



December 17, 2025

VIA E-FILING

Court of Appeal for British Columbia

**ATTN: Registrar Outerbridge**

400-800 Hornby Street  
Vancouver, BC V6Z 2C5

Dear Registrar Outerbridge,

**RE: Air Passenger Rights v. WestJet Airlines Ltd. et al. CA51094**

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We are Appellant's counsel. We appreciate Registrar Outerbridge expediting this appeal and appreciate the opportunity to respond to WestJet's letter of December 16, 2025.

WestJet's proposed schedule is an application to extend time disguised as a request for case management and to fix a schedule. The timeline for all the steps is already provided in the *Court of Appeal Rules*. The only genuine issue for case management is the deadline for the Attorney General's factum, if any, which all parties already agree to be February 12, 2026. WestJet's application for extensions of time should be dealt with in chambers.

**WestJet Failed to Explain Why the Timelines under the Rules were Inadequate**

WestJet is essentially seeking an extension of time for its factum, when the Court had indicated the appeal is to be expedited. It is unheard of for an appeal to be expedited, with an appellant who is the party that typically does the heavy lifting to complete the appellant's steps well below the time period under the *Court of Appeal Rules*, but conversely the respondent receiving double the time under the *Court of Appeal Rules*.

Notably, WestJet's counsel claimed in their letter that they are **available every day until Christmas**. There is no explanation why that time cannot be dedicated to completing the factum, instead of engaging in endless procedural debates, which WestJet initiated on December 12, 2025, shortly after receiving the undersigned's out of office auto responses.<sup>1</sup> December 12, 2025 was also the very first time WestJet requested a lengthy extension for filing their factum, despite having been reminded multiple times since November 17, 2025 that the Appellant expects WestJet to comply with the Court's rules.<sup>2</sup>

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<sup>1</sup> The undersigned is on personal travel overseas until December 24, and in a different time zone.

<sup>2</sup> *O'Callaghan v. Hengsbach*, 2017 BCSC 2182 at para. 17, litigants are entitled to expect the other parties will comply with the court's rules.

The CRT also has not raised any concern with our office, directly or indirectly, with respect to the December 17, 2025 timeline provided under the *Court of Appeal Rules*. It is expected that WestJet is spearheading the response, as they did before the lower court.

WestJet's assertion that "imposing"<sup>3</sup> a lengthy time period for the Appellant to file a Reply ameliorates the prejudice to the Appellant is misguided. The prejudice arises from the unequal time allocation for the main documents (i.e., Appellant's factum and Respondent's factum), not the Reply. Moreover, a Reply filed too close to the hearing date would risk derailing the hearing if WestJet decides to seek leave to file a sur-reply.<sup>4</sup>

WestJet's failure to comply with the timelines under the *Court of Appeal Rules* was purely tactical and a strategic choice, which is not to be lightly excused.<sup>5</sup> Instead of dedicating efforts to completing its factum, WestJet spent the better part of a month (i.e., from October 30, 2025 to December 2, 2025) preventing the Order from the court below from being entered, as detailed in the enclosed chronology.<sup>6</sup> WestJet only settled the Order after Sharma J. gave Directions at the case conference on December 2, 2025.

The situation here is not a deadline falling within the holiday period, which most counsel would easily resolve without Court involvement. Here, WestJet's deadline was well *before* the holiday period and they were even given advance notice thereof. The Appellant's courtesy extension to December 24, 2025, without any conditions, remains open for WestJet. The Appellant submits that the Court should direct WestJet to file its factum by December 24, 2025. If WestJet seeks a further extension beyond December 24, 2025, it should do so by way of a chambers application, for the reasons stated further below.

WestJet's attempt at deferring the Appellant's Reply and the book of authorities to the last minute plainly serves no purpose as those steps could amply be completed within the timelines under the *Court of Appeal Rules*. Having all the appeal steps completed earlier, and in accordance with the *Court of Appeal Rules*, has at least three benefits here. Firstly,

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<sup>3</sup> The Appellant never requested a lengthy extension and it appears the lengthy extension is being "imposed" by WestJet to distract from the fact WestJet failed to comply with the Court's rules, and also to indirectly truncate the time the Court would have before having all the appeal materials in hand.

<sup>4</sup> In two cases before the lower court involving WestJet and the Appellant, in every instance where a hearing date was set by agreement, WestJet either brought a last-minute adjournment or a last-minute application to derail the original hearing dates.

<sup>5</sup> *Grosz v Royal Trust Corporation of Canada*, 2019 BCSC 2195 at paras. 17-20.

