

Statement of Claim – Vigna v. Levant 08-CV-41703SR

Simplified Rules Action

- 1) The Plaintiff claims against the Defendant
 - a) \$50,000 in general damages
 - b) \$50,000 in exemplary damages
 - c) \$50,000 in punitive damages
 - d) A complete retraction of all defamatory comments as well as a public apology
 - e) A permanent injunction forbidding Levant and other persons acting for him to publish, cause to publish, post defamatory comments on the Internet or reproduce the defamatory comments about the Plaintiff as well as any information related to the Plaintiff's private life.
 - f) Pre and post judgment interest pursuant to the *Courts of Justice Act*.
 - g) Costs, on a substantial indemnity basis, and applicable taxes
 - h) Such further and other relief as this Honourable Court deems appropriate.

- 2) The Plaintiff is a member of the Barreau du Québec since 1992, the Law Society of Upper Canada since 2000 and the Alberta Bar since 2004. Since 2001, the Plaintiff has worked at the Canadian Human Rights Commission in Ottawa, and prior to that worked as counsel with Justice Canada, the Attorney General of Quebec, as a criminal prosecutor. From 1992 to 1995, he was a lawyer in private practice in Montréal.

3) The Defendant, Ezra Isaac Levant, is a lawyer who resides in the City of Calgary in the Province of Alberta. He is a member of the Alberta Bar since 2000. The Defendant is a blogger with his own Internet site that deals with political and legal issues. The Defendant already had a newspaper column in the *Western Standard*, and continues this same column in electronic format. The Defendant describes himself as author, journalist and political activist.

The Factual Foundation forming the basis of the present action

4) In addition to the Plaintiff, since 2001, dealing with cases of workplace discrimination in the Federal domain, from 2005 to 2007, the Plaintiff also has dealt with cases relating to the dissemination of Hate message on the Internet, pursuant to section 13 of the Canadian Human Rights Act. The Defendant was counsel for the Human Rights Commission in several cases that had common aspects, namely, (1) *Warman v. Gen Bahr* in Edmonton; (2) *Warman v. Harrison* in Toronto; (3) *CRARR v. John Beck* in Penticton, B.C.; (4) *Warman v. Beaumont* in Vancouver.

5) The Defendant Ezra Isaac Levant, according to his own admissions on his site, was the object of a complaint before the Alberta Human Rights Commission following the publication of certain caricatures making reference to an important Muslim religious person. One should note that the complaint at the level of the Alberta Human Rights Commission did not implicate the Plaintiff.

- 6) In reaction to this complaint, Levant, according to his own words on his Internet site, was using his blog (<http://ezralewant.com>) and other methods in a “denormalization’ campaign against all human rights commissions in Canada. By doing this, his admitted objective was to force legislators to revoke legislation prohibiting hate and/or discriminatory messages in the name of a freedom of expression without limits.

- 7) In the context of this campaign, the Defendant decided to attack in a virulent fashion a number of important persons implicated in the advancement of human rights. To this effect, see that following article published in January 2008 on the Defendant’s web site that explains his purpose and intended actions in the media and the Internet. [What can be done, January 16, 2008]

- 8) The Plaintiff has acted as lawyer for the Commission from 2005 to 2007 on several matters concerning hate messages on the Internet contravening section 13 of the Canadian Human Rights Act. Although the Defendant has never interacted with the Plaintiff, he has issue with the Plaintiff based solely on the latter’s role as counsel for the Commission on several files, because the Defendant wants to abolish all legislation imposing the most minimal of restrictions on the freedom of expression.

9) To better understand the context, one should know that for the *Warman c. Lemire* action, the Plaintiff was submitted to a series of personal attacks for his role as lawyer for the Commission by several members of the Internet community who are opposed to the objectives of section 13 of the Canadian Human Rights Act and any form of legislative limit on the absolute freedom of expression, including on the Internet.

10) Throughout the trial for *Warman c. Lemire* and to this day, the Plaintiff has been subjected to continual and persistent means of intimidation and professional harassment for his work as prosecutor from the Commission having acted on several complaints for Internet hate messages, including more than just the Defendant. For example, the Plaintiff has been subjected to 1) anonymous telephone calls threatening him at his workplace, 2) complaints to the Barreau du Québec and the Law Society of Upper Canada, 3) requiring the attendance of security guards after completing a day at the Tribunal, 4) veiled anonymous threats on the Internet against the complainant and indirectly against the Plaintiff, 5) personal attacks on the Internet.

11) The culmination of these events has become intolerable for the Plaintiff to continue to effectively preserve his personal and professional safety. Therefore, because of this situation, the Plaintiff could no longer effectively represent the interests of the Commission and an adjournment was requested for several weeks on May 11, 2007, when the last witness was to be heard.

