

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL  
No : 500-06-001039-201

**CAROLE DAVIES**, a person residing at 85  
Brookside Ave., in the City of Beaconsfield,  
Province of Québec, Canada, H9W 5C5

Representative Plaintiff

v.

**AIR CANADA**, a corporation duly  
incorporated pursuant to the laws of Canada  
with its head office located at 7373 De La Côte  
Vertu Blvd West in the City of Montréal,  
Province of Québec, Canada, H4S 1Z3

Defendant

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**ORIGINATING DEMAND**  
**(ARTICLE 583 & ssq C.C.P.)**

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**TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT OF  
QUÉBEC, SITTING IN AND FOR THE DISTRICT OF MONTRÉAL, THE PLAINTIFF  
STATES THE FOLLOWING:**

**I. GENERAL PRESENTATION**

1. The Plaintiff addresses the Court for the purpose of obtaining remedial actions for and on behalf of the members of the Class (as hereinafter defined) against the Defendant based on the laws of the Province of Québec or, in the alternative, the laws of any Canadian province or territory of similar application, and the Defendant's failure to fairly perform obligations flowing from an agreement with each member of the Class to grant them Free and Reduced-Rate Transportation Plan flight passes (hereinafter the "FRT") during their employment and then during their retirement;

**II. THE PARTIES**

2. The Plaintiff, Carole Davies, is a resident of the Province of Québec and is a retired employee of the Defendant and had been an employee for 29 years prior thereto, having started in 1961 and taken her retirement in 1991; Her employment history is produced as **Exhibit P-1**;
3. The Plaintiff has been authorized to proceed with a class action in virtue of a judgment of the Quebec Court of appeal dated November 17<sup>th</sup>, 2022, and the dismissal of the application to appeal that judgment to the Supreme Court of Canada dated June 22<sup>nd</sup> 2023, copies of which are produced as **Exhibit P-2**;
4. The Appeal Court identified the following as the main issues to be dealt with collectively:  
- Is the defendant under an obligation to provide class members with FRT passes?

-If so:

-what are the contents and/or modalities of the defendant's obligation?

-did the defendant breach its obligation by issuing higher-priority (BI and C 1) FRT passes to current employees?

Are class members each entitled to the following remedies:

-\$5,000 plus taxes per year representing the value of the yearly savings they make while benefitting from FRT passes based on the seniority priority;

-\$5,000 in moral damages for the stress, trouble and inconvenience caused by the defendant's breach of its obligation;

-\$1,000 in moral damages caused by being displaced at the last minute at the loading gate;

-\$2,000 in moral damages for being displaced at the last minute at the loading gate when returning from a trip and having to deal with last-minute, urgent ground and air transportation arrangements and hotel accommodations;

-mandatory orders directing the defendant to ensure that current employees holding higher-priority passes will cease having priority over retirees when travelling for personal or leisure purposes and/or directing the defendant to immediately issue to each of the class members three BI and three CI flight passes per year;

-interest as well as the additional indemnity provided for in article 1619 of the Civil Code of Québec on the abovementioned amounts;

5. The Court of Appeal ascribed the Plaintiff as representative on behalf of the following Class, namely:

All retired employees of the Defendant eligible for free and reduced travel ("FRT") flight passes in retirement;  
(hereinafter referred to as the "Plaintiff", the "Class Member(s)", the "Class", or "Retiree");

6. The Defendant is a corporation continued under the Canada Business Corporations Act. Its registered office is located at 7373 Boulevard de la Côte-Vertu, in Ville Saint-Laurent, in the Province of Québec; A copy of the Industry Canada corporate registry extract is produced as **Exhibit P-3**;

7. The Defendant carries on business and has its headquarters in the Province of Québec, and more specifically, the department which manages the use and availability of the FRT flight passes for both employees and Retirees is located here; A copy of the corporate registry extract from the Registraire des entreprises du Québec is produced as **Exhibit P-4**;

8. The Defendant derives revenue as a result of its presence in the Province of Québec and providing airline services throughout Canada and elsewhere;

9. The Defendant offers various flight pass products for air travel on routes serviced by the Defendant and/or its affiliates;

