affidavit of Brittany Dieno
affirmed before me on November 18, 2024

A handwritten signature in cursive script, appearing to read "Simon Lin", written in black ink.

Simon Lin



YOUR **PERSPECTIVE**
OUR **FOCUS™**

October 15, 2024

VIA E-MAIL

PRIVATE AND CONFIDENTIAL

Reply to: Michael Dery*
Direct Line: 604.484.1742
Direct Fax: 604.484.9742
E-mail: mdery@ahbl.ca
Matter No.: 1158370

EvoLink Law Group
237 – 4388 Still Creek Drive
Burnaby, BC V5C 6C6

Attention: Simon Lin

Dear Sirs/Mesdames:

Re: Air Passenger Rights v. WestJet Airlines Ltd, New West Registry, No. S-S-254452

We write in response to your letter dated September 19, 2024. In this letter, you make the following assertions in relation to WestJet's Response to Petition filed on August 19, 2024 (the "WestJet Response"):

1. WestJet's objection regarding to the remote commissioning of the Petitioner's affidavit is clearly erroneous;
2. WestJet's objection regarding the absolute assignment is contrary to established case law on statutory assignments;
3. WestJet's objection on standing falls alongside WestJet's erroneous position on the statutory assignment; and
4. WestJet made bald assertions that the Petitioner presented new evidence and new arguments on judicial review.

With respect to Items 2 and 3, WestJet's objections consist of preliminary issues that the court must determine in its consideration of whether Air Passenger Rights ("APR") may bring this judicial review.

Affidavit #1 of Dr. Lukacs

In response to the first issue, we regret to advise that this position was taken in error. Enclosed with this letter is an Amended Response to Petition, which will be filed today. We will provide you with a filed copy as soon as possible. As you will see, we have removed the objection regarding the remote commissioning of the Petitioner's affidavit.

Assignment

We disagree with your position, and we will be objecting to the assignment in argument.

ALEXANDER HOLBURN BEAUDIN + LANG LLP

Page 2

Standing

We disagree with your position, and we will be objecting to the Petitioner's private interest standing in argument.

No New Evidence/Arguments

We disagree with your position that there are no new arguments. In the petition for judicial review, the *BC Consumer Protection Act* is relied upon. This was not originally argued in the Boyds' submissions to the CRT.

We agree that you have not submitted new evidence aside from evidence related to the assignment. We have amended our client's response to reflect the same.

Please do not hesitate to contact the writer if you have any questions or concerns.

Yours truly,

ALEXANDER HOLBURN BEAUDIN + LANG LLP

Per:

A handwritten signature in black ink, appearing to be 'Michael Dery', written over a horizontal line.

Michael Dery*
Partner
MAD/KSC

*Professional Law Corporation

This is **Exhibit “H”** to the Affidavit of Brittany Dieno
affirmed before me on November 18, 2024



Simon Lin



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November 4, 2024

VIA EMAIL

Alexander Holburn Beaudin + Lang LLP

ATTN: Michael Dery

2700-700 West Georgia
Vancouver BC, V7Y 1B8

Dear Mr. Dery,

RE: Air Passenger Rights v. WestJet Airlines Ltd., NEW-S-S-254452

We confirm receipt of your email on November 4, 2024 (the “**Email**”), in response to our letter dated October 28, 2024 that requested a response by November 1, 2024.

The Email misses the point. The issue is not the length of time between the time of the delivery of the improper affidavit and the date of the hearing. The law is clear that the rules prohibiting further affidavits “applies if the [petition] has not yet taken place.”¹ This would necessarily mean that it does not matter whether the improper affidavit was provided one day before the hearing or one month before the hearing, it is still improper.

We draw your attention to [Muller v. Muller](#), 2015 BCSC 370 at para. 15 where the Court confirmed that further affidavits would be admitted **sparingly**, and **only in meritorious cases** where to exclude the evidence would result in a “**substantial injustice**.”

In this case, we cannot comprehend from the Email *how* there is a “meritorious case” on WestJet’s part. It cannot be seen how counsel’s other file(s) have any relevance with his directorship in a non-profit entity. There could not be a “substantial injustice” as WestJet had ample opportunity to include all arguments and evidence in its Response to Petition.

We note that in the Response to Petition WestJet initially argued rigorously that counsel for the Petitioner had breached the *Code of Professional Conduct* in not properly swearing an affidavit. WestJet had no choice but to withdraw that argument on October 15, 2024 as an “error” when it was plain that the attack on counsel was wholly unwarranted.

It appears that WestJet is again attempting to make unfounded allegations against counsel. We draw your attention to [Groia v. Law Society of Upper Canada](#), 2018 SCC 27.

¹ [Kuta-Dankwa v Pacific Quorum Properties](#), 2021 BCSC 906 at para. 14.



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With that said and as a professional courtesy we are writing to advise that, on July 24, 2024 the majority of directors of Air Passenger Rights, excluding the undersigned, had: (a) passed a resolution to accept the assignment of the judgment and claim from Mr. and Mrs. Boyd; and (b) passed a resolution to authorize the bringing of this judicial review.

This should put to rest WestJet's speculation about counsel's involvement in Air Passenger Rights' internal decision to proceed with this judicial review. For greater certainty, on this matter, I am acting as counsel for Air Passenger Rights and was not part of the resolutions that Air Passenger Rights passed for this proceeding. My usage of an airpassengerrights.ca domain for service is merely for internal record keeping reasons.

Finally, we appreciate you confirming that the Court is being asked to interpret a legal question in the Petition. Again, we cannot ascertain from the Email how counsel's involvement in non-profit directorships are relevant to the legal interpretation of a statute.

We trust that the above puts to rest WestJet's speculation about counsel's involvement.

For greater certainty, the Petitioner will not consent to the filing of further affidavits by WestJet and the Affidavit #2 of Ms. Ciarah Machado filed on October 25, 2024 will not be included in the Petition Record. If WestJet insists on bringing forward that affidavit despite the above clarifications, we trust that WestJet will bring a formal application in that regard.

We reserve the right to bring this letter to the Court's attention.

Yours truly,

EVOLINK LAW GROUP

A handwritten signature in cursive script that reads "Simon Lin".

SIMON LIN

Barrister & Solicitor

simonlin@evolinklaw.com

Cc: Zara Rahman, counsel for the Civil Resolution Tribunal

This is **Exhibit “J”** to the Affidavit of Brittany Dieno
affirmed before me on November 18, 2024



Simon Lin



Simon Lin <simonlin@evolinklaw.com>

RE: Air Passenger Rights v. WestJet Airlines Ltd., NEW-S-S-254452 [IMAN2-IMANAGE.FID886835]

DERY, Michael <mdery@ahbl.ca>

Wed, Nov 13, 2024 at 2:02 PM

To: Simon Lin <simonlin@evolinklaw.com>

Cc: "MACHADO, Ciarah" <cmachado@ahbl.ca>, "Rahman, Zara CRT:EX" <zara.rahman@crtbc.ca>, "CRT Paralegal CRT:EX" <paralegal@crtbc.ca>, "CHAUDHARY, Katelyn" <kchaudhary@ahbl.ca>, "AGUIAR, Elisa" <eaguiar@ahbl.ca>

Simon,

We have instructions to bring an application to cross-examine Gabor Lukacs on his affidavit and to admit Ms. Machado's second affidavit into the record. Will you agree to an adjournment of the hearing on November 21, 2024, to allow us the opportunity to bring our application?

Yours truly,

Michael.

MICHAEL DERY*

ALEXANDER HOLBURN BEAUDIN + LANG LLP

Partner

Asst: Elisa Aguiar

he/him/his

Direct: 604 643 2117

Email: eaguiar@ahbl.ca

2700 - 700 West Georgia Street, Vancouver, BC, V7Y 1B8

Tel: 604 484 1742

Barristers + Solicitors | Vancouver | Kelowna | Toronto

Fax: 604 484 9742

*Professional Law Corporation

From: Simon Lin <simonlin@evolinklaw.com>**Sent:** Wednesday, November 13, 2024 12:24 PM**To:** DERY, Michael <mdery@AHBL.CA>**Cc:** MACHADO, Ciarah <cmachado@AHBL.CA>; Rahman, Zara CRT:EX <zara.rahman@crtbc.ca>; CRT Paralegal CRT:EX <paralegal@crtbc.ca>; CHAUDHARY, Katelyn <kchaudhary@AHBL.CA>; AGUIAR, Elisa <eaguiar@ahbl.ca>**Subject:** Re: Air Passenger Rights v. WestJet Airlines Ltd., NEW-S-S-254452 [IMAN2-IMANAGE.FID886835]

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Mike and Nicolas,

We write in regards to our November 4, 2024 letter and enclosed for ease of reference.

Considering we have not heard from WestJet, nor received any formal application within the timelines under Rule 8-1, we understand that WestJet will not be relying on Ms. Machado's second affidavit.

Thank you.

Kind Regards,

Simon Lin
Barrister & Solicitor

Evolink Law Group
237-4388 Still Creek Drive, Burnaby, B.C. V5C 6C6
T: 604-620-2666
F: 778-805-9830 (*our fax number has changed as of May 12, 2023*)

www.evolinklaw.com

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On Mon, Nov 4, 2024 at 12:59 PM Simon Lin <simonlin@evolinklaw.com> wrote:

Hello Mike,

Please see enclosed.

Thank you.

Kind Regards,

Simon Lin
Barrister & Solicitor

[Quoted text hidden]

[Quoted text hidden]

This is **Exhibit “K”** to the Affidavit of Brittany Dieno
affirmed before me on November 18, 2024

A handwritten signature in cursive script, appearing to read "Simon Lin", is written above a horizontal line.

Simon Lin



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November 14, 2024

VIA EMAIL

Alexander Holburn Beaudin + Lang LLP

ATTN: Michael Dery

2700-700 West Georgia
Vancouver BC, V7Y 1B8

Dear Mr. Dery,

RE: Air Passenger Rights v. WestJet Airlines Ltd., NEW-S-S-254452

We confirm receipt of your email on November 13, 2024 (the “**Email**”), requesting an adjournment for the reason that you have just received instructions to apply to cross-examine Dr. Lukacs and/or to admit the second affidavit of Ms. Machado. As noted in our response earlier today, the Petitioner does not consent to an adjournment.

We just learned from CSO that WestJet unilaterally filed an application for November 28, 2024, after the hearing of the Petition and without canvassing dates with the undersigned. In any event, the undersigned is not available on November 28. Your office should be aware from another file that also involved WestJet that the undersigned will be out of town.

We outline the history of this petition proceeding for ease of reference:

1. **July 30, 2024:** The Petition and the Affidavit of Dr. Lukacs was served on WestJet.
2. **August 6, 2024:** Your office confirmed that you have been retained by WestJet. On the same day, your office indicated that:

I am not in a position to provide a time estimate for the hearing as we have not yet finished our review of the matter and we have not yet finished our response materials. Once that is done, I will provide you with time estimates and availability for a hearing.

3. **August 9, 2024:** Your office provided availability for a one-day hearing, which would suggest that your office has done the necessary reviews.
4. **August 19, 2024:** Your office filed and served a Response to Petition and Affidavit #1 of Ms. Machado. There was no request, nor any indication, that your client intended to cross-examine Dr. Lukacs.



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5. **September 10, 2024:** Our office advised that the hearing has been reserved for one-day in November 21, 2024 at the Vancouver Registry.
6. **September 11, 2024:** Your office indicated that your client has “no issue on our end with having the hearing in Vancouver” and even signed an Order to that effect.
7. **September 19, 2024:** Our office wrote to you regarding four topics: (a) WestJet’s improper objection to the remote commissioning of Dr. Lukacs’ affidavit; (b) the Petitioner’s position regarding the absolute assignment with supporting case authorities; (c) the Petitioner’s standing, as it relates to the assignment; and (d) WestJet’s bald assertion of new evidence and new arguments being raised. Our client provided a lengthy period of time for WestJet to respond (i.e., October 15).
8. **October 15, 2024:** Your office withdrew the objections regarding the absolute assignment (i.e., issue (a) above) and simply stated that you disagree with our reasoning on issues (b)-(d) without any elaboration or reasoning. Your office did not raise the prospect of filing further affidavits or cross-examining Dr. Lukacs.
9. **October 28, 2024:** Your office purported to serve the second affidavit of Ms. Machado. On the same day, we brought to your attention that the new affidavit is contrary to Rule 16-1(7) and requested that WestJet provide their basis/reasoning for the affidavit by November 1, 2024 so our client can consider whether to consent. WestJet did not respond to our letter by November 1, 2024.
10. **November 4, 2024:** Your office wrote to us claiming that the second affidavit of Ms. Machado “will be referred to in the context of the arguments set out in our client’s Response to Petition at paragraphs 47 to 56.” Your office also made allegations that the undersigned is somehow acting improperly for being counsel in an unrelated action. Again, there was no mention of seeking to cross-examine Dr. Lukacs.
11. **November 4, 2024:** Our office responded to your email from the same date confirming that WestJet’s assertions are wholly unsupported and there was no basis to include the second affidavit of Ms. Machado. We **specifically** put WestJet on notice that should they wish to include the second affidavit of Ms. Machado, that WestJet would need to bring a formal application to that effect.



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12. **November 8, 2024:** The deadline for bringing an application to adduce further affidavits expired (i.e., the eight business day timeline under Rule 8-1).
13. **November 13, 2024:** Our office wrote to you confirming our understanding that WestJet is no longer wishes to include the second affidavit of Ms. Machado, since no application has been received. Shortly thereafter, your office responded stating that they now wish to seek an adjournment to bring an application to introduce the second affidavit of Ms. Machado and also to cross-examine Dr. Lukacs.

We address each of WestJet's two applications in the two sections below.

Application to Cross-Examine Dr. Lukacs

We first note that your office **never** raised the request to cross-examine Dr. Lukacs until the last minute, despite having had Dr. Lukacs's affidavit for more than three months and even filed a Response to Petition. This belated request appears to be dilatory and a backdoor attempt at adjourning the petition hearing.

WestJet overlooked that the Petition is brought under Rule 16-1 and, at the hearing of the petition, the Court is tasked with deciding whether there is sufficient materials before it to decide the issues relevant to the petition. If the Court finds that all relevant issues for the petition can be decided on the record, there would be no need for cross-examination. As such, it is not even necessary to bring a distinct application for cross-examination.

We draw your attention to a five-judge panel decision that elaborated on this issue:¹

[154] On its face, R. 16-1(18) allows the court to pick and choose to apply in a petition proceeding any number of procedures that apply in actions, such as discovery of witnesses or discovery of documents. For example, in *Liu v. Du*, 2021 BCCA 221, this Court in Chambers held that R. 16-1(18) can be relied upon to order production of documents in a petition proceeding without first converting the petition to an action (para. 32). Given that these procedures usually are only necessary to employ where an issue is in dispute, in my view R. 16-1(18) changes the landscape considerably from that considered by the authorities relied upon in *Saputo*.

¹ [emphasis added] [Cepuran v. Carlton](#), 2022 BCCA 76 at paras. 154-160.

