

VANCOUVER

AUG 29 2012

Court of Appeal File No. CA039942  
Vancouver Registry

**COURT OF APPEAL  
REGISTRY COURT OF APPEAL**

**IN THE MATTER OF:**

*The Constitutional Question Act, RSBC 1996, c.68*

**AND IN THE MATTER OF:**

*The Canadian Charter of Rights and Freedoms*

**AND IN THE MATTER OF:**

A Reference by the Lieutenant Governor in Council set out in Order in Council No. 296/12 dated May 16, 2012 concerning the constitutionality of amendments to provisions in the *Election Act*, RSBC 1996, c. 106 regarding election advertising by third parties

---

**REPLY OF AMICUS CURIAE**

---

**Mark Underhill,/  
Catherine Boies Parker**  
Amicus Curiae  
Underhill, Boies Parker  
Law Corporation Inc.  
440 – 355 Burrard Street  
Vancouver, BC V6C 2G8  
Tel:(604) 696-9828  
Fax: (604) 696-9858

**Peter Gall, Q.C.**  
Counsel for Gloria Lawrence and  
Wendy Weis  
Heenan Blaikie LLP  
Suite 2200 – 1055 W. Hastings Street  
Vancouver, BC V6E 2E9  
Tel: (604) 891-1152  
Fax: 1-866-285-9469

**Karen Horsman/Karrie Wolfe**  
Counsel for the Attorney General of  
British Columbia  
Ministry of Justice  
Legal Services Branch  
1301 – 865 Hornby Street  
Vancouver, BC V6z 2G3  
Tel: (604) 660-6793

**Sean Hern**  
Counsel for Freedom of Information  
and Privacy Association  
c/o Farris Vaughn Wills & Murphy  
1100 – 1175 Douglas Street  
Victoria, BC V8W 2E1

**Robert D. Holmes, Q.C**  
Counsel for the British Columbia Civil  
Liberties Association  
Holmes & King  
Barristers & Solicitors  
1300 – 1111 West Georgia St.  
Vancouver, BC V6E 4M3

**Dermod Travis**  
Integrity BC  
Unit #C304  
Victoria, BC V8W 1B9

[integritybritishcolumbia@gmail.com](mailto:integritybritishcolumbia@gmail.com)

**Antony Hodgson**  
Fair Voting BC  
4248 West 11<sup>th</sup> Avenue  
Vancouver, BC V6R 2L7

**Garry Nixon**  
[Kathryn.gbn@telus.net](mailto:Kathryn.gbn@telus.net)


[antony.hodgson@gmail.com](mailto:antony.hodgson@gmail.com)

1. The Amicus Curiae does not have any substantive submissions to make in reply to the Intervenors. However, we may seek a right to respond to the reply submissions of the Attorney General of British Columbia, if we are of the view that such a response would be of assistance to the Court.

2. In addition, Amicus wishes to clarify its position on the scope of the matters at issue in this case. We agree with the Attorney General of British Columbia that in the *BCTF* case, Justice Cole upheld third party spending limits in the campaign period, and that his specific findings in that regard are not at issue here. However, issues such as the lack of a minimum spending threshold, which were not previously addressed by Justice Cole or this Court in the *BCTF* case, can, and we respectfully submit should, be taken into account when assessing the constitutionality of the legislative amendments which have been referred to this Court.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated at Vancouver this 29th day of August, 2012

  
\_\_\_\_\_  
Mark G. Underhill

*Re*   
\_\_\_\_\_  
Catherine J. Boies Parker

Amicus Counsel