



Ontario
Civil Liberties
Association

“The OCLA takes a vigorous and highly principled approach to defending free speech rights, which is an approach that is sorely needed in Canada today.”

— John Carpay,
President,
Justice Centre for
Constitutional Freedoms

“I am very pleased to learn of the Ontario Civil Liberties Association, and wish it the greatest success in its work, which could not be more timely and urgent as elementary civil rights, including freedom of speech, are under attack in much of the world, not excluding the more free and democratic societies.”

— Noam Chomsky,
Institute Professor, MIT

“Freedom of expression is our most fundamental and most precious freedom. It has been under attack in Canada for years. The Ontario Civil Liberties Association has taken a position on freedom of expression that is both courageous and principled. The OCLA now stands alone and its position should be supported by all Canadians who cherish democracy and freedom.”

— Robert Martin,
Professor of Law,
Emeritus,
Western University

February 25, 2014

By fax

Registrar
Supreme Court of Canada
301 Wellington Street
Ottawa, Ontario K1A 0J1

Re: Denis Rancourt vs. Joanne St. Lewis, et al.
File no. 35676

Dear Sir,

This correspondence contains the reply of the Ontario Civil Liberties Association (OCLA) to the responses of the parties to its motion for leave to intervene in the application for leave to appeal with file number noted above.

A primary factor in allowing a leave to appeal is national importance. The *Rules of the Supreme Court of Canada* foresee intervention at leave to appeal. OCLA proposes to present new evidence and a unique perspective about the national importance of non-party funding in defamation lawsuits in order to aid the court in its decision on this leave to appeal.

OCLA's relevant and unique expertise is well documented.¹ As a most recent example, OCLA's position on Ontario's proposed anti-SLAPP law was covered on the national broadcast *The Current* (CBC Radio One) on February 14, 2014.²

OCLA's *raison d'être* is to defend freedom of expression in Ontario and Canada,³ therefore it has a real interest in the issue of non-party funding in defamation lawsuits. No other party can bring that perspective. Furthermore, OCLA's submissions would be made from its unique perspective representing the broad interests of citizens and not the particular interests of the present parties to this application. This unique perspective is arrived at through the diversity of OCLA's membership and its contact with the community via its Advisory Board and its advocacy efforts.⁴

¹ Affidavit of Joseph Hickey [Hickey Affidavit], Motion for Leave to Intervene of OCLA, Tab 2, ¶¶6-9.

² <http://ocla.ca> (see right sidebar, under “Media Coverage”).

³ Hickey Affidavit, Exhibit A.

⁴ Hickey Affidavit, ¶¶4,8.

OCLA's proposed intervention is based in its expertise as an active participant in the ongoing legislative debate surrounding Ontario's proposed anti-SLAPP law. Thus OCLA's proposed intervention is made under exceptional circumstances, where new law of societal importance is being developed relating to issues in the appellant's application for leave to appeal.

The application before the court is for leave to appeal of a judgement of the Court of Appeal for Ontario dismissing the defendant's motion to end a defamation lawsuit on grounds of maintenance and champerty. In that motion, the defendant alleged that the University of Ottawa (a non-party to the action) improperly funded the plaintiff's legal costs in the action.⁵ The ultimate goal of the appellant is to obtain a new decision on the propriety of the University of Ottawa's funding. Thus the issue of the propriety of non-party funding of a defamation lawsuit is an issue in the application before the court. It is not a new issue, contrary to the submissions of Professor St. Lewis and the University of Ottawa.

OCLA notes that the respondents Professor St. Lewis and the University of Ottawa make several incorrect *ad hominem* arguments that it asks the court to disregard.

Dr. Rancourt was not a founding member of OCLA. The fact that Dr. Rancourt is the coordinator of OCLA's Self-represented Litigants Working Group (his sole position within OCLA, as a volunteer) in no way detracts from OCLA's independence or objectivity.

The respondents seek costs. OCLA, which depends entirely on volunteer contributions from individuals and is a non-profit organization for civil rights, asks that costs not be awarded against it.

Yours sincerely,



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c.c. Mr. Richard Dearden
Mr. Peter Doody
Dr. Denis Rancourt

⁵ Appellant's Memorandum of Argument, Appellant Rancourt's application book, Tab D, ¶¶13-15.