<sup>6</sup> **Schedule A**: Chronology regarding WestJet's refusal to cooperate in finalizing BCSC Order.

in the event that the Court has any availability released for February 2026, the parties can proceed on an earlier date, which makes the best use of available judicial resources. Secondly, even should the parties stick to the original date, the division of the Court hearing the appeal would have more time to prepare. Thirdly, in the event that any party has a preliminary application, there would be ample time to make the application(s) without risk of derailing the appeal hearing date.

### **WestJet's Request for a Lengthy Extension of Time Should be Heard in Chambers**

WestJet's request may be outside the scope of a case management request, as there are contested issues regarding WestJet's conduct that may require an evidentiary record. Furthermore, the Appellant's cross-request for conditions to be attached to any such extension of time may also be outside the scope of Rule 48(1), and may need to be referred to a Justice in chambers under Rule 48(2). As detailed below, it is common for a Justice in chambers to impose conditions of similar nature for extensions of time. It would be procedurally unfair to summarily grant WestJet the extension of time through case management, thereby depriving the Appellant of its right to seek conditions to be attached.

In any event, WestJet's assertion that the Appellant requested conditions for the extension of time that are unconnected to the prejudice vastly unequal times for the factums misses the mark.

In [\*Mott v. Pacific National Exhibition, 617548 B.C. Ltd.\*](#), 2001 BCCA 731, Levine, J.A., noted that "context is everything" in an application for a one-day extension to file appeal materials that was the result of counsel error, which would have been resolved by consent in most circumstances. The Court took into account the requesting party's conduct and granted the extension on condition that a certificate of pending litigation be cancelled, recognizing the condition was onerous for a relatively minor transgression of the rules.<sup>7</sup>

More recently, in [\*VM Agritech Limited v. Smith\*](#), 2025 BCCA 248, MacNaughton, J.A., also imposed a condition that security for judgment and security for trial costs be paid into court for an eight-day extension of time, again for a minor transgression of the rules.

In both cases above, the conditions imposed were unconnected to the prejudice to the non-requesting party when the requesting party is granted an extension of time. The

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<sup>7</sup> See paras. 1, 16, and 28-32 of the decision.

motivation behind the conditions imposed is that it is not in the interests of justice for a requesting party to have the indulgence of the Court while, at the same time, not coming to court with clean hands.

In this case, WestJet has inexplicably failed to comply with the timeline under the rules, much more serious than either situation above. Moreover, the Appellant had to request that this appeal be expedited in part because WestJet failed to provide complete information to passengers and other courts when referring to the underlying court decision.<sup>8</sup> The Appellant's proposed conditions merely ensure that WestJet provides a complete picture so as not to mislead passengers or other courts on the state of affairs in this appeal, and minimize any further harm arising from the underlying decision.

Having WestJet's request for an extension of time heard in chambers will ensure that the presiding Justice would have the proper evidentiary record of WestJet's conduct in delaying this appeal hearing and, at the same time, seeking to benefit from the underlying decision. This is precisely the type of conduct that is to be considered as part of the "interests of justice" in whether to grant an extension of time, or to impose conditions.

## **Conclusion**

The Appellant respectfully submit that the only real issue, the Attorney General's timeline for filing a factum, was not even in dispute. WestJet's disguised attempt at an extension of time should be rejected, and WestJet should be directed to file its factum by December 24, 2025, since its counsel confirmed they are available every day before Christmas to tend to this appeal. If WestJet is unable to do so, WestJet should be required to bring a chambers application to seek an extension, to be heard at the earliest chambers date, for the presiding Justice to consider the issue on a full evidentiary record. If WestJet completes its factum by December 24, 2025, no application would be necessary.

In light of WestJet's conduct in delaying the entry of the BCSC order, and even failing to response to the Appellant's request for hearing dates after the BCSC order was finalized, summarily granting WestJet an extension beyond December 24, 2025 would be rewarding WestJet's dilatoriness.

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<sup>8</sup> **Schedule B:** Transcript from Alberta court case – the fact the decision is under appeal was omitted.

Should the Court have any Directions or require further information, please kindly advise. Unfortunately, the undersigned is overseas until December 24, 2025. Should the Court find it necessary to convene a case management hearing, the Appellant would request that it be conducted in writing.

Yours truly,

**EVOLINK LAW GROUP**



SIMON LIN, Barrister & Solicitor

**CC:** Tyna Mason, counsel for the Attorney General of British Columbia; Michael Dery and Kathryn McGoldrick, counsel for Respondent, WestJet Airlines Ltd.; and Eliza McCullum, counsel for the Civil Resolution Tribunal.

