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Reference: 00051371/000009

April 24, 2006

VIA FACSIMILE

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Barbara Kulaszka
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Department of Justice Canada
Civil Litigation Section
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Richard Warman
c/o Canadian Human Rights Tribunal

Douglas H. Christie
PO Box 101, 255 Menzies Street
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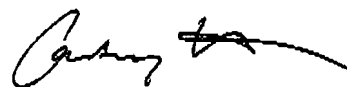
Paul Fromm
Box 332
Rexdale, Ontario M9W 5L3

Dear Sirs/Madam:

Re: Warman v. Canadian Human Rights Commission

Please find enclosed the Statement of Particulars of the Interested Parties, the League of Human Rights of B'nai Brith Canada, Canadian Jewish Congress and Friends of Simon Wiesenthal Center for Holocaust Studies.

Yours very truly,



Courtney Harris

CTH:jt
encl

c: Marvin Kurz, Dale Steiman & Kurz LLP
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Joel Richler, Blake, Cassels & Graydon LLP

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CHRT Nos.: T1073/5405 and T1074/5505

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

RICHARD WARMAN

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

MARC LEMIRE and THE FREEDOMSITE

Respondents

- and -

**ATTORNEY GENERAL OF CANADA,
 CANADIAN ASSOCIATION FOR FREE EXPRESSION INC.,
 CANADIAN FREE SPEECH LEAGUE,
 LEAGUE OF HUMAN RIGHTS OF B'NAI BRITH CANADA,
 CANADIAN JEWISH CONGRESS,
 FRIENDS OF THE SIMON WIESENTHAL CENTER FOR HOLOCAUST STUDIES**
Interested Parties

**STATEMENT OF PARTICULARS
 OF THE INTERESTED PARTIES
 LEAGUE OF HUMAN RIGHTS OF B'NAI BRITH CANADA
 CANADIAN JEWISH CONGRESS
 FRIENDS OF THE SIMON WIESENTHAL CENTER FOR HOLOCAUST STUDIES
 (Notice of Constitutional Question)**

April 24, 2006

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Solicitor for Canadian Free Speech League

INTRODUCTION

1. This Statement of Particulars is filed on behalf of the League of Human Rights of B'nai Brith Canada, Canadian Jewish Congress and Friends of the Simon Wiesenthal Center for Holocaust Studies, (the "Interested Parties") pursuant to Rule 6 of the Canadian Human Rights Tribunal's *Rules of Procedure*.

2. The Interested Parties will address the constitutional validity of sections 13, 54(1) and 54(1.1) of the *Canadian Human Rights Act*, R.S. 1985, c. H-6 ("*CHRA*").

MATERIAL FACTS

3. The purpose of section 13 of the *CHRA* and its related provisions is to prevent the dissemination of messages of hatred and contempt directed at identifiable groups that undermine the dignity and self-worth of those individuals. This purpose is one of pressing and substantial importance. Significant and substantial harm can result from the propagation of hate, both to identifiable groups that are victimized and to society at large.

4. Sections 13, 54(1) and 54(1.1) of the *CHRA* are proportional to this purpose. They are rationally connected to the stated purpose, minimally impair the rights and freedoms of the Respondent and their salutary effects outweigh any deleterious effect on the Respondent's rights under the *Charter*.

5. Hate propaganda does nothing to advance the underlying values of freedom of expression. It is harmful to both the identifiable groups against whom it is targeted as well as society as a whole. The internet is a particularly dangerous and insidious method of communicating hate propaganda. The internet has a vast, unlimited audience, is easily accessible and is difficult to monitor and control.

POSITION ON LEGAL ISSUES

6. It is the position of the Interested Parties that:

- (a) Sections 13(1), 54(1) and 54(1.1) of the *CHRA* are constitutionally valid;

(b) The Supreme Court has tested and confirmed the constitutional validity of section 13(1) of the *CHRA*;¹

(c) Amendments made to the impugned sections do not effect the constitutionality of these sections;²

(d) Section 13 of the *CHRA* is a reasonable limit on s. 2(b) of the *Charter* and can be demonstrably justified in a free and democratic society;

(e) The objective of section 13(1) of the *CHRA* is sufficiently important to warrant overriding a constitutionally protected right. The Supreme Court has found that the purpose of section 13 of the *CHRA* was one of pressing and substantial importance. That finding holds true today;³

(f) Section 13 of the *CHRA* and its related provision s. 54(1) and s. 54(1.1) operate to suppress hate speech and its harmful consequences. They are effective in reducing the prevalence of hate propaganda in Canada and accordingly, are rationally connected to Parliament's objective;

