Court File No.: T-962-22

FEDERAL COURT

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

JOHN C. TURMEL

Respondent

APPLICANT'S RECORD

VOLUME 5 of 8

ATTORNEY GENERAL OF CANADA
Department of Justice Canada
Ontario Regional Office
National Litigation Sector
120 Adelaide Street West, Suite 400
Toronto, Ontario M5H 1T1

Per: Jon Bricker
Tel: 647-256-7473
E-mail: jon.bricker@justice.gc.ca

Solicitor for the Applicant

TO: John C. Turmel
50 Brant Avenue
Brantford, Ontario
N3T 3G7

Respondent

AND TO: The Administrator
Federal Court of Canada
180 Queen Street West
Suite 200
Toronto, Ontario
M5V L6

Court File No.: T-962-22

FEDERAL COURT

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

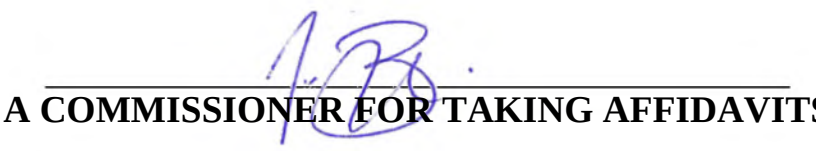
JOHN C. TURMEL

Respondent

VOLUME 3

VOLUME 7

THIS IS EXHIBIT "93" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.



A COMMISSIONER FOR TAKING AFFIDAVITS

Federal Court Cour fédérale

Date: 20181002

Docket: T-92-18

Ottawa, Ontario, October 2, 2018

PRESENT: The Honourable Mr. Justice Brown

BETWEEN:

IGOR MOZAJKO

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

ORDER

UPON MOTION by the Defendant in writing pursuant to 369 of the *Federal Courts Rules*, for an order striking the Statement of Claim in this matter, without leave to amend, together with costs, and upon reading the pleadings and proceedings herein including the Notice of Motion and supporting material, no responding material having been filed by the Plaintiff;

AND UPON reviewing the Statement of Claim and noting that in material respects it advances the same allegations raised in *Harris v Her Majesty the Queen*, T-1379-17 [Harris Action] which action this same Defendant moved to strike, which motion was dismissed in part by my Order of July 20, 2018;

AND UPON noting that the Plaintiff in this action specifically alleges that back-dating the start of the period of authorization to the date when the doctor signed the authorization, instead of dating the authorization to commence upon issuance of the authorization, constitutes a violation of the Plaintiff's rights under s. 7 of the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B of the *Canada Act 1982* (UK), 1982, c 11, which allegation was struck without leave to amend from the Harris Action by my Order of July 20, 2018;

AND UPON concluding that for the reasons given in the Harris Action, the Defendant's motion similarly should be dismissed with the exception that the Plaintiff's allegations concerning back-dating should be struck, the whole without costs;

THEREFORE THIS COURT ORDERS that

1. The motion to strike the Statement of Claim is dismissed in part.

2. Paragraphs 1. 1) B1) and B2), 8 and 10. B1) and B2 are struck without leave to amend.

3. There is no order of costs.

"Henry S. Brown"
Judge

THIS IS EXHIBIT "94" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

TURMEL: Now 252 Plaintiffs for damages due to process delay

4 views

KingofthePaupers Oct 6, 2018, 8:43:43 PM

to

TURMEL: Now 252 Plaintiffs for damages due to process delay

JCT: http://johnturmel.com/dellist.txt has my list of people who have filed for damages due to Health Canada's more than a month to process their grow permits. Some waited over 9 months so it's 8 months worth of pot claimed.

I hadn't checked in a few weeks because I didn't think many knew that Judge Brown dismissed Health Canada's motion to strike our claims for damage due to their negligence and incompetence. Can't ask for cash for damages from the law but can for damages from bad bureaucracy!!

So over a dozen new people have asked the Court to compensate them for the time they were stalled and for the expenses like rent they lost during the unconscionable delay. 9 months to get back a patient?!!

If it took you over a month to get your permit, you can bet a $2 Court filing fee to see if you get cash for the pain the evil bureaucrats inflicted on you.

You may have to wait with the rest of us for a result:

2018-09-10 Vancouver Letter from Plaintiff dated 10-SEP-2018 writing in response to the Defendant's letter dated 22-AUG-2018 received on 10-SEP-2018

The Crown wanted to our actions below stayed while they appealed their not being thrown out. Still waiting for the judge's decision staying us while they try to get us thrown out by 3 judges above.

http://johnturmel.com/insdel.pdf is the new page of instructions for the Delay Claim to place your $2 bet on winning damages.

As the Great Canadian Gambler http://SmartestMan.Ca/gambler I'm quite proud of having prodided all those who got stalled a $2 chance to get a just pay-out.

Similarly, http://johnturmel.com/ins150.pdf is the new page of instructions for exemption from the 150-gram limit for at least a 10-day supply awaiting the claim for 30 days.

Next kit will be for Designated Persons to grow for more than 2 licenses and to have more than 4 licenses at a site.

Next kit will be for those who have had their prescriptions

reduced or refused due to doctors being harassed by calls from Health Canada and the Doctor's Association.

Next kit will be for those who have permanent illnesses and don't want to have to renew every year.

And more should be coming fast.

http://johnturmel.com/kits has the Menu of all kits, civil and criminal so you can always start there to get down the tree to the right kit.

THIS IS EXHIBIT "95" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

Igor Mozajko
9 Port Royal Trail
Wasaga Beach, Ontario, L9Z1H7
705-429-4708 hmozajko@rogers.com

Monday March 11 2019
VIA FACSIMILE

Court Administrator:
Federal Court of Appeal
180 Queen St. W. #200
Toronto, ON, M5V 3L6
Fax: 416-973-2154

RE: Mozajko v. HMTQ No: A-339-18

In the Requisition for hearing - Appeal in Allan J. Harris v. HMQ A-258-18, the Defendant Canada wrote:

> In addition to the present appeal, the Court is currently seized of Her Majesty The Queen v. Igor Mozajko, Court File No. A-339-18 (the "Mozajko appeal") which raises similar issues. Canada proposes that these appeals be heard separately as the present appeal is farther advanced and the parties have requested hearings in different cities (Vancouver and Toronto, respectively) owing to the locations of the self-represented plaintiffs. However, Canada wishes to call the Court's attention to the similar issues in the event the Court wishes to consider this in scheduling or assigning a panel to hear these matters.
> Yours truly, Jon Bricker

Could you bring it to the court's attention that I am also one of the plaintiffs below for whom Allan J. Harris is Lead Plaintiff and will be arguing issues raised in my appeal.

Harris and I both seek to overturn dismissal of our claims for restitution of the shorted period of time. Canada seeks to overturn the dismissal of both their motions to strike our delay damages claims. His appeal speaks for all the others including me. My own appeal adds only repetition.

Because the Harris appeal is more advanced than mine, with an opportunity to be heard, I am prepared to accept the decision handed down on the issues that apply to both of us and would ask that my appeal be heard at the same time as the Harris appeal.

Assigning a second panel in Toronto to hear arguments he will be raising in Vancouver would be a waste of time and resources. I would like to attend by telecommunication.

Igor Mozajko

Igor Mozajko

CC: Jon Bricker Fax: 416-973-0809

Federal Court of Appeal | Cour d'appel fédérale

TO : Judicial Administrator

FROM : Stratas J.A.

DATE : April 1, 2019

RE : *Arthur Jackes v. Her Majesty the Queen* (A-294-18), *Allen J. Harris v. AGC* (A-258-18), and *Her Majesty the Queen v. Igor Mozajko* (A-339-18)

DIRECTION

Three appeals have been placed before the Court for direction. This direction shall be sent to all the parties in the three appeals and shall be placed in each of the three files.

The Court notes the different parties and the different first-instance decisions involved. The facts vary among the files. The Court also notes that the appeals are likely to be heard at different locations. Finally, the appeals are at different stages of progress.

All of this leads the Court to the view that the files should proceed separately and be heard separately. To the extent a ruling in one file affects another later file, this can be brought to the attention of the Court through submissions made at the hearing in the later file.

There are no other motions presently before the Court. But some of the correspondence suggests some relief is desired by some. If a party wishes some relief, it should now file a formal motion in writing seeking that relief.

File A-258-18 is now ready for hearing; a requisition for hearing has been filed. A hearing date in file A-258-18 should now be set notwithstanding the existence of the other files.

"DS"

THIS IS EXHIBIT "96" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

TURMEL: Jackes/Mozajko motions filed for MedPot appeals with Harris

2 views

John KingofthePaupers Turmel Apr 15, 2019, 2:26:41 AM
to

TURMEL: Jackes/Mozajko motions filed for MedPot appeals with Harris

JCT: On March 18 2019, letters were sent asking the Court that the appeals of Art Jackes, and Igor Mozajko, and Kent Truman be heard with the Harris appeal.

On April 1, Federal Court of Appeal Justice Stratas said not without a proper motion. I had wondered why Kent Truman's letter requesting to be joined with Jeff wasn't mentioned.

So I prepared 3 motions for them:

ART JACKES "NOT ORIGINAL SIGNATURES"

Court File No.: A-294-18
FEDERAL COURT OF APPEAL
BETWEEN:
ARTHUR JACKES
Appellant
and
HER MAJESTY THE QUEEN
Respondent

NOTICE OF MOTION

TAKE NOTICE that the Appellant will make a motion to the court on the basis of written representations for an order that the hearing of my appeal be expedited to that of Allan J. Harris A-258-18.

THE GROUNDS FOR THE MOTION are that
1) Harris represented me as lead plaintiff for over 300 plaintiffs below and his appeal is further advanced than mine and will raise the same issues as mine.
2) a separate appeal would waste resources.
Dated at Oakville on Monday April 8 2019.
Arthur Jackes

WRITTEN REPRESENTATIONS

1. In the Requisition for hearing - Appeal in Allan J. Harris v. HMQ A-258-18, the Defendant Canada wrote: In addition to the present appeal, the Court is currently seized of Her Majesty The Queen v. Igor Mozajko, Court File No. A-339-18 (the "Mozajko appeal") which raises similar issues. Canada proposes that these appeals be heard separately as the present appeal is farther advanced and the parties have requested hearings

in different cities (Vancouver and Toronto, respectively) owing to the locations of the self-represented plaintiffs. However, Canada wishes to call the Court's attention to the similar issues in the event the Court wishes to consider this in scheduling or assigning a panel to hear these matters.
Yours truly, Jon Bricker

2. I was also one of over 300 plaintiffs below for whom Allan J. Harris is Lead Plaintiff who will be arguing the issue raised in my appeal. My claim is for damages due to delay by rejection on a false premises of original signatures. Harris' appeal speaks for others claiming damages from delay due to improper rejection as "not original" signatures and I would like my appeal seeking to get me back with them to be heard with them.

3. The Harris appeal is only slightly more advanced than mine though with all our Memoranda having been filed, I am ready to file my Requisition for Hearing - Appeal too. With an opportunity to be heard, I am prepared to accept the decision handed down on the issues that apply to Harris's plaintiffs and would ask that my appeal be heard at the same time as the Harris appeal.

4. Assigning a second panel in Toronto to hear arguments he will be raising in Vancouver would be a waste of time and resources.

5. Merely adjourning my appeal until after that of Harris does not give me the opportunity to be heard by the Harris judges who would bind my fate.

6. Appellant seeks an order his appeal be expedited to be electronically heard with that of Allan J. Harris A-258-18.
Dated at Oakville on April 8 2019.
Arthur Jackes

IGOR MOZAJKO "ISSUES A&B SAME AS HARRIS

Court File No.: A-339-18
FEDERAL COURT OF APPEAL
BETWEEN:
IGOR MOZAJKO
Respondent
Cross-Appellant
and
HER MAJESTY THE QUEEN
Appellant
Respondent in Cross-Appeal

NOTICE OF MOTION
(Pursuant to Rule 369)

TAKE NOTICE that the Appellant will make a motion to the court on the basis of written representations for an order that the hearing of my appeal be expedited to be heard with that of Allan J. Harris A-258-18.

THE GROUNDS FOR THE MOTION are that
1) Harris already represents me as lead plaintiff for over

300 plaintiffs below and his appeal is further advanced than mine and raises the same issues as mine.
2) a separate appeal would waste resources.
Dated at Wasaga Beach on Monday April 8 2019.
Igor Mozajko

WRITTEN REPRESENTATIONS

1. In the Requisition for hearing - Appeal in Allan J. Harris v. HMQ A-258-18, the Defendant Canada wrote: In addition to the present appeal, the Court is currently seized of Her Majesty The Queen v. Igor Mozajko, Court File No. A-339-18 (the "Mozajko appeal") which raises similar issues. Canada proposes that these appeals be heard separately as the present appeal is farther advanced and the parties have requested hearings in different cities (Vancouver and Toronto, respectively) owing to the locations of the self-represented plaintiffs. However, Canada wishes to call the Court's attention to the similar issues in the event the Court wishes to consider this in scheduling or assigning a panel to hear these matters.
Yours truly, Jon Bricker

2. I am also one of over 300 plaintiffs below for whom Allan J. Harris is Lead Plaintiff who will be arguing issues raised in my appeal. I raised not only similar issues but identical issues about Claim A: "too long processing time" and Claim B: "too short period."

3. Judge Brown dismissed the Crown motion to strike Harris's A claim but granted the motion to strike the B claim. In a later decision, Judge Brown cited Harris in dismissing the Crown motion strike my A claim and granting the motion to strike my B claim. So Judge Brown ruled the same for me as he did for Harris and the 250 other plaintiffs. There is no advantage to having two separate appeal hearings of Judge Brown's same ruling for both situations when the Harris ruling affects me too.

4. Harris and I both seek to overturn dismissals of our claims for restitution of the shorted period of time in our medical registrations. Canada seeks to overturn the dismissal of both their motions to strike our delay damages claims. The Harris appeal speaks for over 300 other plaintiffs including me. My own appeal adds only repetition.

5. The Harris appeal is more advanced than mine so I wish to adopt the Harris submissions. With an opportunity to be heard, I am prepared to accept the decision handed down on the issues that apply to Harris's plaintiffs and would ask that my appeal be heard at the same time as the Harris appeal.

6. Assigning a second panel in Toronto to hear arguments he will be raising in Vancouver would be a waste of time and resources.

7. Merely adjourning my appeal until after that of Harris does not give me the opportunity to be heard by the Harris judges who would bind my fate.

8. Appellant seeks an order his appeal be expedited to be electronically heard with that of Allan J. Harris A-258-18.
Dated at Wasaga Beach on Monday April 8 2019.
Igor Mozajko

KENT TRUMAN "CLASS EXEMPTIONS DO NOT CHANGE START DATE"

File No: A-176-18
FEDERAL COURT OF APPEAL
BETWEEN:
Kent Wilfred Truman
Appellant
And
Her Majesty The Queen
Respondent

NOTICE OF MOTION

TAKE NOTICE that the Appellant will make a motion to the court on the basis of written representations for an order that the hearing of my appeal be expedited to that of Allan J. Harris A-258-18.

THE GROUNDS FOR THE MOTION are that
1) Harris represents me as lead plaintiff for over 300 plaintiffs below and his appeal is further advanced than mine and will raise the same issue as mine.
2) a separate appeal would waste resources.
Dated at York, Ontario on June 14 2018
Kent Wilfred Truman

WRITTEN REPRESENTATIONS

In the Requisition for hearing - Appeal in Allan J. Harris v. HMQ A-258-18, the Defendant Canada wrote:
In addition to the present appeal, the Court is currently seized of Her Majesty The Queen v. Igor Mozajko, Court File No. A-339-18 (the "Mozajko appeal") which raises similar issues. Canada proposes that these appeals be heard separately as the present appeal is farther advanced and the parties have requested hearings in different cities (Vancouver and Toronto, respectively) owing to the locations of the self-represented plaintiffs. However, Canada wishes to call the Court's attention to the similar issues in the event the Court wishes to consider this in scheduling or assigning a panel to hear these matters.
Yours truly, Jon Bricker

2. I am also one of the over 300 plaintiffs below for whom Allan J. Harris is Lead Plaintiff and will be arguing the issue raised in my appeal. My claim is that the Class Exemptions issued on March 2 2018 did not mooten my motion for interim remedy. The Harris appeal also argues the Class Exemptions had no effect.

3. The Harris appeal is more advanced than mine so I wish to adopt the Harris submissions. With an opportunity to be heard, I am prepared to accept the decision handed down on the issues that apply to Harris's plaintiffs and would ask

that my appeal be heard at the same time as the Harris appeal.

4. Assigning a second panel in Toronto to hear arguments he will be raising in Vancouver would be a waste of time and resources.

5. Merely adjourning my appeal until after that of Harris does not give me the opportunity to be heard by the Harris judges who would bind my fate.

6. Appellant seeks an order his appeal be expedited to be electronically heard with that of Allan J. Harris A-258-18.
Dated at York, Ontario on April 8 2019
Kent Wilfred Truman

JCT: When the motions were filed, Kent Truman's motion to join Harris was rejected because his appeal had been dismissed on April 2 2019.

A-176-18
FEDERAL COURT OF APPEAL
Date 20190402

Coram: STRATAS, J.A.
LASKIN J.A.
RIVOALEN J.A.

BETWEEN:
Kent Wilfred Truman
Appellant
And
Her Majesty The Queen
Respondent

ORDER

WHEREAS on Feb 6 2019, this Court issued a notice of status review;

AND WHEREAS the notice advised the appellant that he had to file representations within 30 days stating the reasons why the appeal should not be dismissed for delay;

AND WHEREAS the appellant was obligated to justify the delay and offer a proposed timetable for the completion of the steps necessary to advance the appeal in an expeditious manner,

AND WHEREAS the appellant failed to do these things;

AND WHEREAS the appellant requests that his appeal be heard with the appeal in the file A-258-18 but the appellant has not established that his appeal is related in any way to that appeal;

AND WHEREAS, beyond filing a notice of appeal, the appellant has not advanced his appeal in any way whatsoever;

THIS COURT ORDERS that the appeal is dismissed.

