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FEDERAL COURT
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No. T-2030-13

FEDERAL COURT

Date: JAN 31 2014

BETWEEN:

**NEIL ALLARD
TANYA BEEMISH
DAVID HEBERT
SHAWN DAVEY**

SERVICE OF A TRUE COPY
HEREOF ADMITTED

THIS... 31st ... DAY OF

January... 2014...

William F. Patney / 03

Solicitor for
PLAINTIFFS

AND:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

DEFENDANTS

AFFIDAVIT OF TANYA BEEMISH

I, TANYA LOUISE BEEMISH, 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 27 years old, born in 1986 in Vancouver, British Columbia, Canada and I reside in Surrey, British Columbia with my common law husband David Hebert and we have no children.
3. I have a grade 10 education from New Westminster Secondary School, BC and continued my education at Columbia Square Adult Learning Center when able to do so

and am currently enrolled in grade 11 and 12 courses. My work experience is as a barista and I have no criminal record. I have been on sick leave since June 2012.

4. I am on a Canada Pension Plan disability pension since December 2012 of \$596.73 a month due to suffering from type 1 diabetes diagnosed in June 2000 and gastroparesis, diagnosed in 2005 (delayed gastric emptying a complication from type 1 diabetes).

5. I am approved by my health care practitioner and Health Canada to use cannabis (marihuana) to deal with symptoms of extreme nausea, vomiting, pain, lack of appetite and sleep. I use a daily dose of 2-10 grams per day of dried cannabis bud depending upon my health via smoking and vapourizing. I find it difficult to eat so I have not been using edibles as well as we no longer have access to fresh plant material.

6. If the cost of this medicine from licenced producers is between \$8-\$12 a gram we will simply not be able to afford to purchase the medicine. Even at \$5 a gram that would be a 10 times increase that we cannot afford. I understand if one continues to produce after one's licence expires that one may be subject to being charged with unlawful production and face the threat of imprisonment and consequently if David Hebert is no longer able to produce for me at a reasonable cost, we will have no alternative but to try and seek out alternative medicine through the black market or illicit market to assist me. This is something we have always tried to avoid and concerns me insofar as our safety and security is concerned and my health.

7. I am authorized to possess 150 grams on my person at any time and to store 1,125 grams at the production site. I usually store around 300-500 grams. I understand that under the new Regulations I will not be able to store anything and can only possess 150 gms on my person at any time and can only order that amount and no more from Licensed Producer at a time.

8. As a result of my condition I vomit continuously for days sometimes and I have terrible pain and nausea. I have been unable to work for the last 24 months due to my disability and have been spending more than 50% of my time admitted to the Royal

Columbian and Surrey Memorial hospitals. For the most of 2013 I have been using a GJ tube bypassing my stomach and I am on dozens of medications that I find do not assist me. Many of these medications include opiates such as Hydromorphone (dilaudid) and I do not like the side effects. I am extremely weak and bed ridden most days. If I am taken to the Emergency department I am usually sent home within 1 to 2 weeks after being admitted, usually with a bag of food for my tube and a one week prescription for Hydromorphone. I usually return in 1 to weeks this has been ongoing for 2 years now. There is little follow up when I do stay hospital free and I currently due to not have a family physician making this even more difficulty.

9. I found that cannabis marihuana is an effective relief for my nausea and discomfort from gastroparesis and in addition it helps me with my anxiety and depression and stimulates my appetite. I have tried to find ways to ingest CBD (cannabidiol) and THC (tetrahydrocannabinol) as extracts but have difficulties with fats and alcohol (the solvents) due to my condition and have no more access to the necessary fresh cannabis for juicing any longer. I have read and been told that those cannabinoids might help regenerate the nerves in my stomach and help with the management of my diabetes also.

10. I have tried to get doctors approval in the past regarding the use of cannabis and many have become uncomfortable and silent and avoid conversation or become hostile and tell me that cannabis is poison and that I am drug addicted or that is causing my condition. This is most definitely not true as I almost never have access to it within hospital and my symptoms often keep me there longer, although cannabis by no means completely relieves my condition it provides a good deal of help. The only physician that continues to support me is my endocrinologist, I currently have no family doctor.