[155] Rule 22-1(4) is also relevant. Among other things, it permits cross-examination on affidavits in Chambers applications. In *Beedie (Keefer Street) Holdings Ltd. v. Vancouver (City)*, [2021 BCCA 160](#), this Court noted that R. 22-1(4) applied to petitions. Justice Newbury distinguished the proposition in *Saputo* as not applying to petitions brought seeking judicial review under the [Judicial Review Procedure Act](#), R.S.B.C. 1996, c. 241 [JRPA]. Justice Newbury noted that the court typically has a supervisory function in judicial review matters, as opposed to adjudicative, and the record is limited (paras. 75–79). These are good reasons for not referring all triable issues to trial in a petition proceeding brought under the JRPA.

[156] However, it must be recognized that there are some judicial review matters, including those involving complex constitutional challenges, that require the judge to make findings of fact based on contested evidence. Even in those types of judicial review proceedings, it may still be appropriate to hear the matter within the petition proceeding: see, for example, *L'Association des parents de l'école Rose-des-Vents v. Conseil scolaire francophone de la Colombie-Britannique*, [2011 BCSC 89](#) [Conseil scolaire].

[157] The [JRPA](#) is one of several enactments that allow an application to be brought to the court (s. 2(1)). As mentioned, R. 1-2(4) provides that where an enactment authorizes an application to the court, it must be brought by petition. The [PPA](#) is another enactment that allows an application to be brought to the court.

[158] It should be kept in mind that the starting point for those matters that are properly brought by way of petition is that the Rules contemplate that a summary procedure will be appropriate: *Conseil scolaire* at paras. [29–30](#). This is different than the starting point for an action. There should be good reason for dispensing with a petition's summary procedure in favour of an action. The mere fact that there is a triable issue is no longer a good reason.

[159] The modern approach to civil procedure, as encouraged in *Hryniak*, is to allow parties and the trial courts to tailor the pre-trial and trial procedures to a given case, in the interests of proportionality and access to justice, while preserving the court's ability to fairly determine a case on the merits. In my view, R. 16-1(18) and R. 22-1(4) work to reflect this modern approach within a petition proceeding.

[160] To summarize, I am of the view that a judge hearing a petition proceeding that raises triable issues is not required to refer the matter to trial. The judge has discretion to do so or to use hybrid procedures within the petition proceeding itself to assist in determining the issues, pursuant to R. 16-1(18) and R. 22-1(4). For example, the judge may decide that some limited discovery of documents or cross-examination on affidavits will provide an opportunity to investigate or challenge the triable issue sufficiently to allow it to be fairly determined by the court within the petition proceeding, without the need to convert the proceeding to an action and refer it to trial.

In other words, by default, petitions for judicial review are conducted on the affidavit and record before the Court. It is only when there is a triable issue that the Court would consider allowing cross-examinations on the affidavits. It would be putting the cart before the horse, and undermining R. 16-1(18) for a distinct application to be brought in advance.

As such, our position is that the request for an adjournment in order to apply to cross-examine Dr. Lukacs is **unnecessary** for two reasons. Firstly, it is a belated application. Secondly, and most importantly, it would be up to the presiding judge hearing the petition to decide if there is even any triable issue that would warrant a cross-examination.

For greater certainty, it is open for WestJet to argue at the hearing that there is a triable issue and to request the Court to employ Rule 16-1(18).

Application to Adduce Second Affidavit of Ms. Machado

We note that on November 4, 2024, we already brought to WestJet's attention that they would need to bring a formal application to introduce the second affidavit of Ms. Machado. However, WestJet failed to file an application within the timelines under Rule 8-1.

To the extent WestJet intends to bring the application on short notice at the commencement of the petition hearing on November 21, 2024, WestJet clearly does not meet the requirement for making an "urgent" application.

We draw your attention to [*O'Callaghan v Hengsbach*](#), 2017 BCSC 2182 where the Court confirmed that a party's own failure to prepare their file in a timely way is not a reason for allowing applications to be heard on short notice.



Evolink Law Group
4388 Still Creek Drive, Suite 237
Burnaby, BC V5C 6C6

p. 604 620 2666
info@evolinklaw.com
www.evolinklaw.com

Conclusion

We trust the above satisfactorily addresses WestJet's adjournment request. The Petitioner intends to proceed on November 21, 2024 as all parties had previously agreed.

We reserve the right to bring this letter to the Court's attention.

Yours truly,

EVOLINK LAW GROUP

A handwritten signature in cursive script that reads 'Simon Lin'.

SIMON LIN

Barrister & Solicitor

simonlin@evolinklaw.com

Cc: Zara Rahman, counsel for the Civil Resolution Tribunal

This is **Exhibit “L”** to the Affidavit of Brittany Dieno
affirmed before me on November 18, 2024



Simon Lin



Simon Lin <simonlin@evolinklaw.com>

RE: Air Passenger Rights v. WestJet Airlines Ltd., NEW-S-S-254452 [IMAN2-IMANAGE.FID778807]

DERY, Michael <mdery@ahbl.ca>

Thu, Nov 14, 2024 at 3:26 PM

To: Simon Lin <simonlin@evolinklaw.com>

Cc: "CHAUDHARY, Katelyn" <kchaudhary@ahbl.ca>, "MACHADO, Ciarah" <cmachado@ahbl.ca>, "Rahman, Zara CRT:EX" <zara.rahman@crtbc.ca>, "CRT Paralegal CRT:EX" <Paralegal@crtbc.ca>, "AGUIAR, Elisa" <eaguiar@ahbl.ca>

Hi Simon,

Thanks for the below and for your letter of today's date (copy attached). Please find attached for service upon you the Notice of Application filed today and the Affidavit of Ms. Machado, previously served, and filed on November 13, 2024. We understand from your letter that you are not available on the chosen hearing date of November 28, 2024. We are amenable to moving the hearing of our application to another mutually available date. Are you willing to provide us with your next available dates?

Our intention is to advise the Court on November 21, 2024 that we would like Ms. Machado's attached affidavit admitted into evidence. We will also advise the Court that we have filed an application seeking an Order compelling the cross-examination on affidavit of Gabor Lukacs. We understand that you will oppose and that you will not agree to this.

Yours truly,

Michael.

MICHAEL DERY**Partner*

he/him/his

ALEXANDER HOLBURN BEAUDIN + LANG LLP

Asst: Elisa Aguiar

Direct: 604 643 2117

Email: eaguiar@ahbl.ca

2700 - 700 West Georgia Street, Vancouver, BC, V7Y 1B8

Tel: 604 484 1742

Barristers + Solicitors | Vancouver | Kelowna | Toronto

Fax: 604 484 9742

*Professional Law Corporation

From: Simon Lin <simonlin@evolinklaw.com>**Sent:** Thursday, November 14, 2024 12:43 PM**To:** DERY, Michael <mdery@AHBL.CA>

This is **Exhibit “M”** to the Affidavit of Brittany Dieno
affirmed before me on November 18, 2024

A handwritten signature in black ink, appearing to read "Simon Lin", is written over a horizontal line.

Simon Lin



Simon Lin <simonlin@evolinklaw.com>

RE: Air Passenger Rights v. WestJet Airlines Ltd., NEW-S-S-254452 [IMAN2-IMANAGE.FID778807]

Simon Lin <simonlin@evolinklaw.com>

Thu, Nov 14, 2024 at 5:29 PM

To: "DERY, Michael" <mdery@ahbl.ca>

Cc: "CHAUDHARY, Katelyn" <kchaudhary@ahbl.ca>, "MACHADO, Ciarah" <cmachado@ahbl.ca>, "Rahman, Zara CRT:EX" <zara.rahman@crtbc.ca>, "CRT Paralegal CRT:EX" <Paralegal@crtbc.ca>, "AGUIAR, Elisa" <eaguiar@ahbl.ca>

Hello Mike,

WestJet's fixing of an application after the Petition hearing is an attempt at a *de facto* adjournment, when WestJet had full opportunity to address the issues in the application for months, and also when parties have already made significant preparation for November 21. Moreover, we understand that Ms. Rahman is travelling from out of town.

Your email below does not appear to be responsive to our letter from earlier today. In any event, we trust that if you review the substance of our letter that the solution is simple here.

With respect to Ms. Machado's second affidavit, it was always open for WestJet to seek leave from the presiding judge on November 21, 2024 to refer to that affidavit. Those requests occur from time to time, as evidenced in the file we both had on November 5-6, 2024. Hence, we do not understand why there is a separate application, particularly one that is deliberately scheduled *after* the petition hearing itself. It also seems unusual for a separate application to be made before a judge other than the one hearing the underlying petition.

For greater certainty, we do oppose WestJet referring to said affidavit for reason of relevance to the petition itself amongst other reasons. On that note, if the presiding judge permits Ms. Machado's affidavit to be considered, we intend to rely on a reply affidavit. For the sake of efficiency, we will provide you our intended reply affidavit before the hearing on November 21, 2024. We trust this fully addresses the issue arising from Ms. Machado's second affidavit.

With respect to your request to cross-examine Dr. Lukacs, we do not see any reason why this cannot be addressed in the context of whether there is even a triable issue on WestJet's "champerty and maintenance" defense. As noted in our letter, the judge hearing the petition can direct a cross-examination if there is a triable issue. In our experience with numerous petitions, we have never encountered a situation where a different justice or an associate judge pre-determine whether there is a triable issue.

In short, we are prepared to address the substance of WestJet's request to cross-examine Dr. Lukacs in the context of the petition hearing and as part of the argument on the assignment. A separate application is wholly unnecessary and also unheard of.

For greater certainty, the Petitioner is not waiving their right to seek costs in relation to the baseless assertions of champerty/maintenance and WestJet's belated steps.

We trust this fully addresses WestJet's last-minute application. **Please confirm by 12:00PM on November 15** if WestJet still intends to move forward with their last-minute application on November 28, 2024, instead of addressing the same arguments on November 21, 2024.

We reserve the right to bring this letter to the presiding judge's attention.

Thank you.

Kind Regards,

Simon Lin
Barrister & Solicitor



Evolink Law Group
237-4388 Still Creek Drive, Burnaby, B.C. V5C 6C6



**This is the 3rd Affidavit
of Brittany Dieno in this proceeding
and was made on January 22, 2025**

No. NEW-S-S-254452
New Westminster Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *JUDICIAL REVIEW PROCEDURE ACT*, RSBC 1996, c 241

BETWEEN

AIR PASSENGER RIGHTS

Petitioner

AND:

WESTJET AIRLINES LTD.

Respondent

Affidavit #3 of Brittany Dieno

I, Brittany Dieno, paralegal, of 101-5553 16th Avenue, in the City of Delta, in the Province of British Columbia, SOLEMNLY AFFIRM THAT:

1. I am Brittany Dieno, contract paralegal to Simon Lin, (counsel for the petitioner) and as such I have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and belief and, where so stated, I verily believe those matters to be true.
2. Attached and marked as **Exhibit "A"** is a copy of the Government of Canada, Corporations of Canada, Corporate Profile of Air Passenger Rights, dated January 22, 2025.
3. Attached and marked as **Exhibit "B"** is a copy of the Government of Canada's website page titled "Requirements for soliciting corporations under the *Canada Not-for-profit Corporations Act* (NFP Act), dated November 7, 2012.
4. Attached and marked as **Exhibit "C"** is a copy of the blog post from the website

OnBoardMeetings.com, titled “Inside v. Outside Directors: What’s The Difference?”, written by Josh Palmer and dated September 14, 2022.

Remote Commissioning of this Affidavit

5. I acknowledge the solemnity of making a solemn declaration and acknowledge the consequences of making an untrue statement.
6. I was not physically present before the person before whom this affidavit was affirmed but was in that person’s presence using video conferencing.

AFFIRMED before me
at the City of Coquitlam, British Columbia
on January 22, 2025

Simon Lin

A Commissioner for Taking Affidavits for B.C.

)
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)
)

Brittany Dieno

Brittany Dieno

Simon Lin, Barrister & Solicitor
Evolink Law Group
4388 Still Creek Drive, Suite 237
Burnaby BC V5C 6C6

This is **Exhibit “A”** to the Affidavit of Brittany Dieno
affirmed before me on January 22, 2025

Simon Lin

Simon Lin



Innovation, Science and
Economic Development Canada
Corporations Canada

Innovation, Sciences et
Développement économique Canada
Corporations Canada

Corporations Canada
C. D. Howe Building
235 Queen St
Ottawa ON K1A 0H5

Corporations Canada
Édifice C.D.Howe
235 rue Queen
Ottawa ON K1A 0H5

Corporate Profile / Profil corporatif

Date and time of Corporate Profile (YYYY-MM-DD)	2025-01-22 11:32 AM	(AAAA-MM-JJ) Date et heure du Profil corporatif
---	---------------------	---

CORPORATE INFORMATION		RENSEIGNEMENTS CORPORATIFS	
Corporate name		Dénomination	
Air Passenger Rights			
Corporation number	1143064-5	Numéro de société ou d'organisation	
Business number	791083538RC0001	Numéro d'entreprise	
Governing legislation	Régime législatif		
Canada Not-for-profit Corporations Act (NFP Act) - 2019-05-26			
Loi canadienne sur les organisations à but non lucratif (Loi BNL) - 2019-05-26			
Status		Statut	
Active			
Active			

REGISTERED OFFICE ADDRESS	ADRESSE DU SIÈGE
6507 Roslyn Road Halifax NS B3L 2M8 Canada	

ANNUAL FILINGS				DÉPÔTS ANNUELS	
Anniversary date (MM-DD)		05-26		(MM-JJ) Date anniversaire	
Filing period (MM-DD)		05-26 to/au 07-25		(MM-JJ) Période de dépôt	
Status of annual filings				Statut des dépôts annuels	
Date of last annual meeting (YYYY-MM-DD)		2024-05-27		(AAAA-MM-JJ) Date de la dernière assemblée annuelle	
Type					
Soliciting					
Ayant recours à la sollicitation					

DIRECTORS		ADMINISTRATEURS
Minimum number	3	Nombre minimal
Maximum number	9	Nombre maximal
Current number	3	Nombre actuel
Simon Pak Hei Lin	4388 Still Creek Drive, Burnaby BC V5C 6C6, Canada	
Judit Mihala	3420 Mary Claire Lane, Southaven MS 38672, United States	
Gabor Lukacs	6507 Roslyn Road, Halifax NS B3L 2M8, Canada	

INDIVIDUALS WITH SIGNIFICANT CONTROL	PERSONNES AYANT UN CONTRÔLE IMPORTANT
No information has been filed. Aucun renseignement n'a été déposé.	

CORPORATE HISTORY	HISTORIQUE CORPORATIF
Corporate name history (YYYY-MM-DD)	(AAAA-MM-JJ) Historique de la dénomination
2019-05-26 to present / à maintenant	Air Passenger Rights
Certificates issued (YYYY-MM-DD)	(AAAA-MM-JJ) Certificats émis
Certificate of Incorporation	2019-05-26 Certificat de constitution en société
Documents filed (YYYY-MM-DD)	(AAAA-MM-JJ) Documents déposés
By-laws received	2020-05-07 Règlement reçu

The Corporate Profile sets out the most recent information filed with and accepted by Corporations Canada as of the date and time set out on the Profile.

