

**ONTARIO
SUPERIOR COURT OF JUSTICE**

The Honourable
Justice C. T. Hackland

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Wednesday,
July 8, 2026

B E T W E E N :



AIR PASSENGER RIGHTS

Applicant

- and -

ATTORNEY GENERAL OF CANADA

Respondent

ORDER

THIS APPLICATION, for an order that subsection 85.09(1) of the *Canada Transportation Act* [**CTA**] infringes section 2(b) of the *Canadian Charter of Rights and Freedoms* [**Charter**], and cannot be saved by section 1 of the *Charter*, and seeking a reading down or striking out of the impugned subsection in accordance with subsection 52(1) of the *Constitution Act, 1982*, was heard at the courthouse this 24th day of April, 2026.

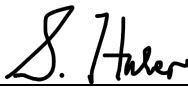
ON READING the Application Record of the Applicant, dated June 3, 2025, the Affidavit of Vincent Millette, affirmed August 29, 2025, the Reply Application

Record of the Applicant, dated September 11, 2025, the Transcript of the Cross-Examination of Vincent Millette, dated October 22, 2025, the Affidavit of Amanda Buttineau, affirmed March 5, 2026, the Factum of the Applicant, dated January 23, 2026, the Factum of the Respondent, dated February 27, 2026, the compendia of the law and evidence filed by the applicant and the respondent, and the Factum of the Intervenor, the Canadian Broadcasting Corporation [**CBC**], and

ON HEARING the submissions of counsel for the applicant, the respondent, and the CBC:

1. **THIS COURT DECLARES** that subsection 85.09(1) of the *CTA* infringes the freedom of expression guaranteed by section 2(b) of the *Charter* and cannot be justified by section 1 of the *Charter*.
2. **THIS COURT ORDERS** that subsection 85.09(1) is read down such that the confidentiality requirements it sets out only apply in respect of records provided in the mediation steps of the proceedings before complaint resolution officers [**CROs**] and not to adjudicative records, including the decisions and orders of the CROs.
3. **THIS COURT ORDERS** that the order set out in the previous paragraph shall be stayed for a period of 90 days from the date of this order to permit the respondent to facilitate such administrative arrangements as may be required to comply with and implement the court's order.

4. **THIS COURT ORDERS** that the applicant is awarded its costs of this application.

 S. Huber

Signature

Duly authorized to sign on behalf of
the Hon. Justice Hackland

Issuance on July 28, 2026

AIR PASSENGER RIGHTS
Applicant

v. ATTORNEY GENERAL OF CANADA
Respondent

Court File No. CV-25-00100065-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at Ottawa

ORDER

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