JCT: Yes, I had been derelict in pursuing his appeal paperwork which is why joining up with Jeff Harris whose paperwork on the same issue is done was an easy out.

So despite his asking to join Jeff, they say he has not established that his appeal against the Class Exemptions was "related in any way" to Jeff's appeal against the Class Exemptions.

And so they can dismiss his appeal on a technicality rather than let it be resolved with Harris. Sad.

THIS IS EXHIBIT "97" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

Federal Court of Appeal | Cour d'appel fédérale

Date: 20190513

Docket: A-339-18

Ottawa, Ontario, May 13, 2019

Present: GAUTHIER J.A.

BETWEEN:

HER MAJESTY THE QUEEN

Appellant

and

IGOR MOZAJKO

Respondent

ORDER

UPON Mr. Mozajko's motion made in writing that his appeal be heard together with the appeal in *Allan Harris v. Attorney General of Canada* (A-258-18);

HAVING reviewed the materials filed, including the reply of Mr. Mozajko;

UPON considering the direction of Stratas J.A.. and the fact that the hearing in A-258-18 will take place in Vancouver during the week of June 24, 2019;

UPON noting that in his materials, Mr. Mozajko offered to be heard by "electronic means". When asked by the Judicial Administrator if he would be satisfied to be heard by

videoconferencing at the Court in Toronto (the location for the hearing included in the Requisition for Hearing), Mr. Mozajko answered that it would difficult for him to go to Toronto and that he should be allowed to do it from his own house. Furthermore, Mr. Mozajko was not able to confirm or commit that he could do such teleconferencing during the week of June 24, 2019 because he was potentially moving. This confirmed why in the Requisition for Hearing that week was excluded because one of the parties was not available;

UPON considering that it is important that the appeal in A-258-18 be heard without delay, as it is the lead file for more than 200 applications that were stayed pending its determination;

UPON considering that, to the extent that the two appeals have the common issues, this can be brought to the attention of this Court through submissions made at the hearing of the later file;

UPON further noting that Mr. Mozajko has not filed a memorandum of fact and law, and he should file a proper motion to obtain an extension to do so, even if he wishes to adopt the memorandum filed by the appellants in A-258-18;

THIS COURT ORDERS that the motion is dismissed.

"Johanne Gauthier"

J.A.

THIS IS EXHIBIT "98" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

Date: 20190918

Docket: A-258-18

Citation: 2019 FCA 232

CORAM: **WEBB J.A.**
NEAR J.A.
DE MONTIGNY J.A.

BETWEEN:

ALLAN J. HARRIS

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Vancouver, British Columbia, on June 27, 2019.

Judgment delivered at Ottawa, Ontario, on September 18, 2019.

REASONS FOR JUDGMENT BY: WEBB J.A.

CONCURRED IN BY: NEAR J.A.
DE MONTIGNY J.A.

Date: 20190918

Docket: A-258-18

Citation: 2019 FCA 232

CORAM: **WEBB J.A.**
NEAR J.A.
DE MONTIGNY J.A.

BETWEEN:

ALLAN J. HARRIS

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

REASONS FOR JUDGMENT

WEBB J.A.

[1] The issue in this appeal is whether the amended statement of claim, as filed by Mr. Harris with the Federal Court, should be struck. Mr. Harris is seeking certain declarations and unspecified damages related to the *Access to Cannabis for Medical Purposes Regulations*, SOR/2016-230 (ACMPR) (which were repealed on October 17, 2018 by SOR/2018-147, s. 33). The Crown had brought a motion to strike his statement of claim. The Federal Court (2018 FC 765) allowed the motion in part and struck the parts of the statement of claim related to

Mr. Harris' allegation that the ACMPR, in effect, shortchanged his right to a permit to grow cannabis but otherwise dismissed the Crown's motion.

[2] Mr. Harris filed an appeal in relation to the parts of his statement of claim that were struck. The Crown filed a cross-appeal in relation to the parts of the statement of claim that were not struck.

[3] For the reasons that follow, I would allow the Crown's cross-appeal and dismiss Mr. Harris' appeal. As a result, I would strike the amended statement of claim.

I. Background

[4] Mr. Harris filed a short amended statement of claim with the Federal Court. It appears to be based on a form that was copied from the Internet and it includes optional paragraphs that do not apply to Mr. Harris. For example, the paragraph identified as number 5 is marked as "optional for renewers". None of the blanks in this paragraph have been filled in by Mr. Harris.

[5] In paragraph 1, Mr. Harris indicates that he is seeking:

> A) a declaration that the long processing time for Access to Cannabis for Medical Purposes Regulations ("ACMPR") Production Registrations and Renewals violates the patient's S. 7 Charter Right to Life, Liberty, Security with no principle of fundamental justice such as war or emergency to necessitate and absolve such violations; and claims remedy in unspecified damages under S. 24 of the Charter in the amount of the value of the Applicant's prescription during any delay which this Court may rule inappropriate for a reasonable processing time for Registrations for medication, and

B) a declaration that back-dating the period of Registration and Renewal from the Effective Date for Registration or Expiry Date for Renewals as under the MMAR to the date the doctor signed under the ACMPR violates the patient's S. 7 Charter Rights and claims remedy for the full term of the prescription to take effect on the Effective Date of the Registration and on the Expiry Date of a Renewed Registration like the Health Card, Driver's License and MMAR.

(underlining in the original document)

[6] Mr. Harris provides very few facts as support for this claim. The only facts that are identified in his amended statement of claim and that are applicable to him are:

- he had a medical document to use cannabis for medical purposes under the ACMPR;
- he submitted an application under the ACMPR for registration to grow cannabis for medical purposes on June 11, 2017;
- his registration was received with an effective date of October 11, 2017 and an expiry date of March 23, 2018;
- ten data fields (which presumably are from the application form that he submitted under the ACMPR) are identified; and
- under the *Marihuana Medical Access Regulations* (SOR/2001-227 – repealed - SOR/2013-119, s. 267), the time to process an application was shorter and the registration began on the effective date of issuance, while under the ACMPR the time to process an application was longer and the registration was backdated to the date that the doctor signed the medical document.

[7] Mr. Harris refers to additional facts that are not applicable to him. For example, he refers to a period of 30 weeks (and over 6 months) to process an application, but his application was processed in four months.

[8] He notes that under the ACMPR any renewal was also backdated to the date that the doctor signed the medical document. Mr. Harris also alleges that having to see the doctor more often costs him more money and having to wait for the mail to find out if the registration will be renewed before the expiry date of an existing registration (when the plants would have to be destroyed) causes stress. However, his statement of claim is based on his initial application under the ACMPR for registration, not on any renewal of his registration. There are no alleged facts related to any renewal of any registration by Mr. Harris.

[9] Based on this amended statement of claim, the Federal Court judge, in paragraph 33 of his reasons, started with the proposition that Mr. Harris:

> has the right to a permit to grow marijuana for medical purposes if he satisfies the criteria of a *Charter*-compliant permit regime established under the *Controlled Drugs and Substances Act* [S.C. 1996, c. 19] and *Narcotic Control Regulations* [C.R.C., c. 1041]. This right has been confirmed by the Supreme Court of Canada, in addition to the Federal Court and various Superior Courts.
>
> [Citations added]

[10] Based on this proposition and his acceptance of the facts as pled by Mr. Harris, the Federal Court judge concluded that the motion to strike this amended statement of claim should be dismissed, except as it relates to Mr. Harris' allegation that the regime shortchanges his right to a permit to grow cannabis for the full period of time covered by his prescription.

II. Issues and Standard of Review

[11] The issues are whether the Federal Court judge erred in not striking the other parts of Mr. Harris' statement of claim and whether he erred in striking the parts of the statement of claim related to the shortchanging of the time that Mr. Harris could grow cannabis. Questions of law are reviewed on the standard of correctness. Questions of fact (including questions of mixed fact and law unless there is an extricable question of law) are reviewed on the standard of palpable and overriding error. (*Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235).

III. Analysis

[12] Although the Federal Court judge stated, in paragraph 33 of his reasons, that Mr. Harris had a right to a permit to grow cannabis for medical purposes in certain situations, there is no case authority cited to support this proposition. It appears that the Federal Court judge is relying on the decision of the Federal Court in *Allard v. Canada*, 2016 FC 236, [2016] 3 F.C.R. 303, to which he referred in paragraph 11 of his reasons. In *Allard*, the Federal Court cited the decision of the Supreme Court of Canada in *R. v. Smith*, 2015 SCC 34, [2015] 2 S.C.R. 602. I do not, however, read either *Allard* or *Smith* as support for the proposition as stated by the Federal Court judge.

[13] In *Smith*, the issue before the Supreme Court of Canada was whether the regulations under the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19 unjustifiably violated the guarantee of life, liberty and security of the person contrary to section 7 of the *Canadian Charter of Rights and Freedoms, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada*

Act 1982 (UK), 1982, c.11. The Supreme Court noted that the regulations in issue only permitted the use of dried marihuana for medical treatment. The possession of cannabis products extracted from the active medicinal compounds in the cannabis plant was still prohibited.

[14] The Supreme Court of Canada found that "a medical access regime that only permits access to dried marihuana unjustifiably violates the guarantee of life, liberty and security of the person contrary to s. 7 of the *Charter*". However, in this case, the issues are related to the regulations that would allow Mr. Harris to grow his own marihuana. There is nothing in his statement of claim to indicate that there would be any difference between the marihuana that he would grow and the marihuana that he could have purchased from a person authorized to sell marihuana under the ACMPR.

[15] The *Allard* case addressed concerns related to the *Marihuana for Medical Purposes Regulations* (SOR/2013-119 – repealed by SOR/2016-230, s. 281) (MMPR) which are not the same regulations that are the subject of Mr. Harris' amended statement of claim. The ACMPR replaced the MMPR following *Allard.* In *Allard,* Phelan, J. noted, in paragraph 14 of his reasons, that "this case does not turn on a right to 'cheap drugs', nor a right 'to grow one's own', nor do the Plaintiffs seek to establish such a positive right from government".

[16] Neither party provided any authority that would support the proposition that Mr. Harris has a constitutional right to grow his own cannabis.

[17] The amended statement of claim filed by Mr. Harris seeks remedies related to two situations – the initial application for registration under the ACMPR (which would allow him to grow his own marihuana) and the renewal of such registration.

A. *Initial Application*

[18] The facts, as alleged by Mr. Harris in relation to his application for registration under the ACMPR, are simply that he was in possession of a medical document allowing him to use cannabis for medical purposes; it took approximately four months for him to receive his registration; under the previous regulations the processing time was shorter; and the effective date of his registration is different than it was under the previous regulations.

[19] However, these facts do not provide any indication of how his "right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice", as provided in section 7 of the *Charter*, was engaged. When a person grows his or her own marihuana there will necessarily be a delay for the time that it takes the marihuana plant to mature and produce a useable product. Mr. Harris does not provide any facts as support for his allegation that the additional waiting time of four months for his registration (which would then allow him to grow his own plants) deprived him of his right to "life, liberty and security of the person". There is nothing to indicate that Mr. Harris would not have been otherwise able to obtain marihuana during this waiting period from a person authorized to sell marihuana under the ACMPR.

[20] The facts, as alleged by Mr. Harris, are insufficient to support a claim based on section 7 of the *Charter* in relation to his initial application for registration under the ACMPR.

[21] In this case, there is also an additional basis for striking that part of Mr. Harris' amended statement of claim related to his requested declarations with respect to the ACMPR. Since these regulations have been repealed, any declaration with respect to these regulations would be meaningless. The Crown, however, did not raise this issue.

B. *Renewal of a Registration*

[22] Mr. Harris did not complete the process for a renewal of his registration prior to submitting his amended statement of claim. Therefore, any alleged facts in his amended statement of claim related to the renewal of a registration (which are summarized in paragraph 8 above), are not facts that are applicable to him. These alleged facts related to the renewal process are only speculation for what experience Mr. Harris may encounter when he applies for a renewal of his registration. Facts that are applicable to another individual (that Mr. Harris is using to speculate about what will happen when he applies for a renewal of his registration) cannot be used to support his claim, as set out in his amended statement of claim, that his rights under section 7 of the *Charter* have been infringed.

C. *Conclusion*

[23] As a result, Mr. Harris has not pled sufficient facts to support his claims for the declarations (which, as noted above, are also in relation to regulations that have been repealed) and the damages that he is seeking.

[24] I would, therefore, allow the Crown's cross-appeal and dismiss Mr. Harris' appeal. Setting aside the Order issued by the Federal Court in this matter and rendering the decision that the Federal Court should have made, I would allow the Crown's motion to strike Mr. Harris' amended statement of claim and I would strike his amended statement of claim without leave to amend. I would not award costs in relation to the motion before the Federal Court but I would award costs to the Crown for the cross-appeal.

"Wyman W. Webb"
J.A.

"I agree
D. G. Near J.A."

"I agree
Yves de Montigny J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

APPEAL FROM AN ORDER OF THE FEDERAL COURT DATED JULY 20, 2018, CITATION NUMBER 2018 FC 765 (DOCKET NUMBER T-1379-17)

DOCKET:	A-258-18
STYLE OF CAUSE:	ALLAN J. HARRIS v. ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	VANCOUVER, BRITISH COLUMBIA
DATE OF HEARING:	JUNE 27, 2019
REASONS FOR JUDGMENT BY:	WEBB J.A.
CONCURRED IN BY:	NEAR J.A. DE MONTIGNY J.A.
DATED:	SEPTEMBER 18, 2019

APPEARANCES:

Allan J. Harris	ON HIS OWN BEHALF
Jon Bricker	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Nathalie G. Drouin Deputy Attorney General of Canada	FOR THE RESPONDENT

Federal Court of Appeal | Cour d'appel fédérale

Date: 20200219

Docket: A-258-18

BETWEEN:

ALLAN J. HARRIS

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

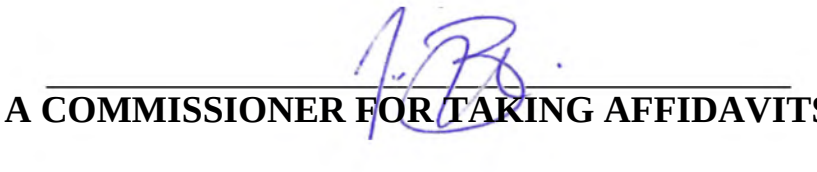
CERTIFICATE OF ASSESSMENT

I HEREBY CERTIFY that the Respondent's (Attorney General of Canada) costs are assessed and allowed in the amount of $2,510.61.

"Garnet Morgan"
Assessment Officer

CERTIFIED AT TORONTO, ONTARIO, this 19th day of February, 2020.

THIS IS EXHIBIT "99" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.



A COMMISSIONER FOR TAKING AFFIDAVITS

JOHN TURMEL
50 BRANT AVE
BRANTFORD ON N3T 3G7
TEL: (519) 717-5198

003

DATE 2020-04-01
Y Y Y Y M M D D

PAY TO THE ORDER OF Receiver General for Canada. $ 200—

Two hundred 100 DOLLARS

Security features included. Details on back.

ROYAL BANK OF CANADA
BRANT & COLBORNE
22 COLBORNE STREET
BRANTFORD, ONTARIO N3T 2G2

MEMO LEX 9234679

J C Turmel MP

⑈003⑈ ⑆00522⑈00315269394⑈

JOHN TURMEL
50 BRANT AVE
BRANTFORD ON N3T 3G7
TEL: (519) 717-5198

004

DATE 2020-05-01
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PAY TO THE ORDER OF Receiver General for Canada $ 200—

Two hundred 100 DOLLARS

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22 COLBORNE STREET
BRANTFORD, ONTARIO N3T 2G2

MEMO LEX 9234679

J C Turmel MP

⑈004⑈ ⑆00522⑈00315269394⑈

JOHN TURMEL
50 BRANT AVE
BRANTFORD ON N3T 3G7
TEL: (519) 717-5198

005

DATE 2020-06-01
Y Y Y Y M M D D

PAY TO THE ORDER OF Receiver General for Canada $ 200—

Two hundred 100 DOLLARS

Security features included. Details on back.

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22 COLBORNE STREET
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MEMO LEX 9234699

J C Turmel MP

⑈005⑈ ⑆00522⑈00315269394⑈

JOHN TURMEL
50 BRANT AVE
BRANTFORD ON N3T 3G7
TEL: (519) 717-5198

006

DATE 2020-07-01
Y Y Y Y M M D D

PAY TO THE ORDER OF Receiver General for Canada $ 200—

Two hundred 100 DOLLARS

Security features included. Details on back.

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22 COLBORNE STREET
BRANTFORD, ONTARIO N3T 2G2

MEMO LEX 9234699

J C Turmel MP

⑈006⑈ ⑆00522⑈00315269394⑈

JOHN TURMEL
50 BRANT AVE
BRANTFORD ON N3T 3G7
TEL: (519) 717-5198

007

DATE 2020-08-01 (Y Y Y Y M M D D)

PAY TO THE ORDER OF Receiver General for Canada $ 200—

Two hundred —/100 DOLLARS

Security features included. Details on back.

ROYAL BANK OF CANADA
BRANT & COLBORNE
22 COLBORNE STREET
BRANTFORD, ONTARIO N3T 2G2

MEMO LEX 9234699

J C Turmel MP

⑈007⑈ ⑆00522⑈003⑆526⑈939⑈4⑈

JOHN TURMEL
50 BRANT AVE
BRANTFORD ON N3T 3G7
TEL: (519) 717-5198

008

DATE 2020-09-01 (Y Y Y Y M M D D)

PAY TO THE ORDER OF Receiver General for Canada $ 200—

Two hundred —/100 DOLLARS

Security features included. Details on back.