### **III. FACTS GIVING RISE TO THE PLAINTIFF'S CLAIM**

10. The employment, retirement and benefits agreements entered into with each Class Member shall be deemed to have been made in the Province of Québec, and shall be governed in all respects by the laws of the Province of Québec, and should the Court determine otherwise, the Federal laws applicable and the *Common Law* of the other Provinces and Territories;
11. The Defendant had promised to give and/or make available, and in fact gave and made available the right to its FRT flight passes to its employees which automatically vested after their first 6 months on the job and which were honoured throughout the many years while working for the Defendant and were then continued after retirement up until the recent changes referred to in the following paragraphs. The Defendant has been respecting this agreement since at least 1952;
12. These FRT flight passes are not mentioned in any of the labour agreements over the years and had never been negotiated with any union. However, these passes and the fact that they are permanently available both before and after retirement are referred to in the Defendant's job postings and pre-retirement handbook and seminars. At the time of the institution of the proceedings they were made available to all Retirees of the Defendant in the form of C2 passes; An extract of a retirement handout is produced as **Exhibit P-5**;
13. This FRT flight pass benefit was always considered by employees as an important liberality of their career in the airline industry and of their eventual retirement, as it was most certainly to the Plaintiff. It was a "fact of life"; if you worked at Air Canada, you then had the benefit of free travel both before and after retirement. In fact, the Defendant still uses this advantage in its marketing for its recruitment purposes as indicated in a January 2020 insert in the Montreal Gazette which is produced as **Exhibit P-6**;
14. Without any discussion or notice to the Retirees, the Defendant has wrongfully taken the position that these flight passes are simply a privilege at the absolute discretion of the Defendant, and therefore, not a continuing obligation owed to the employees. Based on this erroneous premise, the Defendant has unilaterally and without any consideration for the hardship caused to the Retirees, effectively diminished their usefulness by causing to be issued to its active employees an exceedingly large number of higher priority flight passes such as B1s and C1s to the point that the Plaintiff realized in the summer of 2017 that their C2 FRT passes no longer fulfilled the requisites to permit a Retiree to reasonably enjoy the use of the FRT flight passes;
15. Historically, priority for the use of these FRT flight passes among the active and retired employees was determined by the length of service as an employee of the Defendant. In other words, an employee's or a retiree's years of service with the Defendant determined their priority to be seated in an economy or business class cabin when availing themselves of these flight passes (hereinafter referred to as the "seniority priority");

16. It was the Plaintiff's understanding that the Defendant's longstanding practice regarding how the employees' and the Retirees' access to the FRT passes were to be managed confirmed and gave rise to one or several tacit contracts constituting the source of the Defendant's obligations and her expectation that her boarding priority would increase with time and as she got older and worked longer it would be easier for her to board and travel with the FRT flight passes both before and most assuredly, after retirement;
17. Notwithstanding this longstanding practice and the supporting references in the pre-retirement handbook the Defendant has now significantly eroded this seniority priority by granting higher priority passes such as the B1 and C1 FRT passes to its active employees. Access to unsold seats by the Retirees using their C2 FRT passes has now been drastically reduced or for all practical purposes is now unavailable, including the ability to be upgraded to business class;
18. Since the summer of 2017, all employees including those with very little seniority consistently "bumped" the Retirees with considerably greater seniority and left the Retirees with frustrated travel plans, missed flights and connections and the distinct possibility of having to return home or to a hotel after being stranded in a foreign city. As an illustration of this unjust situation, an employee with as little as 7 months service can, and has, bumped a Retiree with 37 years of service;
19. All consulted Members are extremely dissatisfied with this state of affairs and are of the view that the rights to their FRT flight passes which had been granted and had vested at the beginning of their careers with the seniority priority and had been honoured as such for decades, were not subject to the pure discretion of the Defendant who had taken away the seniority priority by granting an exceedingly large number of higher priority B1 and C1 FRT passes to its active employees and in so doing, has acted in an excessive and unreasonable manner to the direct and drastic detriment of the Retirees;
20. For purposes of illustration and using approximate estimates, the creation of these numerous B1 and C1 FRT priority passes, at the time of the presentation of the Application for authorization to certify a class action, can be presented as follows:
  - a. Based on informal information, it is estimated that there are in excess of thirty thousand Retirees and as far as the Plaintiff and Retirees were concerned, the use of FRT flight passes when initially granted to them was always based strictly on years of service – the seniority priority. As a result of the unfettered and unfair creation by the Defendant of very large number of annual C1 and B1 FRT priority passes given to the active employees, there are now:

Employees	Group	Passes
4,800	ACPA - Pilots with 3 B1 +2*	24,000
8,500	CUPE - Flight attendants with 3 C1 +2*	42,500
6,000	UNIFOR - CSSA with 3 C1 +2*	30,000
10,827	IAMAW - ramp 3 C1 +2*	54,135
7,700	Non unionized 5 B1	38,500
37,827	Total	189,135

\* all unionized employees receive 2 additional priority flight passes for Christmas and New Years in their respective categories.

- b. Approximately 37,827 employees had greater seniority priority over the Class of Retirees, and they were holding 189,135 passes. Each pass entitles the holder to travel with six and in some cases eight other family members or friends, so the potential of people who could “bump” a Retiree holding a C2 FRT pass without warning at the departure gate, was an astronomical figure which is estimated to be in excess of 900,000. It is no wonder that the Retirees’ enjoyment and use of the passes had been drastically reduced to the point that they were considered to be of very limited use;
- c. The previously established seniority priority had been so much eviscerated that all of the unionized employees’ partners had the right to receive B1 or C1 flight passes which also gives them the right to independently travel with six other family members and friends which would potentially increase the number of persons who could bump a Retiree to an even more unbelievable estimated number of over 1,500,000;
21. To make the situation even more frustrating and untenable, the employees may exercise their B1 and C1 priority passes at any time up to and including the boarding of the plane. Previously there had been a 24 hour pre-flight restriction on booking so that at least a Retiree could better evaluate their chances of getting on the flight based on the number and seniority priority of other pass holders seeking the same flight after checking at the FRT booking site 24 hours prior to departure;
22. Under the present system it is often the case that the Retiree only discovers that they have been bumped by an employee having far less seniority priority when they have actually checked their baggage, passed through security, and are waiting at the gate. They are then unceremoniously advised that they and their travelling companion will not be able to board and they have to chase around to find alternate connections if available, which is often not the case, at the last moment and still face the same risk of again being bumped just prior to departure;
23. It bears noting that the likelihood of a Retiree's checked baggage being lost or delayed increases significantly each time a Retiree is bumped from flight to flight which just adds another layer of anxiety to the already very challenging and troublesome process of trying to use their C2 FRT flight passes;
24. This frustrating and exasperating exercise of trying to board the flight, which in the past had been far more predictable and successful has resulted in a lot of stress and worry when trying to travel with the FRT flight passes. This is in addition to the costs and extreme disruptions when the problem arises upon the return trip when hotel and transportation charges are compounding an already stressful and degrading experience;
25. This situation of being reduced to a lower priority than new employees with as little as 6 months length of service who can now frustrate and add anxiety to their travel/vacation plans by showing up at the gate without any prior warning is truly a humiliating insult to the proud dignity and self-esteem of the thousands of Retirees who have dedicated their entire working career as loyal ambassadors for “Canada’s national” airline;

26. As is the case of the Plaintiff who met her husband Walter, who was a 35-year employee of the Defendant and retired in 1987, most, if not all the employees were attracted to the airline industry and to this employer because they loved to travel. The FRT flight passes were used very often, many in excess of 20 times per year. All employees looked forward to being able to enjoy the same travel benefits in retirement based on the same seniority priority. Many of the employees took an early retirement package, which meant forfeiting their full pension with the plan of traveling while they still had the energy and good health to do so;
27. The Plaintiff has spoken to many of the Retirees, both during active employment and retirement and it is not just her personal appreciation that the availability of the FRT flight passes both before and after retirement based on the seniority priority:
- a. was an important factor in choosing a career with the Defendant, separate and apart from the basic conditions of employment such as salary, vacations, insurance coverage, medical benefits and pensions which were regularly the subject of negotiations in the labour agreements;
  - b. was granted to them as a right from the beginning of their careers and was not an item to be discussed or negotiated and therefore never appeared, nor needed to appear in any labour agreement;
  - c. are not reasonably accessible and extremely problematic to use under the present system;
28. The present demand for remedial action is supported by the Air Canada Save Our Seniority (ACSOS) organization of retired employees of Air Canada who were granted, enjoyed, and were eligible for the Air Canada FRT passes in their retirement, who have been instrumental in gathering the complaints of its more than six thousand Canada and worldwide members which is increasing daily, who are pressing the need to re-establish the seniority priority between the employees and Retirees for accessing the FRT passes. A copy of a letter from ACSOS is produced as **Exhibit P-7**;