## RELEVANT CHRONOLOGY

<u>DATE</u>	<u>RELEVANT EVENT</u>
October 30, 2025 (morning)	The Court releases Reasons for Judgment.
October 30, 2025 (afternoon)	Air Passenger Rights files Notice of Appeal in the Court of Appeal and served.
November 7, 2025 11:49 a.m.	Air Passenger Rights serves a draft terms of the Order pronounced on October 30, 2025 providing that "the petition is dismissed."  Air Passenger Rights includes the Order Signing Instructions under Rule 13-1(1.1).
November 7, 2025 2:52 p.m.	WestJet responds with a refusal to sign the draft order.
November 7, 2025 3:32 p.m.	Air Passenger Rights requests WestJet to propose the terms of the Order to capture the Reasons for Judgment already pronounced on October 30, 2025.
November 7, 2025 3:37 p.m.	WestJet provides a non-substantive response and omits to propose any Order terms.
November 11, 2025	Air Passenger Rights follows up on the email from November 7, 2025 requesting WestJet's input on what WestJet proposes to be the terms of the Order pronounced on October 30, 2025.
November 12, 2025	WestJet <u>continues</u> refusing to articulate what WestJet proposal is on the terms of the Order pronounced on October 30, 2025.
November 17, 2025	Air Passenger Rights files and serves Appeal Factum in the Court of Appeal
November 21, 2025	Court of Appeal Registrar Issues letter regarding Air Passenger Rights' request to expedite the appeal.
November 24, 2025	Air Passenger Rights wrote to WestJet attaching a letter and three proposed options for the Order pronounced on October 30, 2025: <ul style="list-style-type: none"><li>• <b>Option A:</b> "the petition is dismissed."</li></ul>

	<ul style="list-style-type: none"> <li>• <b>Option B:</b> “the petition is dismissed and the underlying CRT decision is quashed.”</li> <li>• <b>Option C:</b> the conclusions outlined in paragraph 110 of the Reasons for Judgment and the Directions noted in paragraphs 112-113.</li> </ul> <p>Air Passenger Rights requests a response by November 28.</p>
November 25, 2025 8:12 a.m.	WestJet <u>continues</u> refusing to articulate what WestJet proposal is on the terms of the Order pronounced on October 30, 2025.
November 25, 2025 8:12 a.m.	Air Passenger Rights responds and re-iterates WestJet is to provide their draft terms of Order by close of business on November 28, 2025
November 28, 2025	No response from WestJet
December 1, 2025	Air Passenger Rights requests for a <u>fourth time</u> that WestJet provide their draft terms of Order and requested a response by close of business.
December 1, 2025 6:05 p.m.	<p>WestJet indicated that:</p> <ol style="list-style-type: none"> <li><i>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”.</i></li> <li><i>The applicant did not seek an Order quashing the decision.</i></li> <li><i>As a result, the applicant’s <b>Petition should be dismissed</b>, with costs payable to WestJet (we will seek leave to make submissions on costs).</i></li> <li><i>With regard to the finding of no jurisdiction, it is our view that the <b>Court likely has the discretion to quash the decision of the CRT</b>, 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.</i></li> <li><i>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 <b>Court should not express a view on whether the subject flight disruption was caused by a labour dispute</b>.</i></li> </ol> <p style="text-align: right;">[emphasis added]</p>
December 1, 2025 Evening	Air Passenger Rights prepares a draft Order encompassing WestJet’s comments from earlier that evening, requesting WestJet to sign the Order. WestJet refused to do so.

Action No.: P2590301811  
E-File Name: EVJ25LEKAB  
Appeal No.: \_\_\_\_\_

IN THE ALBERTA COURT OF JUSTICE  
JUDICIAL CENTRE OF EDMONTON

BETWEEN:

BARBARA LYNN LEKA also known as BARBARA  
LYNN CARR, KENAN LEKA, VENHAR ALEK LEKA  
Represented by a Litigation Representative, ARIAN BRYSON  
ROBERT LEKA, Represented by a Litigation Representative

Plaintiffs

and

WESTJET AIRLINES LTD.

Defendant

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P R O C E E D I N G S

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Edmonton, Alberta  
November 6, 2025

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1 Proceedings taken in the Alberta Court of Justice, Courthouse, Edmonton, Alberta

2  
3 November 6, 2025

Morning Session

4  
5 The Honourable  
6 Justice S.L. Corbett

Alberta Court of Justice

7  
8 (No Counsel)  
9 S. Sahebpour (remote appearance)  
10 R. Berrios

For B. Leka, K. Leka, V. Leka, and A. Leka  
For WestJet Airlines Ltd.  
Court Clerk

11  
12  
13 THE COURT: Okay. That takes us to number 7 on the list which  
14 is 250...181 -- it's Leka and WestJet Airlines. Are you Ms. Leka?

15  
16 **Discussion**

17  
18 MS. LEKA: Yes.

19  
20 THE COURT: Okay.

21  
22 (OTHER MATTERS SPOKEN TO)

23  
24 THE COURT: And do we have anyone here for WestJet?