ROYAL BANK OF CANADA
BRANT & COLBORNE
22 COLBORNE STREET
BRANTFORD, ONTARIO N3T 2G2

MEMO LEX 9234699

J C Turmel MP

⑈008⑈ ⑆00522⑈003⑆526⑈939⑈4⑈

JOHN TURMEL
50 BRANT AVE
BRANTFORD ON N3T 3G7
TEL: (519) 717-5198

009

DATE 2020-10-01 (Y Y Y Y M M D D)

PAY TO THE ORDER OF Receiver General for Canada $ 200—

Two hundred —/100 DOLLARS

Security features included. Details on back.

ROYAL BANK OF CANADA
BRANT & COLBORNE
22 COLBORNE STREET
BRANTFORD, ONTARIO N3T 2G2

MEMO LEX 9234699

J C Turmel MP

⑈009⑈ ⑆00522⑈003⑆526⑈939⑈4⑈

JOHN TURMEL
50 BRANT AVE
BRANTFORD ON N3T 3G7
TEL: (519) 717-5198

010

DATE 2020-11-01 (Y Y Y Y M M D D)

PAY TO THE ORDER OF Receiver General for Canada $ 200—

Two hundred —/100 DOLLARS

Security features included. Details on back.

ROYAL BANK OF CANADA
BRANT & COLBORNE
22 COLBORNE STREET
BRANTFORD, ONTARIO N3T 2G2

MEMO LEX 9234699

J C Turmel MP

⑈010⑈ ⑆00522⑈003⑆526⑈939⑈4⑈

JOHN TURMEL
50 BRANT AVE
BRANTFORD ON N3T 3G7
TEL: (519) 717-5198

011

DATE 2020-12-01
Y Y Y Y M M D D

PAY TO THE ORDER OF Receiver General for Canada $ 300 —

Three hundred —— 100 DOLLARS

Security features included. Details on back.

ROYAL BANK OF CANADA
BRANT & COLBORNE
22 COLBORNE STREET
BRANTFORD, ONTARIO N3T 2G2

MEMO Lex 9234699

J C Turmel MP

⑈011⑈ ⑆00522⑈003⑆526⑈939⑈4⑈

JOHN TURMEL
50 BRANT AVE
BRANTFORD ON N3T 3G7
TEL: (519) 717-5198

012

DATE 2021-01-01
Y Y Y Y M M D D

PAY TO THE ORDER OF Receiver General for Canada $ 300 —

Three hundred —— 100 DOLLARS

Security features included. Details on back.

ROYAL BANK OF CANADA
BRANT & COLBORNE
22 COLBORNE STREET
BRANTFORD, ONTARIO N3T 2G2

MEMO Lex 9234699

J C Turmel MP

⑈012⑈ ⑆00522⑈003⑆526⑈939⑈4⑈

JOHN TURMEL
50 BRANT AVE
BRANTFORD ON N3T 3G7
TEL: (519) 717-5198

013

DATE 2021-02-01
Y Y Y Y M M D D

PAY TO THE ORDER OF Receiver General for Canada $ 300 —

Three hundred —— 100 DOLLARS

Security features included. Details on back.

ROYAL BANK OF CANADA
BRANT & COLBORNE
22 COLBORNE STREET
BRANTFORD, ONTARIO N3T 2G2

MEMO Lex 9234699

J C Turmel MP

⑈013⑈ ⑆00522⑈003⑆526⑈939⑈4⑈

64464609 3-516

Royal Bank of Canada
Banque Royale du Canada
626 6TH AVE
NEW WESTMINSTER, BC

DATE 20200320
Y/A M/M D/J

PAY TO THE ORDER OF
PAYEZ À L'ORDRE DE RECEIVER GENERAL FOR CANADA $300.00

EXACTLY $300.00

CANADIAN DOLLARS CANADIENS

AUTHORIZED SIGNATURE REQUIRED FOR AMOUNTS OVER $5,000.00 CANADIAN / SIGNATURE AUTORISÉE REQUISE POUR UN MONTANT EXCÉDANT 5,000.00 $ CANADIENS

RE/OBJET

PURCHASER NAME NOM DE L'ACHETEUR

AUTHORIZED SIGNATURE / SIGNATURE AUTORISÉE

PURCHASER ADDRESS ADRESSE DE L'ACHETEUR

COUNTERSIGNED / CONTRESIGNÉ

THIS IS EXHIBIT "100" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

TURMEL: Crown request to strike 286 damages claims premature

11 views

John KingofthePaupers Turmel Oct 5, 2019, 6:32:35 PM
to

JCT: I guess they forgot that Jeff can still defend Judge Brown's decision in the Supreme Court of Canada.

CR: Department of Justice

Oct 3 2019

Federal Court

Dear Sir/Madam:

Re: Allan J. Harris T-1379-17 and the proceedings listed in Schedule A to this letter

We are writing on behalf of the defendant, HMTQ ("Canada") to request the Court's direction concerning next steps in these matters. We ask that you kindly place this letter before the case management judge, the Honourable Mr. Justice Brown.

Background

On November 24 and December 11, 2017, the Court issued orders designating Allan J. Harris v. HMQ (the "Harris" claim) as the lead claim in these matters, and staying the other claims pending determination of the Harris claim. The Court also ordered that determinations made in the Harris claim "shall be used to determine the Remaining Actions."

Canada subsequently brought a motion to strike the Harris claim. This motion was dismissed in part. Mr. Harris appealed, and Canada cross-appealed (the "Harris" appeal). On October 12, 2018, the Court issued a further order staying these claims pending the Harris appeal.

The Federal Court of Appeal has now issued its decision in the Harris appeal. In its Judgment of September 18 2019 (copy enclosed), the Court dismissed the plaintiff's appeal, granted Canada's cross-appeal, and struck the Harris claim in its entirety without leave to amend.

The Federal Court of Appeal struck the Harris claim on the grounds it failed to disclose a reasonable cause of action.

JCT: It was missing only that he's not rich enough to afford to buy from L.P.s during the short-staffing delay and they won't let him amend!!

CR: It found that court have not recognized a constitutional right to personally produce cannabis for medical purposes (paragraphs 12-16).

JCT: Point of Objection #1 (SCC): Section 313(1) of the Cannabis Regulations ("CR") does say the Minister "must" grant his permit if he qualifies.

CR: It also found that the Harris claim contained no facts to explain how the processing time for registration infringed the plaintiff's Charter's S.7 rights,

JCT: Chaoulli proved delayed medication violates rights.

CR: or why he could not obtain cannabis by other methods while his registration application was being processed (paragraphs 18-20 and 23). The Court awarded Canada its costs in the cross-appeal.

JCT: The legislation says "must" grant, not "may stall" if if he's rich.

CR: Next steps

JCT: Point to Brown #1: Premature. They have to wait for the Application for Leave to Appeal to the Supreme Court of Canada! These judges deserve to have their decision slapped around on record at the top. And that's at least another 6 months before Judge Brown need do anything. But next steps...

CR: The claims listed in Schedule "A" are substantially similar to the Harris claim.

JCT: Point to Brown #2: Sorry, the Harris claim against the ACMPR was not similar to our amended claims against the Cannabis Regulation.

CR: In these circumstances, Canada submits that the just, most expeditious and least expensive procedure is for the Court to invite the plaintiffs in these and any new matters to make submissions as to why their claims should not be struck without leave to amend for the reasons given by the Federal Court of Appeal in the Harris appeal.

JCT: First, we'll wait to see what the Supreme Court says in 6 months. After all, new claims are still being filed over long delays and all new claims have the gaps the court said needed filling filled. Even though whether you're rich or poor should not impact on how long you must wait. 40 newbies filed in the past 2 months. The delays persist. Some are pretty horrible stories. I expect many more new filers of the new http://johnturmel.com/delsc8.pdf claim with the gaps filled.

CR: If any plaintiffs do not file submissions, Canada proposes that their claims be struck without leave to amend.

JCT: Now that the Lead Plaintiff has been removed, they want to make everyone file their own submissions! I'd rather only

one super delay file a response. If it works for him,it should apply to everyone else.

CR: If any plaintiffs file submissions, however, Canada requests that it be given an opportunity to reply to these submissions, following which the Court may make a decision to either dismiss or allow the claims to proceed.

Timing of submissions

Canada proposes that any plaintiffs wishing to oppose the dismissal of their claims be permitted to do so by serving and filing written representations within 30 days of the Court's direction or order.

JCT: Agreed. But after the Supreme Court rules on Jeff.

CR: Canada also requests that it be allowed to file a single set of written representations in reply within 30 days of the expiry of the plaintiffs' deadline.

JCT: So the patients have to each file theirs but they want to file only Reply for everyone. What, they can't insert everyone's name into a template?

CR: While longer than the ordinary timeline for reply under the Federal Court Rules, Canada requests this time due to the large number of plaintiffs and the potential need to prepare reply materials in both official languages.

Service of materials

Canada requests that the plaintiffs serve any written representations in accordance with Rule 139 and not electronically.

JCT: Why would they want the patients to have to pay for printing costs, to run around serving and filing paper documentation after Judge Brown has allowed electronic serving and filing so far? They can only be wanting to make it harder on the patients? I'll find a way to keep it easy. They are patients after all, why make them run around and pay for paper?

CR: Although Canada has not objected to electronic service of motions by several of the individual plaintiffs in these matters, Canada's email servers are subject to strict data size limits which would be quickly exceeded if all 286 plaintiffs in these matters were to serve written representations electronically.

JCT: Point to Brown #3: They have less space on their computer disk than in their filing cabinets? 286 possible letters to be stored! They should join gmail! Har har har har har har. And they want to court to fill their filing cabinets rather than their servers too! Har har har.

CR: Costs

Canada proposes that the claims of any plaintiffs who do not file written representations be dismissed without costs.

However, if any plaintiffs file written representations opposing the dismissal of their claims, and Canada opposes their submissions, Canada will reply and request that those claims be dismissed with costs of $150 per plaintiff.

JCT: Perfect. I only need to file one response. If it wins, they all win. If it loses, only he loses the $150 and everyone else is dismissed with no costs! So the smart move is to have one super-aggrieved patient respond and no one else.

CR: Mozajko v. HMTQ T-92-18

In addition to its motion to strike the Harris claim, Canada brought a separate motion to strike the claim in Mozajko v. HMTQ T-92-18. On October 22018, this Court dismissed Canada's motion in part. Canada appealed this decision and the plaintiff cross-appealed. As the appeal and cross-appeal are still pending, this claim has not been included in Schedule "A" to this letter and Canada does not request its dismissal at this time.

Summary of request

In summary, Canada requests a direction or order that:

1. Within 30 days of the direction or order, the plaintiffs in the matters listed in Schedule "A" and in any new matters commenced prior to the Court's direction or order, may serve and file written representations as to why their claims should not be struck without leave to amend, and as to costs;

Any plaintiffs serving written representations shall do so in accordance with Rule 139 of the Federal Court Rules.

JCT: No, we'll ask to keep electronic filing.

CR: 3. The claims of any plaintiffs who do not file written representations will be dismissed without costs.

JCT: No $150 costs for anyone but the responder.

CR: 4. Within a further 30 days, Canada may serve and file a single set of written representations in reply to any written representations filed by the plaintiffs.

5. The costs of the second motion for leave to amend the Harris claim are fixed at $150.

Yours truly,
Jon Bricker and Wendy Wright.

So Jeff's Points of Objection are:

1) No right to grow in case law but it is in the legislation S.313(1) which they failed to consider. Per Incuriam.

2) Want #1: difference between the marihuana that he would grow and the marihuana that he could have purchased. That he can afford one and not the other is easy but even if he

could, why should be?

3) Want #2: that he not have been otherwise able to obtain marihuana during this waiting period from a person authorized to sell marihuana under the ACMPR.

4) No evidence delay violates rights: Chaoulli

5) ACMPR: They had the wrong document.

6) MISSED RESTITUTION APPEAL
They mistook the B Appeal for a renewal appeal they admit did not happen. But they completely missed our appeal issue of an trivial restitution of a non-trivial loss. Didn't talk about it at all.

The Responder only has to respond right now to:
1) Premature Direction before SCC
2) Electronically still allowed
3) Server overload silly

After Judge Brown issues his Direction on how we do it, the Responder will then point out they dismissed the wrong claim not his!!! Har har har. What's the Crown going to reply? Har har har. And that all new claims since October have the gaps filled, so why not him adopting their new claim?

So we really need more people to file for damages if they were delayed back in 2017 up to now. The more newbies with the gaps filled means the more chance the others get to join them with the new updated claim.
http://johnturmel.com/delsc8.pdf

After all, Judge Brown can't have been too happy being over-ruled for some pretty weak and silly reasons. And if we beat them up enough at the top, he may be friendlier at the bottom in letting our oldies join our newbies especially when their claims are quite dissimilar to the wrong one they dismissed.

THIS IS EXHIBIT "101" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

Igor Mozajko Respondent (Cross-Appellant)
9 Port Royal Trail
Wasaga Beach, Ontario, L9Z1H7
705-429-4708 hmozajko@rogers.com

Friday Nov 8 2019

VIA FACSIMILE

Court Administrator:
Federal Court of Appeal
180 Queen St. W. #200
Toronto, ON, M5V 3L6
Fax: 416-973-2154

RE: Mozajko v. HMTQ No: A-339-18

1. My appeal is slated for Nov 13 2019 though the Defendant asked to postpone the hearing to which I consented .

2. On Jan 17 2018, I filed a Statement of Claim. As many others had also filed the same template, Allan J. Harris was named Lead Plaintiff T-1379-17 by case-management Judge Brown.

3. On Jan 26 2018, after filing a motion to strike the Statement of Claim of the Lead Plaintiff, the Defendant filed a motion to strike my Statement of Claim.

4. On July 20 2018, Justice Brown dismissed the motion to strike the Harris (A) Damages claim but did strike the (B) Restitution claim as too trivial for Charter relief.

5. On Oct 2 2018, Judge Brown adopted his reasons for the Harris decision to allow the (A) Damages claim but strike the (B) Restitution claim.

6. Harris appealed the dismissal of the claim for the (B) Restitution and the Defendant cross-appealed the dismissal of the motion to strike the claim for (A) Damages. In Mozajko, Defendant appealed the dismissal of the motion to strike the (A) remedy and Mozajko then cross-appealed the dismissal of the (B) remedy.

7. Given that the issues raised were the same as those of Appellant Allan J. Harris (Appeal File No.: A-258-18), Respondent/Cross-Appellant herein adopted that Memorandum.

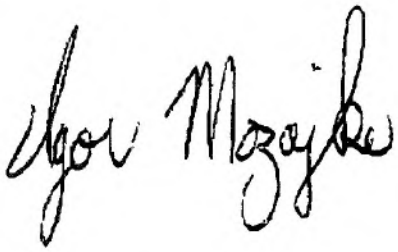
8. On Sep 18 2019, the Federal Court of Appeal dismissed the Harris appeal for (B) Restitution and granted the Crown appeal to strike his (A) Damages claim.

9. My Respondent/Cross-Appellant's Supplementary Memorandum deals with issues that may not have been addressed in the Harris Memorandum which I do address.

10. It is near impossible for me to get down to the courts in Toronto. My mother is very sick and is prone to falling which then entails a hospital stay. She is 87 and in very frail health, kidneys, heart problems. Myself I have very bad sciatica which prevents me from driving such long distances. All the discs in my back and neck are bulging and and herniated. Also my blood sugar is haywire getting readings of 3.8 or 4.0. I have a very badly swollen foot. Degenerative arthritis in my big toe. I have 2 dogs to look after one is 10 weeks old and destructive right now.

11. I do have access to Skype or telephone if I could participate that way. If not, I stand on the Harris Memorandum and my Supplementary Memorandum and have nothing else to say.

12. My McKenzie Friend, John Turmel, author of my documentation, will attend any hearing should the Court need an amicus to respond to any questions.



Igor Mozajko

CC: Jon Bricker Fax: 416-973-0809

THIS IS EXHIBIT "102" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

TO : Judicial Administrator

FROM : Woods J.A.

DATE : December 3, 2019

RE : *Her Majesty the Queen v. Igor Mozajko* (A-339-18 (related files A-246-18, A-294-18 and A-258-18))

DIRECTION

The respondent's memorandum of fact and law was not served and filed within the time prescribed by the Rules and should not be filed by the Registry. As noted in the Court's order of May 13, 2019, it is necessary for the respondent to bring a proper motion for an extension of time.

The respondent's request to participate in the hearing by way of teleconference or Skype shall be referred to the Judicial Administrator.

"JW"

THIS IS EXHIBIT "103" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

TURMEL: Brown Direction sent to Delay Damages plaintiffs

17 views

John KingofthePaupers Turmel Dec 19, 2019, 12:21:22 AM
to

JCT: Judge Brown issued a Direction to the self-represented plaintiffs with Allan J. Harris as Lead Plaintiff in the response to the Crown's letter to force them all to respond to the Court of Appeal overturning Judge Brown's Harris decision on not striking the Damages claims as having zero chance of winning. From the Court:

Good morning,

Pursuant to the Order of the Court dated December 11, 2017, which was sent to you in December, please find attached the Directions of Justice Brown dated December 16, 2019, on the lead file (Allan Harris - T-1379-17), which also applies to your file. For reference, please see attached list of Plaintiffs covered by the Order dated December 11, 2017.

Federal Court
Ottawa, ON
K1A 0H9

December 17, 2019
BY EMAIL ONLY

Group of Plaintiffs covered by the Order of Justice Brown dated December 11, 2017 (see attached list of Plaintiffs)
http://johnturmel.com/delvlist.pdf

Mr. Allan J. Harris and others
Counsel for the Defendant
Ms. Wendy Wright
Mr. Jon Bricker

RE: Allan J. Harris v. Her Majesty the Queen
File No: T-1379-17

This will confirm the oral directions of the Court (Justice Brown) dated December 16, 2019:

J: "The Court has the Defendant's letters of October 2, 2019 and December 3, 2019, and has heard only from the Plaintiff MOZAJKO in files T-92-18 and A-339-18. Therefore, all other Plaintiffs in the group of plaintiffs covered by my Order of December 11, 2017, in this action, shall have until January 21, 2020, to serve and file written submissions setting out why their statements of claim and or amended statements of claim should not be dismissed without leave to amend for the reasons set out by the Federal Court of Appeal in Allan J.

