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 and
ATTORNEY GENERAL OF BRITISH COLUMBIA

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CHRONOLOGY

Date	Event
December 22, 2018	The *Air Passenger Protection Regulations* ("*APPR*") are published in draft form in the Canada Gazette. In the draft regulations, one of the situations deemed to be outside a carrier's control for the purpose of determining whether compensation for flight delays or cancellations is owed was "labour disputes at an essential service provider such as an airport and an air navigation service provider" (emphasis added).
May 22, 2019	The *APPR* are published in final form in the Canada Gazette. In the final regulations, "labour disputes at an essential service provider such as an airport and an air navigation service provider" in s. 10 was amended to state "a labour disruption within the carrier or within an essential service provider such as an airport or an air navigation service provider" (emphasis added).
July 15, 2019	The relevant provisions of the *APPR* come into force.
November 21, 2022	Anne and Robert Boyd book travel from Kelowna, BC, to Rome, Italy, with a stopover in Calgary, scheduled to depart on May 18, 2023, and arrive on May 19, 2023.
May 15, 2023	WestJet's pilots, who are unionized and represented by the Air Line Pilots Association ("ALPA"), issue a strike notice pursuant to the *Canada Labour Code*. In response to the strike notice, WestJet issues a lockout notice. The earliest the strike and/or lockout could have commenced was 3:00 am MDT on May 19, 2023.
Morning of May 18, 2023	WestJet advises the Boyds that their flight from Calgary to Rome has been cancelled. The reason for the cancellation was "because of the schedule reduction during the negotiations between the WestJet Pilot group and ALPA".
Later on May 18, 2023	The Boyds travel on the Kelowna-Calgary leg of their itinerary, but are booked on alternate flights from Calgary to Rome, through Portland and Amsterdam. The Calgary-Portland leg was operated by WestJet, the Portland-Amsterdam leg was operated by Delta, and the Amsterdam-Rome leg was operated by Italia Transporto Aero.

11:00 pm MDT on May 18, 2023,	ALPA and WestJet come to a tentative agreement, averting the strike and lockout approximately four hours before the employees and WestJet were to be in a legal strike and lockout position, respectively.
May 19, 2023	The Boyds arrive in Rome on May 20, 2023, more than 24 hours after their original scheduled arrival.
July 4, 2023	The Boyds file a dispute with the Civil Resolution Tribunal ("CRT"), claiming hotel and meal costs from May 18 and 19, 2023, as well as $1,000 each in compensation under the *APPR* for their delayed arrival in Rome.
July 5, 2024	The CRT renders its decision, allowing the claim for hotel and meal costs under the Montreal Convention, but dismissing the claim for *APPR* compensation on the basis that the period following the issuance of a strike notice (but before a strike or lockout actually commences) is a "labour disruption" within the meaning of s. 10 of the *APPR*.
July 9, 2024	WestJet sends the Boyds an email transfer with the funds payable in respect of the judgment for hotel and meal costs. This transfer was never accepted.
July 29, 2024	A petition for judicial review of the CRT's decision is filed in the name of Air Passenger Rights ("APR"). APR stated in its petition that the Boyds had "absolutely assigned" to it their claims against WestJet.
March 24-25, 2025	The petition is heard by Justice Sharma.
October 30, 2025	Justice Sharma renders her decision, finding that: • Compensation for delayed or cancelled flights under the *APPR* is not a debt enforceable at common law; • The assignment entered into between the Boyds and Air Passenger Rights is invalid and unenforceable; • APR did not have standing to bring the petition; and • The CRT had no jurisdiction over the claim. She deferred the making of any order until the parties had had an opportunity to address the issue of remedy.
October 30, 2025	The appellant files its notice of appeal.
December 2, 2025	The parties appear before Justice Sharma to provide input regarding possible remedies and the terms of her order. An order

	was then entered dismissing the petition and quashing the decision of the CRT in respect of the *APPR* claim.

OPENING STATEMENT

The appellant seeks to overturn the decision of a chambers judge which concluded that claims for standardized statutory compensation under the *Air Passenger Protection Regulations* ("*APPR*") were not claims in "debt" enforceable by way of court action. This conclusion had several implications, including that the Civil Resolution Tribunal ("CRT") does not have jurisdiction over such claims, and that an assignment of the right to seek judicial review of the CRT's decision was invalid.

The chambers judge made no error in reaching this conclusion. Although the standardized compensation requirements in the *APPR* were deemed by that legislation to be incorporated into air carriers' tariffs, and were in fact quoted in WestJet's tariff, the judge was correct to conclude that the juridical basis for the standardized minimum compensation was not a contractual term to which the airlines agreed to be bound because it was a statutorily-imposed scheme. In any event, the claim brought by the passengers was not a breach of contract claim, but only sought compensation under the legislation.

Nor did the judge err in concluding that the statutory scheme, which both creates the entitlement to compensation and provides a detailed administrative process for claims to be adjudicated, was an "exhaustive" and "comprehensive" code that was intended to be enforced by the Canadian Transportation Agency, not courts or the CRT.

Having concluded that the claim was not for a "debt", the judge was correct to conclude the CRT had no jurisdiction, and, in any event, the assignment was invalid and the appellant had no standing. WestJet submits that even if this Court disagrees with these conclusions, it ought to uphold the CRT's substantive decision that a 72-hour strike notice constitutes a "labour disruption" and is thus outside an airline's control under s. 10 of the *APPR* such that compensation is not payable, even where a strike or lockout does not materialize. This is the only interpretation that accords with the plain and ordinary meaning of s. 10, its purpose, and the context of airlines' operational realities within which the scheme was enacted.

PART 1 - STATEMENT OF FACTS

A. Background

1. On November 21, 2022, Anne and Robert Boyd purchased air tickets for travel from Kelowna, BC, to Rome, Italy, with the following itinerary:

   (a) WestJet flight WS3162 from Kelowna, British Columbia to Calgary, Alberta, which was scheduled to depart at 14:00 PDT on May 18, 2023, and arrive at 16:09 MDT; and

   (b) WestJet flight WS032 from Calgary, Alberta, to Rome, Italy, which was scheduled to depart at 18:05 MDT on May 18, 2023, and arrive at 11:55 CET (03:55 MDT) on May 19, 2023.[1]

2. On May 15, 2023, WestJet's pilots, who are unionized and represented by the Air Line Pilots Association ("ALPA"), issued a strike notice pursuant to the *Canada Labour Code*, R.S.C. 1985, c. L-2 ("*CLC*"), s. 87.2(1). In response to the strike notice, WestJet issued a lockout notice. The *CLC* provides that employees can legally strike, and employers can legally lock out employees, no sooner than 72 hours after the issuance of a strike or lockout notice. Thus, the earliest the strike and/or lockout could have commenced was 3:00 am MDT on May 19, 2023.[2] This was approximately one hour before the Boyds' flight was scheduled to land in Rome.