25  
26 MR. SAHEBPOUR: Good morning, Your Honour. Sahebpour S-A-  
27 H-E-B-P-O-U-R, first initial S, counsel for WestJet.

28  
29 THE COURT: Okay. All right. And so as far as I understand this  
30 application, Ms. Leka, you are seeking to amend the civil claim to add some parties;  
31 correct?

32  
33 MS. LEKA: Yes.

34  
35 THE COURT: Okay. And -- and I think -- did master clerk tell  
36 me that this is the one where Mr. Sahebpour doesn't have an issue with this, not opposing  
37 it? What is your position, Mr. Sahebpour?

38  
39 MR. SAHEBPOUR: Yes, Your Honour. In terms of the actual  
40 amendment, we take no issue or we're in consent.  
41

1 THE COURT: Okay. All right. And so, you are just seeking to  
2 add, Ms. Leka, your other travel partners with you to the -- to the claim; correct?

3  
4 MS. LEKA: Yes.

5  
6 THE COURT: Okay. And I guess -- I am going to tell you one  
7 of the things that concerned me about how you filed this was, Ms. Leka, I don't think that  
8 you actually gave me -- you just gave me a copy of the civil claim, but you didn't really  
9 explain why you wanted to add all these people. Maybe you did here. No, you did it in your  
10 -- in your civil claim. Ideally, you should have filed an affidavit that -- you know, on the  
11 last page of your -- on the last page of your proposed amended civil claim where you --  
12 where you have a little note sort of saying that you want to add all these people because  
13 they were all your travel partners --

14  
15 MS. LEKA: M-hm. Yes.

16  
17 THE COURT: -- that should have gone into an affidavit, but I  
18 suppose -- like Mr. Sahebpour, are you -- you are consenting because there is no issue with  
19 the limitation, do I take it? And I just -- I should have had an affidavit that says attached  
20 are all my WestJet travel documents showing everybody that's on this itinerary. Do you  
21 know what I mean? Like, WestJet, when they send you an email, gives you a printout of -  
22 - you know, and then attaches your actual tickets --

23  
24 MS. LEKA: Yes.

25  
26 THE COURT: -- that should have gone to your affidavit but, Mr.  
27 Sahebpour, if you don't have an issue with it, I am not going to take an issue with it, but I  
28 would have had an issue with it if it had been a contested application. So, Mr. Sahebpour,  
29 what would you like me to do?

30  
31 MR. SAHEBPOUR: As far as I understand the file, the -- the  
32 individuals, she's -- Ms. Leka is looking to add were her travel companions for the disputed  
33 -- for the files -- or the flights that are in -- in dispute --

34  
35 THE COURT: Yeah.

36  
37 MR. SAHEBPOUR: -- and so, we take no issue with that. Of course,  
38 it's as the discoveries go on or as we have the upcoming pretrial conference, it turns out to  
39 be that's not the case, then that -- we can dispute it at that point, but for the purposes of this  
40 application, we take no issue.

41

1 THE COURT: Okay. Thank you, Mr. Sahebpour. Well, maybe  
2 what we can do then, Ms. Leka, if you wouldn't mind -- yeah, it's still -- I guess with  
3 WestJet taking no position, like -- like, ideally you should have filed an affidavit that just  
4 printed off your itinerary from WestJet showing, you know, all the people that you were  
5 travelling with that day --

6  
7 MS. LEKA: M-hm.

8  
9 THE COURT: -- but you didn't do that, and WestJet is not  
10 taking a big issue with it so I will allow your amendment. Now, we have the one from  
11 Sherwood Park that they filed in error because you hadn't brought an application. Do you  
12 have another copy of this amended claim?

13  
14 MS. LEKA: I --

15  
16 THE COURT: Did you bring a clean copy today?

17  
18 MS. LEKA: I believe this would be it right here. Yes.

19  
20 THE COURT: That doesn't --

21  
22 MS. LEKA: It says --

23  
24 THE COURT: -- look like a clean copy because it's got a filed  
25 stamp and this was unfiled.

26  
27 MS. LEKA: Oh, okay. Then hang on. Is this the same as that?  
28 No, that's different.

29  
30 THE COURT: Okay.

31  
32 MS. LEKA: So, no, I don't have a clean copy with me.

33  
34 **Decision**

35  
36 THE COURT: Okay. All right. So, what we are going to do is  
37 we will allow your application, okay, based on WestJet's position that they are not taking  
38 any issue with it or essentially, they consent to it, but you are going to need to prepare a  
39 clean copy of your proposed amended claim. Okay.

40  
41 MS. LEKA: Okay.

