

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY**

**IN THE MATTER OF THE ALBERTA *HUMAN RIGHTS, CITIZENSHIP AND
MULTICULTURALISM ACT*, R.S.A. 2000, c. H-14**

**AND IN THE MATTER OF A DECISION OF A PANEL OF
THE ALBERTA HUMAN RIGHTS AND CITIZENSHIP COMMISSION,
IN REGARDS TO COMPLAINT NO. S2002/08/0137**

BETWEEN:

**STEPHEN BOISSOIN and the
CONCERNED CHRISTIAN COALITION INC.**

Appellants

- and -

**THE DIRECTOR OF THE ALBERTA HUMAN RIGHTS AND CITIZENSHIP
COMMISSION and DARREN LUND**

Respondents

ORIGINATING NOTICE

TAKE NOTICE that an appeal under section 37(1) of the Alberta *Human Rights, Citizenship and Multiculturalism Act*, R.S.A. 2000, c. H-14 ("HRCM Act") of the decisions dated September 8, 2006, June 28, 2007, November 29, 2007, February 21, 2008 and May 30, 2008 of a Panel of the Alberta Human Rights and Citizenship Commission ("Panel") (collectively herein referred to as the "Decision") will be made on behalf of Stephen Boissoin and the Concerned Christian Coalition Inc. ("Appellants") before the presiding Justice in Chambers at the Court of Queen's Bench in the City of Calgary, in the Province of Alberta on September 9, 2008 at 10:00 a.m. or so soon thereafter as counsel may be heard for the following relief:

1. an order that the appeal of the within matter be granted, thereby reversing the Decision of the Panel;
2. an order that complaint number S2002/08/0137 of Darren Lund under the HRCM Act ("Complaint") is dismissed, as it is without merit;

3. an award of full indemnity costs to the Appellants; and
4. such further and other relief as this Honourable Court allows.

AND TAKE NOTICE that in support of this application reference will be made to the Return provided by the Alberta Human Rights and Citizenship Commission pursuant to section 37(3) of the HRCM Act, the relevant transcript evidence on this issue, the Decision and such further and other materials as counsel may advise.

AND FURTHER TAKE NOTICE that the Appellants rely upon the following grounds:

1. the Panel erred in law and in fact in finding that Stephen Boissoin's letter to the editor that was published in the *Red Deer Advocate* ("Letter") was in breach of section 3 of the HRCM Act, as:
 - (a) the Panel erred in finding that the Appellants published, or caused to be published, the Letter in the *Red Deer Advocate*, as publication was an independent decision of the editors of the *Red Deer Advocate*;
 - (b) the Panel erred in finding that the alleged publication of the Letter was, on the balance of probabilities, likely to expose homosexuals to hatred and/or contempt;
 - (c) the Panel erred in applying and relying on criminal law jurisprudence as to the nature of "hate speech," when neither the Panel nor the Commission has the jurisdiction of a federal criminal court and no person had been charged with the crime of hate speech;
 - (d) the Panel erred in finding that the alleged publication of the Letter was, on the balance of probabilities, likely to expose homosexuals to hatred and/or contempt due to their sexual preference;
2. the Panel erred in law and in fact in finding that section 3(2) of the HRCM Act was not a defence to the alleged breach of section 3(1) of the HRCM Act or, in other words, that the free expression of an opinion was not a defence to the statements made in the Letter;
3. the Panel erred in law and in fact in finding that the Commission had the jurisdiction to adjudicate Darren Lund's complaint, as:
 - (a) the Panel erred in finding that the Letter was a matter of local and private nature under section 92 of the *Constitution Act, 1867* related to the educational system in Alberta, and not a matter of criminal law under section 91 of the *Constitution Act, 1867*;
 - (b) the Panel erred in finding that the alleged hate speech in this case was under provincial rather than federal jurisdiction;
 - (c) the Panel erred in finding that there was a circumstantial connection between the Letter and the beating of a gay teenage in Red Deer;