(g) The impugned legislative measures are carefully circumscribed to appropriately balance freedom of expression and the societal interest in suppressing hate propaganda;

(h) The amendments to section 13(1) of the *CHRA* which apply it to new technologies and media, like the internet, do not lessen the minimal impairment of the provision;

(i) The amendments to sections 54(1) and 54(1.1) are, in effect, of small difference to their predecessor administrative penalty provisions. These sections continue to be an effective tool in meeting Parliament's objective with minimal impairment of the Respondent's rights and freedoms;

¹ *Canada (Human Rights Commission) v. Taylor*, [1990] 3 S.C.R. 892

² *Citron v. Zundel*, [2002] 41 C.H.R.R. D/274 T.D. 1/02 (CHRT), [2002] C.H.R.D. No. 1 cited to C.H.R.D. at para. 257

³ *Taylor; Citron v. Zundel* at para. 232

(j) Hate propaganda is far removed from the values of free expression enshrined in section 2(b) of the *Charter*. The effects of sections 13(1), 54(1) and 54(1.1) of the *CHRA* are not so deleterious that they outweigh the important benefits to the furtherance of tolerance, multiculturalism and dignity that must flourish in a society which is committed to the idea of equality;

(k) Sections 13, 54(1) and 54(1.1) of the *CHRA* do not contravene the rights and freedoms found in sections 2(a) and 7 of the *Charter*;

(l) Section 54(1.1) of the *CHRA* imposes only the penalty of a fine. A penalty of a fine is not a deprivation of liberty and need not conform to the principles of fundamental justice as enshrined in s. 7 of the *Charter*; and

(m) The position of the Attorney General of Canada as articulated in the statement of particulars is correct and the Interested Parties rely and adopt the facts and legal position stated therein.

RELIEF SOUGHT

7. The Interested Parties seek an order dismissing the constitutional challenge brought on behalf of the Respondent, Marc Lemire.

LIST OF DOCUMENTS

8. A list of documents in the Interested Parties' possession that relate to internet hate is attached as Schedule A. Schedule B lists documents for which privilege is claimed.


LIST OF WITNESSES

9. The Interested Parties may call:


- (a) Bernie Farber, Canadian Jewish Congress;
- (b) Ruth Klein, League for Human Rights, B'nai Brith Canada;
- (c) Anita Bromberg, League for Human Rights, B'nai Brith Canada;

- (d) Leo Adler, Friends of Simon Wiesenthal Center for Holocaust Studies; and
- (e) Detective James Hogan, Hate Crimes Unit, Toronto Police Services.


April 24, 2006


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Solicitors for the Interested Parties

Schedule A

<i>No.</i>	<i>Date</i>	<i>Description</i>
1.	various dates	Simon Wiesenthal Center, <i>Annual Reports</i>
2.	various dates	League of Human Rights of B'nai Brith Canada, <i>Audit of Antisemitic Incidents: Patterns of Prejudice in Canada</i>
3.	1995	Bernie Farber (ed.), <i>The Internet: A New Users Guide to Understanding Hate in Cyberspace</i>
4.	1996	American Anti-Defamation League, <i>Web of Hate: Extremists Exploit the Internet</i>
5.	1997	Bernie Farber (ed.), <i>From Marches to Modems: A Report on Organized Hate in Toronto</i>
6.	2001	Canadian Jewish Congress, <i>Promoting Equality in the Information Age: Dealing with Internet Hate</i>
7.	2001	Simon Wiesenthal Center, <i>New Lexicon of Hate</i>
8.	2005	Simon Wiesenthal Center, <i>Digital Terrorism and Hate</i>
9.	2006	Simon Wiesenthal Center, <i>Digital Terrorism and Hate</i>

SCHEDULE B

The Interested Parties claim privilege over:

(a) documents containing or reflecting confidential professional communications passing between the Interested Parties and their legal advisers directly related to the seeking or receiving of legal advice or legal assistance; and,

(b) documents comprised of notes, memoranda and confidential correspondence and copies thereof, prepared for the purposes of obtaining or providing advice concerning this complaint and the constitutional challenge, and of obtaining or providing information and evidence to be used in this complaint and the constitutional challenge and preparation thereof.

APR. 24. 2006 4:38PM

NO. 0549 P. 1

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ANY PROBLEMS? Please contact your Fax Operator or the Blakes Fax Operator at 416.863.2178

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