



COURT OF APPEAL FILE NO. CA51094
Air Passenger Rights v. WestJet Airlines Ltd.

COURT OF APPEAL

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

BETWEEN:

AIR PASSENGER RIGHTS

APPELLANT
(Petitioner)

AND:

WESTJET AIRLINES LTD.

RESPONDENT
(Respondent)

AND:

CIVIL RESOLUTION TRIBUNAL

RESPONDENT
(Administrative Decision Maker)

Affidavit #1 of Brittany Connelly

I, Brittany Connelly, paralegal, of 101-5553 16th Avenue, in the City of Delta, in the Province of British Columbia, SOLEMNLY AFFIRM THAT:

1. I, Brittany Connelly am a contract paralegal to Simon Lin, and as such I have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and belief and, where so stated, I verily believe those matters to be true.

2. Attached and marked as **Exhibit "A"** is a copy an email sent on December 3, 2025, from the Mail and Reception at the Department of Justice, BC Regional Office, , confirming receipt of Simon Lin's email dated December 3, 2025, enclosing a courtesy copy of the Amended Notice of Appeal and Appellant's Appeal Factum.

3. Attached and marked as **Exhibit "B"** is a copy of an email sent on December 5, 2025, from Meredith Desnoyers of Legal Services and Secretariat Branch of the Canadian Transportation Agency, confirming receipt of Simon Lin's email dated December 3, 2025,

enclosing a courtesy copy of the Amended Notice of Appeal and Appellant's Appeal Factum.

4. Attached and marked as **Exhibit "C"** is a copy of Simon Lin's letter to Mr. Michael Dery and Ms. Kathryn McGoldrick, dated January 14, 2026, regarding two critical issues observed from a cursory review of WestJet's factum.

5. Attached and marked as **Exhibit "D"** is a copy an email from WestJet's counsel on January 20, 2026, in response to the Appellant's letter dated January 14, 2026.

6. Attached and marked as **Exhibit "E"** is a copy an email from WestJet's counsel, regarding a draft order for the Reasons for Judgment pronounced by Madam Justice Sharma on October 30, 2025, and WestJet's position for the Judicial Management Conference.

Remote Commissioning of this Affidavit

7. I acknowledge the solemnity of making a solemn declaration and acknowledge the consequences of making an untrue statement.

8. I was not physically present before the person before whom this affidavit was affirmed but was in that person's presence using video conferencing.

AFFIRMED BEFORE ME
at North Vancouver, British
Columbia on February 25, 2026



A Commissioner for Taking Affidavits for B.C.

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)
)



Brittany Connelly

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

This is **Exhibit "A"** to the Affidavit of Brittany Connelly
affirmed before me on February 25, 2026

Simon Lin

Simon Lin

Brittany Dieno

From: * VAN Mail and Reception <VancouverMailReception@justice.gc.ca>
Sent: December 3, 2025 9:00 AM
To: Simon Lin
Cc: * VAN Mail and Reception
Subject: RE: Air Passenger Rights v. WestJet (BC Court of Appeal: CA51094)

Hello,

Confirming that your email was received and has been forwarded to the appropriate group for review.

Thank you, [CS]

Bonjour,

Nous confirmons que votre courriel a été reçu et a été transmis au groupe pertinent pour son vérification.

Merci,

[CS]

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Department of Justice | Ministère de la Justice Canada
BC Regional Office | Bureau Régional de la C.-B.
900 – 840 Howe Street, Vancouver, B.C. | Vancouver, C.-B. V6Z 2S9
Government of Canada | Gouvernement du Canada
VancouverMailReception@justice.gc.ca

The 9th floor Reception desk at 840 Howe Street Vancouver is open to the public Monday to Friday (except holidays) between the hours of 8:30 AM to 4:30 PM.

--

From: Simon Lin <simonlin@evolinklaw.com>
Sent: Wednesday, December 3, 2025 8:00 AM
To: * VAN Mail and Reception <VancouverMailReception@justice.gc.ca>
Subject: Air Passenger Rights v. WestJet (BC Court of Appeal: CA51094)

EXTERNAL EMAIL – USE CAUTION / COURRIEL EXTERNE – FAITES PREUVE DE PRUDENCE

Good morning,

Enclosed please find a courtesy copy of the Amended Notice of Appeal and Appellant's Appeal Factum for a decision recently released from the Supreme Court of British Columbia (*Air Passenger Rights v WestJet Airlines Ltd.*, 2025 BCSC 2145).

