



Instructions:

For information on how to complete the form, read the [Respondent's Guide](#).

1. Respondent(s) Information (See [Respondent's Guide](#) for details.)

The Tribunal and other organizations or people involved in the Response will need to send materials to you on a regular basis. For this reason, we need your contact information. It is important that you provide the Tribunal with up-to-date contact information.

Type of Respondent *

☐ Organization Respondent

☒ Individual Respondent

Last name *

[Storey](#)

First name *

[Duncan](#)

Middle name

Is this Response filed on behalf of other respondents named in the Application?

☐ Yes, all respondents. ☒ Yes, some respondents. ☐ No

Do you confirm that you have authority from the other respondents to file this Response on their behalf?

☒ Yes ☐ No

Please provide the names and contact information for each respondent that this Response is filed for in the section below. If you are filling this out on paper and need more space, please add more pages. Number each page and ensure that a complete address/contact information is clearly provided for each respondent.

[The Grimsby Independent News is named as a Respondent. It does not have a mailing address or contact information because it is not a corporation and has no legal personality. This will be addressed below.](#)

2. Authorizing a Representative (See [Respondent's Guide](#) for details.)

Are you authorizing a lawyer or other representative to act for you? Please note, if you have a lawyer, paralegal or other person acting as your representative, all communication from the Tribunal and the applicant will be sent to that person.

☒ Yes, I authorize the person named below to represent me. ☐ No

Last name *

[Kheir](#)

First name *

[Hatim](#)

Name of organization/firm (if applicable)

[Charter Advocates Canada](#)

Address

Type of representative: *

☒ Lawyer

☐ Paralegal

Law Society of Ontario number 79576J

☐ Other - nature of exemption from licensing requirements (specify details below) ▼

3. Affected Person or Organization Information (See [Respondent's Guide](#) for details.)

If there is any other organization (such as a union or occupational association responsible for collective bargaining) or person who is not already identified as a respondent or union on the Application form and who might be affected by this Application to the Tribunal, provide their contact information here.

If you are providing contact information for more than one affected person, and you are filling this out on paper, attach another sheet of paper with the full contact information for each affected person. Number each page.

Type of Affected Person or Organization

☐ Affected Organization

☐ Affected Person(s)

4. Request for Early Dismissal of the Application without Full Response (See [Respondent's Guide](#) for details.)

4.1 Request for Dismissal without Full Response

Complete this section only if you are requesting that the Tribunal dismiss the Application because one of the three situations below applies. Please check the box that applies.

Note: If you check any of the boxes below, in addition to attaching the document(s) requested, you must provide your argument (s) supporting your position that the Application should be dismissed. The Tribunal may decide your request based only on your submissions.

I request that the Tribunal dismiss this Application because:

☐ A claim based on the same facts has been filed in civil court, requesting a remedy based on the alleged human rights violation. (Attach a copy of the statement of claim and the court decision, if any.)

☐ The applicant signed a full and final release with respect to the same matter. (Attach a copy of the release.)

☐ The issues in dispute in the Application are within exclusive federal jurisdiction.

4.2 Request for Dismissal under s.45.1 of the Code without Full Response

Complete this section only if you are requesting that the Tribunal dismiss the Application because another proceeding has, in whole or in part, appropriately dealt with the substance of the Application. Please check the box below if you are making this request.

Note: If you check the box below, you must attach a copy of the document that started the proceeding and a copy of the decision, in addition to a complete argument(s) supporting your position that the Application should be dismissed.

☐ I request that the Tribunal dismiss the Application because another proceeding has, in whole or in part, appropriately dealt with the substance of the Application. Attach a copy of the decision and the document that started the other proceeding.

5. Request to Defer the Application (See [Respondent's Guide](#) for details.)

5.1 Request to Defer without Full Response (union grievance or arbitration proceeding)

Complete this section only if you are requesting that the Tribunal defer the Application because there is an ongoing union grievance or arbitration.

Note: If you check the box below, you must attach a copy of the document which commenced the grievance, confirm that the grievance or arbitration is ongoing and include argument(s) in support of your position that the Application should be deferred pending the conclusion of the grievance or arbitration. The Tribunal may decide your request based only on your submissions.

