

FEDERAL COURT

BETWEEN:

NEIL ALLARD
TANYA BEEMISH
DAVID HEBERT
SHAWN DAVEY

Plaintiffs

and

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Defendant

WRITTEN EXAMINATION

TO: **SHAWN DAVEY**

The Defendant has chosen to examine the Plaintiff Shawn Davey for discovery.

You are required to answer the questions in the schedule by affidavit in Form 99B prescribed by the *Federal Courts Rules*.

The affidavit containing the answers is to be served on all other parties by August 15, 2014 pursuant to the Court's Order of May 2, 2014.



DATE: July 22, 2014

William F. Pentney
Deputy Attorney General of Canada
Per: **Jan Brongers**
Department of Justice
900 - 840 Howe Street
Vancouver, BC V6Z 2S9
Tel: 604-666-0110
Fax: 604-666-1585

Solicitor for the Defendant

SCHEDULE

I. Background

1. Please provide answers to the following questions regarding your background information:
 - (a) What is your level of education?
 - (b) What is your occupation? If you are currently retired or a disability pensioner, please provide your previous occupation.

II. Health and the use of marijuana for medical purposes

2. Please generally describe your medical history.
3. When did you first use marijuana for medical purposes? Please fully describe the circumstances of how you decided to use marijuana for medical purposes, including by whom it was recommended/suggested and whether you were authorized by Health Canada to use marijuana for medical purposes at that time
4. Please set out the period(s) (month, year) during which you have been authorized by Health Canada to use marijuana for medical purposes and, for each of the period(s), provide the following information:
 - (a) all of the condition(s) and/or symptom(s) the marijuana was intended to address;
 - (b) the number of doctor(s) you consulted regarding these condition(s) and/or symptom(s);
 - (c) the name(s) of the doctor(s) who authorized your use of marijuana for medical purposes;
 - (d) the name(s) of any doctor(s) who refused to authorize your use of marijuana for medical purposes;

- (e) how long you had been a patient of each authorizing doctor at the time he/she authorized your use of marijuana for medical purposes;
 - (f) how much money you paid to each authorizing doctor for his or her authorization of your use of marijuana for medical purposes; and
 - (g) the amount of marijuana you were authorized to use and how that amount was determined.
5. Please provide details of the condition(s) and/or symptom(s) set out in your answer to question 4(a) above, including when you were first diagnosed and by whom, who recommended marijuana for medical purposes as treatment for these condition(s) and/or symptom(s), and the impact of these condition(s) and/or symptom(s) on your quality of life.
 6. Please fully describe how the effect(s) of the condition(s) and/or symptom(s) set out in your answer to question 4(a) above impact your ability to cultivate marijuana and how you deal with this.
 7. Please describe all the treatments you have undertaken to address the condition(s) and/or symptom(s) set out in your answer to question 4(a) above other than marijuana for medical purposes, including: drugs, surgeries, physiotherapy, massage, exercise, acupuncture, etc. Please describe the effectiveness of and any side effects you experienced from these treatment(s).
 8. Have you ever used cannabinoid-based medications, such as Nabilone or Sativex to address the condition(s) and/or symptom(s) set out in your answer to question 4(a) above? If no, why?
 9. Please describe the effectiveness of and any side effects you have experienced from using marijuana for medical purposes.

10. During the period(s) for which you were authorized by Health Canada to use marijuana for medical purposes:
 - (a) How often did you meet with the authorizing doctor(s) to check-in, follow-up and/or consult on your ongoing use of marijuana for medical purposes?
 - (b) At these visits, what topics were discussed?
 - (c) How long did these visits last, on average?
 - (d) Did the doctor(s) recommend any alternative treatments to using marijuana for medical purposes? If so, why?
 - (e) Did the doctor(s) ever advise you of any concerns with respect to the use of marijuana for medical purposes? If so, please describe those concerns.
 - (f) Did the doctor(s) ever recommend that you cease the use of marijuana for medical purposes or reduce the dose of marijuana for medical purposes? If so, provide details of the discussion(s) and explain why.
 - (g) On what date did you last consult with a doctor regarding your use of marijuana for medical purposes?
 - (h) Did you discuss with the doctor(s) the use of a particular strain of marijuana for medical purposes? If so, provide details of the discussion(s) and any recommendation(s) made by the doctor(s).