Thank you.

Kind Regards,

Simon Lin
Barrister & Solicitor

**Evolink Law Group**

237-4388 Still Creek Drive, Burnaby, B.C. V5C 6C6

T: [604-620-2666](tel:604-620-2666)

F: [778-805-9830](tel:778-805-9830)

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This is **Exhibit “B”** to the Affidavit of Brittany Connelly
affirmed before me on February 25, 2026

Simon Lin

Simon Lin

Brittany Dieno

From: Services Juridiques / Legal Services (OTC/CTA)
<Servicesjuridiques/LegalServicesOTC/CTA@otc-cta.gc.ca>
Sent: December 5, 2025 7:05 AM
To: Simon Lin
Cc: Chloe Boisvenue; Services Juridiques / Legal Services (OTC/CTA)
Subject: RE: [Externe/External]:Air Passenger Rights v. WestJet (BC Court of Appeal: CA51094)

Good morning,

Receipt confirmed on behalf of the Canadian Transportation Agency.

Thank you,

Meredith Desnoyers

(Elle/She/Her)

Parajuriste, Direction des services juridiques, Direction générales des services juridiques et de secrétariat

Office des transports du Canada

meredith.desnoyers@otc-cta.gc.ca

Cél. : 613-614-5196 / ATS. : 1-800-669-5575

Suivez-nous : [otc-cta.gc.ca](https://www.otc-cta.gc.ca) / [Twitter](#) / [YouTube](#)

Paralegal, Legal Services Directorate, Legal Services and Secretariat Branch

Canadian Transportation Agency

meredith.desnoyers@otc-cta.gc.ca

Cell.: 613-614-5196 / TTY.: 1-800-669-5575

Follow us: [otc-cta.gc.ca](https://www.otc-cta.gc.ca) / [Twitter](#) / [YouTube](#)

From: Simon Lin <simonlin@evolinklaw.com>

Sent: December 3, 2025 11:00 AM

To: secretariat <Secretariat.Secretariat@otc-cta.gc.ca>

Subject: [Externe/External]:Air Passenger Rights v. WestJet (BC Court of Appeal: CA51094)

Good morning,

Enclosed please find a courtesy copy of the Amended Notice of Appeal and Appellant's Appeal Factum for a decision recently released from the Supreme Court of British Columbia (*Air Passenger Rights v WestJet Airlines Ltd.*, 2025 BCSC 2145).

Please kindly confirm receipt of this email.

Thank you.

Kind Regards,

Simon Lin
Barrister & Solicitor



Evolink Law Group

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This is **Exhibit “C”** to the Affidavit of Brittany Connelly
affirmed before me on February 25, 2026

Simon Lin

Simon Lin

January 14, 2026

VIA EMAIL

Alexander Holburn Beaudin + Lang LLP

ATTN: Michael Dery and Kathryn McGoldrick

2700-700 West Georgia
Vancouver BC, V7Y 1B8

Dear Mr. Dery and Ms. McGoldrick,

RE: Air Passenger Rights v. WestJet Airlines Ltd., CA51094

We confirm receipt of WestJet's factum filed January 12, 2026. We are writing to WestJet regarding two critical issues we observed from a cursory review of WestJet's factum.

Issue #1 – WestJet Taking Contradictory Positions on the Appeal

As noted on page 10 of the Appellant's factum, the chambers judge decided four issues:

- a) the standardized compensation under the *APPR* was not a "debt";
- b) the Canadian Transportation Agency (the "**CTA**") has exclusive jurisdiction over standardized compensation under the *APPR*;
- c) the absolute assignment from the Boyds was invalid; and
- d) the Appellant lacked standing to seek judicial review of the Civil Resolution Tribunal (the "**CRT**") decision.

With respect to issues (a) and (b) above, on appeal WestJet is now arguing a position that was completely contradictory to what WestJet advanced before the chambers judge. Namely, WestJet had acknowledged the Boyds' claim was for a debt,¹ and the CTA did not have exclusive jurisdiction and WestJet was not challenging the CRT's jurisdiction.²

It is not permissible for a party to resile from a position that was deliberately adopted in the court below:³

¹ Paragraph 26 of the Appellant's Factum and accompanying footnote.

² Paragraphs 27, 28, and 30 of the Appellant's Factum and accompanying footnote.

