

GRAND PÉTITION
FEDERAL COURT
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No. T-2030-13

FEDERAL COURT

Date JAN 31 2016

Signature

BETWEEN:

NEIL ALLARD
TANYA BEEMISH
DAVID HEBERT
SHAWN DAVEY

SERVICE OF A TRUE COPY
HEREOF ADMITTED

THIS... 31st... DAY OF

January, 2016.

William F. Penney /cs

Solicitor for
A.G.C.

PLAINTIFFS

AND:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

DEFENDANTS

AFFIDAVIT OF SHAWN DAVEY

I, SHAWN DAVEY, Disability pensioner, c/o Conroy & Company, 2459 Pauline Street, Abbotsford, British Columbia, MAKE OATH AND SAY AS FOLLOWS, THAT:

1. I am one of the Plaintiffs herein and as such I have personal knowledge of the matters and facts hereinafter deposed to save and except where same are stated to be made on information and belief in which case I verily believe them to be true.
2. I am 37 years of age born in 1976 in Maple Ridge, British Columbia, Canada.
3. I am currently single with one dependent, my 17 year old son who lives with his mother, from whom I am separated, in Mission, British Columbia.
4. I have a grade 10 education from Maple Ridge Senior Secondary and thereafter obtained certifications based on job experience until my accident. I have no criminal record.

5. Prior to June 16th, 2000 I worked for Commercial Body Builders, Ltd., building custom vehicles in Delta, British Columbia, working some 70 hours per week, but then on June 16th, 2000, I was involved in a motor vehicle accident in which I suffered a substantial brain injury in which the other party was at fault and which resulted in my receiving a substantial settlement from the other party through the Insurance Corporation of British Columbia by way of a monthly payment of \$4,500.00 over a 30 year annuity period as well as a Canada Pension Plan Disability Pension in the amount of \$530.00 per month, for a total of approximately \$5,000.00 a month and I pay \$300 a month in maintenance to my former spouse.

6. As a result of the motor vehicle accident, I was in a coma for 3.5 months and I was told by my attending health care practitioners that I would never walk or talk again and would be under 24 hour care for the rest of my life. I suffered a severe brain injury and I am constantly in major pain. For the first six years I relieved the pain through medications prescribed by my physician covered through the ICBC settlement and the BC Medical Plan. These medications were still costing me another approximate \$3,000.00 a month and I consumed those medications for approximately 6 years. I then tried Cannabis (marihuana) and found that it not only relieved my pain, but also enabled me to wean myself off all of the other medications and only consume cannabis (marihuana), thereby removing my dependency on the other medications and avoiding their significant side effects.

7. Starting in approximately 2007 I had a person producing cannabis (marihuana) for me as medicine as a Designated Grower, but I found that the supply was unreliable in terms of ensuring me a continuous safe supply and the quality very poor. I was suspicious that this person was maybe abusing the licence so I switched to a different Designated Grower for a couple of years, but once again I found the quality to be not up to what I required in terms of strengths and effectiveness, although the supply was more regular. Consequently I determined to produce my own so that I could control the quality and quantity accordingly.

8. I am currently authorized to use up to 25 grams a day and now produced and marked as Exhibit "A" to this my affidavit is a copy of my Authorization to Possess indicating my MMAD No. 42760-13 and my client ID 45146 and I have deleted the addresses for privacy and security reasons, but assume that Health Canada has access to that and I can provide it if required. This document authorizes me to possess at any time up to 750 grams on my person and while it specifies that the authorization is valid until September 26th, 2014 it also indicates that it will expire on March 31st, 2014 although it can be used to register with a Licenced Producer thereafter.

9. I also have a Personal Use Production Licence issued on September 16th, 2013 which expires March 31st, 2014 and now produced and marked as Exhibit "B" to this my affidavit is a copy of that licence with the same MMAD number and Client ID number and I have similarly deleted the addresses, including the address of the production site for privacy and security reasons, but can make it available if required. This document shows that I am entitled to produce 122 plants indoors and to store 5,490 grams indoors. That licence expires according to its face on March 31st, 2014 , which I understand to be the date of repeal of the *Medical Marihuana Access Regulations* by the *Marihuana for Medical Purposes Regulations*

10. I use the entire Cannabis plant as medicine. Primarily I use it in edibles or baked goods, but I also make tea out of it and juice and also smoke it from time to time.

11. I used to live on a particular street in Mission, BC and my next door neighbor was one Brian Alexander. In speaking with him, I found out that he also had an Authorization to Possess and a Personal Use Production Licence under the *Marihuana Medical Access Regulations* and that he had a leased location in Mission where I could also locate my production and that way we could reduce the costs by sharing them to some extent and he could assist me with his knowledge of how to produce the cannabis as medicine. Consequently, I joined with him in leasing the production site property in Mission, British Columbia, and both of our production licences are effective at that location for purposes of production and storage. The property is in the BC Agricultural Land Reserve which expressly allows the propagation of medicinal plant culture and the

production building on the property is an outbuilding or barn. I moved into the residence on that property and therefore lease or pay rent accordingly. Brian Alexander took care of ensuring that the production facility was properly constructed and vented to ensure no mold problems and that it was safe and secure from the likelihood of any heat or fire problems and he also put in place appropriate alarms and gates and doors to ensure proper security. With respect to the production, Brian assists me while attending to his own by telling me what to do and I simply follow his directions. He also helps me in my daily living such as assisting me in obtaining groceries from the store and things of that nature. The alarm system at the production site is set up so that if the alarm goes off the monitor first calls Brian Alexander and if he does not answer then calls me and I call the police or if he does answer then he calls me and he will call the police. We have never had to do this. The assistance of Brian Alexander enables me to attend to the production myself with his assistance and to keep the cost of production at a reasonable level.

