This is Exhibit "C" mentioned and
referred to in the affidavit of

Asvini Krishnamoorthy

Sworn *(or affirmed)* before me
this 13TH day of DECEMBER 2018

A Commissioner for taking affidavits
(*or as the case may be*)

Federal Court of Appeal | Cour d'appel fédérale

Date: 20170301

Docket: 17-A-5

Ottawa, Ontario, March 1, 2017

Present: **RENNIE J.A.**

BETWEEN:

JOHN C. TURMEL

Applicant

and

HER MAJESTY THE QUEEN

Respondent

ORDER

UPON motion made in writing by the applicant for an extension of time to file a Notice of Appeal from a decision of Justice Phelan of the Federal Court dated January 11, 2017;

AND UPON reviewing the affidavit filed by the applicant and noting that the respondent takes no position on the motion;

AND UPON noting that the test applicable to such a motion is well established. It has consistently been applied in numerous decisions of the Court, including *Pharmascience Inc. v. Canada (Minister of Health)*, 2003 FCA 333 at paragraph 6;

AND UPON determining that the Court is not satisfied that the applicant meets the criteria of establishing an arguable case on the merits, indeed, the applicant has made no effort to establish the existence of an arguable case; the Court is not satisfied that it is in the interests of justice that the requested extension be granted;

THIS COURT ORDERS that the motion is dismissed.

"Donald J. Rennie"
J.A.

This is Exhibit "D" mentioned and
referred to in the affidavit of

Asvini Krishnamoorthy

Sworn *(or affirmed)* before me
this 13TH day of DECEMBER 2018

A Commissioner for taking affidavits
(*or as the case may be*)

File No: T-983-16

FEDERAL COURT

Between:

RAYMOND LEE HATHAWAY

Plaintiff

AND

HER MAJESTY THE QUEEN

Defendant

STATEMENT OF CLAIM

(Pursuant to S.48 of the Federal Court Act)

FACTS

1. The Plaintiff seeks a declaration that:

A) the CDSA prohibitions on marijuana have been invalid absent a constitutional exemption since Aug. 1 2001, or in the alternative,

B) provisioners of cannabis marijuana juice, oil and products to licensed patients are exempted from the CDSA.

THE PARTIES

2. The Plaintiff brings this claim for declaratory relief pursuant to S.24(1) of the Charter of Rights and Freedoms as

a patient who has been disabled by an inoperable tumor and has established medical need by obtaining an MMAR permit to use marijuana for medical purposes but who still cannot access cannabis juice or oil for his treatment.

3. The Defendant, Her Majesty the Queen in Right of Canada, as represented by the Attorney General of Canada, is named as the representative of the Federal Government of Canada and the Minister of Health for Canada who is the Minister responsible for Health Canada and certain aspects of the Controlled Drugs and Substances Act including the Narcotic Control Regulations, the Marihuana Medical Access Regulations and program and the Marihuana for Medical Purposes Regulations and program.

BACKGROUND

4. The Supreme Court of Canada in R. v. Smith [2015] ruled the prohibition on "non-dried" marijuana violated the Applicant's S.7 Charter Rights thus legalizing Applicant's use of juice, oil and derivatives for medical purposes.

5. On Feb 24 2016, the decision in Allard v. HMQ [2016] declared the MMPR Regime entirely unconstitutional, such declaration suspended to Aug 24 2016 before taking effect.

6. Though the Supreme Court has declared my right to various cannabis oils or juice, they remain legally-inaccessible evidenced by recent Toronto raids on my cannabis dispensaries.

7. With no other reasonable alternative, Plaintiff's exemption to use oil, juice and products is illusory. Having the right to oil but not being able to get any is akin to the Hitzig decision pronouncing that having the right to

marijuana but not being to get enough made it "illusory."

The Plaintiff proposes this action be tried in the City of Toronto in the Province of Ontario.

Dated at Toronto on June 22 2016.

Plaintiff
Raymond Lee Hathaway
1075 Bay St. UPS202
Toronto ON M5S 2B2
Tel/fax: 647-770-4420
E: leehathaway@gmail.com

File No: _____

FEDERAL COURT

BETWEEN:

RAYMOND LEE HATHAWAY

Plaintiff

and

Her Majesty The Queen

Defendant

STATEMENT OF CLAIM

(Pursuant to S.48 of the Federal Court Act)

For the Plaintiff:
Raymond Lee Hathaway
1075 Bay St. UPS202
Toronto ON M5S 2B2
Tel: 647-770-4420
E: leehathaway@gmail.com

This is Exhibit "E" mentioned and referred to in the affidavit of

Asvini Krishnamoorthy

Sworn *(or affirmed)* before me this 13TH day of DECEMBER 2018

A Commissioner for taking affidavits (*or as the case may be*)

Federal Court Cour fédérale

Date: 20160817

Docket: T-983-16

Toronto, Ontario, August 17, 2016

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

RAYMOND LEE HATHAWAY

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

ORDER

UPON AMENDED MOTION in writing on behalf of the Defendant filed on August 3, 2016, pursuant to Rule 369 of the *Federal Courts Rules* for:

1. an order striking the claim without leave to amend; or

2. in the alternative, an order granting the Defendant 30 days from the date of the order to file a statement of defence;

3. costs of this motion and of the proceeding; and

4. such further and other relief as this Honourable Court may allow.

AND UPON reading the material filed by the Defendant, the Plaintiff having filed no materials;

AND UPON being satisfied that it is plain and obvious that the claim does not disclose a reasonable cause of action;

AND UPON exercising my discretion not to award costs against the self-represented Plaintiff, in these circumstances;

THIS COURT ORDERS that the claim is struck without leave to amend and there is no order as to costs.

"Russel W. Zinn"
Judge

This is Exhibit "F" mentioned and
referred to in the affidavit of

Asvini Krishnamoorthy

Sworn *(or affirmed)* before me
this 13TH day of DECEMBER 2018

A Commissioner ~~for taking~~ affidavits
(*or as the case may be*)

File No: T-1194-16

FEDERAL COURT

Allan Jeffery Harris

Plaintiff

AND

Her Majesty The Queen

Defendant

STATEMENT OF CLAIM

(Pursuant to S.48 of the Federal Court Act)

FACTS

1. The Plaintiff seeks a declaration that:
A) the CDSA prohibitions on marijuana have been invalid absent a constitutional exemption since Aug. 1 2001, or in the alternative,
B) provisioners of fresh cannabis marijuana juice and oil products to licensed patients are exempted from the CDSA.

THE PARTIES

2. The Plaintiff seeks declaratory relief pursuant to S.24(1) of the Charter of Rights and Freedoms as a patient

who suffers from Hepatitis C, arthritis and insomnia and has established medical need by obtaining an exemption permit number AP-AJH-03-H18321717-69-13-A to use marijuana for medical purposes but who still cannot be lawfully provisioned with cannabis juice or oil for treatment.

3. The Defendant, Her Majesty the Queen in Right of Canada, as represented by the Attorney General of Canada, is named as the representative of the Federal Government of Canada and the Minister of Health for Canada who is the Minister responsible for Health Canada and certain aspects of the Controlled Drugs and Substances Act including the Narcotic Control Regulations, the Marihuana Medical Access Regulations and program and the Marihuana for Medical Purposes Regulations and program.

BACKGROUND

4. The Supreme Court of Canada in R. v. Smith [2015] ruled the prohibition on "non-dried" forms of cannabis marijuana violated the Plaintiff's S.7 Charter Rights thus legalizing Plaintiff's use of fresh juice and oil products for medical purposes.

5. On Feb 24 2016, the decision in Allard v. HMQ [2016] declared the MMPR Regime entirely unconstitutional, such declaration suspended 6 months before taking effect.

6. Though the Supreme Court has declared Plaintiff's right to various cannabis oil products or fresh juice, they remain legally unprovisionable evidenced by recent raids on Toronto cannabis dispensaries.

7. With no other reasonable source of provision, Plaintiff's Supreme Court-declared Charter right to use fresh juice and oil products is illusory. Having the right to other forms but not being able to get any is analogous to the Hitzig decision pronouncing that having the right to marijuana but not being to get enough supply made the then exemption "illusory." For juice and oil we have no supply.

8. Pursuant to the R. v. Parker [2000] Order that the prohibition is invalid absent a valid exemption, and the Hitzig declaration of absent exemption meant the prohibition was invalid and 4,000 charges were dropped across Canada whether medically-needy or not, an illusory exemption herein for other legal forms of ingestion makes for an absent exemption during which the prohibition has once again been invalid.

9. The Plaintiff proposes this action be tried at Vancouver in the Province of British Columbia

Dated at Vancouver on July 17, 2016.

Allan Jeffery Harris
1101 9380 Cardston CRT
Burnaby BC V3N 4R5
Ph: 604 570 0232

File No: _____

FEDERAL COURT

BETWEEN:

Allan Jeffery Harris

Plaintiff

and

Her Majesty The Queen

Defendant

STATEMENT OF CLAIM

(Pursuant to S.48 of the Federal Court Act)

For the Plaintiff:

Allan Jeffery Harris

1101 9380 Cardston CRT

Burnaby BC V3N 4R5

Ph: 604 570 0232

This is Exhibit "G" mentioned
and referred to in the affidavit of

Asvini Krishnamoorthy

Sworn *(or affirmed)* before me
this 13TH day of DECEMBER 2018

A Commissioner for taking affidavits
(*or as the case may be*)

Federal Court Cour fédérale

Date: 20161011

Dockets: T-1113-16
T-1114-16
T-1137-16
T-1191-16
T-1194-16
T-1215-16
T-1248-16

Toronto, Ontario, October 11, 2016

PRESENT: Prothonotary Kevin R. Aalto

Docket: T-1113-16

BETWEEN:

DARREN ROY MACDONALD

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-1114-16

AND BETWEEN:

JACEY JOSEPH EDWARD CAREME

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-1137-16

AND BETWEEN:

ARTHUR JACKES

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-1191-16

AND BETWEEN:

COLLEEN MARGARET ABBOTT

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-1194-16

AND BETWEEN:

ALLAN JEFFERY HARRIS

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-1215-16

AND BETWEEN:

CHERYLE HAWKINS

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-1248-16

AND BETWEEN:

ROBERT JAMES WOOLSEY

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

ORDER

UPON MOTION in writing on behalf of the Defendant filed September 6, 2016, pursuant to Rule 369 of the *Federal Courts Rules* for:

1. An order striking the claims without leave to amend; or

2. In the Alternative, an order granting the Defendant 30 days from the date of the order to file statements of defence; and

3. Such further and other relief as this Honourable Court may allow.

AND UPON reading the Motion Record of the Defendant and the Plaintiff's Written Representations in Court File No. T-1194-16; there being no written representations from the plaintiffs in the other actions;

AND UPON reading the Order in Court File No. T-983-16 wherein the Honourable Mr. Justice Russel Zinn struck a claim without leave to amend substantially similar to the claims in issue on this motion on the ground that it was plain and obvious that the claim does not disclose a reasonable cause of action; and upon being satisfied that the claims herein are similarly bereft of any chance of success as disclosing no reasonable cause of action and should therefore be struck without leave to amend but without costs;

THIS COURT ORDERS that

1. These actions are hereby struck without leave to amend.

2. There shall be no order as to costs.

"Kevin R. Aalto"
Prothonotary

This is Exhibit "H" mentioned and
referred to in the affidavit of

Asvini Krishnamoorthy

Sworn *(or affirmed)* before me
this 13TH day of DECEMBER 2018

A Commissioner for taking affidavits
(*or as the case may be*)

No. T-2030-13

FEDERAL COURT

PROPOSED CLASS PROCEEDING

BETWEEN:

NEIL ALLARD
TANYA BEEMISH
DAVID HEBERT
SHAWN DAVEY

PLAINTIFFS

AND:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

DEFENDANTS

AMENDED STATEMENT OF CLAIM

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the Federal Courts Rules serve it on the plaintiff's solicitor or, where the plaintiff does not have a solicitor, serve it on the plaintiff, and file it, with proof of service, at a local office of this Court, WITHIN 30 DAYS after this statement of claim is served on you, if you are served within Canada.

If you are served in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period for serving and filing your statement of defence is sixty days.

Copies of the Federal Court Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

Vancouver, January ____, 2014 Issued by:

_____

(Registry Officer)

Pacific Centre, 3rd Floor
701 West Georgia Street
Box 10065
Vancouver, BC V7Y 1B6

Address of Local Office: Pacific Centre, 3rd Floor
701 West Georgia Street
Box 10065
Vancouver, BC V7Y 1B6

TO: The Attorney General of Canada
Attention: Mr. William F. Pentney, Deputy Attorney General of Canada

THE CLAIMS OF THE PLAINTIFFS

1. The Plaintiffs claim as follows:

    a. A Declaration pursuant to s.52 (1) of the *Canadian Charter of Rights and Freedoms* ("the *Charter*") that 'a constitutionally viable exemption' from the provisions of the *Controlled Drugs and Substances Act must* exist to enable the medical use of Cannabis, by medically approved persons, in any of its effective forms. This constitutional right includes the right of the patient (or a person designated by the patient as a caregiver 'person responsible for the patient' where the patient is unable to exercise this right), to both possess and use Cannabis in any forms and also to cultivate or produce and possess Cannabis in any form, for the treatment of the patient's medical condition.

    b. A Declaration, pursuant to s.52 (1) of the *Charter*, that the *Marihuana for Medical Purposes Regulations* (*MMPR*) that came into force on June 19, 2013, (and run concurrently with the *Medical Marihuana Access*

Regulations (*MMAR*) until March 31, 2014 when the *MMAR* will be repealed by the *MMPR*) are unconstitutional to the extent that:

i. They fail to provide for the continued personal production of their medicine by the patient or a designated caregiver 'person responsible for the patient' where the patient is unable to exercise this right, as provided for currently in the *MMAR;*

ii. The *MMPR* unreasonably restricts the s. 7 *Charter* constitutional right of a medically approved patient to reasonable access to their medicine by way of a safe and continuous supply and,

and are inconsistent with the s.7 *Charter* right and are not saved by s. 1 of the *Charter.*

c. A Declaration, pursuant to s.52 (1) of the *Charter*, that the limits in the *Narcotic Control Regulations (NCR), MMAR* and in the *MMPR*, to possessing, selling or providing only "dried marihuana" are arbitrary and constitute an unreasonable restriction on the s. 7 *Charter* rights of these patients and are inconsistent therewith and in violation thereof and not saved by s. 1 of the *Charter,* in accordance with the principles and findings underlying the judicial decision in ***R. v. Smith*** 2012 BCSC 544.

d. A Declaration, pursuant to s.52 (1) of the *Charter*, that the provisions in the *MMPR* that specifically limit production by a 'Licenced Producer' of Cannabis to "indoors", prohibiting any, even temporary, outdoor production and prohibiting production in "a dwelling house," are unconstitutional, to the extent that they might be found to be applicable to a patient generally, a patient personal producer or his or her designated caregiver as such limits and restrictions amount to arbitrary unreasonable restrictions on the patients s.7 *Charter* right to possess, produce and store for their medical purposes, and are inconsistent therewith and these limitations are not saved by section 1 of the *Charter*;

e. A Declaration, pursuant to s.52 (1) of the *Charter*, that the provisions in the *MMPR* that specifically restrict the amounts relating to possession and storage by patients, including the "30 x the daily quantity authorized or 150 gram maximum, whichever is the lesser", and other limitations applicable or imposed upon 'Licenced Producers' in relation to their registered clients

/ patients are unconstitutional, to the extent that they are applicable to a patient generally, a patient personal producer or his or her designated caregiver as such limits in the *MMPR* amount to arbitrary unreasonable restrictions on the patients s.7 *Charter* right to possess, produce and store for their medical purposes, and are inconsistent therewith and these limitations are not saved by section 1 of the *Charter*.

f. An Order pursuant to s.24(1) of the *Canadian Charter of Rights and Freedoms*, as the appropriate and just interim remedy, in the nature of:

   i. An interim constitutional exemption from ss.4,5 and 7 of the *Controlled Drugs and Substances Act* for all persons medically approved under the *Narcotic Control Regulations* C.R.C., c.1041 (*NCR*), the *MMAR* or the *MMPR*, including those patients who have a caregiver 'person responsible' for them designated to produce for them, including an exemption for that caregiver 'person responsible' designated producer, pending trial of the merits of the action or such further Order of the court as may be necessary;

   or, alternatively

   ii. an interlocutory exemption/injunction preserving the provisions of the *MMAR* relating to personal production, possession, production location and storage, by a patient or designated caregiver 'person responsible for the patient' and related ancillary provisions, and if necessary, limiting the applicability of certain provisions of the *MMPR* to such patients or designated caregivers that are inconsistent with their s. 7 constitutional right under the *Charter* pending the decision of this Court on the merits of this action.

   or alternatively, and together with

   iii. an interim/interlocutory order in the nature of *mandamus* to compel the Defendant to process all applications, renewals and modifications to any licences pursuant to the *MMAR* in accordance with all of its provisions (other than those challenged as unconstitutional herein), notwithstanding ss.230, 233-234, 237-238, 240-243 of the *MMPR* relating to applications under the *MMAR*

after September 30th, 2013 as reflected in the amended *MMAR* sections 41-48.

g. An Order under s.24(1) of the *Canadian Charter of Rights and Freedoms*, as the appropriate and just final remedy, in the nature of:

   i. a permanent constitutional exemption from ss.4,5 and 7 of the *Controlled Drugs and Substances Act* for all persons medically approved under the *Narcotic Control Regulations* (*NCR*), the *MMAR* or the *MMPR*, including those patients who have a caregiver 'person responsible' for them designated to produce for them, including that designated producer, until such further Order of the court;

   or, in the alternative

   ii. a permanent exemption/ injunction preserving the provisions of the *MMAR* relating to personal production, possession, production location and storage by a patient or designated caregiver 'person responsible' and related ancillary provisions, and if necessary, limiting the applicability of certain provisions of the *MMPR* to such patients or designated caregivers 'person responsible' that are inconsistent with their s.7 *Charter* Rights. Such order to continue until such time as the Defendant makes appropriate amendments to the *MMPR* or otherwise to comply with any decision of this Court to ensure the full ambit and scope of the patient's constitutional rights pursuant to s. 7 of the *Charter*, without any unreasonable, inconsistent and unnecessary restrictions thereon.

h. Costs, including special costs and the Goods and Services Tax and Provincial Services Tax, on those costs, if appropriate; and

i. Such further and other relief as this Honourable Court deems appropriate and just in all of the circumstances.

THE PARTIES

2. The Plaintiff Neil Allard, is a resident of British Columbia and has been medically retired since 1999 and has an address for service, care of Conroy and Company, 2459 Pauline St., Abbotsford, BC.

3. The Plaintiff Tanya Beemish is a resident of British Columbia, unemployed, disabled and on a disability pension and the Plaintiff David Hebert is a resident of British Columbia, is Tanya Beemish's common-law husband and the person responsible for her as her caregiver and designated producer under the *MMAR* of her medicine. They have an address for delivery care of Conroy and Company 2459 Pauline St., Abbotsford, BC.

4. **deleted**

5. The Plaintiff Shawn Davey is a resident of British Columbia and is unemployed surviving off of settlement funds and a pension since 2000 and has an address for deliver care of Conroy and Company, 2459 Pauline St., Abbotsford, BC.

6. The Plaintiffs bring these claims for declaratory relief and interlocutory and permanent relief pursuant the *Federal Court Act* and *Rules* and ss.7 and 24(1) of the *Charter of Rights and Freedoms*, on behalf of themselves as persons ordinarily resident in Canada who have been medically approved to use cannabis as medicine as a patient under professional treatment for a condition for which the person is receiving treatment either under:

> All persons ordinarily resident in Canada who have been medically approved to use cannabis as medicine as a patient under professional treatment for a condition for which the person is receiving treatment, either under the *Narcotic Control Regulations*, C.R.C., c. 1041, the *Medical Marihuana Access Regulations (MMAR)* SOR/2001-227 since July 30th, 2001 or the *Marihuana for Medical Purposes Regulations (MMPR)* since June 19th, 2013 and in particular since September 30th, 2013.

7. The number of patients approved under the *NCR* and under the *MMPR* since June 19th, 2013 or in particular since September 30th, 2013, when no further amendments could be made to existing *MMAR* licences, are unknown. There are approximately 35,000 to 40,000 patients currently holding Authorizations to Possess (ATPs) under the *MMAR*, of which some 24,000 – 30,000 hold Personal Production Licences (PPLs). Some 4,250 of those patients have Authorizations to Possess (ATPs) and

rely upon a person responsible for them as a Designated Grower (DG) to produce their medicine for them. Some 6,000 of those patients obtain their medicine through the government supply. The specific details with respect to these statistics are within the knowledge and possession of the Defendant.

8. The Defendant, Her Majesty the Queen in Right of Canada, as represented by the Attorney General of Canada, is named as the representative of the Federal Government of Canada and the Minister of Health for Canada who is the Minister responsible for Health Canada and certain aspects of the *Controlled Drugs and Substances Act* including the *Narcotic Control Regulations,* the *Marihuana Medical Access Regulations* and program and the *Marihuana for Medical Purposes Regulations* and program.

BACKGROUND

The *Controlled Drugs and Substances Act*

9. Cannabis, its preparations, derivatives and similar synthetic preparations are listed in Schedule II to the *Controlled Drugs and Substances Act,* S.C. 1996, c.19, and amendments thereto (the "*CDSA*"). Its production, possession, possession for the purposes of distribution or trafficking, and trafficking, as well as importing and exporting are prohibited by this Statute as a "controlled substance", formerly known as "narcotics".

10. Section 56 of the *CDSA* permits the Minister for Health for Canada (the "Minister") or his designate, to exempt any person, class of persons, controlled substance or precursor of an a controlled substance from the application of the *CDSA* or its Regulations if, in the Minister's or the designates opinion, the exemption is necessary for a medical or scientific purpose or is otherwise in the public interest.

11. While no viable constitutional medical exemption to the prohibition against the possession, possession for the purpose of trafficking, trafficking and cultivation or production of cannabis, or other offences, existed prior to July 30th, 2001, the *Narcotic Control Regulations* C.R.C., c.1041, and specifically s.53, continued pursuant to the *Controlled Drugs and Substances Act* provided as follows:

> **53.** (1) No practitioner shall administer a narcotic to a person or animal, or prescribe, sell or provide a narcotic for a person or animal, except as authorized under this section.

(2) Subject to subsections (3) and (4), a practitioner may administer a narcotic to a person or animal, or prescribe, sell or provide a narcotic for a person or animal, if

(a) the person or animal is a patient under his professional treatment; and

(b) the narcotic is required for the condition for which the person or animal is receiving treatment.

(3) No practitioner shall administer methadone to a person or animal, or prescribe, sell or provide methadone for a person or animal, unless the practitioner is exempted under section 56 of the Act with respect to methadone.

(4) A practitioner of medicine, dentistry or veterinary medicine shall not administer diacetylmorphine (heroin) to an animal or to a person who is not an in-patient or out-patient of a hospital providing care or treatment to persons, and shall not prescribe, sell or provide diacetylmorphine (heroin) for an animal or such a person.

12. This Regulation was amended by the *MMAR* in July, 2001 to add at the end of s.53(1) the words "or the Marihuana Medical Access Regulations". On June 19th, 2013, by virtue of s.127(1) of the *MMPR*, s.53(1) was further amended to include the words at the end after the word "section", "the Marihuana Medical Access Regulations or the Marihuana for Medical Purposes Regulations." The words "Marihuana Medical Access Regulations" are to be deleted upon the repeal of the *MMAR* on March 31st, 2014 by the *MMPR*. In addition the *MMPR* adds the following as sub-section (5):

(5) A health care practitioner may administer **dried marihuana** to a person or prescribe or transfer it for a person if

(a) the person is a patient under their professional treatment; and

(b) the **dried marihuana** is required for the condition for which the person is receiving treatment. (emphasis added)

13. As a result of the decision of the Ontario Court of Appeal in ***R. v. Parker*** (2000) 49 O.R. (3d) 481 (leave to appeal to the Supreme Court of Canada dismissed) recently reaffirmed in ***Her Majesty the Queen and Matthew Mernagh*** (2013) O.C.A 67 (February 1st, 2013) (leave to appeal to SCC dismissed July 25th, 2013), the

Government of Canada was required, in order to ensure that the *Controlled Drugs and Substances Act* was in compliance with the Canadian Constitution and in particular s.7 of the *Canadian Charter of Rights and Freedoms*, to put in place a "constitutionally viable medical exemption to the prohibition against the possession and cultivation of marihuana, that requires medical oversight".

14. The failure on the part of the government 'to provide reasonable access for medical purposes' as an exemption to the general prohibition violated s.7 of the *Canadian Charter of Rights and Freedoms* in that the 'liberty' and 'security of the person' of the patient was affected in a manner that was inconsistent with the "principles of fundamental justice".

15. Initially the government, pursuant to s.56 of the *CDSA* issued an "Interim Guidance" document and processed exemptions under that section until ultimately on July 30th, 2001 the *Medical Marihuana Access Regulations* (*MMAR*) came into effect.