1  
2 THE COURT: Because this one is -- well, I guess -- like, even  
3 this -- like this one has your amendment application attached to it.  
4

5 MS. LEKA: M-hm.  
6

7 THE COURT: Like, this would never have been filed, and I'm  
8 not being critical of you. In Sherwood Park, sometimes they are -- they don't deal with  
9 civil matters very often. They often just deal with criminal matters.  
10

11 MS. LEKA: Okay.  
12

13 THE COURT: So, they are not as familiar as our clerks are with  
14 the court process. But what I need you to do is create a new one. Like, a new amended  
15 claim like from your computer.  
16

17 MS. LEKA: Okay.  
18

19 THE COURT: Okay. Don't put this proposed application at the  
20 end.  
21

22 MS. LEKA: Okay.  
23

24 THE COURT: Okay. And then explain -- like, I think -- let me  
25 just look otherwise. You are just adding the parties and then the rest of your claim here,  
26 the reasons is just -- that's all fine.  
27

28 MS. LEKA: Okay.  
29

30 THE COURT: Okay. But this has to go away, the last page --  
31

32 MS. LEKA: Okay.  
33

34 THE COURT: -- where you are talking about your amendment  
35 application and the reason I am asking for a clean copy -- well, I don't know. Master clerk,  
36 is it -- is it -- would it be too messy for me just to tear off this amended application on the  
37 last page and have you refile it or should I have her redo it? What is easier for the clerk's  
38 office? Sorry, Ms. Leka, let us just have a little internal discussion here.  
39

40 MS. LEKA: M-hm. Yeah.  
41

- 1 THE COURT: See, master clerk. Take a look at that. Like do I  
2 need to get her to refile it? Sorry, Mr. Sahebpour, I'm just working out the procedural issue  
3 here.  
4
- 5 THE COURT CLERK: Ideally --  
6
- 7 MR. SAHEBPOUR: No, no. No, no. I -- it's -- it's -- it's  
8 understandable.  
9
- 10 THE COURT CLERK: I'm a little familiar with the problem. It's not  
11 that. You emailed us this before; correct?  
12
- 13 MS. LEKA: Yes.  
14
- 15 THE COURT: So, did she email us a clean copy, master clerk?  
16
- 17 THE COURT CLERK: That's what I'm going to double check.  
18
- 19 THE COURT: Okay. So, we're just -- hang on, everybody. We  
20 will just get this dealt with today, because if we can file -- if we can file the amended claim  
21 right in the courtroom, then it saves everybody time; right?  
22
- 23 MR. SAHEBPOUR: Yes, Your Honour. And as -- as we're figuring  
24 that out, there's a small sub issue not with the actual application itself, but I think Ms. Leka  
25 and -- and I'm somewhat addressing you directly, I think you had emailed your request and  
26 the notice of application to my colleague Ms. Klassen, and I understand that's because she  
27 was the original email address on a response, but as you may know from our mediation I  
28 am now the counsel. So, if you could please correspond with me through my email address,  
29 and you have some emails from me over the month of October, that would be the most  
30 expeditious way to -- for us to communicate as Ms. Klassen is no longer on the file and  
31 I'm happy to provide you with my email address even though I think you have some emails  
32 from me over the month of October.  
33
- 34 THE COURT: Okay. That's helpful, Mr. Sahebpour, because  
35 the Court will also have the clerk's office just update the address for service. So, it's all the  
36 same with -- do -- do we have a different direct phone number and a different email address  
37 that we need to put in them, Mr. -- because what we have, Mr. Sahebpour, is --  
38
- 39 MR. SAHEBPOUR: Potentially.  
40
- 41 THE COURT: Let me -- let me read what we have on the dispute

1 note. Daytime phone number 604-484-1786. Is that your direct line or is that Alexander  
2 Holburn's -- is that Alexander Holburn's reception line?

3  
4 MR. SAHEBPOUR: That's actually my colleague's line so it's not my  
5 number and I can provide my number to the Court. I had provided it during the mediation,  
6 so I thought maybe it was communicated at that point but potentially it fell through.

7  
8 THE COURT: No.

9  
10 MR. SAHEBPOUR: But I'm happy to provide my updated contact  
11 info.

12  
13 THE COURT: Yeah. While -- while master clerk is looking at  
14 what he's looking at, why don't you give that to us so we can update the court information.  
15 So, your direct line is --

16  
17 MR. SAHEBPOUR: Absolutely. So, my --

18  
19 THE COURT: So, your direct line?

20  
21 MR. SAHEBPOUR: -- phone number is --

22  
23 THE COURT: Yeah.

24  
25 MR. SAHEBPOUR: It's 604 --

26  
27 THE COURT: 604.

28  
29 MR. SAHEBPOUR: -- 484 --

30  
31 THE COURT: 484.

32  
33 MR. SAHEBPOUR: -- 9714.