³ *VIH Aviation Group Ltd. v. CHC Helicopter LLC*, 2012 BCCA 125 at para. 44; see also *Argo Ventures Inc. v. Choj*, 2020 BCCA 17 at para. 31; *672047 B.C. Ltd. v. Johal*, 2024 BCCA 427.

[44] *Athey* is of limited assistance to the appellants, in my opinion, for two reasons. First, there is an important distinction to be drawn between raising a new issue on appeal and resiling from a position deliberately taken before the tribunal of first instance. As Frankel J.A. indicated in *Sahlin v. The Nature Trust of British Columbia, Inc.*, [2011 BCCA 157](#) at para. 38, “[a]lthough the practice is not immutable, this Court has, in the past, refused to allow a party that has deliberately adopted a position in the trial court to resile from that position on appeal.” See also *Protection Mutual Insurance Co. v. Beaumont* (1991), [1991 CanLII 5728 \(BC CA\)](#), 58 B.C.L.R. (2d) 290 at para. 26; *Chung Estate v. Chan* (1995), [1995 CanLII 2787 \(BC CA\)](#), 13 B.C.L.R. (3d) 157 at para. 26.

[emphasis added]

WestJet must live with the position that it had taken in the Court below:⁴

[26] A litigant who deliberately adopts, for whatever reason, a position in the court below must live with it in this Court: see *Teller v. Sunshine Coast (Regional District)*, [1990 CanLII 2131 \(BC CA\)](#), 43 B.C.L.R. (2d) 376 at 380-81, [1990] 3 W.W.R. 540, 67 D.L.R. (4th) 62, 48 M.P.L.R. 292 (C.A.).

[emphasis added]

While the Appellant recognizes that the prohibition against taking a contradictory position may not be an immutable practice, the party attempting to take a contradictory position must first seek leave from the Court.⁵ In this case, WestJet failed to seek leave in its factum and appears to be simply ignoring the irrefutable fact that WestJet had taken the position before the chambers judge that: the Boyds’ claim was for a debt,⁶ and the CTA did not have exclusive jurisdiction and WestJet was not challenging the CRT’s jurisdiction.⁷

As such, unless WestJet seeks leave before the Division and is granted leave, only WestJet’s arguments on issues (c) and (d) above are properly before the Division. There are strong reasons here to deny leave for WestJet to take a contradictory position since WestJet is actually attempting to propound the obvious error that the chambers judge made, as opposed to a party seeking to correct an error in the judgment below.

⁴ *Protection Mutual Insurance Company v. Beaumont*, 1991 CanLII 5728 (BC CA) at para. 26

⁵ *Pickwell v. Rajwan*, 2025 BCCA 32 at para. 21.

⁶ Paragraph 26 of the Appellant’s Factum and accompanying footnote.

⁷ Paragraphs 27, 28, and 30 of the Appellant’s Factum and accompanying footnote.

Issue #2 – It is Not Open for WestJet to Seek Alternative Relief

We note that, as an alternative request, WestJet is inviting the Court of Appeal to directly decide the merits of the judicial review relating to whether there was a “labour disruption” that caused the flight cancellation in question.

WestJet’s request is both procedurally and substantively improper.

Procedurally, WestJet had failed to file a cross-appeal within the time for doing so. Rule 8(c) of the *Court of Appeal Rules* is clear that if a respondent seeks relief different than what was sought in the Notice of Appeal, that a cross-appeal must be filed.

In this instance, the Amended Notice of Appeal provides that the Appellant is not requesting the Court of Appeal to decide the merits of the judicial review on whether there was a “labour disruption” that caused the flight cancellation. In order for WestJet to request that issue to be decided, a cross-appeal had to be filed. WestJet failed to do so.