The *Medical Marihuana Access Regulations (MMAR)* SOR / 2001-227

16. The *MMAR* established a framework or scheme where an individual could apply to Health Canada with the support of their medical practitioner for an "Authorization to Possess" (ATP) "dried marihuana" in accordance with an authorization for medical purposes. The Regulations set out various categories 1 – 3 relating to symptoms of various medical conditions with the latter categories requiring the involvement of one or two specialists. The ATP was subject to annual renewal.

17. There being no lawful supply of seeds or plants, the *Regulations* provided for the individual to obtain a Personal Use Production Licence (PUPL) to produce for them an amount of cannabis and to store and possess certain amounts depending upon a calculation derived from the medical practitioner's authorization of grams per day for the particular ailment.

18. A "Personal Production Licence" (PPL) pursuant to the *Medical Marihuana Access Regulations*, enables the patient to produce and store their own medicine at chosen location in amounts determined according to a formula under the regulations that is dependent upon the number of grams per day authorized by the physician.

19. In addition the *Regulations* provide for a "Designated Person Production Licence" (DPPL) authorizing someone to produce dried marihuana for the patient.

20. All licences are subject to annual renewal and specify not only the number of plants permitted to be produced, but also the amount to be stored and the location of the storage and the specific amount that the patient could possess on his or her person at any time(30 times the daily limit with no maximum).

21. The licence provides for production entirely indoors or partly indoors and partly outdoors subject to some restrictions, including a prohibition against the simultaneous production of marihuana partly indoors and partly outdoors.

22. There is no prohibition against production at one's ordinary place of residence or in any 'dwelling place' and if the production site is not owned by the producer and is not the applicant's ordinary place of residence then the consent of the owner is required.

23. Initially, these Regulations provided that a designated producer could only produce for one patient holding an ATP and there could only be three licences in one place. Furthermore the Regulations are limited to the production and supply of "dried marihuana" and no other form.

24. Subsequent to ***Parker (supra)*** as a result of further litigation, in both civil and criminal cases, including, ***Wakeford v. Canada*** [1998] O.J. 3522; [2000] O.J.1479; [2002] O.J. No. 85, Ont.CA ***R. v. Krieger*** 2000 ABQB 1012, 2003 ABCA, 2008 ABCA 394, ***Hitzig v. Canada*** (2003) 177 OAC 321, issues were raised with respect to the lack of a legal source and safe supply thereof, and the government of Canada on July 8th, 2003 announced an "Interim Policy" whereby marihuana seeds and dried marihuana grown by Prairie Plant Systems (PPS) under contract for the government for research purposes would become available to individuals having an exemption under the *MMAR* or under s.56 of the *CDSA*. This policy was to be in place until further clarification was made by the courts.

25. As a result of the Ontario Court of Appeal decision in ***Hitzig (supra)*** the Government of Canada on December 3rd, 2003 amended the *MMAR* to comply with that decision to some extent but re-enacted the provision permitting a designated producer to only produce for one patient in virtually identical terms. Consequently, while a

government supply of cannabis became available to authorized permit holders who did not have a Personal Production Licence or a Designated Grower, the Designated Grower was once again still limited to producing for only one person.

26. On June 29th, 2005 the Government of Canada made further amendments to the *MMAR* re-defining the types of applicants by merging categories 1 and 2 into category 1, requiring the declaration of only one physician, and merging category 3 into 2 and eliminating the requirement of a declaration from a specialist but still requiring a consultation with one.

27. On October 3rd, 2007 further amendments were made to the *MMAR* but still leaving the designated producer's ability to produce for only one person in place. However, as a result of the decision of the Federal Court of Appeal in ***Sfetkopoulos v. AG Canada*** 2008 FC 33 (FCTD) and 2008 FCA 328 (FCA),essentially following ***Parker*** and ***Hitzig (supra)*** that provision was struck down again as being a negative restriction violating s.7 of the *Charter* in that it was arbitrary and not in accordance with the principles of fundamental justice.

28. In response, the Government of Canada on May 14th, 2009 enacted a new ratio allowing a designated producer to produce for two authorized persons.

29. The *MMAR* also provided that there could only be three production licences at one location and no more. This section was also challenged in the courts and found to be too restrictive in the case of ***R. v. Beren and Swallow*** (2009) BCSC 429 and the government's response to the striking down of that section was simply to amend the *MMAR* and allow up to four licences at one location.

The *Marihuana for Medical Purposes Regulations (MMPR)*

30. On June 19th, 2013 the *Marihuana for Medical Purposes Regulations (MMPR)* SOR/2013-119 came into effect. These Regulations run concurrently with the *MMAR* until March 31st, 2014 when, by virtue of s. 267 of the *MMPR*, the *MMAR* will be repealed and all personal use production licences and designated producer licences will be terminated effective that date regardless of the dates specified on the actual licences previously issued. While "access" is increased slightly by the definition of a "Health care practitioner" being expanded to include "nurse practitioners", the

question of "supply" is dealt with by providing for "licenced producers" as the sole source of supply to registered patients, doctors or hospitals for patients.

31. The *MMPR* puts in place a transitional scheme to be implemented between now and March 31st, 2014 whereby persons holding an Authorization to Possess and a Personal Production Licence or a Designated Producer will obtain a notice of authorization from the Minister to sell their plants or seeds to a licenced producer. While the ATP continues to be valid for purposes of registration with a licenced producer up until March 31st, 2015, no more applications under the *MMAR* or renewals or amendments to existing licences are permitted after September 30th, 2013. After that date the patient with an 'Authorization to Possess' is to obtain cannabis by registering as a client with a licenced producer or attending on their health care practitioner and obtaining from them a "medical document" that sets out the authorized grams per day and that authorization can only be filled by a licenced producer directly or indirectly through the doctor or a hospital obtaining it from a licenced producer. ATP's can also continue to access the government PPS supply

32. The *MMPR* continues to limit possession by a patient to "dried marihuana" and the patient cannot possess any more than 30 times the daily quantity authorized or 150 grams whichever is the lesser amount(ss.3-6). The "licenced producers" are not permitted to conduct any activity at a 'dwelling place' and production and related activities can only take place 'indoors' and not 'outdoors'(ss.12 – 15).

33. In the Government of Canada produced "Regulatory impact analysis statement" about the *Marihuana for the Medical Purposes Regulations* in the Canada Gazette, Volume 146, #50 on December 15th, 2012 it is indicated that the main economic cost associated with the proposed *MMPR* would arise from the loss to consumers who may have to pay a higher price for dry marihuana estimated to be $1.80 per gram to $5.00 a gram in the status quo to about $7.60 per gram in 2014 rising to $8.80 per gram thereafter.

34. As of November 1st, 2013 there were three approved licenced producers(LP's) and one of them is a wholly owned subsidiary of Prairie Plants Systems the former government sole contractor, and goes by the name of 'CanniMed Ltd.' It has indicated that the price of its product will be between $8.00 and $12.00 a gram. The others are called "The Peace Naturals Project Inc' and 'Mettrum Ltd.' and their estimated prices are currently unknown to the Plaintiffs.

35. Whereas persons can be approved for the use of cannabis (marihuana) under the *Narcotic Control Regulations* or since September 30th, 2013 under the *Marihuana for Medical Purposes Regulations,* the majority of the persons affected were approved under the *Medical Marihuana Access Regulations* since July 31st, 2001 and continuing until its repeal on March 31st, 2014. According to Health Canada statistics there are:

- 24,185 of those persons held personal use production licences ("PPLs").
- 4,251 persons held designated grower production licences (DGs).
- 6,027 persons had access to Health Canada's supply of dried marihuana (presumably through the government contractor Prairie Plant Systems).
- 27,015 licences were issued to produce entirely indoors
- 3,334 licences were issued to produce entirely outdoors.
- 2,670 licences were issued to individuals producing indoors in the winter and outdoors in the summer.

36. A research survey, supported by the UBC Institute for Healthy Living and Chronic Disease Prevention, of patient characteristics under the MMAR disclosed that some 60 to 70% of those persons authorized to possess cannabis (marihuana) for medicine are on disability pensions and that affordability was a substantial barrier to access by all income groups.

37. As of April, 2013, Health Canada authorized the production of 188,189 kg of Cannabis (marihuana) to be produced under the *MMAR* under the various licences during 2012 broken down as follows:

- 15,752.88 kg : for patients needing to use 1 to 5 g per day;
- 42,054.31kg: for patients needing to use 6 to 10 g per day;
- 89,127.44 kg: for patients needing to use 11 to 20 g per day;
- 12,795.62 kg: for patients needing to use 21 to 50 g per day;
- 3195.21 kg: for patients needing to use 51 to 100 kg per day; and

- 4,854.87 kg: for patients needing to use 101 to 150 g per day.

- Apparently there are 89 persons in Canada with authorizations to possess with dosage levels of 150 g or more per day.

38. The Plaintiffs hold the following licence/s issued by Health Canada, pursuant to the *Medical Marihuana Access Regulations (MMAR)* under the *Controlled Drugs and Substances Act* (CDSA):

- Neil Allard: personal production licence & authorization to possess as medicine
- (deleted)
- Tanya Beemish: authorization to possess as medicine;
- David Hebert: designated grower licence (for patient Tanya Beemish); and
- Shawn Davey: authorization to possess and personal production licence.

39. The Plaintiff, Neil Allard, age 59, resides in British Colombia. He became severely ill in 1995 and unable to continue work as an Area Counselor at Veterans Affairs Canada, and by 1999 was placed on permanent medical retirement. He suffers from 'Myalgic Encephalomyelitis' and 'clinical depression'.

40. Mr. Allard currently holds an Authorization to Possess (ATP) and a Personal Production Licence ("PPL"), under the *MMAR,* and he has been so authorized on an annual basis since 2004. He is authorized to produce at his residence/dwelling house and constructed a facility for that purpose, at considerable cost and took a course through Malaspina College on how and what to do with respect to marihuana production.

41. Mr. Allard produces indoors and has produced outdoors and in a greenhouse. He is authorized to consume a daily dose of medical marihuana of 20 grams a day and uses the marihuana in various forms. These include edibles, where the dried marihuana is baked into another product for consumption ("Edibles"), juiced, where the leaves from the raw marihuana plant are blended together to form a juice for consumption ("Juiced"), vapourized, where the active ingredients of the dried marihuana are inhaled when comingled with water particles in a vaporizer device ("Vapourized"), and in topical oils, which contain the extracted active ingredients in marihuana and are then applied directly to the skin ("Oils"). He does not smoke dried cannabis (marihuana) in cigarettes/joint form.

42. Additionally, Mr. Allard works with 13 different specific strains of marihuana that he grows organically to help manage his medical condition and says that certain strains do not work for him and are problematic and he is very concerned about quality control. He also asserts that he derives therapeutic benefit from the production of his own Cannabis plants.

43. The Plaintiff, Tanya Beemish, age 27, resides in British Colombia with her common-law spouse, the Plaintiff David Hebert. Ms. Beemish suffers from 'Type One Diabetes' and from a complication thereof called "Gastroparesis" or "delayed gastric emptying" which causes frequent vomiting and causes significant pain and nausea. She has to regularly attend the Emergency department at the Royal Columbian Hospital. She is unemployed and receives a monthly permanent disability pension.

44. Ms. Beemish has held an ATP since 2012 and her common-law spouse, the Plaintiff David Hebert also acts as the person responsible for her as her caregiver Designated Grower ("DG") as she cannot produce her medicine for herself due to her illness and they cannot afford to purchase her medicine from the illicit market. She is unemployed, disabled and on disability pension. They have constructed a safe and secure production facility in their dwelling house, having invested in appropriate equipment for production and related purposes, including safety and security.

45. Ms. Beemish presently consumes between 2-10 grams per day, usually by smoking, and vapourizing, as well as edibles by way of baked goods, juicing, and oils. She relies on two unique "blueberry cross" strains to help manage the pain of her illness. Both Ms. Beemish and Mr. Hebert are concerned about losing control over the production of her medicine in a secure and safe manner at reasonable cost.

46. (deleted)

47. (deleted)

48. (deleted)

49. The Plaintiff Shawn Davey, age 37, resides in British Columbia. He is unemployed due to a brain injury suffered in a motor vehicle accident on June 16th, 2000 and

survives off of funds from a settlement in relation to the motor vehicle accident and a CPP disability pension.

50. Mr. Davey has and ATP and PPL having discontinued the use of a Designated Grower who held the Designated Person Production Licence because that grower could not produce his medicine to a satisfactory standard for him. He is currently authorized to use 25 grams per day that he consumes by way of smoking, edibles and various other forms. He produces indoors in a separate outbuilding on a 5 acre piece of property and has invested heavily in security measures and fire protection measures and has never had a toxic mold problem.

51. Mr. Davey says that he will not be able to afford to purchase from licenced producers at the estimated price of $8 to $12 a gram, nor from the illicit market or compassion clubs or dispensaries at similar prices. Cannabis (marihuana) is the only medication that he now uses having stopped the use of all other narcotics and if he is compelled to stop producing for himself at an estimated $1 to $4 a gram he would have to return to the narcotics at a cost of approximately $3,000.00 per month, a portion of which would be defrayed by Pharmacare/insurance coverage. The cost estimated for cannabis (marihuana) from a licenced producer for a month would be more than that and not covered by any Pharmacare/insurance program.

52. Mr. Davey is also very concerned to ensure quality control over his production by way of organics and sanitation to ensure safety and cleanliness and the lack of contamination of any kind.

53. All of the Plaintiffs, except David Hebert, are unemployed and on disability pensions. Some of them have experienced purchasing their medicine from Compassion Clubs/Dispensaries and other aspects of the illicit market or from the government supply but determined that they could not afford to continue to do so for economic and other reasons.

54. Consequently, they each invested substantially in creating their own production facility/room in a dwelling house, or outbuilding, including investing in appropriate indoor production equipment and other related equipment to prevent the escape of odors and for safety and security purposes.

55. Some have also produced in greenhouses and outdoors, at substantial electrical costs savings, as well as indoors. Some have also invested considerable time educating themselves on how to produce, how to produce safely for their medical condition, including organic production, and how to produce certain strains of Cannabis (Marihuana) that are most effective for their medical condition.

56. All of them fear the loss of control over the safe continuous production of their own medicine at reasonable cost, including use of their developed specific effective strains, by the production by others who will be producing for many others, and fear that they will not be able to afford the cost of the medicine to be sold by the new Licence Producers, estimated to be similar to illicit market prices.

57. All of the Plaintiffs reside in British Columbia, and are therefore not limited to using only "dried marihuana" as provided in the *NCR, MMAR* and *MMPR* due to the decision in ***R v. Smith*** 2012 BCSC 544, which is on appeal, and is only applicable in British Columbia and in relation to the *MMAR*. The Plaintiffs use Cannabis in its various forms, including in its raw form for juicing, and making butter, as well as using oils and tinctures, using it in teas, and as salves and creams for topical applications, or by making edibles and by smoking in cigarettes/joints or using a vaporizer or atomizer. Medically approved patients outside British Columbia offend against the Controlled Drugs and Substances Act if they exceed the terms of their license limiting them to "dried marihuana". It is an offense to separate or extract the resin glands from the dead plant material and a further offense to possess those resin glands, whether as resin or "hashish, or when infused into derivative products such as foods, oils or even tea. It is an offence to possess cannabis juice derived from the natural undried plant as it is not "dried marihuana".

58. The Plaintiff Allard is medically retired and the Plaintiff Tanya Beemish is on permanent disability pension. They rely on specific strains and exercise particular control over their production environments due to "immune system" concerns and usually produce in their dwelling house or in an outbuilding on their property adjacent to their dwelling house. (deleted) The Plaintiff Allard has produced partly outdoors but primarily indoors and the Plaintiff Hebert on behalf of Beemish produces indoors. The Plaintiffs not only use cannabis as "dried marihuana" by smoking or vapourizing, but also use it in its natural form through cold press juicing, as well as various other methods of vaporizing and atomizing and some use

extractions such as topical oils for skin conditions and many use edibles or baked goods.

59. The Plaintiffs say that they are able to produce their cannabis at between $1.00 and $4.00 a gram or less and that they will not be able to afford the estimated Licenced Producer prices which are comparable to illicit market prices and that affordability is a barrier to access across all income levels.

60. (deleted)

The Constitutional Violations Alleged – Section 7 of the *Charter*

61. The Plaintiffs plead and rely on ss.1, 7, 24(1) and 52(1) of the *Canadian Charter of Rights and Freedoms* (the "*Charter*"), Part 1 of the *Constitution Act*, 1982 being Schedule B to the *Canada Act*, 1982 (U.K.) 1982, c.11 (the *"Constitution Act 1982"*).

62. The Plaintiffs say that they are entitled to a Constitutionally viable exemption from the provisions of the *Controlled Drugs and Substances Act, supra*, to enable their medically approved use of cannabis, in any or all of its effective forms. This includes the right of the patient (or a person responsible for the patient) to produce and possess the cannabis for themselves (or the patient) for medical purposes in order:

- to ensure a safe, quality controlled supply;
- at a reasonable cost that is within their economic means; and
- to do so inside or outside of their dwelling house, subject only to reasonable regulations regarding safety and security.

MMPR – The Omission to Include Personal Production

63. The Plaintiffs say that any unreasonable restriction on their constitutional right of reasonable access, including precluding them from:

- producing for themselves or if unable having somebody produce for them;
- growing in their dwelling house or outside their dwelling house;

- consuming cannabis that is other than "dried marihuana,

will cause the Plaintiffs to have to choose between their liberty and their health. Consequently, this will impact the liberty and security of their person and in a manner that is not in accordance with the principles of fundamental justice, namely, precluding arbitrariness in the deprivation of rights, that does little or nothing to advance the governments interest, gross disproportionality in effects, and an administrative structure made up of unnecessary rules that result in an additional risk to the health of the person and that are manifestly unfair, thereby violating their right to life, liberty and the security of their person and the right not to be deprived thereof except in accordance with the principles of fundamental justice as preserved by s.7 of the *Canadian Charter of Rights and Freedoms* and these provisions are not saved under s.1 of the *Charter.*

NCR/MMAR/MMPR – The Limitation to Dried Marihuana Only

64. The Plaintiffs say that the restriction with respect to "dried marihuana only" in the *MMPR* that also exist in the *MMAR* and *NCR* is an unconstitutional violation of s.7 of the *Charter* as an unreasonable restriction. In British Columbia that provision of the *MMAR* was struck down as unconstitutionally restrictive as that limitation did little or nothing to enhance the government's interest including the government's interest in preventing diversion of the drug, or controlling false and misleading claims of medical benefit and that it was arbitrary and violated s.7 of the *Charter* (***R. v. Smith*** 2012 BCSC 544 (currently on appeal to the BCCA). The Plaintiffs say that the decision in *Smith (supra)* should be followed federally and applied across Canada (deleted) to enable medically approved patients to consume their medicine in whatever form is most effective for them and to avoid a form that may be harmful to them, and that such a limitation in the *NCR*, *MMAR* and *MMPR* is unconstitutional as being in violation of s.7 and inconsistent therewith and is not saved by s.1.

MMPR – Other Limitations – Dwelling House, Outdoor and Possession Limits

65. The Plaintiffs say that the proposed *MMPR* restrictions preventing production in a dwelling house and preventing any production outdoors in particular, as well as other restrictions applicable to licenced producers, should not be applicable to the patient or personal producer or designated caregiver because they amount to unnecessary

restrictions in relation to the patient producer or his or her designate and would be unconstitutionally too restrictive. As the patient producer or his designate would not be involved in selling any of their product to any members of the public, none of the provisions of the *MMPR* relating thereto, such as packaging and labeling and the costs thereof, including packaging arbitrary maximum amounts in containers that a person can possess on their person at any one time, such as the maximum of 150 g, regardless of one's authorized dosage, should not apply to the patient, producer or designate, and if any such limits are held to apply they should not be less than 30 times the daily dosage with no maximum, as provided in the MMAR

THE RELIEF

66. The plaintiffs claim as follows:

a. A Declaration, pursuant to s.52 (1) of the *Canadian Charter Of Rights and Freedoms* that 'a constitutionally viable exemption' from the provisions of the *Controlled Drugs and Substances Act (CDSA)*, in accordance with the principles and findings underlying the judicial decisions in ***R v. Parker***, (2000), 49 O. R. (3d) 481, ***Hitzig v. Canada*** (2003) 231 D.L.R. (4th) 104 and ***R v. Mernagh***, 2013 ONCA 67,to enable the medical use, by medically approved persons, of Cannabis, in any of its effective forms, includes the right of the patient (or a person designated as responsible for the patient), to not only possess and use Cannabis in any of its forms, but also to cultivate or produce and possess Cannabis in any form, that is effective for the treatment of the patient's medical condition;

b. A Declaration pursuant s.52(1) of the *Canadian Charter of Rights and Freedoms* that the *Marihuana for Medical Purposes Regulations* (*MMPR*) that came into force on June 19, 2013, and that run together or concurrently with the *Medical Marihuana Access Regulations* (*MMAR*) until March 31, 2014, when the *MMAR* will be repealed by the *MMPR*, are unconstitutional to the extent that the *MMPR* unreasonably restricts the s. 7 *Charter* constitutional right of a medically approved patient to reasonable access to their medicine by way of a safe and continuous supply, by failing to provide for the continued personal production of their medicine by the patient or a designated caregiver of the patient, as provided for currently in the *MMAR*, and as such violates the constitutional rights of such patients pursuant to s. 7 of the *Canadian Charter of Rights and Freedoms* and is inconsistent there with and not saved by section 1 thereof;

c. A Declaration pursuant to s.52 (1) of the *Canadian Charter of Rights and Freedoms* that the limits in *NCR, MMAR* and in the *MMPR*, to possessing, selling or providing only "dried marihuana" are arbitrary and constitute an unreasonable restriction on the s. 7 *Charter* rights of these patients and are inconsistent there with and not saved by s. 1 of the *Charter*, in accordance with the principles and findings underlying the judicial decision in ***R v. Smith***, 2012 BCSC 544;

d. A Declaration, pursuant to s.52 (1) of the *Charter*, that the provisions in the *MMPR* that specifically limit production by a 'Licenced Producer' of Cannabis to "indoors", prohibiting any, even temporary, outdoor production and prohibiting production in "a dwelling house," are unconstitutional, to the extent that they might be found to be applicable to a patient generally, a patient personal producer or his or her designated caregiver as such limits and restrictions amount to arbitrary and unreasonable restrictions on the patients s. 7 *Charter* right to possess, produce and store for their medical purposes, and are inconsistent therewith and these limitations are not saved by section 1 of the *Charter*;

e. A Declaration, pursuant to s.52 (1) of the *Charter*, that the provisions in the *MMPR* that specifically restrict the amounts relating to possession and storage by patients, including the "30 x the daily quantity authorized or 150 gram maximum, whichever is the lesser", and other limitations applicable or imposed upon 'Licenced Producers' in relation to their registered clients / patients are unconstitutional, to the extent that they are applicable to a patient generally, a patient personal producer or his or her designated caregiver as such limits in the *Narcotic Control Regulations* (*NCR*) and in the *MMPR* amount to arbitrary unreasonable restrictions on the patients s.7 *Charter* right to possess, produce and store for their medical purposes, and are inconsistent therewith and these limitations are not saved by section 1 of the *Charter*.

f. An Order under s.24(1) of the *Canadian Charter of Rights and Freedoms*, as the appropriate and just interim remedy, in the nature of :

    i. a constitutional exemption from s.4,5 and 7 of the *Controlled Drugs and Substances Act* for all persons medically approved under the *Narcotic Control Regulations* (*NCR*), the *MMAR* or the *MMPR*, and/or those patients who have a person responsible for them designated to produce for them, including that designated

producer, pending trial of the merits of the action or such further Order of the court as may be necessary

or in the alternative,

ii. an interlocutory exemption/injunction preserving the provisions of the *MMAR* relating to personal production, possession, production location and storage, by a patient or designated caregiver and related ancillary provisions, and if necessary, limiting the applicability of certain provisions of the *MMPR* to such patients or designated caregivers that are inconsistent with their s. 7 constitutional right under the *Charter* pending the decision of this Court on the merits of this action;

or alternatively, and together with

iii. An Order in the nature of mandamus to compel the Defendant to process all Applications, Renewals or modifications to any licences applied to pursuant to the *MMAR* in accordance with all of its related provisions, notwithstanding ss.230, 233-234, 237-238, 240-243 of the *MMPR* that relate to such applications under the *MMAR* that were made before and after September 30, 2013 and a declaratory Order that those medically approved persons are entitled to continue to possess, store and use marihuana for medical purposes both before and after March 31st, 2014 and that they are not required to destroy all product as of that date.

g. An Order under s.24(1) of the *Canadian Charter of Rights and Freedoms*, as the appropriate and just final remedy, in the nature of:

i. a permanent constitutional exemption from s.4,5 and 7 of the *Controlled Drugs and Substances Act* for all persons medically approved under the Narcotic Control Regulations(NCR),the MMAR or the MMPR, and/or those patients who have a person responsible for them designated to produce for them, including that designated producer , until such further Order of the court;

or, in the alternative

ii. a permanent exemption/ injunction preserving the provisions of the *MMAR* relating to personal production, possession,

production location and storage by a patient or designated caregiver and related ancillary provisions, and if necessary, limiting the applicability of certain provisions of the *MMPR* to such patients or designated caregivers that are inconsistent with their s.7 *Charter* Rights. Such order to continue until such time as the Defendant makes appropriate amendments to the *MMPR* or otherwise to comply with any decision of this Court to ensure the full ambit and scope of the patient's constitutional rights pursuant to s. 7 of the *Charter*, without any unreasonable, inconsistent and unnecessary restrictions thereon

h. Costs, including special costs and the Goods and Services Tax and Provincial Services Tax, on those costs, if appropriate; and

i. Such further and other relief as this Honourable Court deems appropriate and just in all of the circumstances.