I request that the Tribunal defer this Application because:

☐ The issues in dispute are the subject of an ongoing grievance or arbitration brought pursuant to a collective agreement.

5.2 Request to Defer without Full Response (other proceeding)

Complete this section only if you are requesting that the Tribunal defer the Application because the facts or issues raised in the Application are part of another proceeding that is still in progress.

Note: If you check the box below, you must attach a copy of the document which commenced the other proceeding, confirm that the other proceeding is ongoing and include argument(s) in support of your position that the Application should be deferred pending the conclusion of the other proceeding. The Tribunal may decide your request based only on your submissions.

I request that the Tribunal defer this Application because:

☐ The facts or issues raised in the Application are the subject of another proceeding that is still in progress.

6. Responding to the Allegations in the Application (See [Respondent's Guide](#) for details.)

Please summarize the facts and defences that support your Response to this Application.

Please include as part of your Response:

- Any submissions you make that the Application is outside the Tribunal's jurisdiction;
- What allegations in the Application you agree with;
- What allegations in the Application you disagree with;
- Any additional facts that you intend to rely on; and
- Any defences that you intend to rely on.

If you are filling this out on paper and need more space, please add more pages. Please organize your information clearly, using numbered paragraphs. Number each page.

1. The Respondent, Duncan Storey's primary response is that this Application is outside of the Tribunal's jurisdiction because there was no service provided to the Applicant. Further, the Grimsby Independent News (the "GIN") is not a legal person and cannot properly be the subject of an application. It ought to be removed as a respondent. In the alternative, Mr. Storey
 - 1) disputes factual claims made by the Applicant;
 - 2) submits that the alleged facts do not constitute discrimination under the Code;
 - 3) submits that this Application engages section 2(b) of the Charter and requires the Tribunal to balance Mr. Storey's right to freedom of expression with the statutory objectives of the Code. A proportionate balancing between the right to freedom of expression and the relevant statutory objectives requires that the Application be dismissed; and
 - 4) submits that the remedies requested are unreasonable.
2. For all the reasons above, Mr. Storey requests a summary hearing under rule 19A to have the Application dismissed in whole on the basis that there is no reasonable prospect that the Application will succeed.
3. Background Facts

Mr. Storey is a lifelong resident of Grimsby, ON. The Applicant, Jennifer Korstanje, is the Councillor for Ward 3 on the Grimsby Town Council. Mr. Storey ran against her in the 2022 municipal election. The Applicant is also aware that Mr. Storey intends to run again in 2026.

4. Mr. Storey operates a Facebook page titled the "Grimsby Independent News", or GIN. On it, he posts satire, memes, commentary, and community reporting on matters of local concern. It is part news page, part comedy.
5. The GIN is not a legal person. It is not incorporated. It is not even a business. It does not sell any products or generate any revenue. It is merely a page that Mr. Storey uses to engage in civic and political commentary.
6. The Applicant makes a number of allegations that the GIN engaged in discrimination without providing quotes or specific references to posts on the GIN page. Among the quotes that the Applicant does provide, a number are falsely attributed to the GIN. The following quotes are not from posts made by Mr. Storey on the GIN page, but rather are comments left by members of the public:
 - "You need to REMOVE these two haridans!!!"
 - "the gerontophobic misandrist spin team pulled the post before the good townsfolk got a chance to read the morning news... witches of ward 3."
 - "probably recommended an access ramp!"
7. Further, the Applicant notes that Mr. Storey has "accused [her of] spreading misinformation when advocating for 2SLGBTQQIA+..." While the allegation is vague and unspecific, Mr. Storey believes that the Applicant takes issue with him having disputed factual claims made by "Out Niagara", a group

with which the Applicant is involved. The group had alleged that the region had seen increased numbers of hate crimes. Mr. Storey contacted the Niagara Regional Police to inquire. He was told that the past year had only seen two charges related to hate and no convictions. On that basis, Mr. Storey disputed Out Niagara's claim and called it misinformation.