In any event, even if a cross-appeal were to be filed, WestJet’s request is improper substantively. It is clear that the Court of Appeal is an error-correcting court and rarely decides issues at first instance. In this case, this is further propounded by the fact that WestJet had deliberately taken the position that the chamber judge should not give an opinion on the merits of the judicial review relating to whether there was a “labour disruption” that caused the flight cancellation:⁸

Our client’s position for tomorrow’s Judicial Management Conference is as follows:

- a. The jurisdiction of the Court under the *Judicial Review Procedure Act* is to provide relief to the applicant. The applicant sought an Order setting aside the portion of the CRT’s order dismissing the Boyds’ APPR compensation claim, granting the Boyds’ APPR compensation claim, or remitting the Boyds’ APPR compensation claim back to the CRT “to be decided in accordance with this Court’s reasons”.
- b. The applicant did not seek an Order quashing the decision.
- c. As a result, the applicant’s Petition should be dismissed, with costs payable to WestJet (we will seek leave to make submissions on costs).
- d. With regard to the finding of no jurisdiction, it is our view that the Court likely has the discretion to quash the decision of the CRT, because the Court ruled that the CRT

⁸ Email from WestJet to all counsel on December 1, 2025 at 6:05 p.m. before the appearance before Justice Sharma to settle the terms of the Order pronounced on October 30, 2025.

does not have the jurisdiction over APPR compensation claims. We can provide submissions on this point at a later hearing if the Court requires.

- e. Given the findings of the Court in the Reasons (no standing, improper assignment agreement, and no CRT jurisdiction over APPR compensation claims), **it is our position that the Court should not express a view on whether the subject flight disruption was caused by a labour dispute.**

[emphasis added]

It remains unexplained why WestJet, on December 1 and December 2, 2025, took the position before the chambers judge that “*the Court should not express a view on whether the subject flight disruption was caused by a labour dispute,*” but in its factum now claim that the Court of Appeal can somehow directly decide the issue.

Similar to Issue #1 above, WestJet has not sought leave to resile from its position taken in the court below. We also cannot see any arguable reason for the complete 180-degree change in position. Accordingly, unless WestJet seeks leave before the Division and is granted leave, the alternative relief that WestJet seeks is not properly before the Court.

Conclusion

Please advise if WestJet intends to seek leave from the Division to resile from WestJet’s positions that were taken before the chambers judge, and how it intends to do so. The Appellant reserves the right to seek an Order striking the offending portions of WestJet’s factum for reason of an abuse of process. We look forward to hearing from WestJet by no later than **January 23, 2026.**

Should you wish to discuss, please do not hesitate to contact us. The Appellant reserves the right to bring this letter to the Court’s attention.

Yours truly,

EVOLINK LAW GROUP



SIMON LIN

Barrister & Solicitor

Cc: Tyna Mason, counsel for the Attorney General of British Columbia; Eliza McCullum, counsel for the Civil Resolution Tribunal

This is **Exhibit “D”** to the Affidavit of Brittany Connelly
affirmed before me on February 25, 2026

Simon Lin

Simon Lin

Brittany Dieno

From: DERY, Michael <mdery@AHBL.CA>
Sent: January 20, 2026 7:54 AM
To: Simon Lin; ROSS, Julia
Cc: McCullum, Eliza CRT:EX; tyna.mason@gov.bc.ca; McCall, Jeannette AG:EX; Marsh, Kimberley AG:EX; CRT Paralegal CRT:EX; MCGOLDRICK, Kathryn
Subject: RE: Air Passenger Rights v. WestJet (CA51094) - WestJet's Factum [IMAN2-IMANAGE.FID778807]
Attachments: 2026-01-14 LT WestJet.pdf

Hi Simon,

We write in response to your attached letter dated January 14, 2026.

With regard to issue #1 (as identified in your attached letter), please see our factum in which we advance an argument that a party's position cannot clothe a court with jurisdiction where it has none. Taking no issue with the jurisdiction of the CRT during the Judicial Review does not preclude our client from seeking to uphold the judge's decision on this point. Her decision was the first time that a Superior Court found that the CRT does not have jurisdiction over APPR claims. She was not precluded from considering jurisdiction and our clients (and yours) are not precluded from making submissions on the issue during the appeal. The cases relied upon in your letter are not applicable, because they each involve an appellant raising an argument not considered in the court below in an attempt to obtain a different result, not a respondent seeking to uphold the lower court's decision.

We also do not see the utility in your client attempting to preclude WestJet from taking the position that the CRT had no jurisdiction, because we do not expect the Court of Appeal will leave the issue unresolved, regardless of whether WestJet makes arguments on it. Further, the Court generally will not decide issues absent an adversarial context.

Our client will not be seeking leave as suggested in your letter. In any event, to the extent leave is required, we will seek it from the division at the hearing of the appeal.