3. On the morning of May 18, 2023, WestJet notified the Boyds that WS032 (the "Flight") had been cancelled. They travelled on WS3162 from Kelowna to Calgary, as scheduled, and WestJet rescheduled them on alternate flights to travel to Rome:

   (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

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[1] Reasons for Judgment of the BC Supreme Court ("Petition Reasons"), at para. 10, Appeal Record ("AR") p. 108

[2] Petition Reasons, at para. 12, AR p. 108-109

(c) Italia Transporto Aero flight AZ0107 from Amsterdam to Rome on May 20, 2023.[3]

4. At approximately 11:00 pm MDT on May 18, 2023, ALPA and WestJet came to a tentative agreement. The strike and the lockout were averted.[4]

5. The Boyds arrived in Rome on May 20, 2023, over 24 hours later than originally scheduled. On July 4, 2023, they filed a dispute with the Civil Resolution Tribunal ("CRT"), claiming the following:

(a) $185.25 for a hotel in Calgary on the night of May 18, 2023, and $92.00 for meals purchased between May 18 and May 20, 2023; and

(b) $2,000 ($1,000 each) in compensation for their delay, pursuant to s. 19(1) of the *Air Passenger Protection Regulations* ("*APPR*"), SOR/2019-150.[5]

B. Air Passenger Protection Regulations

6. The Canadian Transportation Agency ("Agency") has a broad mandate in respect of all transportation matters (including commercial aviation) under the legislative authority of Parliament. It has a dual role – it acts in an administrative and legislative capacity when carrying out its regulatory mandate, and in a quasi-judicial capacity when carrying out its adjudicative dispute resolution mandate in respect of, among other things, passenger complaints against carriers.[6]

7. The Agency's enabling legislation is the *Canada Transportation Act*, S.C. 1996, c. 10 ("*CTA*"). Section 86.11 of the *CTA* requires the Agency, after consulting with the Minister of Transport, to make regulations in respect of air carriers' obligations to passengers in the case of delay or cancellation. The regulations must set out the minimum standards of treatment the carrier is required to meet, and the minimum compensation that must be paid (if any), in three categories of circumstances: 1) where

[3] Petition Reasons, paras. 13-14, AR p. 109
[4] Petition Reasons, para. 16, AR p. 109
[5] Petition Reasons, para. 18, AR p. 109-110; Dispute Notice, Appellant's Appeal Book ("AAB") p. 45

the reason for the delay/cancellation is outside the carrier's control; 2) where it is within the carrier's control but is required for safety purposes; and 3) where it is otherwise within the carrier's control (i.e.: not required for safety purposes).

8. Section 86.11 was enacted in 2018, pursuant to Bill C-49, the *Transportation Modernization Act*. At the bill's second reading, Transport Minister Marc Garneau described it as aiming "to create a safe, innovative transportation system that takes advantage of international best practices, opportunities for international investment and contributes to a highly productive Canadian economy". He noted that the bill mandated the Agency to develop "new regulations to enhance Canada's air passenger rights", and that these "would ensure air passenger rights are clear, consistent, and fair for both travellers and air carriers". He stated that his objective was "to ensure that Canadians have a clear understanding of their rights as air travellers without negatively impacting on air services and costs of air travel for Canadians", and "to come up with something that clearly addresses passenger rights but that is also fair to the airlines". [7]

9. Pursuant to s. 86.11 of the *CTA*, the *Air Passenger Protection Regulations*, SOR/2019-150 ("*APPR*") were enacted. They create the following three categories of flight disruptions:

(a) s. 10 states that for flight disruptions due to situations outside the carrier's control (including, but not limited to, an enumerated list), the carrier is not obligated to provide the monetary compensation set out by the regulation, but, if the delay is three hours or more or the flight is cancelled, is required to provide alternative travel arrangements or a refund. One of the enumerated situations stated to be outside a carrier's control includes a "labour disruption within the carrier or within an essential service provider such as an airport or an air navigation service provider". If a flight

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[6] *Lukacs v. Canadian Transportation Agency*, 2015 FCA 140 at paras. 48-49
[7] Bill C-49 Hansard, Second Reading, June 5, 2017 at 2150 and 2155, and House of Commons Standing Committee on Transport, Infrastructure and Communities ("C-49 House Committee"), September 14, 2017 at 1015.

disruption falls within s. 10, the carrier's obligations are set out in s. 18, and require it to rebook the passenger on the next available flight either with that carrier or another carrier with which it has a commercial agreement, departing within 48 hours of the original departure time;

(b) s. 11 states that for flight disruptions that are within the carrier's control but "required for safety purposes" (which is defined as "required by law in order to reduce risk to passenger safety", not including scheduled maintenance), carriers' obligations are similar to under s. 10; that is, no compensation is payable but they are required to provide alternate travel arrangements or a refund; and

(c) s. 12 states that for other flight disruptions that are within the carrier's control, airlines have similar obligations to those under ss. 10 and 11, including alternate travel arrangements or a refund, and, if the passenger is informed of the delay ≤ 14 days before the departure time on their original ticket, must also pay "compensation for inconvenience", as set out in s. 19.

10. Section 19 sets out certain minimum compensation that must be provided, depending on whether the carrier is "large" or "small", and on the length of the delay. If the airline is a "large carrier'' (which WestJet is) and the passenger's arrival is delayed by more than nine hours, the airline must pay compensation of $1,000.

11. Section 86.11(4) of the *CTA* deems a carrier's obligations pursuant to the *APPR* to form part of the terms and conditions set out in the carrier's tariffs, in so far as the tariffs do not provide more advantageous terms and conditions.

12. The Regulatory Impact Analysis Statement ("RIAS") published with the *APPR* states as follows, under the heading "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 [Canada Transportation Agency] will address these comments using a combination of regulatory adjustments and guidance materials for air carriers.[8]

13. In this same section, under a subheading entitled “Labour disruptions”, it states:

> 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 [Canada Transportation Agency] 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.[9]
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> [Emphasis added.]

14. In an earlier draft of the regulations, the relevant item in the list of situations “outside the carrier’s control” in s. 10 stated “labour disputes at an essential service provider such as an airport and an air navigation service provider”. As noted above, it now reads “a labour disruption within the carrier or within an essential service provider such as an airport or an air navigation service provider”. Thus, the two amendments were to change “labour dispute” to “labour disruption”, and to add that such a disruption could be within the carrier as well as a third-party service provider.

15. “Labour disruption” is not defined in the *APPR*.

C. Claim before the Civil Resolution Tribunal

16. The documentary evidence submitted to the CRT by WestJet showed that the Flight “was cancelled because of the schedule reduction during the negotiations between the WestJet Pilot group and ALPA”.[10]

17. The Boyds argued that the cancellation was “within the airline’s control” (and therefore did not fall within s. 10 of the *APPR*) because “[t]he mere delivery of a strike notice, without a strike, is not a work stoppage”. They argued that “[i]t’s a fact that there

[8] CRT Evidence #26, AAB p. 272
[9] CRT Evidence #26, AAB p. 272
[10] CRT Evidence #24, AAB p. 231

was no actual strike and therefore our flight cancellation was not due to strike or work stoppage".[11]

18. WestJet's position was there was no basis to interpret "labour disruption" so narrowly as to require that a strike or lockout have actually commenced. It also relied on the RIAS and a decision of the Manitoba Small Claims Court, *Burym v. WestJet*, which involved another claim for *APPR* compensation arising out of the same labour dispute: the cancellation of a flight from Maui to Winnipeg that was scheduled to depart at 22:45 local time on May 18, 2023 (02:45 am MDT on May 19, 2023). The court held that the strike/lockout notices marked the onset of the labour disruption:

> …[T]he 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…
>
> It is the announcement of the strike that heralds the suspension of the contractual obligations and instigates a fundamental shift in labour relations thus establishing that a labour disruption was underway at the time of the claimants' cancellation, making it outside of the carrier's control…[12]

(a) Reasons of the CRT

19. The CRT allowed the Boyds' claim only in respect of the amounts claimed for their hotel and meals, which were recoverable under the *Montreal Convention*. It dismissed their claim for compensation under the *APPRs.* Tribunal member Binnie noted in her reasons that the parties agreed the dispute turned on whether a strike notice and lockout notice qualify as a "labour dispute" [sic], and, if so, the Flight delay was not in WestJet's control. She described the Boyds' position as being that because issuing a lockout notice was within WestJet's control, and the strike had not begun, there was no "labour disruption".[13]

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[11] CRT Tribunal Decision Plan, AB p. 70-71
[12] CRT Evidence #28, AAB p. 301-302
[13] CRT Reasons for Decision ("CRT Reasons"), paras. 12-13, AAB p. 310

20. Tribunal member Binnie cited the modern principle of statutory interpretation: 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 legislation, the objection of the legislation, and the intention of Parliament. She also referred to the principle 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.[14]

21. She agreed with WestJet's position that the RIAS "provides insight into the intentions of the regulation's drafters", and more specifically what "labour disruption" was intended to include. She said:

> 17. The [RIAS] 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…[15]

22. Having found that the delay fell within s. 10 of the *APPR*, she concluded that WestJet had met its corresponding responsibilities under s. 18 by transporting the Boyds on a reasonable route to their destination within 48 hours.