The Plaintiffs propose that this action be tried in the City of Vancouver, Province of British Columbia.

DATED this 20th day of January 2014 at the City of Abbotsford, in the Province of British Columbia

John W. Conroy, Q.C.
Solicitor for the Plaintiff

Conroy & Co
2459 Pauline Street
Abbotsford, BC, V2S 3S1
Telephone: 604 852 5110
Fax: 604 859 3361

This is Exhibit "I" mentioned and
referred to in the affidavit of

Asvini Krishnamoorthy

Sworn *(or affirmed)* before me
this 13TH day of DECEMBER 2018

A Commissioner for taking affidavits
(*or as the case may be*)

No. T-2030-13

FEDERAL COURT

BETWEEN:

NEIL ALLARD
TANYA BEEMISH
DAVID HEBERT
SHAWN DAVEY

PLAINTIFFS

AND:

HER MAJESTY THE QUEEN IN THE RIGHT OF CANADA

DEFENDANT

AFFIDAVIT OF JASON WILCOX

I, Jason Wilcox c/o Conroy & Company, 2459 Pauline Street, in the City of Abbotsford, B.C., MAKE OATH AND SAY AS FOLLOWS, THAT:

1. That I am the Coordinator of the Coalition against the Repeal of the Medical Marihuana Access Regulations *(MMAR)* and as such helped coordinate a group of medically approved patients and their caregivers under the *MMAR* that wish to continue to be able to produce their own medicine for themselves or have a caregiver do so for them if they are unable to do so, and as such have created a webpage (http://www.mmarcoalitionagainstrepeal.com/) to facilitate this process and gathered a substantial number of "victim impact statements" to assess what the impact of the repeal of the *MMAR* would be and from those who responded the individual Plaintiffs in this case were chosen for purposes of the constitutional challenge.

2. Now produced and marked as Exhibit "A" to this my Affidavit is a copy of my Affidavit and Exhibits "A" – "BBB" sworn August 1st, 2014 in Abbotsford, BC and contained in a Motion Record filed in the Federal Court of Appeal under action number A-174-14 on October 17th, 2014.

3. That I swear this affidavit as my evidence in chief for the plaintiffs in these proceedings to provide the court with a sampling of the types of complaints, problems and concerns received by me and the Coalition since the granting of the interlocutory injunction in these proceedings.

SWORN BEFORE ME at the City of Vancouver, in the Province of British Columbia, this 6th day of January, 2015

A Commissioner for Taking Affidavits in and for the Province of British Columbia

JASON WILCOX

John W. Conroy, Q.C.
Barrister & Solicitor
2459 Pauline Street
Abbotsford, BC V2S 3S1
Telephone: 604-852-5110
Facsimile: 604-859-3361

EXHIBIT "A"

This is Exhibit "A" referred to in the Affidavit of Jason Wilcox sworn before me at Vancouver, BC this 6th day of January, 2015.

A commissioner for taking affidavits
For British Columbia

Court File No : A-174-14

FEDERAL COURT OF APPEAL

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Appellant

AND:

Neil ALLARD, Tanya BEEMISH, David HEBERT and Shawn DAVEY

Respondents

AFFIDAVIT OF JASON WILCOX

I, Jason Wilcox c/o Conroy & Company, 2459 Pauline Street, in the City of Abbotsford, B.C., MAKE OATH AND SAY AS FOLLOWS, THAT:

1. That I am the Coordinator of the Coalition against the Repeal of the Medical Marihuana Access Regulations *(MMAR)* and as such helped coordinate a group of medically approved patients and their caregivers under the *MMAR* that wish to continue to be able to produce their own medicine for themselves or have a caregiver do so for them if they are unable to do so, and as such have created a webpage (http://www.mmarcoalitionagainstrepeal.com/) to facilitate this process and gathered a substantial number of "victim impact statements" to assess what the impact of the repeal of the *MMAR* would be and from those who responded the individual Plaintiffs (Respondents/Appellants by way of Cross-Appeal) in this case were chosen for purposes of the constitutional challenge.

2. Similarly, after the Order of Mr. Justice Manson on March 21, 2014, I started receiving numerous telephone calls and emails from medically approved patients

indicating that they did not appear to be covered by the injunction/exemption order pending trial because their authorization to possess (ATP) had just expired or they had to move or make changes to their license, but were unable to do so within the timeframe specified in the MMPR or that they were unable to travel for any significant periods of time or distance from their production site due to the 150 gm possession limits imposed upon their ATP by the Order. I therefore determined to collect a sampling of statements to be sent to our legal counsel's office from various individuals impacted in order that the court would be apprised of the deficiencies in the Order made below that resulted in a number of patients falling through the cracks or not been covered, pending trial.

3. One reason given by a number of patients that they need to move their production site is because in November 2013 Health Canada sent a letter to all patients and the envelope they used identified that it was coming from the Health Canada Marihuana Medical Access Division, thereby exposing all recipients to an invasion of their privacy and this conduct is the subject of a class-action lawsuit for patients across the country and that is currently ongoing in the Federal Court as well as in certain provincial superior courts (Federal Court of Canada, T-1934-1) and now produced and marketed exhibits **'A'** through **'J'** to this my affidavit are copies of some of the email statements as examples, with some redactions for privacy reasons, received from 10 such patients (**Jason Monaghan, Heather Pratt, Christopher Vandenberg, Chris Gorin, Craig Pinsonneault, Gwen Anger, Rebecca, Lambert, Regina Le May, Timothy Shoniker, Justin Loizos**) that have been so impacted for that reason, and need to be able to change their production site locations. Some of them also indicate problems with the 150 g possession limit due to their circumstances;

4. I have received various other emails and/or statements putting forward various other reasons why they have to move their production site and some of those reasons include – a Ministry of Transportation and Township doing road upgrades/expansion and changing the name of the street so that the address is changed although the site remains physically in the same place, the designated grower quitting in the belief they would not be able to continue and now wanting increased fees, a problem of

transporting products shipped by mail to a local post office 4 km from the person's home that would result in them transporting more than 150 g on their person at a time or having to make numerous trips simply to stay under the limit, the City simply changing the address of the premises (**Billy and Cheryl Armstrong, Mary Williams, Teresa Schrader**); a need to move due to a Landlord Tenant Board Mediation agreement (**Catherine Peever**); due to property owners are landlords revoking their consent, fearing that continuation would be illegal at that location or limiting use of the location to others such as relatives and problems with the 150 gm limit as a result of family living over 10 hours away, or transporting between production site and residence while being unable to go on holidays more than 4 days (**Barbara Allard, Colleen Abbott**); because the landlord sold the site or increase the rent substantially (**Danny Auger, Robert Jaenicke**); due to the termination of the lease and an inability to renew and problems with the 150 g limit due to business travel of up to 6 weeks away from the storage site (**David Hallam**); due to having to move to different province for work (**Gerald Muxlow**); due to a designated grower suffering significant health problems and financial constraints and shutting down at the site and therefore being unable to supply the patient any longer (**Janice De Jong, Jonathan Korst**); due to a designated grower getting into an accident and being unable to continue to grow (**Jeff Harris**); due to having given 90 days' notice to the landlord as required by a lease prior to the program being shut down and the landlord having rented the premises to others since or due to the landlord giving notice to the tenant precluding continued production or a change in owners and therefore new landlords giving notice (**Jeffrey Keddy, Kelly J. Christie, Kelly Scoyne, Kevin Bauer, Tamara Cartwright**); planned move from an apartment to a residence being frustrated (**Lee Hyndman**); loss of job and need to find new job and therefore to move site (**Michael Ilott**); Site shut down due to a water line break during the cold winter and an inability of the homeowner to be able to fix the damage caused resulting in a shutting down of the power and destruction of the premises (**Michael MacDonald**); due to designated grower quitting and being unable to find another one before the deadline or designated grower moving to the US (**Paul Zaro, Ronald Amlin**); having to move due to expense, inadequate construction of premises and health reasons (**René Richard**) and now produced and marked exhibits **'K'** through **'HH'** are

the various statements received from the individuals named in this paragraph who again only represent some of the complaints received and are put forward to illustrate the need for the kind of variations being sought to the Order below to ensure there is a process in place to cover unanticipated and unusual events requiring changes .

5. That now produced and marked exhibits **'II'** through **'SS '** are copies of various statements forwarded to me indicating the problems that these patients will experience with the 150 grm possession limit in particular such as **Alison Myrden** (II) who needs 28 g per day since 1994 and says that she will be unable to leave her home for more than one day under the limit; **Karl StGelais** (JJ) who has a 40 g a day limit since 2009 points out that if he has to go back to hospital he would not be able to take a sufficient supply with him; **Charles Tall** (KK), who at 50 g a day could not leave his residence for more than 3 days, and will therefore be unable to go on kayaking trips or other travels; **Tony Singh** (LL) who says he needs enough for a seven-day supply to be able to leave the city to attend family properties up north and have sufficient medicine with and his concern about transporting from his production sites to his home when he is currently authorized to possess 600 g on his person; **Ronald Markin** (MM) who indicates an inability to travel between BC and Ontario to visit relatives and complains about the increased shipping costs because his designated grower will have to ship on numerous occasions, given his 21 g a day license; **Rick Frei** (NN) who has a 30 g day license and will not be able to leave home for more than 5 days; **Peter Hilson** (OO) who at 14 g per day means he will not be able to take a vacation longer than 10 days and currently lives in Ontario and wants to travel by car to British Columbia to visit friends as he has done many times in the past, but we will be unable to do so for any length of time, and he is unable to travel by airplane; **Kevin Brooks** (PP) who works away from home and needs to take enough supplies for up to 3 weeks at a time and his daily allowance is 15 gms and therefore this will impact his work; **Marie Tripp** (QQ), who says that the150 g limit is less than 2 days' worth of medicine for her so she simply cannot get away; **Maurice Fazio** (RR), 20 g a day says he will be unable to travel anywhere in Canada for longer than 7 days and will have to return to restock his medication; **David Dobbs** (SS) who grew in conjunction with others and shut down in response to Health Canada's notice to

do so, no longer wishes to grow at that site due to the privacy breach and all wish to move to a new site but cannot under the current Order.

6. That now produced and marked exhibit 'TT' to this affidavit is a copy of an 8 page email from **Travis Tetrault** who explains in detail the problems he encountered attempting to renew within the time frames permitted and how it appears he was not processed correctly by Health Canada representatives resulting in him now not being covered by the Order below through no fault of his own when he should have been renewed with his designated grower as and when he applied and is now substantially prejudiced.

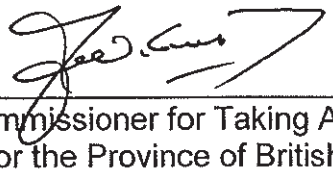
7. That now produced and marked exhibits 'UU' through 'VV' are emails from patients George Oldham on his own behalf and Dan Poulin on behalf of Jennifer Quigley, who have tried to obtain their medicine through an LP Peace Naturals and detailing their most unsatisfactory experiences in relation to the product received and the way they were treated after they complained.

8. Now produced and marked as exhibit "WW through BBB" are further emails from a number of patients with the following issues: **Julian Gushulak** (WW) who explains that due to his 60 gram a day exemption he cannot leave the Province for visits to family because of the 150 gram limit and also that he has to sell his house due to divorce proceedings and needs to move his production site according; **Todd Nesbitt** (XX) provides and example of an ATP expiring on March 9th, 2014, a few weeks before the injunction and how Health Canada would not process his renewal after September 30th, 2013 and the problems that he experienced and his concerns not to have a criminal record and the impact that would have upon him as well as the impact of other medication that he has to take and cannot access medical marihuana as well as the 150 gram limit problem in relation to travel; **Sandra Comeau** (YY) provides and example of a person suffering problems as a result of the 150 gram limit in relation to *MMAR* patients who have storage and production sites that may not be the same as their residence and therefore have difficulties transporting between the various places pending trial; **Perry Oakley** (ZZ) provides a further example of a person with a 12 gram

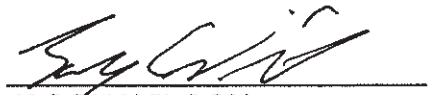
a day prescription describing the problems he has in terms of travel because of the 150 gram limitation; **Leslie Sears** (AAA) provides an example of a person with a site who was planning on getting married and has had to keep putting the date off because she cannot change the address of her production site and who also has problems with the 150 gram limit because her prescription is 40 grams a day; **Roy Chandler** (BBB) who provides an example of a situation where the designated grower is unable to continue and he is now healthier so that he could do it for himself and would like to move it back to his site and is unable to do so because of the address change issue.

9. I swear this Affidavit in support of a Motion to adduce new evidence on the Cross Appeal from the decision of Manson, J. made the 21st day of March, 2014 in relation to those not covered by the injunction for one reason or another.

SWORN BEFORE ME at the City of Abbotsford, in the Province of British Columbia, this 1st day of August, 2014



A Commissioner for Taking Affidavits in and for the Province of British Columbia



JASON WILCOX

Regina LeMay

Injunction Appeal

From Regina Le May

To impact@mmarcoalitionagainstrepeal.com

Date Mon 13:24

Message 11 of 17 <>

IP: 24.114.64.252

First Name: Regina
Last Name: Le May
Address: [redacted]
City: [redacted]
Province: [redacted]
Postal Code: [redacted]
Phone: [redacted]
E-mail: [redacted]
MMAR Permit Number: 125096-13

Statement:
Im writing this statment as I have been affected by this judgment. Due to health canadas letter my neighbours and landlord have become very hatful and my neighbour has started poisoning my dog also. The landlord has become hatful also snd wants me and my family out asap. We have got eviction letters and are fighting them. Both my husband and I have papers that need an address change immediately. I also have an issue going to my family cottage as its a day drive there and a day back. I cant not leave my house for more then one week due to the 150 limit. This has affected my only me and my husband but also my family. Its only time before I lose my grow address and wpuld be illegal to move it.... please help me/Us

---

I am aware that I am giving my information to the coalition via John Conroy's Office for this legal matter:
yes

Signature:
Regina
Le May

Date:
M: 06
D: 16
Y: 2014

Justin Loizos

Injunction Appeal

From Justin Loizos

To impact@mmarcoalitionagainstrepeal.com

Date Mon 07:21

[redacted]

First Name: Justin
Last Name: Loizos
Address: [redacted]
City: [redacted]
Province: [redacted]
Postal Code: [redacted]
Phone: [redacted]
E-mail: [redacted]
MMAR Permit Number: MMAD-87023-13

Statement:
I Justin Loizos,

Need to move the location of my MMAR medical marijuana garden. I need to move because first, I received a letter in the mail from Health Canada revealing to potentially a lot of people that I may grow marijuana in my home.

Second, the size of my garden is not large enough to support the cannabis therapy I require to combat a very aggressive version of Multiple Sclerosis that I suffer from. I suffer a lot because of this, both physically and financially.

Third, I\'m not able to travel anywhere in Canada for any significant amount of time due to a 150g carry limit. I\'m prescribed 20gs a day by my neurologist and would need that for every day on my travels. That allows one week max for me to travel!

I am aware that I am giving my information to the coalition via John Conroy's Office for this legal matter:
yes

Signature:
Justin
Loizos

Date:
M: 06
D: 16

Hi Jason i saw your post on twitter - Facebook and I am forwarding my info to you in hopes to get my address and grow switch via Health Canada or by the courts. I am still using the old address at this time as the post office will send all mail back to sender and I will continue to until i resolve this issue with Health Canada.

i) Billy Armstrong [redacted]

ii) Authorization # AP-BRA-05-A07391550-70-13-A
Expiry March 31, 2014

DG permit # DPL-RLR-04-A07391550-63-13-A
Expiry March 31, 2014

My home address has been changed to #1 Christopher lane, Burk's Falls, On , P0A 1C0 P.O. Box 939 as the township has done road upgrades and changed the name of the street i live on as my home is still in the same physical location, and my DG has shut down the grow as they believed they were no longer going to be able to continue growing and they have started growing but now want a big increase fee for service that i cant afford to pay them as they were providing medicine for free as why i went with there service as i was growing my self and now need to switch back to me growing for my self to be able to supply my own meds at cost as i cant afford to pay for meds. I still have my grow room at my home that i had my Health Canada licences before for two years and it's a safe rural - commercial area with no neighbors and it's a secure building adjacent to my home Re garage.

the possession of 150 grams might be an issue as all my mail is sent to my local post office which is 4 km from my home and i would be transporting medication to my home which is over the 150 limit.

I will also include my wife info as well as she is having the same issue as me.

Cheryl Armstrong
[redacted]

Authorization # AP-CMA-04-A11410910-71-13-B
Expiry March 31, 2014

DG # DPL-RBP-04-A11410910-53-13-B

Billy Armstrong
Thanks

This is Exhibit "K" referred to in the affidavit of JASON WILCOX sworn before me at Vancouver, this 15 day of July, 2014

A Commissioner for taking Affidavits
In British Columbia

John Conroy

From: Alison Myrden [redacted]
Sent: Wednesday, May 21, 2014 2:23 PM
To: Jason Wilcox; John Conroy
Cc: [redacted]
Subject: I am right at the 150 gram a day Limit...

Importance: High

Follow Up Flag: Follow Up
Flag Status: Flagged

To Whom it May Concern:

My name is Alison Myrden and I have been battling chronic progressive multiple sclerosis and an excruciating pain in my face and head for the last twenty-six years. I am one of Canada's first legally Licensed medical cannabis patients who started at 28 grams of cannabis per day in 1994, over twenty years ago. I was, at that time, taking over 32 pills and up to two thousand milligrams of morphine DAILY. I also could not get out of my electric wheelchair, could not get a hold of the violent pain called tic douloureux that I have experienced 24 hours a day in my face and head, couldn't catch the terrible leg spasms, the horrendous bladder and bowel difficulties and could NOT stop shaking violently from head to toe, everyday ALL day.

My Doctors over the years, have prescribed me copious amounts of cannabis for relief from all of my symptoms and I have NEVER felt better! Remember, I started at 28 grams of cannabis a day in 1994 while still taking all of those pills. Now, I consume cannabis in various forms, including extractions such as cannabis oil in food, salves and beverages, consume the raw smoked form all day everyday and cannot believe the difference in my health! Not only am I up out of my electric wheelchair most days, but the excruciating pain I have experienced for over the last twenty-five years has been GREATLY reduced! I give all the credit to the courage of my Doctor's to sign for me for one of the LARGEST amounts of cannabis in our Country! I am BETTER because of all of them.

The 150 gram a day limit will severely impair my ability to leave my home with enough medicine for the period of more than ONE DAY. I carry a written notification for medical cannabis from my Doctor's and have been slowly consuming more cannabis and FEWER pharmaceuticals over the last decade and am now down to taking around half of the morphine and have eliminated ALL of the other pills Doctor's had prescribed to me for almost 18 years - All BECAUSE of medical cannabis.

Please know that I have suffered enough and that this is just one more game the Government is playing with us....

Sincerely,

Alison Myrden
[redacted]
Federal Medical Marijuana Exemptee in Canada
http://www.AlisonMyrden.com/
Retired Law Enforcement Officer
Speaker for LEAP Since 2004
Law Enforcement Against Prohibition
http://www.leap.cc/

This is Exhibit "II" referred to in the affidavit of JASON WILCOX sworn before me at Vancouver, this 14 day of July, 2014

A Commissioner for taking Affidavits In British Columbia

This is Exhibit "J" mentioned and
referred to in the affidavit of

Asvini Krishnamoorthy

Sworn *(or affirmed)* before me
this 13TH day of DECEMBER 2018

A Commissioner for taking affidavits
(*or as the case may be*)

T-2030-13

FEDERAL COURT

BETWEEN:

NEIL ALLARD
TANYA BEEMISH
DAVID HEBERT
SHAWN DAVEY

PLAINTIFFS

AND:

HER MAJESTY THE QUEEN IN THE RIGHT OF CANADA

DEFENDANT

AFFIDAVIT OF DANIELLE LUKIV

I, Danielle Lukiv, Legal Assistant at the law firm of Conroy & Company, 2459 Pauline Street, Abbotsford, British Columbia, MAKE OATH AND SAY AS FOLLOWS, THAT:

1. I am a legal assistant to John W. Conroy, Q.C., counsel for the Plaintiffs (Respondents/Appellants by way of Cross Appeal) and as such have personal knowledge of the matters and facts hereinafter deposed to, except where stated to be based on information and believe, and where so stated I verily believe them to be true.

2. Now produced and marked as Exhibit "A" this my Affidavit is a copy of a letter dated August 2nd, 2014 received from Mary McCarty, registered *MMAR* patient who was covered by the Court ordered injunction of March 21st, 2014 of Mr. Justice Manson, but subsequently had a fire at her home where her production site was also located, but the fire was not caused by her production, but by a clothes dryer. Consequently as a result of the fire she has lost her production site and this has significantly impacted her health and while she has another site as an option she is unable to change the site because the injunction does not permit her to do so. She remains a medically approved patient entitled to reasonable access but cannot afford the Licenced Producer costs and now

produced and marked as Exhibit "B" to this my Affidavit is a letter of August 5th, 2014 from Lubnow Restoration (Patrick Laberge) confirming that the fire was caused by the clothes dryer.

3. Now produced and marked as Exhibit "C" to this my Affidavit is an email of August 7th, 2014 from Michael McNamara that was copied to numerous others and that essentially is contacting the law firm of Conroy & Company seeking representation with respect to the inability one of the Licenced Producers namely Peace Naturals to essentially provide him as a registered patient with reasonable access to the medicine that he required on a timely basis and his complaints are set out specifically in his email, including references to the problems others have experienced.

4. Now produced and marked as Exhibit "D" to this my Affidavit is an email dated August 5, 2014 from Nicholas Wall who is medically approved but who changed his address due to the Health Canada letter that is the subject of the class action lawsuit alleging a privacy breach and he had a designated grower produce for him, but now has discovered that he was not permitted to move and is not covered by the injunction at his new site because he cannot store at his new residence and therefore his designated grower cannot send his medicine to him anymore or until this issue is resolved.

5. Now produced and marked as Exhibit "E" to this my Affidavit is a copy of an email from Travis Lane on behalf of himself and his wife explaining how they have been impacted by the letter that Health Canada sent to all patients in November 2013 that is the subject of a class action law suit for invasion of privacy and how that caused them concern for their safety so they moved but too late to effect an address change under the change in the Regulations. Consequently they are unable to continue to produce for themselves in accordance with their previous licences and have been resorting to a supply from the illicit market and are concerned about quality of the medication. Further the concern is expressed about the 150 gram a day limit due to the nature of their licences and how it prevents them from going away for more than 3 days.

6. Now produced and marked as Exhibit "F" to this my Affidavit is a copy of an email from Chad Parkins that indicates that as a result of the change in the program his

landlord would not renew his lease believing that all permits were expiring. Consequently he is unable to continue to produce without an ability to change his location or obtain a new location. Further he indicates that the 150 gram possession cap causes problems for him given the nature of his authorization and that he works out of town and consequently cannot take enough with him when he is doing that.

7. Now produced and marked as Exhibit "G" to this my Affidavit is an email dated September 10th, 2014 from A. Daniel Muse with respect to his experiences in obtaining his medicine under the *Marihuana for Medical Purposes Regulations (MMPR)* from one of the Licenced Producers. In this case from the Licenced Producer Mettrum. Mr. Muse says that as a result of his inability to obtain an adequate supply from Mettrum he has apparently resorted to a black market source to meet his needs and is concerned as to what will happen if that source's package is intercepted. His complaint is obviously that the *MMPR* system is not providing an ongoing adequate and viable supply for his needs.

8. Now produced and marked as Exhibit "H" to this my Affidavit is a copy of an email from Lorne Russell Barth dated June 6, 2014 as an example of a couple both of whom had permits and had designated growers who shut down before the injunction was obtained and are now unable to renew to produce for themselves or have a new designated grower or to move their site and outlining the different issues that have arisen impacting them under the injunction that caused them various problems.