With regard to Issue #2, it was not open to WestJet to file a cross-appeal. An appeal is from the court's order, not from the reasons. A party is only permitted to file a cross-appeal where it seeks to vary that order in some respect; see s. 14(1) of the *Court of Appeal Act*. WestJet is not seeking to vary the order of Justice Sharma, but to uphold it on a different basis (assuming the Court of Appeal finds she erred in concluding that the CRT had no jurisdiction). This is permissible, and WestJet has followed the proper approach in putting the issue before the Court by raising it in its factum: see, for example, *AD General Partner Inc. v. Gill*, 2018 BCCA 436 at para. 88.

With respect to your comment that we did not seek to have Justice Sharma consider this issue, we have explained at para. 66 of our factum why that would have served no useful purpose.

Please note that if your client brings an application to strike our factum or any part of it, we will seek costs of the application in any event of the cause.

Yours Truly,

Michael.

MICHAEL DERY*

Partner, Aviation Practice Group Leader
he/him/his

Tel: 604 484 1742
Fax: 604 484 9742

ALEXANDER HOLBURN BEAUDIN + LANG LLP

Asst: Elisa Aguiar
Direct: 604 643 2117
Email: eaguiaar@ahbl.ca

2700 - 700 West Georgia Street, Vancouver, BC, V7Y 1B8
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*Professional Law Corporation

From: Simon Lin <simonlin@evolinklaw.com>

Sent: Wednesday, January 14, 2026 8:00 AM

To: ROSS, Julia <jross@AHBL.CA>

Cc: McCullum, Eliza CRT:EX <Eliza.McCullum@crtbc.ca>; tyna.mason@gov.bc.ca; McCall, Jeannette AG:EX <Jeannette.McCall@gov.bc.ca>; Marsh, Kimberley AG:EX <Kimberley.Marsh@gov.bc.ca>; CRT Paralegal CRT:EX <Paralegal@crtbc.ca>; DERY, Michael <mdery@AHBL.CA>; MCGOLDRICK, Kathryn <kmcgoldrick@AHBL.CA>

Subject: Re: Air Passenger Rights v. WestJet (CA51094) - WestJet's Factum [IMAN2-IMANAGE.FID778807]

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

Please see the enclosed letter.

Thank you.

Kind Regards,

Simon Lin
Barrister & Solicitor



Evolink Law Group

237-4388 Still Creek Drive, Burnaby, B.C. V5C 6C6

T: [604-620-2666](tel:604-620-2666)

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On Mon, Jan 12, 2026 at 3:52 PM ROSS, Julia <jross@ahbl.ca> wrote:

Good afternoon,

Please find attached for service upon you a copy of WestJet's Factum, filed today.

Kind regards,

Julia

JULIA ROSS

Paralegal
she/her/hers

Tel: 604 628 2771

Fax: 604 628 3271

Email: jross@AHBL.CA

Social:  



ALEXANDER HOLBURN BEAUDIN + LANG LLP
2700 - 700 West Georgia Street, Vancouver, BC, V7Y 1B8
Tel: 604 484 1700 | Fax: 604 484 9700 | Toll Free: 877 688 1351
Barristers + Solicitors | Vancouver | Kelowna | Toronto

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This is **Exhibit “E”** to the Affidavit of Brittany Connelly
affirmed before me on February 25, 2026

Simon Lin

Simon Lin

Brittany Dieno

From: DERY, Michael <mdery@AHBL.CA>
Sent: December 1, 2025 6:05 PM
To: Simon Lin
Cc: CHAUDHARY, Katelyn; MACHADO, Ciarah; Rahman, Zara CRT:EX; CRT Paralegal CRT:EX; kandis.mccall@crtbc.ca; McCullum, Eliza CRT:EX
Subject: RE: Air Passenger Rights v. WestJet Airlines Ltd, NW S254452-- Service of Draft Order and Order Signing Instructions [IMAN2-IMANAGE.FID778807]

Dear Simon,

As noted in the Reasons for Judgment at paragraph 113(c), the purpose of our appearance tomorrow is for each party to advise whether they believe it is appropriate and advisable for the Court to receive, at a later hearing, further submissions about:

- i) what remedy should be granted in light of this judgment?
- ii) can or should the Court express an opinion on whether the flight disruption was caused by a labour dispute and therefore out of WestJet's control such that no compensation is owed to the Passengers?

