

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CANWEST MEDIAWORKS PUBLICATIONS INC.

PLAINTIFF

AND:

HORIZON PUBLICATIONS LTD., GARTH LEDDY, MORDECAI BRIEMBERG, GORDON
MURRAY, CAREL MOSEIWITSCH, JOHN DOE #2, JOHN DOE #3, JANE DOE #2 and
JANE DOE #3

DEFENDANTS

STATEMENT OF DEFENCE OF CAREL MOSEIWITSCH

1. The Defendant Carel Moiseiwitsch denies the facts set out in the Amended Statement of Claim, except those expressly admitted herein, and puts the Plaintiff to the express proof thereof.
2. This Defendant admits the facts set out in paragraphs 2, 4A and 5A of the Amended Statement of Claim.
3. This Defendant has no knowledge of the facts set out in paragraphs 1, 3, 4, 5 and 6 of the Amended Statement of Claim.
4. This Defendant says that the facts set out in paragraphs 10, 11 and 12 of the Amended Statement of Claim are wholly irrelevant to the Plaintiff's claim and are pleaded contrary to Rule 19(24) of the *Rules of Court*, as they disclose no reasonable claim, are unnecessary, scandalous,

frivolous, vexatious, prejudicial and embarrassing and constitute an abuse of the process of the court.

5. In answer to paragraphs 13, 14, 15 and 16 of the Amended Statement of Claim, this Defendant denies entering into a conspiracy with anyone to engage in unlawful conduct with the intent to injure the Plaintiff.

6. In answer to paragraph 20 of the Amended Statement of Claim, this Defendant denies that the Plaintiff has suffered loss and damage as a result of any of the acts complained of and puts the Plaintiff to the strict proof thereof.

7. In answer to paragraphs 21 and 22 of the Amended Statement of Claim, this Defendant denies that she has committed any acts that constitute passing off, injurious falsehood or infringement of section 7 of the *Trade-marks Act*, R.S.C. 1985, c. T-13.

8. In further answer to paragraph 22 of the Amended Statement of Claim, this Defendant says that section 7 of the *Trade-marks Act* is contrary to section 2(b) of the *Canadian Charter of Rights and Freedoms* insofar as it purports to apply to free expression of political opinion for non commercial purposes.

9. In the alternative, this Defendant says that section 7 of the *Trade-marks Act*, as well as the alleged torts of conspiracy, injurious falsehood and passing off, must be interpreted according to *Charter* principles in relation to the free expression of matters of political opinion.

10. In answer to the whole of the Amended Statement of Claim, this Defendant says that the Plaintiff's action is a Strategic Lawsuit Against Public Participation intended to stifle or suppress the free expression of political opinion that is inconsistent with the Plaintiff's political and editorial agenda of promoting the State of Israel within Canada. This Defendant says that the Plaintiff's action is entirely without merit and discloses no reasonable claim, is unnecessary, scandalous, frivolous, vexatious, prejudicial and embarrassing and constitutes an abuse of the process of the court.

WHEREFORE the Defendant Carel Moiseiwitsch seeks an order that the Plaintiff's claim against her be dismissed with special or increased costs.

Dated this _____ day of August, 2008.

Solicitor for the Defendant Carel Moiseiwitsch

This Statement of Defence is filed and delivered by A. Cameron Ward of the firm of A. Cameron Ward & Company, whose place of business and address for delivery is #1106 - 207 West Hastings Street, Vancouver, BC V6B 1H7.