

**CANADIAN HUMAN RIGHTS TRIBUNAL TRIBUNAL CANADIEN DES
DROITS DE LA PERSONNE**

CENTER FOR RESEARCH-ACTION ON RACE RELATIONS

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

WWW.BCWHITEPRIDE.COM

Respondent

RULING

MEMBER: Karen A. Jensen 2006 CHRT 51
2006/11/23

[1] The Canadian Human Rights Commission has requested that the Tribunal issue a subpoena *duces tecum* for Mr. John Beck in this matter. The Commission argues that Mr. Beck's evidence is required for the motion that will be presented at the outset of the hearing, to add him as a party.

[2] Mr. Beck's agent, Mr. Paul Fromm, argues that it is inappropriate to order Mr. Beck to appear as a witness and to produce evidence that might establish his liability. In the event that the Tribunal rules that Mr. Beck should be added as a party, his "right" not to testify at the hearing would thereby be violated.

[3] Section 5(1) of the *Canada Evidence Act* stipulates that no witness shall be excused from answering any question on the ground that the answer to the question may tend to criminate him, or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person. On the basis of this provision and comparable provisions in provincial legislation, it has been said that in general, all parties to civil proceedings are competent and compellable to give evidence at the instance of any of the other parties

(Sopinka, Lederman and Bryant, *The Law of Evidence in Canada*, 2nd ed. (Toronto: Butterworths, 1999), at p. 704; see also: *Ayotte v. Canada (Royal Canadian Mounted Police)* [1961] S.J. No. 111 (SKQB) ((Q.L.)).

[4] I find, therefore, that Mr. Beck is a compellable witness in the inquiry into the present complaint.

[5] The Commission has requested that Mr. Beck bring with him all arguably relevant evidence relating to the websites www.bcwhitepride.com and www.bcwhitepride.org including: "(1) all contract(s) with internet providers since 2004 to this day; (2) all emails he used to communicate on internet; (3) all information regarding body building competitions he was involved in as attested in the e-mails contained as exhibits as part of the already mentioned Motion to add parties to this complaint which was ruled upon to this day".

[6] Mr. Fromm argues that the request for the above-noted documents is far too broad, amounts to a fishing expedition and includes irrelevant material such as the documentation concerning body building competitions.

[7] Item one is sufficiently clear and not overly broad. The material is arguably relevant to the question of the identity of the communicator of the impugned messages. Therefore, if this material is in Mr. Beck's possession, he must bring it with him to the hearing.

[8] Item two appears to cover all e-mail correspondence that Mr. Beck has ever had with anyone. This would be an overly broad request. However, when read in context, it would seem that what is requested is simply all e-mail correspondence associated with the aforementioned websites. Such material is arguably relevant. Mr. Beck must bring this material, if it is in his possession, with him to the hearing.

[9] Item three allegedly relates to the identity of the communicator of the impugned messages and the individuals behind the Respondent website. In his Affidavit, sworn May 11, 2006, Mr. Shane Martinez deposed that Mr. Beck identified himself to Mr. Martinez as the co-founder of BC White Pride and the author of the material on the Respondent website. Mr. Martinez deposed that Mr. Beck also identified himself as a professional body builder.

[10] The Commission has indicated that it will be calling Mr. Martinez to testify regarding the identity of the communicator of the messages and the issue of whether Mr. Beck should be added as a Respondent to the complaint. These are live issues in the present complaint. I find that material relating to Mr. Beck's involvement in the body building competitions referred to in the e-mails attached to Mr. Martinez's Affidavit is arguably relevant to these issues and therefore, Mr. Beck should bring this material with him to the hearing.

[11] A subpoena *duces tecum* will be issued for Mr. Beck's attendance at the hearing into this matter.

"Signed by"

Karen A. Jensen

OTTAWA, Ontario

November 23, 2006

PARTIES OF RECORD

TRIBUNAL FILE:	T1120/0206
STYLE OF CAUSE:	Center for Research-Action on Race Relations v. www.bcwhitepride.com
RULING OF THE TRIBUNAL DATED:	November 23, 2006
APPEARANCES:	
Fo Niemi	For the Complainant
Giacomo Vigna	For the Canadian Human Rights Commission
Paul Fromm	For the Respondent