Le Profil corporatif fait état des renseignements fournis et acceptés par Corporations Canada à la date et à l'heure indiquées dans le profil.

This is **Exhibit “B”** to the Affidavit of Brittany Dieno
affirmed before me on January 22, 2025

Simon Lin

Simon Lin

Requirements for soliciting corporations under the *Canada Not-for-profit Corporations Act* (NFP Act)

What is a soliciting corporation?

A corporation is considered soliciting when it has received more than \$10,000 in income from public sources in a single financial year. Public sources include gifts or donations from non-members, grants from government and funds from another corporation that also received income from public sources.

More specifically, a corporation is a soliciting corporation if it receives income during a single financial year in excess of \$10,000 in the form of:

- a. donations or gifts or, in Quebec, gifts or legacies of money or other property requested from any person who is not:
 - i. a member, director, officer or employee of the corporation at the time of the request,
 - ii. the spouse of a person referred to in subparagraph (i) or an individual who is cohabiting with that person in a conjugal relationship, having so cohabited for a period of at least one year, or
 - iii. a child, parent, brother, sister, grandparent, uncle, aunt, nephew or niece of a person referred to in subparagraph (i) or of the spouse or individual referred to in subparagraph (ii);
- b. grants or similar financial assistance received from the federal government or a provincial or municipal government, or an agency of such a government; or
- c. donations or gifts or, in Quebec, gifts or legacies of money or other property from a corporation or other entity that has, during the most

recent financial year, received income in excess of \$10,000 in the form of donations, gifts or legacies referred to in paragraph (a) or grants or similar financial assistance referred to in paragraph (b).

What is a non-soliciting corporation?

A corporation is non-soliciting if it has received no public funds or less than \$10,000 in public funds in each of its three previous financial years.

Why do soliciting corporations need to be identified?

Since soliciting corporations receive public funds, they must meet additional requirements to ensure sufficient transparency and accountability for that income.

What requirements must soliciting corporations meet?

A soliciting corporation must meet five requirements. It must:

1. have a minimum of three directors, at least two of whom are not officers or employees of the corporation or its affiliates;
2. comply with the requirements for public accountants and financial review that relate to soliciting corporations;
3. send financial statements and the report of the public accountant, if any, to the Director;
4. include a provision in its articles that any property remaining on liquidation of the corporation be distributed to a "qualified donee", as defined in the *Income Tax Act*; and
5. not have a unanimous member agreement.

These requirements do not automatically apply at the time a corporation receives more than \$10,000 from public funds. Instead, the corporation must first determine, at its financial year-end, the total amount it received from public sources for that financial year.

If the total amount is more than \$10,000, the requirements will apply only when the corporation holds its annual meeting of members following that financial year end. The annual meeting allows the corporation to make any changes needed to meet the requirements.

The requirements will continue to apply until the corporation does not meet the definition of soliciting corporation for three financial years in a row.

Summary of Differences Between a Soliciting and a Non-soliciting Corporation

	Soliciting Corporation	Non-soliciting Corporation
<u>Number of directors</u>	Minimum of 3 with at least 2 not being officers or employees	At least 1

<u>Financial review</u>	Under \$50,000 gross annual revenues, default is review engagement; audit or no review possible Between \$50,000 and \$250,000 gross annual revenues, default is audit; review engagement possible Over \$250,000 gross annual revenues, must have an audit	Under \$1 million gross annual revenues, default is review engagement; audit or no review possible Over \$1 million gross annual revenues, must have an audit
<u>Filing financial statements with Corporations Canada</u>	Yes	No
<u>Restrictions on where property goes on liquidation</u>	Yes – to qualified donees under the <i>Income Tax Act</i>	No restrictions
<u>Unanimous members agreement</u>	Not allowed	Allowed

What if a corporation can't meet all the five requirements?

In certain exceptional circumstances, it may not be necessary for a soliciting corporation to meet the five requirements. In such circumstances, the Director appointed under the NFP (Not-for-profit) Act can deem a soliciting

corporation to be a non-soliciting corporation. If deemed to be a non-soliciting corporation, a corporation may not need to meet all five requirements. This would only be granted if it would not be prejudicial to the public interest in any way. For information on when a corporation can apply for such a decision of the Director, refer to the Corporations Canada policy document "Deeming a Corporation Non-soliciting."

Who can help me determine if my corporation is soliciting or non-soliciting?

If you are having trouble applying the definition to the circumstances of your particular corporation, you may wish to consult a lawyer or other professional for help. Note that Corporations Canada will not be able to make that determination.

Date modified:

2012-11-07

Corporations Canada

Contact us

This is **Exhibit “C”** to the Affidavit of Brittany Dieno
affirmed before me on January 22, 2025

Simon Lin

Simon Lin



BOARD MANAGEMENT

SOFTWARE

([HTTPS://WWW.ONBOARDMEETINGS.COM/BLOG/CATEGORY/BOARD-MANAGEMENT/](https://www.onboardmeetings.com/blog/category/board-management/)).

Inside vs. Outside Directors: What's the Difference?



By: Josh Palmer |

SEPTEMBER 14, 2022

One of the crucial factors to consider when appointing a board of directors is balancing the numbers of outsiders and insiders on your board.

What exactly do “inside” and “outside” directors mean? Understanding their major differences is crucial when considering your board composition (<https://www.onboardmeetings.com/blog/board-composition-overview-definition-examples/>). Read on to learn more about the key differences and pros and cons between appointing inside and outside directors to your board of directors (<https://www.onboardmeetings.com/why-onboard/directors-trustees/>).

What is an Inside Director?

An inside director is a board member employed with the organization. Examples of inside directors include top executives who engage in the daily management of the company:

- Chief operating officer (COO)
- Chief financial officer (CFO)
- Chief executive officer (CEO)

Inside directors could also be major shareholders (or their representatives). Because they have direct ties to the company, they have access to inside information and the organization's inner workings. This knowledge makes them a key element in an organization's success and comes with a duty to act in the company's and shareholders' best interests.

Since inside directors access classified information, strict regulations apply to them regarding securities trading. They cannot trade on insider information that shouldn't be public. Additionally, the self-interests related to their employment ties with the organization make insiders more vulnerable to conflicts of interest.

What is an Outside Director?

An outside director is a board member who serves on a company's board, but is neither a stakeholder nor an employee. This director is also called a non-executive board member or an independent director. They receive a retainer fee of cash, benefits, or stock options for serving on the board.

Outside directors don't engage in the daily management of the organization. Instead, they are heavily involved in policy-making and planning. Like inside directors, they have a fiduciary duty to prioritize the company's and corporate stakeholders' best interests. They also monitor executive directors to enhance accountability and ensure the company follows the right path.

Outside directors have one significant advantage over inside directors. They are considered more objective, and because they don't have to worry about keeping their job within the organization, they can speak freely and objectively. As a result, they may see the big picture differently than their counterparts. Generally, they are likely to provide unbiased advice and bring external expertise from their personal and professional experience.

Outside directors have disadvantages too. Because they are less involved with the organization they represent, they may lack sufficient information to base their decisions. Moreover, they may face out-of-pocket liability if the company is not adequately insured.

Frequently Asked Questions (FAQ)

What are the Roles and Responsibilities of Inside and Outside Directors?

Inside directors participate in day-to-day management activities in the company, and provide company-specific insights to help the board make personalized decisions.

Outside directors offer external expertise to improve governance. They also oversee inside directors to enhance accountability on the board.

Is an Independent Director the Same as an Outside Director?

An outside board member is also called an independent or non-executive director. That's because they lack a material relationship with the company and don't participate in daily managerial activities.

Board Management Software

Buyer's Guide (/resources/board-management-software-buyers-guide/)

The comprehensive blueprint for selecting a results-driven board management vendor.

GET GUIDE
(/RESOURCES/BOARD-MANAGEMENT-SOFTWARE-BUYERS-GUIDE/)

Ready to upgrade your board's effectiveness with OnBoard the board intelligence platform? Schedule a demo (<https://www.onboardmeetings.com/board-portal/request-demo/>) or request a free trial (<https://www.onboardmeetings.com/board-portal/trial-request/>).

About The Author

Josh Palmer

Josh Palmer serves as OnBoard's Head of Content. An experienced content creator, his previous roles have spanned numerous industries including B2C and B2B home improvement, healthcare, and software-as-a-service (SaaS). An Indianapolis native and graduate of Indiana University, Palmer currently resides in Fishers, Ind.



Hands-On Interactive
Demo of OnBoard

(https://www.onboardmeetings.com/communication-
engagement/)

https://www.onboardmeetings.com/



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Pricing (/board-portal/pricing/)

Board Engagement (/communication-
engagement/)

Annotations & Notes (/board-portal/notes-and-
annotations/)

Dashboard (/board-portal/dashboard/)

1/22/25, 8:34 AM

Schedule (/board-portal/request-
 Demo (/board-portal/request-
 = in (/board-portal/request-
 e g (/board-portal/request-
 (/board-portal/request-
 ai/) (/board-portal/request-)

iOS & Android (/board-portal/apps-ios-
 Apps android/)
 Meeting (/board-portal/engagement-
 Analytics analytics/)
 Secure (/board-portal/onboard-
 Messenger messenger/)

Meeting Operations (/meeting-operations/)

Board Life Cycle (/board-life-cycle-management/)

Agenda (/board-portal/agenda-builder/
 Builder builder/)
 Document (/board-portal/document-
 Management management/)
 Microsoft 365 (/board-portal/microsoft-
 Integration office-365-integration/)
 Minutes (/board-portal/meeting-
 Builder minutes-builder/)
 Teams & Zoom (/board-portal/onboard-
 Integration zoom-integration/)

Board (/board-portal/board-
 Assessments assessments/)
 Committee (/board-portal/committees-
 Management and-multi-board/)
 Diversity (/board-portal/diversity-
 Reporting reporting/)
 D&O (/board-
 Questionnaires portal/doquestionnaires/)
 Roles & Terms (/board-portal/roles-and-
 Management terms-management/)
 Skills (/board-portal/skills-
 Tracking tracking/)

Decisions & Actions (/board-decisions-actions/)

OnBoard Security

Approvals & (/board-portal/voting-and-
 Voting approvals/)
 eSignatures (/board-portal/esignatures/)
 Intelligent (/board-portal/intelligent-
 Assistant assistant/)
 Surveys (/board-portal/surveys/)
 Task (/board-portal/onboard-
 Management tasks/)

Certifications & (/board-
 Compliance portal/compliance-
 certifications/)
 Platform Security (/board-portal/security/)

Pain Points

Resources

Blog(<https://www.onboardmeetings.com/blog/>)

Using Paper, PDFs, or Emails? (</paint-points/legacy-solutions/>)

Need a Better Board Portal? (</paint-points/better-board-portal/>)

Glossary(</board-portal-glossary/>)

Resource Center(</resources/>)

Webinars & Events(</resources/#webinars>)

Industries

Associations (</industries/association-board-management/>)

Financial Services (</industries/financial-services/>)

Governments(</industries/governments/>)

Healthcare(</industries/healthcare/>)

Higher Education(</agb-onboard/>)

Nonprofits(</board-portal/non-profits/>)

Technology & Software (</industries/technology/>)

Company

About Us(</about-us/>)

Careers(</about-us/careers/>)

Support (<https://help.passageways.com/hc/en-us>)

Partners(</about-us/partners/>)

Privacy Policy(</websiteprivacy/>)

Roles

Administrators (</why-onboard/administrators/>)

Board Directors (</why-onboard/directors-trustees/>)

CEOs & Leadership(</why-onboard/ceos/>)

General Counsel (</why-onboard/general-counsels/>)

(<https://apps.apple.com/us/app/onboard-meetings/id1113530551>)

(https://play.google.com/store/apps/details?id=onboard.app.passageways&hl=en_US)

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This is the 4th affidavit
of Ciarah Machado in this case
and was made on February 21, 2025

NO. S-S-254452
NEW WESTMINSTER

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

AIR PASSENGER RIGHTS

PETITIONER

AND

WESTJET AIRLINES LTD.

RESPONDENT

AFFIDAVIT

I, Ciarah Machado, of 2700-700 West Georgia Street, in the City of Vancouver, in the Province of British Columbia, Legal Administrative Assistant, AFFIRM THAT:

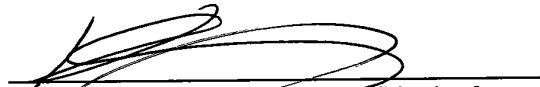
1. I am a Legal Administrative Assistant employed by the law firm of Alexander Holburn Beaudin + Lang LLP ("AHBL"), counsel for the Respondent, WestJet Airlines Ltd. ("WestJet"), and as such have personal knowledge of the matters hereinafter deposed to, save where stated to be upon information and belief where stated, I verily believe same to be true.
2. The petition hearing was originally scheduled to be heard on November 21, 2024. Attached and marked as **Exhibit "A"** is a true copy of the Notice of Hearing filed by the Petitioner on October 15, 2024, to be heard on November 21, 2024, and the email from Simon Lin, counsel for the Petitioner, serving the same upon counsel for the Respondent.
3. On October 28, 2024, I served my second affidavit in this matter upon counsel for the Petitioner. Attached and marked as **Exhibit "B"** is a true copy of my email serving my affidavit.
4. On October 28, 2024, Mr. Lin objected to my second affidavit, requesting the basis for its inclusion in the Petition Record. Attached and marked as **Exhibit "C"** is a true copy of a letter sent by Mr. Lin to Mr. Dery, counsel for the Respondent.
5. On November 4, 2024, Mr. Dery responded to Mr. Lin's letter dated October 28, 2024, and provided WestJet's reasons for the inclusion of my second affidavit in the Petition Record. Attached and marked as **Exhibit "D"** is a true copy of Mr. Dery's email to Mr. Lin with WestJet's response.

6. On the same date, Mr. Lin, in a letter addressed to Mr. Dery, confirmed receipt of WestJet's response and confirmed that APR will not consent to the filing of further affidavits by WestJet, that my second affidavit will not be included in the Petition Record and that WestJet will need to bring a formal application. Attached and marked as **Exhibit "E"** is a true copy of Mr. Lin's letter.
7. On November 13, 2024, I affirmed and filed a third affidavit in this proceeding in support of WestJet's Notice of Application filed on November 14, 2024. Attached and marked as **Exhibit "F"** is a true copy of the Notice of Application filed on November 14, 2024.
8. On the same date, counsel for the Respondent emailed Mr. Lin, requesting an adjournment of the petition hearing set for November 21, 2024, so that WestJet may bring an application prior to the petition hearing. The Petitioner responded on November 14, 2024, refusing to consent. Attached and marked as **Exhibit "G"** is a true copy of the email chain between Mr. Dery and Mr. Lin.
9. On November 21, 2024, the application filed on November 14, 2024, was adjourned generally by consent. Attached and marked as **Exhibit "H"** is a true copy of the Requisition adjourning the application filed November 21, 2024.
10. On December 9, 2024, Mr. Lin filed and served a Requisition under Rule 8-1(22) to seek directions on resetting the Respondent's initial application to be heard on March 24 to 25, 2025, before the presiding judge hearing the judicial review petition. The Petitioner scheduled the application for directions to be heard on January 13, 2025. Attached and marked as **Exhibit "I"** is a true copy of this Requisition and Mr. Lin's email serving same.
11. On January 13, 2025, Judge Brundrett dismissed the Petitioner's application for directions and ordered costs to be made payable to the Respondent by the Petitioner in the cause. Attached and marked as **Exhibit "J"** is a true copy of the Order, filed on February 6, 2025, reflecting the orders made by Judge Brundrett on January 13, 2025.
12. On February 5, 2025, WestJet was served with another class action, *Richard Zeller et al. v WestJet*, Court File No. VLC-S-S-250901, covering flight cancellations occurring after the work stoppage by the AMFA (the "Zeller Class Action"). Mr. Lin acts as counsel for the Plaintiffs in the Zeller Class Action. Attached and marked as **Exhibit "K"** is a true copy of the Notice of Civil Claim filed in that action.