9. Now produced and marked as Exhibit "I" to this my Affidavit is a copy of pages 30-33 (questions and answers 71-73) of Exhibit "A" of Affidavit #2 of Jeannine Ritchot, Senior Director of Surveillance and Analysis with the Public Health Agency of Canada setting out her answers to questions dated July 25th, 2014 submitted by Plaintiffs in the action and sworn by her on the 13th day of August 2014 and these are some of the questions from that Affidavit relating to the status of existing Licenced Producers under the MMPR as of that time.

10. That I swear this affidavit as my evidence in chief for the plaintiffs in these proceedings to provide the court with a sampling of the types of complaints, problems

and concerns received by this office since the granting of the interlocutory injunction in these proceedings.

SWORN BEFORE ME at the City of Abbotsford, in the Province of British Columbia, this 7th day of January, 2015

A Commissioner for Taking Affidavits in and for the Province of British Columbia

DANIELLE LUKIV

John W. Conroy, Q.C.
Barrister & Solicitor
2459 Pauline Street
Abbotsford, BC V2S 3S1
Telephone: (604) 852-5110
Facsimile: (604) 859-3361

Travis Lane
IP: 24.69.216.187

This is Exhibit "E" referred to in the affidavit of Danielle Lukiv sworn before me at Abbotsford BC this 7th day of Jan 20 15

A commissioner for taking affidavits for British Columbia

First Name: Travis
Last Name: Lane
Address: [redacted]
City: [redacted]
Province: BC
Postal Code: [redacted]
Phone: [redacted]
E-mail: [redacted]
MMAR Permit Number: APPL-TML-04-L21901502-79-13-A

Statement:
To whom it may concern,

Both myself and my wife have been affected by the injunction\'s lack of coverage for address change, and the reduction of our carry limits.

We were renting a space from a fellow MMAR patient when the letters that contained the breach of privacy were sent by health Canada. There were at least five separate letters sent to the property with \'Medical Marijuana\' obviously stated on the outside.

Concerned for our safety, we decided to move. We sent in a change of address request by registered mail in late March, but we got the paperwork back from Health Canada unopened.

As of now, we are unable to grow our own meds, which has created a great financial burden. We can produce for about $1 a gram or less. We use a living soil/organic method that requires no fertilizer or pesticides, which greatly reduces our costs and increases the final quality of the medicine. As of now, we are forced to pay $5-$10 per gram for our meds, and we have no idea what they might be fed or sprayed with.

As for the carry limits, we are each licensed for 80 grams per day. We don\'t always consume that much, but we are unable to legally carry more than 3 days worth of meds at a time. Any trip out of town requires that we lower our consumption in order to make it last.

In all, we are both happy that the court has seen it necessary to address the issues created by demolishing the previous, functional system. The injunction has addressed the concerns of many, but it seems that we have fallen through the cracks. Our hope is that the court will understand that the security breach caused by Health Canada was created a dangerous environment for us, so a move was necessary. This should, in our opinion, be addressed by the courts.

Thank you,

Travis Lane

I am aware that I am giving my information to the coalition via John Conroy's Office for this legal matter:
YES

Signature:

Travis
Lane

Date:
M: 06
D: 30
Y: 2014

This is Exhibit "K" mentioned and
referred to in the affidavit of

Asvini Krishnamoorthy

Sworn *(or affirmed)* before me
this 13TH day of DECEMBER 2018

A Commissioner for taking affidavits
(*or as the case may be*)

This is the 4th affidavit of Jeannine Ritchot
of Ottawa, Ontario, in this case and was
made on January 15, 2015

Court File No: T-2030-13

Federal Court

Between

NEIL ALLARD
TANYA BEEMISH
DAVID HEBERT
SHAWN DAVEY

Plaintiffs

and

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Defendant

AFFIDAVIT # 4 OF JEANNINE RITCHOT

I, Jeannine Ritchot, a public servant, residing in the City of Ottawa, in the Province of Ontario, AFFIRM THAT:

1. I am an employee of the Public Health Agency of Canada, currently working as the Senior Director of the Surveillance and Analysis Division in the Centre for Chronic Disease Prevention. At the time relevant to this affidavit, however, I was working as the Director, Medical Marihuana Regulatory Reform (2011-2013) and as Director, Bureau of Medical Cannabis (2010-2011), Office of Controlled Substances, Controlled Substances and Tobacco Directorate

(CSTD), Health Canada. The CSTD is part of the Healthy Environments and Consumer Safety (HECS) Branch of Health Canada. Prior to this position, I was Executive Advisor to the Deputy Secretary to Cabinet (Operations) at the Privy Council Office.

2. As Director of the Bureau of Medical Cannabis, my responsibilities included oversight activities related to the administration of the *Marihuana Medical Access Regulations* (MMAR). This included oversight of employees, resources and operational activities related to operations carried out pursuant to the MMAR.

3. As Director of Medical Marihuana Regulatory Reform, my responsibilities included policy development related to the reform of the MMAR and development of the *Marihuana for Medical Purposes Regulations* (MMPR). As such, I am able to speak to the facts set out in this my affidavit. Where any of the following information is based on information and belief, I state the source of the information, and that I believe the information to be true.

4. Marijuana meets the definition of a drug under the *Food and Drugs Act* (FDA). Cannabis, commonly referred to as marijuana, is also a psychoactive substance listed at Schedule II of the *Controlled Drugs and Substances Act* (CDSA). Three products containing cannabinoids have been authorized for therapeutic use in Canada, under the FDA and the *Food and Drug Regulations* (FDR). Sativex® is a buccal spray containing extracts of cannabis with standardized concentrations of tetrahydocannabinol (THC) and cannabidiol (CBD). It is authorized to treat certain symptoms associated with multiple sclerosis. It is also conditionally approved for pain relief in adults with advanced cancer, in limited circumstances. Cesamet® is a capsule containing nabilone, a synthetic cannabinoid. It is authorized for nausea and vomiting associated with cancer therapy. Marinol® is a capsule containing synthetic THC. It was authorized for AIDS-related anorexia and nausea and vomiting due to cancer chemotherapy, but has been discontinued from the Canadian market by the manufacturer.

5. Marijuana is not now, nor has it ever been approved as a therapeutic product under the FDA/FDR. Its efficacy and safety have not been sufficiently demonstrated. Further, no sponsor has made a new Drug submission to Health Canada seeking a Drug Identification Number or a Notice of Compliance for manufacture, sale or distribution of dried marijuana in Canada under the FDA/FDR.

6. Courts have determined, however, that government has a constitutional obligation to provide individuals with reasonable access to marijuana for medical purposes when their medical practitioner indicates it is required.

7. Therefore, it was necessary to create a means by which access to dried marijuana could be provided outside of the generally applicable drug legislative and regulatory regime, given that dried marijuana had not been approved for therapeutic use in Canada.

8. Access to marijuana for medical purposes is provided through the MMPR promulgated under the CDSA.

9. The MMPR have replaced the now-repealed MMAR as the means by which Canadians, with the support of a medical practitioner, may access dried marijuana for medical purposes. The regulations provide for access to dried marijuana only. Individuals who are authorized to possess dried marijuana for medical purposes may consume their dried marijuana in whatever fashion they wish provided they do not use their dried marijuana to produce another controlled substance.

HISTORY OF ACCESS TO MARIJUANA FOR MEDICAL PURPOSES: MARIHUANA MEDICAL ACCESS REGULATIONS (MMAR)

10. Canadians have accessed dried marijuana for medical purposes since 1999, at which time individuals could be authorized to possess dried marijuana and/or

to produce a limited number of marijuana plants for medical purposes *via* section 56 of the CDSA. Section 56 allows the Minister to exempt any person or class of persons from the application of the CDSA or its regulations, if necessary for a medical or scientific purpose or if it is otherwise in the public interest.

11. The Ontario Court of Appeal's July 31, 2000 decision in *R. v. Parker* changed that approach. In response to that decision, which stated in part that the section 56 exemption under the CDSA did not provide a well-defined, transparent means to access marijuana for medical purposes given its discretionary nature, the Government promulgated the MMAR in 2001. The MMAR were created to provide access to dried marijuana for medical purposes in a more regulated environment, rather than *via* a discretionary decision to exempt an individual or class of persons from the application of the CDSA under s. 56.

12. Over the years, the Regulations have been amended on numerous occasions. The Regulatory Impact Assessment Statements (RIAS) associated with these changes explain the MMAR regulatory history and they are appended at **Exhibit "A"**.

13. In responding to the *Parker* decision, and in the years following, Canada, in the face of a lack of evidence-based efficacy and safety information related to the use of this unapproved, psychoactive substance, strove to strike a balance between providing authorized persons with reasonable access to dried marijuana for medical purposes, while attempting to protect individual and public health and safety, to respect existing federal legislation, and to attend to obligations under United Nations Drug conventions.

14. The MMAR were created to authorize activities related to marijuana that would otherwise have been illegal, specifically, to provide seriously ill individuals whose medical practitioner supported the use of marijuana for medical purposes to obtain access to such marijuana.

15. Upon application, the MMAR provided that an authorization to possess (ATP) marijuana for medical purposes could be issued to persons ordinarily resident in Canada who, with the advice and support of their medical practitioner(s), demonstrated medical need.

16. A license to produce marijuana was issued either to the authorized person, as a Personal-Use Production License (PUPL), or to a person designated by the authorized person to produce marijuana on his or her behalf, as a Designated-Person Production License (DPPL). The license allowed the holder of the license to, among other things, produce marijuana in quantities up to a specified maximum, which was determined using a formula based on the daily amount supported by the authorized person's medical practitioner.

17. The MMAR, as promulgated in 2001, did not authorize the sale or distribution of marijuana. Instead, the MMAR established a framework, overseen by Health Canada, for allowing people suffering from serious illnesses to possess and to produce marijuana for medical purposes, or to have someone produce it for them, where:

    a. conventional treatments were inappropriate, or ineffective in providing relief of the symptoms related to the medical condition, or treatment of the medical condition of the authorized person; and

    b. the use of marijuana was expected to have medical benefits that would outweigh the risks of its use.

THE PLAINTIFFS' HISTORY WITH THE MARIHUANA MEDICAL ACCESS PROGRAM

Neil Victor Allard

18. Neil Victor Allard has held an ATP and a PUPL since 2004; his applications, ATPs and PUPLs as well as his correspondence and related communications

with Health Canada were retrieved after a diligent and thorough search of the Health Canada database by Christina MacInnis, Litigation Support Officer, Litigation Support Office, Health Canada on December 10 and 11, 2013 and December 12, 2014. The documents are attached at **Exhibit "B"**.

19. By way of summary, Mr. Allard's first application under the MMAR was in 2004. In this first application to the program for authorization to possess and a license to produce marijuana for medical purposes, Mr. Allard advised Health Canada in a May 7, 2004 letter that "I am making this application very reluctantly and under Objection. I, and many other Canadians, believe that this process continues to be a Violation of our Civil Rights under the Canadian Charter of Rights and Freedoms....I want to go On Record that I totally disagree with this useless Government application process. It is a violation of my rights and I am applying only to be free from the ramifications of legal persecution."[as written]

20. In May 2004, Mr. Allard's daily dosage was 5 grams per day, and based on the formula set out in the regulations, he was authorized to possess 150 grams (0.33 pound dried marijuana) of marijuana at one time, and to produce 19 plants indoors and 5 plants outdoors. He was authorized to store an additional 1875 grams (4.13 pounds) of dried marijuana.

21. In 2005, Mr. Allard received an ATP authorizing him to possess 150 grams of dried marijuana, based on his daily dosage of 5 grams; he was licensed to grow 25 plants indoors; and he was authorized to store an additional 1125 grams (2.48 pounds) of dried marijuana.

22. In 2006, Mr. Allard's daily dosage doubled from 5 to 10 grams daily; he applied for and was issued an ATP authorizing him to possess 300 grams (0.66 pound) of dried marijuana at one time and was licensed to grow 37 plants indoors and 10 plants outdoors, and to store an additional 3750 grams (approximately 8 pounds 2.7 ounces) of dried marijuana in his home.

23. In 2007, 2008, 2009, 2010, 2011 and 2012, Mr. Allard applied for and received an ATP and a PUPL, which authorized him to possess 300 grams (0.66 pound) of dried marijuana and licensed him to grow 37 plants indoors and 10 plants outdoors; these amounts were calculated based on his continued daily dosage of 10 grams per day and the formula set out in the regulations. He was also authorized to store an additional 3750 grams (approximately 8 pounds 2.7 ounces) of dried marijuana in his home.

24. In 2012, three months after his ATP and PUPL were issued, an amended ATP and PUPL were issued to reflect that Mr. Allard's daily dosage again doubled from 10 g to 20 g per day. As a result he was authorized to possess at any time 600 grams of dried marijuana (approximately 1.32 pounds) at any time, and licensed to produce 98 plants indoors; he was also able to store an additional 4410 grams of dried marijuana (approximately 9.72 pounds of dried marijuana) at his home. Mr. Allard's subsequent applications for ATPs and PUPLs under the MMAR were issued in the same amounts and remain valid on these terms under the Allard injunction order.

Mr. Sean Robert Davey

25. Mr. Davey's complete record of applications, ATPs, PUPLs and related DPPLs as well as any correspondence and related communications with Health Canada were retrieved after a diligent and thorough search of the Health Canada database by Christina MacInnis, Litigation Support Officer, Litigation Support Office, Health Canada, on December 12, 2013 and December 12, 2014. The documents are attached at **Exhibit "C"**.

26. Mr. Davey first sought an ATP and because he planned to have another person grow for him, a DPPL for that designate under the MMAR in December 2009. At that time, Health Canada was experiencing high volumes of applications and contacted Mr. Davey on more than one occasion to indicate there could be a delay in processing his application. He was issued an ATP on July 16, 2010, permitting him to possess 300 grams of marijuana (0.66 pound) at any one

time, based on his daily dosage of 10 grams. His Designated Producer (DP) was also issued a DPPL on July 16, 2010 permitting him to grow 49 plants at one time, indoors, and to store 2205 grams (4.86 pounds) of dried marijuana.

27. In 2011, Mr. Davey again applied for and on July 19, 2011, was issued an ATP, but indicated he no longer wished to use his DP. He applied for a PUPL under the MMAR. His dosage was increased from the previous year by 2 grams a day to 12 grams per day. As a result, according to the formula set out in the MMAR, he was authorized to possess at any time 360 grams of dried marijuana (approximately 79 pounds) at any time, and licensed to produce 59 plants indoors; he was also able to store an additional 2655 grams of dried marijuana (approximately 5.85 pounds).

28. In July 2012, Mr. Davey again applied for and was issued an ATP and PUPL based on an increased daily dosage of 14 grams per day. Again using the formula under the MMAR, he was authorized to possess at any time 420 grams of dried marijuana (approximately 0.925 pounds) at any time, and licensed to produce 69 plants indoors; he was also able to store an additional 3105 grams of dried marijuana (approximately 6.85 pounds).

29. In October 2012, Health Canada received notice that Mr. Davey wishes to change the location of his production site.

30. Mr. Davey was issued a new PUPL dated November 1, 2012, allowing him to grow 69 plants indoors at his new residence and to store 3105 grams of dried marijuana. His ATP was also reissued to show his new address, and allowing him to continue to possess 420 grams of dried marijuana (approximately 0.925 pounds).

31. But on December 7, 2012, Health Canada received another application from Mr. Davey; he sought to switch from using a PUPL, which he had been issued the month before, to using a DP.

32. On February 18, 2013, Mr. Davey wrote to Health Canada returning the ATP and PUPL, issued November 1, 2012, he asked that they be revoked. Mr. Davey explained in his letter that "In regards to section 65(2), due to the startup costs involved, I never started production at my home address once my license change to state it as my production site; therefore I do not have any marihuana to destroy." At that time, Mr. Davey sought and was issued on February 18, 2013, a new ATP authorizing him to possess 420 grams of dried marijuana at any one time; the expiry date was July 19, 2013. Also on February 18, 2013, a DPPL was issued to allow a new individual to grow for Mr. Davey. The DP was permitted to grow 69 plants indoors for Mr. Davey's use and to store 3105 grams of dried marijuana at her residence. The expiry date was July 19, 2013.

33. On September 12, 2013, Health Canada received an application for an ATP for a daily dosage of 25 grams of marijuana. Mr. Davey indicated he wished to inhale and consume his marijuana orally, and in baking, cooking and tea. He sought a PUPL, indicating he was planning to produce his marijuana at his ordinary place of residence. He sought to obtain starting seeds from Health Canada. Mr. Davey provided the consent of the owner of the property where he was residing. Mr. Davey's PUPL allowed him to produce 122 plants indoors and to store 5490 grams (12 pounds) of dried marijuana at his home. Mr. Davey's ATP and PUPL were issued on the September 26, 2013. He was authorized to possess, in addition to the amounts stored, 750 grams (1.65 pounds) of dried marijuana at any one time.

34. Brian Alexander, an associate of Mr. Davey, has been presented by the Plaintiffs as an individual with information relevant to this matter. Mr. Alexander's complete record of applications, ATP and PUPL, as well as any correspondence and related communications with Health Canada were retrieved after a diligent and thorough search of the Health Canada database by Christina MacInnis, Litigation Support Officer, Litigation Support Office,

Health Canada, on January 14, 2015. The documents are attached at **Exhibit "D"**.

35. Mr. Alexander and Mr. Davey shared a production site from September 26, 2013 to December 18, 2013.

36. Mr. Alexander's ATP and PUPL were issued on December18, 2012, and based on his daily dosage of 30 grams, authorized him to produce 146 plants indoors, and to store 6570 grams (14.48 pounds) of dried marijuana, and to possess 900 grams (1.98 pounds) of dried marijuana at any one time, in addition to the 14.48 pounds in storage.

Tanya Louise Beemish & David Wesley Hebert

37. Ms. Beemish's and Mr. Hebert's complete record of applications, ATPs, PUPLs and related DPPLs as well as any correspondence and related communications with Health Canada were retrieved after a diligent and thorough search of the Health Canada database by Christina MacInnis, Litigation Support Officer, Litigation Support Office, HC Health Canada, on December 12, 2013 and December 12, 2014. The documents are attached at **Exhibit "E"**.

38. On December 3, 2012, Health Canada received Ms. Beemish's application for an ATP for herself and a DPPL for her husband, David Hebert. Ms. Beemish's daily dosage was 3 grams per day, and according to the formula set out in the MMAR, she was authorized by way of ATP issued January 4, 2013 to possess 150 grams (0.33 pound) of dried marijuana at any time. The DPPL issued to Mr. Hebert licensed him to grow 25 plants indoors at their home, in accordance with the formula set out in the MMAR, and to store an additional 1125 grams of dried marijuana (2.48 pounds) at their residence. The expiry dates for both the ATP and the DPPL were January 4, 2014.

MMAR: UNINTENDED CONSEQUENCES

39. From their inception in 2001, and throughout the many amendments made to them, the MMAR attempted to:

- strike a balance between providing legal access to dried marijuana for medical purposes, as required by the courts, with managing access to a controlled substance and unapproved drug, about which there is limited available benefit and risk information, combined with known risk for diversion to the black market;
- respect existing federal legislation, including the FDA and CDSA, as well as Canada's international obligations under the United Nations Drug Conventions; and,
- protect the individual and public health, safety, and security of all Canadians.

40. In the end, as will be explained below, the goals of the MMAR, which were based on the premise of providing reasonable access to marijuana for medical purposes to a small group of seriously ill Canadians, were seriously compromised by the rapid expansion of the number of individuals authorized to possess and to produce increasingly large amounts of marijuana, most of which was grown in dwelling houses that were not constructed to support such large scale production, and in residential areas. This rapid growth led to a series of unintended negative consequences, namely nuisance in communities related to noxious odors, unwanted traffic, lights, noise and the like, challenges for police, hazards for fire officials and communities, and generally negative impacts on public health, safety and security of Canadians, not to mention administrative and financial burden to government and cost to taxpayers.

Exponential Growth

41. I am advised by Kaylene Funk, Senior Policy Analyst at Health Canada, and verily believe, that in 2002, 455 individuals were authorized to possess marijuana for medical purposes and that as of December 31, 2013, this had

grown to 37,151 individuals. At this rate of growth, it was estimated that by the end of 2014, over 50, 000 individuals would have been authorized to possess marijuana for medical purposes under the MMAR, which would in turn increase impacts on communities and opportunities for diversion, as well as make administrative costs unsustainable.

42. Of the 37,884 Program participants on January 8, 2014, I am advised by Angela Rea, Senior Policy Analyst at Health Canada, and believe that approximately 22% indicate they will access Health Canada's supply of dried marijuana, 66% produce their own marijuana for medical purposes under a personal use production license, and 12% designate another person to produce their marijuana for medical purposes. Many of the authorized users who indicated in their applications to Health Canada that they intended to buy dried marijuana from Health Canada ultimately did not. Health Canada does not have access to information regarding where these authorized individuals obtain their supply of marijuana for medical purposes.

43. Despite the fact that few program participants actually purchased their dried marijuana from Health Canada, the department was obliged to maintain a contract for the production and distribution of dried marijuana. As of July 31, 2014, 896 individual accounts for dried marijuana were in arrears to Health Canada in the total amount of $1,448,219.67. One individual owed $37,764.24; three others owed between $10,000 and $20,000; 57 owed between $5,000 and $10,000; 340 owed between $1,000 and $5,000; and 495 individuals owed between $2.00 and $1,000.

44. The Cost-Benefit Analysis of Regulatory Changes for Access to Marihuana for Medical Purposes Report (CBA), prepared as part of the regulatory reform process and attached at **Exhibit "F"** to my affidavit, states that the number of participants in the Marihuana Medical Access Program (MMAP) has grown exponentially over the past ten years, with 40% year on year growth from 2003 to 2010, and then 60% from 2010 to 2011.

45. The RIAS prepared for publication with the MMPR stated that in a status quo scenario under the MMAR, and based on historical patterns of use under that regime, the CBA estimated that a 40% per annum increase in numbers of users would continue to 2024, increasing the number of persons using marijuana for medical purposes to about 433,688 in 2024.

46. Prior to the repeal of MMAR on March 31, 2014, MMAP responsibilities included processing applications and issuing licenses, providing a client services function to field calls from participants and to respond to the police hotline, as well as managing the marijuana production and distribution contract and accepting orders submitted by participants who used this method of accessing dried marijuana, as well as attempting to collect accounts receivable.

47. As part of these responsibilities, MMAP maintained a record keeping system to track information related to the program. The record keeping system consisted of paper files and an electronic database, the Safe Access to Medical Marihuana ("SAMM"). The SAMM database was updated with pertinent information kept in the paper files and included application information and the actual authorizations to possess and licenses to produce marijuana for medical purposes provided by Health Canada, pursuant to the MMAR.

48. The original version of SAMM, the Health Canada database, SAMM I, did not have report generating capabilities. An updated version of SAMM, SAMM II, was established in 2012. The SAMM II database was also used to keep a record of incoming and outbound correspondence and call logs that were generated in the course of these activities, as well as notes made by Health Canada employees in respect of the activities related to the file activity, called "correspondence notes". At this time, the information in SAMM I was migrated to SAMM II. SAMM II has limited report generating capabilities. Due to these limitations and the possibility of human error in the data migration from SAMM I to SAMM II, there may be some minor variance between the information provided in the tables below and previously published

information. Information provided in the past would have been accurate at the time of extraction, as it was done at a specific point-in-time. However, some fields in SAMM II maintain only current information. For example, if there is a change in the daily grams during the year only the last amount would be included in an extract of the data.

49. I am informed by Kaylene Funk, Senior Policy Analyst, Health Canada, and verily believe, that on November 13, 2014, she conducted a thorough and diligent search of the data held by the MMAP, which yielded the following information about the number authorizations to possess (ATP) issued under the MMAR.

Number of Authorizations to Possess (ATP) Issued under the MMAR	
December 31, 2001	89
December 31, 2002	455
December 31, 2003	624
December 31, 2004	743
December 31, 2005	1230
December 31, 2006	1673
December 31, 2007	2398
December 31, 2008	3299
December 31, 2009	4860
December 31, 2010	7587
December 31, 2011	12063
December 31, 2012	26382
December 31, 2013	37151

50. I am informed by Kaylene Funk, Senior Policy Analyst, Health Canada, and verily believe, that on November 13, 2014, she conducted a thorough and diligent search of the data held by the MMAP, which yielded the following information about the number production licenses (both personal-use and designated-person) issued under the MMAR.

Number of Production Licenses Issued under the MMAR	
December 31, 2001	83
December 31, 2002	326
December 31, 2003	482
December 31, 2004	546
December 31, 2005	933
December 31, 2006	1230

December 31, 2007	1740
December 31, 2008	2475
December 31, 2009	3603
December 31, 2010	5395
December 31, 2011	8888
December 31, 2012	19808
December 31, 2013	28228

51. I am informed by Kaylene Funk, Senior Policy Analyst, Health Canada, and verily believe, that on January 8, 2015, she conducted a thorough and diligent search of the data held by the MMAP, which yielded the following information about the number production licenses (both personal-use and designated-person) issued under the MMAR sorted by province, as of December 31, 2013.

