

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

MEL MERMELSTEIN.) No. C 356 542
Plaintiff,)
vs.) JUDGMENT
)
INSTITUTE FOR HISTORICAL)
REVIEW, et al.)
Defendants.)

Pursuant to the Stipulation for Entry of Judgment executed on July 22, 1985, the Court renders the following judgment:

1. Defendants LIBERTY LOBBY, WILLIS CARTO, ELISABETH CARTO, LEGION FOR SURVIVAL OF FREEDOM, INSTITUTE FOR HISTORICAL REVIEW, and NOONTIDE PRESS, and each of them, are jointly and severally liable to plaintiff MEL MERMELSTEIN for the sum of One Hundred Fifty Thousand Dollars (\$150,000.00), reduced to the sum of Ninety Thousand Dollars (\$90,000.00) payable as follows:

- (a) Fifty Thousand Dollars (\$50,000.00) on August 1, 1985, and delivered to the law offices of ALLRED, MAROKO, GOLDBERG & RIBAKOFF;
- (b) Twenty Thousand Dollars (\$20,000.00) on September 1, 1985;
- (c) Twenty Thousand Dollars (\$20,000.00) on October 1, 1985.

2. Should any of the installments not be made by the defendants against whom judgment herein is entered within the time period provided, plaintiff, at his sole option and discretion, shall have the following options:

- (a) To rescind the Stipulation for Entry of Judgment and proceed to trial and any payments received by plaintiff to that date from defendants shall not be returned to said defendants; or
- (b) Plaintiff may request entry of judgment against each of said defendants, jointly or severally, in the sum of One Hundred Fifty Thousand Dollars (\$150,000.00).

3. Defendants LIBERTY LOBBY, WILLIS CARTO, ELISABETH CARTO, LEGION FOR SURVIVAL OF FREEDOM, INSTITUTE FOR HISTORICAL REVIEW, and NOONTIDE PRESS, shall issue and execute, by a duly authorized representative, a Letter of Apology to Mel Mermelstein, as follows:

"Each of the answering defendants do hereby officially and formally apologize to Mr. Mel Mermelstein, a survivor of Auschwitz-Birkenau and Buchenwald, and all other survivors of Auschwitz for the pain, anguish and suffering he and all other Auschwitz survivors have sustained relating to the \$50,000 reward offer for proof that "Jews were gassed in gas chambers at Auschwitz".

DATED: AUG 5, 1985

ROBERT A. WENKE, JUDGE
SUPERIOR COURT

APPROVED AS TO FORM AND CONTENT:

G. G. BAUMEN
Attorney for Defendants

INSTITUTE FOR HISTORICAL REVIEW,
LEGION FOR SURVIVAL OF FREEDOM,
ELISABETH CARTO and NOONTIDE PRESS

VON ESCH & ASSOCIATES
Attorneys for Defendants
LIBERTY LOBBY and WILLIS CARTO

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STATEMENT OF RECORD
AND
LETTER OF APOLOGY TO MEL MERMELSTEIN

"WHEREAS, the Legion for Survival of Freedom, and the Institute for Historical Review, sent by letter dated November 20, 1980, directly to Mel Mermelstein, a survivor of Auschwitz-Birkenau and Buchenwald, an exclusive reward offer in a letter marked "'personal'" dated November 20, 1980, offering Mr. Mermelstein a \$50,000 exclusive reward for "'proof that Jews were gassed in gas chambers at Auschwitz'" "and further stating that if Mr. Mermelstein did not respond to the reward offer "'very soon'", "the Institute for Historical Review would 'publicize that fact to the mass media' ..."

"WHEREAS, Mr. Mermelstein formally applied for said \$50,000 reward on December 18, 1980; and

"WHEREAS, Mr. Mermelstein now contends that the Institute for Historical Review knew, or should have known, from Mr. Mermelstein's letter to the editor of the Jerusalem Post dated August 17, 1980, that Mr. Mermelstein contended he was a survivor of Auschwitz-Birkenau and Buchenwald; knew, or should have known, that Mr. Mermelstein contended that his mother and two sisters were gassed to death at Auschwitz; and knew, or should have known, of his contention that at dawn on May 22, 1944, he observed his mother and two sisters, among other women and children, being lured and driven into the gas chambers at Auschwitz-Birkenau, which he later discovered to be Gas Chamber No. 5; and

"WHEREAS, on October 9, 1981, the parties in dispute in the litigation filed cross-motions for summary judgment resulting in the court, per the Honorable Thomas T. Johnson, taking judicial notice as follows:

""Under Evidence Code Section 452(h), this court does take judicial notice of the fact that Jews were gassed to death at the Auschwitz Concentration Camp in Poland during the summer of 1944"" and ""It just simply is a fact that falls within the definition of Evidence Code Section 452(h). It is not reasonably subject to dispute. And it is capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. It is simply a fact.""

"WHEREAS, Mr. Mermelstein and other survivors of Auschwitz contend that they suffered severe emotional distress resulting from said reward offer and subsequent conduct of the Institute of Historical Review; and

"WHEREAS, the Institute for Historical Review and Legion for Survival of Freedom now contend that in offering such reward there was no intent to offend, embarrass or cause emotional strain to anyone, including Mr. Mermelstein, a survivor of Auschwitz-Birkenau and Buchenwald Concentration Camps of World War II, and a person who lost his father, mother and two sisters who also were inmates of Auschwitz;

"WHEREAS, the Institute for Historical Review and Legion for Survival of Freedom should have been aware that the reward offer would cause Mr. Mermelstein and other survivors of Auschwitz to suffer severe emotional