- 3 -

13. Attached and marked as **Exhibit "L"** are true copies of excerpts from the *Corporate and Practice Manual for Charities and Not-for-Profit Corporations*, written by Jane Burke-Robertson et al., obtained on Westlaw Canada on February 18, 2024, titled the "general duties of directors" at section 9:2; the "fiduciary duty of directors to the corporation" at section 9:14; and "federal" at section 9:43.

AFFIRMED BEFORE ME at Vancouver,)
British Columbia on February 21, 2025)



A Commissioner for taking affidavits for
British Columbia.)



Ciarah Machado)

KATELYN CHAUDHARY
Barrister + Solicitor
ALEXANDER HOLBURN BEAUDIN + LANG LLP
2700 - 700 WEST GEORGIA ST.
VANCOUVER, BC CANADA V7Y 1B8

§ 9:2. Generally

CARTERCP-WL § 9:2 Corporate and Practice Manual for Charities and Not-for-Profit Corporations Corporate Maintenance (Approx. 5 pages)

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II. Standards of Care

A. Standard of Care for
Directors

§ 9:2. Generally

Corporate and Practice Manual for Charities and Not-for-Profit Corporations
Jane Burke-Robertson, Terrance S. Carter, Theresa L.M. Man

Part II. Corporate Maintenance

Chapter 9. Directors' and Officers' Duties and Liabilities

Original terms

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A. Standard of Care for Directors

§ 9:2. Generally

Legal Topics

BUS.III.1.g.vi Business associations—Specific matters of corporate
organization—**Directors** and officers—Fiduciary **duties**—MiscellaneousBUS.III.1.e.iii Business associations—Specific matters of corporate
organization—Directors and officers—Duty to manage—Miscellaneous

This is Exhibit " L " referred to in
the affidavit of Cianah machado
sworn before me at the City of Vancouver
this 21 day of February 20 25

[Signature]
A Commissioner for taking Affidavits
in and for the Province of British Columbia

In fulfilling their **duties, directors** of corporations, whether they are for-profit or not-for-profit, must accord with a certain standard of care derived from the common law and codified in most corporate legislation.¹ In this regard, directors of for-profit corporations, except for those in Nova Scotia and Prince Edward Island, are held to an objective standard of care under the CBCA as well as under provincial and territorial for-profit corporate legislation.² As a consequence, in exercising their **duties, directors** of for-profit corporations must act honestly and in good faith with a view to the best interests of the corporation, and exercise the care and diligence that a reasonably prudent person would exercise in comparable circumstances. Further, there are considerable due diligence issues that arise during an emergency or a health-related crisis such as the COVID-19 pandemic, discussed below.

Unfortunately for directors and officers of not-for-profit corporations, identifying the applicable standard of care that apply to them with any precision has not been simple. This is because the sources of law governing not-for-profit corporations are a melting pot of the law of trusts, the law of corporations and the prerogative jurisdiction over charitable property by the courts of equity.³ This difficulty has been described by one commentator as being:

... exacerbated by uncertainty about which standard of care is to be applied. Moreover, different persons or authorities may have jurisdiction to apply differing standards or to have the rights, duties and obligations enforced. These persons and authorities include: members of the organization; members of the public; the department incorporating the corporation; Canada Revenue Agency; provincial revenue departments;

departments responsible for labour and environmental legislation; the Attorneys General; the Public Guardian and Trustee in Ontario and the courts.⁴

As will be explained in sections 9:3 to 9:8, below, not-for-profit corporations that are incorporated either federally or at the provincial level in British Columbia, Ontario and Saskatchewan are subject to a statutory objective standard of care expressly provided for by not-for-profit corporate legislation in those jurisdictions, much like the CBCA and the provincial for-profit legislation mentioned above. However, the standard of care for directors and officers of not-for-profit corporations incorporated under other provincial and territorial regimes remains the common law subjective standard of care as articulated in *Re: City Equitable Fire Insurance Company Limited*.⁵ In this regard, directors of not-for-profit corporations in those jurisdictions, "need not exhibit in the performance of [their] duties a greater degree of skill than may reasonably be expected from a person of [their] knowledge and experience."⁶

This common law subjective standard of care is applied differently depending on the knowledge level of the person. Specifically, a more knowledgeable and sophisticated director will be subject to a higher standard of care than a less sophisticated one, and as such may find themselves more exposed to personal liability. The subjective standard of care has led to the imposition of an unequal standard of care on members of the same board and can therefore lead to uncertainty concerning the amount of reasonable prudence required from board members with differing degrees of knowledge and skill.⁷ While this might lead some to conclude that less sophisticated directors will be held to a lower standard of care by the courts, Industry Canada's *Primer for Directors of Not-for-Profit Corporations*⁸ has stated that this may not be the case:

[e]ven when the subjective standard of care applies, this does not mean that a director with few skills or little experience will escape liability. The conventional wisdom is that such a director is required to act in accordance with conduct expected of a reasonably prudent person. This means that a director without the skills required to meet that standard is obliged to acquire them, or some of them. A director must become informed if he or she is not already knowledgeable.⁹

In addition to the subjective standard of care at common law, directors of charitable corporations in dealing with charitable property are held to a high fiduciary standard of care as discussed in more detail later in section 9:18 of this chapter. In this regard, the Office of the Public Guardian and Trustee of Ontario ("OPGT") has stated that directors of Ontario corporations with charitable property "must handle the charity's property with the care, skill and diligence that a prudent person would use. They must treat the charity's property the way a careful person would treat their own property. They must always protect the charity's property from undue risk of loss and must ensure that no excessive administrative expenses are incurred."¹⁰

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Footnotes

¹ Andrew Kitching, Parliamentary Information and Research Service Paper PRB 08-25E, "Directors' Liability Under The

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II. Standards of Care

A. Standard of Care for Directors

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- Canada Business Corporations Act" (Ottawa: Library of Parliament, 2008).
- 2 *Business Corporations Act*, R.S.A. 2000, c. B-9, s. 122(1); *Business Corporations Act*, S.B.C. 2002, c. 57, Part 5—Management, s. 142(1); *The Corporations Act*, R.S.M. 1987, c. C225, s. 117(1); *Business Corporations Act*, S.N.B. 1981, c. B-9.1, s. 79(1); *Corporations Act*, R.S.N. 1990, c. C-36, s. 203(1); *Business Corporations Act*, S.N.W.T. 1996, c. 19, s. 123(1); *Business Corporations Act*, S.N.W.T. (Nu) 1996, c. 19, s. 123(1); *Business Corporations Act*, CQLR c. S-31.1, s. 119; *Business Corporations Act*, R.S.O. 1990, c. B.16, s. 134(1); *The Business Corporations Act*, R.S.S. 1978, c. B-10, s. 117(1); *Business Corporations Act*, R.S.Y. 2002, c. 20, s. 124(1).
- 3 Maurice C. Cullity, "The Charitable Corporation: A "Bastard" Legal Form Revisited", online: (2002) 17:1 *The Philanthropist* 2 at 17 <https://thephilanthropist.ca/2002/01/the-charitable-corporation-a-bastard-legal-form-revisited/>.
- 4 Donald J. Bourgeois, "Board Governance—When Does It Become Director's Negligence" (Paper delivered at the Canadian Bar Association/Ontario Bar Association 2nd National Symposium on Charity Law, 14 April 2004), online: Carters Professional Corporation <http://www.carters.ca/pub/article/charity/2004/djb0414.pdf> at 8.
- 5 Re: City Equitable Fire Insurance Company Limited, [1925] 40 ChD 41 [*Re City Equitable*].
- 6 Re: City Equitable Fire Insurance Company Limited, [1925] 40 ChD 41 [*Re City Equitable*].
- 7 William Innes, C. Michael Kray, & Brian J. Burke, "Selected Issues Regarding the Liability of Directors and Officers of Charitable and Nonprofit Corporations", online: (2004) 19:1 *The Philanthropist* 1 at 18 <https://thephilanthropist.ca/2004/07/selected-issues-regarding-the-liability-of-directors-and-officers-of-charitable-and-nonprofit-corporations1/>.
- 8 Jane Burke-Robertson, *Primer for Directors of Not-for-Profit Corporations* (Industry Canada, 2002). This publication is available online: Industry Canada [http://www.ic.gc.ca/eic/site/cilp-pdci.nsf/vwapj/Primer_en.pdf/\\$FILE/Primer_en.pdf](http://www.ic.gc.ca/eic/site/cilp-pdci.nsf/vwapj/Primer_en.pdf/$FILE/Primer_en.pdf).
- 9 Jane Burke-Robertson, *Primer for Directors of Not-for-Profit Corporations* (Industry Canada, 2002). This publication is available online: Industry Canada [http://www.ic.gc.ca/eic/site/cilp-pdci.nsf/vwapj/Primer_en.pdf/\\$FILE/Primer_en.pdf](http://www.ic.gc.ca/eic/site/cilp-pdci.nsf/vwapj/Primer_en.pdf/$FILE/Primer_en.pdf), at 16.
- 10 Ontario Public Guardian and Trustee, "Duties, Responsibilities and Powers of Directors and Trustees of Charities", (9 December 2010) online: Ministry of the Attorney General <http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/chart> [OPGT].

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**Part II. Corporate
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**Chapter 9. Directors' and
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II. Standards of Care

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§ 9:2. Generally

§ 9:14. Fiduciary Duty to the Corporation—Duty to Avoid Conflicts of Interest

CARTERCP-WL § 9:14 Corporate and Practice Manual for Charities and Not-for-Profit Corporations Corporate Maintenance (Approx. 4 pages)

[View Full TOC](#)**Part II. Corporate Maintenance****Chapter 9. Directors' and**[Return to list](#) 14 of 254 results**III. Common Law Duties of Directors and Officers****C. Specific Fiduciary Duties****§ 9:12. Fiduciary Duty to the Corporation****§ 9:13. --Duty to Act in Good Faith, Honestly and Loyally****§ 9:14. --Duty to Avoid Conflicts of Interest****§ 9:15. --Duty of Diligence****§ 9:16. --Duty of Obedience****§ 9:17. --Duty to Continue****§ 9:18. High Fiduciary Duties with Regard to Charitable Property****§ 9:19. --Duty to Carry out the Charitable Purpose**Corporate and Practice Manual for Charities and Not-for-Profit Corporations
Jane Burke-Robertson, Terrance S. Carter, Theresa L.M. Man

Part II. Corporate Maintenance

Chapter 9. **Directors' and Officers' Duties** and Liabilities[Original terms](#)[Reading Mode](#)

C. Specific Fiduciary Duties

§ 9:14. Fiduciary Duty to the Corporation—Duty to Avoid Conflicts of Interest**Legal Topics**BUS.III.1.g.vi Business associations—Specific matters of corporate organization—**Directors** and officers—Fiduciary **duties**—Miscellaneous

BUS.III.1.e.iii Business associations—Specific matters of corporate organization—Directors and officers—Duty to manage—Miscellaneous

Concerning the duty to act loyally, directors have a duty to avoid conflicts of interest. In this regard, in the context of both for-profit and not-for-profit corporations, the personal interest of directors must not come into conflict with their duty to act loyally in the best interests of the corporation. Conflicts of interest may arise when a corporation makes a decision and a director has a personal interest in the result of that decision which may affect the director's conduct and decisions.¹ Examples where conflicts of interest have been found at common law include where a director sells his or her own assets to the corporation,² acquires assets from the corporation,³ or proposes and supports a directors' resolution to transfer a society's land to the director for \$1.00 and other good and valuable consideration.⁴ A conflict of interest can also arise where a director sits on the board of two not-for-profit corporations that intend to contract with one another.⁵ The Supreme Court of Canada summarized the duty to avoid conflicts of interest in *People's Department Stores Ltd. (1992) Inc., Re*, stating that:

[Directors] must respect the trust and confidence that have been reposed in them to manage the assets of the corporation in pursuit of the realization of the objects of the corporation. They must avoid conflicts of interest with the corporation. They must avoid abusing their position to gain personal benefit. They must maintain the confidentiality of information they acquire by virtue of their position. Directors and officers must serve the corporation selflessly, honestly and loyally.⁶

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§ 9:12. Fiduciary Duty to the Corporation

§ 9:13. --Duty to Act in Good Faith, Honestly and Loyal

§ 9:14. --Duty to Avoid Conflicts of Interest

§ 9:15. --Duty of Diligence

§ 9:16. --Duty of Obedience

§ 9:17. --Duty to Continue

§ 9:18. High Fiduciary Duties with Regard to Charitable Property

§ 9:19. --Duty to Carry out the Charitable Purpose

The duty to avoid conflicts of interest was also illustrated in *Aberdeen Railway v. Blaikie Brothers*,⁷ where the House of Lords considered whether a contract between Aberdeen Railway and Blaikie Brothers was binding, given that Sir Thomas Blaikie was both the Chairman of the board of directors for Aberdeen Railway and the managing director of Blaikie Brothers. In this regard, the House of Lords held that fiduciaries must protect the interests of the corporations that they serve and avoid conflicts of interest by stating that "[s]o strictly is this principle adhered to, that no question is allowed to be raised as to the fairness or unfairness of a contract so entered into."⁸

Additionally, the Ontario Supreme Court stated in *Rose v. Rose*⁹ that the duty to avoid conflicts of interest extends to "any act where it is established that there is a direct conflict, and to cases where it may be reasonably said that such a conflict may arise."¹⁰

Where charitable property is involved, directors also have a higher fiduciary duty to avoid conflicts of interest with regard to the charitable property. This duty is discussed in section 9:21 below. For discussion of the statutory duty to avoid conflicts of interest under not-for-profit corporate legislation, along with exceptions provided under this legislation, see sections 9:58 to 9:64 below.