11. When you began using marijuana for medical purposes, how, on what basis, and by whom was it determined what the appropriate dose should be?

12. During the period(s) for which you were authorized by Health Canada to use marijuana for medical purposes, did you see any doctor(s) other than the doctor(s) who authorized your use of marijuana for medical purposes? If so:
 - (a) Did any of those other doctors know about your use of marijuana for medical purposes?
 - (b) Did any of those other doctors have any concerns about your use of marijuana for medical purposes? If so, please describe those concerns.
 - (c) Please provide the name(s) of that/those concerned doctor(s) and fully describe the concerns.

13. During the period(s) for which you were authorized by Health Canada to use marijuana for medical purposes:
 - (a) Has your dosage of marijuana for medical purposes changed?
 - (b) If so, why, how, on what basis, and by whom was it determined that your dose of marijuana for medical purposes should increase or decrease?
 - (c) If a change in dosage was not authorized by the same doctor who authorized the previous dosage, please explain why the change was authorized by a different doctor.
14. Will you provide us with authorization to obtain your medical and drug history? If so, please complete the enclosed "Authorization to Release Medical Records" form. If no, why not?
15. Will you provide us with authorization to speak to all of the doctor(s) referenced in your answers to these questions? If no, why not?

III. Particulars of marijuana use

16. When did you first use marijuana? Was it for medical or non-medical purposes? If you have ever used marijuana for non-medical purposes, please describe the approximate date(s), frequency, quantity and methods (i.e. smoked, eaten, juiced, etc.) by which you did so.
17. Please list the strains of marijuana for medical purposes you presently use and the strains you have used in the past. Do you know the THC/CBD content of the strain(s) you have used or currently use? If so, what is it and how do you know?
18. Have you tested the various strains of marijuana that you use to determine their cannabinoid content (THC/CBD)? If so, please explain when and where this testing was

done, if the testing was done by a recognized methodology, if the testing was done by an accredited laboratory, and produce any documentary evidence of this testing.

19. How did you obtain the strains of marijuana that you have cultivated?
20. Please explain, for each strain of marijuana for medical purposes that you presently use and have used in the past:
 - (a) Why you chose to use that particular strain; and
 - (b) Whether you discussed the use of the particular strain with a medical practitioner.
21. How did you and/or your doctor(s) assess the effectiveness of the different strains of marijuana that you have used/cultivated?
22. Please describe the efforts you have made, including when you made them, to determine if any licensed producers offer your preferred strain(s) (or an equivalent strain(s) in regard to the THC/CBC content of your preferred strain(s)). Please produce any documentation evidencing these efforts.
23. When you began using marijuana for medical purposes, how and on what basis did you determine what method(s) of administration (i.e. smoked, vapourized, juiced, etc.) to use?
 - (a) In particular, did you discuss the method of administration with a doctor and, if so, provide details of the discussion(s) and any recommendation(s) made by the doctor(s).
 - (b) Did you discuss this with anyone other than a doctor? If so, with whom?
24. Has your method of administration changed over time? If so, how and why? Was this change discussed with your doctor?
25. Please describe the methods of administration of marijuana that you currently use in a typical day including the frequency and quantities (in grams) in which you use them.

26. Please describe any extraction and/or transformation processes that you undertake in respect of your marijuana (for example, to convert dried marijuana into other forms or to produce different kinds of marijuana products such as tea, juice, cookies, etc.) the part(s) of the plant that you use in these processes, and how/where you learned to undertake these processes.

IV. Financial (Income, Expenses, Assets, and Liabilities)

27. What is your yearly household income from all sources for the past five years (i.e., from January 2009 to the present)? Please outline the income by source (including employment, business, investments, rentals, gifts, government assistance [i.e., disability payments, social assistance], etc.) and provide all supporting documentation, including copies of all income tax filings and notices of assessment/reassessment.
28. Please list and value all of your current assets (e.g., real estate, automobiles, investments, etc.) and liabilities (e.g., mortgages, loans, etc.) and the assets and liabilities of your spouse/partner (if applicable).
29. Please provide particulars of your principal residence (e.g., single family detached house, duplex, apartment, mobile home, etc.), including its size and number of occupants.
30. Please provide an itemized statement of your average monthly expenses, including:
- (a) housing (e.g., rent, mortgage payments, maintenance, home insurance, property taxes, etc.);
 - (b) utilities (e.g., electricity, natural gas, cable, internet, phone, cellular, water, etc.);
 - (c) food and beverages (e.g., groceries, restaurant meals);
 - (d) alcohol, tobacco and recreational drugs (both legal and illegal);
 - (e) clothing;
 - (f) transportation (e.g., car loan/lease payments, gasoline, car insurance, car maintenance, public transit fares, etc.);