11. Unfortunately my pain management is primarily through hydromorphone, as I am limited to dry stored cannabis now and have none for juicing or attempting other extracts. Currently other options to reduce or control my pain are also being explored. Unfortunately one of them is a Pain Management Clinic that helps wean people off

narcotics but there is a 19 month waiting list to get into that program and I have not been able to participate as yet.

12. Now produced and marked as Exhibit "A" to this my affidavit is a copy of my Authorization to Possess and I have deleted my addresses for reasons of privacy and security. My licence expired on January 4th, 2014

13. My common law husband David Hebert is my primary caregiver and designated grower under the *MMAR* and now produced and marked as Exhibit "B" to this my affidavit is a copy of his licence with the addresses again deleted or redacted for privacy and security reasons, including the address of the production and storage site. This document authorizes the production of 25 plants indoors and the storage of 1,125 grams indoors and also expired on January 4th, 2014. David Hebert produced two strains for me that I understand are "blueberry strains" that alleviate my pain.

14. Prior to September 30th, 2013, we resided in the townhouse with the garage production facility, but due to my health and the costs involved we simply could not afford to remain there and had to downsize and move to another location. This would of course involve moving the production licence as well. Therefore on or about September 27th, 2013 David Hebert telephoned Health Canada and told them that were going to have to move but we did not have a place yet and the person he spoke to on the phone simply advised that they were unable to help until we had a new address at which time we would have to get the new forms in as soon as possible before the September 30th deadline.

15. By the time we found a place, the September 30th, 2013 deadline was passed and on or about October 20th, 2013 David Hebert again telephoned Health Canada to see what we could do given my and our desire not to go to the black market and there not being any other sources available, but the representative from Health Canada told him that there was simply nothing that could be done, that we had passed the deadline and therefore the production would have to end upon the expiry of the licence, namely January 4th, 2014 and no address change would be provided.

16. We moved to our new premises on October 30th, 2013 and are therefore no longer producing because we could not move the production site to be lawful at the new premises, but we still have all our equipment and therefore have the ability to set back up if permitted to do so. The amount of cannabis left from production is now very low and David Hebert has looked at the cannabis (marihuana) available from the licenced producers online and I can simply say that we cannot afford the prices. Consequently I am going to have to go back to try and find some friendly sources on the street to obtain at a price that we can afford or have David do so for me.

17. 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.

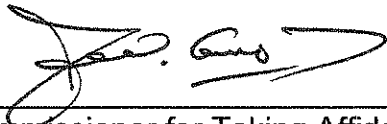
or alternatively, and together with

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~~ ^{Vancouver}, in the Province of British)
Columbia, this 1st day of January,)
2014)



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




TANYA BEEMISH

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

**AUTHORIZATION TO POSSESS
DRIED MARIHUANA FOR MEDICAL PURPOSES**

You have met the requirements to be issued an authorization pursuant to section 11 of the *Marihuana Medical Access Regulations* (MMAR). You are hereby authorized to possess dried marihuana for your medical purpose in accordance with your authorization. This document and/or ID card will serve as proof of your authority to possess marihuana for medical purpose. You should have at least one of these documents with you at all times when you are in possession of the substance in case you are required to show proof to the police.

<u>HOLDER OF AUTHORIZATION INFORMATION</u>	
NAME: Tanya Louise Beemish	DATE OF BIRTH: 02-Jul-1986
ADDRESS: [REDACTED]	GENDER: Female
MAILING ADDRESS: [REDACTED]	
<u>TERMS AND CONDITIONS</u>	
The maximum quantity of dried marihuana that you may possess at any time under this <i>Authorization to Possess</i> is: 150 grams.	
<u>MEDICAL PRACTITIONER INFORMATION</u>	
NAME: Dr. Clarissa Wallace	
<u>EXPIRY DATE</u>	
Please note this <i>Authorization to Possess</i> expires on 04-Jan-2014 Should you wish to renew your <i>Authorization to Possess</i> , please submit your renewal application at least 8 weeks prior to your expiry date.	