34  
35 THE COURT: Okay. And your email, sir?

36  
37 MR. SAHEBPOUR: It's S-S-A-H-E as in Eat, 'B' as in Beta, 'P' as in  
38 Peter, O-U-R, at A-H-B-L dot C-A.

39  
40 THE COURT: Okay. So, we will put that in the order then, Mr.  
41 Sahebpour, so that Ms. Leka has that information. Okay. And did we find anything out

1 with the --

2  
3 MR. SAHEBPOUR:

Absolutely. Thank you, Your Honour.

4  
5 THE COURT CLERK:

Yes, I do have a clean copy of the amended civil claim. I can print downstairs in colour.

6  
7  
8 THE COURT:

Okay. All right. So, you don't need to do anything then. Master clerk has a clean copy. Well, I guess you do need to do something. You need to go downstairs and pick up a copy. Well, I guess we can attach it to the order too, can't we, master clerk? I'm just trying to think of the best way to do this.

9  
10  
11  
12  
13 THE COURT CLERK:

Absolutely.

14  
15 THE COURT:

So, master clerk will go downstairs. We have to use the colour print -- printer because the amendments have to be in red. So, he had it. You don't need to do anything more. He will print it downstairs. He will file it as of today. And then will you get her copies of it?

16  
17  
18  
19  
20 THE COURT CLERK:

Definitely.

21  
22 THE COURT:

Okay. So, then we will send you copies of the filed amended claim, and can we just do that to both parties so that it's done?

23  
24  
25 THE COURT CLERK:

Will do.

26  
27 THE COURT:

Okay. All right. And then you have both gone to mediation in this matter already; is that right?

28  
29  
30 MS. LEKA:

Yes.

31  
32 THE COURT:

Okay.

33  
34 MR. SAHEBPOUR:

That's correct, Your Honour.

35  
36 THE COURT:

I am just taking a look at the court file here. Okay. And this was triaged already back in July to the general trial track and a pretrial conference. So, the next step in this matter will be that the court will be setting a pretrial conference. Okay. And so, you will be hearing from the trial coordinator. And a pretrial conference is -- oh, do we already have a date?



1 THE COURT CLERK: Yes. It's actually next month.  
2  
3 THE COURT: Oh, why -- why -- there's nothing on the file.  
4  
5 MR. SAHEBPOUR: Yes, we do.  
6  
7 THE COURT: The notice of pretrial conference is not on the  
8 file, master clerk.  
9  
10 THE COURT CLERK: I will definitely doublecheck that with our trial  
11 coordinator --  
12  
13 THE COURT: Okay.  
14  
15 THE COURT CLERK: -- if it's not.  
16  
17 THE COURT: So, there is a pretrial conference. Oh, there is  
18 here. So, it's not in the right section, master clerk.  
19  
20 THE COURT CLERK: Understood.  
21  
22 THE COURT: Okay. You have a pretrial conference December  
23 1. Okay. Perfect. So, that is exactly -- so the next step is that the parties exchange  
24 documents as per the notice of pretrial conference, the claim has been amended, and you  
25 meet with a judge confidentially to see whether or not there is some chance of settling the  
26 file. Okay. Any questions?  
27  
28 MS. LEKA: Yes, please.  
29  
30 MR. SAHEBPOUR: Okay.  
31  
32 THE COURT: What's your question? She has one question.  
33  
34 MS. LEKA: When should I email the evidence that I have to  
35 --  
36  
37 THE COURT: Two weeks before your pretrial conference.  
38  
39 MS. LEKA: Two weeks before.  
40  
41 THE COURT: Yeah.

1  
2 MS. LEKA: Okay. So, 2 weeks before December 1st.  
3  
4 THE COURT: Correct.  
5  
6 MS. LEKA: Okay.  
7  
8 THE COURT: Okay. So, you have got to send that to Mr.  
9 Sahebpour.  
10  
11 MS. LEKA: Okay. Thank you.  
12  
13 THE COURT: Okay. And, Mr. Sahebpour, you have got to send  
14 all your client's documents to -- to Ms. Leka. I'm not sure what -- let me check -- what's  
15 your defence here. Why are you saying that you delayed her flights, which I am assuming  
16 that is what this is about. I haven't looked at it that close.  
17  
18 MR. SAHEBPOUR: The response will be a generic response and --  
19 and that's just because of the function of when we get the claims and the turnaround time.  
20 We don't have all the documents to properly sort out what the defence is, but we certainly  
21 talked about it at mediation. So, the corresponding documents will -- will come through 2  
22 weeks before December 1st.  
23  
24 THE COURT: All right. Well, you are aware, sir, that *Lareau v*  
25 *WestJet Airlines* requires you to provide evidence of, in this case, the unscheduled  
26 maintenance that you are relying on and what steps you took to otherwise work around  
27 that. So, there is a new case from the Federal Court of Appeal called *Lareau v WestJet*  
28 *Airlines*. You should read it before your pretrial conference. So --  
29  
30 MS. LEKA: Yes.  
31  
32 THE COURT: Absolutely, Your Honour.  
33  
34 MS. LEKA: I think I am aware of that.  
35  
36 THE COURT: Yeah. Make sure you read it. But anyways, it is  
37 just, Mr. Sahebpour, when we've seen *Lareau* we had WestJet in PTCs where WestJet has  
38 not brought that information and I think it's important given that *Lareau* is quite a high  
39 level decision from the federal court that -- that you know, you are providing the  
40 documentary evidence that substantiates the position that you are taking with respect to  
41 maintenance delays, et cetera; right? So, because *Lareau* came down, what, in August and