Our client's position for tomorrow's Judicial Management Conference is as follows:

- a) The jurisdiction of the Court under the *Judicial Review Procedure Act* is to provide relief to the applicant. The applicant sought an Order setting aside the portion of the CRT's order dismissing the Boyds' APPR compensation claim, granting the Boyds' APPR compensation claim, or remitting the Boyds' APPR compensation claim back to the CRT "to be decided in accordance with this Court's reasons".
- b) The applicant did not seek an Order quashing the decision.
- c) As a result, the applicant's Petition should be dismissed, with costs payable to WestJet (we will seek leave to make submissions on costs).
- d) With regard to the finding of no jurisdiction, it is our view that the Court likely has the discretion to quash the decision of the CRT, because the Court ruled that the CRT does not have the jurisdiction over APPR compensation claims. We can provide submissions on this point at a later hearing if the Court requires.
- e) Given the findings of the Court in the Reasons (no standing, improper assignment agreement, and no CRT jurisdiction over APPR compensation claims), it is our position that the Court should not express a view on whether the subject flight disruption was caused by a labour dispute.

As noted, it appears to us that Madam Justice Sharma will determine at the JMC tomorrow whether to receive further submissions at a later hearing regarding the above.

Yours truly,

Michael.

MICHAEL DERY**Partner, Aviation Practice Group Leader*
he/him/hisTel: 604 484 1742
Fax: 604 484 9742**ALEXANDER HOLBURN BEAUDIN + LANG LLP**Asst: Elisa Aguiar
Direct: 604 643 2117
Email: eaguia@ahbl.ca2700 - 700 West Georgia Street, Vancouver, BC, V7Y 1B8
Barristers + Solicitors | Vancouver | Kelowna | Toronto
*Professional Law Corporation**From:** Simon Lin <simonlin@evolinklaw.com>**Sent:** Monday, December 1, 2025 2:39 PM**To:** DERY, Michael <mdery@AHBL.CA>**Cc:** CHAUDHARY, Katelyn <kchaudhary@AHBL.CA>; MACHADO, Ciarah <cmachado@AHBL.CA>; Rahman, Zara CRT:EX <zara.rahman@crtbc.ca>; CRT Paralegal CRT:EX <Paralegal@crtbc.ca>; kandis.mccall@crtbc.ca; McCullum, Eliza CRT:EX <Eliza.McCullum@crtbc.ca>**Subject:** Re: Air Passenger Rights v. WestJet Airlines Ltd, NW S254452-- Service of Draft Order and Order Signing Instructions [IMAN2-IMANAGE.FID778807]**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Mike,

We are writing to follow up on our letter dated November 24, 2025 and our email from last week below.

We have not yet heard from WestJet what it proposed are the terms of Justice Sharma's pronouncement on October 30, 2025.

We expect to receive WestJet's proposed terms by no later than close of business today (5 p.m.). We also reserve the right to bring to the Court's attention that WestJet is acting in a dilatory fashion.

Thanks.

Kind Regards,

Simon Lin

Barrister & Solicitor

**Evolink Law Group**

237-4388 Still Creek Drive, Burnaby, B.C. V5C 6C6

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dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by replying to this e-mail and then destroying all copies. Thank you.

On Tue, Nov 25, 2025 at 11:26 AM Simon Lin <simonlin@evolinklaw.com> wrote:

Hello Mike,

Your assertion that we are somehow pressuring you to sign is unwarranted. It is counsel's obligation to reduce the Court's pronouncement that was already made.

Your assertions below about a lack of an "order" is wholly without merit as Justice Sharma clearly made formal pronouncements. It is plain that your client is attempting to delay the appeal while at the same time utilizing the decision to create confusion in various other cases.

We look forward to receiving your client's position by no later than close of business on November 28, 2025.

For greater clarity, our client insists that the Respondent's Appeal Factum must be filed before the deadline under the *Court of Appeal Rules* with or without an entered order.

Thank you.

Kind Regards,

Simon Lin
Barrister & Solicitor



Evolink Law Group
237-4388 Still Creek Drive, Burnaby, B.C. V5C 6C6
T: [604-620-2666](tel:604-620-2666)
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On Tue, Nov 25, 2025 at 8:12 AM DERY, Michael <mdery@ahbl.ca> wrote:

Hi Simon,

We disagree with the characterizations of our position set out in your attached letter. We cannot propose the terms of an Order when no Order was made. We refer you again to our email below dated November 12, 2025. After repeatedly trying to pressure us to sign an Order dismissing the Petition, you have now advised that you will be presenting Justice Sharma with 3 alternate forms of Order to consider.

