

Free to Fly Aviation Legal Campaign: *Charting Our Course*

On the broadest level, the collective goals of the Aviation Legal Campaign are to:

- 1) Seek justice for Canadian aviation professionals.
- 2) Uncover the truth about how the matter was handled by those who had a responsibility to us.
- 3) Ensure that the mistakes made in respect of Covid 19 are not repeated in the future.

Members of Free to Fly are encouraged to use this campaign to seek justice for their own specific circumstances. There will likely be multiple options for each member to do so, and our approach is strategically diversified. For example, on a broad level, class actions could be available to virtually all members. Getting more specific, many claims will only apply to specific groups, such as unionized, or non-unionized.

It is possible, and even likely, that each member will be involved in multiple legal actions (ie. lawsuits), at some point in the campaign.

Examples of Campaign Actions

The following is a guide illustrating some of the legal actions that could be undertaken as part of the Free to Fly Aviation Legal Campaign. It is organized from broad to more specific. While it is not comprehensive, it should allow most members to get a sense of exactly what actions may be taken.

At first glance, the number of options may seem overwhelming. Once the initial intake is complete, however, members will be placed into smaller groups. At this point, the specific options available to any given member should become clear.

The following categorizations will allow people to see which actions they are likely to be eligible for. They are colour coded and will be included under each example. Please bear in mind that most people will belong to multiple categorizations. If one of the categories is struck out, it means that a person fitting in that category can't partake in that action, even if they belong to other groups that can.

Legend

(U) Unionized - unionized employee affected by government or employer mandates, and whose unions failed to adequately represent

(NU) Non-unionized – an employee affected by government or employer mandates, and who was not subject to a collective bargaining agreement (aka, excluded employees)

(RE) Retired Early – an employee who took early retirement to mitigate damage from mandate

(OPL) On Paid Leave – an employee who was on some kind of paid leave (eg. medical, stress, parental) prior to and during the time mandates were in effect.

(V) – Vaccinated – an employee who did not wish to be vaccinated, but felt compelled to do so in order to maintain employment

(UV) – Unvaccinated – an employee who did not get vaccinated

Legal Actions with Broadest Applicability, examples:

1. Charter claims against government agencies, eg. Transport Canada.

(U)(NU)(RE)(OPL)(V)(UV)

* Not applicable to employees who only faced employer mandates.

2. Civil claims against government agencies.

(U)(NU)(RE)(OPL)(V)(UV)

* Not applicable to employees who only faced employer mandates.

3. Challenge to Employment Insurance program (EI).

(U)(NU)(RE)(OPL)(V)(UV)

* Applicable to virtually anyone who was not permitted to continue working due to vaccine mandates, and who was otherwise eligible to receive compensation from EI.

Note: This lawsuit would likely be the broadest in terms of membership eligibility.

4. Duty of fair representation claim (DFR) against union.

(U)(~~NU~~)(RE)(OPL)(V)(UV)

Note: The DFR process begins in a labour tribunal, which is not court. DFRs are traditionally unsuccessful at this initial tribunal level (over 95% of the time).

5. Breach of union constitution and bylaws claim against union.

(U)(~~NU~~)(RE)(OPL)(V)(UV)

Note: This action involves internal claims that the unions did not follow their own rules when dealing with the covid vaccine mandates, instead behaving in a way that was arbitrary and discriminatory.

Legal Actions with Focussed Applicability, examples:

6. Constructive dismissal claim against employer.

~~(U)~~(NU)(RE)(OPL)(V)(UV)

* Strictly limited to non-unionized employees who were put on leave, *but not terminated*, as a result of covid vaccine mandates.

7. Wrongful dismissal claim against employer.

~~(U)~~(NU)(RE)(OPL)(V)(UV)

* Strictly limited to non-unionized employees who *were terminated* as a result of covid vaccine mandates.

Legal Actions With Public Applicability, examples:

The following are examples of legal actions that could be undertaken by Free to Fly, which would be open to the entire membership, as well as to the general public at large.

8. Claim against Government of Canada regarding the application of the Quarantine Act for passengers arriving in Canada.

9. Claim against Transport Canada's mask policy.

* Limited to those people who were subject to mandatory masking on mass transportation in Canada.

Note: Similar to the legal action in the USA that resulted in the removal of the transportation mask mandates.

Special Note For Those On Paid Leave Prior to and during Mandates:

The same potential for harm still exists for those on leave, as it is presumed that those persons will exist under the vaccine policies upon return from work. For this reason, members who found themselves in such circumstances are still able to participate in the legal campaign.