Given the circumstances, it was impossible for the Plaintiff to continue to represent the interest of his client (the Commission) with the required objectivity and serenity of spirit required to prosecute the matter. The situation had become extremely tense and held serious repercussion on the Plaintiff's personal life. The tribunal agreed to the adjournment in light of the circumstances. In light of the continued professional and personal attacks including the use of the Internet, and the threat to the personal safety of the Plaintiff, it was determined that the Plaintiff would return to the prosecution of workplace discrimination matters. The Plaintiff no longer works on matters relating to Internet hate campaigns for obvious reasons.

The Multiple Written Defamatory Statements made by Levant being source of this present action

12) Although the Plaintiff is no longer involved in the *Warman c. Lemire* matter, upon resumption of this matter, on or about March 20, 2008, the Defendant Levant, who is a stranger to this litigation, and was never present at the tribunal, began to comment and throw inflammatory and false comments that were defamatory and malicious with regard to the Plaintiff, notably by attacking his integrity regarding his motives for the adjournment request made on May 11, 2007, the facts referred to above in paragraphs 10 and 11. Essentially, the Defendant accuses the Plaintiff in barely veiled words that the former was not honest in his reasons for requesting the adjournment on May 11, 2007. He carefully and slyly uses words that are less shocking, such as

“fib”, but his goal is to accuse the Plaintiff of having lied before the Tribunal. The Defendant, by carefully and slyly using his words to severely, unjustly and gravely attack the reputation of the Plaintiff, leaves doubt as to the Plaintiff’s honesty, but attempts to hide his true motive by carefully choosing his words. Simply put, the Defendant, although he explicitly avoids saying something, ensures that his message is implicitly understood. The Defendant does not worry about the truth of his assertions and blindly moves forward with the single goal to advance his ‘denormalization’ campaign, using highly injurious, inflammatory and defamatory comments when he writes his following article dated March 20, 2008 on his Internet site. (www.ezrrelevant.com). We underline the parts making reference to the Plaintiff. [March 20, 2008 article]

13) This article, which began with the defamatory comments of the Defendant produces a comments section following the article that exacerbates the damage caused by the Defendant. [comments section attached to the article]

14) The following day, March 21, 2008, the Defendant on his website continued in the same vein, with his sole goal to denigrate the Plaintiff with the following article. [Serenity now! – March 21, 2008 article]

15) On or about March 26, 2008, the Defendant, being a lawyer himself, and realising the full extent of the consequences of the comments that he knows

are defamatory, represents the Plaintiff, who is also a lawyer, as someone who is dishonest, with the unique and malicious goal of attacking him because the Plaintiff has prosecuted cases dealing with Internet hate messages. The Defendant does this with the following article published on his website. The parts concerning the Plaintiff are underlined. [A day in the life of Canada's kangaroo court – March 26, 2008 article]

16) On or about April 5, 2008, the Defendant does not miss another occasion in an article on a subject other than the Plaintiff, to continue to make defamatory comments about the Plaintiff. He writes in the following article that he publishes on his web site (www.ezrlevant.com), where we underline the relevant parts: [A panicky CHRC tried damages control – and fails – April 5, 2008]

17) On or about April 21, 2008, the Defendant, basing himself on information obtained from a third party in another action where the Plaintiff acted as prosecuting counsel, *Warman c. Beaumont*. the Defendant falsely alleges that the Plaintiff was less than honest with regard to the Tribunal. He refers to this subject with regard to the response given by the Plaintiff to the Tribunal about two documents that were similar in content but had minor differences in formatting. Both documents were similar with regard to content, but printed from an Internet site at two different times, with only one document that could be linked to the witness and only that document with the link to the witness

was entered as evidence. The Defendant maliciously alleges that the Plaintiff wanted to hide an important fact from the Tribunal concerning these two documents and would have wanted to replace the document without a link to the witness with the document that could be linked to the witness. The Defendant claims this is a scandal and that the Plaintiff is lacking in integrity and professional ethics. The following is the article in question from the Defendant's website, where the pertinent parts are underlined. [Richard Warman misleads the Canadian Human Rights Tribunal about "Jadewarr" under oath" – April 21, 2008 article].

18) Following the April 21, 2008 article, the impact is immediate and worsens with the comments that follow that same article on the web site.

19) On April 22, 2008, the Plaintiff, having been the subject of repeated defamatory comments on the part of the Defendant from March 20, 2008 to April 21, 2008, was obliged to send notice pursuant to section 5(1) of the *Libel and Slander Act*.

20) The aforementioned notice was served by courier with signature to 28 Pumpmeadow Crescent South West, in Calgary Alberta T2V 5C8, with attempted service to the Defendant's address as provided to the Alberta Bar – 1060-300 5 Avenue S.W. in Calgary, Alberta.

21)Further, attempted service by process server was made to the aforementioned addresses without success, as outlined by the Affidavit of William J. Stevens dated May 6, 2008.

22)Nonetheless, the signatures confirmed receipt of the said letters, as well as a reaction and posting of the notice on the Defendant's web site conclusively confirming that service of the notice was successful.