We will provide you with our position on the Order that we will be seeking shortly.

Yours Truly,

Michael.

MICHAEL DERY*

Partner, Aviation Practice Group Leader
he/him/his

Tel: 604 484 1742
Fax: 604 484 9742

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*Professional Law Corporation

From: Simon Lin <simonlin@evolinklaw.com>

Sent: Monday, November 24, 2025 8:00 AM

To: DERY, Michael <mdery@AHBL.CA>; CHAUDHARY, Katelyn <kchaudhary@AHBL.CA>

Cc: MACHADO, Ciarah <cmachado@AHBL.CA>; Rahman, Zara CRT:EX <zara.rahman@crtbc.ca>; CRT Paralegal CRT:EX <Paralegal@crtbc.ca>; kandis.mccall@crtbc.ca; McCullum, Eliza CRT:EX <Eliza.McCullum@crtbc.ca>

Subject: Re: Air Passenger Rights v. WestJet Airlines Ltd, NW S254452-- Service of Draft Order and Order Signing Instructions [IMAN2-IMANAGE.FID778807]

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Good morning,

Please see the enclosed letter.

Thank you.

Kind Regards,

Simon Lin
Barrister & Solicitor



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On Wed, Nov 12, 2025 at 7:01 AM DERY, Michael <mdery@ahbl.ca> wrote:

Hi Simon,

It is our position that Madam Justice Sharma's Reasons for Judgment contains no Orders. You continue to insist that an Order should be entered stating that the Petition was dismissed. You are resisting another appearance in front of Justice Sharma. At paragraph 111 of the Reasons, Madam Justice Sharma states:

"[111] The first three conclusions support a conclusion that the petition **should be dismissed**. **However**, the fourth conclusion suggests the Decision **should be quashed** for the Tribunal's lack of jurisdiction. I am mindful that the no party sought to quash the Decision based on what I have concluded is the Tribunal's lack of justification. **For that reason, it is my view that I should not grant any order until the parties have had an opportunity to address the issue of remedy."**

Once again, we see no Order in the Reasons for Judgment. It is our view that we should appear before Madam Justice Sharma to discuss the issues she has identified, following which she will proceed to make one or more Orders.

This message and the below correspondence from the writer constitute our client's written objection that sets out in detail the reasons why the terms of your draft order are not accurate, as required by Rule 13-1(1.2)(b) of the *Supreme Court Civil Rules*.

My suggestion is that we discuss the terms of the Order in an appearance before Madam Justice Sharma.

Yours Truly,

Michael.

MICHAEL DERY*

Partner, Aviation Practice Group Leader
he/him/his

Tel: 604 484 1742
Fax: 604 484 9742

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From: Simon Lin <simonlin@evolinklaw.com>

Sent: Tuesday, November 11, 2025 3:31 PM

To: DERY, Michael <mdery@AHBL.CA>

Cc: CHAUDHARY, Katelyn <kchaudhary@AHBL.CA>; MACHADO, Ciarah <cmachado@AHBL.CA>; Rahman, Zara CRT:EX <zara.rahman@crtbc.ca>; CRT Paralegal CRT:EX <Paralegal@crtbc.ca>; kandis.mccall@crtbc.ca

Subject: Re: Air Passenger Rights v. WestJet Airlines Ltd, NW S254452-- Service of Draft Order and Order Signing Instructions [IMAN2-IMANAGE.FID778807]

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Hello Mike,

Please advise what your client thinks should be the terms of the Order for Justice Sharma's judgment rendered on October 30, 2025. It is typically the successful party's obligation to draft the terms of the Order. It is apparent that Justice Sharma's comments near the end of her judgment was simply dealing with what the precise terms of the order should be.

As you are aware, it is counsel's ethical obligation to promptly settle the terms of the Orders that the court has already made. We look forward to receiving your proposed terms of the Order by no later than close of business on Thursday November 13, 2025.

Thank you.

Kind Regards,
Simon Lin
Barrister & Solicitor (British Columbia/Ontario)
Attorney (California)

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On Fri, Nov 7, 2025 at 16:01 Simon Lin <simonlin@evolinklaw.com> wrote:

Mike,

Your letter implies there was something untoward on the "cut off". I had double checked that all the contents were pasted into the box and actually appeared in the "preview" before submitting. The "cut-off" was the text limitations for emailed fields. As such, if you intend to assert there was some "cut off", we trust you will bring to the Court's attention that we confirmed in the preview before submissions that all information was presented and it is only the confirmation email that seems to be "cut off."