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Footnotes

- 1 Ontario Public Guardian and Trustee, "Duties, Responsibilities and Powers of Directors and Trustees of Charities", (9 December 2010) online: Ministry of the Attorney General [http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/chart](http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/chart[OPGT].)
- 2 See, for example, *Canada Safeway Co. v. Thompson* (1950), [1951] 3 D.L.R. 295 (B.C. S.C.).
- 3 See, for example, *Iron Clay Brick Manufacturing Co., Re* (1889), 19 O.R. 113 (Ont. H.C.).
- 4 See, for example, *Yukon Territory (Registrar of Societies) v. Leonard*, 1994 CarswellYukon 26 (Y.T. S.C.).
- 5 R. Jane Burke-Robertson & Arthur B.C. Drache, Non-Share Capital Corporations, loose-leaf, (Toronto: Carswell, 1992) ch. 5 at 6-13. See also *Aberdeen Railway v. Blaikie Brothers* (1854), [1843-1860] All E.R. Rep. 249 (H.L.) [*Aberdeen Railway*].
- 6 *People's Department Stores Ltd. (1992) Inc., Re*, 2004 SCC 68 (S.C.C.) at para. 35.
- 7 *Aberdeen Railway v. Blaikie Brothers* (1854), [1843-1860] All E.R. Rep. 249 (H.L.) [*Aberdeen Railway*].
- 8 *Aberdeen Railway v. Blaikie Brothers* (1854), [1843-1860] All E.R. Rep. 249 (H.L.) [*Aberdeen Railway*].
- 9 *Rose v. Rose* (1915), 22 D.L.R. 572 (Ont. C.A.).
- 10 *Rose v. Rose* (1915), 22 D.L.R. 572 (Ont. C.A.), at 574-75.

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**III. Common Law Duties
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§ 9:12. Fiduciary Duty to
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§ 9:13. --Duty to Act in
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§ 9:14. --Duty to Avoid
Conflicts of Interest

§ 9:15. --Duty of Diligence

§ 9:16. --Duty of Obedience

§ 9:17. --Duty to Continue

§ 9:18. High Fiduciary
Duties with Regard to
Charitable Property

§ 9:19. --Duty to Carry out
the Charitable Purpose

§ 9:43. Federal

CARTERCP-WL § 9:43 Corporate and Practice Manual for Charities and Not-for-Profit Corporations Corporate Maintenance (Approx. 3 pages)

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§

C. Relief from Duties under a Unanimous Member Agreement

V. Statutory Duties Under
Not-for-Profit Corporate
LegislationC. Relief from Duties under
a Unanimous Member
Agreement

§ 9:43. Federal

§ 9:44. Saskatchewan

§ 9:45. Other Provinces and
Territories

§ 9:43. Federal

Legal Topics

BUS.III.1.e.iii Business associations—Specific matters of corporate
organization—Directors and officers—Duty to manage—Miscellaneous

As referenced above in sections 9:43 to 9:45, an interesting feature of the CNCA is the introduction of a unanimous member agreement option in section 170. A unanimous member agreement is an agreement that restricts, in whole or in part, the powers of the directors to manage, or supervise the management of, the activities and affairs of the corporation. Subsection 170(5) provides that the parties to the agreement¹ who are given those powers have all the rights, powers, duties and liabilities of a director of the corporation, whether they arise under the act or otherwise to the extent that the agreement restricts the directors' powers, thereby relieving directors from responsibility. As such, the decision-making authority would be shifted to the parties to the unanimous member agreement and they arguably would have the same fiduciary **duties** as those **directors** otherwise would have had.

However, members may *not* enter into a unanimous member agreement if they are members of a corporation that is a "soliciting corporation" as defined in subsections 2(1) and 2(5.1) of the CNCA,² with the relevant time periods and prescribed monetary amounts set out in section 16 of the regulations.³ For more information on soliciting and non-soliciting corporations, see §§ 3:1 et seq., "Incorporation of Federal Non-Share Corporations".

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Footnotes

- 1 "Parties" to the agreement may be "all the members of a corporation that is not a soliciting corporation" or "all the members and one or more persons who are not members" as per the definition of unanimous member agreement in subsection 170(1) of the CNCA.
- 2 For further information on soliciting and non-soliciting corporations, see §§ 3:1 et seq., "Incorporation of Federal Non-

Share Corporations".

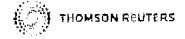
3

Canada Not-for-profit Corporations Regulations, SOR/2011-223.

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V. Statutory Duties Under Not-for-Profit Corporate Legislation

C. Relief from Duties under a Unanimous Member Agreement

§ 9:43. Federal

§ 9:44. Saskatchewan

§ 9:45. Other Provinces and Territories

NO. NEW-S-S-254452
NEW WESTMINSTER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *JUDICIAL REVIEW PROCEDURE ACT*, RSBC 1996, c 241

BETWEEN:

AIR PASSENGER RIGHTS

PETITIONER

AND:

WESTJET AIRLINES LTD.

RESPONDENT

REPLY

1. These are the reply submissions of WestJet Airlines Ltd. (“WestJet”) to the application response of the Petitioner filed January 22, 2025. The application is set to be heard on February 26, 2025.
2. For the purposes of these submissions, WestJet will use the same defined terms as those used in its application filed January 15, 2025.

Factual Objections

3. APR’s application response (the “Response”) is artificially granular, and it improperly asks the Court to: (1) decide on a preliminary issue; and (2) assess its merits. These are matters which ought to be heard and argued before the judge hearing the petition.
4. In response to paragraph 1 of the Response, WestJet says that the application filed on November 14, 2024 (the “Initial Application”), was adjourned generally by consent after no judge was available to hear the petition. The Petition was rescheduled for a two-day hearing on March 24 and 25, 2025, in Vancouver.
5. WestJet denies that it “abandoned” the Initial Application for the unsubstantiated reasons set by the Petitioner in the Response.
6. To be clear, WestJet seeks to ensure that the judge hearing the petition has before them the law and the facts that will best aid the Court in its consideration of the interesting preliminary issues set out in its Amended Response to Petition, specifically in support of its position that:
 - a. the petitioner does not have standing to bring this judicial review; and
 - b. the purported Assignment is invalid at law.
7. The chronology provided by the Respondent largely raises facts that are irrelevant to this application or are wholly incorrect, and in particular:

- a. Paragraphs 25, 27, 28(b), 35, 40 — WestJet says that argument relating to the law of maintenance and champerty is to be considered by the judge hearing the petition and not the application judge.
- b. Paragraphs 29, 30 — On October 28, 2024, APR addressed a letter to counsel for the Respondent and requested that WestJet provide it with a response by an arbitrarily imposed deadline of November 1, 2024. WestJet responded to the letter on November 4, 2024.

Affidavit #4 of Ciarah Machado (“Machado #4”) at Exhibits “C” and “D”

- c. Paragraph 37— WestJet provided APR with the basis for its request to include Ms. Machado’s second affidavit (“Machado #2”) as part of the Petition Record and continued to prepare for the Initial Application until it was adjourned by consent.

Machado #4 at Exhibit “D”

- d. Paragraphs 29, 30, 36, 38 — cross-examination on an affidavit is a discretionary right provided for by the *Rules*, specifically Rules 1-3, 14-1 and 22-1(4). It is for the Court to determine whether this order is to be granted, and not the Petitioner. The petition hearing is scheduled for March 24, and 25, 2025.

Notice of Application filed January 15, 2025 (“NOA”), at p. 5;

Machado #4 at para 10

- e. Paragraphs 32 to 34 — WestJet says that it has the right to bring this application pursuant to the *Rules* and to request the orders sought.

NOA at p. 5

- f. Paragraphs 42 to 43 — On November 25, 2024, APR set another arbitrarily imposed deadline of November 29, 2024, for WestJet to reset the Initial Application. This was wholly unreasonable, considering counsel’s respective busy practices. APR then brought an application for directions to restrict WestJet from bringing this application until the date of the petition hearing. That application was dismissed.
- g. Paragraph 44 — Judge Brundrett, in dismissing APR’s application for directions, advised APR that WestJet has the right to bring this application, and that it will be up to the application judge to determine whether the orders sought will be granted. The Court was clear that it is not for the Petitioner to pre-emptively decide when or whether WestJet’s application will be heard prior to WestJet bringing its application.

Second Affidavit of C. Machado

- 8. In direct response to paragraphs 76 to 84, Ms. Machado’s second affidavit was served upon the plaintiffs on October 25, 2024.

Machado #4 at Exhibit “B”

9. Machado #2 consists of publicly filed pleadings in a proposed class action proceeding brought against WestJet, in the matter of *Alexandra Fox v. WestJet*, Court File No. VLC-S-S-244546 in the Vancouver Registry (the “Fox Class Action”). This affidavit is limited to including the Notice of Civil Claim and WestJet’s Response to Civil Claim.

Machado #2 at Exhibits “A” and “B”

10. The Applicants were forced to bring the application filed November 14, 2024, upon the basis that APR: (1) refused WestJet’s reasonable request to include Machado #2 in the Petition Record; and (2) unilaterally filed the Petition Record prior to the original hearing date of November 21, 2024 (the “Original Petition Date”).

Machado #4 at Exhibits “A” to “G”

11. The Fox Class Action covers flight cancellations relating to a work stoppage by the Aircraft Mechanics Fraternal Association (“AMFA”) and covers flight cancellations prior to the AMFA work stoppage. Mr. Simon Lin acts as class counsel in the Fox Class Action.

Machado #2 at Exhibit “A”

12. On February 5, 2025, an almost identical proposed class action proceeding was brought, *Richard Zeller et al. v WestJet*, Court File No. VLC-S-S-250901, which covers flight cancellations occurring after the work stoppage by AMFA (the “Zeller Class Action”). Mr. Lin acts as class counsel in the Zeller Class Action.

Machado #4 at Exhibit “K”

13. This judicial review relates to the questions of law raised in the Petition. Specifically, the Petitioner asks the Court to interpret whether the term “labour disruption” in s.10(1)(j) of the *Air Passenger Protection Regulations (SOR/2019-150)* includes the minimum 72-hour statutory notice period before a strike under the *Canada Labour Code (R.S.C., 1985, c. L-2)*. The Fox Class Action and the Zeller Class Action (collectively, the “Class Actions”), ask the same (or similar) questions. The Court’s determination of these issues will affect the Court’s determination of “labour disruption” with respect to the Class Actions.

Petition at Part 2, paras 2 to 3; Machado #4 at Exhibits “D” and “K”

14. The Court, at the petition hearing, must first consider whether APR *can* even bring this petition for judicial review, considering that the Assignment was entered into *after* the Tribunal had already issued its decision and order.

Affidavit #1 of Ciarah Machado at Exhibits “A” and “B”

15. In response to the whole of the Response, WestJet says that the Response largely consists of argument on the preliminary issues raised by WestJet’s Amended Response to Petition, and specifically, the issue of maintenance and champerty—which is to be considered at the petition hearing and is *not* a question for the application judge.

16. On November 13, 2024, WestJet again requested an adjournment of the Original Petition Date so that it could bring an application prior to the petition hearing. APR unreasonably refused to consent to Ms. Machado's affidavit forming part of the petition record, and refused to adjourn the petition hearing, stating that "WestJet's predicament was its own making".

Machado #4 at Exhibit "G"

17. At the material time, the Petitioner could not point to any real urgency or prejudice suffered by APR if the Original Petition Date was to be adjourned.

Machado #4 at Exhibit "G"

18. Ultimately, on the Original Petition Date, no judge was available to hear the petition. The Petition was rescheduled for a two-day hearing on March 24 and 25, 2025, in Vancouver.

19. The same day, APR and WestJet consented to adjourn the application filed November 14, 2024, generally.

Machado #4 at Exhibit "H"

20. On December 9, 2024, shortly after the general adjournment of the Initial Application, the Petitioner filed a Requisition under Rule 8-1(22) for directions to reset WestJet's application. This application for directions was set for hearing on January 13, 2025. This was a blatant attempt by the Petitioner to restrain WestJet's right to bring an application for cross-examination and to tender further affidavits pursuant to the *Rules*, and specifically, to pre-emptively prevent WestJet's application from being heard until the hearing of the Petition.

Machado #4 at Exhibit "I"

21. On January 13, 2025, at the Petitioner's application for directions, Judge Brundrett was alive to this problem, and made it known to the Petitioner that it cannot restrain WestJet's right to bring an application pursuant to the *Rules*. Costs were ordered against APR in the cause.

Machado #4 at Exhibit "J"

22. Further, Judge Brundrett confirmed that WestJet may bring a second application, which WestJet has done by filing this application.

23. WestJet seeks to rely on Machado #2 to substantiate its argument respecting maintenance and champerty, a preliminary issue at the petition hearing.

Machado #4 at Exhibit "D"

24. In addition to the orders sought by WestJet in the within application, WestJet seeks to include the Zeller Class Action in the Petition Record. The Zeller Class Action was filed on February 5, 2025, and served upon WestJet *after* this application had been filed, and as such, does not form part of WestJet's previously filed materials.

Machado #4 at Exhibit "K"

25. WestJet respectfully seeks leave from this court to include Ms. Machado's fourth affidavit in the petition record, filed in support of this reply. WestJet intends to point to the newly brought Zeller Class Action to further its position on the issue of maintenance and champerty at the petition hearing.
26. WestJet seeks to question Dr. Lukacs on his knowledge of the Zeller Class Action in addition to the Fox Class Action, with respect to the factual circumstances surrounding the Assignment.

Machado #4 at Exhibit "K"; Affidavit #1 of Gabor Lukacs ("Lukacs #1") at Exhibit "B"

27. WestJet, in seeking to rely upon Machado #2 and #4, is not advancing new argument. The pleadings relating to the Class Actions will be referred to in the context of the arguments set out in WestJet's Amended Response to Petition, at paragraphs 47 to 56.
28. APR's actions thus far in this judicial review, including but not limited to its communications to WestJet's counsel, APR's refusal to consent to the admissibility of Machado #2, APR's refusal to adjourn the Original Petition Date, and its opposition to WestJet bringing an application for the cross-examination of Mr. Lukacs to properly consider the circumstances of the Assignment, indicate APR's intention to restrict the scope of the judicial review so that it, or Mr. Lin, may rely upon a potentially favourable decision in both of the Class Actions.
29. Contrary to the Petitioner's *inaccurate* assertions respecting WestJet's motives in bringing this application and WestJet's request for an additional day to ensure sufficient time for the hearing of the petition, there are preliminary issues to be addressed at the start of the hearing, including the following: (1) whether the Petitioner has standing; and (2) whether the Assignment is invalid. These are lengthy issues and will require submissions by the Petitioner and WestJet. The Court's consideration of these issues will be assisted by the proposed cross-examination. The two-day time estimate requested by WestJet was made considering these issues.
30. For the Court to render a proper determination on the preliminary issues, further evidence respecting the Assignment is required.

Legal Considerations

31. WestJet respectfully submits that APR's objections to the orders sought are without merit.

Cross-Examination of Dr. G. Lukacs

32. In response to part 5, paragraph 46 of APR's application response, WestJet notes that APR declines to address the factual circumstances of the Assignment that render the law raised by APR distinguishable.
33. In direct response to paragraphs 47 to 56, WestJet says that the narrow test for cross-examination on a judicial review petition is not applicable nor appropriate in these circumstances, because the order sought for cross-examination only seeks information relating to the Assignment itself, and not the factual circumstances before the Tribunal.
34. The Courts are very clear *why* they are reluctant to permit cross-examination on judicial review:
- a. to prevent re-litigation; and
 - b. it is simply not the role of the Court on judicial review to investigate the facts before the Tribunal.