#### **IV. FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY EACH OF THE MEMBERS OF THE CLASS**

29. Every Class Member received when joining Air Canada the same right to the Air Canada Retirees FRT pass benefits and the seniority priority was applied among all C2 flight pass users;
30. Every Class Member has enjoyed their same rights to the FRT flight passes during their entire employment career with the Defendant which in most cases was 40 years and as well during their retirement until recently given the widespread use of the ubiquitous B1 and C1 flight passes by the employees of the Defendant;

31. Every Class Member's use of their C2 flight passes is directly and seriously compromised by the existence and use by the active employees, their families and/or companions of their B1 and C1 passes which have priority over them;
32. All of the damages to the Class Members are a direct and proximate result of the Defendant's abusive and wrongful unilateral conduct in having issued these priority B1s and C1s;
33. The questions of fact and law raised and the recourse sought by this Application are identical with respect to each member of the Class;
34. In taking the foregoing into account, all members of the Class are justified in claiming compensatory and moral damages and that the seniority priority be re-established as soon as possible to permit them once again to enjoy the use of the FRT passes;
35. The number of persons included in the Class is estimated to be in the tens of thousands;
36. The names and addresses of all persons included in the Class are not known to the Plaintiff and are in the possession or control of the Defendant who is in the best position to communicate with them;
37. The precise size of the Class and identity of the individual members in the Class are within the exclusive knowledge of the Defendant;
38. In these circumstances, a class action is the only appropriate procedure for all of the Class Members to effectively pursue their respective rights and have access to justice;
39. The claims of the Members raise identical, similar, or related questions of fact or law;
40. Most, if not all, of the issues to be dealt with are issues common to every Class Member;
41. The damages sustained by the Class Members flow, in each instance, from a common statement of operative facts, namely the Defendant's refusal to continue to respect and perform its contractual obligations, being the unilateral and illegal, excessive and unreasonable removal of the seniority priority criteria for the granting of the FRT flight passes to the Class Members, by creating and issuing an exceedingly large number of priority B1 and C1 flight passes to active employees;
42. All Class Members have been prejudiced by the Defendant's acts and/or conduct;
43. Each Class Member's damages from the Defendant's acts and/or conduct are identical or very similar and would not require individual recovery of claims under Articles 599-601 of the C.C.P.;
44. The Class Members' damages can be determined with sufficient precision without individual inquiry, such that collective recovery of claims under Article 595-598 of the C.C.P. would be appropriate;

45. The interests of justice favor that this application be granted in accordance with its conclusions;

#### **VI. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT**

46. The Defendant's conduct is intentional, discriminatory, high-handed and shows a wanton disregard for the legal rights and interests of the Plaintiff and the other Retirees such that an award of damages is appropriate;

47. The rights to the FRT flight passes previously enjoyed by the Class Members formed a critical component of their retirement plans and goals, and were of great value to them. The denial of these same rights is most grievous to the Plaintiff and Class Members and has caused them an intangible loss. This loss cannot be adequately compensated for by compensatory damages alone. The nature of the Plaintiff's and the Class Members' loss and the Defendant's conduct is such that additional damages and remedies are warranted;

48. The rights to the FRT flight passes are of unique value to the Plaintiff and Class Members. The nature of the Plaintiff's loss and the Defendant's contractual obligations based on its representations to the Retirees both as an employee and a Retiree are such that an order for specific performance is also warranted in this case;

49. The Defendant unilaterally and drastically changed the conditions of the use of the C2 flight passes of the Retirees in a high-handed and arrogant manner. The harsh and malicious manner of the change and the bad faith, unilateral modifications affecting the enjoyment of their lives as Retirees warrant the imposition of the damages being claimed;