Production Licenses By Province (Extracted January 8, 2014 For December 31, 2013)			
	PUPL	**DPPL**	**Total PL**
Alberta	1200	128	1328
British Columbia	13734	2276	16010
Manitoba	636	99	735
New Brunswick	560	49	609
Newfoundland and Labrador	68	8	76
Northwest Territories	6	1	7
Nova Scotia	1278	165	1443
Nunavut	0	0	0
Ontario	6406	916	7322
Prince Edward Island	25	2	27
Quebec	698	193	891
Saskatchewan	368	55	423
Yukon	11	4	15

52. I am informed by Kaylene Funk, Senior Policy Analyst, Health Canada, and verily believe, that on November 13, 2014, she conducted a thorough and diligent search of the data held by the MMAP, which yielded the following information about the number of plants authorized for production indoors and outdoors (based on the authorized daily amounts) under the MMAR.

Number of plants authorized for production indoors and outdoors under the MMAR (based on the authorized daily amounts)				
	2001		2014	
Province	Indoor Plants	Outdoor Plants	Indoor Plants	Outdoor Plants
AB	238	13	122797	695
BC	252	19	1666502	15327
MB	43	2	68420	410
NB	34	5	14126	1034
NL	45	12	2337	50
NS	96	12	30542	1693
NT	0	0	159	3
ON	568	40	429022	12856
PE	0	0	535	73
QC	122	15	70383	908
SK	44	5	16653	287
YT	0	0	735	19
Grand Total	**1442**	**123**	**2422211**	**33355**

53. I am informed by Kaylene Funk, Senior Policy Analyst, Health Canada, and verily believe, that on December 8, 2014, she conducted a thorough and diligent search of the data held by the MMAP, which yielded the following information about the daily grams amount for those individuals issued an ATP under the MMAR.

Daily Grams Amount for Those Individuals Issued an ATP Under the MMAR															
	Year														
Grams	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	TOTAL
Blank	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
0 - 2 9	17	129	103	90	173	229	360	476	694	1016	1327	2294	2526	366	9800
3 0 - 4 9	23	101	139	141	210	283	493	920	1608	2649	3819	6835	7209	773	25203
5 0 - 9 9	48	215	369	482	745	988	1331	1592	1992	2725	3835	6244	6362	536	27464
10 0 - 14.9	0	7	7	22	77	135	155	205	334	672	1640	4032	4105	316	11707
15 0 - 19 9	1	2	4	6	19	24	33	46	97	213	529	1943	2565	156	5638
20 0 - 29 9	0	0	1	1	6	12	23	49	90	209	634	2857	4609	269	8760
30 0 - 39 9	0	0	1	1	0	1	3	5	20	56	156	1595	5052	226	7116
40 0 - 49.9	0	0	0	0	0	0	0	4	19	35	82	425	2605	136	3306
50.0 - 59.9	0	0	0	0	0	1	1	2	4	7	17	48	662	24	766
60.0 - 69.9	0	0	0	0	0	0	0	0	1	3	12	52	597	30	695
70 0 - 79 9	0	0	0	0	0	0	0	0	1	2	3	13	124	7	150
80 0 - 89 9	0	0	0	0	0	0	0	0	0	0	1	15	201	9	226

901 - 999	0	0	0	0	0	0	0	0	0	0	1	5	101	3	110
1000 - 1499	0	0	0	0	0	0	0	0	0	0	6	19	264	10	299
1500 - 1999	0	0	0	0	0	0	0	0	0	0	1	4	65	4	74
2000 - 2499	0	0	0	0	0	0	0	0	0	0	0	1	102	10	113
2500 - 2999	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1
300+	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1

54. I am advised by Kaylene Funk, and believe, that the **average** daily amount (i.e. "dosage") has increased to a level of almost 18.22 g per day, as of December 31, 2013. A person authorized to use 18.22 grams of dried marijuana per day would, under a personal production license and the formula set out in the MMAR, be licensed to grow 89 plants indoors. The Information for Health Care Professionals, attached at **Exhibit "G"**, indicates at page 25 that a "typical joint" contains between 0.5 and 1.0 grams of cannabis plant matter, with this as a guide, an individual would have to consume 18 to 37 joints each and every day to use this amount of dried marijuana.

55. On January 26, 2012, the Terms of Reference for the Expert Advisory Committee on Information fort Physicians on Marihuana for Medical Purposes (EAC) were approved. The EAC was comprised of internationally recognized experts on marijuana for medical purposes, was mandated to provide advice and recommendations to Health Canada on the current information on marijuana for medical purposes and any additional information/education materials that might be of help so that physicians could be better informed of the current science on marijuana for medical purposes and thus better support their discussions with patients. A copy of the Terms of Reference is attached at **Exhibit "H"**. The resulting document is the Health Canada drafted document 'Information for Health Care Professionals" (attached as Exhibit "G"). At page 24, this document states that "Various surveys published in peer reviewed literature have suggested that the majority of people using smoked or orally ingested cannabis for medical reasons reported using between 10-20 g of cannabis per week or approximately 1-3 g of cannabis per day".

56. Individuals who purchase their dried marijuana from Health Canada have on average purchased between 1-3 grams per day, which is in line with daily dosages set out in the most current scientific literature referenced "Information for Health Care Professionals" (attached as Exhibit "G").

57. An RCMP document entitled "Analysis of National Cases Related to the Marihuana Medical Access Regulations" produced by the Royal Canadian Mounted Police on behalf of the Canadian Association of Chiefs of Police, FOR SUBMISSION TO THE Minister of Health in 2010 states at page 14 that "on average, 1 gram of marihuana produces 3-5 joints". A daily average of almost 18 grams translates into 54-90 joints or marijuana cigarettes each and every day. This RCMP document is attached at **Exhibit "I"**.

58. Program participants who either produce their own dried marijuana or who have designated producers produce for them generally have the highest daily amounts, or daily dosages. Approximately 70% of those licensed under the MMAR to produce marijuana for medical purposes are authorized to cultivate 25 plants or more.

59. Court decisions have resulted in the MMAR being amended to allow authorization of up to four production licenses to operate in the same location. The average daily dosage of 18.22 grams per day (as of December 31, 2013, as set out at paragraph 50 above), could result in an average of 356 plants being grown in a single dwelling by up to four producers (Note: Could be 2 producers with their maximum of 2 licenses each). Under the MMAR, because the regulations did not constrain daily dosages that could be authorized by a medical practitioner, there was no cap on the amount an individual could be authorized to possess, and the numbers of plants that an individual could be licensed to produce was based on a formula based on daily dosage. One dwelling could contain as many plants as the licenses to produce provided and presumably, that the physical space could accommodate.

60. The significant increase in the number of licenses issued, combined with the co-location of up to four licenses to grow marijuana on one site and the authority to possess and to produce increasingly high amounts of marijuana for medical purposes, resulted in large quantities of marijuana being produced in private dwellings not constructed for large-scale horticultural production. Furthermore, as the MMAR did not contain any provisions requiring licensed producers to disclose the address of their production sites, these locations were unknown by local law enforcement and fire authorities. This has resulted in challenges not only for the administration of the MMAR, but more importantly, in risks for the health, safety and security of individuals licensed to produce marijuana for medical purposes and for the public in general.

61. Because the MMAR were never intended to permit such widespread, large-scale marijuana production, they did not adequately address the public health, safety and security concerns that accompany such production.

62. These situations generated complaints to the Minister of Health and to the Program from municipal officials, fire officials, law enforcement, and neighbours. Attached at **Exhibit "J"** are examples of unsolicited correspondence received by Health Canada and the Program outlining community safety, security and quality of life impacts of the MMAR, with personal information redacted for *Privacy Act* purposes.

63. While it is not possible to reproduce salient comments from all of the thousands of pieces of unsolicited correspondence that have been received over the years, I have attempted to capture some of the primary concerns expressed to Health Canada by municipalities and first responders, homeowners, and program participants. Each of the excerpts cited below is representative of the concerns expressed by these stakeholders and have been chosen because they encapsulate the issues raised by these stakeholders.

64. Generally, the unsolicited MMAR feedback set out below speaks to a number of the unanticipated problems with the MMAR's personal production regime, including, but not limited to:

- violence, including home invasion, theft and homicide;
- the presence of firearms;
- diversion to the illicit market;
- producing over the limit authorized by Health Canada;
- mould associated with the presence of excess moisture in the homes;
- fire and electrical hazards;
- the presence of toxic chemicals, like pesticides and fertilizers;
- the emission of noxious odours and; and
- various risks to children living in or near the residential growing operations.

Unsolicited MMAR Feedback from Municipalities & First Responders

65. Municipalities have raised serious public health and safety concerns regarding production of marijuana in private dwellings. Under the MMAR, applicants are not required to disclose their intent to produce to local authorities. Most often, these production sites are in private dwellings that are not constructed for large-scale horticultural production.

66. In an April 1, 2011 letter to Health Canada, a BC Municipal Fire Chief advised that "the ... Safety teams has discovered 15 Medicinal Grow Ops (MMARs) to date and inspected 13 in the past three years. Violations of municipal regulations were found at all sites as well as numerous violations of the provincial electrical code, building code, and fire code. Most of the sites required immediate electrical system remediation."

67. In a December 28, 2012 letter to the Minister of Health, the Mayor of another B.C. municipality wrote: "The extensive lack of regard and abuse of the regulations [MMAR] makes a mockery of the federal government's process but more importantly presents a safety risk to neighbouring residents and

businesses as well as emergency response officials and is causing untold frustration and harm to our community. The District recognizes the validity of the use of medical marijuana in certain circumstances but certainly not with the associated risks that are present in our community today as a result of the complete disregard for the federal regulations and local and provincial building and electrical safety regulations. I do recognize that the proposed regulations will, to a large degree, address the District's concerns, but these concerns will remain for at least another year."

68. Another municipality in BC advised Health Canada that: "research has shown that the incidence of fire in a "Grow Op" is 24 times more likely than a normal home.... From a public safety perspective, the potential risks in a licenced "Grow Op" are similar to that of an unlicenced one."

69. An Ontario municipal fire authority wrote Health Canada to express public safety concerns "that have been identified with the approval and issuance of licences to produce marijuana through the Marihuana Medical Access Division of Health Canada." The fire authority commented that when called upon to inspect one home occupied by a family with two young children, they found: "A number of violations of the Ontario Fire Code, Electrical Safety Code and Ontario Building Code...The inspection also revealed evidence of the incipient stages of a fire with the discolouration and charring of the floor where the ballasts used in the production of the marijuana plants were placed. The combination of Fire Code violations and the manner in which the grow operation was constructed resulted in a situation where the health and safety of the family as well as emergency responders, were placed at unnecessary risk of injury or even death".

70. Another letter from an administrative officer in a BC district requested "help with what is becoming a growing issue in one of my neighbourhoods. The residence in question is at ----- and is rented by Mr. ----- who contends he has a legal permit to grow marijuana. This home is right in the middle of a young

neighbourhood and the smell is unbearable for two of the neighbours. One of the neighbours operates a licenced day care facility...we are unsure of the [grow op's] electrical status under the code... The neighbours have approached Mr. ----- in regard to the smell and the number of cars going in and out at all hours but he is pretty defiant and always says he has a permit. Anything you could do to help the District alleviate this problem would be helpful".

71. A larger BC community wrote stating "While the City of ------ understands the intention behind the adoption of the MMAR, this legislation has regrettably resulted in some adverse consequences for municipalities in Canada. More specifically, we believe that our community is now at greater risk of fires from medical marijuana production sites. Further it is clear that both illegal and legal marijuana production facilities have the potential to attract crime, including violent crime...We certainly support the Federal Government's plan to revise the program to limit the potential for abuse and to mitigate the negative ancillary consequences associated with same."

72. And this letter from another BC District not only indicates that "the demands for electricity from exceedingly large marijuana grow operations, some licenced and some not, have caused power outages that have left these legitimate businesses without the ability to function and meet their customers' orders." , but goes on to comment that "The extensive lack of regard and abuse of the [Marihuana Medical Access] Regulations makes a mockery of the federal government's process but more importantly presents a safety risk to neighbouring residents and businesses as well as emergency response officials and is causing untold frustration and harm to our communities."

73. The assistant fire chief of an Ontario city wrote to Health Canada in 2008, indicating that it had been requested to assess the safety of a building following the discovery of a marijuana grow operation in the 3 storey building occupied by a family with two young children. The third storey was converted to allow the production of marijuana and a number of Ontario Fire Code, Electrical

Safety Code and Ontario Building Code violations were identified. "The inspection also revealed evidence of incipient stages of a fire with the discoloration and charring of the floor where the ballasts used in the production of the marijuana plants were placed. The combination of Fire Code violations and the manner in which the grow operation was constructed resulted in a situation where the health and safety of the family as well as emergency responders, were placed at an unnecessary risk of injury or even death."

74. Municipalities writing to Health Canada express frustration around the information sharing constraints that apply to licensed marijuana production locations. One letter stated "... having law enforcement fully apprised of the location of the medical marijuana production facilities would assist in crime prevention and promote community safety, including the safety of those individuals who have been granted licences under the MMAR". The MMAR provide for certain information sharing with police in the course of an active investigation.

75. Law enforcement has also raised concerns that residential production activities leave the Program vulnerable to abuse, including criminal involvement and diversion to the illicit market, particularly given the attractive street value of marijuana ($10–$15/gram for dried marijuana) and that production in homes may leave residents and their neighbours vulnerable to violent home invasion by criminals who become aware that valuable marijuana plants are being produced and stored in the home (see RIAS at Exhibit "A").

76. One Ontario police service wrote: "We have found that some of the permit holders have drug trafficking convictions on their records or some of the growing activity has been outsourced to people who have been involved previously in illegal drug activities. Although permit holders are supposed to protect the security of their plants, some plants can and do disappear to trafficking activities and the theft cannot be proven or disproven. Some of the

quantities legal growers are allowed to possess in storage strikes us as particularly large numbers... [which] allows for many ways of drug trafficking under the veil of a legal operation... Although the regulations cause us concern the issue for the -----Police Services Board is that Law enforcement cannot determine on a pro forma basis whether a "grow operation" is legal or not and we would like a list of "legal" producers and "legal users" in our county from your Ministry on an ongoing basis. We have reasonable grounds to believe that some legal producers are growing for illicit drug trade."

77. Firefighters have raised similar concerns around the inability to identify locations of licensed marijuana grow locations, which negatively impacts "...safety for the fire fighters and fire prevention and being aware of a potentially dangerous or health hazardous situation."

78. Another Ontario fire service wrote that, "recently a fire occurred in a building that had obtained a licence pursuant to section 29 of the Marihuana Medical Access Regulations in the City of -----. The location that was damaged by fire had been licenced by your office and signed by Stéphane Lessard." The ---- Fire and Emergency Services Department was not aware of the legal grow op. We have significant concerns with not knowing the locations and risks that emergency responders and other occupants have form (sic) the growing and cultivation of the product."

Unsolicited MMAR Feedback from Homeowners

79. Homeowners comprise another group of stakeholders who have expressed health, safety, and security concerns relating to the production of marijuana by individuals in homes and communities. A review of correspondence received by Health Canada from concerned stakeholders between 2011 and 2013 reveals that in general, community members are concerned about negative impacts related to the presence of licensed personal production of marijuana in their neighbourhoods and communities.

80. Excerpts from samples of this correspondence, set out below, express frustration, fear and anger about health, safety, and security concerns related to production of marijuana for medical purposes by individuals in their neighborhoods and communities. Typically, these letters echo the following writer's comments: "May I stress that my concern is not with Health Canada's issuing of licences but with the blatant oversight that such issuing has on the well-being of Canadians living in my ---- residential community. Residents who are not medical marihuana users are being seriously affected, by overly obnoxious smells, extensive increase in traffic and the grievous eye sore the outdoor growing activities presents".

81. Persons living in Multi-Unit–Dwellings, such as condo owners and semi-detached houses, express concerns about strong and unpleasant odors seeping through common walls and windows. One Ontario Condominium Board Director wrote Health Canada to inform them about concerns raised in relation to an individual license to produce marijuana for medical purposes in their condominium building. The director advised that the board had received, "numerous complaints, some of which I have attached for your reference in regards to multiple problems which have been created and resulted in negative impact to the 209 other unit owners in this building, visitors, employees. As well, the ability of the Board of Directors to maintain Mr. [the license holder's] unit as well as the safety and enjoyment of this property for all owners has been compromised... There are far too many negative impacts to the building relating to the overall safety and health of all residents, visitors and employees of this building for the grow op to be permitted in this unit. Although we recognize the legal rights provided by health Canada for Mr. ----- to be a licenced user ... an alternative method of supplying the marihuana for use must be arranged... Due to the severity of the complaints we have received regarding the pungent odor of the grow op at this location; many residents and guests becoming ill as well as employees of the contracted Security company losing work and claiming WSIB due to diminished health from the effect of the grow op; it must be removed immediately. We ask that you revoke the licence

for growing Marihuana in this location and supply Mr. ----- with his legal amount for personal use either through assigning him a licenced grower elsewhere or directly through Health Canada's supply system."

82. Another letter related to that same condominium indicates the condominium has had to involve law enforcement to deal with suspicion of trafficking and marijuana use in the public areas of the condominium; the letter states "there is clearly improper ventilation, poor air quality, moisture control, and low security related to his unit grow op. This building is adjacent to a school which facilitates kindergarten to grade 8. The smell is quite strong in our parking lot ... all age groups vising/residing in this building are assaulted with the smell of these plants... owners are questioning their health risk, full impact related to their property value and legal responsibility to declare what they know when they sell their unit. Real estate agents and prospective buyers have experienced the odour on entering the building and are questioning what is going on and in some cases refusing to list or bring buyers to this location."

83. The letter also includes attachments which refer to issues associated with the licensed grow in the condo unit such as "acts of vandalism to the building, different charges laid by police over the years, assaults on security guards, intimidation of Property Managers, and persons jumping over their balcony for access." The letter further notes that, "A very hostile relationship exists between the units... Their attitude is that it is their legal right and they do not care about the impact on all who work/reside/visit the building... An employee of the security company lost 3 months off work last summer 2011 due to health issues and claimed through WSIB as a result of working with the almost continuous smell from smoking and growing of Marihuana. The board has lost its capacity to maintain the property with regards to that unit; not only to ensure the safety and health of all unit owners, but also their investments and right to a comfortable home environment."

84. Another townhome owner complains about a licensed grow op in his townhome development saying: "We have been told by local police in ----- that they will do nothing about this situation... Not only have adjoining homes lost the value...they are subject to possible mold, fire hazards, chemicals and fertilizers and the unbearable odors. We can't even sell our homes to get away... since we have been told by a real estate lawyer that our houses are worth nothing".

85. Another homeowner states: "We live in a beautiful townhouse complex in ----. Our neighbour attached to us is growing marihuana in his basement with a license. A couple of weeks ago the Fire Dept. and police came to check his house. At that time the police did take out a large garbage bag ----- we only assume it was plants. The smell from this growth has been more than unbearable for us and the neighbour on the other side. We are suffering headaches and nauseated most of the time. This neighbour assumed one of us called the police to report him. In response to this he verbally assaulted myself and 2 year old granddaughter (yelled and called us very bad names) and started coming over the fence at us – I ran into the house with my granddaughter and was terrified. My husband arrived home very soon afterwards and was physically assaulted by him – he was punched in the head 5 times and had to go to the doctor. He then went after the single woman next door and threated her. The police arrived and he was taken to jail and now has a probation order to stay away from us... Marihuana should never be allowed to be grown in a townhouse complex where it interferes with adjoining neighbours. It consequently has brought our home value down – our home is our biggest investment and this does not really seem fair."

86. In another letter, a couple with a toddler living in a semi-detached home where the resident in the other half is licensed to grow marijuana for medical purposes stated: "we are so tired of walking into our home and having to smell this. We have a 16 month old son with asthma, and his been breathing this since we moved in 13 months ago. We have to air out out (sic) home every

single day and have tried many things to get rid of the smell since we moved in here. Please we just want it gone and don't know who to turn too...WHY SHOULD WE HAVE TO RUN AWAY FROM OUR HOUSE AND THINK THAT (THAT IS THE ONLY ANSWER)." [as written]

87. A woman living in a duplex where the adjoining owner has a license to produce marijuana for medical purposes writes: "His electrical system in (sic) endangering our home with my paraplegic husband, -----. Their electrical system is 60 amps and below code. The risk of fire is a huge concern and the risk to a paraplegic trying to escape a fire and being trapped. Their grow is right next door to our registered part wall and compromising it with molds. I have asthma and my trigger is mold. My asthma has been dormant for 25 years and now it is back the same time as their grow op."

88. Another homeowner's letter begins: "We dearly love our little neighbourhood in ------. But we have a big problem. We have been struggling to find a solution for this situation". The writer indicates that when a new family bought into the neighbourhood, they "started an indoor marihuana grow op. This is no small operation. They are known cocaine and ecstasy dealers also. The RCMP busted them for a large quantity of marijuana and cash two years ago. They have never quit growing it because they got a doctor's prescription for medical marijuana and started growing twice as much while they were waiting to go to court. Then they were busted again for too many medical marihuana plants in their grow op last year... We have this drug factory in a normally great neighbourhood with kids and families. One of these young families is considering moving because of the gangster activity associated with this drug house... they have young children living in the house."

89. Another homeowner complained that, "our next door neighbour has a legal grow-op... This is a young couple with two children... now I have found out from our local police that they actually have a Health Canada certificate for 'medical reasons'... This is ruining our quiet neighbourhood. We have all been

here for over 20 years and have never had to deal with such things and the smell is just disgusting. We cannot even open our kitchen door without that smell filling our house." Another homeowner complained that "the medical marihuana operation next door to me at ----- continues to keep me awake throughout the night and the smell from it disgusts me when I am in my driveway or backyard."

90. One homeowner states that, "local real estate agents... have confirmed that the market value of my home could be impacted by the existence of the marihuana grow op next door, making it difficult to sell for full value".

91. In another instance, a homeowner states that her neighbour "hides behind his [medical] licence to smoke marihuana and because of that licence, the local police as well as the RCMP cannot arrest him for his illegal activities... [despite that he] brags about his drug exploits..." This writer states the medical marihuana grower about whom she is writing and from whose nuisance she seeks relief "has become an aggressive neighbour... we live in constant fear of what he might do to us and our properties. There have been several incidents of sabotage to people's homes and yards in the past two years and Mr. ----- admitted to my husband that he had hired teenagers to perform one of these deeds to our elderly neighbour's house. Some of the neighbours had to install surveillance cameras on their houses because they are afraid of what Mr. ----- and his 'friends' will do. We live in a very stressful environment."

92. This home owner goes on to say that the RCMP have indicated that this medical grower's house has become "the biggest grow op in the City of ----- "and their neighbourhood is now "polluted with the nauseating smell of skunk grass on a daily basis, not to mention the increase in traffic on our street and criminal in our area.... His illegal business has depreciated the value of every home and every honest citizen in this area. Some neighbours have tried to sell, but to no avail. Would you want to live next door to a marihuana grow op?... If you lived next door to him you would easily be able to answer that question

after seeing the numerous people go quickly in and out of his dwelling during all hours of the day and night... Ever since ----- has moved into our neighbourhood, his presence has put an incredible strain on everyone. We want him to leave... We live in fear and we shouldn't have to."

93. Another homeowner complains about the smell from her neighbour's home, where medical marijuana is being grown, stating: "A few weeks ago I had been in the yard with my eight year old daughter decorating our house for Christmas but had to send her inside because of the smell. The odor had gotten to the point where it can be smelled more than a block away. I can smell it from my car as I approach my house... Frankly, it is so unpleasant living next to this operation that we have considered moving. However, this is completely impractical as I cannot reasonably expect to sell my home while it is so apparent that we are neighbouring a considerable (based on odor) grow op. Nor could I, in good conscience, attempt to conceal this from prospective buyers."

94. Still another notes, "We are homeowners in ----- and we have a 'legal medical grow op' in our neighbourhood." The writer cites the challenges they have experienced as a result and asks "Who is protecting us, the respectable, honest homeowners?"

95. Another homeowner, who has lived in his home for 31 years notes he has "enjoyed my life here until Health Canada decided to allow legal marihuana grow operations. I have a neighbour who has 2 such licences, one for her and one for her son. Since the operation started I can no longer enjoy so much as sitting on my stoop or opening my windows to get some fresh air as there is no longer any such thing, As you probably know, the stench from this plants is very rank and is filtering over to my property... not only do I have to put up with the stench, we are on bad terms now and I have to suffer her foul mouth... as she says, 'I have a licence!!". "This grow op's within a school zone... I have a 4 year old grandson who loves to come over and ride his bike and I don't want him subjected to all this ...".

96. Another homeowner writes: "the individual who lives behind me was involved in harvesting of marihuana plans (sic) in his backyard. This process was being conducted by no less that 6 people. The smell was very strong and I was forced to keep my grandchildren in the house for most of the day... When I advised the local police, they did their investigation and I was advised that this individual had a licence to grow 99 marihuana plants."