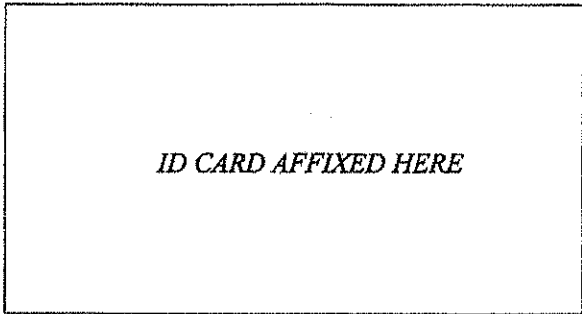
ISSUED BY:  <small>Louis Provik A: Directeur, Bureau du cannabis médical A: Directeur, Bureau of Medical Cannabis Contrôle des Substances & Tobacco Directorate Direction des substances contrôlées et de la lutte au tabagisme Health Canada - Santé Canada</small>	DATE OF ISSUE: 04-Jan-2013
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PLEASE READ ALL ENCLOSED DOCUMENTS

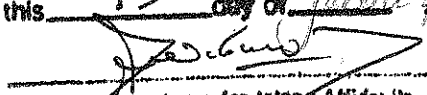
ENCLOSED DOCUMENTS:

Information you should know about your *Authorization to Possess* dried marihuana

c.c.: Dr. Clarissa Wallace



All inquiries regarding this authorization should be directed to the Marihuana Medical Access

This is Exhibit "A" referred to in the affidavit of Tanya Beemish sworn before me at Abbotsford BC this 13th day of January 2014

A Commissioner for Taking Affidavits for British Columbia

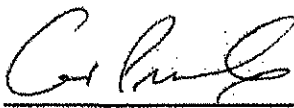
DESIGNATED PERSON PRODUCTION LICENCE
DRIED MARIHUANA FOR MEDICAL PURPOSES

You have met the requirements to be issued a licence pursuant to section 40 of the *Marihuana Medical Access Regulations* (MMAR). You are hereby licenced to produce dried marihuana. This document and/or ID card will serve as proof of your authority to produce marihuana for a medical purpose. You should have at least one of these documents with you at all times in case you are required to show proof to the police.

<u>HOLDER OF LICENCE INFORMATION</u>	<u>AUTHORIZED PERSON INFORMATION</u>
NAME: David Wesley Hebert	NAME: Tanya Louise Beemish
D.O.B: 26-Jul-1981	D.O.B: 02-Jul-1986
GENDER: Male	GENDER: Female
ADDRESS: [REDACTED] Canada	ADDRESS: [REDACTED] Canada
MAILING ADDRESS: [REDACTED] Canada	MAILING ADDRESS: [REDACTED] Canada

<u>TERMS AND CONDITIONS</u>
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 <i>Designated Person Production Licence</i> is 25 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 <i>Designated Person Production Licence</i> is: 1125 grams and it must be stored indoors.

<u>EXPIRY DATE</u>
Please note this <i>Designated Person Production Licence</i> expires on 04-Jan-2014 Should you wish to renew your <i>Designated Person Production Licence</i> , please submit your renewal application at least 8 weeks prior to your expiry date.

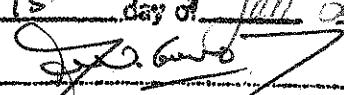
ISSUED BY:  <small>Louis Proulx A. Directeur, Bureau du cannabis médical / A. Director, Bureau of Medical Cannabis Controlled Substances & Tobacco Directorate / Direction des substances contrôlées et de la lutte au tabagisme Health Canada / Santé Canada</small>	DATE OF ISSUE: 04-Jan-2013
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PLEASE READ ALL ENCLOSED DOCUMENTS

ENCLOSED DOCUMENTS:
Information you should know about your
Designated Person Production Licence

c.c.: Tanya Louise Beemish

ID CARD AFFIXED HERE

This is Exhibit B referred to in
the affidavit of Tanya Beemish
sworn before me at Abbotsford BC
this 13th day of Jan 2014

A Commissioner for taking Affidavits
for British Columbia