50. The Defendant unilaterally took something away from the Plaintiff and the Retirees which the Defendant had given to them and had represented to them that they would enjoy them in retirement as well, which the Retirees had used, valued and relied on for years. When the Plaintiff retired, she did so with the knowledge that she would be free to travel the world for pleasure and to visit friends and family as she had been promised. The Defendant acted in an abusive and disrespectful manner and failed in its obligation to act in good faith in its dealings with the Retirees;

51. The Defendant's removal of the Plaintiff's ability to realize her dreams after she had retired has caused the Plaintiff damages above and beyond that which can be compensated for by ordinary damages. By adding the priority in favour of the class of active employees, the Defendant has clearly targeted the class of senior citizen Retirees to pay the cost. There was no charge to the Defendant for the benefit it shifted to the active employees as the cost, being the loss of a critical component of the use of the FRT flight passes, was borne solely by the Class Members. The Plaintiff pleads that moral damages are appropriate in the present circumstances;

52. As a further indication of the bad faith, lack of respect which the Defendant has shown to the Retirees, there is a \$5 service fee per flight and/or per segment of flights which triggers additional taxes and other fees which vary from \$25 to \$100 when the Plaintiff does use a FRT flight pass which is not applicable when an employee uses one of theirs, although logically, it



is the Retiree who has less disposable income at this stage of their life to have to suffer added expenses;

53. In the interim, since the Appeal Court judgment of November 17<sup>th</sup>, 2022, the Defendant has made changes to its FRT pass program, some of which have been to a limited benefit to the Class Members, however, it is still too early to properly evaluate and determine to what extent;
54. The Defendant has now withdrawn all of the B1 FRT passes. The Defendant has now given the Retirees a total of six C1 FRT passes for the 2023 year which will apply the seniority priority with all of the employees, but this in no way re-establishes the seniority priority in the manner as was previously accessible to the Retirees as will be explained in the following;
55. The Retirees had an unlimited number of FRT passes and the seniority priority dictated how they could successfully apply for an unsold seat on a flight every time they wished to board a plane;
56. The issuance of the large number of higher priority B1 and C1 FRT passes to the employees downgraded the Retiree's use behind every active employee;
57. As mentioned, the B1 passes have now all been removed and all employees and Retirees have an unlimited number of C2 FRT passes with the seniority priority being applied equally to everyone and there is no problem in so far as these passes are concerned;
58. However, the Defendant had now decided to give each employee 12 C1 FRT passes per year and the Retirees were given 6 C1 FRT passes and each pass is now limited to the holder of that pass so that travel with a companion uses 2 of these C1 FRT passes;
59. The Employees with dependents have been given additional passes based on the number of family dependents to permit travel with family members such as a spouse. However, Retirees would need to use another of their 6 C1 FRT passes to travel with their spouse.
60. For their use of these 6 C1 FRT passes the seniority priority will apply and a partial objective has been achieved for the Retirees;
61. However once the Retiree has used all of their six C1 FRT passes which can happen very quickly when travelling with a family member, then they have to use their C2 FRT passes which are once again behind all of the employees with their 12+ C1 FRT passes and using the same general estimates of article 20 hereof of 38,000 employees, then there are potentially 456,000 persons ahead of every retiree when they apply for an available unsold seat on a flight using their C2 FRT passes;
62. As an example of how quickly the Retiree's six C1 FRT passes can be used up under the present rules: Flights to Orlando, Florida for a Retiree and their spouse, returning in 32 days will consume 4 of these passes.

63. In addition to the 12 C1 FRT passes given to all employees, the Defendant has generously given additional C1 passes to employees over the years which they have accumulated at an estimated average of 10 per employee;

64. As the objective of this proceeding is to re-establish the parity between employees and Retirees as had previously existed, and considering the recent changes to its FRT passes implemented by the Defendant, then it is now submitted that the ideal and practical solution is for all of the employees and Retirees to have the same number of passes with the same conditions. Simply put, if the employees have 12+ C1 FRT passes per year then the Retirees should have the same 12+ C1 FRT passes per year. Or, as was the case in the past, employees and retirees each had an unlimited number of C2 FRT passes and there were no C1s or B1s and the seniority priority was applied across the board.