Harris and Attorney General of Canada, docket A-258-18, dated September 18, 2019, which judgment struck the Plaintiff's amended statement of claim without leave to amend.

JCT: Steve Vetricek is the only plaintiff to respond to the Crown's last letter. Steve Vetricek leads the opposition for all those early plaintiffs with identical statements of claim as Jeff Harris. He'll respond by Jan 21 2020 and if he loses, only he pays the $150. If he wins, Brown won't strike the others. So pass this around. Everyone sit tight. Don't try filing any documentation.

Steve is going to argue that if Judge Brown was willing to wait to see if his decision was going to stay overturned, then, since Igor has an expanded defence of his decision, he should wait to see if his decision stays overturned. So he should adjourn his deliberation until after Igor gets back from the top.

But there's another point. There have been 25 new plaintiffs who have filed the http://johnturmel.com/delsc8.pdf with the explanations of why the alternatives were not sufficient in answer to what the Court of Appeal had said was missing.

So does Steve make the point for them or does one of them actually file his objection since the deficiencies claimed in the Harris decision have been remedied whether they stand up on appeal or not!

So two dozen people have different claims offering what the Court of Appeal had demanded and so their claims are substantially different from the Harris appeal the Crown wants applied against them. Har har har har har har. Neat eh, how the forms evolved with every objection?

So Harris applies to the early 300, not the later 25.

J: The Defendant in this action and those covered by my Order of December 11, 2017, may file a single reply to any and all such submissions on or before February 24, 2020. All Plaintiffs should note that the Defendant is also asking for costs of $150.00 against any Plaintiff who opposes having their action or amended action struck without leave to amend. Therefore all Plaintiffs should address costs in the submissions, if any, that they file."
Yours truly,
Kimberly Lalonde
Registry Officer

JCT: So no one files anything and will cost nothing if dismissed. Only Steve and perhaps a later filer will gamble the $150 to oppose dismissal.

THIS IS EXHIBIT "104" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

John Turmel

December 19, 2019 ·

TURMEL: Brown Direction sent to Delay Damages plaintiffs

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Federal Court
Ottawa, ON
K1A 0H9

December 17, 2019
BY EMAIL ONLY

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Plaintiff's amended statement of claim without leave to amend.

JCT: Steve Vetricek is the only plaintiff to respond to the Crown's last letter. Steve Vetricek leads the opposition for all those early plaintiffs with identical statements of claim as Jeff Harris. He'll respond by Jan 21 2020 and if he loses, only he pays the $150. If he wins, Brown won't strike the others. So pass this around. Everyone sit tight. Don't try filing any documentation.

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Yours truly,
Kimberly Lalonde
Registry Officer

JCT: So no one files anything and will cost nothing if dismissed. Only Steve and perhaps a later filer will gamble the $150 to oppose dismissal.

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4 Comments 1 Share

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Most relevant

Jeff Harris
if the Crown has only heard from Igor, what do you mean talking about Steve?

Like Reply 2y

Jeff Harris
are you just going to ignore my question?

Like Reply 2y

John Turmel
Sorry, I missed it. I selected Steve to be the only plaintiff to lead the response but it's at my blog:
https://groups.google.com/forum/...

GROUPS.GOOGLE.COM

TURMEL: Judge Brown waiting for Supreme Court Harris...

Like Reply 2y

Jeff Harris
John Turmel thank you. you had mentioned Igor and then talked about Steve

Like Reply 2y

THIS IS EXHIBIT "105" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

Date: 20200427

Docket: T-2126-18

Ottawa, Ontario, April 27, 2020

PRESENT: The Honourable Mr. Justice Brown

BETWEEN:

SCOTT STANLEY MCCLUSKEY

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

and

The Parties Identified in Schedule "A"

ORDER

UPON motion by the Defendant to dismiss without leave to amend, the Plaintiff's action, and to dismiss the actions of the Plaintiffs identified in Schedule A attached hereto, also without leave to amend, on the grounds these actions are substantially the same as the action struck by the Federal Court of Appeal in *Harris v Canada (Attorney General)*, 2019 FCA 232, without leave to amend;

AND UPON concluding that the Plaintiff's action, and the actions of the Plaintiffs identified in Schedule A hereto, are the same or substantially the same as that struck by the Federal Court of Appeal in *Harris v Canada (Attorney General)*, 2019 FCA 232 such that the Plaintiffs' actions should likewise be dismissed without leave to amend;

AND UPON motion by the Plaintiff in this action for an extension of time to respond to my Direction of March 4, 2020, and upon concluding there is no merit to the underlying submission of the said Plaintiff to the effect that his action is not substantially the same as that struck by the Federal Court of Appeal in *Harris v Canada (Attorney General)*, 2019 FCA 232.

THEREFORE THIS COURT ORDERS that:

1. The Plaintiff's action is dismissed without leave to amend.
2. The Plaintiff's motion to extend time is dismissed.
3. The actions identified in Schedule A hereto are dismissed without leave to amend.
4. A copy of this Order shall be placed in this file and in each file referred to in Schedule A.
5. The whole without costs awarded to or against any party.

"Henry S. Brown"
Judge

SCHEDULE "A"

T-1324-17	T-1375-17	T-1380-17	T-1425-17
T-1478-17	T-1479-17	T-1523-17	T-1524-17
T-1582-17	T-1626-17	T-1700-17	T-1752-17
T-1864-17	T-1908-17	T-1914-17	T-1920-17
T-1963-17	T-1979-17	T-1992-17	T-1997-17
T-2100-17	T-1-18	T-2-18	T-3-18
T-4-18	T-100-18	T-124-18	T-134-18
T-144-18	T-152-18	T-169-18	T-174-18
T-192-18	T-198-18	T-207-18	T-215-18
T-216-18	T-298-18	T-302-18	T-327-18
T-340-18	T-341-18	T-342-18	T-343-18
T-345-18	T-346-18	T-363-18	T-371-18
T-373-18	T-377-18	T-398-18	T-399-18
T-415-18	T-424-18	T-432-18	T-434-18
T-438-18	T-446-18	T-459-18	T-496-18

T-499-18	T-501-18	T-502-18	T-518-18
T-544-18	T-551-18	T-552-18	T-553-18
T-554-18	T-555-18	T-556-18	T-557-18
T-561-18	T-568-18	T-576-18	T-583-18
T-599-18	T-602-18	T-614-18	T-615-18
T-616-18	T-617-18	T-618-18	T-621-18
T-622-18	T-631-18	T-634-18	T-642-18
T-651-18	T-653-18	T-660-18	T-669-18
T-673-18	T-674-18	T-675-18	T-680-18
T-687-18	T-716-18	T-721-18	T-722-18
T-732-18	T-745-18	T-749-18	T-757-18
T-764-18	T-770-18	T-790-18	T-793-18
T-796-18	T-802-18	T-811-18	T-812-18
T-813-18	T-814-18	T-828-18	T-829-18
T-831-18	T-849-18	T-881-18	T-887-18
T-895-18	T-897-18	T-900-18	T-918-18

T-919-18	T-920-18	T-923-18	T-928-18
T-948-18	T-970-18	T-971-18	T-972-18
T-986-18	T-987-18	T-988-18	T-992-18
T-1012-18	T-1014-18	T-1085-18	T-1086-18
T-1087-18	T-1089-18	T-1090-18	T-1114-18
T-1143-18	T-1144-18	T-1145-18	T-1160-18
T-1162-18	T-1175-18	T-1176-18	T-1197-18
T-1204-18	T-1205-18	T-1210-18	T-1222-18
T-1256-18	T-1302-18	T-1321-18	T-1332-18
T-1349-18	T-1376-18	T-1397-18	T-1398-18
T-1411-18	T-1423-18	T-1447-18	T-1454-18
T-1469-18	T-1470-18	T-1471-18	T-1472-18
T-1474-18	T-1490-18	T-1494-18	T-1497-18
T-1498-18	T-1548-18	T-1553-18	T-1558-18
T-1621-18	T-1622-18	T-1629-18	T-1667-18
T-1668-18	T-1669-18	T-1670-18	T-1684-18

T-1718-18	T-1719-18	T-1733-18	T-1744-18
T-1746-18	T-1826-18	T-1834-18	T-1864-18
T-1919-18	T-1934-18	T-1954-18	T-2046-18
T-2060-18	T-2069-18	T-2070-18	T-2097-18
T-2126-18	T-2140-18	T-67-19	T-77-19
T-161-19	T-162-19	T-164-19	T-165-19
T-218-19	T-386-19	T-387-19	T-548-19
T-576-19	T-577-19	T-583-19	T-584-19
T-620-19	T-647-19	T-688-19	T-764-19
T-787-19	T-801-19	T-844-19	T-847-19
T-849-19	T-851-19	T-852-19	T-990-19
T-993-19	T-994-19	T-1081-19	T-1094-19
T-1105-19	T-1106-19	T-1107-19	T-1108-19
T-1109-19	T-1110-19	T-1134-19	T-1204-19
T-1205-19	T-1271-19	T-1272-19	T-1273-19
T-1274-19	T-1275-19	T-1276-19	T-1277-19

T-1278-19	T-1279-19	T-1280-19	T-1285-19
T-1299-19	T-1312-19	T-1393-19	T-1394-19
T-1395-19	T-1396-19	T-1407-19	T-1441-19
T-1443-19	T-1444-19	T-1475-19	T-1487-19
T-1495-19	T-1515-19	T-1537-19	T-1561-19
T-1571-19	T-1581-19	T-1602-19	T-1649-19
T-1650-19	T-1651-19	T-1831-19	T-1849-19
T-1850-19	T-1851-19	T-1852-19	T-1853-19
T-1854-19	T-1855-19	T-1867-19	T-1904-19
T-1917-19	T-1940-19	T-1941-19	T-1948-19
T-1949-19	T-1950-19	T-1954-19	T-1955-19
T-1956-19	T-1976-19	T-1977-19	T-1996-19
T-1997-19			

Date: 20201019

Dockets: T-485-18
T-1557-19
T-1604-19
T-2024-19
T-2029-19
T-2092-19

Ottawa, Ontario, October 19, 2020

PRESENT: The Honourable Mr. Justice Brown

Docket: T-485-18

BETWEEN:

SCOTT PIOTROWSKI

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-1557-19

AND BETWEEN:

MARIE HELENE COMEAUX

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-1604-19

AND BETWEEN:

SHONA COOKE

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-2024-19

AND BETWEEN:

PAUL HALLELUJAH

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-2029-19

AND BETWEEN:

PIERRE STANLEY ALEXANDRE

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-2092-19

AND BETWEEN:

PATRICK CULLY

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

ORDER

UPON motion by the Defendant to dismiss, without leave to amend, the Plaintiffs' actions on the grounds they are the same or substantially the same as the action struck by the Federal Court of Appeal in *Harris v Canada (Attorney General)*, 2019 FCA 232, without leave to amend;

AND UPON reading the pleadings and proceedings and considering that none of the Plaintiffs filed a response although given an opportunityto do so;

AND UPON concluding that the Plaintiffs' actions are the same or substantially the same as that struck by the Federal Court of Appeal in *Harris v Canada (Attorney General)*, 2019 FCA 232 such that the doctrine of *stare decisis*, by which similar actions are disposed of similarly, the Plaintiffs' actions must likewise be dismissed without leave to amend;

AND UPON concluding that in the Court's discretion there should be no order of costs;

THEREFORE THIS COURT ORDERS that:

1. The Plaintiffs' actions are dismissed without leave to amend.
2. A copy of this Order shall be placed in each file referred to herein.
3. There is no order as to costs.

"Henry S. Brown"
Judge

THIS IS EXHIBIT "106" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

TURMEL: MedPot Delay Damages actions dismissed

16 views

John KingofthePaupers Turmel May 4, 2020, 9:58:03 AM
to

JCT: Scott's got an early mail that the damages cases had been dismissed and posted a hearty laugh. After all, he had asked that everyone's actions for damages be dismissed and he did get what he asked for.

Let's give him credit. He's been moving the court to dismiss all the cases thrown out for a long time now and has finally succeeded. So everyone's actions for damages for what they lost over the delay seem to be over.

I'm amazed Judge Brown dismissed everyone's cases before finding out if the Court of Appeal overturns the other Court of Appeal decision overturning his win for us. I wonder why they didn't post the dismissals on their Registry files for so long?

So the situation remains.

Steve Vetricek filed an opposition to the Crown's request that his case not be thrown out before the Mozajko appeal of the Harris decision throwing out Brown's decision for our side. So I can imagine those who did not oppose may be gone but don't know if Steve's action is gone. If it is, he can appeal too.

But if Mozajko should win and get the Brown decision back in force, then Vetricek is ready to go with Mozajko and Harris for their damages claims even if the others are no longer on the bench but in the bleachers.

Should they win their damages, do you think those who had their cases dismissed because of a bad decision can be reinstated or will they have to file a new action again to get in on the cash?

I guess Brown might have the power to reinstate everyone if his decision is upheld rather than make everyone file again.

Wild situation.

Lucky for me nobody took my $20 bet that Scott was delusional if the Registry didn't show it. I wouldn't have taken the bet either but the Registry was off and Scott didn't produce any proof.

Bets off for any idiots out there who think it might still be on.

Here is Scott's post from my Facebook page crowing about

getting everyone's actions thrown out. May as well let Scott enjoy his victory in getting everyone else's cases dismissed.

Scott McCluskey to John Turmel
April 2 1:06 AM .

I WARNED YOU ALL THIS DAY WOULD COME !

"Mr. Turmel seems to be real quiet lately over his engineered court cases crashing and burning, run by Mr. Turmel's SPOCK Puppets.

JCT: I don't think those who used my motions to speed up their permits are feeling all that bad.

SM: Order dated April 27 2020 by Justice Henry S. Brown of the Federal Court Ottawa DISMISSED All 448 Delay/Damages cases,

JCT: I didn't know there were that many.

SM:and those left on Schedule A some 299 that opted to stay in, hoping for a miracle.

JCT: So does it apply to 299 or to 448?

SM: This debacle was administered by Allan Jeffrey Harris, lead/representative plaintiff, overseeing all these cases. Harris broke a record for most cases lost in one fell swoop!!

JCT: Actually, the Crown holds the record for most cases lost in one fell swoop back in 2003 when my appeal made them drop 4,000 charges.

Harris was found on 2 occasions on ORDERS granted to myself by Justice Brown, proving Harris was antagonistic, would not take any input from any person involved in these cases and failed to do his duties. Despite asking Justice Brown for an email list of all co-plaintiffs Harris claimed he needed to keep persons up to date and discuss strategy etc. Harris to my knowledge never once contacted anyone, including myself to keep us updated, informed or to get our input. He did not do his duties.

On Orders dated Sept 24 2019 and a subsequent Order dated Jan 13 2020, Harris was removed from my 2 cases for not doing his DUTIES as lead/representative plaintiff. Harris posted many times "what duties, I have no duties, show me the duties", as he was clearly negligent, in not even knowing his duties, when he accepted the role of Lead/Representative plaintiff.

JCT: Pack of lies. Harris as Lead Plaintiff meant first to go, not representing the others. The Crown and the Judge many times told Scott that Harris had no duty to represent him, he was only going first. That Scott's still pushing the same delusion that Jeff did something wrong to Scott by first does show his mental state. After the court has told him Harris has no duty to him. he's still with the same sickness..

SM: Now Harris had an opportunity to save the 448 cases, by going to The SCC after Harris lost in the appellate court and was assessed court costs. All Harris had to do was follow Turmel's advice and take it to the SCC and win!

JCT: And instead, Mozajko is appealing the Harris decision at the Court of Appeal with more complete arguments (now that they told us what they thought was wrong or missing) and he'll take it to the Supreme Court. Guess Scott would have prefered Jeff take the weaker case to the top. Just goes to show how bright he's not for blaming Jeff for not going with the less complete case. Missed his chance to laugh?

SM:I recall a post by Harris at the time, that indicated he was rather upset with Turmel's legal advice when he stated "you keep having me file these loser cases and call them winners" 0/448 cases lost. Now thats a record!

JCT: Guess Scott doesn't count the hundred people who got hop-to-it permits with their $2 investment.

SM: So it appears Harris let us down again, when he didn't fulfill his obligations to see the cases all the way to the SCC. WHY? Turmel claimed he would win!

JCT: Scott knows Mozajko is appealing the Harris decision to the top. Wonder why he doesn't mention the other route. I wonder. Just to misrepresent?

SM:So what says Jeff Harris, on why he did not take all our cases to the Supreme Court of Canada? Why?

JCT: How many times does he have to told that Mozajko's doing that with more complete arguments? I've repeated it endlessly but it seems to go in one ear and out the other. What can you say about someone who knows they're repeating something untrue? Sick?

SM: Tell us Jeff why you let 448 cases get dismissed, when you could have gone to the SCC as I recall you claimed to us all, you would?"

JCT: Jeff didn't let them get dismissed. Igor can do that if he stops before the top.

Of course, the hundred or so people who filed motions in their $2 actions to get their permits processed faster may not feel so bad about losing their $2 entry fee.

Notice how Scott doesn't mention that Judge Brown awarded no costs for trying. When you lose your action and the judge orders no costs for the other side, it does punish the other side. The did all that work and have to pay for it themselves. Over 400 cases and they have to cover all their costs themselves! Har har har. Wonder why Scott didn't mention the good news with his had news?

Anyway, Judge Brown is still the best judge we've ever had and when the story is written, his decisions will be

respected by posterity if not the 3 higher judges who blew their cred disagreeing with him for silly reasons.