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[14] CRT Reasons, paras. 14-15, AAB p. 311
[15] CRT Reasons, AAB p. 311

D. Petition for Judicial Review

(a) Appellant's Position

23. On July 29, 2024, a petition for judicial review of the CRT's decision was filed in the name of Air Passenger Rights ("APR"). APR stated in its petition that the Boyds had "absolutely assigned" to it their claims against WestJet.[16]

24. APR argued that the CRT had adopted a "business-friendly" interpretation of the *APPR*:

> Lockout and strike notices are issued, sometimes multiple times, for strategic reasons during the collective bargaining process. The CRT's interpretation guts most of the legal protections for air passengers when any such notice has been issued, despite no work stoppage actually occurring.[17]

25. APR alleged a number of errors with respect to the CRT's interpretation of s. 10 of the *APPR*: (a) the Tribunal member failed to consider the purpose of the *APPR*, which was to protect passengers*;* (b) she focused on whether there were "situations outside of the carrier's control" and not on what "labour disruption" entails; (c) she relied improperly on "strained" extrinsic aids (the RIAS); (d) she overlooked direct causation wording in the regulation (that the delay must have been "due to" a situation outside the carrier's control); and (e) considering the notice period prior to a strike or lockout to be a "labour disruption" is unworkable, because it would allow airlines to pre-emptively issue lockout notices, potentially well in advance (e.g., 30 days) to escape the obligation to pay compensation under the *APPR*.

26. APR argued that the Tribunal member should have first asked herself whether cancellation of a flight due to a strike/lockout notice for a "*possible* strike or lockout in the *future* is a 'situation outside the carrier's control'" (emphasis in original). It argued that employees were still working during the period of the strike/lockout notice, and that it was difficult to imagine "how the prospect of a *future* strike/lockout, which ultimately

[16] Petition, Factual Basis at para. 11, AR p. 5
[17] Petition, Factual Basis at para. 3, AR p. 3

did not occur, would serve as a present disruption that would cause cancellation of a flight" (emphasis in original).[18]

27. It also submitted that the interpretation of "outside a carrier's control" should be limited to situations where, even if the carrier expended financial resources, it could not change or avoid the event. It argued that carriers are still able to continue operations during a 72-hour strike or lockout notice period, and that, while crews or aircraft may end up at a "non-home location", the carrier could simply pay to return its crew on other airlines and to park its aircraft in these other locations.

(b) WestJet's Position

28. WestJet made the following submissions in response:

(a) Although the *APPR* were created to protect passengers, a balance was intended to be struck between carriers' and passengers' interests by not making compensation payable when delay was outside a carrier's control;

(b) The intention behind using the words "labour disruption" rather than "strike", "lockout", or "work stoppage" was to avoid the *APPR* being used as a tool to influence the collective bargaining process;

(c) The Boyds did not dispute the Flight was cancelled because of the ongoing labour dispute, and the Tribunal correctly characterized the issue as "whether a strike notice and lockout notice qualify as a 'labour dispute'";

(d) It would not make commercial sense for airlines to issue lockout notices solely to defeat passengers' right to compensation under the *APPR* for flight delays and cancellations; and

(e) If a strike notice is issued, carriers must prepare for shutting down operations prior to the strike commencing, in order to avoid passengers and crew being stranded and to ensure their safety.[19]

[18] Petition, Legal Basis, para. 16

29. WestJet also argued that the assignment to APR was invalid. It submitted that the assignment savoured of maintenance, as APR was an officious intermeddler, becoming involved in a dispute in which it has no interest. It was also sharing in the profits of the litigation, which was the definition of champerty. To allow APR to essentially re-litigate the Tribunal's decision would open the door to other parties assigning their rights to intermeddlers for the purpose of judicially reviewing decisions.[20]

30. WestJet also argued that APR did not meet the test for either private or public interest standing. Private interest standing required that the petitioner be aggrieved, affected, or suffer some exceptional prejudice because of the impugned decision – special damage which extends beyond that suffered by the general public. It was not sufficient that the petitioner be a "concerned corporate citizen".[21]

(c) APR's Reply regarding Assignment and Standing

31. APR argued that the assignment did not require consideration as it was under seal, that a party can assign a claim in debt without violating the rule against champerty, and that the Supreme Court of Canada in *International Air Transport Association v. Canada (Transportation Agency)*, 2024 SCC 30 ("*IATA*"), "confirmed that the underlying claims in a claim for *APPR* standardized compensation are not claims for "damages" (i.e.: they are "debt" claims for amounts already owed)". APR relied on the following underlined statement in *IATA* to support its position that *APPR* compensation for delayed flights is merely a contractual debt to which airlines are already bound once a ticket is issued:

> [97] Second, the appellants submit that, because claims for compensation under the *Regulations* can be vindicated in court, the *Regulations* do in fact give rise to "actions for damages" despite the primacy of the administrative enforcement mechanism under the *CTA*. But the fact that claims payable pursuant to the *Regulations* can be vindicated by way of an action in court does not change the nature of the compensation of the *Regulations* themselves. The *Regulations* make no provision for claims to be filed in court. And even

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[19] Petition Response, AR p. 25-28
[20] Petition Response, AR p. 23-24
[21] Petition Response, p. 21-22

> assuming, without deciding, that judicial proceedings that seek to vindicate a claim under the *Regulations* amount to an "action" for the purposes of the *Montreal Convention*, the claim would not be for "damages". Where such claims are filed in courts of law, the claim is not in the nature of one for damages, because the claim is not tied to any harm suffered by the claimant and does not require any "case-by-case assessment" or relate to "compensation for harm incurred" (*International Air Transport Association v. Department for Transport*, at para. 43; *Zicherman*, at p. 227). Instead, the claim is for payment of an amount that is already owed as a matter of standardized entitlements provided for under a consumer protection scheme.
>
> [Emphasis added.][22]

32. APR also argued that it had standing because the assignment was valid under s. 36 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253, and Rule 6-2(3) of the *Supreme Court Civil Rules* expressly allowed the assignee to step into the shoes of an assignor.

(d) Reasons for Judgment

33. The chambers judge was of the view that the resolution of the question of whether the passengers' claim under the *APPR* was a debt was determinative of all of the issues before her. She concluded that it was not a debt, and that it necessarily followed "that the petitioner does not have standing to seek judicial review because, among other things, the assignment is invalid and unenforceable" (at para. 7).

34. The judge found that the "fundamental flaw" in APR's position was the argument that since the compensation is not an action in damages, it must be a claim in debt. She considered it to be a false dichotomy that money owed must either be damages or a debt, and that the Supreme Court's conclusion in *IATA* that claims were not for damages did not mean they were claims in debt. Parsing the single phrase "an amount that is already owed" from *IATA* overlooked the context in which the Court made that statement, and ignored the portions of the paragraph from which it was taken (para. 97, quoted at para. 31 above) that were inconsistent with APR's position.