65. It is accordingly submitted that:

- a. The Defendant contravened articles 6, 7, 1375 and 1434 of the Civil Code of the Province of Québec and if the Court determines it necessary, the analogous *Common Law* legal principles of the other Provinces and Territories.
- b. The Defendant's conduct as described herein, of issuing thousands of priority travel passes to the employees contravened its longstanding representation made to the Class Members when they were initially granted the rights to the FRT flight passes and as they have been used by the Retirees for decades during their active employment and then during their retirement. As stated in the Court of Appeal judgment:

*"Common sense and logic suggest that the issuance by Air Canada of such passes to tens of thousands of current employees is not without significant consequences on the value and usefulness of the retirees' travel benefits. That, along with the frustration and anxiety the appellant allegedly suffered as a result of the issuance of higher priority passes, constitute actionable injuries."*

- c. The Defendant failed to perform and respect its obligations relating to the FRT flight passes for the Retirees.
- d. The rights to the FRT flight passes were granted to the Retirees many years ago upon joining Air Canada and have been used and enjoyed by them ever since and as such cannot be unilaterally, substantially modified to the detriment of the Class Members.
- e. As a result of the unilateral changes made to their use of the FRT flight passes by the Defendant which has resulted in their greatly diminished use, last minute disruptions of their travel plans and the ensuing problems and expenses resulting from the inability to board a plane due to the priority given to an employee, the Class Members are entitled to damages from the Defendant, consisting of:
  - i. an amount estimated to be \$5000 plus taxes per year per Class Member which represents the value of the yearly savings to a Class Member if they had been able to avail themselves of the FRT flight passes since July 2017 in an efficient and effective manner; and

- ii. the amount of \$5000 per Class Member for the moral damages of the degradation, stress, troubles and inconvenience of using the FRT flight passes; and
  - iii. the additional amount of \$1000 for the moral damages when actually being displaced by a junior in seniority employee and their travelling companion(s) at the last minute at the loading gate; and
  - iv. the additional amount of \$2000 for the moral damages when actually being displaced at the last minute at the loading gate by a junior in seniority employee and their travelling companion(s) when returning from a trip and having to deal with the last minute, urgent ground and air transportation arrangements and hotel accommodations; and
  - v. the interest and additional indemnity set out in the Civil Code of Québec on the above amounts;
- d. The FRT passes in the form of B1s and C1s or any other nomenclature of free and/or reduced fare flight passes which the Defendant might decide to issue to the employees in the future should not have priority over the C2 FRT passes of the Retirees when the employees are traveling for personal or leisure purposes;
  - e. That if the Defendant is for any reason unable to withdraw the C1s from the employees, then it should immediately issue to each Class Member a corresponding number of such superior priority FRT passes;
  - f. That to re-establish the parity between employees and Retirees as had previously existed then it is submitted that the ideal solution is for all of the employees and Retirees to have the same number of passes with the same conditions as indicated in paragraph 64 hereof;
66. This class action is properly taken before the Superior Court in the District of Montréal for the following reasons:
- a. The initial formation and the subsequent modifications to the seniority priority as described in the preceding paragraphs for the use of the FRT flight pass program and how they apply to the employees and Retirees were concluded in the Province of Québec and to the best of the Plaintiff's knowledge, thousands of members of the Class are domiciled in the Province of Québec;
  - b. The contract between the Defendant and each of the Class Members has a "real and substantial connection" to the Province of Québec;
  - c. The nature of the action on behalf of Class Members will be of two orders; for the ones who are domiciled in the Province of Québec it is an action in contractual responsibility for compensatory and moral damages against the Defendant; and as for those Retirees who are domiciled in the other provinces or elsewhere, it may be an action in Canadian Common Law responsibility for compensatory damages and injunctive orders as the Québec Civil Code principles of articles 6, 7 and 1375 and others, have similar applications generally

referred to as "...an organizing principle of good faith that parties generally must perform their contractual duties honestly and reasonably and not capriciously and arbitrarily.";

- d. The Defendant conducts business in the District of Montréal and the Province of Québec;
- e. The Defendant has headquarters in the Province of Québec;
- f. The Plaintiff and her undersigned attorneys are domiciled in the District of Montréal and the Province of Québec;

