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HEREOF ADMITTED

THIS.....16.....DAY OF

April.....2014.....

William E. Bentley

Solicitor for

A.G.L.

Date APR 17 2014

Registrar

Greffier

FEDERAL COURT OF APPEAL

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Appellant

and

Neil ALLARD, Tanya BEEMISH, David HEBERT and Shawn DAVEY

Respondents

NOTICE OF CROSS-APPEAL

THE RESPONDENT CROSS-APPEALS in this appeal and asks that the Order be varied as follows:

1. That the Order be varied to include an interim Order exempting all medically approved patients from ss. 4, 5 and 7 of the **Controlled Drugs and Substances Act** followed by a suspension of that exemption for a reasonable period of time to enable the Respondents or Health Canada to devise a simple procedure for the modification of such medically approved and exempted patients with valid permits pending trial, to avoid the violation of their s.7 **Charter** Rights in the interim period.
2. That the Order be varied to apply to all medically approved persons who had a valid Authorization to Possess (ATP) on March 31, 2013 so that patients, such as the Plaintiff/Applicant Beemish, and others similarly situated, are protected by the Order.
3. That the Order be varied to enable all medically approved persons exempted by the Order, such as the Plaintiffs Hebert and Beemish, and others similarly situated, to be able to change the address of their production site by filing a change of address form with Health Canada pending trial.
4. That the Order be varied to strike "except that the maximum quantity of dried marihuana authorized for possession shall be that which is specified by their licence or 150 grams, whichever is less" from paragraph 2 of the Order.
5. That the Order be varied to include an order in the nature of *mandamus* as the appropriate and just remedy under s.24(1) of the **Canadian Charter of Rights and Freedoms**, to compel the Respondents to put in place a procedure pending trial to

enable the processing of new medically approved patients whose s.7 constitutional rights would otherwise be violated, pending trial;

THE GROUNDS FOR THIS CROSS-APPEAL are as follows:

1. That the Federal Court erred in law in failing to declare that all of the Applicants, and others similarly situated, were entitled to an interim constitutional exemption pending trial from the relevant provisions of the **Controlled Drugs and Substances Act (CDSA)** in all of the circumstances, and then suspending that declaration, for a brief but reasonable period of time to enable the Respondents to fashion a simple process to cover necessary modifications for all medically approved patients on an interim basis pending trial.
2. That the Federal Court erred in law in holding that all of the Applicants, and therefore all others similarly situated whose constitutional rights are affected, had met the test for injunctive relief pending trial, but then failed to fashion an appropriate and just remedy for all of them, including in particular the Applicants/Plaintiffs patient Tanya Beemish and her husband David Hebert, although Ms. Beemish remains medically approved, as are other similarly situated patients whose constitutional rights will be impacted and continuously violated in the absence of a remedy pending trial.
3. That the Federal Court erred by wrongly finding that medically approved patients with dosages in excess of 5 grams per day would not suffer irreparable harm if limited to being able to possess only 150 grams on their person at any time.
4. That the Federal Court erred in law in failing to provide an appropriate and just remedy under s.24(1) of the **Charter** in the nature of an Order of *mandamus* to compel the Respondents to put in place a process to permit new medically approved patients to possess and produce for themselves, pending trial in circumstances where their s.7 **Charter** rights would otherwise be violated.
5. **Federal Court Act**, esp. ss.27 and 52.
6. **Federal Court Rules**, esp. Rule 341(1)(b).
7. Such further and other grounds as the Cross-Appellant advises and this Honourable Court may permit.

April 16, 2014



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