12. I have found that I can produce at a cost that I estimate to be between \$1 - \$2 a gram and that I use 25 grams a day. While my original medications were costing me approximately \$3,000 a month, I was now able to reduce that to approximately \$750 - \$1500 a month. I am also very concerned about quality and effectiveness because I have determined that I require a 12%-18% THC content to reduce my pain. Compared to the arrangement with the previous designated producers, this arrangement has worked out very well for me and I feel very secure and safe and experience far less stress knowing that I am able to ensure a safe continuous supply of effective medicine for myself.

13. If I am unable to continue to produce for myself with the assistance of Brian Alexander as indicated above, I understand that to continue to produce may result in me being charged with the offence of production for which the penalty includes a threat of imprisonment. I do not want to go back on to the narcotics or other medications originally provided to me because of the side effects and impact they have upon me so I fear that I will have to go to the black market to try and find cannabis (marihuana) that will work for me and that will cost me less than the estimated licenced producer prices

of between \$6-\$12 a gram. I am concerned about the quality and safety of any product obtained through that means. Based on my past experiences, I simply do not trust others to produce the quality effective medicine that I require for my health. At my rate of use of 25 grams a day, my costs through a Licenced Producer at \$8 a gram would be \$200 a day or 4 times my current costs and approximately \$6,000 a month or every 30 days.

14. It is our understanding that the neighbours on both sides of our production site also have medical marihuana licences but we have not verified that and we have never had any complaints from any neighbours.

15. I swear this Affidavit in support of an Application for 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. 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.

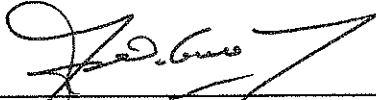
or alternatively, and together with

- 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.

and such further and other relief as the court deems appropriate and just in all of the circumstances.

SWORN BEFORE ME at the City)
of Abbotsford, in the Province of)
British Columbia, this 8th day of)
January, 2014)



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


SHAWN DAVEY

JOHN W. CONROY, Q.C.
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Ottawa ON K1A 1B9

MMAD-42760-13
Client ID: 45146

PERSONAL - USE PRODUCTION LICENCE
DRIED MARIHUANA FOR MEDICAL PURPOSES

You have met the requirements to be issued a licence pursuant to section 29 of the *Marihuana Medical Access Regulations* (MMAR). You are hereby licenced to produce dried marihuana for your medical purpose in accordance with your licence. This document serves as proof of your authority to produce marihuana for a medical purpose. You should have this document with you at all times in case you are required to show proof to the police.

HOLDER OF LICENCE INFORMATION

NAME: Shawn Robert Davey DATE OF BIRTH: 08-Jun-1976
ADDRESS: [REDACTED] GENDER: Male
Canada
MAILING ADDRESS: [REDACTED]
LICENCE #: APPL-SRD-06-D30720800-76-13-A

TERMS AND CONDITIONS

PRODUCTION SITE: [REDACTED]
MODE OF PRODUCTION: Indoor
PRODUCTION QUANTITIES: The maximum number of marihuana plants that you may have under production at the production site at any time under this *Personal-Use Production Licence* is **122 PLANTS (indoor) or 0 PLANTS (outdoor)**.
STORAGE SITE: [REDACTED]
STORAGE QUANTITIES: The maximum quantity of dried marihuana that you may keep at the storage site at any time under this *Personal-Use Production Licence* is: **5490 grams** and it must be stored indoors.

EXPIRY DATE

This *Personal-Use Production Licence* expires on: **31-Mar-2014**

ISSUED BY:



Louis Proff
A Director, Bureau du cannabis médical
A Director, Bureau of Medical Cannabis
Contrôle des Substances & Tabac - Directorate
Direction des substances contrôlées et de la lutte au
tabagisme
Health Canada / Santé Canada

DATE OF ISSUE:

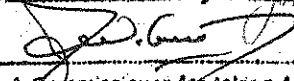
26-Sep-2013

PLEASE READ ALL ENCLOSED DOCUMENTS

ENCLOSED DOCUMENTS: Information you should know about your *Authorization to Possess* dried marihuana and / or *Licence to Produce*

All inquiries regarding this licence should be directed to the Marihuana Medical Access Program toll-free number: 1-866-337-7705.

Canada

This is Exhibit "B" referred to in
sworn before me at Shawn Davey
Abbotsford BC
this 8th day of Nov 2014

A Commissioner for taking Affidavits
for British Columbia

