

**IN THE MATTER of the *Human Rights Code*, RSBC 1996, c 210 (as amended)  
AND IN THE MATTER of a complaint before the British Columbia Human Rights  
Tribunal**

BETWEEN:

THE WORKER

COMPLAINANT

AND:

TRANSLINK SECURITY MANAGEMENT LTD.

RESPONDENT

**ARGUMENT - West Coast LEAF's Application for Leave to Intervene**

**A. Orders Sought**

1. Pursuant to Section 22.1(2) of the *BC Human Rights Code*, RSBC 1996, c 210 ("the *Code*") and Rule 13(4) of the BC Human Rights Tribunal's *Rules of Practice and Procedure*, West Coast Legal Education and Action Fund Association ("West Coast LEAF") seeks an order that:
  - a. West Coast LEAF be granted leave to intervene;
  - b. West Coast LEAF may provide written and oral submissions at the hearing;
  - c. West Coast LEAF will receive copies of all pleadings, submissions, witness lists, evidence to be submitted and summaries thereof (if applicable), disclosure, and any other materials exchanged in this proceeding;
  - d. West Coast LEAF may participate in case management;
  - e. Any further or other order that this Tribunal may deem appropriate.

**B. Factual Basis**

***Overview***

2. West Coast LEAF is a non-profit organization in BC that advocates for intersectional gender equality and gender justice. It seeks leave to intervene in this complaint.
3. The Complainant submits that her former employer, Translink Security Management Ltd. (“TSML”), discriminated against her when it demoted her for failing to obtain a driver’s license despite knowing she was participating in legal proceedings connected to an abusive relationship, and experiencing mental health and physical health challenges. The Complainant says TSML violated s. 13 of the *Code* based on her sex, gender, marital status, mental disability, and physical disability.
4. The complaint raises issues of public importance. During the application to dismiss proceeding, the parties contested the issue of whether experiences of intimate partner violence (“IPV”) in a long-term intimate relationship are sufficiently connected to the protected grounds of sex, gender, and marital status. The connection between IPV experiences and mental disability was also at issue. TSML suggested that the impacts of IPV must rise to the level of disability within the meaning of the *Code* to be protected. These issues raise important concerns for IPV survivors regarding the operation of the *Code* with respect to the impacts of IPV on employment.
5. West Coast LEAF has a longstanding interest and expertise in advocating for survivors of gender-based violence, including IPV, in the legal system. If granted leave to intervene, it will offer a useful and distinct perspective to inform the Tribunal’s approach to discrimination complaints connected to IPV experiences. It proposes to make submissions on the gendered social and legal context of IPV, and how this context should inform the discrimination analysis and an employer’s duty to accommodate the impacts of IPV in the workplace.

### ***The Complaint as pleaded***

6. The Complainant was initially employed by TSML in a casual position. In 2016, the Complainant applied to become a full-time Court Liaison and Exhibits Custodian (CLEC) with TSML. The Complainant did not have a driver’s license when she applied to the position. By the time the Complainant was hired, TSML required that

she obtain a driver's license. A timeline was set for her to do so: *The Worker v Translink Security Management Ltd.*, 2025 BCHRT 122, paras. 9, 11-12 ("*Translink*").

7. Soon after starting the CLEC position, the Complainant says she disclosed to TSML that she had been in a five-year long abusive relationship with an RCMP officer, during which she experienced physical, sexual, and emotional abuse, including threats of injury and financial ruin. The parties agree that the Complainant told TSML she was under a high degree of stress related to IPV: *Translink*, paras. 13, 15.
8. The Complainant says her mental health suffered significantly and she forgot about the timeline to obtain her driver's license as it had not been an issue in the performance of her job: *Translink*, para. 14. In 2018, TSML asked the Complainant to obtain a driver's license and set a new timeline: *Translink*, paras. 15-16.
9. During this period, the Complainant was summoned as a witness for an RCMP Code of Conduct hearing regarding her ex-partner and says that she experienced stress and anxiety regarding the hearing and the possible repercussions: *Translink*, paras. 17, 19-20. The Complainant also experienced a concussion: *Translink*, para. 22.
10. The Complainant requested and obtained several extensions of the deadline to pass her road test from TSML: *Translink*, paras. 19, 21. In 2019, after the Complainant did not pass her third attempt at the road test, TSML returned the Complainant to a casual position. TSML later eliminated this position: *Translink*, paras. 24, 29.
11. During meetings with TSML, the Complainant says that TSML's lawyer made comments that minimized her experiences of IPV: *Translink*, paras. 26, 67. The Complainant says these comments demonstrated discriminatory assumptions and stereotypes about survivors of IPV: *Translink*, para. 68.