- (g) discretionary spending (e.g., entertainment, hobbies, books, vacation travel, sports, recreation, etc.);
- (h) marijuana (to purchase);
- (i) marijuana (to grow); and
- (j) other medications.

31. Have you ever applied for and/or received any source of funding – insurance or otherwise – to cover the costs of producing or purchasing your marijuana? If so, please provide full particulars and relevant documentation.

V. Financial (Marijuana)

32. What equipment did you (or your designated producer) buy (or receive for free) in order to grow your marijuana plants? Please list and value all such equipment (e.g. lamps, de-humidifiers, CO2 tanks, timers, hydroponic equipment, filters, water drums, tubes, boxes, tubs, pots, etc.) and provide all supporting invoices, receipts and other documentation.

33. What structural work did you (or your designated producer) do or cause to have done in order to build the infrastructure in which to grow your marijuana plants (e.g., renovations, retrofitting, construction of particular indoor or outdoor structures, etc.)? Please list all work and provide all supporting invoices, receipts, permits and other documentation.

34. Please itemize any tax credits and/or deductions you (or your designated producer) have claimed and/or received for any of the work you did or caused to be done relating to establishing and operating your marijuana home grow operation. Please provide all supporting documentation and explain how you calculated any tax credits and/or deductions.

35. How much have you (or your designated producer) spent purchasing marijuana plants and seeds for your marijuana grow operation? Please provide all supporting documentation.
36. If you (or your designated producer) have not spent any amounts to purchase marijuana plants and/or seeds, how and from where were they acquired?
37. How much have you (or your designated producer) spent on growing supplies to grow your marijuana plants? Please list all items (e.g. soil, fertilizer, pesticides, nutrients, etc.) along with an explanation of the annual cost of each, with supporting documentation.
38. If you (or your designated producer) have not spent any amounts on growing supplies, how and from where were they acquired?
39. Do you (or your designated producer) have any other marijuana growing/cultivation-related expenses that have not been covered by the questions posed or the answers that you have given? Please provide full particulars and all supporting documentation.
40. Did you (or your designated producer) disclose the fact that you were growing your own marijuana to your home insurer?
 - (a) If so, were you able to obtain home and/or property insurance to cover your marijuana growing operation?
 - (b) If so, please explain your policy/ies, how much it/they cost(s), the risks it/they cover(s) (e.g., theft, fire, water damage, third party liability, etc.) and how it/they cover(s) activities related to your marijuana grow operation (e.g., limits, conditions, deductibles, etc.). Please provide copies of the policy/ies and all other relevant documentation.
 - (c) If you were growing marijuana in premises that were rented, was your landlord aware of this? Please provide any supporting documentation.

41. How much do you (or your designated producer) pay for power/electricity every month to grow your marijuana? Please provide all supporting documentation (e.g., hydro bills for the periods before and after you set up your marijuana grow operation) and explain how you calculated the total spent.
42. How much do you (or your designated producer) pay for water every month to grow your marijuana? Please provide all supporting documentation (e.g., water bills for the periods before and after you set up your marijuana grow operation) and explain how you calculated the total spent.
43. Do you (or your designated producer) have, or have you ever had, a security system in place to protect your marijuana? If so, describe it, including:
- (a) all security-related structures (e.g., fences, blinds, barbed wiring, etc.);
 - (b) all security-related equipment (e.g., motion detectors, safes/storage facilities, alarms on all entrances and entry points including doors and windows, locks on all entrances and entry points including doors and windows, traps, guard dogs/animals [including number of dogs/animals and breed/type of each], cameras including numbers and where they are, vents that mask/capture the smell of the marijuana so that neighbours are not aware of the existence of a grow operation, etc);
 - (c) what each security structure and piece of equipment does;
 - (d) what the security equipment monitors, (e.g., the area that the camera or motion detector captures);
 - (e) records kept by the equipment, (e.g., if recordings are kept of camera footage and if so for how long); and
 - (f) how much you have spent (and how much you continue to spend) on it, including any system monitoring fees.

