Schedule "C"

Statement of Toomas Karmo
Regarding Minutes of Settlement with Karen Cilevitz Dated May ___, 2014

A few months before learning of Karen Cilevitz's legal actions, I read, with the delight more normally experienced upon opening Sir Arthur Conan Doyle or John le Carré, jurist Dame Hazel Genn's 2008 Hamlyn Lectures. Dame Hazel forthrightly denounces the increasingly prevalent resort to out-of-court settlements. She notes, in a vivid turn of phrase, that mediation is "just about settlement", not about "a just settlement".

The Karen Cilevitz legal actions undercut the rule of law by inducing me to surrender some of my *Charter* free-speech rights. These are rights eloquently defended by Binnie J., writing for the majority in *WIC Radio Ltd. v. Simpson*, 2008 SCC 40.

I would draw particular attention to the following from Binnie J.:

> "When controversies erupt, statements of claim often follow as night follows day, not only in serious claims (as here) but in actions launched simply for the purpose of intimidation. Of course 'chilling' false and defamatory speech is not a bad thing in itself, but chilling debate on matters of legitimate public interest raises issues of inappropriate censorship and self-censorship. Public controversy can be a rough trade, and the law needs to accommodate its requirements."

How well have I defended my rights?

A. It does not from a *Charter* standpoint greatly matter that I have had to withdraw a few vivid turns of rhetoric, rather notably my use of the noun or verb "bully"; nor that I have elected not to make Karen Cilevitz's Canada *Criminal Code* Section 810 action the foundation of a defamation counterclaim; nor that I have failed to defend my continued ownership of karencilevitz.ca. None of these concessions significantly curtails my Web analysis of Karen Cilevitz's record.

B. What does greatly matter is that in settling I have acted against the *Charter*, and have thereby weakened the rule of law, by surrendering my freedom to Web-comment on Karen Cilevitz's invocation of Section 810 in the Criminal Code.

Why did I make a concession so damaging to free speech? Why did I not, mindful of Dame Hazel's disparagement of settlement, take my Section 810 matter to a formal hearing in open court?

In extenuation, I plead financial strain. By living poorly (by renting a basement flat, by wearing old clothes, and so on) I do manage to keep a certain financial reserve. The reserve must, however, be kept intact to help me defend myself against other legal actions. It also must be kept intact to help me pursue other aspects, not necessarily connected with courts, of DDO conservationist advocacy. Finally, it must be kept intact so that I can as far as possible continue to avoid any resort to inappropriate forms of assistance, such as feeding myself from foodbanks.

I plead simply (to reiterate) that while possessing the requisite steady nerve, I cannot in prudence at this particular stage spend more on this particular task.

How grave, it will now be asked, is my partial surrender of *Charter* rights?

A. My long e-mail-to-police, from the late evening of 2014-03-06, is now to my grief Web-suppressed.

B. But I am, countervailingly, able to Web-publish, while not indeed in the comment-pages

www.karen-vs-toomas-blog.ca

nevertheless in the no-comment-page

www.karen-vs-toomas-legaldocs.ca

the public documentation not only on the civil but also (this is crucial) on the police side.

On the police side, there is in essence just one document, the Canada Criminal Code Section 810 peace-bond form filled out by Karen Cilevitz on 2014-03-07 and date-stamped in red ink as "RECEIVED...YORK REGIONAL POLICE" on 2014-03-24.

It is a document that speaks eloquently in its own right, even while I am barred from commenting on it. To this document I apply the old legal tag "Res ipsa loquitur", i.e., "The thing makes its own import clear in the absence of commentary".