***The Proposed Intervenor: West Coast LEAF***

12. West Coast LEAF is a non-profit society incorporated in BC and registered federally as a charity. West Coast LEAF's mandate is to use the law to create an equal and

just society for all women and people who experience gender-based discrimination in BC and Canada. It has a long history of using litigation, law reform activities, and public legal education to advance its objectives. Its areas of focus include the intersections of gender-based violence, access to justice, and economic security.

Affidavit #1 of S. Daub, paras. 5-7

13. West Coast LEAF takes an intersectional approach to its work. This means it engages with the equality interests of women and gender-diverse people along multiple and intersecting axes of marginalization, including Indigeneity, race, immigration status, gender identity, sexual orientation, disability, age, and socioeconomic status. It consults and collaborates with other equality-seeking groups to ensure that its work reflects the diversity of human experiences.

Affidavit #1 of S. Daub, para. 8

14. West Coast LEAF's law reform program includes community-based research and report-writing, consultations with and submissions to governments at all levels, and advocacy campaigns. Its public legal education program engages with lay audiences with the aim of helping people to understand and exercise their equality rights.

Affidavit #1 of S. Daub, para. 7

15. West Coast LEAF is an experienced intervenor before all levels of court, as well as before human rights tribunals, other administrative tribunals, and boards of inquiry. It has offered a gendered, intersectional perspective to numerous cases of public importance, including cases which address the constitutionality of laws and government actions, discrimination under human rights legislation, and questions of statutory interpretation. Through its interventions, West Coast LEAF has helped to advance jurisprudence on substantive gender equality in Canada and BC.

Affidavit #1 of S. Daub, para. 9

16. In addition to its intervention work, West Coast LEAF and its *pro bono* counsel represented the plaintiffs in a constitutional challenge to BC's family law legal aid scheme on behalf of single mothers who had experienced family violence: *Single Mothers Alliance of BC v. British Columbia*, BC Supreme Court File No. S1733843 (the "SMA case"). The settlement of the litigation in 2024 resulted in the expansion of legal aid services for abuse survivors.

Affidavit #1 of S. Daub, para. 10

17. West Coast LEAF has engaged in extensive work across its program areas in connection with the legal system's treatment of survivors of gender-based violence and, specifically, IPV. This work includes litigating the SMA case and intervening in a series of Supreme Court of Canada appeals where it made submissions about the social and legal context of IPV: *Ahluwalia v Ahluwalia*, SCC File No. 41061 ("*Ahluwalia*"), *Barendregt v Grebliunas*, 2022 SCC 22 ("*Barendregt*"), and *Colucci v Colucci*, 2021 SCC 24. West Coast LEAF's discussion of IPV myths and stereotypes in *Ahluwalia* and *Barendregt* drew upon its extensive experience with addressing sexual assault myths and stereotypes in the criminal law context.

Affidavit #1 of S. Daub, paras. 10, and 16-17

18. In addition to its litigation work, West Coast LEAF regularly makes submissions to all levels of government about advancing the rights, interests, and access to justice of IPV survivors in the legal system.

Affidavit #1 of S. Daub, paras. 7 and 16

## **C. Legal Basis**

### ***Test for Intervention***

19. Pursuant to Section 22.1(2) of the *Code*, the Tribunal has a broad discretion to grant intervenor status and to specify the terms of that intervention: *Hall v BC (Ministry of Environment (No. 4))*, 2008 BCHRT 437, para. 5 ("*Hall*").