Judge Brown's Delay Damages decision:
http://johnturmel.com/delcn2j.pdf

Court of Appeal's decision overturning it:
http://johnturmel.com/delhjfca.pdf

Igor Mozajko's present appeal against that decision:
http://johnturmel.com/delmozm2.pdf Crown has to reply by May 15

And for info, Judge Brown's other great decision which the Crown has appealed for which we await a reserved decision!
http://johnturmel.com/150cn1j.pdf

Because we may still sustain Judge Brown's decision on the damages, I wonder what they can do for those actions dismissed prematurely if we do? Hope they have some way of easily correcting the dismissals if it turns out to be premature.

But we have to give Scott McCluskey the victory in working to get everyone's cases thrown out.

Well, not quite everyone! Mozajko, Harris and Vetricek could all be back in action this year.

So everyone loses their $2 filing fee. If anyone feels I scammed them into the loss, I'll cover your loss. Send me an email and I'll cover your $2 loss.

No kidding. Remember Jeff Harris being hit with $2,500 in Court of Appeal costs. I'm paying it. So if you think I scammed you, send an email and I'll cover your loss. I exclude Scott from the offer because he's been calling me a scammer for quite a while now. He'll have to suffer his $2 disaster himself.

THIS IS EXHIBIT "107" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

Date: 20210210

Docket: A-339-18

Citation: 2021 FCA 25

CORAM: **WEBB J.A.**
WOODS J.A.
MACTAVISH J.A.

BETWEEN:

HER MAJESTY THE QUEEN

Appellant

and

IGOR MOZAJKO

Respondent

Heard by online video conference hosted by the registry on November 10, 2020.

Judgment delivered at Ottawa, Ontario, on February 10, 2021.

REASONS FOR JUDGMENT BY: WEBB J.A.

CONCURRED IN BY: WOODS J.A.
MACTAVISH J.A.

Date: 20210210

Docket: A-339-18

Citation: 2021 FCA 25

CORAM: **WEBB J.A.**
WOODS J.A.
MACTAVISH J.A.

BETWEEN:

HER MAJESTY THE QUEEN

Appellant

and

IGOR MOZAJKO

Respondent

REASONS FOR JUDGMENT

WEBB J.A.

[1] The appeal and the cross-appeal in this matter arise as a result of an Order of the Federal Court (Docket: T-92-18) which dismissed, in part, the motion of the Crown to strike Mr. Mozajko's statement of claim.

[2] In granting the Order, the Federal Court Judge noted that Mr. Mozajko's statement of claim advanced the same allegations that were raised by Mr. Harris (*Harris v. Canada*, 2018 FC

765) in his amended statement of claim that was also the subject of a motion to strike. By the Order dated July 20, 2018, the Federal Court Judge dismissed the motion to strike Mr. Harris' amended statement of claim in part. Adopting the reasons that he had given in the Harris action, the Federal Court Judge also dismissed the Crown's motion to strike Mr. Mozajko's statement of claim in part.

[3] Mr. Harris appealed to this Court seeking to reinstate the parts of his amended statement of claim that were struck and the Crown cross-appealed seeking to strike the parts of Mr. Harris' amended statement of claim that were not struck. By the Judgment dated September 18, 2019 (2019 FCA 232), this Court allowed the Crown's cross-appeal and dismissed Mr. Harris' appeal. The result was that Mr. Harris' amended statement of claim was struck, without leave to amend.

[4] In this appeal, Mr. Mozajko did not seek to distinguish his statement of claim from that of Mr. Harris but rather submitted that this Court erred in striking Mr. Harris' amended statement of claim. The Crown submitted that for the reasons adopted by this Court in *Harris v. Attorney General of Canada*, 2019 FCA 232, Mr. Mozajko's statement of claim should also be struck.

[5] At the hearing of this appeal, Mr. Mozajko only raised one issue: whether the failure of the Crown to serve notice of a constitutional question was fatal to the Crown's argument that his statement of claim should be struck. This argument is reflected in paragraphs 48 and 49 of his memorandum:

> 48. In the recent appeal of Harris v. HMTQ (A-175-19) of a motion to strike a S.52 claim of constitutional violation, both Justices Pelletier and Gauthier noted that there had been no Notice of Constitutional Question for the motion to strike a constitutional claim. Justice Gauthier said "the constitutionality must be argued to some extent if the Crown says the claim of unconstitutionality is frivolous."
>
> 49. The Crown arguing that the facts do not show a constitutional violation is as constitutional an argument as me arguing that the facts do show a constitutional violation. In moving to strike a S.52 claim of constitutional violation, Respondent submits that a Notice of Constitutional Question should have been given herein as well. The Appellant failed to file a Notice of Constitutional Question below and therefore, Judge Brown's dismissal of the motion was therefore justified for other reasons and should be [*sic*] not be overturned.

[6] No citation is provided for the decision to which Mr. Mozajko is referring in paragraph 48 of his memorandum. I would note that the citation for the decision of this Court in appeal A-175-19 is 2020 FCA 124. The reasons were written by Justice Woods with Justices Pelletier and Gauthier concurring. However, the statement quoted by Mr. Mozajko above does not appear anywhere in these reasons.

[7] Subsections 57(1) and (2) of the *Federal Courts Act*, R.S.C. 1985, c. F-7, state:

57 (1) If the constitutional validity, applicability or operability of an Act of Parliament or of the legislature of a province, or of regulations made under such an Act, is in question before the Federal Court of Appeal or the Federal Court or a federal board, commission or other tribunal, other than a service tribunal within the meaning of the National Defence Act, the Act or regulation shall not be judged to be invalid, inapplicable or inoperable unless notice has been served on the Attorney General of Canada and the	**57** (1) Les lois fédérales ou provinciales ou leurs textes d'application, dont la validité, l'applicabilité ou l'effet, sur le plan constitutionnel, est en cause devant la Cour d'appel fédérale ou la Cour fédérale ou un office fédéral, sauf s'il s'agit d'un tribunal militaire au sens de la Loi sur la défense nationale, ne peuvent être déclarés invalides, inapplicables ou sans effet, à moins que le procureur général du Canada et ceux des provinces n'aient été avisés conformément au paragraphe (2).

attorney general of each province in accordance with subsection (2).

(2) The notice must be served at least 10 days before the day on which the constitutional question is to be argued, unless the Federal Court of Appeal or the Federal Court or the federal board, commission or other tribunal, as the case may be, orders otherwise.

(2) L'avis est, sauf ordonnance contraire de la Cour d'appel fédérale ou de la Cour fédérale ou de l'office fédéral en cause, signifié au moins dix jours avant la date à laquelle la question constitutionnelle qui en fait l'objet doit être débattue.

[8] Subsection 57(1) of the *Federal Courts Act* provides that where the constitutionality of an Act or regulation is in question, "the Act or regulation shall not be judged to be invalid, inapplicable or inoperable unless notice has been served". In this case, no Act or regulation has been "judged to be invalid, inapplicable or inoperable". Therefore, no notice of any constitutional question was required.

[9] In any event, neither subsection 57(1) nor subsection 57(2) of the *Federal Courts Act* specify who must serve the notice of the constitutional question. It would be logical that in any matter where a person is asking to have a particular Act or regulation "judged to be invalid, inapplicable or inoperable", the person who is requesting this result will want to ensure that the appropriate notice is served.

[10] As noted above, Mr. Mozajko did not seek to distinguish his statement of claim from the statement of claim filed by Mr. Harris. I would therefore allow the Crown's appeal. I would also dismiss Mr. Mozajko's cross-appeal. I would set aside the Order issued by the Federal Court in this matter. Rendering the decision that the Federal Court should have made, I would allow the

Crown's motion to strike Mr. Mozajko's statement of claim and I would strike his statement of claim without leave to amend. I would award the Crown costs in the amount of $3,500.

"Wyman W. Webb"
J.A.

"I agree
Judith Woods J.A."

"I agree
Anne L. Mactavish J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

APPEAL FROM AN ORDER OF THE FEDERAL COURT DATED OCTOBER 2, 2018, DOCKET NUMBER T-92-18

DOCKET:	A-339-18
STYLE OF CAUSE:	HER MAJESTY THE QUEEN v. IGOR MOZAJKO
PLACE OF HEARING:	HEARD BY ONLINE VIDEO CONFERENCE HOSTED BY THE REGISTRY
DATE OF HEARING:	NOVEMBER 10, 2020
REASONS FOR JUDGMENT BY:	WEBB J.A.
CONCURRED IN BY:	WOODS J.A. MACTAVISH J.A.
DATED:	FEBRUARY 10, 2021

APPEARANCES:

Jon Bricker Benjamin Wong	FOR THE APPELLANT
Igor Mozajko	ON HIS OWN BEHALF

SOLICITORS OF RECORD:

Nathalie G. Drouin Deputy Attorney General of Canada	FOR THE APPELLANT

THIS IS EXHIBIT "108" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

Date: 20210215

Docket: T-193-21

Ottawa, Ontario, February 15, 2021

PRESENT: The Honourable Mr. Justice Brown

BETWEEN:

GISELE PILON

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

JUDGMENT

UPON motion by the Defendant to dismiss, without leave to amend, the Plaintiff's action on the grounds it is the same or substantially the same as the action struck by the Federal Court of Appeal in *Harris v Canada (Attorney General)*, 2019 FCA 232, without leave to amend;

AND UPON reading the pleadings and proceedings filed;

AND UPON concluding that the Plaintiff's action is the same or substantially the same as that struck by the Federal Court of Appeal in *Harris v Canada (Attorney General)*, 2019 FCA 232 such that the doctrine of *stare decisis* is applicable, by which similar actions are disposed of

similarly, the Plaintiff's action must likewise be dismissed without leave to amend with the addition of a cost award;

AND UPON coinsidering that the Defendant has requested an award of costs in the amount of $250.00 submitting it is an abuse of this Court's processes for a party to file a claim in circumstances where the Court has already dismissed similar or substantially similar claims. In this connection I have concluded a cost award is appropriate first of all because the normal cost rule is that costs follow the event, and secondly because in my view such an award is appropriate to serve as a deterrent to the continued filing of such claims. In my discretion a reasonable quantum of costs in this case is $150.00, which I will order the Plaintiff to pay to the Defendant;

THIS COURT'S JUDGMENT is that:

1. The Plaintiff's action is dismissed without leave to amend.
2. The Plaintiff shall pay to the Defendant all inclusive costs in the amount of $150.00.

"Henry S. Brown"
Judge

THIS IS EXHIBIT "109" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

TURMEL: Gisele Pilon Action dismissed but scored 6-day medpot permit

6 views

John KingofthePaupers Turmel Mar 30, 2021, 11:10:36 PM
to

JCT: Gisele Pilon applied for an exemption, started early and got busted 3 months later. She's asking for an exemption retroactive to when Health Canada should have processed it.

Crown moved for dismissal, she responded, the Mozajko Court of Appeal decision came down negative, Crown mentioned it in their Reply. She wants to respond to the new evidence. Judge Brown let her ask, Crown responded, she filed her Reply and Judge Brown handed down his decision:

Date: 20210329

Ottawa, Ontario, March 29, 2021

PRESENT: The Honourable Mr. Justice Brown
Docket: T-193-21

BETWEEN:
GISELE PILON
Plaintiff
and
HER MAJESTY THE QUEEN
Defendant
ORDER

Brown J.: UPON INFORMAL MOTION in writing without personal appearance by the Plaintiff for leave to file a sur-reply in connection with the Defendant's motion to dismiss this action, Judgment for which was issued on February 15, 2021;

AND UPON considering that:

1. By letter dated February 3, 2021, the Defendant wrote to ask that this action be dismissed because the statement of claim here is substantially similar to the statement of claim in Harris v Canada, 2019 FCA 232, which the Federal Court of Appeal struck without leave to amend because it failed to disclose a reasonable cause of action. This Court has subsequently dismissed other such actions on this same basis. The Defendant also sought costs of $250.00.

2. By Direction dated February 4, 2021, I gave the Plaintiff time to file a response to the Defendant's letter, and allowed time thereafter for the Defendant to reply.

3. The Plaintiff filed a response to the Defendant's informal motion to dismiss on February 5, 2021. The

Defendant filed a written reply dated February 11, 2021, as authorized by my Direction.

4. Pleadings were therefore closed.

5. Judgment was issued on February 15, 2021, dismissing this action with costs.

6. By subsequent letter, the Plaintiff, without asking the Court's permission, filed additional submissions, and was in effect also seeking reconsideration under Rule 397 of the Federal Courts Rules [Rules] SOR/2004-283 in that she sought to reverse the dismissal of the action.

7. Thus, in my view the Plaintiff is seeking to file sur-reply which was not permitted in the February 4, 2021 Direction, and seeks to do so after Judgment has been delivered in this case, and the underlying action has been dismissed.

8. The requested post-Judgment relief will not be considered unless the Plaintiff satisfies me it is justified, per my Direction dated February 18, 2021.

9. The Plaintiff subsequently filed an informal letter requesting leave to file the sur-reply, the Defendant has responded, and the Plaintiff has filed a reply letter.

10. In my view, the root issue is whether the sur-reply filing is warranted. In my respectful view, the Plaintiff's request is unfounded.

JCT: I have to bet not. My life's court strategy has been to never ask for more than what's exactly fair (and who can estimate that best?). So every loss is a denial of fairness if you didn't ask for too much.

A most famous example was cited by Judge Brown in his granting Lead Plaintiff action to strike the 150-gram cap on medical marijuana possession and a 10-day carry pending trial.

In the Allard case, John Conroy had asked to strike the "150-gram cap and 30-day supply." The Allard Judge pointed out it was an over-reach and Judge pointed out we had only asked to strike the 150-gram cap and not the 30-day limit in previous legislation. As he let the challenge in, we weren't trying to scrap the whole section like Conroy had, just the cap.

I'm sure when history reads my cases in the Court archives,. every judge who dismissed the claim failed in rendering justice. A wall of shame. Usual card: Insufficiently shown.

Brown J.: 11. A responding party has the opportunity to make their case when it responds to a motion. The Plaintiff did this, and the Defendant, as moving party, has answered it in a reply. Now the Plaintiff wishes to add more responding material, known as a sur-reply which is material filed by a responding party after the moving party has filed its reply, which in the normal course closes pleadings.

12. There are at least three reasons the Plaintiff may not file sur-reply in this case. First, no such permission was granted in my Direction of February 18, 2021. Second, no such permission is set out in the Rules governing motions in writing.

13. In addition and more generally, to prevent a responding party from splitting their case, and to bring an end to litigation, a responding party must make their case fully in their response to the motion, and may not file additional submissions thereafter without leave. In my view, sur-reply is not available in respect of any matter that could or should have been addressed by the responding party's response to the initial filing, and particularly not after a decision has been made on the matter.

JCT: But the moving party is not supposed to bring up new evidence... was the point made. They broke the rules to take advantage of new evidence and we're breaking the rules trying to reverse it! Sadly. They had already gotten away with their violation and we had not.

Brown J.: 14. I am not persuaded that either my Judgment dated February 15, 2021 or Rule 369 governing motions dealt with in writing should be varied in this case. What the Plaintiff wishes to address in the sur-reply, could and in my view should have been fully set out in the Plaintiff's response to the motion. It is too late now.

15. I will add that I have reviewed the Plaintiff's proposed sur-reply submissions and even if I allowed them to be filed, it would not change the decision reflected in the Judgment of February 15, 2021, dismissing this action.

JCT: Sadly, the righteousness of the decision may still be put to the test. I'll posting this over at the ACMPR grower' group where I quoted a few who were suffering long delays.

They all have potential delsc8 claims with the gaps filled so that the Mozajko decision doesn't really matter. The new claims don't have the maybe-problem in the delsc7 claims.

And if they can't throw out their delsc8 claims because Mozajko doesn't count any more, he really shouldn't have thrown her out.

Brown J.: 16. In my discretion no costs will be ordered on this motion.

JCT: It didn't hurt to ask. We did get to point out the Crown had hidden that they had already delivered her permit as they asked for more time, to have a neat argument that had broken the rules by the introduction of new evidence that should be pretty the only good reason to allow Sur-REPLY.

And her Statement of Claim did get a Hop-To-It Permit in 6 days. Under a week.

So if Health Canada is jerking you around,

After 1 months, file the Statement of Claim alone. In Gisele's case, she didn't need a motion for an interim permit once she had her permanent one.

After 2 months, file the Motion for Interim remedy where Judge Brown orders them to respond and you to Reply.

And done online.

THEREFORE THIS COURT ORDERS that the Plaintiff's request to file a sur-reply after the Defendant's reply is dismissed without costs.
"Henry S. Brown" Judge

JCT: Nothing to be gained by appealing, I can get Gisele off her pot charge with Health Canada proof of medical need in hand (Hitzig 170). And Judge Brown has been great in so many other ways.

THIS IS EXHIBIT "110" mentioned and referred to in the affidavit of LISA MINAROVICH

SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

TURMEL: Igor Mozajko files slow medpot permit processing damages in Supreme Court

5 views

John KingofthePaupers Turmel Apr 9, 2021, 10:49:50 PM
to

TURMEL: Igor Mozajko files slow medpot permit processing damages in Supreme Court

JCT: Igor Mozajko's Application for Leave to Appeal to the Supreme Court for damages for Health Canada short-staffing resulting in medpot permit processing delays was just sent to the Supreme Court of Canada:

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)
BETWEEN:
Igor Mozajko
Applicant
Respondent in appeal
Cross-Appellant
and
Her Majesty The Queen
Respondent
Appellant in appeal
Respondent in cross-appeal

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NOTICE OF APPLICATION FOR LEAVE TO APPEAL
(Pursuant to S.40 of the Supreme Court Act)
TAKE NOTICE that Igor Mozajko applies for leave to the Supreme Court of Canada under Section 40 of the Supreme Court Act to overturn the judgment of the Justices Webb, Woods and MacTavish of the Federal Court of Appeal (A-258-18) made on Feb 11 2021 and for an Order
(A) dismissing the Defendant's appeal to strike Mr. Mozajko's statement of claim for damages due to short-staffing delays in processing permits to produce marijuana for medical purposes and permitting the claim to proceed;
(B) permitting the claim for restitution of the time short-changed off the period of the medical permit to proceed, or,
(C) any other order that the Court may deem appropriate.

