

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Between:

Richard Warman

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Marc Lemire

Respondent

- and -

**Attorney General of Canada
Canadian Association for Free Expression
Canadian Free Speech League
Canadian Jewish Congress
Friends of Simon Wiesenthal Center for Holocaust Studies
League for Human Rights of B'nai Brith**

Interested parties

Ruling

Member: Athanasios D. Hadjis

Date: June 9, 2008

Citation: 2008 CHRT 22

[1] On May 16, 2008, the British Columbia Civil Liberties Association (BCCLA) applied for leave to intervene “in the Constitutional Challenge of ss. 13 and 54 of the *Canadian Human Rights Act* before this Tribunal”. It is seeking permission to file a written argument, introduce evidence, receive and reply to all other parties’ arguments and evidence regarding the “proper” interpretation of ss. 13 and 54, to cross-examine witnesses and to present oral argument. The BCCLA does not anticipate calling witnesses but requests permission to apply for the right in the future.

[2] The Commission, the Complainant and the Attorney General of Canada have objected to the BCCLA’s request.

[3] As was noted in the Tribunal’s recent ruling in the present case, which dealt with a similar request by the Canadian Constitutional Foundation (CCF) (*Warman v. Lemire*, 2008 CHRT 7), the Tribunal has wide discretion with respect to the granting of interested party status. Just like the CCF, however, the BCCLA has made its request extremely late in this hearing’s process, as we approach the dates for final oral submissions, after having heard over five weeks of evidence. The present circumstances thus differ significantly from those that were before the British Columbia Human Rights Tribunal, which recently granted the BCCLA intervenor status *before* the commencement of the hearing (*Elmasry v. Roger’s Publishing Ltd.*, 2008 BCHRT 199).

[4] The BCCLA claims that it had intended to seek interested party status in the present case as early as 2006 but that it was unable to secure legal counsel to represent it. That may well be, but the fact remains that its request actually arrived in May 2008. The concerns and issues raised by the Tribunal in the earlier ruling denying the CCF’s request to intervene at this late stage apply equally to the BCCLA.

[5] As was noted in that ruling as well, nothing prevents the BCCLA from sharing any specific arguments that it feels are relevant to the constitutional issue with those parties in this case who are challenging the constitutionality of ss. 13 and 54.

[6] The British Columbia Civil Liberties Association's request is therefore denied.

Signed by

Athanasios D. Hadjis
Tribunal Member

Ottawa, Ontario
June 9, 2008

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: T1073/5405

Style of Cause: Richard Warman v. Marc Lemire

Ruling of the Tribunal Dated: June 9, 2008

Appearances:

Richard Warman, for himself

Margot Blight, for the Canadian Human Rights Commission

Barbara Kulaszka, for the Respondent

Simon Fothergill, for the Attorney General of Canada

Paul Fromm, for the Canadian Association for Free Expression

Douglas Christie For the Canadian Free Speech League

Joel Richler, for the Canadian Jewish Congress

Steven Skurka, for the Friends of Simon Wiesenthal Center for Holocaust Studies

Marvin Kurz, for the League for Human Rights of B'nai Brith