Eastside Pharmacy Ltd. v British Columbia (Minister of Health),
2019 BCCA 60 at 59

35. The above sentiment is a reflection of the *purpose* of judicial review generally. The Court of Appeal says that, except in limited circumstances, the court sitting on judicial review of an administrative decision may not consider evidence which did not form part of the record before the decision-maker, and to do so, would usurp the role of the decision-maker.

Actton Transport Ltd. v. British Columbia (Director of Employment Standards),
2010 BCCA 272 at 19-23

36. The Supreme Court of Canada is also clear that, except in limited circumstances, the court may not consider as a ground for review an issue never raised before the Tribunal, and to do so, would *undermine* the integrity of the administrative scheme.

Alberta Teachers' Assn. v. Alberta (Information & Privacy Commissioner),
2011 SCC 61 at paras 22-26

37. Cross-examination on an affidavit pursuant to a petition for judicial review is a narrow test. The Court's task is *not* to investigate the facts before the Tribunal—it is to consider the same facts that ultimately underly the judicial review, upon which the Tribunal rendered its decision.
38. WestJet is *not* requesting that the Court investigate the findings of fact made by the Tribunal.

39. WestJet requests that the Court permit the consideration of the facts respecting the Assignment, only to the extent that it supports its argument respecting preliminary issues.
40. The Assignment was entered into after the reasons for judgment had been rendered and the Assignment was never a question of fact before the Tribunal. APR is not the original claimant that had brought the claim to the Tribunal.
41. This judicial review is essentially an appeal of a decision brought by an unrelated party to the original action. It is not an assignment of a debt. The preliminary issues raised by WestJet will aid the court in determining whether APR *can* bring this judicial review.
42. In this case, the Assignment was never before the Tribunal. WestJet submits that it is in the interests of justice that the court permit the investigation of the facts and circumstances arising from the Assignment, which consists of a contract never before the Tribunal (and entered after the Decision had already been rendered), the same contract that is purported to provide the Petitioner the right to bring a judicial review of a decision, of which it would otherwise have no interest in.
43. Since the Assignment is “new” evidence, it would be unjust to prevent or restrain WestJet or the Court from considering this new evidence and *how* it affects APR’s ability to bring a judicial review. The Assignment itself serves as an attempt to re-litigate issues already decided by the Tribunal, contrary to the very purpose of limited cross-examination on judicial review as stated.

Assignment /Champerty

44. In direct response to paragraphs 59 to 68, WestJet says that the Assignment, (specifically the right to judicially review a decision made by the Tribunal) is not an assignment of debt nor an assignment of a chose in action.
45. The Assignment in this judicial review attempts to transfer the *right* to judicially review a final decision issued by the Tribunal on July 5, 2024, arising from a claim brought by a different party. An assignment of the right to judicially review a decision is not an assignment of debt.
46. A chose in action is a right to sue, and it includes the right to recover personal property, the right to recover debts, the right to recover damages in contract or tort or for failure to perform a duty owed.

1773907 Alberta Ltd v Davidson, 2015 ABCA 150

47. Regardless of the characterization by *APPR* of a “debt”, the Decision has been issued. The Assignment, specifically the transfer of the Claimants’ right to judicially review the Decision, is not assignable at law as an assignment of debt.
48. APR has not provided any authority for a claimant assigning a right to appeal (or judicial review) to an entity that bears no real legal connection to the original claim after a final decision has been made.

Topics for Cross-Examination and Further Evidence

49. In response to paragraphs 69 to 75, WestJet says that the Assignment, after the Tribunal released the Decision, raises numerous questions—the answers to which, will provide further information of the circumstances surrounding the Assignment and its validity.
50. Again, the Assignment is new evidence that was not before the Tribunal. WestJet and the Court ought to consider whether the factual circumstances will support an argument respecting the preliminary issues and provide further clarification to the judge hearing the petition. This Court’s consideration of these issues will ultimately determine whether the Petitioner can bring this Petition for judicial review.
51. The proposed topics for cross-examination are confined to Dr. Lukacs’ affidavit, and the material facts in question surrounding the Assignment.
52. APR focuses its Response on objections to potential evidence. If the order for cross-examination is granted, the weight of the evidence provided by Dr. Lukacs will ultimately be determined by the Court in its consideration of the preliminary issues.
53. Since the proposed cross-examination of Dr. Lukacs is specifically with respect to the Assignment, the facts of which were not before the Tribunal, further evidence concerning the Assignment may arise. In that case, WestJet seeks to tender this evidence to support its argument on the preliminary issues set out in its Amended Response to Petition and the subject application.

Duties of Directors

54. The Petitioner’s counsel, in distinguishing “inside” and “outside” directors, seemingly overlooks the general duties of directors, including a director’s fiduciary duty and duty of loyalty.
55. Concerning the duty to act loyally, directors have a duty to avoid conflicts of interest.

In this regard, in the context of both for-profit and not-for-profit corporations, the personal interest of directors must not come into conflict with their duty to act loyally in the best interests of the corporation. Conflicts of interest may arise when a corporation makes a decision and a director has a personal interest in the result of decision which may affect the director’s conduct and decisions.

§ 9:14. Fiduciary Duty to the Corporation—Duty to Avoid Conflicts of Interest

Machado #4 at Exhibit “L”

56. WestJet respectfully submits that Petitioner’s counsel, as class counsel in the Class Actions, has a personal interest in the success of the Class Actions. The cross-examination of Dr. Lukacs, if permitted, will provide further facts to support WestJet’s argument in maintenance and champerty;

A champertous agreement is void and cannot be enforced. Whenever the right of a plaintiff, in respect of which he or she sues, is derived under a title founded in champerty or maintenance, the suit will on that account necessarily fail. If a

champertous agreement, affecting the contract sued upon, is embodied in a document put in evidence by the plaintiff, and the character of it is thereby plainly disclosed, or if the nature of it plainly appears from other evidence adduced by the plaintiff, then if the court is satisfied it has before it all the facts, the plaintiff must necessarily fail.

CED Actions (Western) § 52, Prepared by Joan E. Dunlop, B.A., LL.B.:
August 2005, Updated by the legal editorial staff of Thomson Reuters
Canada: August 2022

57. The cross-examination of Dr. Lukacs will ensure that the Court has before it the evidence required to properly determine the preliminary issues.

All of which is respectfully submitted.

February 21, 2025

A handwritten signature in black ink, appearing to read 'Michael Dery', written over a horizontal line.

Michael Dery
Counsel for WestJet Airlines Ltd.

No. NEW-S-S-254452
NEW WESTMINSTER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

AIR PASSENGER RIGHTS

PETITIONER

AND

WESTJET AIRLINES LTD.

RESPONDENT

PETITIONER'S ORAL ARGUMENT OUTLINE

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Assignment of a Debt Are Not Champertous and WestJet's Argument is a Red Herring

1. There are two aspects to the assignment [Petition Record (**PR**), Tab 6, Affidavit of Dr. Lukacs at Exhibit B]:
 - a. Assignment of the judgment debt of \$355.53 that has been awarded.
 - b. Assignment of the \$2,000 debt, the fixed standard compensation amount for delays or cancellations under the *Air Passenger Protection Regulations* [**APPR**]
2. *International Air Transport Association v. Canada (Transportation Agency), 2024 SCC 30* [**BOA, Tab 2**]
 - a. **Paras. 97, 94, 95 and 89-90** – the Supreme Court of Canada already determined that the fixed standard compensation for delays and compensation under the *APPR* is a debt.
 - b. **Para. 86** – the *APPR* obligations are also deemed to form part of the contract of carriage. In other words, the \$1,000/passenger debt is written into the passenger contracts.
 - c. The issue that was disputed in this Supreme Court case was the standard compensation amounts, not the obligations for reimbursement for out-of-pocket expenses. There is a distinction between “compensation” and “reimbursement.”
3. *Reshaur v. WestJet Airlines Ltd., 2024 BCCRT 1278 and Pansegrau v. Air Canada, 2024 BCCRT 1297* [**BOA, Tabs 3-4**]
 - a. The CRT's written submissions confirm they have changed their position after the SCC decision above.
 - b. The CRT rendered two decisions following the SCC guidance.

- c. WestJet's attempt to re-argue the issue on whether standardized compensation is a "debt" is an abuse of process. WestJet effectively conceded the issue in *Reshaur* and did not seek judicial review of the decision, and the time for doing so had expired on February 17, 2025.
- d. Taking different positions on the same legal issue in two proceedings may amount to an abuse of process.

4. *Interclaim Holdings Limited v. Down*, 2001 BCCA 65 [BOA, Tab 5]

- a. **Paras. 2 and 33** – In that case, the Court of Appeal noted that the Respondent's argument about champerty should never have been entertained and was simply a red herring. **This is precisely the case here.**
- b. **Paras. 22-25** – It is undisputed that for assignment of **tort claims** that there may need to be a "pre-existing commercial interest." The problem with the Respondent's argument is that the claim for *APPR* compensation is not a tort claim. The CRT agrees with the Petitioner that this case involves a debt.
- c. **Para. 26** – The Court of Appeal confirmed that the "pre-existing commercial interest" requirement does not apply to assignment of debts, which is precisely the case here. There can be no objection in assignment of debts, and it cannot be champertous. Notably, **even if** the debtor denies liability, it does not change the character of the claim as an action for a debt.

5. *Argo Ventures Inc. v Choi*, 2019 BCSC 86 [BOA, Tab 6]

- a. **Paras. 12-27** – the same champerty defense was raised and the Court found that the defense was **bound to fail on its face**, and refused to amend the pleadings despite a very low threshold. This directly bears on whether WestJet can establish a triable issue here, which is a slightly higher threshold.
- b. **Para. 16** – this Court cited *Fredrickson* confirming debts can be assigned

- c. **Para. 17** – causes of action for breach of contract can be assigned without raising concerns for champerty
 - i. **Material distinction** between assignment of the contract itself vs. assignment of a cause of action for damages arising out of an executed contract. Applied in this context, the “contract of carriage” (i.e., air ticket) may arguably be a “personal contract” and not freely assignable. **However**, in this case, the assigned rights fall in the “cause of action for damages arising out of an executed contract.” (i.e., the contract of carriage was executed/performed)
- d. **Paras. 18-22** – again the court repeats the long-standing proposition that a debt can be assigned without concern for champerty. The Court also reviewed various formulations of “debt”, all of which would cover the *APPR* amounts in this case
- e. **Para. 24** – Even if the claim here is characterized as damages for breach of contract, it is assignable as a chose in action under s. 36 of the *Law and Equity Act* – this is what is usually referred to as a “statutory assignment” or “legal assignment”. This is in contrast to the “equitable assignment” or “assignment in equity”. In general, an “equitable assignment” or “assignment in equity” is more flexible but at the same time attracts various equitable considerations such as champerty and maintenance.
- f. **Para. 25** – legal assignment of a debt or chose in action (i.e., cause of action) cannot be champertous. Criteria that may be considered in assessing whether there is champerty does not apply to legal assignments.
- g. This Court has confirmed that assignments of real estate deposits are considered assignments in “debt.” Recovering real estate deposits has a whole laundry list of issues: (a) validity of contract; (b) subject removal; (c) repudiation; (d) good faith; etc.

6. *The Plant Software inc. v. 9123 Investments Ltd., 1999 CanLII 6218 (BC SC)*

[BOA, Tab 7]

- a. **Paras. 8-9 – no requirement** that an assignment of debt meet the test of legitimate commercial interest
- b. **Para. 10 – debt is property that can be assigned and standard outside the rules of maintenance and champerty**

7. *Mullins v. Morgan, 2010 ONSC 5640* [BOA, Tab 8]

- a. **Para: 36 –** there could not be “stirring up” litigation here since the CRT case already existed before the assignment
- b. **Para. 39 –** common commercial practice for one party to assign an interest in a debt to another person.
- c. **Para. 41 -** it is a longstanding proposition since 1876 that assignment of a debt is not champerty – also citing *Plant Software* [BOA, Tab 7]

8. *Clark v. Werden, 2011 ONCA 619* [BOA, Tab 9]

- a. **Paras. 15-16 –** the law is clear that an assignment of a debt is not champertous
- b. **Para. 16 – motive of the person accepting the assignment is irrelevant**

9. *FITZROY v. CAVE*. [1905] 2 K.B. 364 [BOA, Tab 10]

- a. P. 366 – the assignee’s inner motives for receiving an assignment does not turn a lawful transaction into an unlawful one (i.e., if the assignment is legally valid under s. 36 of the *Law and Equity Act*, the Court does not open up each and every transaction to inquire **why** the assignment was entered into).

10. Civil Procedure Encyclopedia [BOA, Tab 11]

- a. 8-40: The leading commentary confirms that judgments or judgments debts can be assigned and is not champerty.
- b. 8-42: Assigning a debt cannot be champertous.

11. It is plain that the *APPR* amounts are debt owing, and assignment of a debt is not champertous. Even if those amounts are somehow characterized as damages for breach of the contract of carriage (which would be contrary to the SCC guidance to begin with), it still cannot be champertous

Statutory Assignments under Section 36 of the *Law and Equity Act* are Not Champertous

12. Fredrickson v. I.C.B.C., 1986 CanLII 1066 (BC CA) [BOA, Tab 12]

- a. This is the leading case on **equitable** assignments and champerty/maintenance.

13. Fredrickson v. Ins. Corp. of B.C., 1985 CanLII 510 (BC SC) [BOA, Tab 13]

- a. **Paras. 13, 20, and 28** – this Court confirmed that there was two types of assignments. Equitable and legal. In *Fredrickson*, the Court was **only** dealing with equitable assignments, not legal assignments.
- b. **Para. 28** – maintenance and champerty is an argument in equity. The assignment in this case is a legal assignment and would not be subject to these equitable arguments – see *Argo Ventures Inc. v. Choi* [BOA, Tab 5]

The Residual “Standing” Issue

14. Guraya v. Kaila, 2019 BCCA 367 – [BOA, Tab 15]

- a. **Paras. 15-18** – the legal assignment is one that meets all the statutory requirements of s. 36 of the *Law and Equity Act*. It is given effect by statutory law – not equity.
- b. There is no dispute here that the assignment was: (a) absolute; (b) signed by the assignors; (c) and notice was given to the debtor – WestJet [PR, Tab 6, Affidavit of Dr. Lukacs at Exhibits B-C]
 - i. As a side note, WestJet initially made a number of arguments about the admissibility of Dr. Lukacs’ affidavit including the argument that it could not be sworn remotely unless there was explicit approval from the Law Society (PR, Tab 3, paras. 94-98)
 - ii. WestJet has since abandoned that argument (PR, Tab 3, stricken out paras. 94-98)
- c. WestJet’s “champerty” argument mirrors their approach on the affidavit argument
 - i. It was brought to their attention in September that it was wholly without merit, and the pertinent cases above were brought to WestJet’s attention. WestJet simply responded with “we disagree.”
 - ii. In that same correspondence, WestJet had no choice but to withdraw the affidavit argument as it was plainly impossible.
 - iii. We will see later there is another argument from WestJet that is of this nature.