AND FURTHER TAKE NOTICE that this application for leave is made on the grounds that the Court erred in failing to:
1) adjudicate the written arguments in Appellant's memorandum after Appellant stood on his written arguments;
2) adjudicate the Appellant's appeal for restitution of the time short-changed from the period of the permit;
3) find that S. 313(1) of the Cannabis Regulations does provide the right to grow when the Minister must grant a permit to a qualified patient;
3) find damages from undue delay lacking proof of no available alternatives;
4) find that extra process time is not mitigated by the inevitable time it takes to harvest a first crop;
5) recuse Justice Webb from hearing an appeal against his decision in Harris v. HMTQ.

Dated in New Brunswick on Apr ???? 2021.

_____
Igor Mozajko (Applicant)

APPLICANT'S MEMORANDUM OF ARGUMENT

PART I - STATEMENT OF FACTS

1. On Jan 24 2017, Plaintiff obtained a Medical Document under the ACMPR for an Authorization to grow cannabis for medical purposes for a period of 6 months.

2. Under the MMAR, the 6-month period began on the Effective Date the permit was issued. Under the ACMPR, it was back-dated to the date the doctor signed the Medical Document. The Authorization was not processed by the July 24 2017 expiry date of the 6-month Medical Document and Applicant had to obtain a new Medical Document and re-apply again.

3. On Sep 02 2017, Applicant submitted a second Medical Document for 12 months. After more than 4 months, I received the "1-year" permit with effective date Jan 09 2018 that was back-dated to Sep 02 2017 for expiry on Sep 02 2018. Just over 11 months to get 7 months authorized out of 18 months that were prescribed. Almost one year lost.

4. On May 31 2013, the time to process an application to produce marijuana under the MMAR, was touted before Mr. Justice Roy by Dr. Stephane Lessard, Controlled Substances and Tobacco Directorate, as "done in under 4 weeks."

5. Since August 2017, more than 300 self-represented plaintiffs filed virtually identical statements of claim in the Federal Court based on "kits" (johnturmel.com/delsc.pdf) downloaded from the website of medical cannabis activist John Turmel, seeking (A) a declaration that the over-long processing time for registration to produce cannabis under the Access To Cannabis for Medical Purposes Regulations ("ACMPR") violated the plaintiffs' rights under section 7 of the Canadian Charter of Rights and Freedoms ("Charter"). The claims also sought damages under s. 24(1) "in the amount of the value of the Applicant's prescription and lost site rent and expenses during any delay which this Court might rule inappropriate."

6. The claims were collectively case-managed by the Honourable Mr. Justice Brown who designated the action of Allan J. Harris with Court File No. T-l379-17 as the lead action, and ordered that the other actions be held in abeyance with no further proceedings permitted without leave of the Court, pending final determination of the lead action.

7. Lead Plaintiff Allan J. Harris submitted an initial application for registration to produce cannabis on June 11, 2017. After 13 weeks, he filed the present "Turmel Kit" Statement of Claim on September 11, 2017. The Registration was granted on Oct 11 2017 and expired on March 23 2018, 5.5 months later. At a preliminary hearing, Mr. Justice Brown also ordered Defendant in any motion to strike as frivolous or vexatious to explain the back-dating of permits under S.8(2b) to shorten the period of exemption compared to the old MMAR S.33(a) that started the permit when issued.

8. On Jan 17 2018, I filed a Statement of Claim for (A) damages for the undue delay and for (B) a declaration that the "backdating" of registration certificates pursuant to ACMPR S.8(2b): "The period of use begins on the day on which the Medical Document is signed by the practitioner" violated Charter section 7 so patients never got a full term, and for an order that the plaintiffs' registration certificates remain valid for the full period of time indicated in the Medical Document pursuant to MMAR S.33(a): "A personal-use production license expires (a) 12 months after its date of issue."

9. On March 2 2018, Health Canada heralded the issuance of three Class Exemptions under s.56 of the Controlled Drugs and Substances Act as having changed the start from ACMPR S.8(2b) when the doctor signed back to MMAR S.33(a), when the permit was issued. The Class Exemptions made no mention of the discontinuance of S.8(2b) in those orders.

10. Patients registered before Mar 2 2018 remained short-changed. I lost over 11 months on my 18-months of medical prescription and sought its restitution immediately or to

have the shortage added to my next permit!

11. Canada filed a motion to strike the Mozajko claim. Following the filing of the motion, Mr. Harris sought leave to amend his own claim to add the allegation that the shorted period of registration was unconstitutional. Judge Brown J. granted leave to amend and granted Canada leave to file an amended motion to strike the Harris claim.

12. On April 27 2018, Canada filed a motion to strike the Harris claim for no reasonable cause of action. As the claim for restitution of the shorted time period was not contained in the original Harris claim, Brown J. directed Canada to file supplemental materials if they wanted to strike that claim. Crown argued all claims had now been mooted by those Class Exemptions but judge Brown ruled the Class Exemptions did not apply to those registered before March 2 who remained short-changed by the back-dating that was no longer being committed against new registrants.

13. By Order dated July 20, 2018, Justice Brown granted Canada's motion in part. The Court declined to strike the A) portion of the claim concerning the damages for long processing time for registration to produce cannabis for personal medical use, but struck the B) portion of the claim concerning the restitution of the time subtracted from the period of use by the admitted "backdating" of registration certificates as too trivial a harm to warrant Charter protection. It was not dismissed as mooted by the relief now being provided for those registered after March 2 2018.

14. On Oct 2 2018, Judge Brown adopted his reasons for the Harris decision to allow my the (A) Damages claim but strike my (B) Full Period Restitution claim:

(A) DAMAGES FOR DELAY

[1] This is a motion by the Defendant for an Order striking the Plaintiff's Amended Statement of Claim, i.e., his action which may also result in the Court striking some 200 similar case-managed actions. These actions are in most part identical and are copied from a website on the internet.
[2] The motion is brought on the basis that it is plain and obvious that the claim fails to disclose a reasonable cause of action. In addition it is alleged that the Plaintiff's action is frivolous and vexatious. Finally, in respect of what I will refer to as the "short-changing" pleadings, the Defendant argues this issue is moot because of a regulatory or policy change. Because I am not persuaded the Defendant has established her case, the motion to strike must be dismissed. There is no merit to the argument that the pleadings are frivolous and vexatious. The Court must also reject the Defendant's submission that the short-changing claim is moot; while for some it may be moot, for this Plaintiff it is not.
[3] The Defendant's motion is brought pursuant to Rule 221(1)(a) of the Federal Courts Rules, SOR/98-106 [Rules]. Rule 221 of the Rules permits the Court to strike a claim on certain grounds:

221(1) On motion, the Court may, at any time, order that a pleading, or anything contained therein, be struck out, with or without leave to amend, on the ground that it
(a) discloses no reasonable cause of action or defence, as the case may be...
(c) is scandalous, frivolous or vexatious,..
[4] The action sought to be dismissed, stripped to its essentials, claims Charter-damages for alleged unconscionable delays in the processing time taken between the filing of an application for, and obtaining a permit allowing an applicant to grow marijuana for medical purposes. In addition, the claim alleges delays in the processing time taken between the filing of an application to renew such a permit and when it is obtained.

[8] Permits under the ACMPR are available to persons who demonstrate their need for cannabis marijuana to treat their medical conditions. Applications for these permits must be supported by a Medical Document from an authorized health care practitioner - basically a prescription....

II. History and basis of right to medical marijuana
[11] The right to possess and cultivate marijuana for medical purposes has been litigated in Canada for almost two decades....
[12] Suffice it to say that the right to access marijuana and cannabis for medical purposes is guaranteed by the Charter, an undoubted legal matter having been decided by this Court, the Supreme Court of Canada, and as well, by Superior Courts in the provinces. In addition, the right of access to marijuana and other cannabis products for medical purposes is a right conferred upon individuals, on application, by the Governor in Council in subordinate legislation, i.e., regulations issued pursuant to the relevant legislation....

IV. The Plaintiff's Amended Statement of Claim
[19] The Plaintiff's Amended Statement of Claim is relatively straightforward. Factual allegations, as noted, are taken as proven. It starts with a claim for a declaration that the long processing time for ACMPR production permits (the Plaintiff refers to the approval document as a "registration" which technically it is, but I prefer to use the word "permit") and renewals violates his section 7 Charter right to life, liberty and security. He further claims a remedy of damages under section 24 of the Charter in the amount of the value of his prescription during any delay which the Court may rule inappropriate for a reasonable processing time.

[34] The issue is delay. The Plaintiff says that delay violated his Charter-rights under section 7 to life, liberty and security of the person. There is no doubt he has such rights, and that these include his right to access a production permit for medical marijuana.
[35] In a situation like this, I take it as a given that

when the Courts and the legislature (the Governor in Council in this case) declare rights and create administrative mechanisms to deliver them, those rights may not be denied through unreasonable delay. Rather the converse; the executive government, in this case the Minister of Health, has a duty to act with reasonable dispatch, absent explanation otherwise, where rights have been declared by the Courts, particularly Charter-rights. To argue otherwise may entail a less than respectful application of the law including of course delivering upon Charter-protected rights.

[36] It appears to me that the Minister of Health take the position that Charter-protected rights may be delayed unreasonably without legal consequence; although not expressed, this seems to underline the position advanced by the Defendant. I do not make a ruling in this connection, but am not persuaded that the Plaintiff has no chance to show that such a position is untenable.

[37] I am not persuaded it is plain and obvious that the Plaintiff's pleadings disclose no reasonable cause of action on the facts presumed to be true in this case. Put another way, I have concluded there is a chance the Plaintiff may succeed in his claim.

[38] I appreciate there are many related claims being case managed relating to this action; I am the case management judge, have reviewed each, and have issued a large number of orders dealing with interim and other relief. While I have stayed all interim interlocutory proceedings in the related cases, I have lifted the stay where a motion alleges a delay in the issuance of a permit of more than 60 days and invited the Crown to respond. That said, the argument that there are many related claims does not assist the Defendant; rather, it underscores the importance of the duty lying upon the Minister of Health to establish administrative mechanisms that deliver on Charter-protected rights determined not only by the Governor in Council - in the ACMPRs - but by the Supreme Court of Canada.

[39] In this connection, the Court keeps in mind that the Plaintiff has a medical condition and a prescription for marijuana to treat his medical condition. It may be found that the Minister of Health may not unreasonably delay issuing permits to the Plaintiff in his circumstances, if that is in fact his or her position. The Plaintiff wishes to grow his own marijuana, which with a permit in hand, he is entitled to do. But he cannot do that until he has the permit or renewal.

[40] And if he needs to renew a production permit, and the renewal application is unreasonably delayed with the result his original permit expires, "everything would have to be destroyed" as he claims; otherwise, he is would be subject to fine and imprisonment for the possession of unused plants and stored marijuana grown previously. As to the stress referred to in the pleadings, this is also a matter for evidence. The Plaintiff may or may not succeed; that will be determined by the evidence. The Defendant has not established it is plain and obvious such that this claim should be struck....

[42] Nothing in what is stated above should be taken as

determining whether the Plaintiff will succeed or fail in his action. I make no finding of whether there is a cause of action for unreasonable delay, or if so, what constitutes unreasonable delay. It may be that a delay of four months in processing the Plaintiff's permit application was reasonable; the point of today's ruling is that the Plaintiff has a chance of succeeding in his claim. However, it may be that the delay in the Plaintiff's case was reasonable. In that case the Defendant will succeed.

[43] In terms of damages, I am not persuaded it is plain and obvious that no damages would be awarded if the Plaintiff establishes his Charter-protected rights were infringed or denied contrary to subsection 24(1) of the Charter. It is well-established, again by the Supreme Court of Canada, that Charter breaches may be remedied under subsection 24(1) by an award of monetary damages: see for example, Vancouver (City) v Ward, 2010 SCC 27.

[44] In this respect, the Court is performing a gate-keeping function. The onus was on the Defendant and in my respectful view she failed to meet the test: it is not plain and obvious that these pleadings disclose no reasonable cause of action.

B. Is the action frivolous and vexatious?

[45] The Court has determined that it is not plain and obvious that this action discloses no reasonable cause of action. The essence of the Defendant's submission that the action is frivolous and vexatious is that the Plaintiff's claims are so lacking in material facts, and unintelligible, that it is frivolous and vexatious. The argument in this respect is contained in a single paragraph in the Defendant's memorandum of fact and law. The Defendant only states that the action should be struck as frivolous and vexatious. In my respectful view there is insufficient merit in that submission to warrant its further consideration.

(B) RESTITUTION OF FULL PERIOD

[20] The Plaintiff also seeks a declaration that back-dating the period of registration and renewal from the effective date for registration or expiry date for renewals to the date the doctor signed the prescription under the ACMPR violates his section 7 Charter rights and claims remedy for the full term of the prescription to take effect on the effective date of the registration and on the expiry date of a renewed registration...

[25] He states that the MMAR permits began on the effective date of issuance and renewed on the same date each year. In contrast, he states that the ACMPR permits and renewals are back-dated to when the doctor signed the Medical Document, reducing the term of registration and renewal by the time to process the application. I note in this case his permit lasted only five or so months. We do not know when his Medical Document was signed.

[26] He states that not only is over 6 months to key in the data unconscionable but by shortchanging from the full-term registration under the MMAR to a half-term registration under the ACMPR, applicants or renewals

always get less than the full term of medication prescribed by the measure of the unconscionable amount of time spent for processing.
[27] The Plaintiff says that the two 1-year prescriptions should end up being 24 months of registration and asks the Court to return the time short-changed from patients' permits and renewals and prevent any further short-changing.
[28] The Plaintiff says that having to see the doctor more often does cost the Plaintiff more money and having to wait for the mail to find out if the registration was renewed before its expiry date when everything would have to be destroyed does cause the Plaintiff more stress.

C. Is the allegation of short-changing moot having regard to subsequent changes?
[48] On the facts pleaded in respect of the short-changing issue, the Plaintiff seeks a declaration that the dating of the permit back to the date that the Medical Document was signed to coincide with the time period for use stated by his health care practitioners - the alleged "back-dating" of the permit - violates his section 7 Charter rights.
[49] In response, the Defendant's evidence is that on March 2, 2018, the Minister of Health Canada issued several class exemptions pursuant to section 56 of the Controlled Drugs and Substances Act. These exemptions apply to anyone with a permit issued on or after March 2, 2018. Pursuant to these exemptions Health Canada now issues permits with a period of use that begins on the date the permit is issued, instead of on the date that the Medical Document was signed by the health care practitioner.
[50] This, says the Defendant, is the very relief sought by the Plaintiff. Relief having been granted by the Minister, the Defendant says that the requested declaration is now moot. I respectfully disagree.
[51] I agree the short-changing issue raised by this Plaintiff is moot for permits dated after March 2, 2018.
[52] However, on the facts of this case, the Plaintiff's permit was dated well before that, on October 11, 2017. If the change in policy was made to apply to the Plaintiff's permit, the Defendant would be correct because the Plaintiff's permit would have been valid until October 10, 2018; in that case his claim would be moot in that respect.
[53] However, the policy change was forward looking only. As I see it, the Plaintiff did not obtain the benefit of the change in policy, because his permit was not issued on or after March 2, 2018. Therefore mootness does not apply in the Plaintiff's case.
[54] That said, I have concluded that the short-change submission should be struck because, while I understand the Plaintiff does not obtain a full year's worth of permit, and must reapply sooner as a result, his "loss" does not support an allegation of breach of section 7 Charter rights. I do not see the resulting reduction in the term of the permit or document to infringe or deny a Charter right. He simply experiences the vagaries of having to renew his permit earlier, and not getting the

benefit of the full term otherwise available. Such delays may commonly occur where one applies by mail for a time-limited permit or document from government such as for example, a passport or motor vehicle license. Even if a Charter right was breached by a reduction in the term of a permit, which I do not accept, this Court recently held in Johnson v Canada (Attorney General), 2018 FC 582 per Diner J., at para 7, "the Charter does not protect against trivial limitations of rights (Cunningham v Canada, [1993] 2 SCR 143 at 151)." Such reduction in my view would be trivial.
[55] In this respect, I revert to that part of the motion to strike based on no reasonable cause of action; I find it plain and obvious that the short-changing aspect of the Plaintiff's claim discloses no reasonable cause of action. I see no need to allow an amendment in this respect as none could save this aspect of his pleading. In any event, this Plaintiff has already been granted leave to amend twice, once on consent, but the second time on a contested motion. Therefore paragraphs 1(b), 8 and 9 of the Amended Statement of Claim must be struck.
[56] In the result, the motion to strike is dismissed except as it relates to the short-changing allegation.
"Henry S. Brown" Judge

16. On July 20 2018, Harris appealed the dismissal of the claim for the (B) Full Period Restitution and Defendant then cross-appealed against the dismissal of the motion to strike "A" claim over too-long processing time.

17. Canada then appealed the portion of Brown J.'s decision concerning registration processing time and I cross-appealed the portion of the concerning the period of registration (the Mozajko appeal).

18. On Sep 18 2019, Federal Court of Appeal Justices Webb, Near and De Montigny dismissed the Harris appeal (Appeal File No.: A-258-18) for (B) Restitution and granted the Crown cross-appeal to strike his (A) Damages claim. I therefore had to argue to my appeal panel that the Harris appeal panel had erred. My request for a 5-judge panel that would not be bound by the Harris decision was refused on grounds that a new panel did not have to follow the decision of the first. Then Justice Webb was named to head the appeal panel that would adjudicate my appeal against his Harris decision.