8. In addition, the Applicant uses cherry-picked examples to support her contention that GIN targets her on the basis of her sex. However, the GIN regularly provides positive coverage of women, including the Applicant. For example, the GIN praised the Applicant's volunteer work with the Special Olympics. The GIN has also praised Councillor Delight Davoli: <https://www.facebook.com/TheGrimsbyIndependent/posts/pfbid06qde5JEpcBykago4nBhUBnkq25F3J8EW3K6XR9ehNQJby7BPJkNsm1rGrMuK9eWI?rldid=nEaFWV49vZFLHSdb#>
See also: <https://www.facebook.com/TheGrimsbyIndependent/posts/pfbid02ST4g62ypcA3Pz2BinM2FqbDjKJfT94kL64Tfq9rxbHXmwYAkejDe7tPVNWStvVhLI?rldid=dI2vI0II1EE1Lkep#>
The GIN has given Councillor Michelle Seaborn an "A+": <https://www.facebook.com/TheGrimsbyIndependent/posts/pfbid0eeJP2ZU3tz2nFt9HSxK4pVJ1hLvEvFsLNthRmFfAE1ipn2HZJ8BMxAx6PAdhLGQvI?rldid=HrNaUb8eFoQ1iC6p#>
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9. Conversely, the GIN has been critical of male councilors and the mayor: <https://www.facebook.com/TheGrimsbyIndependent/posts/pfbid02rT4Bt1BuyEUt1wm8DgvYRSEjEjhHFXV1U516zFXUkC6tBuCUFcVKWPGKPMofmyewI?rldid=yEghUFdOIh15hCla#>
<https://www.facebook.com/TheGrimsbyIndependent/posts/pfbid02jyNb2puCP3QEb51z3QhdwYCzaHxYw6tfci9jwbKx9tfXQGM9gdWQ6xaxsB8eKVNLI?rldid=ExBnaLSLQH8FPDIA#>
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10. Issues

Mr. Storey raises the following defences

1. The Application is outside the Tribunal's jurisdiction because it fails to identify a service provided;
 2. In the alternative, the GIN ought to be removed as a respondent because it is not a legal person;
 3. Also in the alternative, the Application's allegations do not disclose any discrimination;
 4. Mr. Storey's right to freedom of expression requires the Tribunal to engage in a Dore balancing analysis and dismiss the Application; and
 5. The remedies requested by the Applicant are unreasonable and unfounded.
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11. Argument

1. The Tribunal Lacks Jurisdiction

Mr. Storey submits that the Tribunal lacks jurisdiction because neither Mr. Storey, nor any conduct he engaged in through the GIN page, constitute the provision of services to the public. The Tribunal and the Supreme Court of Canada have consistently found that the content of a newspaper is not a "service" within the meaning of the Code. Mr. Storey's Facebook page, the GIN, is even less so a service. Unlike a newspaper, the GIN has no business structure, employees, and produces no revenue. It is simply a project undertaken by Mr. Storey to engage in civic commentary.

12. 2. The GIN is not a proper Respondent

It is an elementary principle of law that in order to bear legal rights and obligations a, an entity must have what is called legal personality. It must be recognizable at law as a person who can sue or be sued. The GIN is neither a natural person nor a juridical person, such as a corporation. It cannot be

sued. It cannot be liable in a human rights proceeding and ought to be removed as a Respondent.

13. 3. Mr. Storey did not discriminate against the Applicant

Even on the face of the Applicant's allegations, Mr. Storey did not discriminate against her. Discrimination requires that 1) the Applicant have a characteristic protected from discrimination; 2) that she experienced an adverse impact in a regulated activity; and 3) that the protected characteristic was a factor in the alleged adverse treatment. The second and third factors are not present here.

14. First, the Applicant has not experienced an adverse impact in a regulated activity. As argued above, the GIN is a Facebook page, not a service and thus, not a regulated activity. More over, the Applicant has not suffered an adverse impact. Merely being criticized for actions and statements made as an elected member of government do not constitute an adverse impact for the purposes of human rights law.