67. The present Class action is well-founded in fact and in law;

**WHEREFORE, THE CLASS PRAYS THIS HONOURABLE COURT THAT BY JUDGMENT TO BE RENDERED HEREIN:**

**GRANT** the present Class Action of the Plaintiff and each of the Class Members;

**DEFINE** the Class as:

"All retired employees of the Defendant eligible for free and reduced travel ("FRT") flight passes in retirement";

**DECLARE** that the flight passes as had been granted and enjoyed by the Retirees based on the seniority priority for decades cannot be unilaterally substantially modified to the detriment of the Class Members;

**DECLARE** the Defendant liable for the damages suffered by the Plaintiff and each of the Class Members;

**CONDEMN** the Defendant to pay to the Plaintiff, for the benefit of the Class the aggregate amount in compensatory damages, estimated to be \$5000 plus taxes per year per Class Member which represents the value of the yearly savings to a Class Member if they had been able to avail themselves of the FRT flight passes since July 2017 in an efficient and effective manner; and

**CONDEMN** the Defendant to pay to the Plaintiff, for the benefit of the Class the aggregate amount in compensatory damages, estimated to be the amount of \$5000 per Class Member for the moral damages of the degradation, stress, troubles and inconvenience of using the FRT flight passes since July 2017; and

**CONDEMN** the Defendant to pay to the Plaintiff, for the benefit of the Class the aggregate amount in compensatory damages, estimated to be \$1000 for the moral damages when actually being displaced at the last minute at the loading gate; and

**CONDEMN** the Defendant to pay to the Plaintiff, for the benefit of the Class the aggregate amount in compensatory damages estimated to be \$2000 for the moral damages when actually being displaced at the last minute at the loading gate when returning from a trip and having to deal

with the last minute, urgent ground and air transportation arrangements and hotel accommodations;  
and

**ORDER** that the above four monetary condemnations be subject to collective recovery;

**CONDEMN** the Defendant to bear the costs of the present action including expert, expertise, and notice fees;

**ORDER** that employee flight passes henceforth will not have priority over those of Retirees when employees are travelling for personal or leisure purposes;

**ORDER** the Defendant to immediately issue to each of the Class Members 12 C1 flight passes per year having the same conditions as those held by the employees;

**RENDER** any other order that this Honourable Court shall determine and that is in the interest of the Class Members;

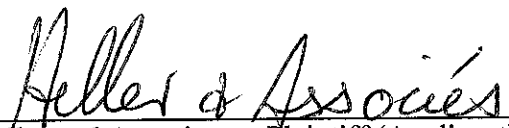
**DECLARE** that all members of the Class who have not requested their exclusion from the Class in the prescribed delay to be bound by any judgment to be rendered on the class action to be instituted in accordance with the law;

**FIX** the delay of exclusion at 30 days from the date of the publication of the notice to the Class Members, and at the expiry of such delay, the Class Members who have not requested exclusion to be bound by any such judgment;

**ORDER** the Defendant to provide Class counsel, in electronic form, a list containing the names and last known coordinates of the Class Members including their email addresses;

**THE WHOLE** with interest and the additional indemnity provided for in the Civil Code of Québec and with full costs and expenses including publication and notification fees to advise members and expert fees, if any, including those required to establish the amount of the orders for collective recovery.

Montréal, this 18<sup>th</sup> day of September, 2023

  
Heller and Associates - Plaintiff (Applicant)  
425 Saint Sulpice, Montréal, QC, H2Y 2V7

<b>SUMMONS</b> <b>(Articles 145 and following CCP)</b>
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**Filing of a judicial application**

Take notice that the Petitioner has filed this Originating Demand of a Class Action in the office of the Superior Court in the judicial district of Montréal.

**Defendants' answer**

You must answer this Originating Demand in writing, personally or through a lawyer, at the courthouse of Montréal situated at 1 Rue Notre-Dame East, Montréal, Québec, H2Y 1R6, within 15 days of service of the Application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the Petitioner's lawyer or, if the Petitioner is not represented, to the Petitioner.