Please provide all supporting documentation, including alarm certificate(s) and drawing(s) showing all of the above-described security features, and explain how you calculated the total amount spent on your security system.

44. Do you (or your designated producer) keep, or have you ever kept, firearms or other weapons (e.g., batons, tasers, pepper spray, etc.) in your home? If so, have you ever had occasion to use any of these weapons to protect yourself at home? If so, provide details.
45. Describe how you (or your designated producer) have ensured that neighbours and the general public do not discover that you grow marijuana in your home. In particular, how do you prevent the smell of marijuana from escaping your growing operation and what equipment or structures you have built to conceal the marijuana you grow? How you dispose of any marijuana by-products so as not to reveal the presence of a marijuana growing operation in your home?
46. Have you moved since you started to grow your own marijuana?
 - (a) If so, why, when, and from where?
 - (b) Did you disclose the fact that you were growing marijuana before you sold/vacated your home (e.g., disclose this fact to your property manager or landlord, realtor/real estate agent, Multiple Listing Service (MLS,) the purchasers, mortgage broker, anyone else involved in the purchase or potential purchase of the home, etc.)? Please provide all supporting documentation detailing this disclosure.
 - (c) If you did disclose that your home was used to grow marijuana, did you have to sell your home at a discount? If so, what was that discount? Please provide all supporting documentation and explain how the discount was calculated.
 - (d) Did you have your home inspected by a qualified professional (e.g., industrial hygienist, electrician, plumber, contractor, home inspector, etc.) before selling your home to ensure that there was no contamination from your marijuana growing operation? Please provide all supporting documentation, including the costs of any inspection(s) and any inspection report(s).
 - (e) Did you have to renovate or remediate the home in which you grew marijuana in any way before selling/vacating it? If so, what work was done and how much did it cost? Please provide all documentation.

VI. Cultivation

47. Who cultivates the marijuana that you grow (e.g., you, a designated producer, family member, etc.), and who has done so in the past? Please provide full particulars.
48. If you have changed producers or grow sites in the past, please fully explain why.
49. How many hours per month does each cultivator spend to cultivate the marijuana?
50. Please provide details regarding the remuneration (money or otherwise) each cultivator receives for his or her cultivation work.
51. In order to value their labour, please provide, for each cultivator:
 - (a) Profession and/or job title(s); and
 - (b) The salary/remuneration that they receive from their jobs per hour of work (i.e., hourly salary; or, if remuneration is received over some other period [weekly, monthly, annually, etc.], salary divided by number of hours worked).
52. Describe the totality of your marijuana growing activities both currently and in the past, including:
 - (a) the number of plants grown;
 - (b) where the plants have been grown and a general description of the location (i.e. in your current home, any previous homes, a warehouse, an apartment/townhouse, etc.), including the lot size;
 - (c) the equipment used (kind/type and quantity);
 - (d) the fertilizer used (kind/type and quantity);
 - (e) the pesticides used (kind/type and quantity);
 - (f) how the plants are irrigated (e.g., describe the watering cycles used, etc.);
 - (g) how the plants are provided with sufficient light (e.g., describe the lighting cycles used, etc.);
 - (h) how the marijuana is dried;

- (i) how the plants are accounted for (i.e., how do you keep track of the number of plants grown);
 - (j) how cross-contamination is prevented;
 - (k) measures taken to ensure that no contaminants are spread outside of the growing area;
 - (l) what is done with extra plants and plant parts that are not consumed;
 - (m) how any excess water runoff is drained from the production site and, if outdoors, where the drainage leads; and
 - (n) how the production site is maintained/cleaned, by whom, how often, and with what chemicals.
53. Please provide any photographs or records (including logs, journals, spreadsheets, computer files, etc.) you have of your marijuana grow operation, including any photos of damage caused by it (e.g., water damage, mould, insects, fire damage, structural damages, etc.).
54. As far as you know, has there ever been any mould in your home while marijuana was being grown there? If so, provide details including the extent to which such mould was related to the growing of marijuana in your home.
55. How many marijuana plants have you grown each year since you started cultivating? In particular, please provide details of the accounting system you employ to keep track of the number of plants grown, lost to disease, or otherwise disposed of.
56. Explain how much dried marijuana (in grams) you have produced each year since you started cultivating.
57. Have you ever stored, possessed, or cultivated more marijuana than authorized by Health Canada? If so, how much more and when?