20. Applicants who are not directly affected by a remedy sought in the complaint must explain: (a) their interest in and any expertise regarding the issues they want to address; (b) how they want to participate; and (c) how their participation will be useful to the Tribunal: *Rules of Practice and Procedure*, Rule 13(4).
21. In considering an application to intervene, the Tribunal will determine “how likely it is that the intervenor will make a useful contribution” to the resolution of the complaint: *Hughson v Oliver*, 2000 BCHRT 11, para. 4 (“*Hughson*”). This is balanced against the risk of prejudice to any of the parties and, in particular, the risk that the intervenor will “take the litigation away” from the parties: *Hughson*, para. 4.
22. The Tribunal has recognized that intervenors may assist it in a number of ways, “including understanding the context in which a complaint arises, the perspectives of individuals and groups other than the parties to the complaint, the factual and legal issues raised by a complaint, and the impact the Tribunal’s decision may have on affected individuals and groups”: *R.R. v Vancouver Aboriginal Child and Family Services Society (No. 4)*, 2020 BCHRT 22, para. 7, citing *Hall*, para. 6.
- (a) West Coast LEAF’s Interest and Expertise**
23. A core aspect of West Coast LEAF’s mandate is advancing substantive gender equality through the law in a manner that accounts for lived experiences and intersectional identities and improving legal responses to gender-based violence.
24. This complaint raises legal questions of public importance with respect to the relevance of IPV experiences to the analysis of discrimination in employment and the duty to accommodate. The Tribunal acknowledged in *Lamoureux v Township Dental and another*, 2021 BCHRT 110, paras. 28-29 (*Lamoureux*) that exploring whether IPV can give rise to employment discrimination is a unique issue that may advance the purposes of the *Code* and which weighs in the public interest. The Canadian Human Rights Tribunal similarly acknowledged that, in a complaint of employment discrimination connected to IPV, the relevance of the intersectionality of

prohibited grounds was an important public interest issue which could support intervener participation: *K.L. v Canada Post Corporation*, 2025 CHRT 28, para. 73.

25. West Coast LEAF has a genuine interest in ensuring that the *Code* is interpreted in a purposive manner that accounts for IPV survivors' intersectional experiences. It has an interest in ensuring that IPV survivors are treated equally in employment and that their distinct needs are accommodated in the workplace such that they can access and maintain economic security which is central to independence and safety.

26. West Coast LEAF's advocacy record supports its expertise regarding the rights, interests, and access to justice of IPV survivors in the legal system. This subject-matter knowledge, combined with its significant experience as an intervenor on legal issues of public interest, demonstrates its expertise to assist the Tribunal.

***(b) West Coast LEAF's Proposed Participation***

27. West Coast LEAF seeks to participate in the proceedings through oral and written submissions, subject to any guidelines set by the Tribunal.

28. If granted leave to intervene, West Coast LEAF intends to make submissions related to two areas: (i) the gendered social and legal context of IPV, and (ii) how this context should inform the discrimination analysis and an employer's duty to accommodate the impacts of IPV on employment. West Coast LEAF has outlined below the types of submissions it would make in these two areas while recognizing that the parties' evidence and final arguments are not known.

***i. The Social and Legal Context of IPV***

29. West Coast LEAF intends to make submissions that assist the Tribunal in situating the factual circumstances of the complaint within the gendered social and legal context of IPV. This will include submissions on the following aspects of IPV:

- a. The forms, prevalence, and harms of IPV, including physical, sexual, psychological and financial abuse, and intimidation: *Ahluwalia*, para. 1.