35. In particular, the judge noted the Supreme Court's references in para. 97 of *IATA* to the "primacy of administrative enforcement mechanism under the *CTA*", the fact that

[22] Petition Reasons, paras. 62, 66, and 74, AR p. 120, 121, 123

the *APPR* make no provision for claims to be filed in court, and that the Court only assumed, without deciding, that judicial proceedings seeking to vindicate an *APPR* claim amounted to an action. She also concluded APR's position failed to account for the juridical basis of the standardized minimum compensation under the *APPR*, which was not a contractual term to which the airlines agreed to be bound. Rather, it was a statutorily imposed scheme under which the amount of compensation depended upon certain factors incorporated into the regulations by the Agency: the amount of advance notice passengers received, the length of the delay, and the size of the carrier.[23]

36. She canvassed the statutory process if a passenger is dissatisfied with a carrier's response to a claim for compensation, noting that they may file a complaint with the Agency, and that the *CTA* "comprehensively addresses how these complaints are adjudicated". She referenced the comments of the Supreme Court in *IATA* that the *APPR* "are enforced by Agency-designated complaint resolution officers", and observed that the Agency "has the expertise" on how the regulations should be interpreted and applied. She concluded as follows on the issue of whether a claim for *APPR* compensation was a debt claim:

> [87]…[T]he processes in place have all the hallmarks of an exhaustive and comprehensive scheme to address passengers' right to compensation from carriers upon flight delay, cancellation, or denial of boarding. Nothing about that scheme suggests that the statutory compensation is merely a contractual obligation owed by carriers to be resolved privately by small claims actions.
>
> [88] I infer the Passengers did not pursue a complaint to the Agency since there is no indication in the evidence on the record or in the Decision that they did so. Instead, they proceeded directly to the Tribunal. In doing so, the Passengers have completely side-stepped the comprehensive scheme created by the federal government. They have done so on what I have found to be the erroneous premise that WestJet owed them compensation as a matter of private contract law. In my view, that route was not available to them.
>
> [89] For all those reasons, I find that a claim for compensation for flight delays, cancellations, or denial of boarding is not enforceable as a contractual debt and must be resolved with the Agency pursuant to the *CTA* and [the *APPR*].[24]

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[23] Petition Reasons, paras. 66, 74-79, AR p. 123-124
[24] AR p. 126-127

37. The judge identified that her conclusion that the claim was not a debt "inevitably" raised the question of whether the CRT had jurisdiction over the claim in the first place, and found, based upon her review of the governing legislation and the *IATA* decision, that it did not. She noted that although the parties did not directly address this issue, "it cannot be avoided because it is inexorably linked to the issues raised by the petition". She observed that on judicial review, the court must ensure that administrative decisions are only made within the strict bounds of the applicable legislation.[25]

38. She also found the question of whether the claim was a debt was determinative of whether the assignment was valid. However, she went on to find that, in any event, the right to seek judicial review under the *Judicial Review Procedure Act*, R.S.B.C. 1996, c. 241 ("*JRPA*"), could not be assigned, under contract or otherwise. She noted that APR had provided no authority supporting the notion that one could assign a right to seek judicial review. She observed that the court's role in a judicial review is different than when resolving private law disputes, because it is "a limited remedy, engaging the supervisory authority of the Superior Courts over the work of administrative officials and tribunals", rather than enforcing private rights between parties.[26]

39. She also independently concluded that APR had no standing, noting that it was well established that the right to seek judicial review is limited to a person aggrieved, affected, or suffering some exceptional prejudice to the decision being challenged. In this case, only the passengers and WestJet were directly affected by the CRT's decision, and thus only they could seek judicial review. She also concluded that APR could not claim public interest standing, as it sought not only to overturn the decision, but to receive the compensation provided for under the *APPR*.

40. After concluding that the CRT had no jurisdiction to consider the claim, the chambers judge did not go on to consider whether its decision was correct that a strike and/or lockout notice, where neither the strike nor the lockout materialized, was a "labour disruption" under the *APPR*. After releasing her reasons, she requested input

[25] Petition Reasons, para. 30, AR p. 112
[26] Petition Reasons, para. 94-95, AR p. 127-128

from the parties on possible remedies arising from her findings and whether she should decide the "labour disruption" issue. She also requested the parties' input on the form of the order. Following a further appearance before her to discuss these issues, an order was entered that dismissed the petition and quashed the decision of the CRT in respect of the *APPR* claim. The decision in respect of the Boyds' hotel and meal costs, decided under the *Montreal Convention*, was not quashed.

PART 2- ISSUES ON APPEAL

41. WestJet restates the issues on appeal as follows:

(a) Was the claim for *APPR* compensation a claim in "debt"? If no, the CRT had no jurisdiction, and the appeal must be dismissed.

(b) If yes: (i) Was the assignment from the Boyds to APR valid?; (ii) Does APR have standing?; and (iii) Was the CRT correct that a 72-hour strike notice constituted a "labour disruption" under s. 10 of the *APPR*, and was its finding that the reason for the delay was outside WestJet's control supportable?

PART 3 - ARGUMENT

A. Standard of Review

42. On a judicial review, the Court of Appeal effectively "steps into the shoes of the reviewing judge and conducts a *de novo* review of the tribunal's decision" – "[n]o deference is owed to the reviewing judge": *The Owners, Strata Plan BCS 3407 v. Emmerton,* 2024 BCCA 354 at para. 11. As Justice Groberman noted in concurring reasons in *Henthorne v. British Columbia Ferry Services Inc.*, 2011 BCCA 476, which have been widely adopted in subsequent decisions of this Court, applications for judicial review are concerned almost exclusively with questions of law – whether the reviewing judge correctly identified and applied the standard of review applicable to the tribunal's decision. Only in limited circumstances will a chambers judge be called on to make original findings of fact that are owed deference by this Court.

43. In this case, the chambers judge ultimately did not review the merits of the Tribunal's decision. However, she did find that it did not have jurisdiction, on the basis that *APPR* claims are not claims in debt. WestJet accepts that the standard of review of her decision on this question is correctness.

B. The Boyds' Claim was not a Claim in Debt, and the CRT had no Jurisdiction over it

(a) The chambers judge was not precluded from considering the issue of jurisdiction even though it was not raised by the parties

44. APR argues that it was improper for the judge to consider whether the CRT had jurisdiction over *APPR* claims when this had not been challenged by WestJet. However, jurisdiction is not conferred on an administrative decision-maker, where none otherwise exists, simply because it was not challenged by a party.

45. In *Canada (Attorney General) v. Boutilier (T.D.)*, [1999] 1 F.C. 459, the Federal Court cited a prior decision of the Federal Court of Appeal which held that the limits on an adjudicator's jurisdiction could not be ignored "simply by being disregarded by the parties or the Adjudicator". In *Stora Enso Publication Paper GmbH & Co. KG v. Canada*, 2009 FC 625, the Federal Court stated that the failure to raise the issue of jurisdiction "cannot cloak the Court with jurisdiction which has not been properly engaged" (at para. 14). In *British Columbia (Attorney General) v. British Columbia (Provincial Court)*, 1999 CanLII 15169 (B.C.S.C.), Justice Low (then a judge of the BC Supreme Court) observed that "I doubt that the failure of the Crown to raise the jurisdiction argument can confer on the judge or the court jurisdiction it does not have in law" (at para. 14).

46. Consequently, the judge was not precluded from considering whether the CRT had jurisdiction over the claim.

(b) The judge correctly concluded that an *APPR* claim is not a claim in debt, and that the Agency has exclusive jurisdiction to decide it

47. The chambers judge was correct to conclude that an *APPR* claim is not a contractual debt claim enforceable by way of action in a court (or the CRT), but a statutory entitlement enforceable only through the Agency. Although she did not cite

authorities addressing the meaning of the word “debt” or the factors considered by courts in determining whether there is an implicit legislative intent to exclude their jurisdiction, had she done so, she would have reached the same conclusion.

48. Although the judge recognized that the *APPR* scheme was incorporated into carriers’ tariffs, she correctly characterized the juridical basis of the standard minimum compensation set out in the *APPR* as being a statutorily-imposed scheme, not a claim based on a contractual term to which the airlines had agreed to be bound. Indeed, the Boyds’ claim before the CRT sought “compensation for the delay pursuant to the Air Passenger Protection Regulations”, and specifically noted certain sections of the *APPR* “pursuant to” which “[c]ompensation is sought”. Unlike *Bank of Montreal v. Cheetham*, 2025 BCCA 374 at paras. 89-95, on which APR relies, it was not a claim in contract based on WestJet having incorporated the provisions of the *APPR* into its tariff.

