

**IN THE MATTER OF** the *Libel and Slander Act*, R.S.O. 1990, c.L.12;

**AND IN THE MATTER OF** an intended action;

**BETWEEN:**

**JOHN BARNETT**

**Plaintiff**

- and -

**GILLES LEPINE, LXB COMMUNICATION MARKETING INC., PAUL BLEAU and BMG MULTIMEDIA INC.**

**Defendants**

**NOTICE**

**TAKE NOTICE** pursuant to section 5(1) of the *Libel and Slander Act*, R.S.O. 1990, c.L.12., that John Barnett complains about the images and the text of a 30 second commercial which was published in Ontario and Québec on a website, [www.defacto.ca](http://www.defacto.ca), in and around September 19, 2003 and thereafter. The images portray a representative of a male executive of a Canadian tobacco company which is of and concerning the plaintiff who holds the position of President, Rothmans, Benson & Hedges Inc. The images portray the executive shaking hands and smiling while the advertisement says, "*Is there really anything worth celebrating?*" This is juxtaposed to images of a very young girl smoking a cigarette. Under the heading "De Facto" it says "*the unfiltered truth*". On the website there appears the plaintiff's name and his salary.

**THE AFORESAID** in its entirety demonizes the plaintiff and was meant and understood to mean that the plaintiff desired, targeted and celebrated illegal sales of cigarettes to underage persons.

The advertisement and website is libellous of and concerning the plaintiff.

The defendants, Gilles Lepine, LXB Communication Marketing Inc. and Paul Bleau created the libellous advertisement and caused it to be published. BMG Multimedia Inc. developed and implemented the website that published the libellous advertisement and is the website's registered owner. They are jointly and severally responsible in law.

**IN THE EVENT** that the advertisement and references to the plaintiff are withdrawn from the website and not republished that will be the end of the matter.

**THE PLAINTIFF** gives notice pursuant to the *Courts of Justice Act* that he will be claiming pre-judgment interest from the date of this Notice to the date of Judgment.

**DATED** at Toronto, this 2<sup>nd</sup> day of October, 2003.

**JULIAN PORTER, Q.C.**  
Suite 4900, Commerce Court West  
Toronto, Ontario M5L 1J3

(LSUC #10104#)

Telephone: 416-862-4297  
Facsimile: 416-862-7661

**Solicitor for the Plaintiff**

**TO:** Gilles Lepine  
c/o ARSEQCA  
2450, Chemin Sainte Foy  
Sainte Foy, Québec  
G1V 1T2

**AND TO: LXB Communication Marketing Inc.  
55, av. Mont-Royal Ouest,  
8<sup>e</sup> étage  
Montreal, Québec  
H3Z 1B8**

**- and -**

**675, rue St-Amable, 5<sup>e</sup> étage  
Québec, Québec  
G1R 2G5**

**Attn: Paul Bleau  
Executive Vice President  
Communications and Marketing**

**AND TO: Paul Bleau  
c/o 55, av. Mont-Royal Ouest,  
8<sup>e</sup> étage  
Montreal, Québec  
H3Z 1B8**

**- and -**

**c/o 675, rue St-Amable, 5<sup>e</sup> étage  
Québec, Québec  
G1R 2G5**

**AND TO: BMG Multimedia Inc.  
335, Rue Saint-Joseph Est Bureau 250  
Québec, Québec  
G1K 3B3**

**Attn: Guy Larouche  
Director, Interactive Development**