97. And some homeowners complain of safety and security concerns, such as the writer who stated that: "The residents in our neighbourhood feel threatened by the medicinal grow op operating here. There has been extensive vandalism, attempted break – ins and we feel the threat of fire due to the size of the grow op is likely".

98. Another homeowner writes to tell Health Canada that "My family and I are going on our third year of having to endure the safety issues and foul emissions from a medical marihuana grow op located 25 feet from our home...because we have raised concerns on these issues, Mr. ---- has become very abusive and we have tried to get the RCMP involved... he has yelled at us, put up numerous expletive signs and yelled profanities at us, has damaged our property and told people that I am a child molester. There are numerous reports of Mr. ----- offering to trade drugs for goods and services, selling to teenagers... They are using the system under the guise of producing medicine. Some of their customers may be medicinal users but we and others in our neighbourhood see on a daily basis indications that Mr. ----- is selling his marihuana to anybody including high school students... I feel I am gambling with my family's safety and we must move. We would not be able to sell our home for anywhere near market value with this commercial grow op next door. I estimate it will cost us approximately $100,000 to relocate our home and business. We have offered to purchase their property for well over market value, but they have refused. To go rent and leave our home empty will cause our insurance rates to nearly double. We are out of options. This is our home we have raised our teenage children in. None of us want to leave."

99. Another homeowner speaks of the disruption caused by the "number of fans, extractors, CO2 generators and possibly other equipment that is running 24 hours a day and producing vibration and resonance inside my house and whirring and whining noises outside." This personal writes that he lives in "a very quiet area, and this constant noise has grealy (sic) detracted from my enjoyment of my property, while the droning and vibration inside my house can produce some very disturbing effects that include resonance in my head, sleeplessness and mental fuzziness." The writer indicates that the licensed grower neighbour "assured me this would be dealt with, but after almost a year the problem persists".

100. These unsolicited letters from homeowners are illustrative of concerns routinely raised to Health Canada about the unintended consequences of the marijuana medical access program. The concerns raised in these letters are consistent: reduced enjoyment of their own homes, both inside and out; negative impacts on the quality of life in their homes and neighborhoods; concerns about health and safety; and a general sense of frustration and powerlessness in the face of personal or designated production of marijuana for medical purposes in their neighbourhoods.

Unsolicited MMAR Feedback from Program Participants

101. Program participants and their families have also written to Health Canada regarding the MMAP's impact on health and safety. One person wrote to Health Canada to express concern with respect to the grow operation in his home: "I am the father of 4 children aged 2-9 who lives with my estranged wife in our previous matrimonial home on Vancouver Island, BC; she has a licence to grow marijuana since last February at least. I feel my children are at risk due to this situation; dangers to children are well-documented." The writer indicates that his wife has "converted the basement of our 2 year old home, where she resided with our 4 children aged 2, 5, 7 & 9 to grow the marihuana plants, which I only accidentally discovered...Obviously, I was concerned

about the growing of this controlled substance within the house where 4 young children reside, but also because I noted that the ventilation systems for the plants emptied into the basement space within the house and not to the outside atmosphere, which would obviously be depositing mold-laden moist air into the house living space and ductwork. Additionally, I found out that the electrical system was altered without a permit...My wife removed the marijuana plants within a few months of my discovering them. Dr -----, a local pediatrician assessed the 4 children and concluded they did have 'some respiratory inflammation'. The Bank of Montreal, who holds the house mortgage, tested the air quality and concluded that the house needed a thorough professional cleaning due to mold content, and that if we failed to do so, they would have no alternative but to involve legal counsel..."

102. Another woman writes that her husband, who is licensed to grow marijuana for medical purposes, "was and still is selling marihuana among his close friends... The destruction to the property has devalued it... He can't even smoke all that he is legally allowed to grow himself in one month. He sells the rest."

103. A couple licensed to grow marijuana for medical purposes wrote to Health Canada and stated that: "we are the owners of a designated production facility... and we are writing to inform Health Canada of a theft of Medical Marihuana from... Plants and dried product were taken from our production facility... (approximately 35 pounds) out of the locked safe...he has now indicated he will not be returning the product... he has also indicated he has no intention of returning all of our paperwork... He has abandoned the rental house on the property... he has left no forwarding address..."

104. Another person licensed to produce his own marijuana for medical purposes advised Health Canada that: "My production and storage site... was forcibly broken into... This resulted in vandalism and theft".

Inspection Compliance and Enforcement under the MMAR

105. The MMAR were never intended to permit widespread, large-scale marijuana production. Nor was it conceived that the number of program participants would grow as rapidly or to the extent that it has. While the MMAR did include an inspection regime, it was not adequate to allay public health, safety and security concerns that emerged as the program continued to grow.

106. Under the MMAR, government inspectors were confined to verifying compliance with the MMAR and with the terms of the designated or personal production licence. Because the MMAR did not set out any standards related to the safety of the production site or to the quality of the product, Health Canada inspectors did not have authority to address the risks to public health, safety and security that may be apparent in personal and designated production sites, and could not under the MMAR require adherence to any quality standards for the product, sanitary standards for production facilities or machinery or other aspects of production that are normally controlled by regulation for drugs manufactured, sold or distributed in Canada.

107. In addition, Health Canada compliance and enforcement work was complicated by the number of program participants and impeded by the fact that many were producing marijuana in dwelling places. Under the MMAR, an inspector was authorized to conduct an inspection of a production site at any time. However, in cases where the production site was also a dwelling place, the inspector required the permission of the occupant to enter. Absent such permission, a warrant would be required before being able to enter. The MMAR therefore did not allow Health Canada inspectors to enter production sites marijuana for medical purposes as readily as they could enter other drug production sites which are not in dwelling places. As a result, it was difficult to ascertain compliance with the terms of the personal production licenses issued for a particular location.

108. Inspection was not only difficult, but costly. The CBA, produced as part of the regulatory reform process (attached at Exhibit "F"), recounts at page 80 that in 2010, Health Canada conducted inspections of PUPL/DPPL premises in British Columbia and in Ontario. The 75 production sites identified for the initiative were considered to pose less risk: that is, they were licensed production sites for a smaller number of plants (less than 50) and the licensee had no known law enforcement history per the MMAP records. 27 persons answered the door (36%) and of these 15 allowed inspection (55%), while 12 did not allow inspection (45%). Of the 15 who allowed inspection, 7 were growing more plants than allowed under their licenses. Based on this small sample (n=75), there were 16% of all residences that did not allow inspection and 45% of those residences for which a person was present at the time of the inspection. The cost of conducting this limited inspection initiative was $119,693.

109. The document "Compliance Verification and Voluntary Compliance Promotion Initiative Marihuana Medical Access Regulations Office of Controlled Substances" (the "Compliance Document") summarizes the Health Canada inspections that occurred in May and June 2010 and that are referenced in the paragraph above, and is attached at **Exhibit "K"**. This document also summarizes the cost of this initiative, and states that "[W]hen considering only the production sites where compliance verification and voluntary compliance promotion was conducted the cost of conducting compliance verification was $7,980 per production site, at a success rate of 20% (i.e. a total of 15 compliance verification and voluntary compliance promotion activities were performed at the 75 sites identified)."

110. The Compliance Document (attached at Exhibit "K") states "Were this cost to be extrapolated to conduct compliance verification and voluntary compliance promotion at all 3,439 sites (2,680 sites for personal use production and 759 for designated person production sites, as of May 2010) a total of $27.4 million

would be required assuming that Health Canada was successful in entering each and every dwelling upon first visit.

111. The table in paragraph 50, above, indicates that on December 31, 2013, 28,228 individuals held personal production licenses. While up to four persons could grow together at one site, this was not always the case. By way of example, however, even if every single licensed grower shared a production site with three others, in 2013, inspection of 7,057 sites at a cost of $7890 each would have amounted to a cost of $55,679,730.

112. Therefore, not only was it difficult to implement inspections, Health Canada was aware that it could not reasonably sustain the ongoing cost of the human and financial resources necessary to conduct meaningful compliance and enforcement activities in respect of personal production.

113. The capacity to monitor and inspect drugs and particularly potentially harmful drugs or batches of drugs is an important element of meeting the health and safety objectives of the food and drugs regime in Canada. But under the MMAR, marijuana used for therapeutic purposes was being produced largely in private dwellings, making it difficult for Health Canada to impose the same quality and safety standards on dried marijuana as it does for other products produced for therapeutic purposes. In addition, persons needed no particular expertise or qualifications to apply for a license to produce, the MMAR did not contain good manufacturing standards, and even had such requirements and standards existed, there was limited capacity to monitor and enforce them.

114. In summary, the MMAR did not require producers to adhere to stringent quality requirements to ensure that they were producing marijuana in sanitary conditions, free from contaminants. Furthermore, the MMAR regime provided only limited authority to inspect, and given the rapid growth of the program, the requirement to obtain consent or a warrant to enter a dwelling-place, and the high costs associated with maintaining an inspection regime, Health Canada had limited capacity to conduct inspections. Health Canada was

concerned that products created in unregulated settings created potential uncertainties and risks for seriously ill individuals using marijuana for medical purposes. Individuals experiencing negative side-effects or interactions with other products may have been unable to indicate to a physician what they had been using to treat themselves, and in what strengths and dosages. Immuno-compromised individuals who consumed marijuana for medical purposes grown in an unregulated environment may have been ingesting marijuana grown in unsanitary conditions, in unclean premises, using unsanitary equipment, or marijuana that was adulterated or contaminated by heavy metals, bacteria and/or mould, pests, and pesticide(s) and fertilizer residues. There was no capacity to recall dried marijuana that may have been found to be contaminated or otherwise unfit for consumption, as these is for other drugs under the FDA/FDR regime.

115. Given the concerns municipalities had expressed to Health Canada regarding the MMAR's negative impacts on their communities, I am advised by Eric Costen, Executive Director of the Office of Medical Cannabis, and verily believe, that in December 2014, Health Canada reached out to a number of communities, seeking information from those with marijuana grow operation inspection teams about their experiences, if any, with inspecting Health Canada licensed grow operations.

116. Respondents who had performed inspections of residential MMAR growing operations indicated they entered residences with permission or, in one case, a municipality noted that when entry was not granted, they obtained a warrant to gain entry. Some of the inspections referred to in these letters were done prior to the March 31, 2014 MMAR repeal. These letters are attached to my affidavit at **Exhibit "L".**

117. The City of Abbotsford indicated in a letter dated December 19, 2014, for example that as far back as 2005, it had adopted a bylaw, subsequently replaced with an amended version in 2006, with the intent of regulating and

remediating health, safety and nuisance concerns associated with properties in the City of Abbotsford used in the cultivation, production, use, sale or trade of a controlled substance, including the cultivation of marijuana and the production of methamphetamines or dextro amphetamines. The health, safety, and nuisance concerns they found in the course of inspecting federally licensed medical marijuana grow ops included unsafe electrical wiring, building code violations, overpowering odors, and fire hazards, including unvented propane burners, and "Numerous serious plumbing code violations, including direct connection of domestic water lines to fertilizer mixing tanks without proper air gaps or backflow prevention, which poses a serious health risk to the City's domestic water system...".

118. In a letter to the Minister of Health dated October 27, 2014, before the Health Canada inquiry into inspections was made, the City of Chilliwack reported that their Health and Safety Inspection Teams generally attended at grow ops as a result of complaints from neighbours of odours, and concerns about the risk of fire, violence, and other nuisance factors. Chilliwack says its Teams have inspected 20 licensed grow ops since 2008, and they note the "most common complaint is with respect to the noxious odors emanating from the property and negative impacts on the complainants quality of life". The City of Chilliwack also expressed concern that cross connections to the City's water supply by way of any unapproved water supply system had the potential to contaminate the City Waterworks as a result of backflow. The letter indicated "The large blue 45-50 gallon water reservoirs that are used for mixing water, nutrients, pesticides etc., located in most medicinal grow operations, are in direct contravention of this by-law".

119. The City of Port Coquitlam indicated in its December 19, 2014 letter to the Office of Medical Cannabis that "While some Medical Marihuana Grow operations were electrically safe and free of hazards, inspections of many of the Medical Marihuana grow operations revealed the same type of public safety risks as illegal grow operations. These risks included mold, electrical

hazards, fire, and neighbourhood safety in terms of complaints about "grow rips" or increased visits by undesirable residents. In addition, plant allocations sometimes exceeded the limit set by the health Canada license." The letter refers to a fire that occurred in one home with an illegal Hydro bypass, where the number of plants exceeded the Health Canada authorized number."

120. The Mayor of the City of Calgary also wrote to Health Canada on December 18, 2014, indicating that his City has formed a Coordinated Safety Response Team (CSRT), and that the "...33 homes inspected containing a Health Canada licensed medical marijuana operation, three were found to have no marijuana present, 26 were issued orders by AHS [Alberta health Services, part of the CSRT] for violations under the Public health Act of Alberta, 29 had safety codes violations identified, and one license holder was charged by Police for trafficking. Twenty five houses were required to be remediated by AHS and were subject to the City of Calgary Environmental Restoration Permit (ERP) process. The ERP process is aligned with the AHS process in returning the affected house to a habitable state. It contains processes that define the environmental scope and remediation activities to achieve an indoor air quality acceptable to AHS, followed by appropriate building, plumbing and gas and electrical safety approvals." The Mayor reported that the cost of this inspection program is approximately $2000.00 for each safety inspection.

Program Participant Dissatisfaction with MMAR

121. Not only was Health Canada concerned about the unintended negative consequences of the MMAR on its own budget and operations and aware of the concerns of municipalities, law enforcement and first responders, but program participants themselves expressed a general dislike for the application process, for Health Canada's involvement in their medical decision making, and for the single strain of marijuana that was available for purchase from Health Canada.

122. Some program participants had a general distaste for the requirement to apply to Health Canada for authorization to possess and to produce marijuana. Mr. Allard's May 7, 2004 letter to Health Canada (attached at Exhibit "B"), is just one example of this view.

123. Program participants were dissatisfied with the nature of the administrative burden required to apply and the time it took Health Canada to review and to issue authorizations and licenses. This general sentiment is expressed in a November 21, 2007 letter (attached at Exhibit "B") to The Office of the Auditor General for Canada (cc to Mr. Tony Clement, [then]Minster of Health), in which Mr. Allard wrote:

> "Even though I have a permanent medical retirement from Health Canada, this Department refuses to respond to my request for a permanent authorization to produce and use medical marijuana, and insists that I complete and bother my doctors with thick forms every year, months in advance. In spite of my compliance with these requirements, they are constantly late with permits. I have had to involve my Member of Parliament, Jean Crowder, to deal with Health Canada on this matter since the first application, simply because I am too unwell to deal with all of their red tape, and their attitude of apparent wrongdoing, which stresses me out badly. This stress can have a dramatic effect on the severity of my symptoms of my conditions, leaving me bedridden and unable to cope with daily life. The staff in this department have a tendency to treat applicants, not as an intelligent taxpayers, but as a criminals. I believe we are dealing with an Abuse of Governmental Power in this Department and I am requesting an investigation. They have been repeatedly late with permits, in spite of my M.P.'s involvement....I need your help to intervene. Health Canada has not responded to my written letters requesting information, suggesting change, or to simply to give me a permanent authorization, or allow my GP to sign the forms, so I can

> avoid all this unnecessary stress. I have enclosed a copy of correspondence from my Member of Parliament supporting me on this issue, and I authorize your department to contact her and discuss the specifics of my case, if necessary and/or appropriate to your mandate. The taxpayers' costs of this program is another matter which I seriously hope you will review. I believe there are millions of wasted dollars on this poorly designed and badly run program. I am able to produce organic, medical grade marijuana for myself, at a fraction of the cost of what Health Canada charges and I incur all my own costs. The taxpayer is being duped here...". [as written]

124. Mr. Allard was not alone in his criticisms of the program. In fact, as Director of the Bureau of Medical Cannabis, I am personally aware that program participants often expressed dissatisfaction with the MMAR and Health Canada processes because I was often called upon to respond to complaints.

125. Increased participation in the program meant an increase in the volume of applications. Between 2008 and 2010 there was such a sharp increase in applications that Health Canada's standard processing time rose to over 20 weeks. This longer processing time precipitated an increase in calls to Health Canada, regarding the status of applications and timing of the issuance of ATPs and licenses. The department had to take specific steps to manage this situation, which resulted in increased staffing costs, and changes to administrative procedures.

126. Many program participants were dissatisfied with the amount of time it took to receive authorizations and licenses under the MMAR. In 2010, applications spiked, creating further delays and requiring significant efforts on Health Canada's behalf to manage the unexpected influx in applications; again, participants were dissatisfied with processing times. Incomplete applications created further delay. As an example, Mr. Allard's 2008 application package was incomplete; the records at Exhibit "B" show that the application package

was returned to him and that there were subsequent telephone calls to clarify what was needed, and that registered Mr. Allard's dissatisfaction with the MMAR process.

Cost of Producing Marijuana and Administering the Program

127. For Health Canada's part, the administrative cost and burden of running the program and supplying dried marijuana for those who chose to buy it from Health Canada became significant drains on the Health Canada budget. The MMAR also placed Health Canada between physicians and their patients, a role it does not take with any other medication.

128. The CBA (attached as Exhibit "F") sets out at page 9 that "Health Canada program administration costs include salary, employee benefits and accommodation costs associated with staff levels, operations and maintenance costs associated with travel, training and supplies and corporate overhead and shared service functions." As program participation grew, so too did the administrative costs associated with it.

129. Under the MMAR, Health Canada also experienced increases in the cost of producing and distributing dried marijuana, which affected the overall Health Canada budget. The last supply contract between Health Canada and Prairie Plant Systems had a value of $16.8 million (excluding GST) for a three-year period, ending on March 31, 2013. An additional option year was built into the contract and was exercised. It was estimated that the additional year would cost Health Canada $9.7 million. These high contract costs existed despite the fact that only a minority of Program participants under the MMAR chose to obtain their supply of marijuana from Health Canada.

130. In addition, the CBA (attached at Exhibit "F") sets out at page 21 the costs of the subsidy Health Canada contributed to the purchase of dried marijuana: "persons who rely on the Government Supply pay a flat fee of $5.00 per gram, with no additional shipping cost. The supply cost for the Government Supply

is around $11.00 to $12.00 per gram. As a result, there is an effective subsidy to the use of more than 50% of the product cost (including shipping charge). This price structure was introduced in 2003 and was based on an estimated number of 300 individuals participating each year. About 2,300 persons [were] expected to rely on the government Supply during FY2012-2013."

131. And as noted above at paragraph 43, there were significant uncollected accounts associated with the sale of dried marijuana for medical purposes, many of which remain outstanding.

132. Over all, it had been clear for some time, from the perspective of police, fire fighters municipalities, communities and neighbours, physicians, program participants and Health Canada itself, that the marijuana for medical purposes regime under the MMAR had become unworkable and unsustainable. Reformative change was necessary, because the incremental reworking of the MMAR that had taken place since their promulgation in 2001 had not succeeded in creating a viable regime.

REFORM: MARIJUANA FOR MEDICAL PURPOSES

133. Since it came into force in 2001, the MMAR have been amended a number of times, either in response to court challenges or on Health Canada's initiative to respond to concerns from stakeholders.

134. In 2008 and 2009, MMAR amendments were required as a result of several court decisions. Health Canada understood that the judiciary was of the view that licensed producers having larger operations could achieve economies of scale and a level of income that would allow them to put in place quality control and security measures. The courts had also apparently observed that with fewer producers having larger operations, inspections would be easier to conduct. The amendments introduced by Health Canada to the MMAR at this time were described by the government as interim measures intended to

address the Court's decisions while the Program and the MMAR were being fully reassessed.

135. A document dated February 22, 2010, entitled "Potential Reforms to the Marihuana Medical Access Program," summarizes some of the options considered during this policy review, and is attached at **Exhibit "M"**. As a consequence, Health Canada began an in-depth policy review of the MMAR with a view to creating a more viable regime. The assessment of the MMAR regime included: (1) a review of complaints that had been received by various stakeholder groups over the years, including municipalities, fire officials, law enforcement and program participants; (2) an inspection blitz, as outlined above, to assess the feasibility and affordability of inspections under the MMAR regime; (3) the commissioning of Ms. Margaret Bloodworth, former Deputy Minister of Public Safety and National Security Advisor to the Prime Minister, to undertake a review of the MMAR and to provide an assessment of a more feasible regime going forward; and (4) an analysis of international regimes for the production and distribution of marijuana for medical purposes. Ms. Bloodworth's review is attached at **Exhibit "N"**.

136. This policy work led to the development of a framework that outlined the objectives of a reformed regime to access marijuana for medical purposes that included treating marijuana as much as possible like other drugs; creating a new supply and distribution system for medical purposes using fully regulated, inspected and audited licensed producers; phasing out personal and designated production of marijuana; shifting the Government's role back to its traditional role of regulator; and providing physicians with up-to-date information on marijuana used for medical purposes.

137. On June 17, 2011, the Government of Canada announced the proposed reform of the MMAR and the beginning of a public consultation period, during which stakeholder input and opinion was solicited. The consultation period included two phases: a 45-day online consultation to reach program participants and

Canadian citizens; and a series of targeted sessions with key stakeholder groups that would be organized throughout the summer and fall of 2011. A copy of this announcement is attached to this my affidavit at **Exhibit "O"**.

138. The development of a new regulatory regime that met government policy objectives and that was also based on input gathered from the consultations was a priority for the Minister of Health. Therefore, in July 2011, I was appointed as the Director of Medical Marihuana Regulatory Reform. In order to permit me to focus exclusively on the development of new regulations, management and oversight of the existing program was assigned to Mr. Stéphane Lessard.

139. In my new capacity, I immediately began to assemble a dedicated team to undertake the development of these new regulations. My team was structured into two sub-teams. The first would be responsible for undertaking the consultations which began in June, as well as for planning and implementing all subsequent consultation and communication activities to be held throughout the life of this project. The second team was responsible for the development of detailed regulatory policy that would inform the drafting of the regulations. Members of this team also worked with the drafters on the eventual drafting of the regulations. These initiatives were pursued concurrently, in a coordinated manner, one informing the other.

140. During the regulatory development process, my team and I held weekly meetings with the then CSTD Director General, Cathy Sabiston. Other Health Canada officials and scientists also attended as appropriate to provide input into the regulatory policy development. The Assistant Deputy Minister (ADM) held bi-weekly meetings with the Director General, myself and other key directors. The purpose of these meetings was to guide and to track progress, and to approve policy and regulatory approaches as they were developed based on input received during consultations. Once policy approaches were approved

by the ADM, members of my team prepared drafting instructions for the regulatory drafters, and sat in on drafting sessions.

141. Development of the new regime was intended to address the significant, health, safety, security, and administrative challenges associated with the MMAR and at the same time to significantly improve the way in which individuals access marijuana for medical purposes. The new regime was intended to reflect certain key principles, including to:

a) treat marijuana as much as possible like any other medication;

b) restore Health Canada to its traditional role of regulator as opposed to gatekeeper by eliminating the requirement that individuals obtain their authorization to possess marijuana for medical purposes from Health Canada;

c) eliminate the Government role in supplying and distributing marijuana for medical purposes;

d) create a new supply and distribution system to provide reasonable access to quality marijuana for medical purposes using fully regulated, inspected, and audited licensed producers;

e) phase out personal and designated production and institute mechanisms for compliance and enforcement;

f) reduce the risk of abuse and exploitation of the regulatory regime, and improve the way program users access marijuana for medical purposes;

g) address the public health and safety risks that police, fire authorities and municipalities had expressed to Health Canada; and

h) provide physicians with up to date information on the use of marijuana for medical purposes.

142. My team was responsible for developing the detailed regulatory policy proposals that would inform the many elements of the eventual regulations. As a starting point, the team separated the framework into three categories: (1) possession, (2) production, and (3) direct sale and distribution of dried marijuana for medical purposes. I then assigned team members to work on specific elements requiring policy development within each of these categories. My regulatory policy development team then began the research and analysis required to put together Issue Analysis Statements (IAS), a tool used to examine various regulatory options and to make policy decisions. A key section of each IAS was a description of stakeholder comments that resulted from the consultations, thus demonstrating how feedback gathered from the consultations directly impacted the policy options being developed. Each IAS considered a specific element of the regulations. These IAS were presented to the ADM for policy approval. Once a specific IAS had been approved, the team could begin drafting instructions to the drafters, who could in turn begin drafting sections of the regulations.

143. These IASs summarize consideration of the following issues:

- Adverse Event Reporting: Marijuana is an unapproved drug and has not been comprehensively evaluated in terms of safety, efficacy, quality, and therapeutic usefulness as required under the FDA for other medications. Canadians expect that a regulated product will be safe for consumption; if not, there should be a mechanism to report safety issues. This IAS is attached at **Exhibit "P"**.

- Advertising: The FDA precludes advertisement of drugs in a manner that is false, misleading, or deceptive or that is likely to create an erroneous impression regarding the character, value, quality, composition, merit or safety of the drug (s. 9 FDA). Marijuana for medical purposes operates outside the FDA, so approaches to providing similar safeguards were examined. This IAS is attached at **Exhibit "Q"**.