49. “Debt” was defined by the Supreme Court of Canada in *Diewold v. Diewold*, [1941] S.C.R. 35, as “a sum payable in respect of a liquidated money demand, recoverable by an action.” Whether an action was available to enforce claims under the *APPR* was thus relevant to whether the claims were in “debt”, and was rightly considered by the judge.

50. The judge was correct to reject APR’s argument that the Supreme Court held in *IATA* that claims for *APPR* compensation may be brought as a court action. She explained at paras. 77 and 78 of her reasons why APR’s position was based on a misreading of para. 97 of that decision, referring to the other language in that paragraph that was inconsistent with APR’s position. This included the Court’s reference to “the primacy of the administrative enforcement mechanism under the *CTA*”, and the fact that the *APPR* “make no provision for claims to be filed in court”. It is also clear that the beginning of para. 97 is simply the Court summarizing the appellant’s position that a judicial proceeding seeking to vindicate a claim under the *APPR* constituted an “action for damages” because it could be brought in court. Whether such claims could be brought in court was not at issue in *IATA*, but only whether such an action, assuming it could be brought, would be an “action in damages”.

51. APR's position that the Federal Court of Appeal in *IATA*[27] "accepted as a fact" that *APPR* claims could be brought in court must also be rejected, as it did not make any finding on this issue either. It observed that "the possibility of filing an action in court to recover the amount set out in the Regulations is not excluded by the CTA", but that "in most instances the Regulations will be implemented through an administrative process for obvious reasons (costs, delay, simplicity of the proceedings)" (at para. 133). Indeed, it went so far as to state that "[t]he minimum compensation required by the Regulations is meant to be enforced through the Agency through administrative measures" (at para. 127). As noted, in *IATA*, it did not matter whether an action could be brought in court, but only whether a claim for *APPR* standardized compensation constituted a claim for "damages" (and whether such a claim would violate the exclusivity of the *Montreal Convention*).

52. In *WestJet v. Gauthier*, 2025 BCCA 134, this Court canvassed the leading authorities in respect of the question of whether a statutory code comprehensively regulates a particular domain and completely replaces the common law. In *Tucci v. Peoples Trust Company*, 2020 BCCA 246, this Court observed that there are statutes that, "while not in direct conflict with the common law, are drafted in such a way as to make clear that they are intended to comprehensively govern an area, leaving no room for the common law" (at para. 22). These are referred to as "comprehensive codes".

53. As there is a presumption that legislators do not intend to abrogate common law entitlements, a common law cause of action will only be ousted where legislation rebuts the presumption, either expressly or by necessary implication. In deciding whether there is an implicit legislative intent to exclude their jurisdiction, courts consider the following:

> [31] … First, a court is to consider "the process for dispute resolution established by the legislation" and ask whether the language is "consistent with exclusive jurisdiction". Courts should look at "the presence or absence of privative clauses and the relationship between the dispute resolution process and

[27] *International Air Transport Association v. Canadian Transportation Agency*, 2022 FCA 211

> the overall legislative scheme": *Pleau* [*v. Canada (A.G.)*, 1999 NSCA 159), at para. 50 (emphasis in original).
>
> [32] Second, a court should consider "the nature of the dispute and its relation to the rights and obligations created by the overall scheme of the legislation". The court is to assess "the essential character" of the dispute and "the extent to which it is, in substance, regulated by the legislative … scheme and the extent to which the court's assumption of jurisdiction would be consistent or inconsistent with that scheme": *Pleau*, at para. 51 (emphasis in original).
>
> [33] The third consideration is "the capacity of the scheme to afford effective redress" by addressing the concern that "where there is a right, there ought to be a remedy": *Pleau*, at para. 52 (emphasis in original).

54. With this framework in mind, WestJet submits that the following factors support the judge's conclusion that the Agency has exclusive jurisdiction over *APPR* claims:

(a) The *CTA* sets out in considerable detail a comprehensive scheme, titled "Air Travel Complaints", for passengers to make complaints in respect of, among other things, a carrier's failure to pay a claim for *APPR* compensation;

(b) The legislation creates statutory decision-makers – complaint resolution officers – to adjudicate complaints, whose decisions may then be judicially reviewed;

(c) The "essential character" of the dispute is a claim to enforce a statutorily-created right to standardized compensation for air travel delays;

(d) There is no concern with a lack of effective redress, as the Agency is obviously capable of granting any of the remedies set out in the *APPR*.

55. While not all of these components of the scheme have been present since the enactment of the *APPR*, passengers also previously had the ability to file complaints regarding *APPR* compensation with the Agency.

56. This Court's decision in *Macaraeg v. E Care Contact Centers Ltd.*, 2008 BCCA 182, is instructive. In assessing whether it was intended that unpaid overtime

entitlements created under the *Employment Standards Act*, R.S.B.C. 1996, c. 113 ("*ESA*"), were intended to be enforced by way of civil action, the Court said:

> [73] The law is clear: the general rule is there is no cause of action at common law to enforce statutorily-conferred rights. The exception arises when, on a construction of the legislation as a whole, the court concludes the legislators intended that statutorily-conferred rights can be enforced by civil action…
>
> [74] In my view, in ascertaining the intention of the legislators an important indicium is whether the legislation provides effective enforcement of the right conferred by statute. If the statute does so, there is no need for enforcement outside the statute and *prima facie* there is no civil cause of action. If the statutory remedy is inadequate, a logical conclusion is the Legislature intended the right to be enforceable by civil action...
>
> [Emphasis added.]

57. The Court in *Macaraeg* held that when a statute provides an adequate administrative scheme for conferring and enforcing rights, "in the absence of providing for a right of enforcement through civil action expressly or as necessarily incidental to the legislation, there is a presumption that enforcement is through the statutory regime and no civil action is available". It found that the *ESA* provides a complete and effective administrative structure to employees for granting and enforcing rights, and there was no intention that such rights could be enforced in a civil action.

58. WestJet submits that the same result must follow here. The *APPR* scheme has, as noted by the chambers judge, "all the hallmarks of an exhaustive and comprehensive scheme to address passengers' right to compensation from carriers upon flight delay…" (at para. 87). The fact that the *APPR* are deemed to form part of carriers' tariffs does not change this.

59. To find exclusive jurisdiction on the Agency in this case is not inconsistent with the result in *Unlu v. Air Canada*, 2013 BCCA 112, relied on by APR. WestJet does not take the position, as Air Canada did in that case, that the Agency is the "exclusive and final decision-making authority" for "*all* matters related to air travel" (at paras. 24-26) (emphasis added). Rather, it argues, for the reasons above, that the *APPR* scheme, in particular, is within its exclusive jurisdiction.

60. Consequently, the claim was not a "debt" claim (nor was it a claim for "damages" as concluded by *IATA*) and the CRT had no jurisdiction over it.

C. The Assignment was Invalid

61. APR seeks to uphold the assignment on the basis that what was assigned was a debt claim, which, if absolutely assigned, is permissible. If the CRT did not have jurisdiction over the claim because it was not in "debt", the assignment was invalid. However, the chambers judge also found that the assignment was invalid independent of her finding that the claim was not in debt, on the basis that "[p]arties cannot confer, by agreement or otherwise, rights available under the *JRPA*" (at para. 92-95). In other words, the right being assigned in the agreement was not a debt claim (there was no debt claim as the claim had been adjudicated and dismissed by way of final order of the CRT). The right being assigned was the ability to challenge the CRT's final order by way of judicial review.

62. APR has provided no authority supporting a right to assign the ability to seek judicial review of the decision of an administrative tribunal. As the judge noted, "[t]he court's role in a judicial review is different than when resolving private law disputes", and that "relief by way of judicial review does not enforce private rights between parties", but is "a mechanism by which a person can seek relief from a superior court against the actions of the state" (at paras. 94-95). Even if the claim was in debt, her conclusion regarding the validity of the assignment should be upheld for the reasons she gave.