23)On April 28, 2008, the Defendant, upon receipt of the notice served by the Plaintiff, instead of retracting his statements and minimizing his damages, preferred to add fuel to the fire by engaging in defamatory vitriol or the most acerbic kind. Here is what is written on his website. [Good Grief. Now Giacomo Vigna is threatening to sue me! – April 28, 2008 article]

24)One notes an immediate and certain impact that damages the Plaintiff's reputation as a result of the Defendant being put on notice. Here are the comments to that article. [comments to the April 28, 2008 article]

25)With the goal of ridiculing, intimidating and defaming the Plaintiff following service of the notice, the Defendant enlists the aid of others, such as Mark Steyn. Mr. Steyn is equally implicated in the same type of polemic as the Defendant and shares common ideas regarding section 13 of the Canadian

Human Rights Act. Here is what Mr. Steyn writes on his web site.
[www.steynonline.com – Serener than thou – April 28, 2008 article]

26)The Defendant encourages Mr. Steyn's attacks and as well those made by others against the Plaintiff. In support of Steyn's comments, here is what he writes on the subject to mock the Plaintiff on his web site. [Omigod that's funny – April 28, 2008 article]

27)The Defendant's encouraging reaction to [Steyn's] article mocking the Plaintiff creates an immediate impact. Here is what is stated in the comments section of this same site. [comments on article]

28)On May 4, 2009, the Defendant does not miss another occasion to attack the Plaintiff by repeating the same defamatory statement in another article on an entirely different subject. Here is what is written on his website, with the parts relating to the Plaintiff underlined. [Jews for free speech - May 4, 2008 article]

29)On May 8, 2008, the Defendant, even after the receipt of a notice of action, continued to defame the Plaintiff. This time he attacked without basis the Plaintiff's merits and qualifications by misinterpreting the statements of a third party that had nothing to do with the Plaintiff, to find any pretext to continue his insidious and malicious attacks against the Plaintiff. Here is what he

states on his web site. [Farber: HRCs lack competence, are 'dumping grounds' for political hacks – May 8, 2008 article]

30) On May 10, 2008, Mr. Brean, based on information used from Levant and/or his website, deforms and modifies the facts of this present action to minimize and portend to the reader that the Plaintiff is attempting to limit the Defendant's freedom of expression through a frivolous action. Here is what he writes [www.nationalpost.com - Writer finds himself in eye of media storm – May 10, 2008 article]

31) The National Post, after having been advised of the factual errors that attack the Plaintiff's reputation, placed a correction on May 18, 2008, and avoided being named along with the Defendant in the Plaintiff's action. Here is the correction placed by the National Post. [Corrections – May 18, 2008]

32) On May 19, 2008, the Defendant, not content with the correction mentioned in paragraph 31 placed by the National Post, decided to launch another malicious, false and defamatory attack with the evident goal to harm the Plaintiff's reputation. The Defendant associated the Plaintiff with the character in "My cousin Vinny", both being of the same ethnic Italian origin, with the goal of ridiculing the Plaintiff in the eyes of the public. Here is what was written on his site [My Cousin Vinny – May 18, 2008 article]

33)The immediate prejudicial impact on the Plaintiff's reputation of the May 19, 2008 article can be seen in the comments associated with the article on the Defendant's web site that encourages the reactions. Here are the comments: [comments to May 19, 2008 article].

34)The Defendant in his daily postings on his web site continued to reference the Plaintiff in a defamatory manner, incessantly and persistently with the goal of hindering, intimidating and causing long term harm to the Plaintiff's reputation in the eyes of the public. Here are a few examples [1- CTV's Mike Duffy Live – May 21, 2008 article 2-RCMP Investigation of CHRC makes front page news in Washington D.C. – May 26, 2008 article 3- Richard Warman puts teenaged girl in danger, admits he just 'doesn't care" May 27, 2008 article]

35)The cumulative effect of the defamatory comments about the Plaintiff caused significant damages to his reputation and the repeated and malicious aspect of the comments merit the award of maximum exemplary and punitive damages to the Plaintiff.

36)The Plaintiff please that following the defamatory comments made by the Defendant, his personal and professional life have suffered, and this must give rise to general, exemplary and punitive damages.

37)The Plaintiff pleads and relies on the *Libel and Slander Act* R.S.O. 1990, c. L.
-12, as amended.

38)The Plaintiff pleads and relies on the *Courts of Justice Act* R.S.O. 1990, c. C-
43, as amended and specifically Rule 1.05 of the *Rules of Civil Procedure*
R.R.O. 1990, Reg. 194, as amended, in order to obtain an Order from this
Honourable Court requiring the Defendant to remove the said articles from
the web sites and to publish a complete retraction that is as clear and
noticeable as the said defamatory comments.

39)The Plaintiff consents to reduce his claim to \$50,000.00 in order for this claim
to fall within Simplified Procedure, pursuant to Rule 76 of the *Rules of Civil*
Procedure R.R.O. 1990, Reg 194, as amended.

40)The Plaintiff requires that this action be heard in Ottawa in French.

June 3, 2008

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