**Failure to answer**

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgment may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

**Content of answer**

In your answer, you must state your intention to: • negotiate a settlement; • propose mediation to resolve the dispute; • defend the application and, in the case required by the Code, cooperate with the Petitioner in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of the summons or, in family matters or if you have no domicile, residence or establishment in Québec, within 3 months after service; • propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

**Change of judicial district**

You may ask the court to refer the originating Application to the district of your domicile or residence, or of your elected domicile or the district designated by an agreement with the plaintiff.

If the application pertains to an employment contract, consumer contract or insurance contract, or to the exercise of a hypothecary right on an immovable serving as your main residence, and if you are the employee, consumer, insured person, beneficiary of the insurance contract or hypothecary debtor, you may ask for a referral to the district of your domicile or residence or the district where the immovable is situated or the loss occurred. The request must be filed with the special clerk of the district of territorial jurisdiction after it has been notified to the other parties and to the office of the court already seized of the originating application.

## **Transfer of application to Small Claims Division**

If you qualify to act as a plaintiff under the rules governing the recovery of small claims, you may also contact the clerk of the court to request that the application be processed according to those rules. If you make this request, the plaintiff's legal costs will not exceed those prescribed for the recovery of small claims.

## **Calling to a case management conference**

Within 20 days after the case protocol mentioned above is filed, the court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing this, the protocol is presumed to be accepted.

## **Exhibits supporting the application**

**Exhibit P-1:** Copy of the Employment History

**Exhibit P-2:** Copy of Industry Canada Extract of Air Canada

**Exhibit P-3:** Copy of Registraire des Entreprises du Québec Extract of Air Canada

**Exhibit P-4:** Copy of the Retirement Handout

**Exhibit P-5:** Copy of the ACSOS letter

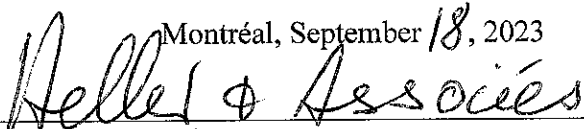
**Exhibit P-6:** Copy of January 2020 Montreal Gazette recruitment article

The exhibits in support of the application are available upon request.

## **Notice of presentation of an application**

If the application is an application in the course of a proceeding or an application under Book III, V, excepting an application in family matters mentioned in article 409, or VI of the Code, the establishment of a case protocol is not required; however, the application must be accompanied by a notice stating the date and time it is to be presented.

Montréal, September 18, 2023



Heller and Associates

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Fax: 514 288-7479

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CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

NO. : 500-06-001039-201

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SUPERIOR COURT OF QUEBEC  
(Class Action)

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**CAROLE DAVIES**, a person residing at 85 Brookside Ave., in the City of Beaconsfield, Province of Quebec, Canada, H9W 5C5

Petitioner

v.

**AIR CANADA**, an airline incorporated pursuant to the laws of Canada with a registered office at 7373 De La Côte Vertu Blvd West, in the City of Montreal, Province of Québec, Canada, H4S 1Z3

Respondent

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**ORIGINATING DEMAND – CLASS ACTION**  
**(ARTICLE 583 C.C.P. AND FOLLOWING)**

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ORIGINAL

BH-0214

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Me Michael Heller  
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**Sent:** Monday, September 18, 2023 7:31 AM  
**To:** Mirna Kaddis; Noah Boudreau; Sébastien Richemont  
**Cc:** Thaarah Edne; Louis Carmichael  
**Subject:** FW: Notification - Carole Davies v. Air Canada - 500-06-001039-201 - Originating Demand  
**Attachments:** Carole Davies v, Air Canada 500-06-001039-201 DII.pdf

**NOTIFICATION PAR MOYEN TECHNOLOGIQUE / NOTIFICATION BY TECHNOLOGICAL MEANS**

**Heller & Associés**

**(Art. 133 - 134 du Code de procédure civile, RLRQ c. C-25.01)**

**/(Art. 133 - 134 of the Code of Civil Procedure, CQLR c. C-25.01)**

**Parties :** Carole Davies v. Air Canada  
**Cour / Court:** Cour supérieure – Class Action  
**District judiciaire  
/Judicial District:** Montréal  
**Localité  
/Locality:** Montréal  
**Numéro de cour  
/Court Number:** 500-06-001039-201

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