D. APR does not have Standing

63. If the claim is not in debt, or the assignment is otherwise invalid for the reasons above, APR clearly does not have standing. However, the chambers judge also concluded independent of these other findings that it had no standing, reasoning that "[i]t is well established that the right to seek judicial review is limited to a person aggrieved, affected or suffering some exceptional prejudice by the decision being challenged" (at para. 97). APR clearly was not such a person, as "it did not have its flight delayed or cancelled". Only the Boyds and WestJet could seek judicial review. As

with the validity of the assignment, the judge's conclusion should be upheld for the reasons given.

E. Assuming the Civil Resolution Tribunal has Jurisdiction, it correctly found that the Flight was cancelled due to a "Labour Disruption"

(a) This Court ought to decide this Issue

64. APR argues that the issue of whether the Flight was cancelled due to a "labour disruption" ought to be remitted to a different judge of the BC Supreme Court for determination, because it would be "unfair" for the chambers judge to decide this issue when she has "already expressed a conclusive opinion on it". This "conclusive opinion" is the underlined portion of para. 13 in the Facts section of her reasons:

> [13] The Passengers took their scheduled flight from Kelowna to Calgary on May 18, 2023. However, their flight to Rome was cancelled due to the ongoing labour disruption. They received notification of the cancelation by email in the morning of May 18, 2023.

65. WestJet's response to the appellant's position is two-fold. First, it is not in the interests of justice to remit the matter back to the BC Supreme Court at all – this Court ought to decide it. Second, and in the alternative, there is no basis to conclude the chambers judge cannot fairly decide this issue if it is remitted.

(i) It is not in the interests of justice to remit the matter

66. As mentioned above, absent original findings of fact by the reviewing judge, the standard of review from an appeal of a judicial review is correctness, meaning that this Court effectively reviews the Tribunal's decision *de novo*. In any event, an issue of statutory interpretation is also a question of law, and thus subject to a correctness standard. It would serve no useful purpose to remit the issue back to the Supreme Court where no findings of fact need be made, and no deference would be owed to its decision. It would only lead to additional delay and cost for the parties.

67. Further, both sides' arguments on the substantive issue are already well-developed. Indeed, as Justice Sharma noted at para. 24, the "legal interpretation" of the

APPR – in other words, the correctness of the CRT's decision on the issue of whether a "labour disruption" required a strike or lockout to have actually commenced – was the only issue raised by APR in its petition.

68. The matter would likely come back before this Court in any event. Whether the period after the issuance of a strike or lockout notice but before the strike or lockout commences constitutes a "labour disruption" under the *APPR* is currently before the BC Supreme Court in a class proceeding in which APR's counsel acts for the plaintiff, and will continue to arise in other cases given other recent labour disputes within airlines that have resulted in such notices being issued. An appellate decision would provide greater certainty on this issue, and WestJet submits this Court ought to decide it now.

(ii) In the alternative, there is no basis to remit it to another judge

69. Second, even if this Court were of the view that this issue should be remitted to the BC Supreme Court, and even if it were the Court's practice to order that a matter be remitted to a different judge rather than to leave the assignment of the matter to the Chief Justice of the BC Supreme Court, there would be no basis to do so here.

70. While the judge does state that the Flight was cancelled "due to the ongoing labour disruption", it is plain from the following excerpt that she conducted no analysis on this issue and made no finding on it:

> [112] I have also declined at this time to address the following issue: was the disruption of the Passengers' journey to Rome due to a labour dispute meaning WestJet did not owe compensation pursuant to s. 19 of the *Passenger Regulation*? In light of this judgment, I also invite the parties to address whether this Court can or should opine on that issue.

71. Thus, reading her reasons as a whole, there is no suggestion she has closed her mind such that she could not decide the issue fairly following a full analysis.

(b) <u>The CRT's Decision should be upheld</u>

72. As noted above, APR alleged the following errors with respect to the CRT's interpretation of s. 10 of the *APPRs*: (a) the Tribunal member failed to consider the

purpose of the *APPR;* (b) she focused on whether there were "situations outside of the carrier's control" and not on what the "labour disruption" entails; (c) she relied improperly on the RIAS; (d) she overlooked direct causation wording in the regulation; and (e) considering the notice period prior to a strike or lockout to be a "labour disruption" is unworkable, because it would allow airlines to pre-emptively issue lockout notices to escape the obligation to pay compensation under the *APPR*.

73. While WestJet will respond to each of these points, its position, in summary, is that APR's position does not accord with the plain and ordinary meaning of the relevant words of s. 10 of the *APPR*, or with the purpose of that section and the inclusion of the words "labour disruption" in it. It also ignores airlines' operational realities and the effect of a labour dispute on those operations, and, further, fails to appreciate that the Boyds did not dispute that the Flight was cancelled because of the impending strike – rather, they argued only that because a work stoppage had not yet begun, this was not capable of amounting to a "labour disruption".

(i) Standard of Review

74. As noted, on an appeal from a judicial review, this Court effectively steps into the shoes of the reviewing court and reviews the decision of the Tribunal on the standard(s) of review applicable to its findings. Here, the Tribunal found that as a matter of statutory interpretation, a 72-hour strike notice was a "labour disruption" within the meaning of s. 10 of the *APPR*. This is a question of law, subject to a correctness standard of review.

(ii) Reasons of the CRT and the Manitoba Small Claims Court on the Interpretation to be given to "Labour Disruption"

75. The CRT's reasons regarding whether a "labour disruption" required an active strike were brief. This is to be expected, given the Tribunal's mandate to operate in a more informal way that allows it to deliver timelier justice. Nonetheless, the Tribunal member correctly identified the applicable law, citing the statement of the modern principle of statutory interpretation in *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27. She also referenced the wording of the section, the RIAS – and specifically the fact that it referred to "bargaining process", and did not refer to a strike or lockout, which

supported that “labour disruption” includes the time after a strike notice is issued – and observed that irrespective of whether a lockout notice was issued, WestJet did not have control over a strike. This reasoning logically led to a conclusion that “labour disruption” was not limited to an active strike.

76. In *Burym*, on which WestJet relied, the Manitoba Small Claims Court engaged in a somewhat lengthier analysis of the issue, arriving at the same result. It stated:

> …[T]he 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…
>
> It is the announcement of the strike that heralds the suspension of the contractual obligations and instigates a fundamental shift in labour relations thus establishing that a labour disruption was underway at the time of the claimants’ cancellation, making it outside of the carrier’s control.

(iii) Purpose of the *APPR* and of s. 10 specifically

77. This result is consistent with the purpose of the *APPR* and of the inclusion of s. 10 within that legislative scheme. There is no question, as recognized by the Supreme Court in *IATA*, that the overarching objective of the *APPR* is protection of passengers. However, this does not mean that every section of the regulations must be interpreted as having consumer protection as its singular objective. As the Federal Court noted in *Lukács v. Air Canada Rouge LP*, 2023 FC 1358, the principle of statutory interpretation that consumer protection legislation ought to be interpreted generously in favour of consumers ought not to result in punishment of the service provider (at para. 56).

78. It is clear from the statements of Minister Garneau in the legislative debates, quoted above, that the *APPR* were intended to be fair to carriers as well as to passengers, and not to adversely impact the provision of air services and their cost. Providing monetary compensation to passengers where the reason for a delay is outside a carrier’s control does not incentivize carriers to improve their treatment of passengers; rather, it simply provides a windfall to passengers and is punitive to carriers. The Agency, which was required to draft the regulations in consultation with the

Minister, made a deliberate choice in s. 10 not to require airlines to provide compensation when the reason for the delay was outside their control, particularly in certain specific circumstances deemed to be so, including an internal labour disruption. This obvious attempt to balance the interests of passengers and carriers must be considered in the statutory interpretation analysis.