PART II - ISSUES IN QUESTION

19. A.1) Is the Right to grow established by legislation?
A.2 Are facts sufficient to establish violation?
A.3) Is there affordability and strains for alternatives?
A.4) Does inevitable delay mitigate additional waiting?
B) Should Restitution be made for Full Period ?
C) Was a Constitutional Question necessary?

PART III - STATEMENT OF ARGUMENT

A.1) Is the Right to grow established by legislation?
20. The Harris Court of Appeal stated:

[9] Based on this amended statement of claim, the Federal Court judge, in paragraph 33 of his reasons, started with the proposition that Mr. Harris:
has the right to a permit to grow marijuana for medical purposes if he satisfies the criteria of a Charter-compliant permit regime established under the Controlled Drugs and Substances Act [S.C. 1996, c. 19] and Narcotic Control Regulations [C.R.C., c. 1041]. This right has been confirmed by the Supreme Court of Canada, in addition to the Federal Court and various Superior Courts.
[16] Neither party provided any authority that would support the proposition that Mr. Harris has a constitutional right to grow his own cannabis.

21. Respondent accepts that no court before Justice Brown has explicitly declared a right to grow. But the right to a permit to grow is conferred by the new Cannabis Regulations:
Registration with Minister
313(1) If the requirements set out in section 312 are met, the Minister must, subject to section 317, register the applicant and issue them a registration certificate.

22. If the Minister must register the qualified applicant, then the qualified applicant has the right to what the Minister must do. It's persuasive that the Allard and Smith Courts interpret "must" in the same way. Judge Brown is only the first court to proclaim an explicit right to that which the Minister "must" do for a qualified patient. That no other courts have found an explicit right to grow is not persuasive when the legislation itself clearly enshrines the right to a grow permit.

A.2 Are facts sufficient to establish violation?

23. In their Harris Memorandum, the Appellant Crown did admit:
33. While courts must generally accept the facts pleaded as true for the purposes of a motion to strike, they are not required to accept speculation, bald allegations or conclusory statements of law dressed up as facts.

24. Appellant failed to indicate which "facts" Judge Brown had taken as proven that were "speculation, bald allegations or conclusory statements of law dressed up as facts" and only made the bald allegation without citing one example.

25. Brown J. spends paragraphs 16-18 explaining the need for sufficient facts and then spends paragraphs 19-28 laying out the many facts which were taken as proven:
FACT01: [19] Claim Long Processing Time violates S.7
FACT02: Damages are Value lost during undue delay
FACT03: [21] Plaintiff has Medical Document
FACT04: [22] Date submitted: June 11 2017
FACT05: Date processed: Oct 11 2017
FACT06: Date expired: Mar 23 2018
FACT07: [23] MMAR time less than 4 weeks
FACT08: [24] ACMPR time over 30 weeks
FACT09: Only 10 data fields to process
FACT10: [25] MMAR renewed on date of original issuance
FACT11: ACMPR back-dating to date doctor signed

FACT12: Period of exemption is thus reduced.
FACT13: Harris Permit lasted only five or so months
FACT14: [26] Claim over 6 months to process unconscionable
FACT15: Claim short-changing gets less than full term
FACT16: [27] Wants Restitution of time on next permit
FACT17: [28] Seeing doctor more often costs more often
FACT18: Looming expiry waiting for renewal causes stress

26. Appellant also did admit these facts:
19. The amended claim alleges that the plaintiff is medically authorized to use cannabis and that he applied to Health Canada on June 11, 2017, for registration to produce cannabis for medical purposes. It alleges that registration. was granted on October 11, 2017, and was scheduled to expire on March 23, 2018.28 The claim also alleges that the processing time is up to 30 weeks for some patients, and that the processing time for a personal or designated production licence under the former Marihuana Medical Access Regulations ("MMAR") was much shorter.
20. The amended claim alleges that the plaintiff experienced stress due to the prospect of having to destroy his cannabis plants if Health Canada ever failed to renew his registration before his existing registration expired.

27. All plaintiffs on Judge Brown's list submitted those same main facts other than application, issuance, and expiry dates to establish that there were unconscionably long processing delays. No facts were proffered that the delays for medication violated rights when Chaoulli v. Quebec had the material facts establishing that delays in receiving medication deprived the plaintiff of life, liberty or security of the person. Applicants should not have to prove that delays cause harm when Chaoulli has already proven that. Delays do cause harm. Proving delays in due treatment proves the harm. The only facts needed and proffered were to prove the delay, not the harms of delay. The processing time in plaintiff's case was inconsistent with the principles of fundamental justice. And that the short-staffing bureaucratic delays unconscionably shortened the periods of use.

28. Chaoulli also found damages appropriate. Brown J. said there was the hope here too. Damages sought for delays in obtaining medication by short-staffing in government bureaucracy deemed inappropriate. This isn't damages over bad legislation, it's damages over bad administration. No need to show malice. Just incompetence.

29. The Value of the Damages for rent and expenses and the value of the product that should have been grown during the unconscionable delay is now fixed.

30. Facts the Crown argued they needed to know:
- What medical condition? is not a fact Judge Brown needed to know to adjudicate whether the time for processing was unconscionably long;
- Why not choose other medication available? is not a fact Judge Brown needed to know to adjudicate whether the time for processing was unconscionably long;

- Why choose to grow rather than purchase? is not a fact Judge Brown needed to know to adjudicate whether the time for processing was unconscionably long.

31. The facts the Defendant said were missing to make the case are not facts Judge Brown needed to know in order to adjudicate whether the time for processing was unconscionably long. Knowing only the start and expiry dates of the permit, the judge did not need to know any of these other facts Defendant argued are missing. The facts identified as lacking by the Defendant were not deemed relevant facts by the judge. Why would he need to know what illness the patient was suffering while waiting 9 months for his permit? Or why he prefers not buying irradiated and pesticide-laden product from an expensive L.P. with taxes and shipping costs?

A.3) Is there affordability and strains for alternatives?

32. The Harris Court wrote:
14... There is nothing in his statement of claim to indicate that there would be any difference between the marihuana that he would grow and the marihuana that he could have purchased from a person authorized to sell marihuana under the ACMPR...
[19].. There is nothing to indicate that Mr. Harris would not have been otherwise able to obtain marihuana during this waiting period from a person authorized to sell marihuana under the ACMPR.

33. In the Allard decision, Justice Phelan had written:
(3) Affordability and Access Discussion
[204] Affordability as a barrier to accessing cannabis for medical purposes was a major issue in this case raised by the Plaintiffs, rebutted by the Defendant and therefore must be addressed. As the litigation developed, its importance plateaued. The cost of purchasing from LPs and the cost of personal cultivation have very little to do with the engagement of liberty and security interests except as it relates to the economic dimensions of access. This case is about the restriction on access imposed by the MMPR regime. Costs are a consequence of the regime; not an independent grounds.
[205] This is not a case about economic interests. Specifically, the Plaintiffs are not requesting to place a positive obligation on the government to subsidize the cost of accessing cannabis for medical purposes. As stated earlier, this is not a case about the entitlement to inexpensive medication.
[206] However, the interests have an economic dimension due to restriction of access caused by affordability. Although affordability (as defined by both Dr. Walsh and Dr. Grootendorst) encompasses a choice, this choice is only necessary due to state action, which must be Charter compliant. It is not a lifestyle choice or a preference choice as argued by the Defendant.
[207] A choice argument was put forward by the government in PHS, where it argued that any negative health risks drug users may suffer if Insite is unable to provide them with health services, are not caused by

the CDSA's prohibition on possession of illegal drugs, but rather are the consequences of the drug users' decision to use illegal drugs (para 97). The relevant portion of the Supreme Court's response is found at paras 103 to 105:

[105] The issue of illegal drug use and addiction is a complex one which attracts a variety of social, political, scientific and moral reactions. There is room for disagreement between reasonable people concerning how addiction should be treated. It is for the relevant governments, not the Court, to make criminal and health policy. However, when a policy is translated into law or state action, those laws and actions are subject to scrutiny under the Charter: Chaoulli, at para. 89, per Deschamps J., at para. 107, per McLachlin C.J. and Major J., and at para. 183, per Binnie and LeBel JJ.; Rodriguez, at pp. 589-90, per Sopinka J. The issue before the Court at this point is not whether harm reduction or abstinence-based programmes are the best approach to resolving illegal drug use. It is simply whether Canada has limited the rights of the claimants in a manner that does not comply with the Charter.

[208] Similar to PHS, the issue before this Court is not whether the MMPR is the best policy; it is whether the restrictions imposed by the MMPR limit the Plaintiffs in a manner that is Charter compliant. The Defendant argues that the Plaintiffs are able to afford the cannabis with the LP regime. Their strain preference is not supported medically and therefore the LP regime adequately facilitates this access. As a result, the MMPR does not engage liberty or security interests except by the concession mentioned earlier.

[209] The Court does not find the Defendant's arguments to be sound. It is argued that the evidence does not establish that purchasing marihuana in medically appropriate amounts is prohibitively expensive for anyone. This is a skewed assumption for two reasons. First, the Court is not to determine what is expensive and what is not. It is to determine whether affordability is a barrier to access and whether affordability is inherently about a choice. If this choice involves access to medicine, the case law establishes that the choice is of fundamental personal importance.

[210] Secondly, this assumption implies that the average MMAR patient, who is currently authorized to consume approximately 18 grams a day, will suffice on 1 to 5 grams a day. This conclusion cannot be made by the Court because such a conclusion ignores the evidence on tolerance, method of consumption and other personal characteristics and needs of the individual. The Court is in no position to establish the maximum dosages which should be made available.

[211] It is unnecessary to debate whether the Plaintiffs' preference of one strain versus another is medically established. There is enough anecdotal evidence that the type of strain affects the patients' choice in treating their illnesses. Additionally, there is enough evidence that currently, the LP regime may not

have an adequate supply of a patient's dose amount in their preference of strain.
[212] The Plaintiffs have established that the MMPR has undermined the health and safety of medical marihuana users by diminishing the quality of their health care through severe restrictions on access to medical marihuana. It is the restriction that engages s 7 interests.
[213] Overall, the question is whether these limitations are in accordance with the principles of fundamental justice. It is clear that section 7 liberty and security of the person rights are both engaged.

34. There was still no evidence that the LP regime had an adequate supply of a patient's dose amount in their preference of strain. And given the thousands of local strains that had been produced by local growers over previous years, there is little chance the L.P. regime could ever satisfy the demand for effective strains.

35. Since October 2019, the template for new Statements of Claim (johnturmel.com/delsc8.pdf) for damages from undue delay now states:
2. The Plaintiff Possesses a Medical Document to use cannabis for medical purposes under the Cannabis Act & Regulations.
[ ] That I can afford to grow my own strains myself but cannot afford retail prices, taxes and shipping costs from Licensed Producers makes a difference;
[ ] That I can afford Licensed Producer prices, sales tax and shipping costs but want to avoid taxes and shipping and garden my own strains for myself makes a difference. Why should I suffer the loss of rent on my site during the processing delays due to short-staffing just because I can afford to go elsewhere while the short-staffing delays continues?

36. The Harris Court of Appeal concluded:
[19] However, these facts do not provide any indication of how his "right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justices provided in section 7 of the Charter, was engaged.
[20] The facts, as alleged by Mr. Harris, are insufficient to support a claim based on section 7 of the Charter in relation to his initial application for registration under the ACMPR.

37. The Chaoulli precedent provided the facts of how the right to life, liberty and security was engaged and plaintiffs should not need to again explain how much the violation of rights by undue delay found in Chaoulli hurts them personally but only to show that the delay in medical treatment did occur. And Judge Brown found that the dates of application, issuance and expiry were all the data needed to determine the period of time under examination for violation of rights.

A.4) Does inevitable delay mitigate additional waiting?

38. The Court wrote:
[19]... When a person grows his or her own marihuana there will necessarily be a delay for the time that it takes the marihuana plant to mature and produce a usable product. Mr. Harris does not provide any facts as support for his allegation that the additional waiting time of four months for his registration (which would then allow him to grow his own plants) deprived him of his right to "life, liberty and security of the person".

39. Chaoulli may not have considered inevitable delay but most certainly did consider undue additional waiting. Chaoulli did not consider whether additional waiting only violates the rights of those without alternatives. Though patients may have to suffer some inevitable delay after the clock on the permit starts ticking, the objection here is to the undue additional waiting in starting the clock ticking, not the 4 weeks it has usually taken under the previous regime.

40. The Defendant never offered any reason why it now takes so much longer than the 4 weeks it used to take under the MMAR with a much simpler form. They only offer the lame excuse that it takes time to verify the data though it is the same data verified under the MMAR in "under 4 weeks." Respondent/Cross-Appellant submits that waiting almost a year to get my medication permit is undue delay that has violated my right to Life, Liberty and Security under S.7 of the Charter.

B) Should Restitution be made for Full Period?

B.1) Not all permit short-changing was mooted after March 2?

44. After March 2 2018, renewed permits are still being back-dated to before the original permit expires thus continuing to reduce the total period of use. All renewals continue to lose some of their present prescriptions not by back-dating to when the doctor signed but by back-dating to the date of issuance of the renewal permit before expiry of the original! So patients get the full term in the renewed permit but it overlaps the end of the original permit providing unneeded double exemption.

B.2) Damages not too trivial for remedy to be granted?

45. Though delays in obtaining passports and vehicle licenses may cause trivial damage, delays in obtaining medication are not too trivial to engage the S.7 Charter protection. Delay for your passport or motor vehicle license won't kill you as delay for your prescription could. Also, passports and licenses do not cost thousands of dollars to obtain as do medical permits. Considering some patients may pay several thousand for a permit, it's not just going back more often that is costly but losing the paid-for permit time they did not receive.

46. The latest victim-plaintiff, Steve Vetricek T-1371-18, paid $2,000 for his Medical Document and Health Canada didn't have its registration processed in 9 months! Appellant Jeff Harris paid $2,300 for a medical permit. Many

people are paying in the hundreds if not thousands for Medical Documents when their own personal doctors have been intimidated from participation with a "Dosage Verification Letter" and harassing phone calls from Health Canada and provincial doctor associations. The financial loss suffered from the subtraction of more than half of the period of use for a high-priced Medical Document is not too trivial a damage to warrant S.7 protection from such inaction due to government short-staffing. With over 15,000 patients, the value of the time lost must be worth millions.

B.3) Remedy too trivial not to have been granted?

47. A remedy ordering the re-issuance of 15,000 permits with updated expiry dates or simply adding the previously-subtracted time back in at the end of the next permit was too trivial not to have been granted. A 15,000 permit print-run and 15,000 stamps are all it would cost to remedy damages or adding the time back in costs nothing for all those deprived before March 2 2018.

C) Was a Constitutional Question necessary?

48. The Appellant raised an issue not argued before Justice Brown that Canada had failed to file a Notice of Constitutional Question to strike a claim for constitutional remedy which would mooten the whole proceeding.

49. At my Nov 10 2020 appeal hearing, when my McKenzie Friend John Turmel was not permitted to explain my case, I stood on the written arguments in my memorandum and brought the court's attention to the lack of Constitutional question which might mooten the need to deal with the other issues.

50. On Feb 10 2021, Justices Webb, Woods and MacTavish dismissed the appeal ruling:
[5] At the hearing of this appeal, Mr. Mozajko only raised one issue: whether the failure of the Crown to serve notice of a constitutional question was fatal to the Crown's argument that his statement of claim should be struck. This argument is reflected in paragraphs 48 and 49 of his memorandum:

51. The Court pointed out that no notice of constitutional question was only needed if a provision was being struck down, not if an action to strike it down is challenged, and dismissed the only issue not raised before Brown J.

52. Because I stood on my Memorandum and only my point about the mooting issue should go first did not cede having my arguments relating to the Brown decision heard. I raised all my points by standing on my Written Memorandum, I did not raise only one issue!

53. The Court ducking the Brown questions because Appellant orally raised only one issue makes this decision per incuriam in that things that ought to have been considered were not.

PART IV - ORDER SOUGHT CONCERNING COSTS

54. Applicant seeks no Order as to costs.

PART V - ORDERS SOUGHT

55. Applicant is seeking an order:
(A) overturning Canada's appeal striking the Mozajko statement of claim for damages due to short-staffing delays in processing permits to produce marijuana for medical purposes and permitting the claim to proceed;
(B) allowing the claim for restitution of the time short-changed off the period of the medical permit to proceed, or,
(C) any other order that the Court may deem appropriate.

Dated at New Brunswick on Apr ??? 2021.

_____
Applicant:
Igor Mozajko

PART VI - TABLE OF AUTHORITIES
Chaoulli v. Quebec [2005] 1SCR 791 2005 SCC 35 Para.27 & 37
https://canlii.org/en/ca/scc/doc/2005/2005scc35/2005scc35.html
https://canlii.org/fr/ca/csc/doc/2005/2005csc35/2005csc35.html

Allard . Canada 2016 CF 236 (CanLII) Para.22 & 33
https://www.canlii.org/en/ca/fct/doc/2016/2016fc236/2016fc236.html
https://www.canlii.org/fr/ca/cfpi/doc/2016/2016cf236/2016cf236.html

PART VII - LEGISLATION

S.313(1) Cannabis Regulations Para.21
https://laws-lois.justice.gc.ca/eng/regulations/SOR-2018-144/FullText.html
https://laws-lois.justice.gc.ca/fra/reglements/DORS-2018-144/TexteComplet.html

JCT: So there is our best defence of Justice Brown's great decision and the Court of Appeal's stinkers. Someday, the politicians, Crown attorneys and Judiciary will get the derision and antipathy they deserve for having kept a miraculous herbal remedy illegal an extra 15 years and all the blood on their hands that entails.

Crown has 30 days to respond, then we have 10 days to Reply, then it gets sent to 3 judges to decide whether they let it in before the whole 9-judge panel. No matter that the Supreme Court has never has never heard a self-represented medical pot user, though they once did allow a recreational pot case in, Malmo-Levine. But our case is still on the official record.