- b. The context of IPV as a form of gender-based violence that disproportionately harms the safety and well-being of women relative to men: *Michel v Graydon*, 2020 SCC 24, para. 95 (“*Graydon*”); *R v Mallot*, [1998] 1 SCR 123, para. 44.
- c. The impacts of IPV on multiple spheres of life such as housing, financial security, physical and emotional health, and the consequential effects on IPV survivors’ employment experiences: *Graydon*, paras. 95-96.
- d. The intersectional experiences of IPV survivors including distinct and compounded forms of marginalization: *Quebec (Attorney General) v Kanyinda*, 2026 SCC 7, paras. 40 and 63.
- e. The social context of disability as connected to IPV and IPV survivors’ experiences of disability beyond medicalized harms: *Quebec (Commission des droits de la personne et des droits de la jeunesse) v Montréal (City)*; *Quebec (Commission des droits de la personne et des droits de la jeunesse) v Boisbriand (City)*, 2000 SCC 27, paras. 77-80.
- f. The multiple barriers in the legal system to reporting, disclosing, and proving experiences of IPV (including proving the relevance of those experiences to the remedies sought), as well as the effects of legal proceedings on IPV survivors: *Barendregt*, paras. 144-145 and 183.
- g. The existence of gendered myths and stereotypes about IPV, and the responsibility of courts and tribunals to eradicate them from the hearing room and legal reasoning: *K.M.N. v S.Z.M.*, 2024 BCCA 70, para. 122 (“*K.M.N.*”). Like myths and stereotypes about sexual assault, IPV myths and stereotypes are rooted in discriminatory beliefs and ideas and can interfere with legal processes: *R v Kruk*, 2024 SCC 7, paras. 42-43. West Coast LEAF will highlight myths and stereotypes that may be relevant to the adjudication of this complaint, such as those that raise suspicion about women’s claims of IPV and/or minimize IPV’s harms: *K.M.N.*, para. 110, citing Jennifer Koshan,

“Challenging Myths and Stereotypes in Domestic Violence Cases” (2023)  
35:1 Can J of Fam L 33 (“Koshan 2023”), at 38-39.

***ii. Discrimination and the Duty to Accommodate in the Context of IPV***

30. West Coast LEAF intends to make submissions addressing how the social and legal context of IPV informs the discrimination analysis and the employer’s duty to accommodate the impacts of IPV on employment. This will include submissions on the relevance of contextual considerations to:

- a. Interpreting and applying s. 13 of the *Code* in connection with the *Code*’s purposes of ensuring equal participation in economic life and promoting substantive equality in the employment sphere: *Code*, s. 3.
- b. Understanding IPV as a form of violence that “cuts across many protected grounds,” including gender and disability, such as the disabling effects of IPV: *Lamoureaux*, para. 28.
- c. Assessing whether an employer has provided reasonable accommodation adapted to the unique barriers, needs, and circumstances of IPV survivors with intersectional identities.
- d. Understanding the barriers to making requests for reasonable accommodation related to the impacts of IPV on employment: *Barendregt*, para. 183.
- e. Considering the duty to inquire in the IPV context, including the impact of discriminatory myths and stereotypes about IPV on this duty.

***(c) The Usefulness of West Coast LEAF’s Proposed Participation***

31. West Coast LEAF proposes to make useful and distinct submissions that will assist the Tribunal in determining the legal issues before it. Its submissions will assist the Tribunal in accounting for the realities of IPV throughout its legal analysis.

32. West Coast LEAF's submissions will assist the Tribunal by constructing a frame of reference and background context for deciding factual issues in the complaint related to IPV: *Campbell v Vancouver Police Board (No. 4)*, 2019 BCHRT 275, para. 37. Its submissions will inform the Tribunal about the gendered and intersectional experiences of survivors of IPV, the multidimensional harm experienced by IPV survivors, and the myths and stereotypes impacting IPV survivors. Its submissions will also assist the Tribunal in developing a nuanced and contextual approach to the duty to accommodate and the duty to inquire in the IPV context that accounts for the unique barriers, needs, and circumstances of IPV survivors.

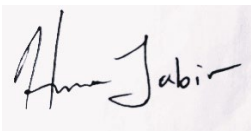
33. West Coast LEAF's in-depth expertise and focused advocacy on IPV uniquely positions it to provide distinct submissions on the context of IPV as compared to the parties. Its record of addressing complex legal issues of public importance also uniquely positions it to make distinct submissions on the legal and human rights implications of the Tribunal's approach to the complaint.

#### **D. Conclusion**

34. West Coast LEAF's participation will not cause undue prejudice to any of the parties. It will not stray beyond an intervenor's proper role. It will not raise new issues. It will work with other parties to minimize any duplication of submissions. It will not take a position on the outcome of the claims made in the complaint.

35. Considering all the factors outlined above, the application should be granted, and West Coast LEAF should be permitted to intervene in this complaint.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 13 DAY OF March, 2026.



Humera Jabir, Kate Feeney,  
Afifa Hashimi and Idaresit Thompson