15. Stevenson v. Popoff, 1995 CarswellBC 2305, [1995] B.C.W.L.D. 2784 [BOA, Tab 15]

- a. **Para. 7** – section 32 of the 1979 *Law and Equity Act* is the same as the current s. 36 of the *Law and Equity Act*
- b. **Para. 11** – any rights held by the assignor for the debt cannot be invoked, and must be brought by the assignee

16. Supreme Court Civil Rules, Rule 6-2(3) and 22-7 [BOA, Tab 15]

- a. Section 36 of the *Law and Equity Act* is the **substantive law** answer to the “standing” issue raised by WestJet:

Assignment of debts and choses in action

36 (1)An absolute assignment, in writing signed by the assignor, not purporting to be by way of charge only, of a debt or other legal chose in action, of which express notice in writing has been given to the debtor, trustee or other person from whom the assignor would have been entitled to receive or claim the debt or chose in action, is and is deemed to have been effectual in law, subject to all equities that would have been entitled to priority over the right of the assignee if this Act had not been enacted, to pass and transfer the legal right to the debt or chose in action from the date of the notice, and **all legal and other remedies** for the debt or chose in action, and the power to give a good discharge for the debt or chose in action, **without the concurrence of the assignor.**

(2)If the debtor, trustee or other person liable in respect of the debt or chose in action has had notice that the assignment is disputed by the assignor or anyone claiming under the assignor, or of any other opposing or conflicting claims to the debt or chose in action, the debtor, trustee or other person

(a)is entitled to call on the persons making the claim to interplead concerning the debt or chose in action, or

(b)may pay the debt or chose in action into court, under and in conformity with the [*Trustee Act*](#).

- b. Rule 6-2(3) is the **procedural law** answer to the issue. The Rules expressly allow an assignee to step into the shoes of an assignor.

17. There is nothing inherently improper for an assignee, whether in an action, petition, or any other proceeding before this court, to step into the assignor's shoes under Rule 6-2(3).

18. Conversely, it would have been technically incorrect for the assignors to have filed the petitioner for judicial review, since their interest has already been "severed" on July 24, 2024.

19. **None** of the authorities cited by WestJet and the CRT regarding "private interest standing" or "public interest standing" dealt with situations involving assignments.

- a. There is no logic in the argument that an assignee could not step into the shoes of the assignor.

20. *Fredrickson v. I.C.B.C.*, 1986 CanLII 1066 (BC CA) [**BOA, Tab 8**]

- a. **Para. 8** – the Court of Appeal did not dismiss the case on such a technicality even when it involved an equitable assignment – a type of assignment that requires adding the assignor as a party.
- b. In effect, the BCCA was applying Rule 22-7(1) and treated the non-compliance as an irregularity as opposed to a nullity that nullifies the proceeding

21. Rule 22-7 is also applicable here

- a. Even if there was some sort of "standing" issue, the proceeding is at best an irregularity and not a nullity
- b. Furthermore, WestJet failed to bring an application within a "reasonable time" before taking a fresh step after knowledge of the alleged irregularity
- c. WestJet filed the Response to Petition without bringing any application to challenge the standing issue
- d. The Rules expressly require bringing of an application.

22. Cozzella v Tri Star Group Inc, 2024 CanLII 15081 (ON SCSM) [BOA, Tab 17]

- a. A judgment can be amended to include the assignee

Standard of Review in a CRT Small Claims Decision

23. *Roy's Tile Installation & Decoration Ltd. v Acouteria Renovations Inc.*, 2022 BCSC 2266 at para. 16 [BOA, Tab 18]

24. The applicable standard of review to CRT small claims decisions are set out in the *Civil Resolution Tribunal Act*:

Definitions and interpretation

1(1) *In this Act:*

...

"exclusive jurisdiction" means the jurisdiction of the tribunal in respect of certain claims, under section 115 [exclusive jurisdiction of tribunal — privative clause];

...

"specialized expertise" means the expertise that the tribunal is to be considered to have in respect of certain claims, under section 116 [specialized expertise of tribunal];

(3) For the purposes of this Act, the tribunal has exclusive jurisdiction in respect of a claim if the claim is in a claim category in respect of which the applicable Division of Part 10 provides that the tribunal has exclusive jurisdiction.

(4) For the purposes of this Act, the tribunal is to be considered to have specialized expertise in respect of a claim if the claim is in a claim category in respect of which the applicable Division of Part 10 provides that the tribunal is to be considered to have specialized expertise.

Standard of review — other tribunal decisions

56.8(1) This section applies to an application for judicial review of a decision of the tribunal other than a decision for which the tribunal must be considered to be an expert tribunal under section 56.7.

(2) The standard of review to be applied to a decision of the tribunal is correctness for all questions except those respecting

(a) a finding of fact,

(b) the exercise of discretion, or

(c) the application of common law rules of natural justice and procedural fairness.

(3) The Supreme Court must not set aside a finding of fact by the tribunal unless

(a) there is no evidence to support the finding, or

(b) in light of all the evidence, the finding is otherwise unreasonable.

(4) The Supreme Court must not set aside a discretionary decision of the tribunal unless it is patently unreasonable.

(5) Questions about the application of common law rules of natural justice and procedural fairness must be decided having regard to whether, in all of the circumstances, the tribunal acted fairly.

Part 10 — Tribunal Jurisdiction

...

Exclusive jurisdiction of tribunal — privative clause

115 (1) If, under section 1 (3), the tribunal has exclusive jurisdiction in respect of a claim category, or a class of claims in a claim category, the tribunal has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising under this Act or required to be determined by the tribunal under this Act, and to make any order permitted by this Act to be made, in respect of the claim category or the class of claims in the claim category.

(2) A decision of the tribunal made in a claim in respect of which the tribunal has exclusive jurisdiction is final and binding on the parties, except the decision may be judicially reviewed in accordance with Part 5.1 [Judicial Review of Tribunal Decisions].

Specialized expertise of tribunal

116(1) If, under section 1 (4), the tribunal is to be considered to have specialized expertise in respect of a claim category, or a class of claims in a claim category, the tribunal is to be considered to have specialized expertise to inquire into, hear and determine all those matters and questions of fact, law and discretion arising under this Act or required to be determined by the tribunal under this Act, and to

make any order permitted by this Act to be made, in respect of the claim category or the class of claims in the claim category.

(2) A decision of the tribunal made in a claim in respect of which the tribunal is to be considered to have specialized expertise is final and binding on the parties, except the decision may be judicially reviewed in accordance with Part 5.1 [Judicial Review of Tribunal Decisions].

25. The CRT does not have “exclusive jurisdiction” over small claims. The CRT also does not have “specialized expertise” in relation to small claims (i.e., see ss. 118-119 of the *Civil Resolution Tribunal Act*).

26. In other words, questions of law decided by the CRT is subject to correctness review.

27. *Boyd v. WestJet Airlines Ltd.*, 2024 BCCRT 640 [**BOA, Tab 19**]

a. It is apparent from the discussion within the decision that the CRT was deciding an issue of statutory interpretation – a question of law.

28. The decisions on standard of review cited by WestJet and the CRT must be read with caution for the following reasons:

a. The *Vavilov* reasonableness standard of review and the *ATA* patently unreasonable standard of review have no application. The standard of review for small claims decisions are specifically designated in s. 56.8 of the *Civil Resolution Tribunal Act*.

b. The decisions WestJet and CRT rely upon deal with the standards of review of other tribunals, or other areas of CRT jurisdiction (e.g. personal injury in car crashes or strata claims)

c. The *APPR* is not the CRT’s home statute and no deference is owed on the CRT’s interpretation. Typically, tribunals are given some deference on the interpretation of their home statute

d. The legislature specifically chose not to give the CRT exclusive jurisdiction over small claims, or to specify that the CRT has specialized expertise over small claims. Irrespective of monetary amount, civil claims may have important questions of law like this case, which would require a clear legal interpretation from a s. 96 court.

i. The amount may seem miniscule for each individual passenger, but it is plain that it would be significant for WestJet who may be liable to pay the same *APPR* amounts to each passenger on the same flight, or those affected in a similar fashion by their “labour disruption”

e. The case here is akin to an appeal of a small claims decision from the Small Claims Court.

29. It is expected that WestJet will claim that the CRT “decided” as a fact that the strike notice or labour notice caused the flight to be cancelled. With greatest of respects, the CRT made no such factual finding whatsoever, and it is not open for WestJet to make this argument on judicial review.

30. The CRT decided, as a matter of law, that the term “labour disruption” encompassed a strike notice or lockout notice.

31. On a judicial review, the Court would typically not decide factual issues when it was not decided by the tribunal below. Here, there is not even a shred of evidence of a causal relationship between a future strike and a present cancellation except WestJet’s own announcement (Machado Affidavit #1 at Exhibit D, PR Tab 7)

a. Lawrence Affidavit (PR, Tab 8)

b. Exhibit E- p. 45 – WestJet falsely claiming it was a “strike or work stoppage” when none has occurred yet.

i. There is some indication that WestJet is using the court system to re-write the *APPR* obligations, in the face of defenseless self-represented passengers [**PR, Tab 7**, Machado Affidavit at Exhibit H]

- ii. Before the Manitoba decision, WestJet claimed to the Boyds that the cancellation was due to a “strike or work stoppage.” This cannot be accurate.
 - iii. When we carefully review the Manitoba small claims decision, there is a faulty premise suggesting there is some “suspension of contractual obligations” between WestJet and its employees when strike notice is issued. It is unclear what obligation is being “suspended” during those 72-hours. Employees continue to work and WestJet continues to pay for the work.
 - iv. Indeed, WestJet’s own news releases confirm that legal options to strike or lockout can be utilized only after the 72 hours
- c. Exhibit E- p. 40 – WestJet confirmed that there was no work stoppage.
- i. All the bullet points are business decisions made by WestJet.
32. It is expected that WestJet will claim “safety” in shutting down their network in an orderly fashion (i.e., parking the planes at WestJet’s desired locations)
- a. There is no “safety” issue in parking a plane in Waterloo as opposed to Calgary. It’s purely economics – parking fees, and the potential cost of hiring a pilot to fly the plane back to its home location for maintenance/parking.
 - b. Why should a passenger shoulder the inconvenience and costs arising from WestJet’s business decision?
 - c. The *APPR* has a category of cancellations/delays that are “situations within carrier’s control but required for safety”. However, WestJet never made that argument and cannot raise a new argument on judicial review. (see para. 20 of Exhibit G, Tab 7)
 - d. The *Canada Labour Code* also has provisions allowing employers to designate some employees to continue work to avoid safety concerns.

“Labour Disruption” Must be Interpreted In Accordance with the Statutory Interpretation Principles

33. Facts in Part 2 of the Petition at paras. 6-13

34. The legal interpretation of “labour disruption” was raised before the CRT and are **not** “new arguments” as alleged by WestJet

a. PR, Tab 8 – Lawrence Affidavit at Exhibit B p. 33-35

35. The *APPR* is a consumer protection scheme – *International Air Transport Association v. Canada (Transportation Agency)*, 2024 SCC 30 [**BOA, Tab 2**]

36. Consumer protection laws must be generously interpreted, in favour of the consumers.

a. *Seidel v. TELUS Communications Inc.*, 2011 SCC 15 at para. 37 [**BOA, Tab 20**]

b. *Jiang v. Peoples Trust Company*, 2017 BCCA 119 at paras. 50 and 53 [**BOA, Tab 21**]

c. This was squarely raised before the CRT - PR, Tab 8 – Lawrence Affidavit at Exhibit B p. 33-35

37. The *APPR* is not primary legislation. As such, the interpretation must start from the primary legislation. *Bristol-Myers Squibb Co. v. Canada (Attorney General)*, 2005 SCC 26 at para. 38 [**BOA, Tab 26**].

38. The primary legislation that created the *APPR* was s. 86.11(1) of the *Canada Transportation Act*:

Regulations — carrier’s obligations towards passengers

86.11 (1) The Agency shall, after consulting with the Minister, make regulations in relation to flights to, from and within Canada, including connecting flights,

(b) respecting the carrier's obligations in the case of flight delay, flight cancellation or denial of boarding, including

(i) the minimum standards of treatment of passengers that the carrier is required to meet and the minimum compensation the carrier is required to pay for inconvenience when the delay, cancellation or denial of boarding is within the carrier's control,

(ii) the minimum standards of treatment of passengers that the carrier is required to meet when the delay, cancellation or denial of boarding is within the carrier's control, but is required for safety purposes, including in situations of mechanical malfunctions,

*(iii) the carrier's obligation to ensure that passengers complete their itinerary when the delay, cancellation or denial of boarding is **due to situations outside the carrier's control**, such as natural phenomena and security events, and*

(iv) the carrier's obligation to provide timely information and assistance to passengers;

39. The *APPR* must be interpreted harmoniously with and informed by the enabling legislation. The term "labour disruption" under the *APPR* must be interpreted in light of the statutory wording "due to situations outside the carrier's control, such as natural phenomena and security events" under s. 86.11(1)(b)(iii) of the *Canada Transportation Act*.

40. Indeed, when considering s. 86.11(1)(b)(iii) of the *Canada Transportation Act*, the examples listed by Parliament are truly outside of an air carrier's control.

41. As such, not any "labour disruption" would qualify as "outside the carrier's control." The Petitioner is not asking this Court to strike down the term "labour disruption" from the *APPR*. Rather, it needs to be **strictly interpreted** to circumstances where the air carrier has practically no control over.

- a. When there is no work stoppage and employees continue to work, air carriers have control and a choice.

- b. The air carrier can let the employees continue their work, and continue to perform the contracts with passengers.
- c. The air carrier in this case **chose** to apply those human resources to shutting down its network – a business decision.