As regards your request for further submissions, it is our position that no further submissions are required. Considering no petition was ever filed by WestJet, the court cannot grant relief beyond what was sought (i.e., *Port Coquitlam (City) v. Ground X Site Services Ltd.*, 2025 BCCA 204 at paras. 23-26). Factually, there is also no basis to quash the \$277.25 in reimbursement as it was not made pursuant to the *APPR*, but rather the *Montreal Convention* as noted in paras. 20-21 of the CRT decision.

Kind Regards,

Simon Lin
Barrister & Solicitor



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On Fri, Nov 7, 2025 at 3:37 PM DERY, Michael <mdery@ahbl.ca> wrote:

Simon,

I do not agree. She expressly says that she is making no orders. See para. 111, where she says: "For that reason, it is my view that I should not grant any order until the parties have had an opportunity to address the issue of remedy."

On another note, see the attached letter that we intend to send today to ensure that our position is communicated to the Court as it was cut off in your Request to Appear.

To Simon and Zara, please advise immediately if you have any issues with the attached.

Yours Truly,

Michael.

MICHAEL DERY*

Partner, Aviation Practice Group Leader
he/him/his

Tel: 604 484 1742
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From: Simon Lin <simonlin@evolinklaw.com>

Sent: Friday, November 7, 2025 3:32 PM

To: DERY, Michael <mdery@AHBL.CA>

Cc: CHAUDHARY, Katelyn <kchaudhary@AHBL.CA>; MACHADO, Ciarah <cmachado@AHBL.CA>; Rahman, Zara CRT:EX <zara.rahman@crtbc.ca>; CRT Paralegal CRT:EX <Paralegal@crtbc.ca>; kandis.mccall@crtbc.ca

Subject: Re: Air Passenger Rights v. WestJet Airlines Ltd, NW S254452-- Service of Draft Order and Order Signing Instructions [IMAN2-IMANAGE.FID778807]

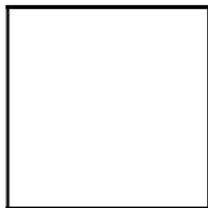
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Mike,

Considering Justice Sharma decided that the CRT had no jurisdiction and the Petitioner not having standing, it is obvious that the outcome from the judgment is that the petition is dismissed. I would be obliged if you can enlighten me on what other interpretations there could be. If you believe there is an another more appropriate order that are supported by Justice Sharma's reasons, please let me know.

Kind Regards,

Simon Lin
Barrister & Solicitor



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On Fri, Nov 7, 2025 at 2:52 PM DERY, Michael <mdery@ahbl.ca> wrote:

Simon,

Once again, I am having trouble understanding what order was made by Madam Justice Sharma in the Reasons for Judgment. I may be missing something as I did this morning. If so, can you kindly provide me with some assistance? Can you please point me to the paragraph in which Madam Justice Sharma orders that the petition is dismissed? Otherwise, we will not be in a position to sign the attached Order.

Yours Truly,

Michael.

MICHAEL DERY*

Partner, Aviation Practice Group Leader
he/him/his

Tel: 604 484 1742
Fax: 604 484 9742

ALEXANDER HOLBURN BEAUDIN + LANG LLP

Asst: Elisa Aguiar
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From: Simon Lin <simonlin@evolinklaw.com>

Sent: Friday, November 7, 2025 11:49 AM

To: DERY, Michael <mdery@AHBL.CA>; CHAUDHARY, Katelyn <kchaudhary@AHBL.CA>; MACHADO, Ciarah <cmachado@AHBL.CA>; Rahman, Zara CRT:EX <zara.rahman@crtbc.ca>; CRT Paralegal CRT:EX <Paralegal@crtbc.ca>; kandis.mccall@crtbc.ca

Subject: Air Passenger Rights v. WestJet Airlines Ltd, NW S254452-- Service of Draft Order and Order Signing Instructions

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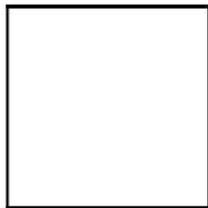
Good morning,

Enclosed for service please find the draft order and signing instructions.

Thank you.

Kind Regards,

Simon Lin
Barrister & Solicitor



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