58. Have you ever grown marijuana, or had someone grow marijuana for you, at a production site other than that approved by Health Canada?
59. As far as you know, have your marijuana plants, including the soil, ever been affected by, or infested with, any kind of disease, insect, toxic mould or substance, or any other kind of sickness or infection? If so, please provide details including:
 - (a) the nature of the issue;
 - (b) when it occurred;
 - (c) how many plants were lost;
 - (d) how you disposed of the 'lost' plants; and
 - (e) what steps (if any) you took to prevent a recurrence.
60. Have you ever given away, sold, or otherwise traded any of the marijuana that you (or someone on your behalf) had cultivated? If so, please fully explain and describe the compensation you received, if any.
61. Have you ever been approached by anyone to grow marijuana illegally? If so, please fully explain.
62. Has anyone ever stolen or attempted to steal your marijuana? If so, please fully explain.
63. How do you dispose the parts of your marijuana plants that you do not use (for example, leaves or stalks)?
64. How do you dispose of the materials you use to cultivate your marijuana (e.g., fertilizer, used water, used containers, used soil, used pesticide boxes/container, etc.)?
65. Have you ever had your marijuana tested for parasites or insect infestation, mould, toxins or other contaminants? If so, please provide full particulars (e.g., who performed the tests, when, for what purposes, cost of testing, what the results were, etc.) and all supporting documentation.

66. Have you ever had your marijuana growing operation inspected by a qualified electrician? If so, please provide full particulars (e.g., who performed the inspection, when, for what purposes, cost of inspection, what the results were, etc.) and all supporting documentation.
67. Have you ever had your marijuana growing operation inspected by a fire safety inspector? If so, please provide full particulars (e.g., who performed the inspection, when, for what purposes, cost of inspection, what the results were, etc.) and all supporting documentation.
68. Has there ever been a fire at the location of your marijuana production site? If so, please fully describe the circumstances, including when it occurred, the cause of the fire, any damage caused by the fire, and provide any supporting documentation.
69. Has any other individual ever inspected your residence? If so, please fully provide full particulars (e.g., who performed the inspection, when, for what purposes, cost of inspection, what the results were, etc.) and all supporting documentation.
70. Have any children lived or been in your home since you began possessing marijuana for medical purposes? If so, please provide the following information along with the corresponding dates (month(s), year(s)):
 - (a) the number of children present and their ages;
 - (b) with respect to children not living in your home, the frequency and duration of their visits; and
 - (c) the measures, if any, that you took to ensure that the children did not have access to any of your marijuana or marijuana extracts/products, and the costs associated with these measures if any.
71. How did you learn to cultivate marijuana? In particular, have you ever taken any courses in subject matters that have assisted you in cultivating marijuana (e.g., agriculture,

horticulture, botany, gardening, electrical training, etc.)? If so, please provide details (course name, institution attended, dates, cost, etc.) and any supporting documentation.

72. Have you ever had complaints from neighbours or anyone else about your marijuana growing operation? If so, please provide full particulars (e.g., who complained, what they said, how you addressed the complaints, etc.) and any supporting documentation.
73. Have you or anyone else ever been injured (e.g., cuts, abrasions, burns, muscle/tissue damage, fractures, etc.), as a result of marijuana growing activities, whether conducted yourself or on your behalf? If so, please provide details.



BRITISH COLUMBIA

Health Insurance BC

AUTHORIZATION TO RELEASE MEDICAL RECORDS

MR

A, B, C, D PLEASE USE CAPITAL LETTERS ONLY

This form is to request a client's medical records. This form is to be completed by clients, power of attorney, legal representatives or third party requestors (including insurance companies and lawyers not representing the client). Please allow up to 6 weeks for processing.

