

**Date: 20080505**

**Docket: 08-A-11**

**Citation: 2008 FCA 169**

**Present: PELLETIER J.A.**

**BETWEEN:**

**AIR CANADA, JAZZ AIR LP, as represented by its general partner, Jazz Air Holdings GP Inc. carrying on business as Air Canada Jazz and WEST JET**

**Moving Parties**

**and**

**CANADIAN TRANSPORTATION AGENCY and  
THE ESTATE OF ERIC NORMAN, JOANNE NEUBAUER and  
the COUNCIL OF CANADIANS WITH DISABILITIES**

**Responding Parties**

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on May 5, 2008.

**REASONS FOR ORDER BY:**

**PELLETIER J.A.**

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the COUNCIL OF CANADIANS WITH DISABILITIES**

**Responding Parties**

**REASONS FOR ORDER**

**PELLETIER J.A.**

[1] Ms. Linda McKay-Panos applies to be granted intervenor status in the pending application for leave to appeal decision No. 6-AT-A-2008 (the 1P1F decision) of the Canadian Transportation Agency (the Agency) and, if leave is granted, intervenor status in the appeal.

[2] Ms. McKay-Panos represented the perspective of those who, by reason of their obesity, require accommodation in air travel, including the possibility of the use of two seats.

[3] The issue in the 1P1F decision was whether air carriers were required to accommodate travellers whose health condition required them to travel with an attendant by providing the second person's seat free of charge. Ms. McKay-Panos participated in those hearings and took the position that the obese who could not fit into a standard airline seat should be entitled to the same accommodation. The Agency ruled in favour of the applicants in that case, the Estate of Eric Norman, Joanne Neubauer and the Council of Canadians with Disabilities (the applicants) and the intervenor. It is this decision with respect to which the air carriers - Air Canada, Jazz Air LP and West Jet - seek leave to appeal.

[4] I have reviewed Ms. McKay-Panos' proposed submissions. Like the applicants seeking leave to appeal, she responds to the specific complaints advanced by the air carriers and defends the Agency's decision on grounds of standard of review.

[5] Ms. McKay-Panos' proposed submissions do not add a different perspective to the application for leave to appeal and as a result, her motion to be added as an intervenor will be dismissed.

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"J.D. Denis Pelletier"

J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** 08-A-11

**STYLE OF CAUSE:** *AIR CANADA, JAZZ AIR LP as represented by its general partner, Jazz Air Holdings GP Inc. carrying on business as Air Canada Jazz and West Jet and CANADIAN TRANSPORTATION AGENCY and The Estate of Eric Norman, Joanne Neubauer and the Council of Canadians with Disabilities*

**MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES**

**REASONS FOR ORDER BY:** PELLETIER J.A.

**DATED:** May 5, 2008

**WRITTEN REPRESENTATIONS BY:**

Gerard Chouest  
Ioana Bala

FOR THE MOVING PARTIES, Air Canada, Jazz Air LP, as represented by its general partner, Jazz Air Holdings GP Inc. carrying on business as Air Canada Jazz and West Jet

Elizabeth Barker  
Andray Renaud

FOR Canadian Transportation Agency

Ritu Khullar

FOR Linda-McKay-Panos

David Baker

FOR THE RESPONDING PARTIES,  
The Estate of Eric Norman, Joanne Neubauer and the Council of Canadians with Disabilities

**SOLICITORS OF RECORD:**

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FOR THE MOVING PARTIES, Air  
Canada, Jazz Air LP, as represented by  
its general partner, Jazz Air Holdings  
GP Inc. carrying on business as Air  
Canada Jazz and West Jet

FOR Canadian Transportation Agency

FOR Linda McKay-Panos

FOR THE RESPONDING PARTIES,  
The Estate of Eric Norman, Joanne  
Neubauer and the Council of  
Canadians with Disabilities