79. Thus, even if the Tribunal had expressly mentioned the overarching passenger protection purpose of the *APPR*, this would not dictate the result sought by APR.

(iv) Plain and Ordinary Meaning of "Labour Disruption" and the Tribunal Member's Reference to the RIAS

80. WestJet disagrees that the Tribunal member focused on whether there were "situations outside of the carrier's control" and not on what a "labour disruption" entails. It is true that she noted that a strike was not within WestJet's control, which was accurate – once the strike notice was issued, WestJet could not control whether its employees ultimately went on strike, except perhaps by agreeing to all of their demands. However, it was apparent from the RIAS that to allow the *APPR* to influence collective bargaining in this way would be undesirable.

81. In any event, the Tribunal member did consider the meaning of the words "labour disruption", particularly with reference to the RIAS. She observed that the RIAS did not reference "strike" or "lockout", and that it noted concerns regarding influencing the collective bargaining process. This use of the RIAS to assist in the statutory interpretation analysis was not an error. In *Lukács v. Air Canada Rouge*, referred to above, the Federal Court held that an "RIAS can be accepted as an extrinsic aid to interpretation", citing a decision of the Newfoundland Court of Appeal, *Boutcher v. Canada*, 2001 NFCA 33 at para. 76. See also *Unlu v. Air Canada*, 2013 BCCA 112 at para. 29, in which this Court stated that a RIAS is "admissible to aid in the interpretation of regulations", and *Gauthier v. Air Canada*, 2024 BCSC 231 at para. 184.

82. APR submits that the meaning or significance of the relevant portion of the RIAS is unclear. However, based on the words in the RIAS, taken together with the change made to the draft regulations following consultations – which was to add that a labour

disruption *within the carrier* was also outside its control – it is apparent that the Agency was acceding to stakeholders' concerns that failing to include labour disruptions within the carrier in the list of situations deemed to be outside carrier control would result in an obligation to pay *APPR* compensation when flights were cancelled because of a labour dispute, disadvantaging it in collective bargaining with its employees.

83. There is nothing in the plain and ordinary meaning of the words "labour disruption" that suggests it is intended to be limited to a strike or lockout that has actually commenced. If that had been the intention, it would have been easy to use more specific words such as "strike, lockout, or any other work stoppage". Instead, the Agency chose a broader term.

84. WestJet has been unable to find the words "labour disruption" defined in any Canadian legislation. However, several statutes define "labour dispute". The *Employment Insurance Act*, S.C. 1996, c. 23, defines "labour dispute" as "a dispute between employers and employees, or between employees and employees, that is connected with the employment or non-employment, or the terms or conditions of employment, of any persons" (s. 2.1). The Ontario *Courts of Justice Act*, R.S.O. 1990, c. C.43, defines "labour dispute" as meaning "a dispute or difference concerning terms, tenure or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee" (s. 102(1)).

85. Although the BC *Labour Relations Code*, R.S.B.C. 1996, c. 244, does not define "labour dispute", it does define "dispute", and uses the term "labour dispute" in the legislation. "Dispute" is defined as meaning "a difference or apprehended difference, as to matters or things affecting or relating to terms or conditions of employment or work done or to be done, between "an employer and one or more of the employer's employees or a trade union" or "a group of employers and one or more of the employers' employees or a trade union" (s. 1).

86. WestJet is not suggesting that a dispute within the meaning of these definitions will always cause a “labour disruption” under the *APPR*. Employers and employees will usually be engaged in contractual negotiations well prior to the issuance of a strike or lockout notice, or may otherwise disagree regarding conditions of employment. Rather, “disruption” implies an outward impact on the operations of the employer’s business.

87. In the context of an airline, particularly one that operates across North America and the world, it is impossible that this outward impact would only commence the minute the employees are in a legal strike position or may be locked out. Aircraft would be in the air (as would have been the case with the Boyds’ Flight if it had not been cancelled), being flown by then striking (or locked out) pilots, or parked at airports around the world. Crews would also be far from their home bases.

88. This is clearly not only a matter of cost as suggested by APR. It does not address the problem of flights being in the air, and, while WestJet could pay for crews’ transportation on other airlines, there would be questions as to their employment status while they are waiting for transportation home, or being transported home, because their employer required them to travel to that destination shortly prior to a strike or lockout commencing. It is also an open question whether pilots could refuse to operate flights that would be in the air, clearly requiring them to be engaged in their job duties, at the time their right to strike commenced.

89. As noted by the Canadian Industrial Relations Board in *Candu Energy Inc. v. Society of Professional Engineers and Associates*, 2012 CIRB 650, the purpose of a statutory strike notice “is to allow the employer to make appropriate preparations for a work stoppage”. This is not unique to the aviation context – for example, if employees of Rogers Arena served a strike notice permitting a strike as of 8 pm on the night of a Vancouver Canucks game, the game could not reasonably go ahead at 7 pm.

90. Based on the plain and ordinary meaning of the words and the context and purpose of the legislative scheme, the only reasonable interpretation of “labour disruption” is that it is not limited to a work stoppage having actually commenced. The CRT and the Manitoba Small Claims Court reasonably found that a “labour disruption”

could occur as early as the issuance of a strike notice, which puts the employees in a legal strike position beginning 72 hours later, allowing the employer a limited amount of time to wind down their operations.

(v) The Tribunal Member did not ignore the Causal Language in s. 10 of the *APPR*

91. APR correctly notes that in order to avoid paying compensation, the delay or cancellation must have been "due to" the situation outside the carrier's control. However, as discussed above, the Boyds did not argue that WestJet had an ulterior purpose in cancelling the Flight – they did not dispute that the reason was the impending strike. The Tribunal Member noted at para. 12 of her reasons that "[t]he parties agree this dispute turns on whether a strike notice and lockout notice qualify as a 'labour dispute'". Thus, the only question for decision was whether an impending strike could constitute a "labour disruption" under s. 10 of the *APPR*, or whether the strike or lockout had to have commenced.

92. In any event, even if this had been disputed by the Boyds, there was evidence on which the Tribunal member could find that the Flight was cancelled due to the impending strike (and it is arguable that she did so find, in the first sentence of para. 19 of her decision). In fact, this was the only reasonable conclusion to be drawn from that evidence. First, the scheduled time of the Flight's arrival was after the pilots would be in a legal strike position following the expiry of the notice period. Second, the documentary evidence submitted by WestJet stated that the Flight "was cancelled because of the schedule reduction during the negotiations between the WestJet Pilot group and ALPA".[28]

93. Consequently, having found that a 72-hour strike notice was capable of constituting a "labour disruption" for the purposes of whether an airline owed compensation under the *APPR*, there was no basis in the evidence for the Tribunal member to conclude that the Flight was cancelled for any other reason (nor was she

[28] Evidence #24, AAB p. 231

asked to do so), and she did not err in finding that "the reason for the delay [was] outside of WestJet's control".

(vi) Alleged "Unworkability" of a 72-Hour Strike Notice constituting a "Labour Disruption"

94. The potential for airlines to issue lockout notices well in advance in order to escape paying compensation under the *APPR* is, to put it mildly, farfetched. Lockout notices under the *CLC* cannot be issued by employers willy-nilly; they may only do so once certain requirements, set out in s. 89, are met. This includes that the employer or union must have given notice to bargain collectively, and must have given notice to the Minister informing of the parties' failure to enter into or revise a collective agreement.

95. In any event, APR's concern is addressed by the causal language in s. 10: the delay or cancellation must be "due to" the labour disruption. It is not sufficient for a delay or cancellation to occur during the notice period. Rather, if disputed by the passenger, the carrier must prove that it was the labour dispute that caused the disruption leading to the delay or cancellation – such as a situation like this one where the aircraft would be in the air at the time the strike and lockout commenced.

