

Federal Court



Cour fédérale

**Ottawa, November 26, 2020** – The Honourable Justice Michael D. Manson of the Federal Court issued a decision today in file T-428-20:

**IN THE MATTER OF JANET DONALDSON v. SWOOP INC.,  
WESTJET AIRLINES LTD., AIR CANADA, AIR TRANSAT A.T. INC.  
AND SUNWING AIRLINES INC.**

**Summary:** The Plaintiff, Ms. Janet Donaldson, seeks certification and appointment as the representative Plaintiff, in a proposed class action against the Defendants, WestJet Airlines Ltd. [Westjet], Swoop Inc., Sunwing Airlines Inc., Air Canada and Air Transat A.T. Inc. [collectively “the Defendants”], for a refund of the original forms of payment for airfare contracts allegedly frustrated by the pandemic.

The certification motion is opposed by the Defendants, who have countered with motions of their own seeking the dismissal of the proposed class action on the grounds that this Court has no jurisdiction to entertain the proceeding. The Defendants make reference to Rule 221 of the *Federal Courts Rules* in their notices of motion; however it is clear from their submissions that they rely solely on Rule 221(1)(a).

The Court concluded that since this case is not based on or recognized by any statute, regulation or applicable federal common law principle, it is plain and obvious that the Federal Court has no jurisdiction, and the Statement of Claim ought to be struck without leave to amend. Given the Court’s conclusion on jurisdiction, the Court concluded that it would be both unnecessary and improper to decide the Plaintiff’s motion for certification.

A copy of the decision can be obtained via the [website](https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/489136/index.do) of the Federal Court:  
<https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/489136/index.do>