



January 3, 2007

By Electronic Mail and Facsimile

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Dear Parties:

Re: Tribunal – Richard Warman v. Marc Lemire
Our File: T1073/5405

Further to the Motion filed by the Respondent, Marc Lemire on December 13, 2006 in the above-cited matter, the Tribunal Member assigned to this matter, Athanasios Hadjis, rules as follows:

Mr. Lemire has filed a motion dated December 13, 2006, seeking permission to file the expert's report of Dr. Michael A. Persinger after the date fixed by the Tribunal for the filing of lists of expert witnesses and summaries of their anticipated testimony. Mr. Lemire's original deadline was on April 24, 2006, but it was later extended to October 15, 2006. The hearing into the complaint is scheduled to commence on January 29, 2007.

Dr. Persinger's proposed evidence will purportedly review the effect of hate laws on society, and in particular, challenge the relevance to contemporary society of the Cohen Committee's 1966 findings on hate propaganda, which the Supreme Court of Canada referenced in *Canada (Human Rights Commission) v. Taylor*, [1990] 3 S.C.R. 892. In my view, this evidence is arguably relevant to the constitutional issues that are to be debated in this case.

The Commission and the Attorney General of Canada argue that there is insufficient time for the parties opposed to the constitutional challenge to respond to the report before the hearing begins, and they will be prejudiced as a result. It must be noted, however, that pursuant to the

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Tribunal's recent direction, all constitutional issues are to be dealt with after the factual evidence relating to the complaint has been led. Mr. Lemire will therefore not be introducing his evidence on the constitutional challenge until the second week of the hearing at the earliest.

Rule 1(1) of the Tribunal's Rules of Procedure states that the Rules are enacted to ensure that all parties have a full and ample opportunity to be heard, that arguments and evidence be disclosed in a timely and efficient manner, and that all proceedings be conducted as informally and expeditiously as possible. In my view, an order at this time allowing Mr. Lemire to file this expert's report, under the terms and conditions I set out below, will not conflict with these purposes.

Mr. Lemire is therefore authorized to file the expert's report of Dr. Persinger, which was already communicated to the other parties, I gather, on or about December 13, 2006. This will enable Mr. Lemire to call Dr. Persinger to testify as an expert witness, subject of course to any objections to his expertise and to his evidence that other parties may raise in the ordinary course of the proceedings.

Given the relative tardiness of the request to file Dr. Persinger's report, I will not allow Mr. Lemire to lead the evidence of Dr. Persinger until the second set of hearing dates scheduled to commence on February 9, 2007. Consequently, the other parties are authorized to file their experts' reports in reply to Dr. Persinger's report as late as **February 15, 2007**.

Finally, I note that Mr. Lemire has requested permission to file an amended Statement of Particulars, to reflect the proposed evidence of Dr. Persinger, as well as to elaborate in greater detail upon the facts and legal issues, already raised in his first Statement of Particulars. In my view, these amendments can only serve to clarify the facts and issues to be debated at the hearing, and are in keeping with Mr. Lemire's ongoing duty to disclose. I do not see how this can create any prejudice to the other parties. Leave is therefore granted to Mr. Lemire to file his amended Statement of Particulars.

On another matter, the Respondent, Marc Lemire, on January 2, 2007, filed a Motion for a Stay of the proceedings in this matter. The Canadian Human Rights Commission is to file its submissions on this issue by Monday, **January 8, 2007**.

Please do not hesitate to contact Line Joyal, the Registry Officer assigned to this matter is she can be of any assistance in this case.

Yours truly,

A handwritten signature in cursive script that reads "G. Zappa".

Gwen Zappa
Manager, Registry Operations

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