

**COURT OF APPEAL OF ALBERTA**

COURT OF APPEAL FILE NUMBER: 2401-0244AC

TRIAL COURT FILE NUMBER: 2401-02664

REGISTRY OFFICE: Calgary

APPLICANTS

**EDMONTON REGIONAL AIRPORTS AUTHORITY, HALIFAX INTERNATIONAL AIRPORTS AUTHORITY, THE CALGARY AIRPORT AUTHORITY, VANCOUVER AIRPORT AUTHORITY, and WINNIPEG AIRPORTS AUTHORITY INC.**

STATUS ON APPEAL: **APPELLENTS**

RESPONDENTS

**LYNX AIR HOLDINGS CORPORATION and 1263343 ALBERTA INC. dba LYNX AIR**

STATUS ON APPEAL: **RESPONDENTS**

**DOCUMENT:**

**CIVIL NOTICE OF APPEAL**

APPELLANT'S ADDRESS FOR SERVICE AND CONTACT INFORMATION:

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File No.: 156416.1001



**WARNING**

To the Respondent: If you do not respond to this appeal as provided for in the Alberta Rules of Court, the appeal will be decided in your absence and without your input.

**1. Particulars of Judgment, Order or Decision Appealed From:**

Date pronounced: June 24, 2024

Date entered: August 26, 2024

Date served: August 26, 2024

Official neutral citation of reasons for decision, if any: 2024 ABKB 514

**2. Indicate where the matter originated:**

**Court of King's Bench of Alberta**

Judicial Centre: Calgary

Justice: The Honourable Justice B.E.C. Romaine

**Board, Tribunal or Professional Discipline Body**

Specify Body: Not Applicable

**3. Details of Permission to Appeal, if required (Rules 14.5 and 14.12(3)(a)).**

- Permission to appeal required pursuant to Section 13 of the *Companies' Creditors Arrangement Act*, RSC 1985 c C-36 and Rule 14.5(1)(f) of the *Alberta Rules of Court*, Alta Reg 124/2010. Permission to appeal granted by the Honourable Justice J.A. Fagnan on November 22, 2024 (2024 ABCA 380).

**4. Portion being appealed (Rule 14.12(2)(c)):**

Whole, or

Only specific parts (if specific part, indicate which part):

- Paragraphs 22-47.

**5. Provide a brief description of the issues:**

- The lower Court erred by failing to apply the principles of contractual interpretation in interpreting the Memorandum of Agreement (the "**MOA**") between the Applicants and the Respondents. In particular, the lower Court erred by failing to interpret section 20.1 of the MORA in such a way as to give effect to the agency relationship between the parties in relation to the collection and remittance of Airport Improvement Fees ("**AIF**"), considering the intention of the parties and the settlors of the trust (the air passengers).
- The lower Court failed to apply the remedy of constructive trust by misapplying the test for unjust enrichment and failing to consider the injustice arising from the finding that the AIF paid by passengers departing from one airport in Canada is subject to a trust, while AIF paid by passengers departing from other Canadian airports are not subject to a trust and therefore not protected in the event of an airline insolvency.

**6. Provide a brief description of the relief claimed:**

- Paragraphs 22-47, the portion of the Decision regarding the Appellants, should be overturned and the Monitor should be instructed to release to the Appellants the \$4,099,343.29 plus interest, if applicable, that it has held in trust pending final adjudication of this claim pursuant to the Order of the Honourable Justice Sidnell granted on April 15, 2024.

**7. Is this appeal required to be dealt with as a fast track appeal? (Rule 14.14)**

Yes  No  
\_\_\_\_\_

**8. Does this appeal involve the custody, access, guardianship, parenting time, decision-making responsibility, contact or support of a child? (Rule 14.14(2)(b))**

Yes  No  
\_\_\_\_\_

**9. Will an application be made to expedite this appeal?**

Yes  No  
\_\_\_\_\_

**10. Is Judicial Dispute Resolution with a view to settlement or crystallization of issues appropriate? (Rule 14.60)**

Yes  No  
\_\_\_\_\_

**11. Could this matter be decided without oral argument? (Rule 14.32(2))**

Yes  No  
\_\_\_\_\_

**12. Are there any restricted access orders or statutory provisions that affect the privacy of this file? (Rules 6.29, 14.12(2)(e), 14.83)**

Yes  No  
\_\_\_\_\_

**13. List respondents and counsel for the respondents, with contact information:**

For the Respondent, Lynx Air Holdings Corporation and 1263343 Alberta Inc.  
dba Lynx Air

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**14. Attachments (check as applicable)**

Order or judgment under appeal if available (not reasons for decision) (Rule 14.12(3))

\_\_\_\_\_ Earlier order of Applications Judge, etc. (Rule 14.18(1)(c))

\_\_\_\_\_ Order granting permission to appeal (Rule 14.12(3)(a))

\_\_\_\_\_ Copy of any restricted access order (Rule 14.12(2)(e))

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