1. CLIENT INFORMATION

CLIENT LEGAL LAST NAME: DAVEY; CLIENT LEGAL FIRST NAME: SHAWN; CLIENT LEGAL SECOND NAME: ; PERSONAL HEALTH NUMBER (PHN); BIRTHDATE (MM / DD / YYYY); OTHER PROVINCIAL HEALTH NUMBER (IF APPLICABLE);

2. POWER OF ATTORNEY OR LEGAL GUARDIAN (IF APPLICABLE) - SUPPORTING LEGAL DOCUMENTATION REQUIRED INDICATING RELATIONSHIP

POWER OF ATTORNEY OR LEGAL GUARDIAN LEGAL LAST NAME; P.O.A. OR LEGAL GUARDIAN LEGAL FIRST NAME; P.O.A. OR LEGAL GUARDIAN LEGAL 2ND NAME

3. RECORDS REQUESTED

TYPE OF RECORD(S) REQUIRED (INDICATE WHICH OF THE RECORDS BELOW ARE REQUIRED): [X] MEDICAL HISTORY ONLY (MSP) [] MEDICAL HISTORY WITH DIAGNOSTIC CODE (MSF) [] DRUG HISTORY (PHARMACARE)

REASON FOR REQUEST: [] MOTOR VEHICLE ACCIDENT (MVA) [] SLIP AND FALL* [] OTHER (PLEASE SPECIFY): LITIGATION PURPOSES

* For Slip and Fall requests to 3rd Party Liability, mail Authorization to: 3rd Party Liability Department, Ministry of Health Services, 2 - 1, 1515 Blanshard Street, Victoria BC V8W 3C8

REQUESTED DATES OF RECORDS

START DATE (MM / DD / YYYY): 0 1 0 1, 1 9 7 7; END DATE (MM / DD / YYYY): 0 8, 1 5, 2 0 1 4; ACCIDENT INFORMATION, IF APPLICABLE: DATE OF ACCIDENT (MM / DD / YYYY); FILE / REFERENCE # (IF APPLICABLE)

4. NAME OF PERSON/COMPANY AND ADDRESS WHERE RECORDS ARE BEING SENT

PERSON OR COMPANY RECEIVING RECORDS: DEPARTMENT OF JUSTICE, ATTN: JAN BRONGERS; APT / UNIT: 9 0 0; STREET NUMBER: 8 4 0; STREET NAME: HOWE STREET; CITY: VANCOUVER; PROV: BC; POSTAL CODE: V 6 Z 2 S 9

5. PAYMENT (FOR MEDICAL HISTORY (MSP) RECORDS ONLY)

There is no charge to release your own medical records to you (the client) or your lawyer. However, a fee of \$50 (CDN) is charged per year of record requested for all other third-party requests, including insurance companies and lawyers not representing the client. If third party request (other than your lawyer), please provide address below for invoicing.

NAME OF THIRD PARTY: DEPARTMENT OF JUSTICE, ATTN: JAN BRONGERS; APT / UNIT: 9 0 0; STREET NUMBER: 8 4 0; STREET NAME: HOWE STREET; CITY: VANCOUVER; PROV: BC; POSTAL CODE: V 6 Z 2 S 9

6. CLIENT AUTHORIZATION - TO BE SIGNED BY THE CLIENT, POWER OF ATTORNEY, OR LEGAL GUARDIAN

I, the client or power of attorney or the legal guardian named above, hereby authorize Health Insurance BC to release all medical records indicated above to the requestor named in section 4 at the address named in section 4.

[] By checking this box, I hereby revoke all previously signed authorizations for the release of Medical and/or Drug History Records.

SIGNATURE OF CLIENT / POWER OF ATTORNEY / LEGAL GUARDIAN; SIGNATURE OF WITNESS; PRINT NAME OF WITNESS; DATE SIGNED (MM / DD / YYYY)

Personal information on this form is collected under the authority of the Medicare Protection Act and will be used to process the disclosure(s) requested on this form, and is protected from unauthorized use and disclosure in accordance with the Freedom of Information and Protection of Privacy Act and may be disclosed only as provided by that Act. If you have any questions about the collection of this information, contact Health Insurance BC at the address or telephone numbers below.