1       --  
2  
3       MR. SAHEBPOUR:                               Yes, absolutely. Thank you, Your Honour.  
4  
5       THE COURT:                                    Okay. All right. So, make sure read *Lareau* too.  
6       I know you are not a lawyer --  
7  
8       MS. LEKA:                                    Okay.  
9  
10      THE COURT:                                   -- but you should read it because --  
11  
12      MS. LEKA:                                   M-hm.  
13  
14      THE COURT:                                   -- it tells you what WestJet needs to do to prove  
15      their claim and what documents they need to produce. So, you should look at that.  
16  
17      MS. LEKA:                                   Okay.  
18  
19      THE COURT:                                   Okay.  
20  
21      MS. LEKA:                                   Thank you.  
22  
23      THE COURT:                                   All right.  
24  
25      MS. LEKA:                                   And I have one more --  
26  
27      THE COURT:                                   So, any more questions?  
28  
29      MS. LEKA:                                   -- one more question, please. Yes. Is -- is now an  
30      okay time to request the Court for WestJet to provide evidence to me?  
31  
32      THE COURT:                                   No. They have the same obligation as you have,  
33      so 2 weeks before the pretrial conference --  
34  
35      MS. LEKA:                                   Okay.  
36  
37      THE COURT:                                   -- they as well have to exchange their documents  
38      with you. So, you give all your documents to them 2 weeks before and they give all their  
39      documents to you 2 weeks before. But Mr. Sahebpour seems to be suggesting that they  
40      only have generic -- they don't -- that their dispute note was generic. But maybe -- have  
41      you got all those documents gathered together, Mr. Sahebpour based on the mediation or

1 do you still -- are you still securing information?

2  
3 MR. SAHEBPOUR: Yes, Your Honour, and -- and, yeah, no, most of  
4 the documents are gathered and -- and the response was just filed because at the time we  
5 didn't have the documents, but since --

6  
7 THE COURT: Okay.

8  
9 MR. SAHEBPOUR: -- then we started gathering some.

10  
11 THE COURT: Yeah.

12  
13 MR. SAHEBPOUR: And I anticipate I'll be gathering more over the  
14 next week or so and so will provide a full list of documents subject to any further updates  
15 to Ms. Leka.

16  
17 THE COURT: Okay. All right. So, master clerk, in the order you  
18 can just put in there that the -- you know, the parties discussed document exchange in  
19 advance of the pretrial conference and that the Court reminded them of the deadline to  
20 exchange documents 2 week prior. So, I will just put that in the order so that it's -- what  
21 we've talked about is captured.

22  
23 Yes, Mr. Sahebpour?

24  
25 MR. SAHEBPOUR: Your Honour, since we're -- I mean, I don't  
26 know if this is the proper setting as -- as we're sort of contemplating document exchange  
27 and cases for -- for the upcoming pretrial conference. There's been a recent decision and  
28 I'm still instructions on this, but I'd like to provide Ms. Leka since I have her with a  
29 potential position that we might take. There's been a decision --

30  
31 THE COURT: So --

32  
33 MR. SAHEBPOUR: -- recently handed down by the BC --

34  
35 THE COURT: Go ahead.

36  
37 MR. SAHEBPOUR: Sorry. Did I -- oh, sorry. Okay. Yeah. By the BC  
38 Supreme Court which suggests that -- well, it doesn't suggest actually. Justice Sharma  
39 explicitly says that small claims do not have jurisdiction over aviation related APPR claims  
40 and they arise -- and they should be brought within the CTA. I don't know whether or not  
41 a jurisdictional issue will be something that we'll take, but I'd like to -- but it's a possibility

1 that we're considering, so I'd like to let Ms. Leka know and she should be getting some  
2 documents from us with regards to that as well.