- Dispensing though pharmacists: In response to some stakeholder input on the usefulness of a store-front approach, policy work was undertaken to examine the viability of having pharmacists dispense marijuana for medical purposes. This IAS is attached at **Exhibit "R"**.

- Health Care Practitioners: Work was undertaken to determine whether health care practitioners other than physicians should be authorized through regulation to support access to marijuana for medical purposes under the reformed regime. This IAS is attached at **Exhibit "S"**.

- Indoor/Outdoor Cultivation: Under the MMAR cultivation could take place either indoors or outdoors. Policy consideration was given to options for conditions that should apply to cultivation under the new regime, and their benefits and risks. This IAS is attached at **Exhibit "T"**. Ultimately, the decision was made to require indoor cultivation because of quality and security considerations. Marijuana grown outdoors is exposed to the elements such as temperature, air quality, bugs/pests, and that could affect marijuana quality. Indoor production reduces risk of cross pollination to neighbouring crops, provides consistent access to a year round supply of marihuana for patients, of a consistent quality given the ability to control growing atmosphere. In addition, the marijuana would not be openly visible to members of the public and would be easier to physically secure

- International Trade: Policy work was done to analyze whether the new regulatory scheme should enable Licensed Producers to engage in international trade of dried marijuana. This IAS is attached at **Exhibit "U"**.

- Labelling: Marijuana for medical purposes is exempted from the FDA, including labelling requirements for approved drugs, which provide the patient with important information about the product and its use. Because FDA standards would not apply to this exempted product, consideration was given to the types of information that individuals using marijuana for medical purposes should have on their labels. This IAS is attached at **Exhibit "V"**.

- Interaction with local authorities: Consideration was given to whether to require, through regulation, that licensed producers under the new regime obtain appropriate approvals from and /or notify local authorities (i.e.: local governments, law enforcement and fire officials) prior to obtaining a license to produce and distribute marijuana from Health Canada, and whether to prohibit, trough regulation, Licensed Producers from operating in a dwelling place. This IAS is attached at **Exhibit "W"**.

- Potential Business Models for Licensed Producers: Consideration was given to whether the new regulations should require that Licensed Producers undertake directly all aspects of production from seed to sale or whether different business models could be used. This IAS is attached at **Exhibit "X"**. Considerations around business models are set out in a document entitled "Rationale for vertically integrated LCPs", and this model was discussed at a meeting with potential licensed commercial producers, held on February 15, 2012. Both the business model document and discussion notes are attached at **Exhibit "Y"**.

- Physical Security: Health Canada considered how, under a reformed program for access to marijuana for medical purposes, diversion risks could be controlled and control of a narcotic maintained. This IAS is attached at **Exhibit "Z"**.

- Price Regulation: Health Canada considered the policy implications of prices regulation of dried marijuana, the practical implications for encouraging new businesses to enter the market, and the impacts on the government's objective of providing reasonable access to marijuana for medical purposes. This IAS is attached at **Exhibit "AA"**.

- Products: Marijuana is not an approved drug for manufacture, sale and representation for medical purposes in Canada. Dried marijuana has been treated outside the regular drug regulatory scheme. No manufacturer has demonstrated that the benefits of using this drug outweigh its risks and

consideration was given to the implication of possible expansion the number and type of marijuana products for sale and distribution in Canada to which the FDA would not apply. Health Canada considered whether or not Licensed Producers should be authorized to produce and distribute marijuana products for medical purposes as well as dried marijuana under the MMPR framework. Under the FDA/FDR, a framework already exists in Canada for those who wish to make a health claim about a therapeutic product and to bring this product to market. In full awareness that persons wishing to produce and market a marijuana-based product could avail themselves of the FDA/FDR process, Health Canada opted to limit the production and distribution activities of licensed producers under the MMPR to dried only. Health Canada was of the opinion that to further expand the scope of products made available outside of the FDA/FDR framework would undermine the integrity of drug legislation and regulation designed to protect the health and safety of Canadians. Again, three cannabis products have been approved for sale in Canada under the FDA/FDR: Marinol® (no longer available in Canada), Cesamet® and Sativex®. Furthermore, available clinical data regarding the use of marijuana for medical purposes is limited, and what does exist is restricted largely to the use of dried marijuana. Given the lack of sufficient evidence regarding the safety, efficacy and quality of marijuana products, Health Canada opted not to exclude other cannabis related products from the safeguards provided by the FDA/FDR regime. This IAS is attached at **Exhibit "BB"**.

- Product Distribution: Policy consideration was given to alternatives for distributing marijuana for medical purposes to individual users. The preferred option would have to not unduly impede reasonable access, reduce administrative burden for program participants and mitigate potential risks to public safety and security from permissible use. This IAS is attached at **Exhibit "CC"**.

- Proof of Possession: Consideration was given to how, under a reformed program, individuals lawfully authorized to possess marijuana for medical purposes could demonstrate their authorization to possess this controlled substance. This IAS is attached at **Exhibit "DD"**.

- Quality: Consideration was given to what quality requirements should apply to marijuana produced and distributed for medical purposes, given its intended use by seriously ill Canadians. Drugs manufactured for sale and distribution in Canada must meet rigorous Good Manufacturing Practices of the FDA/FDR. This IAS is attached at **Exhibit "EE"**.

- Security Intelligence Background Section: Over the years, law enforcement groups, specifically the Royal Canadian Mounted Police and the Canadian Association of Chiefs of Police, had expressed significant concerns that the MMAR were subject to abuse. In light of these concerns, Health Canada considered the value of an enhanced background screening of individuals seeking to be licensed to operate as Licensed Producers under the new regulatory regime. This IAS is attached at **Exhibit "FF"**.

- Seeds and Other Starting Materials: Because activities such as the possession, sale, import and export of cannabis, including viable cannabis seeds, are prohibited by the CDSA, unless authorized by regulation, policy work was done to consider how Licensed Producers could legally obtain access to seeds and other "starting materials" for cultivation. This IAS is attached at **Exhibit "GG"**.

144. Health Canada also considered whether to grandfather production by existing program participants so that they could continue to produce their authorized amounts, while new program participants would be required to access their marijuana for medical purposes from licensed producers. Ultimately, Health Canada deemed this option unworkable. In a first instance, running two parallel programs would be costly to the department. Inspections of those grandfathered would remain difficult, and there would be no quality-control of

marijuana produced by these individuals. Concerns related to the production of marijuana in private dwellings (i.e. public nuisance, odor, traffic), as well as the risks to first responders, would persist. Finally, Health Canada had questions as to the impact of continued personal production on the viability of the licensed producer market. Therefore, Health Canada determined that grandfathering production under the MMPR was not a viable option.

145. Health Canada established a possession cap for individuals who are authorized to use marijuana for medical purposes. This cap could not exceed an individual's monthly amount (daily dosage times 30), up to a maximum amount of 150 grams. In establishing this, Health Canada took into account a number of factors, including purchasing habits of individuals who bought their dried marihuana from Health Canada; the daily dosage information set out in "Information for Health Care Professionals", which indicates 1-3 grams per day as a reasonable dosage standard; and concerns raised by law enforcement about potential for diversion. A cap of 150 grams would allow an individual who possesses 150 grams who consumed 5 grams of dried marihuana per day, a daily dosage slightly higher than that set out in "Information for Health Care Professionals" to possess a one month supply at any given time.

Consultation

146. Consultations are a key component of the federal regulatory process, so I created a dedicated team to manage all consultation and public outreach activities to be undertaken during the course of this initiative. Consultation activities began prior to my appointment as Director of Medical Marijuana Regulatory Reform and continued until the publication of the final regulations in *Canada Gazette,* Part II on June 6, 2013. Consultation activities included the following:

- the development of the June 17, 2011 consultation announcement and document;

- the establishment and management of a contract with Intersol, a company retained to take notes, provide a summary, and to analyze and report on the results of the 45-day online consultation;

- planning and coordination of targeted stakeholder sessions across the country, including the management of a contract with Intersol to take detailed notes of these consultation sessions;

- collection and analysis of comments received following the publication of the draft regulations in *Canada Gazette*, Part I, which informed changes that were incorporated in the final draft; and

- the development of public communications material, including summaries for the Health Canada website and for the RIAS of all consultation activities.

147. Details of the distinct consultation processes are outlined below.

Process #1-Electronic Consultation

148. Following the Minister of Health's June, 2011, public announcement of the program changes, a consultation document entitled "Proposed Improvements to the Marihuana Medical Access Program" was posted on the Health Canada website and a 45-day public consultation was launched. This document is appended to my affidavit at **Exhibit "HH".**

149. Health Canada also sent a letter dated June 20, 2011, to program participants, announcing that improvements to the MMAP were being considered; this letter is attached at **Exhibit "II"**. Individuals were invited to visit the Health Canada website to review the Proposed Improvements document referred to above, and to submit comments on or before July 31, 2011, either by email, fax, or regular letter mail. This first consultation exercise generated 2,624 submissions.

150. Of the 2,624 submissions received in this electronic consultation exercise, 55% were from existing program participants; another 10% were submissions from persons representing "compassion clubs", marijuana storefronts whose operation are not authorized by regulation. 91% of the "compassion club" submissions were in the form of letter petitions from one specific group. The bulk of the remaining submissions were made by spouses/parents of program participants, or by individuals using form letters (sometimes submitting more than once), and lobby groups, such as Why Prohibition?, the Church of the Universe, and the BC Civil Liberties Association who support the decriminalization/legalization of marijuana generally. Submissions by police officers (28/2,624=0.01%), fire fighters (24/2,624=0.01%), and members of the medical community (917/2614= 0.01%) and governments of different levels (18/2624= 0.01%) were at this stage insignificant.

151. For the most part, this initial response from current program members, particularly those producing marijuana for medical purposes, activists, and lobby groups supportive of legalization of marijuana generally, was negative, but for the exclusion of Health Canada from the access process. Participants cited a number of reasons for their negative responses:

- Control: Some expressed the view that that there should not be any government or even medical practitioner involvement in the personal decision to use marijuana for medical purposes. Others noted that "Control over the quality and strain of my plants will be lost. I take great care in growing and feeding of my plants. No one will grow a plant the way I do for myself. I am always thinking this is my pain relief and quality of life, when caring for my plants."

- Cost: Many individuals who are either growing for themselves or who have others growing for them expressed the view that the cost of purchasing dried marijuana for medical purposes would be prohibitive for them; most commented that they could produce marijuana for themselves more

affordably than they could purchase it. One individual summarized that along with cost, the growing process itself was therapeutic: "Having to purchase all of my medications is a significant drain on our money and having to pay for my marijuana would be crippling. Taking away my ability to provide myself my medication will be inhuman. One of the only things I find joy in anymore is growing my medicine, being able to work in my garden is a significant stress reducer. The benefit I draw from growing marijuana is immeasurable. I take great pride in what I do and with it being in my home it allows me to work when I can and I also have the ability to leave it when I need to. Very few things allow me this kind of flexibility."

- Large Financial Investments to Construct and Equip Personal Grows: While individuals licensed to grow marijuana for medical purposes expressed concern that the cost of purchasing would exceed the cost of personal production, many expressed the concern that they had made large financial investments in personal grows and that this money would be wasted: "This investment, my co-operative patients and I have made is quite substantial and has driven a few into debt. The financial pay off to this was to have access to our larger than average prescription medication dosages at a fraction of the retail prices we have been forced to pay in the past." One designated producer stated: "Firstly, as a grower for a patient who is seriously ill, I have invested a lot of time and money to set up the growing conditions appropriate for my client's needs. This has involved getting a building permit, having licensed electrical and carpentry work completed, and installing some expensive equipment, including air conditioning, exhaust system and lights, all of which I had to purchase." Another commenter noted "I have spent a tremendous amount of money on home security system, contractor, construction, plumber, and electrician and all proper permits" not to mention thousands on equipment that is all CSA and UL certified, and have just recently got my license and haven't even produced my first crop yet...and to add insult to injury I would have to pay to take it all down and restore my basement room back to the way it was...". And still another indicated that "I

have been growing at my home for about 3 years now. I have a significant investment in my setup. $3,000 for the shed, probably another thousand in equipment. Additionally I have just built a $25,000 specially constructed garage with in-floor heating and fully insulated. This garage was built to home standards for the express reason of accommodating my growing needs." There are numerous such examples among the responses to the initial request for feedback, but this one acknowledges Health Canada concerns: "I believe that the production facilities belong in commercial, secured, and monitored areas. Yes away from residential areas. This will stop some of the crime related to these residential operations. My big question is I guess, how will I be compensated for my initial investment to build this safe facility. To date I have invested over $40,000."

- Privacy: Program participants expressed opposition to having to provide a medical document to a producer to get their marihuana. Others indicated that they did not want to receive their marijuana by post or courier: "I do not feel comfortable buying marihuana from an unknown source and have it shipped through the post office or registered mail. Now everyone will know what I do."

- Quality: Many individuals opposed what they described as a "corporate" approach to growing marijuana for medical purposes and stated their products were safer, organic, and specifically developed for their own use: "I use only organic fertilizers and specific strains for my personal issues, I put lots of my own time into growing my plants and play them classical music to help them grow. Will Health Canada put this much care and love into my medicine? I think not." "I grow purely organic and am very particular about the care and maintenance of my garden. Growing my own medicine is also spiritual for me. I drum with my plants and try to give them my positive essence. A commercial grower is just that. I don't know what chemicals they are using, I don't know whose hands are touching those plants. I don't know the strength or origin of the product. I understand Health Canada is

addressing the one strain availability, but this is also something I prefer to experiment with myself, growing different strains and finding what benefits me most, grown by my own hand."

- Abuse by a Minority: While many agreed that there may be abuse of the MMAR system and criminal involvement, they expressed the view that the abusers represented a fraction of the total number of individuals who were participating in the program. "The real problem is all the illegal grow ops that give all the good medical grow-ops a bad name". "Small growers that have a license to grow for themselves are as I see it not the trouble. People who grow for others have learned that they can 'legally' acquire a large number of 'clients' to grow for. There should be a major concern about this. They have gathered enough clients to form consortiums; that put together huge indoor grows. There is a huge loophole in the system that has been designed by people that are not in the know."

152. As noted above, 55% of the initial comments came from persons who were at that time authorized to possess or licensed to produce marihuana for medical purposes. Other respondents expressed different views, including this comment by a chronic pain specialist who noted "I have significant concern regarding the program as proposed. We already have a huge problem due to lack of accountability. Organized crime is involved in the trade of marijuana from people with exemptions.... In _____[province, redacted for privacy purposes] we are already seeing patients counselled and paid to obtain exemption applications from unsuspecting physicians. Police are finding completed, signed forms in stacks in grow-ops raided for selling. Creating a system that removes, rather than enhances the accountability in the system will expand these problems." One individual wrote to say "it should be noted that these innocent bystanders, whose well-being has been jeopardized by involuntary exposure to the drug marijuana, in any form, would have no choice but to vacate the neighbourhood...". Another person, a member of the real estate sector, wrote to say that "As much as I am sympathetic to health care

patients who suffer from chronic pain that can only be managed through effective drugs, I can see that the current Health Canada policies for Medical Marijuana need more effective regulation so, I support the recommended program changes that are being considered, at this time. ...Health Canada must recognize that agricultural operations are not suitable for residential buildings. In my region, there are thousands of "grow op" houses that are deemed to be "toxic properties" by the real estate industry and health care professionals. Local authorities are scrambling to establish standard remediation practices for these properties and restore them to acceptable health and safety standards; if possible. Certainly, Health Canada's Program should not license marijuana grow operations in private residences, especially when these unhealthy grow operations are not regulated by local health and safety authorities."

153. One group submission stated "There are still some hours left for us citizens to have our SAY on medicinal marihuana grow-ops in residential areas which our government had allowed out of compassion for some sick individuals—but forgot to consider that growing this Drug in homes, would contribute to many problems in neighbourhoods. ...Many of us, who have had the misfortune having a marijuana grow-op in our area, are familiar with the stench these create and how our homes have been filled with that offensive smell in the middle of the night; fouling the air we and our children breathe." Another person writes "We have suffered for too many years because of marijuana grow-ops in our neighbourhood. First there were illegal grow-ops and then legal ones. No-one knew the locations but the horrible odour emanating from them was evidence enough that they were about, interrupting all the neighbours sleep. This is still going on. In our family this is still raising chaos because my life has been challenged with hypersensitivity to multiple chemical and marijuana odor has triggered many attacks. My husband and I have often thought of moving away from this area; but we are seniors, of a moderate financial standing and being forced out of our home at our age is a very disturbing feeling. And this entire trauma because of marijuana grow-ops! And a legal one on top of it."

154. A cancer patient who represents a coalition of citizens, who writes to say "As a cancer patient I must have fresh clean air to breathe and neither do I or other ill people, or anyone who cares and is concerned, want their health and safety further jeopardized from community toxic woodsmoke, tobacco smoke or marijuana smoke." Another couple wrote in that having bought one half of a commercial building to operate a small family business, they realized the other half was occupied by someone growing marijuana for medical purposes. "The owner of the other half of our building is supplying more than just patients with post and is taking in approximately $40,000 cash per month...We did NOT and WOULD NOT sign up for the incredible stress this has caused us. We do not want to be exposed (nor do our customers) to the horrid odors (we call it the smell of money) and criminal elements that the production of marihuana brings. ...The facility next door grows 74 plants for one patient and 49 plants for a second patient. These plants are seven feet high and four feet across. We have no idea how any person could possibly smoke that much pot every single day of the year. His hydro bill is $3,500 per month. No one would supply medicine out of the goodness of their heart and "eat" that hydro bill. Another individual wrote that "My family has lived next door to a medical marihuana grow-op for about a year. We have had to endure the noxious fumes and the potential of a violent grow rip occurring next door for too long. We are constantly trying to decide if we should move out of our home to get away from these issues. We have had to retreat indoors and keep the windows closed many times because of the fumes. Having this next door has caused a great deal of stress on our family. I am not against LEGITIMATE uses of medical marihuana, but removing grow ops from residential neighbourhoods is essential."

155. Clearly, strong views were expressed on a number of fronts. Some sought the status quo, others asked that existing producers be grandfathered and only new persons seeking to use marijuana for medical purposes be required to use licensed producers. Many cited cost as a critical factor in accessing marijuana for medical use; some cited the comfort and therapeutic value of gardening in

and of itself. Some worried that effective strains would no longer be available and still others spoke of intolerable conditions in communities arising out of "legal grow-ops". A sampling of the responses received is attached at **Exhibit "JJ"**, including those cited in paragraphs 150 to 153. Health Canada considered this input as it charted its way forward in developing policy and planning for the new regulatory regime, while continuing to engage in further consultation.

Process #2-Targeted Stakeholder Meetings

156. While the 45-day online consultation was ongoing, my team planned a comprehensive face to face process with a broad array of stakeholders and partners who would be asked to provide their input on the development of the new regulatory regime. Attached at **Exhibit "KK"** is a Targeted Consultation Plan dated June 28, 2011 that sets out the preliminary planning for these sessions.

157. Targeted stakeholder meetings were scheduled to unfold between June and November 2011, during which time Health Canada officials met personally with the following groups: provincial and territorial ministries of health and public safety, municipalities, law enforcement and fire officials, medical associations, prospective licensed producers and "compassion clubs".

158. I attended at all of these consultations. The Medical Marihuana Regulatory Reform 2011 Consultations Results were published on the Health Canada website. The consultation summary can be found at http://www.hc-sc.gc.ca/dhp-mps/consultation/marihuana/_2011/program/consult_reform-eng.php and is attached at **Exhibit "LL"**.

159. The Consultation Results Summary indicates the following groups were consulted. A general Summary Document is attached at **Exhibit "MM"**, but the outcomes are referred to briefly below:

- **"Compassion clubs" and "cannabis dispensaries"**: Health Canada conducted four consultation sessions with "Compassion Clubs". Two sessions were held in British Columbia, one in Ontario and one in Quebec. Generally, these groups, for which the MMAR made no provision, supported the view that health care professionals other than licensed physicians should be able to support the use of marijuana for medical purposes. They also welcomed a number of the proposed changes to the Program, such as the establishment of a regulated regime that would ensure quality controlled marijuana production in secure environments, and that they were being included in the consultations. They welcomed the approach to multiple strain availability envisioned for the new program and Health Canada's proposal to create an expert advisory committee to provide medical practitioners with more and current information about marijuana for medical purposes. The groups felt that those concerns noted in the June 2011 consultation document were not from patients, but from police, the CMA and others. Compassion clubs expressed their sense of stigmatization when Health Canada makes statements about their illegality; they objected to the elimination of personal production, noting that many people with a PPL have invested a lot of time and money into their productions—some with a bill up to $80,000 and some patients have gone into debt. Compassion clubs favoured a community dispensary model, which could procure strains from different producers for patient use. They indicated that in community-based models, people could learn how to use the product in a safe manner. They disagreed with providing marijuana through the mail. They presented ideas for different "models" that might provide workable, affordable in-community dispensaries. The complete meeting summaries are attached at **Exhibit "NN"**. A letter dated March 5, 2012 from the Canadian Association of Medical Cannabis Dispensaries also speaks to some of these concerns. The letter is attached at **Exhibit "OO"**.

- **Provincial and territorial ministries of health and public safety**: On November 24, 2011, Health Canada, during a regular meeting of the Federal-Provincial-Territorial ADM Policing Issues Committee, discussed the proposed new approach to medical marijuana, and sought their views. Overall these groups welcomed the proposal for the new approach to making marijuana available for those with medical need. Their specific concerns related to public health and safety and the possibility that there may be grandfathering of personal production. They were concerned that increased numbers of participants could lead to increased pressures on provincial and territorial public safety resources (DUI, increased use, increased diversion). Health Canada met with provincial and territorial Health and Public Health officials on numerous occasions. Health Canada held a series of teleconference meeting with provinces and territories, as well as a meeting with the Federal-Provincial-Territorial Pharmaceuticals Directors Forum, between August 2011 and September 2011. Copies of the summaries of these meetings are attached to my affidavit at **Exhibit "PP"**.

- **Physicians, including medical associations and colleges of physicians and surgeons**:

    - On September 29, 2011, Health Canada representatives met with representatives from the Canadian Medical Association (CMA), the Canadian Medical Protective Association (CMPA), and the College of Family Physicians of Canada (CFPC). These associations expressed significant concern with respect to the role of physicians in access to marijuana for medical purposes. Whether under the current program or the proposed regulations, medical associations expressed concerns with medical practitioners supporting access to a drug that did not follow the established clinical path that physicians are trained to work within (i.e. successful clinical trials that demonstrate that the drug's benefits outweigh its risks and it is approved under the FDA/FDR). They expressed concern that the long term health effects of using marijuana for

medical purposes are unknown and expressed significant concern regarding liability stemming from the role of supporting access. Participants felt that the Health Canada proposed process for accessing marijuana for medical purposes was too similar to traditional prescribing practices, which rely on evidence and established guidelines. Given the lack of information about the use of marijuana for medical purposes, physician associations did welcome the creation of the Expert Advisory Committee, to review current literature and provide some guidance for physicians.

- On September 26, 2011, Health Canada representatives met with representatives from the Federation of Medical Regulatory Authorities of Canada (FMRAC); FMRAC is the association of all Colleges of Physicians and Surgeons in Canada. Representatives from all colleges, except Nunavut, were present. FMRAC expressed the same concern over the physician role as Health Canada heard at the September 28, 2011 meeting with medical associations and colleges. Their concerns focussed on the lack of scientific evidence pointing to the effectiveness and safety of marijuana for medical purposes. Some colleges noted that they would continue to discourage their members from supporting the use of marijuana under a reformed program. As regulators of the profession, Colleges also expressed concern about the potential for some medical practitioners to "over-prescribe" marijuana, particularly given the absence of guidelines for its use; this situation creates an oversight and monitoring problem for the Colleges. The complete medical consultation summaries are attached to my affidavit at **Exhibit QQ"**.

- In November 2011, Health Canada attended the 2011 Family Medicine Forum in Montreal, Quebec. Health Canada manned a booth and conducted a health needs assessment survey with family physicians. The summary of this meeting is attached to my affidavit at **Exhibit "RR"**.

- **Pharmacists:** On September 28, 2011, Health Canada held a bilateral meeting with the Canadian Pharmacists Association (CPhA). Medical marijuana regulatory reform was added to the agenda of this meeting after Health Canada officials had heard from multiple stakeholders and partners, including provinces/territories, that pharmacists be consulted regarding whether or not they should have a role in dispensing marijuana under the renewed regime. On June 12, 2012, Health Canada officials held a consultation session regarding the proposed new regulations with the Council of Pharmacy Registrars of Canada (an advisory committee to NAPRA). Participants to both sessions were generally not opposed to pharmacists dispensing marijuana for medical purposes, so long as provinces and territories were on side, as they are jurisdictionally responsible for regulating the profession. Some concerns were noted with security of pharmacies that may be storing dried marijuana. Pharmacists also noted that they would require information regarding the uses of marijuana for medical purposes, and requested that any materials being developed for physicians should also be available to them. The summaries for these meeting are attached at **Exhibit "SS"**.