42. Paras. 7-14 of Part 3 of the Petition

43. The CRT did not follow various principles of statutory interpretation

- a. The CRT failed to apply the statutory text “situations outside the carrier’s control” (paras. 15-25 of Part 3 of the Petition)
 - i. This was squarely raised before the CRT - PR, Tab 8 – Lawrence Affidavit at Exhibit B p. 33-35
- b. The CRT impermissibly relied on extrinsic aids to interpret “labour disruption” (paras. 26-34 of Part 3 of the Petition)
 - i. The Regulatory Impact Analysis Statements must be read with extreme caution
 - 1. *R. v. Heywood*, 1994 CanLII 34 (SCC) [**BOA, Tab 27**]
 - 2. *Murray v. British Columbia (Superintendent of Motor Vehicles)*, 2013 BCCA 363 [**BOA, Tab 28**]
 - 3. *Prairie Pride Natural Foods Ltd. v. Canada (Attorney General)*, 2023 FCA 152 [**BOA, Tab 29**]
 - 4. *R. v. Khill*, 2021 SCC 37 [**BOA, Tab 30**]
 - ii. This was squarely raised before the CRT - PR, Tab 8 – Lawrence Affidavit at Exhibit B p. 33-35
- c. The CRT overlooked the causation element in the *APPR* (paras. 35-37 of Part 3 of the Petition – the heading in the Petition had a copy/paste error)

- i. This was squarely raised before the CRT - PR, Tab 8 – Lawrence Affidavit at Exhibit B p. 33-35
 - d. The CRT also invented the term “labour dispute” that is not found on the *APPR* – a “dispute” and “disruption” obviously is not the same thing
44. Interpreting “labour disruption” to cover the 72-hour notice period when employees are still working is absurd (paras. 38-46 of Part 3 of the Petition)
- i. This was squarely raised before the CRT - PR, Tab 8 – Lawrence Affidavit at Exhibit B p. 33-35

WestJet’s Application is Disproportionate to the Amount in Question

45. *Greater Vancouver Water District v. SSBV Consultants Inc.*, 2014 BCSC 1148
[BOA, Tab 33]

- a. The amount in question in the present case is \$2,000
- b. WestJet’s approach is wholly disproportionate

Cross-Examinations on Judicial Reviews are Rare and AFTER the Court Finds a Triable Issue

46. BOA Tabs 34-39 – the Petitioner relies on the Application Response filed in relation to WestJet’s application and cases in BOA Tabs 34 to 41.
47. It is plain and obvious that there is no triable issue in relation to the assignment, and WestJet’s application need not be heard or decided: (a) *Tran v The Owners, Strata Plan EPS 5568*, 2025 BCSC 111; (b) *Cepuran v. Carlton*, 2022 BCCA 76; (c) *1264777 B.C. Ltd. v Gill*, 2023 BCSC 131; (d) *1264777 B.C. Ltd. v. 0694813 B.C. Ltd.*, 2023 BCCA 410; and (e) *Trowbridge v Connelly*, 2017 BCSC 2336

Judicial Review Remedy the Petitioner is Seeking

48. The Court should directly grant the relief that was sought before the CRT as there is only one possible answer to the legal question at issue [Tab 40].

49. WestJet advanced no evidence on how a “strike notice” could lead to planes not flying, despite there being no work stoppage. It would be fundamentally unfair to allow WestJet a further chance to recast its case.

Costs against WestJet

50. The Petitioner intends to seek costs against WestJet. The Petitioner seeks leave to make further submissions, including seeking costs on a solicitor-client basis:

- a. WestJet has deliberately raised a red herring regarding the assignment to prolong this hearing. WestJet was made aware in September that their objection has no merit whatsoever.
 - i. WestJet still continued their baseless assertion despite the Supreme Court of Canada making clear what the substance of the claim is
 - ii. WestJet is purporting to introduce cases that are not relevant to the debt claims herein to misdirect the Court
 - iii. WestJet still continued their baseless argument despite taking a contrary position before the CRT
- b. WestJet also raised a fundamentally flawed argument that the assignment lacked consideration. Again, this appeared to be deliberate. This issue was not raised in the Response to Petition. WestJet appears to have “exchanged” their similarly flawed “remote affidavit requires approval of Law Society” argument with a new “lack of consideration” argument.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

No. NEW-S-S-254452
New Westminster Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

AIR PASSENGER RIGHTS

PETITIONER

AND:

WESTJET AIRLINES LTD

RESPONDENT

**WRITTEN SUBMISSIONS OF THE
CIVIL RESOLUTION TRIBUNAL**

1. These written submissions should be read in conjunction with the CRT's Response to Petition, at Tab 4 of the Petition Record.
2. Since the CRT's Response was filed, the SCC issued its decision in *International Air Transport Association v. Canada (Transportation Agency)*.¹ This decision requires the CRT to clarify its position with respect to the assignment at issue in this judicial review.
3. *APPR* disputes are decided under the CRT's small claims jurisdiction per *CRTA* s. 118(1)(a). That section provides for the CRT to resolve claims for relief in the nature of "debt or damages" within the monetary amount set by regulation (\$5,000).
4. Among other things, in *International Air*, the SCC found that the *APPR* do not provide for an "action for damages" but instead create an entitlement to standardized compensation.² The SCC also described *APPR* claims as "payment of an amount that is

¹ 2024 SCC 30.

² *Ibid*, at para 94.

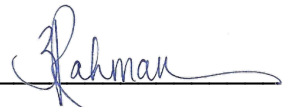
already owed as a matter of standardized entitlements provided for under a consumer protection scheme.”³

5. Since *International Air* was issued, the CRT has issued decisions confirming its jurisdiction to decide *APPR* disputes as claims in debt. The SCC’s findings about the nature of *APPR* claims are consistent with legal definitions of debt. For example, in *Reshaur v. Westjet Airlines Ltd.*, the tribunal member found that “*APPR* claims are debt claims and the incorporation of the *APPR* into WestJet’s contract of carriage gives rise to a civil right to bring an action.”⁴ Similarly, in *Pansegrau v. Air Canada*, the tribunal member found that the *APPR* claim was a “debt claim based on a contractual breach.”⁵

6. The nature of *APPR* claims and the CRT’s jurisdiction to resolve them were not at issue in the Final Decision; they are also not at issue in this judicial review. However, this Court has been asked to consider the validity of the Boyds’ assignment of their claim to *APR*. While the CRT continues to take no position on the merits of the judicial review, the CRT acknowledges that claims in debt can validly be assigned at law, without violating the rule against champerty.⁶ Further, s. 36 of the *Law and Equity Act*⁷ does permit the assignment of debts. That said, even if this Court finds the assignment valid, it may still need to consider how the assignment will impact the CRT process going forward, as well as the Petitioner’s standing to bring the judicial review.⁸

All of which is respectfully submitted.

Date: March 20, 2025


Zara Rahman
Legal Counsel
Civil Resolution Tribunal

³ *International Air*, *supra* note 1 at para 97.

⁴ 2024 BCCRT 1278 at para 27.

⁵ 2024 BCCRT 1297 at para 17.

⁶ *Argo Ventures Inc. v Choi*, 2019 BCSC 86 at para 18, citing *Interclaim Holdings Limited v. Down*, 2001 BCCA 65 at para 26, leave to appeal ref’d [2001] S.C.C.A. No. 153.

⁷ RSBC 1996, c 253.

⁸ CRT Response, paras 27 and 29 – 34.

WestJet misstates the nature of the claim. We are advancing two separate and distinct claims:

- (a) Individual compensation for \$277.25 of out-of-pocket expenses pursuant to Article 19 of the *Montreal Convention*, which imposes a regime of strict liability for damages occasioned by delay of passengers in international carriage, and has the force of law pursuant to s. 2(2.1) of the *Carriage by Air Act*.
- (b) Standardized compensation for inconvenience in the amount of \$1,000 per passenger (for a total of \$2,000), pursuant to s. 19(1)(a)(iii) of the *Air Passenger Protection Regulations (APPR)*, whose obligations are deemed to form part of the terms and conditions of carriage pursuant to s. 86.11(4) of the *Canada Transportation Act*.

WestJet admitted liability for the \$277.25 of out-of-pocket expenses.

WestJet disputes that standardized compensation for inconvenience is owed under the *APPR*, because WestJet says that “the cancellation of flight WS 032 was outside of carrier control,” and therefore the disruption falls within the scope of s. 10(1) of the *APPR* rather than ss. 12 and 19.

WestJet’s position is wholly unsupported by the evidence, and WestJet invites the Tribunal to adopt an interpretation of the *APPR* that could lead to absurd results.

1. FLIGHT WS 032 WAS NOT CANCELLED “DUE TO A LABOUR DISRUPTION”

WestJet misrepresents its voluntary decision to cancel Flight WS 032 as if it had “occurred **due to a labour disruption**.” WestJet failed to establish any causal link between its voluntary decision to cancel Flight WS 032 that was scheduled to depart on May 18, 2023 and the Strike Notice relating to a potential strike beginning a day later.

In *Walsh v. Flair Airlines*, 2023 BCCRT 107, this Tribunal adopted the view that “because an airline was the only party with knowledge of the reasons for and circumstances surrounding a flight cancellation, fairness required the airline to demonstrate with evidence that it was justified in cancelling the flight and denying compensation under the *APPR*.”

WestJet was therefore required to tender evidence to establish the cause for Flight WS 032’s cancellation. The only evidence tendered by WestJet in an effort to discharge this burden of proof is an Irregular Operations Report (#3), which only establishes the undisputed fact that Flight WS 032 was cancelled. Any self-serving statements contained therein as to the purported cause for the cancellation are no more than WestJet’s own interpretation of the events and/or WestJet’s say-so as to the reasons; however, they are not evidence.

WestJet’s submissions also failed to establish any causal or logical link between the cancellation of Flight WS 032 and a potential strike beginning a day later.

In short, the cancellation of Flight WS 032 was a voluntary operational decision by WestJet, and was not necessitated by a labour disruption.

2. WESTJET MATERIALLY MISREPRESENTS THE CTA'S PUBLIC STATEMENT

WestJet materially misrepresents the CTA's May 16, 2023 statement (#7). The CTA issued no legal decision or determination about the classification of WestJet's voluntary decision to cancel some of its flights on May 18, 2023.

Public statements on the CTA's website, other than legally binding decisions or determinations, must be treated with great caution: they do not determine the rights of air passengers (*Air Passenger Rights v. Canada*, 2020 FCA 92 at paras. 23-25), and they may give rise to reasonable apprehension of bias (*Air Passenger Rights v. Canada*, 2021 FCA 201, paras. 3-6 and 24-26).

3. WESTJET'S PROPOSED INTERPRETATION OF SUBSECTION 10(1) IS COULD LEAD TO ABSURDITY

WestJet invites the Tribunal to interpret "outside the carrier's control" and "labour disruption" so broadly as to encompass an airline's voluntary decision to cancel flights and/or lock out its pilots.

We submit that paragraph 10(1)(j) of the *APPR* was not meant to relieve carriers of paying compensation for disruptions caused by the carrier's own operational decisions, actions, or inactions.

First, the exceptions to the obligation to pay standardized compensation for passengers' inconvenience under the *APPR* must be interpreted narrowly, because the *APPR* are consumer protection legislation and as such "it should be interpreted generously in favour of consumers": *Seidel v. TELUS Communications Inc.*, 2011 SCC 15 at para. 37 (see also *Jiang v. Peoples Trust Company*, 2017 BCCA 119 at para. 53).

Second, a carrier cannot rely on its own operational decisions, actions, or inactions as a basis for claiming that a flight disruption was outside its control. This principle has been recognized and frequently applied also by the CTA:

- *Lubyk v. WestJet*, Decision No. 137-C-A-2022 at para. 9
- *Paridon v. Sunwing*, Decision No. 16-C-A-2022 at para. 5
- *Yanyk v. WestJet*, Decision No. 122-C-A-2022 at para. 20
- *Crawford v. Air Canada*, Decision No. 107-C-A-2022 at paras. 14 and 17 (leave to appeal denied by the Federal Court of Appeal in File No. 22-A-18),

Third, and perhaps most importantly, accepting WestJet's argument could lead to an absurdity in enabling carriers to avoid the obligation to compensate passengers for flight cancellations caused by the carrier voluntarily deciding not to assign crew members to that flight or locking

out crew members who are scheduled to operate a flight, and thereby emptying the *APPR* from any practical meaning. As a matter of statutory interpretation, an interpretation that leads to absurd consequences should be rejected: *Richardson v. WestJet*, 2023 NSSM 56 at paras. 41-42.

To summarize, Flight WS 032 was cancelled due to a voluntary decision by WestJet, and not due to any labour disruption. These circumstances do not meet the legal definition of “outside the carrier’s control” within the meaning of s. 10(1) of the *APPR*, and instead fall within the scope of ss. 12 and 19 of the *APPR*.

We ask the Tribunal to order WestJet to pay us, in addition to the undisputed amount of \$277.25 of out-of-pocket expenses, also lump sum compensation in the amount of \$1,000 per passenger, for a total of \$2,000, as required by the *APPR*.



Simon Lin <simonlin@evolinklaw.com>

Air Passenger Rights v. Westjet Airlines Ltd. [NW S254452] - Judgment April 1

SC Civil-Vancouver <sc.civil_va@bccourts.ca>

Wed, Mar 26, 2025 at 9:02 AM

To: "simonlin@evolinklaw.com" <simonlin@evolinklaw.com>, "Zara.Rahman@crtbc.ca" <Zara.Rahman@crtbc.ca>, "kchaudhary@ahbl.ca" <kchaudhary@ahbl.ca>, "mdery@ahbl.ca" <mdery@ahbl.ca>

Good morning counsel,

Due to a scheduling conflict, the judgment hearing for this matter will have to be moved from 2:00pm to 1:00pm on April 1, with parties still appearing by MS Teams. Hopefully this is workable for all parties.

Please confirm receipt of this email.

Thank you,

Supreme Court Scheduling

phone: 604.660.2853

email: sc.civil_va@bccourts.ca

website: www.courts.gov.bc.ca

hours: Mon.- Fri., 8:30 am - 4:30 pm

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RE: Air Passenger Rights v. Westjet Airlines Ltd. [NW S254452] - Judgment April 1 [IMAN2-IMANAGE.FID778807]

SC Civil-Vancouver <sc.civil_va@bcccourts.ca>

Mon, Mar 31, 2025 at 9:21 AM

To: "DERY, Michael" <mdery@ahbl.ca>, "simonlin@evolvinklaw.com" <simonlin@evolvinklaw.com>, "Zara.Rahman@crtbc.ca" <Zara.Rahman@crtbc.ca>, "CHAUDHARY, Katelyn" <kchaudhary@ahbl.ca>

Good morning counsel,

Please note that Justice Sharma will instead deliver her decision in writing on this matter instead of an oral hearing. Accordingly, the hearing has been removed for tomorrow.

Please confirm receipt of this email.

Thank you,

Supreme Court Scheduling

phone: 604.660.2853

email: sc.civil_va@bcccourts.ca

website: www.courts.gov.bc.ca

hours: Mon.- Fri., 8:30 am - 4:30 pm

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From: SC Civil-Vancouver

Sent: March 26, 2025 1:27 PM

To: DERY, Michael <mdery@AHBL.CA>; simonlin@evolvinklaw.com; Zara.Rahman@crtbc.ca; CHAUDHARY, Katelyn <kchaudhary@AHBL.CA>

Subject: RE: Air Passenger Rights v. Westjet Airlines Ltd. [NW S254452] - Judgment April 1 [IMAN2-IMANAGE.FID778807]

Thank you all for confirming.

Supreme Court Scheduling

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THE SUPREME COURT
OF BRITISH COLUMBIA



THE LAW COURTS
800 SMITHE STREET
VANCOUVER, B.C.
V6Z 2E1

MEMORANDUM TO COUNSEL / PARTIES

TO: Counsel for the Petitioner: S. Lin, Via Email

AND TO: Counsel for the Respondent: K.S. Chaudhary, Via Email
M. Dery, Via Email

AND TO: Counsel for the Attendee, Civil Resolution Tribunal: Z.N. Rahman, Via Email

FROM: Madam Justice Sharma

DATE: September 25, 2025

RE: ***Air Passenger Rights v. Westjet Airlines Ltd.*** [NW S254452]

I regret my judgment in this matter is not finalized. There is a possibility I will ask the parties to provide further submissions. If so, I will send another memo by October 10, 2025. However, if I do not seek further submissions, I anticipate the judgment will be released by October 31, 2025. Thank you.

NS/al

N.S.