15. Second, the Applicant's sex was not a factor in her treatment by Mr. Storey. Through the GIN page, Mr. Storey engages in discussions and commentary on the news. He provides his opinion on members of Grimsby's Town Council. He gives praise and criticism to men and women alike, depending on their conduct. The Applicant's sex was not the motivation for Mr. Storey's comments toward her. Rather, her record as a Town Councillor was. Similarly, Mr. Storey has never discriminated against the Applicant on the basis of her advocacy for persons with disabilities. To the contrary, Mr. Storey has praised the Applicant's volunteerism with the Special Olympics.

16. 4. Mr. Storey's Expression is protected by Section 2(b) of the Charter

Mr. Storey was engaging in political expression, which is the most protected form of expression under s. 2(b). The Application, if granted, would have the effect of punishing Mr. Storey for his expression, which would engage s. 2(b). His Charter right being engaged, the Tribunal is required to engage in a Dore analysis and proportionately balance the impact on Mr. Storey's freedom of expression against the relevant statutory objectives. For the reasons argued above, the Code's statutory objective of combating discrimination is not engaged. However, in the alternative, the Tribunal should rely on the test in *Ward v. Quebec*, 2021 SCC 43 to strike the appropriate balance. Specifically, the Tribunal should assess whether the impugned expression of Mr. Storey would incite others to vilify the Applicant or detest her humanity and whether it is likely to lead to discriminatory treatment.

17. The Applicant's allegations do not meet the Ward test. Mr. Storey's criticisms of the Applicant are based on disagreement with her political positions and political discourse. They do not attack her humanity and objectively, do not incite vilification or detestation. Further, it does not encourage any discriminatory treatment of the Applicant. The Supreme Court explicitly noted that humour, whether in good or bad taste, rarely has the spillover effect necessary to cause hatred and discrimination.

18. 5. The Remedy requested is unreasonable

The remedies requested by the Applicant include \$75,000 in damages and a complete retraction of GIN's entire post history. The monetary amount requested is unsubstantiated and unexplained. There is no reasonable connection between the criticisms identified by the Applicant and the significant sum she has arbitrarily selected. Further a complete retraction of all posts is overly broad and would include posts entirely unrelated to the substance of the Application.

19. Conclusion

The Application, even on its face, fails to disclose an argument with any merit of success at a Tribunal and ought to be dismissed summarily. In the context of the political rivalry between the parties, the Application's complete lack of merit betrays that it is merely an attempt at abusing the Tribunal's process for political advantage in advance of an upcoming election. Accordingly, the Respondent submits that it ought to be dismissed.

7. Exemptions (See [Respondent's Guide](#) for details.)

Complete this section only if you are relying on one of the exemptions found in the *Code*.

What exemption in the *Code* do you believe applies to this Application?

Please explain why you believe the exemption applies.

8. Declaration and Signature (See [Respondent's Guide](#) for details.)

Instructions: Do not sign your Response until you are sure that you understand what you are declaring here.

To the best of my knowledge, the information in my Response is complete and accurate.

Respondent's signature (If filing electronically, type your last name, first name.) *

[Hatim Kheir on behalf of David Storey](#)

Date (dd/mm/yyyy) *

[06/10/2025](#)

You must sign and date this Response. Only a licensed lawyer or paralegal can sign this Response on behalf of their client and only after ensuring they comply with the Tribunal's [Practice Direction on Electronic Filing by Licensed Representatives](#).

☒ When you file electronically, typing your name and dating this Response represents your signature. Check the box to confirm you understand and agree to this.

Collection of Information:

The Human Rights Tribunal of Ontario (HRTO) has the right under the *Human Rights Code* and the *Statutory Powers Procedure Act* to collect the information requested on this form to fulfill its legislative mandate. After you file the form, all information related to the proceeding may become publicly available in a tribunal decision, order, or other document, in accordance with Tribunals Ontario's Access to Records Policy and the *Tribunal Adjudicative Records Act, 2019*. Parties wanting records or information to remain confidential must seek a confidentiality order from an adjudicator. If you have questions about confidentiality orders or access to records, please contact us by email at HRTO.registrar@ontario.ca or at 416-326-1312 or 1-866-598-0322 (toll-free).