3  
4 THE COURT: Yeah, that's interesting because we --

5  
6 MR. SAHEBPOUR: And it's been a very --

7  
8 THE COURT: -- we -- we have --

9  
10 MR. SAHEBPOUR: -- recent decision that's --

11  
12 THE COURT: We --

13  
14 MR. SAHEBPOUR: -- been issued last week.

15  
16 THE COURT: I'll take a look at it myself because we too  
17 wonder about jurisdiction, but I've always taken the -- I think I have always been of the  
18 view that there -- there seems to be -- it's one of those strange ones where there seems to  
19 be concurrent jurisdiction; right? Because I -- I am not sure -- anyways, it's an issue that I  
20 would say to you, Mr. Sahebpour that -- that we are alive to here and we don't call ourselves  
21 by the way, sir, small claims anymore. We are the civil division because our limits are  
22 \$100,000, not like British Columbia's, I don't know, 20,000 or \$30,000 limit.

23  
24 MR. SAHEBPOUR: 35, yeah.

25  
26 THE COURT: Yeah.

27  
28 MR. SAHEBPOUR: Yeah, that's right.

29  
30 THE COURT: So, small claims isn't really our world anymore  
31 because I think \$100,000 is a lot of money. But -- but, you know, you -- you might, ma'am,  
32 want to get some legal advice if they're starting to raise jurisdictional issues.

33  
34 MS. LEKA: M-hm.

35  
36 THE COURT: Right? So, what they are saying is that -- that  
37 courts like ours that are statutory courts have no jurisdiction to adjudicate airline claims  
38 and, you know, I don't have an answer for you to that question --

39  
40 MS. LEKA: Okay.

41

1 THE COURT: -- but it may be something that you want to get  
2 legal advice on because it is a confusing world we live in when you have the, you know,  
3 the CTA, the tribunal process, and then you have a number of claims that end up being  
4 brought not only here, but in superior courts in various provinces; right?  
5  
6 MS. LEKA: Yes.  
7  
8 THE COURT: So, I -- I don't have an answer to that question. I  
9 think it poses an interesting legal question that I may get legal counsel to work on because  
10 we get a lot of WestJet/Air Canada/Flair/United et cetera claims in our court.  
11  
12 MS. LEKA: Okay.  
13  
14 THE COURT: Okay?  
15  
16 MS. LEKA: Yeah.  
17  
18 THE COURT: All right. Thank you.  
19  
20 MS. LEKA: Thank you, Justice.  
21  
22 THE COURT: Thanks for providing that case, Mr. Sahebpour.  
23  
24 MR. SAHEBPOUR: Okay. (INDISCERNIBLE), Your Honour.  
25  
26 THE COURT: I'll take -- I'll take a look at it, and I may ask our  
27 legal counsel --  
28  
29 MR. SAHEBPOUR: Of course.  
30  
31 THE COURT: -- like I said, to do some research. Thank you all.  
32  
33 THE COURT CLERK: Order in court. All rise.  
34  
35 MR. SAHEBPOUR: I may -- if -- if --  
36  
37 THE COURT: Oh, I see -- Mr. Sahebpour, did you have  
38 something else as I'm walking out of the courtroom?  
39  
40 MR. SAHEBPOUR: Sorry, Your Honour. I was just wondering -- I  
41 was just going to say if -- if the Court wishes I can provide the case name, but I'm sure

1       you're -- I'm sure the Court can find it on -- on its own time as well.

2  
3       THE COURT:                               Was -- was it your client that was the airline in  
4       question? Was it like WestJet --

5  
6       MR. SAHEBPOUR:                       Pardon, Your Honour?

7  
8       THE COURT:                               Was it WestJet that was the defendant?

9  
10      MR. SAHEBPOUR:                       That's correct, yes.

11  
12      THE COURT:                               Yeah. I'm pretty sure I can find it. All right.  
13      Thank you, all.

14  
15      MR. SAHEBPOUR:                       Okay. Thank you.

16  
17      

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19      PROCEEDINGS ADJOURNED  
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1 **Certificate of Record**

2  
3 I, Renato Berrios, certify that this recording is the record made of the evidence in the  
4 proceedings in Alberta Court of Justice held in courtroom 264 in Edmonton, Alberta on the  
5 6th day of November 2025, and that I, Renato Berrios, was the court official in charge of the  
6 sound-recording machine during the proceedings.  
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1 **Certificate of Transcript**

2  
3 I, Marcey Lepka, certify that

4  
5 (a) I transcribed the record, which was recorded by a sound-recording machine, to the best  
6 of my skill and ability and the foregoing pages are a complete and accurate transcript  
7 of the contents of the record, and

8  
9 (b) the Certificate of Record for these proceedings was included orally on the record and is  
10 transcribed in this transcript.

11  
12 Marcey Lepka, Transcriber

13 Order Number: TDS-1098035

14 Dated: November 22, 2025  
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