- **Municipalities**: While Health Canada has received unsolicited correspondence from Municipalities over the years, it also met with the Federation of Canadian Municipalities (FCM) on September 29, 2011, for a formal consultation on the proposed new approach to regulating marijuana for medical purposes. Representatives of municipalities were highly supportive of the proposed regime, but expressed concerns that in the interim, while the MMAR were still in effect, they would continue to be subjected to public health and safety risks associated with growing marijuana in dwellings of which the locations were not known to local authorities. With respect to the proposal, FCM representatives clearly expressed that they were not in favour of cannabis dispensaries or store-front distribution in their communities, stating a clear preference for the

provision of marijuana for medical purposes through the mail, which, from their perspective, would remove the centralization of crime around a distribution centre and reduce stigmatization of neighbourhoods that may result from the existence of community based dispensary models established for the purpose of distributing marijuana. Participants welcomed the elimination of personal production, but did raise concerns about remediation of existing grow sites, where public health and safety risks would continue to exist after the program sunsets. The complete summary of this consultation is attached to my affidavit **at Exhibit "TT"**.

- **Law enforcement officials, fire officials**:

  - On October 12, 2011, Health Canada representatives met with representative of the RCMP, and the Canadian Association of Chiefs of Police. Law enforcement indicated that the creation of a regulated industry which does not include personal production would alleviate the concerns that they have expressed throughout the years related to public health and safety under the MMAR. The elimination of personal and designated production in residential areas was seen as greatly increasing safety. Law enforcement officials also felt strongly that the proposed regime should include requirements that licensed producers disclose their locations to governments and public safety officials in order to receive a license. The lack of capacity to disclose information about the locations of production sites under the MMAR had been problematic for law enforcement in the past, and they wished to ensure that this would not be a problem going forward. The complete summary of the Law Enforcement Consultation is attached to my affidavit **at Exhibit "UU"**. Health Canada set out the CAP's principal concerns in a document entitled "CACP Recommendations to Health Canada regarding the Marihuana Medical Access Program", attached at **Exhibit "VV"**.

- On September 27, 2011, Health Canada met with representatives of the Canadian Association of Fire Chiefs (CAFC). The CAFC expressed support for the elimination of personal and designated production in residential areas, and welcomed the ability to regulate commercial entities through local by-law and zoning regulations. Again, questions were raised about remediation of properties that had been used as grow sites. There was concern that public health and safety concerns would persist after the MMAR were repealed (mould, pesticide contamination, etc.). They strongly emphasised the public health and safety risks associated with marijuana production in dwellings, citing electrical and fire hazards related to the heavy use of electricity, poor electrical wiring, and the presence of fertilizers and other chemicals that present serious hazards not only for residents, but for neighbours and for fire- fighting personnel. The complete summaries of the law enforcement and fire fighter consultations are included at **Exhibit "WW"** to my affidavit.

160. Briefly, we heard that current participants in the program wished to maintain their personal and/or designated production licenses; they expressed serious concerns about being able to afford to purchase marijuana for medical purposes, often on fixed disability pensions. At the same time, federal and provincial public safety officials, municipalities, law enforcement and fire officials expressed serious public health and safety concerns with personal and designated production. The medical community expressed ongoing concern at the role they were being asked to play in providing access to an unapproved drug, but welcomed efforts to improve physician information on the use of marijuana for medical purposes. All stakeholders welcomed the prospect of an improved and simplified application process.

Process #3-75 days post CGI

161. The draft MMPR were first published in *Canada Gazette*, Part I (CGI) on December 15, 2012. As per the federal regulatory process, publication of draft

regulations provides another opportunity for stakeholder input. Also as per the regulatory process, Health Canada must provide a response to the comments that it receives. During the 75-day comment period following CGI publication of the proposed MMPR, Health Canada received a total of 1,663 comments: 1,433 of those were submitted by current license holders and individuals; 93 were from prospective industry; 54 were from municipalities, fire officials and law enforcement agencies; 43 were from health care practitioners, medical associations and pharmacists; 6 from provinces and territories; 3 from Members of Parliament; and 31 from other organizations. In addition, Health Canada received 212 comments that were sent automatically from a public petitions website; these comments were pooled together and counted as one individual. The comments are summarized in the RIAS published with the MMPR and attached at Exhibit "CCC".

Program Participants and Individual Canadians

162. The 1,433 participants and individuals referred to in paragraph 161 above who provided feedback expressed concerns over elimination of personal production and the impact it would have on an individual's capacity to purchase dried marijuana from licensed producers. Some suggested that Health Canada should consider "grandfathering" current personal production licenses to ensure these individuals could continue to afford their supply of dried marijuana.

163. Health Canada's response to this view was that licensed production of marijuana in private dwellings has been associated with increased risks to public health and safety of communities in which such growing operations took place. The MMAR never intended to support the exponential growth in the number of participants that has taken place since 2001. This rapid growth in participation placed a significant and unsustainable strain on the Department's resources. The elimination of personal production under the MMPR responded to concerns raised by many stakeholders including police, fire officials, and municipalities regarding the public health, safety and security

risks such growing poses to individual Canadians, first responders, and communities at large.

164. The movement to licensed producers under the MMPR was not intended only to address the health, safety and security issues I have discussed. The movement to licensed producers also recognized that growing marijuana, particularly marijuana of a quality suitable for ingestion by seriously ill individuals for therapeutic purposes, is not a simple matter. Some growers may lack the requisite skills to grow marijuana for medical purposes, some may lack the facilities and others may be unable to grow given the effort involved and the state of their health. In a September 6, 2012, letter to Health Canada (attached at Exhibit "B"), Mr. Allard noted, that "I am growing organically with very minimal yields, nowhere near 10 grams a day. I have had problems with clones not rooting; plants stressed by heat, cold, and insects, and plant sickness, just to mention a few problems. Unfortunately, I have not always been able to give due care and attention to my plants because of my own health problems, the cramped production site, and a previously unsuitable home and living situation".

165. The new supply and distribution mechanism is intended to increase access to quality marijuana for medical purposes for all individuals whose medical practitioner supports use of marijuana for medical purposes.

Health Care Practitioners

166. Health care practitioners (physicians and nurse practitioners), pharmacists and their respective professional associations expressed concern about the absence of scientific evidence regarding issues such as dosage, safety and efficacy of dried marijuana for therapeutic purposes. They expressed the view that Health Canada was setting up a prescription like process for dried marijuana, even though dried marijuana lacks the research and information about its uses that health care practitioners are accustomed to for all other prescribed medications that have been issued a Drug Identification Number or a Notice of Compliance.

Physicians in particular noted that this could affect their ability to make informed decisions in the interests of their patients and increase their liability risks. The Canadian Medical Association also prepared and submitted a document to Health Canada entitled "CMA Response: Health Canada's Medical Marihuana Regulatory Proposal" dated February 28, 2013. This document is attached at **Exhibit "XX"**.

167. Health Canada's response to this view was that although clinicians have had at their disposal the ability to prescribe cannabinoid-based medicines that have gone through the standard drug approval process and that have been issued DINs, the courts have said there must be reasonable access to a legal source of dried marijuana for medical purposes, despite the fact that dried marijuana has not been through the standard FDA/FDR process. Since marijuana is not an approved therapeutic substance in Canada, no formal, comprehensive, scientific and medical information (e.g. a formal drug monograph) on the risks and benefits of marijuana for therapeutic purposes has ever been published by any commercial sponsor. Health Canada did, however, establish an Expert Advisory Committee to provide advice and recommendations to Health Canada on the current information on marijuana for medical purposes, and any additional information/education materials that might of assistance so that physicians can be better informed of the current science on marijuana. This document is entitled "Information for Health Care Professionals" and is attached at Exhibit "G". Between May and July 2012, physicians were invited to participate in an electronic survey to obtain their views on the proposed improvements to the MMAP. The Summary Report: Physician Needs Assessment – 2012 is attached at **Exhibit YY"**.

Municipalities, Law Enforcement and Fire Officials

168. These groups were supportive in their feedback of the overall framework, viewing the elimination of personal production as a means to significantly

reduce public health, safety and security risks in their communities. In the absence of pharmacy distribution (their preferred method of distribution), the move to commercial licensed production was well received. But, fire officials and municipalities highlighted their concern that the proposed MMPR fail to address the issue of remediating buildings that may have been damaged as a result of their use for licensed marijuana production under the MMAR. These stakeholders further indicated in their comments that they would like Health Canada to disclose the addresses of such sites and accept responsibility for the remediation of affected buildings. On February 5, 2013, the District of Mission wrote to the Minister of Health to make suggestions for the new regime and to congratulate the government on "... making the changes necessary to ensure that the production of marihuana can be carried out in a way that protects communities ...", this letter is attached at **Exhibit "ZZ"**. In a January 30, 2013, letter to Health Canada, the City of Surrey indicated its full support for the MMPR, as set out in CGI, but also provided a document entitled "What the Marihuana for Medical Purposes Regulations Overlook: Disclosure and Remediation of Inappropriately Used Dwellings, this letter and document are attached at **Exhibit "AAA"**.

169. In response to similar concerns raised by municipalities during preliminary consultations, the MMPR require potential applicants for a license to notify local government, police and fire officials in writing of their intention to apply for a producer's license and to submit proof in their application that this requirement has been complied with. The notice must specify the activities for which the license will be sought, and the address of the site at which activities will be conducted. In response to comments received in CGI, the draft MMPR were revised to include a provision to require a licensed producer to also notify these same authorities when the license is granted, when an amendment to the license is approved by the Minister, when the license is suspended or revoked for any reason, or when the license is reinstated. Further, the revised Regulations enable the Minister of Health to confirm license information to the

authorities originally notified by an applicant when the Minister receives such a request.

170. In its response to issues concerning remediation and location of existing MMAR production sites, Health Canada noted that the federal government does not have jurisdiction over land use patterns, local zoning laws or the issuing of building or construction permits in municipalities across Canada. Health Canada understands the issue of remediation to be a matter for local government which is best handled, as appropriate, by the local authorities most familiar with the issue.

Provinces and Territories

171. Six provinces, including British Columbia, Alberta, Manitoba, Ontario, Quebec and Nova Scotia, and three elected officials, including two Members of Parliament, submitted comments during the 75-day comment period. Overall sentiments were similar to those expressed during preliminary consultations held in 2011. Consistently, provinces raised concerns about the role of health care practitioners and pharmacists under the proposed MMPR. Provinces emphasized a need for more education and guidelines for physicians and/or other health care professionals in order to be able to make informed recommendations for their patients. Dosage was highlighted as a key concern in that area. Concerns included lack of research and lack of an evidence base on which marijuana is recommended as a medical therapy, especially given the health implications of using a smoked form of marijuana for medical purposes. Provinces and territories noted that a potentially higher price for dried marijuana under the proposed MMPR may put pressure on their governments to subsidize the costs incurred by patients. They also noted that, without a common drug review and a drug identification number, marijuana for medical purposes is not likely to be dispensed by pharmacists nor covered under provincial drug plans.

172. In its response, Health Canada noted that the MMPR aimed to treat dried marijuana as much as possible like other narcotics used for medical purposes by creating conditions for a new, commercial industry that would produce and distribute dried marijuana. This new system would introduce a secure and efficient system that provides access to marijuana for those who suffer from illness or disease, while saving taxpayers' money and reducing risks that are felt by Canadian communities. Licensed producers would be responsible for setting the price. The Regulations would introduce, however, the conditions necessary for a competitive industry, which would potentially contribute to prices falling over time in response to competition and technological innovation that could reduce cost of production. Health Canada also removed pharmacists as a dispensing option from the MMPR, in part based on pharmacists' responses and in part based on PT comments.

Prospective Industry

173. Comments were received from a variety of parties interested in becoming a licensed producer under the proposed MMPR, including compassion clubs. The majority of comments received expressed concern over consumer cost for dried marijuana. Based on the price projected in Health Canada's cost-benefit analysis for the Regulations (which estimated that an Licensed Producer (LP) producing 500 kg of dried marijuana per year could set a price of $7.60/gram and maintain a profitable operation), many potential LPs felt that registered clients, especially those in the low income category due to a disability, may not be able to afford the quantities they need or are accustomed to. This was seen as a significant risk to the viability of the commercial market considering the size of the investment that the group believes will be necessary to enter the market. Prairie Plant Systems, for example, wrote to Health Canada on February 20, 2013, and provided a 27 page report commenting on the proposed MMPR. This letter and report are attached at **Exhibit "BBB"**.

174. Health Canada's response to these concerns included that the new system will introduce a secure and efficient system that provides access to marijuana, while saving taxpayers' money and reducing risks that are felt by Canadian communities and other harms that have been cited by law enforcement, fire officials and municipalities. Since 2001, the cost of the Program (issuing authorization/licenses and subsidizing supply of dried marijuana) under the MMAR has consistently been rising as program participation has continued to experience exponential growth. With this growth projected to continue, the system of providing access to marijuana for medical purposes through a government supply contract or by issuing licenses for personal production (i.e. PUPL/DPPL) is unsustainable.

175. Some potential Licensed Producers expressed dissatisfaction that under the proposed MMPR, marijuana would be available in dried form only; they criticized the lack of product alternatives as a limitation on client choice. Some felt that the restriction to dried marijuana deprived registered clients and patients of access to marijuana in forms they may prefer in terms of desired effects, routes of administration (e.g. ingestion or topical) and "dosage." They noted some users of marijuana for medical purposes may prefer marijuana-based products that are ingested or applied topically to those used primarily *via* inhalation, given the known dangers of smoking.

176. Health Canada's response to these concerns was that the new Regulations would limit licensed producers to the production and distribution of dried marijuana only. The MMPR would not authorize extractions of active ingredients (e.g. resin) to be sold for the therapeutic purposes. The clinical studies on the therapeutic uses of marijuana that have been carried out to date have used dried marijuana that was either smoked or vaporized. There are no clinical studies on the use of cannabis edibles (e.g. cookies, baked goods) or topical products for therapeutic purposes. As with other drugs, all products that claim to have a health benefit must first go through the drug approval process as outlined in the FDR. The limited clinical data that exists is restricted to dried

marijuana that was either smoked or vaporized and to the cannabinoid-based medicines (dronabinol, nabilone, and nabiximols) that have gone through the appropriate drug approval channels. Under the MMPR, licensed producers would be required to include information leaflets prepared by Health Canada, which warn consumers of the adverse effects of using marijuana.

177. Health Canada listened carefully to the many varied, and often conflicting views and concerns expressed by the broad array of stakeholders, then weighed and considered this input against the policy objectives that guided reform of the marijuana for medical purposes regime. Health Canada's responses to the views expressed during the multi-phased consultation and to unsolicited comment it received as well as the impact this information had on the regulatory scheme as it was ultimately promulgated are detailed in the RIAS published in CG II with the MMPR as they came into force. The MMPR and its associated RIAS are attached at **Exhibit "CCC"**.

MARIHUANA FOR MEDICAL PURPOSES REGULATIONS (MMPR)

178. The MMPR were published in *Canada Gazette*, Part II (CGII) and came into effect on June 7, 2013. They created a new framework for provision of reasonable access to dried marijuana for medical purposes that would rely on commercial production of quality product in regulated circumstances that allowed for inspection, compliance and enforcement. To allow for smooth and successful transition from one access, supply, and distribution regime to the other, the MMPR operated in tandem with the MMAR until the MMAR repeal on March 31, 2014.

179. The RIAS (attached at Exhibit "CCC"), published with the MMPR, states that one of the objectives of the MMPR is "to reduce the risks to public health, security and safety of Canadians, while significantly improving the way in which individuals access marihuana for medical purposes."

180. The MMPR approach to providing access to dried marijuana for medical purposes is intended to address many, if not all, of the significant negative consequences that resulted from the MMAR, such as the practical difficulties in imposing quality and safety standards on production by personal producers of marijuana for medical purposes, who may lack the capacity, knowledge or motivation to implement them; individual health and safety risks to those seriously ill persons who consume cannabis of uncertain quality, strength and/or microbial or chemical (fertilizer and pesticide) contamination. The MMPRs are also intended to address the problems associated with personal production in dwelling houses reported by municipalities, first responders, police, and neighbours, and recognize that an inspection regime of private dwelling places would be neither a cost effective nor an efficient, manageable means of addressing the myriad unintended negative consequences of personal production of marijuana for medical purposes.

181. The MMPR are intended to improve access to quality dried marijuana for medical purposes, which is produced in regulated, sanitary, and secure premises. Accordingly, the new MMPR aim to:

- increase individual and public health and safety and security; cultivation of marijuana in individual residences under the MMAR ran contrary to these objectives;
- treat marijuana, to the extent possible, as much as possible like other drugs for medical use;
- provide that medical marijuana be manufactured in accordance with good production practices, in sanitary secure premises, and require that marijuana products be labelled to show levels of THC and CBD;
- facilitate access to multiple strains;
- eliminate government involvement in authorizing possession of marijuana for medical purposes;
- expand the scope of persons who may sign a medical document to include nurse practitioners, where their licensing bodies permit;

- streamline the medical document and eliminate categories of medical conditions
- return Health Canada to its traditional role of regulator;
- create a legitimate, regulated business environment in which:
  a. dried marijuana for medical purposes will be produced and distributed under safe, secure, sanitary conditions;
  b. production site and key personnel of the Licensed Producer must meet security standards;
  c. standards for packaging, transportation and record keeping are required;
  d. inspections of licensed producers can be conducted, during which compliance and enforcement activities can be carried out to the benefit individual users and the general public; and
  e. a better balance can be achieved between providing access to dried marijuana for medical purposes and minimizing negative impacts resulting from its production in dwelling houses.

182. The MMPR authorize the following key activities:
- possession of dried marijuana by individuals who have the support of a licensed health care practitioner to use marijuana for medical purposes;
- production of dried marijuana by licensed producers only; and
- sale and distribution of dried marijuana by licensed producers and hospitals to individuals who can possess it.

183. Up until March 31, 2014, the MMPR also allowed individuals who held an authorization to possess under the MMAR to transition to the new framework using their authorization for up to one year after its date of issue (unless a period of usage of less than 12 months has been indicated in the medical declaration). Individuals could also transition to obtaining their legal supply of dried marijuana for medical purposes under the MMPR by using a medical declaration issued under the MMAR to register with a licensed producer, which could then provide them with dried marijuana for medical purposes.

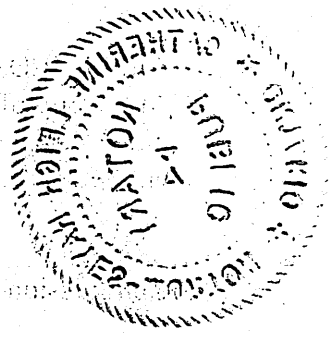
184. Under the MMPR, personal and designated licenses to produce dried marijuana for medical purposes issued under the MMAR were to be valid until March 31, 2014, when the MMAR were slated for and indeed were repealed. It was expected that at that time all personal and designated production licenses would become invalid and that persons authorized to use marijuana for medical purposes would obtain quality controlled dried marijuana from licensed producers, whom Health Canada could monitor and inspect. Production of marijuana in dwelling places was to have ended. This situation did not materialize, however, because the March 21, 2014 Federal Court injunction order allowed that certain persons who were authorized to possess and to produce marijuana for medical purposes and who met the terms of the order, to continue to do so in accordance with the existing terms of their licenses and authorizations, with the exception that possession would be capped at 150 grams at any one time.

185. Throughout the transition period and still, Health Canada's website provides detailed information for persons transitioning to the MMPR, persons seeking to use marijuana for medical purposes, or entities applying to be a LP under the MMPR: http://www.hc-sc.gc.ca/dhp-mps/marihuana/transition-eng.php. These materials are attached at **Exhibit "DDD"**.

186. Health Canada continued to accept applications for renewal of personal and designated production licenses until September 30, 2013. After September 30, 2013, submissions to Health Canada with applications for new ATPs and/or new production licenses, applications for increases to ATPs (and their associated production licenses), as well as changes to production sites were no longer accepted. The rationale underlying this deadline was that applications submitted beyond October 1, 2013, would have had inadequate time for new producers to cultivate, harvest and dry a marijuana crop prior to the repeal of the MMAR on March 31, 2014.

187. On repeal of the MMAR, Health Canada no longer accepts, processes, or issues applications for authorizations to possess and licenses for personal or designated production of marijuana for medical purposes. Health Canada no longer maintains a contract for production of dried marijuana for medical purposes; nor does it supply marijuana for medical purposes.

AFFIRMED BEFORE ME)
At the city of Ottawa,)
in the Province of Ontario,)
on the 15th day of January, 2015)
)
)
Commissioner for Taking Affidavits) JEANNINE RITCHOT


HIGH SCHOOL
MOSTAR

This is Exhibit "L" mentioned and
referred to in the affidavit of

Asvini Krishnamoorthy

Sworn *(or affirmed)* before me
this 13TH day of DECEMBER 2018

A Commissioner for taking affidavits
(*or as the case may be*)

Federal Court of Appeal | Cour d'appel fédérale

Date: 20140606

Docket: A-178-14

Ottawa, Ontario, June 6, 2014

Present: **SHARLOW J.A.**
STRATAS J.A.
MAINVILLE J.A.

BETWEEN:

MICHAEL K. SPOTTISWOOD

Appellant

and

HER MAJESTY THE QUEEN

Respondent

ORDER

The appeal and the motion are dismissed for mootness, with costs payable to the respondent in the amount of $500 inclusive of all disbursements and taxes.

"K. Sharlow"
J.A.

This is Exhibit "M" mentioned
and referred to in the affidavit of

Asvini Krishnamoorthy

Sworn *(or affirmed)* before me
this 13TH day of DECEMBER 2018

A Commissioner for ~~taking~~ affidavits
(*or as the case may be*)

Federal Court of Appeal | Cour d'appel fédérale

Date: 20140909

Docket: A-329-14

Ottawa, Ontario, September 9, 2014

Present: **SHARLOW J.A.**

BETWEEN:

MICHAEL K. SPOTTISWOOD

Appellant

and

HER MAJESTY THE QUEEN

Respondent

ORDER

UPON the motion of the Appellant for an interim constitutional exemption from the prohibitions on marihuana in the *Controlled Drugs and Substances Act*, and having reviewed the motion record of the Appellant, and the responding motion record of the Crown;

THIS COURT ORDERS that the motion is dismissed with costs, hereby fixed at $500 inclusive of all disbursements and taxes.

"K. Sharlow"

J.A.

This is Exhibit "N" mentioned and
referred to in the affidavit of

Asvini Krishnamoorthy

Sworn *(or affirmed)* before me
this 13TH day of DECEMBER 2018

A Commissioner for taking affidavits
(*or as the case may be*)

Court File No.: T-1913-18

FEDERAL COURT

B E T W E E N :

MIKE SPOTTISWOOD

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

BILL OF ANTICIPATED COSTS OF THE DEFENDNAT, HER MAJESTY THE QUEEN

A claim for fees is being made with respect to:

COUNSEL FOR THE RESPONDENT

Jon Bricker (Year of Call – 2009)

Wendy Wright (Year of Call – 2010)

FEES:

ITEM	ASSESSMENT SERVICE	COLUMN III UNITS	UNITS CLAIMED	FEE
	A. Originating documents and Other Pleadings			
A2	Preparation and filing of all defences, replies, counterclaims or respondents' records and materials.	4-7	5	$750
	C. Discovery and Examinations			
C7	Discovery of documents, including listing, affidavit and inspection.	2-5	3	$450
C8	Preparation for an examination, including examinations for discovery, on affidavits, and in aid of execution.	2-5	3	$450

C9	Attending on examinations, per hour.	0-3	6 (2 x 3 hours)	$900
	D. Pre-Trial and Pre-Hearing Procedures			
D13	Counsel fee: (a) preparation for trial or hearing, whether or not the trial or hearing proceeds, including correspondence, preparation of witnesses, issuance of subpoenas and other services not otherwise particularized in this Tariff; and	2-5	3	$450
	E. Trial or Hearing			
E14	Counsel fee: (a) to first counsel, per hour in Court; and	2-3	12 2 x 6 hours (1 day)	$1,800
	(b) to second counsel, where Court directs, 50% of the amount calculated under paragraph (a).	2-3	12 2 x 6 hours (1 day)	$900
E15	Preparation and filing of written argument, where requested or permitted by the Court.	3-7	4	$600
	HST (not payable by the Federal Crown)			$0.00
	Subtotals		**48 units**	**$6,300.00**

	ANTICIPATORY DISBURSEMENTS (inclusive of HST)	**FEE**
	Photocopying: - Statement of Defence, Affidavit of Documents, and Memorandum of Fact and Law	$150
	Process server: - Serving/filing Statement of Defence, Affidavit of Documents, and Memorandum of Fact and Law	$200

	Total Estimated Disbursements:	**$350.00**

TOTAL ANTICIPATED FEES AND DISBURSEMENTS: $6,650.00