PART 4 - NATURE OF ORDER SOUGHT

96. WestJet seeks an order dismissing the appeal with costs.

97. In the alternative, if this Court disagrees with the conclusions of the chambers judge on jurisdiction, assignment, and standing, WestJet seeks an order affirming the decision of the CRT that the Flight was cancelled due to a "labour disruption" such that compensation is not payable under the *APPR*.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated at the City of Vancouver, Province of British Columbia, this 12th day of January, 2026.

Michael Dery and Kathryn McGoldrick,
Counsel for the Respondent,
WestJet Airlines Ltd.

APPENDIX A: LIST OF AUTHORITIES

Authorities	Para # in factum
Bank of Montreal v. Cheetham, 2025 BCCA 374	48
British Columbia (Attorney General) v. British Columbia (Provincial Court), 1999 CanLII 15169 (B.C.S.C.)	45
Boutcher v. Canada, 2001 NFCA 33	81
Burym v. WestJet Airlines Ltd., unreported, Manitoba Small Claims Court File #SC23-01-44117	18, 76
Canada (Attorney General) v. Boutilier (T.D.), [1999] 1 F.C. 459	45
Diewold v. Diewold, [1941] S.C.R. 35	49
Gauthier v. Air Canada, 2024 BCSC 231	81
Henthorne v. British Columbia Ferry Services Inc., 2011 BCCA 476	42
International Air Transport Association v. Canadian Transportation Agency, 2022 FCA 211	51
International Air Transport Association v. Canada (Transportation Agency), 2024 SCC 30	31, 34-37, 50, 51, 60, 77
Lukács v. Air Canada Rouge LP, 2023 FC 1358	77, 81
Lukács v. Canadian Transportation Agency, 2015 FCA 140	6
Macaraeg v. E Care Contact Centers Ltd., 2008 BCCA 182	56, 57
Rizzo & Rizzo Shoes Ltd. (Re), [1998] 1 S.C.R. 27	75
Stora Enso Publication Paper GmbH & Co. KG v. Canada, 2009 FC 625	45
The Owners, Strata Plan BCS 3407 v. Emmerton, 2024 BCCA 354	42
Tucci v. Peoples Trust Company, 2020 BCCA 246	52
Unlu v. Air Canada, 2013 BCCA 112	59, 81
WestJet v. Gauthier, 2025 BCCA 134	52
Board and Tribunal Decisions	
Candu Energy Inc. v. Society of Professional Engineers and Associates, 2012 CIRB 650	89

APPENDIX B: *AIR PASSENGER PROTECTION REGULATIONS*, SOR/2019-150

s. 10.

10(1) 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 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.

10(2) Earlier flight disruption
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.

10(3) Obligations
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.

s. 11.

11(1) Obligations when required for safety purposes
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.

11(2) Earlier flight disruption
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.

11(3) Delay
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.

11(4) Cancellation
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.

11(5) Denial of boarding
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.

s. 12.

12(1) Obligations when within carrier's control
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).

12(2) Delay
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.

12(3) Cancellation
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.

12(4) Denial of boarding
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.

s. 18

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.

s. 19.

19(1) Compensation for delay or cancellation
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.

19(2) Compensation in case of refund
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.

19(3) Deadline to file request
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.

19(4) Deadline to respond
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.

APPENDIX C: *CANADA LABOUR CODE*, R.S.C. 1985, C. L-2

s. 87.2

87.2(1) Strike notice
Unless a lockout not prohibited by this Part has occurred, a trade union must give notice to the employer, at least seventy-two hours in advance, indicating the date on which a strike will occur, and must provide a copy of the notice to the Minister.

S. 89

89(1) No strike or lockout until certain requirements met
No employer shall declare or cause a lockout and no trade union shall declare or authorize a strike unless

(a) the employer or trade union has given notice to bargain collectively under this Part;

(b) the employer and the trade union

(i) have failed to bargain collectively within the period specified in paragraph 50(a), or

(ii) have bargained collectively in accordance with section 50 but have failed to enter into or revise a collective agreement;

(c) the Minister has

(i) received a notice, given under section 71 by either party to the dispute, informing the Minister of the failure of the parties to enter into or revise a collective agreement, or

(ii) taken action under subsection 72(2);

(d) twenty-one days have elapsed after the date on which the Minister

(i) notified the parties of the intention not to appoint a conciliation officer or conciliation commissioner, or to establish a conciliation board under subsection 72(1),

(ii) notified the parties that a conciliation officer appointed under subsection 72(1) has reported,

(iii) released a copy of the report to the parties to the dispute pursuant to paragraph 77(a), or

(iv) is deemed to have been reported to pursuant to subsection 75(2) or to have received the report pursuant to subsection 75(3);

(e) the Board has determined any referral made pursuant to subsection 87.4(5); and

(f) sections 87.2 and 87.3 have been complied with.

89(2) No employee to strike until certain requirements met
No employee shall participate in a strike unless

(a) the employee is a member of a bargaining unit in respect of which a notice to bargain collectively has been given under this Part; and

(b) the requirements of subsection (1) have been met in respect of the bargaining unit of which the employee is a member.

APPENDIX D: *CANADA TRANSPORTATION ACT*, S.C. 1996, C. 10

86.11(1) 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,

(a) respecting the carrier's obligation to make terms and conditions of carriage and information regarding any recourse available against the carrier, as specified in the regulations, readily available to passengers in language that is simple, clear and concise;

(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;

(c) prescribing the minimum compensation for delayed, lost or damaged baggage that the carrier is required to pay;

(d) respecting the carrier's obligation to facilitate the assignment of seats to children under the age of 14 years in close proximity to a parent, guardian or tutor at no additional cost and to make the carrier's terms and conditions and practices in this respect readily available to passengers;

(e) requiring the carrier to establish terms and conditions of carriage with regard to the transportation of musical instruments;

(f) respecting the carrier's obligations in the case of tarmac delays over three hours, including the obligation to provide timely information and assistance to passengers, as well as the minimum standards of treatment of passengers that the carrier is required to meet; and

(g) respecting any of the carrier's other obligations that the Minister may issue directions on under subsection (2).

Ministerial directions

(2) The Minister may issue directions to the Agency to make a regulation under paragraph (1)(g) respecting any of the carrier's other obligations towards passengers. The Agency shall comply with these directions.

Restriction

(3) A person shall not receive compensation from a carrier under regulations made under subsection (1) if that person has already received compensation for the same event under a different passenger rights regime than the one provided for under this Act.

Obligations deemed to be in tariffs

(4) The carrier's obligations established by a regulation made under subsection (1) are deemed to form part of the terms and conditions set out in the carrier's tariffs in so far as the carrier's tariffs do not provide more advantageous terms and conditions of carriage than those obligations.

APPENDIX E: *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43

102. Injunction in labour dispute
102(1) Definition
In this section,

"labour dispute" means a dispute or difference concerning terms, tenure or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

APPENDIX F: *EMPLOYMENT INSURANCE ACT*, S.C. 1996, C. 23

2.
2(1) Definitions
In this Act,

[…]

"labour dispute" means a dispute between employers and employees, or between employees and employees, that is connected with the employment or non-employment, or the terms or conditions of employment, of any persons;

APPENDIX G: *LABOUR RELATIONS CODE*, R.S.B.C. 1996, C. 244

1. Definitions
1(1) In this Code:

[…]

"dispute" means a difference or apprehended difference, as to matters or things affecting or relating to terms or conditions of employment or work done or to be done, between

(a) an employer and one or more of the employer's employees or a trade union, or

(b) a group of employers and one or more of the employers' employees or a trade union;

APPENDIX H: *LAW AND EQUITY ACT*, R.S.B.C. 1996, C. 253

s 36. 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.

36(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*.

APPENDIX I: *SUPREME COURT CIVIL RULES*, B.C. REG. 168/2009

6-2(3) Assignment or conveyance of interest

If, by assignment, conveyance or death, an estate, interest or title devolves or is transferred, a proceeding relating to that estate, interest or title may be continued by or against the person on whom that estate, interest or title has devolved or to whom that estate, interest or title has been transferred.