- (d) the Panel erred in finding that there was a “void in jurisdiction,” in that the Appellants had not been charged with the crime of hate speech under the *Criminal Code*;
 - (e) the Panel erred in failing to find that the application of the HRCM Act to the Letter would be inconsistent with section 2(a) and (b) of the *Canadian Charter of Rights and Freedoms* (“*Charter*”) or the values set forth therein;
4. the Panel erred in law in determining that the *Charter* does not “trump” the provisions of the HRCM Act;
5. the Panel erred in failing to find that the HRCM Act is of no force or effect under section 52 of the *Constitution Act, 1982* to the extent that the HRCM Act is applied to limit political speech in Alberta;
6. the Panel erred in law and in fact in determining the appropriate remedy, specifically, but not limited to the following errors:
- (a) the Panel erred in classifying the Letter as “hate propaganda”;
 - (b) the Panel erred in purporting to “ameliorate the effects of discrimination” when no identifiable person had been discriminated against;
 - (c) the Panel exceeded the limits of its jurisdiction and the constraints of law, natural justice and the *Charter* by:
 - (i) ordering the Appellants to cease publishing in newspapers, by email, on the radio, in public speeches, or on the internet, in the future, disparaging remarks about gays and homosexuals;
 - (ii) ordering that the Appellants shall not and are prohibited from making disparaging remarks in the future about Darren Lund or Darren Lund’s witnesses relating to their involvement in the Complaint;
 - (iii) ordering that the Appellants remove all disparaging remarks versus homosexuals from current web sites and publications of the Appellants;
 - (iv) ordering that the Appellants shall, in the future, be restrained from committing the same or similar contraventions of the HRCM Act;
 - (v) ordering that the Appellants provide Darren Lund with a written apology for the Letter;
 - (vi) ordering that the Appellants shall request that the *Red Deer Advocate* publish a copy of the May 30, 2008 decision of the Panel with respect to remedy in the *Red Deer Advocate*;
 - (vii) ordering that the Appellants shall request that the *Red Deer Advocate* publish the Appellants’ written apology for the contravention of the HRCM Act in the *Red Deer Advocate*;

- (viii) awarding damages to Darren Lund and Janet Dodd, neither or whom were mentioned in the Complaint or victimized or injured by the Letter;
7. the Panel allowed expert witnesses to give factual testimony and to express opinions on facts that were not put in evidence properly or at all;
 8. the Panel erred in its reliance upon circumstantial, unconnected, indirect, hearsay, irrelevant, unnecessarily inflammatory and otherwise unrelated evidence in its formulation of the Decision;
 9. the Panel erred in finding that the Appellants had not challenged the constitutionality of the provisions or application of the HRCM Act; and
 10. such further and other grounds of appeal as are set out in the written materials filed with this Honourable Court in the appeal of this matter.

DATED at the City of Calgary, in the Province of Alberta, this 26th day of June, 2008;
AND FILED by Miller Thomson LLP, Barristers and Solicitors, 3000, 700 – 9th Avenue SW,
Calgary, Alberta, Solicitors for the Appellants, Stephen Boissoin and the Concerned Christian
Coalition Inc., herein, whose address for service is in care of the said Solicitors.

ISSUED out of the Office of the Clerk of the Court of Queen's Bench of Alberta, Judicial
District of Calgary, this 26th day of June, 2008.

V.A. BRANDT



CLERK OF THE COURT OF QUEEN'S
BENCH OF ALBERTA

TO: Clerk of the Court
Alberta Human Rights and Citizenship Commission
Darren Lund
The Attorney General of Alberta

TO: THE RESPONDENTS

Action No. 0801- 07613

An application has been brought involving you. You are the Respondents in this matter. You or your lawyer must attend before the presiding Judge in Chambers at the Court of Queen's Bench, Calgary, Alberta, on the date and time set out in this Originating Notice.

WARNING: If you or your lawyer do not appear in Court on the appointed date and time, the Appellants, Stephen Boissoin and the Concerned Christian Coalition Inc., may automatically be given the relief asked for.

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Appellants

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Respondents

This Originating Notice is issued by:

MILLER THOMSON LLP
Barristers & Solicitors,
Patent & Trade-Mark Agents

Solicitors for the Appellants, Stephen Boissoin and the Concerned Christian Coalition Inc., who reside at and carry on business at:

Red Deer, Alberta and Calgary, Alberta,
respectively

and whose address for service is c/o the said Solicitors:

MILLER THOMSON LLP
Barristers & Solicitors,
Patent & Trade-Mark Agents
3000, 700 – 9th Avenue S.W.
Calgary, AB, Canada T2P 3V4

and is addressed to the Respondents whose residence so far as known to the Appellants, Stephen Boissoin and the Concerned Christian Coalition Inc., is Calgary, Alberta

ORIGINATING NOTICE

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