Jeff Harris Apr 12, 2021, 1:01:19 PM
to

you're going to lose because YOU wrote the papers. you ALWAYS lose. why should this be different? we now get the time back by the way so this is also moot now. i have gained more than the 5 months of processing delay now. if you have your paperwork in, your permit stays alive even if it's expired. if they take 6 months now-who cares! they just extended the license for 6 more months. I have been waiting over 6 months now for my renewal so i am gaining time

THIS IS EXHIBIT "111" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

From: John Turmel

Sent: Tuesday, August 31, 2021 12:13 PM

To: Bricker, Jon

Subject: Mozajko Amended Notice of Application for Leave to Appeal

Attachments: delmn2.pdf

Appended is the Amended Notice of Application for Leave to Appeal for Igor Mozajko.

John C. Turmel

519-753-5122h 226-966-4754c

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)

BETWEEN:

Igor Mozajko

Applicant
Respondent in appeal
Cross-Appellant

and

Her Majesty The Queen

Respondent
Appellant in appeal
Respondent in cross-appeal

AMENDED NOTICE OF APPLICATION FOR LEAVE TO APPEAL
(Pursuant to S.40 of the Supreme Court Act)

TAKE NOTICE that Igor Mozajko applies for leave to the Supreme Court of Canada under Section 40 of the Supreme Court Act to overturn the judgment of the Justices Webb, Woods and MacTavish of the Federal Court of Appeal (A-339-18) made on Feb 10 2021 and for an Order

(A) dismissing the Defendant's appeal to strike Mr. Mozajko's statement of claim for damages due to short-staffing delays in processing permits to produce marijuana for medical purposes and permitting the claim to proceed;

(B) permitting the claim for restitution of the time short-changed off the period of the medical permit to proceed, or,

(C) any other order that the Court may deem appropriate.

AND FURTHER TAKE NOTICE that this application for leave is made on the grounds that the Court erred in failing to:

1) adjudicate the written arguments in Appellant's memorandum after Appellant stood on his written arguments;

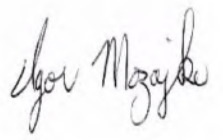
2) adjudicate the Appellant's appeal for restitution of the time short-changed from the period of the permit;

3) find that S. 313(1) of the Cannabis Regulations does provide the right to grow when the Minister must grant a permit to a qualified patient;

3) find damages from undue delay lacking proof of no available alternatives;

4) find that extra process time is not mitigated by the inevitable time it takes to harvest a first crop.

Dated at Dieppe New Brunswick on Aug 31 2021.



Igor Mozajko (Applicant)
394 rue Grande Vallee, Dieppe, NB, E1A 8R9
705-429-4708 hmozajko@rogers.com

ORIGINAL TO: THE REGISTRAR

COPY TO: Attorney General for Canada
400-120 Adelaide St. Toronto, ON, M5H 1T1
Tel: 416-973-7171 Fax: 416-973-8253 Jon.Bricker@justice.gc.ca

NOTICE TO THE RESPONDENT: A respondent may serve and file a memorandum in response to this application for leave to appeal within 30 days of the date a file number is assigned in this matter. You will receive a copy of the letter to the applicant confirming the file number as soon as it is assigned. If no response is filed within that time, the Registrar will submit this application for leave to appeal to the Court for consideration.

THIS IS EXHIBIT "112" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

File No: T-1654-17

FEDERAL COURT

Between:

ARTHUR JACKES

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 delaying his application to amend Plaintiff's ACMPR permit Number MCR: 16335 for over 13 weeks by rejecting the originality of signatures in black ink and suggesting a new application be signed in blue ink when Licensed Producer Security Clearance Applicants are prohibited from using blue ink is an unconstitutional violation of the patient's S.7 Right to Life.

THE PARTIES

2. The Plaintiff is a person Possessing an ACMPR Production Permit Number MCR-16355.

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 and the ACMPR.

BACKGROUND

4. On July 24, 2017, Plaintiff's Application to Amend his ACMPR permit to move his garden to a new site and register his Care-Giver as the Responsible Person to help him grow cannabis for medical purposes was received by Health Canada.

5. On Aug 22, 2017, Health Canada mailed back rejecting the application for want of original signatures.

6. The same day, Plaintiff mailed back his Application with a note beside each signature indicating it was original and a letter informing them he knew all pages had to be original.

7. On Oct 19, 2017, Health Canada again rejected his application with a letter stating:

> Health Canada received and screened your application package to register for personal use or designated production under the Access to Cannabis for Medical Purposes Regulations (ACMPR). Your application package was found to be incomplete in the areas identified in the list below. We are returning, with this letter, your registration form and all supporting documents you provided with your form:

Section 3 Responsible Person - Signature must be original

Annex A

Section A2: Production Site Owner's Consent - Signature must be original

Comments:

All the documents you submitted to Health Canada were returned with this letter and no physical record was kept by Health Canada. Should you wish to register, you will need to submit a revised registration form and the required supporting documents.

Section 2 Application Information

Additional Comments:

As discussed by phone on October 19 and 20, the application that has been submitted is inadmissible as the signatures in Section 3 and Section 2 have been deemed to not be original. Applicant has been informed that submission of a new application would result in the application being treated at a higher priority. Applicant was informed that, while not mandatory, it is our recommendation he use a blue ball-point pen when filling out the application to minimize disagreement as to the veracity of the signatures. As acknowledgment of the expense of postage, a pre-paid envelope has been attached to be used for submission of the medical document and newly-filled application form.

8. The Instructions for Completion of Security Clearance Form Under the Access to Cannabis for Medical Purposes Regulations (ACMPR) makes it mandatory not to use blue ink:

1.2 This form is to be completed using an automated system or printed in block letter format in black ink.

9. Jeff and Colleen Harris both had their applications accepted in black ink.

10. Plaintiff is presently complying to get his new application signed in blue ink and retains the original application.

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

Dated at Oakville on OCTOBER 31, 2017.

Plaintiff
Arthur Jackes
501-2175 Marine Dr.
Oakville, ON, L6L5L5
Tel: 289-834-4334 Fax: 905-827-5471
E: artjackes@outlook.com

File No: _____

FEDERAL COURT

BETWEEN:

ARTHUR JACKES
Plaintiff

and

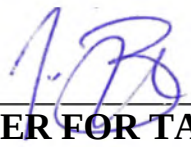
Her Majesty The Queen
Defendant

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

For the Plaintiff:

Arthur Jackes
501-2175 Marine Dr.
Oakville, ON, L6L5L5
Tel: 289-834-4334
E: huhoreally@me.com

THIS IS EXHIBIT "113" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.



A COMMISSIONER FOR TAKING AFFIDAVITS

TURMEL: Art Jackes Federal Court Claim for rejection of black ink!

6 views

KingofthePaupers Oct 31, 2017, 6:05:02 PM
to

TURMEL: Art Jackes Federal Court Claim for rejection of black ink!

JCT: Someone at Health Canada decided to jerk Art Jackes around twice rejecting his application to amend his permit for signatures deemed not to be original!!! Ball-point pens!

So I prepared a Statement of Claim for a declaration that such rejection violates his rights and tomorrow, he'll file a Motion for interim relief to move his grow right away.

File No: T-1654-17
FEDERAL COURT
Between:
ARTHUR JACKES

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 delaying his application to amend Plaintiff's ACMPR permit Number MCR: 16335 for over 13 weeks by rejecting the originality of signatures in black ink and suggesting a new application be signed in blue ink when Licensed Producer Security Clearance Applicants are prohibited from using blue ink is an unconstitutional violation of the patient's S.7 Right to Life.

THE PARTIES

2. The Plaintiff is a person Possessing an ACMPR Production Permit Number MCR-16355.
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 and the ACMPR.

BACKGROUND

4. On July 24, 2017, Plaintiff's Application to Amend his ACMPR permit to move his garden to a new site and register his

Care-Giver as the Responsible Person to help him grow cannabis for medical purposes was received by Health Canada.

5. On Aug 22, 2017, Health Canada mailed back rejecting the application for want of original signatures.

6. The same day, Plaintiff mailed back his Application with a note beside each signature indicating it was original and a letter informing them he knew all pages had to be original.

7. On Oct 19, 2017, Health Canada again rejected his application with a letter stating:
Health Canada received and screened your application package to register for personal use or designated production under the Access to Cannabis for Medical Purposes Regulations (ACMPR). Your application package was found to be incomplete in the areas identified in the list below. We are returning, with this letter, your registration form and all supporting documents you provided with your form:
Section 3 Responsible Person - Signature must be original
Annex A
Section A2: Production Site Owner's Consent - Signature must be original
Comments:
All the documents you submitted to Health Canada were returned with this letter and no physical record was kept by Health Canada. Should you wish to register, you will need to submit a revised registration form and the required supporting documents.

Section 2 Application Information
Additional Comments:
As discussed by phone on October 19 and 20, the application that has been submitted is inadmissible as the signatures in Section 3 and Section 2 have been deemed to not be original. Applicant has been informed that submission of a new application would result in the application being treated at a higher priority. Applicant was informed that, while not mandatory, it is our recommendation he use a blue ball-point pen when filling out the application to minimize disagreement as to the veracity of the signatures. As acknowledgment of the expense of postage, a pre-paid envelope has been attached to be used for submission of the medical document and newly-filled application form.

8. The Instructions for Completion of Security Clearance Form Under the Access to Cannabis for Medical Purposes Regulations (ACMPR) makes it mandatory not to use blue ink:
1.2 This form is to be completed using an automated system or printed in block letter format in black ink.

9. Jeff and Colleen Harris both had their applications accepted in black ink.

10. Plaintiff is presently complying to get his new application signed in blue ink and retains the original application.

The Plaintiff proposes this action be tried in the

City of Toronto, Province of Ontario.

Dated at Oakville on Oct 31 2017.
Plaintiff
Arthur Jackes

JCT: After adding the File No to his Record of Motion, tomorrow, he files for a hearing for interim relief for next Tuesday.

NOTICE OF MOTION

TAKE NOTICE THAT on Tues Nov 7 2017, at 9:30am, the Applicant will make a motion to the Court General Sittings on short notice if necessary at the Federal Courthouse in Toronto.

THE MOTION IS FOR an Order granting Applicant interim relief:

1) a personal constitutional exemption to continue growing marijuana pursuant to the amended conditions for the ACMPR permit MCR-16355 until processing of the second application in blue ink by the Health Canada is complete; or, alternatively,

2) an amendment of Applicant's Exemption.

THE GROUNDS FOR THE MOTION ARE that insisting Applicants for Security Clearances sign in black ink while rejecting the originality of Plaintiff's original signatures in black ink and demanding a new application signed in blue ink is an arbitrary and irrational violation of Plaintiff's S.7 Charter Right to Life.

AND FOR ANY ORDER abridging the time for service or amending any error or omission which this Honourable Court may allow.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion: Applicant's Affidavit.

AFFIDAVIT OF ARTHUR JACKES

1. Ex. A is a copy of the Application to Amend Plaintiff's ACMPR permit MCR-16355 which was twice rejected.

2. Ex. B dated Aug 22, 2017 is the Health Canada response rejecting my application for want of original signatures.

3. Ex. C dated Aug 22 2017 is my letter explaining I knew all pages had to be original with a note beside each signature indicating it was original.

4. Ex. D dated Oct 19, 2017 is the Health Canada response again rejecting my application with a letter stating:
Health Canada received and screened your application package to register for personal use or designated production under the Access to Cannabis for Medical Purposes Regulations (ACMPR). Your application package was found to be incomplete in the areas identified in the list below. We are returning, with this letter, your registration form and all supporting documents you

provided with your form:

Section 3 Responsible Person - Signature must be original
Annex A
Section A2: Production Site Owner's Consent - Signature must be original
Comments:
All the documents you submitted to Health Canada were returned with this letter and no physical record was kept by Health Canada. Should you wish to register, you will need to submit a revised registration form and the required supporting documents.

Section 2 Application Information
The registration form you submitted does not cover all the information required under the ACMPR.
Additional Comments:
As discussed by phone on October 19 and 20, the application that has been submitted is inadmissible as the signatures in Section 3 and Section 2 have been deemed to not be original. Applicant has been informed that submission of a new application would result in the application being treated at a higher priority. Applicant was informed that, while not mandatory, it is our recommendation he use a blue ball-point pen when filling out the application to minimize disagreement as to the veracity of the signatures. As acknowledgment of the expense of postage, a pre-paid envelope has been attached to be used for submission of the medical document and newly-filled application form.

5. Ex. E is from the Health Canada web page "Instructions for Completion of Security Clearance Form Under the Access to Cannabis for Medical Purposes Regulations (ACMPR) which makes it mandatory not to use blue ink:
1.2 This form is to be completed using an automated system or printed in block letter format in black ink.

6. Ex. F is a post by Jeff Harris stating on Oct 26 at 12:17PM
My application and Colleen's were done in black ink. I think they're being difficult on purpose

7. I am presently getting my next application signed in blue ink and retain the original of the first application for forensic verification if necessary.

8. This Affidavit is made in support of a claim for a declaration that delaying Plaintiff's application to amend his ACMPR permit Number MCR: 16335 for over 13 weeks by rejecting the originality of signatures in black ink and suggesting a new application be signed in blue ink when Licensed Producer Security Clearance Applicants are prohibited from using blue ink is an unconstitutional violation of the patient's S.7 Right to Life.

6. This Affidavit is further made in support of the Motion granting Applicant interim relief:
1) a personal constitutional exemption to continue growing marijuana pursuant to the amended conditions for the ACMPR permit MCR-16355 until the Health Canada processes the second application in blue ink; or, in the alternative,

2) an amendment of Applicant's Exemption.
Arthur Jackes
Sworn before me at Toronto on Oct 31 2017

_____
A COMMISSIONER, ETC.

WRITTEN REPRESENTATIONS

1. Health Canada twice deemed Original signatures with ball-point pens were deemed not to be original by Health Canada.

2. Health Canada could have scratched the back of the page with a pencil to see the indentations of the signatures made by ball-point pens.

3. Health Canada prescribed signing with blue ink to allay their conclusions of non-originality.

4. Yet, for Security Clearances, signatures in black are mandated! Not blue.

5. A forensic examination of the application could determine if Health Canada's reasons for rejecting the originality of the signatures were valid but no reasons were given.

6. Applicant seeks an Order for interim relief:

1) a personal constitutional exemption to continue growing marijuana pursuant to the amended conditions for the ACMPR permit MCR-16355 until the Health Canada completes processing the second application in blue ink; or, in the alternative,

2) an amendment of Applicant's Exemption.

JCT: So Health Canada have to to come up with a good reason to explain rejecting his application in ball-point pen for non-originality! Har har har. They thought they'd jerk him around and are finding out he was tied to me. What are they going to answer?

Plus we can ask how many other applications were rejected for non-originality. What if it's lots? Just wastes 3 months for people without anyone really knowing. But they tick off the box and so those ticks can be counted.

Should be a fun show, I know where I'll be next Tuesday.

THIS IS EXHIBIT "114" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

Federal Court | Cour fédérale

Date: 20180828

Docket: T-1654-17

Citation: 2018 FC 867

Ottawa, Ontario, August 28, 2018

PRESENT: The Honourable Mr. Justice Brown

BETWEEN:

ARTHUR JACKES

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

JUDGMENT

UPON motion by counsel for the Defendant in writing pursuant to the provisions of Rule 369 of the *Federal Courts Rules*, SOR/98-106 for an order striking this proceeding without leave to amend, together with costs or such further and other relief as may seem just;

AND UPON reading the pleadings and proceedings herein including the memorandum of argument filed by the Defendant and written correspondence received from the Plaintiff;

AND CONSIDERING that the Plaintiff seeks a declaration that "by rejecting the originality of signatures in black ink and suggesting a new application be signed in blue ink when Licensed Producer Security Clearance applicants are prohibited from using blue ink is an unconstitutional violation of the patient's S. 7 Right to Life";

AND CONSIDERING the Plaintiff only alleges, which allegations must be accepted as true, that he applied to register for personal use or designated production under the *Access to Cannabis for Medical Purposes Regulations*, SOR/2016-230 [ACMPR], which application was returned to him because the signature was deemed not to be original, that thereafter the Plaintiff was informed that submission of a new application would result in the application being treated at a higher priority and that it was recommended to him that he use a blue ball-point pen when filling out the application to minimize disagreement as to the veracity of the signatures, but that the instructions for completing the relevant Health Canada form made it mandatory to complete the form in black ink, not blue ink;

AND CONSIDERING that section 7 of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK), 1982*, c 11 *Charter* "does not protect against insignificant or 'trivial' limitations of rights" per *Cunningham v Canada*, [1993] 2 SCR 143 at 151, recently applied by this Court in *Johnson v Canada (AG)*, 2018 FC 582 at para 37;

AND BEING OF THE VIEW that the recommendation made to the Plaintiff that he use a blue ball-point pen was, in the first place, only a suggestion and not a requirement, and that it is

plain and obvious this suggestion did not constitute a violation of *Charter*-protected rights, and if it did, such violation would be trivial such that it is plain and obvious that the Plaintiff has no chance of success;

AND UPON considering that as a consequence this action should therefore be dismissed;

AND ALSO BEING OF THE VIEW that no purpose would be served in granting leave to amend a pleading such as this;

THEREFORE THE JUDGMENT OF THE COURT is that:

1. This action is dismissed without leave to amend.
2. There is no order as to costs.

"Henry S. Brown"
Judge

THIS IS EXHIBIT "115" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

TURMEL: Jackes/Mozajko motions filed for MedPot appeals with Harris

2 views

John KingofthePaupers Turmel Apr 15, 2019, 2:26:41 AM
to

TURMEL: Jackes/Mozajko motions filed for MedPot appeals with Harris

JCT: On March 18 2019, letters were sent asking the Court that the appeals of Art Jackes, and Igor Mozajko, and Kent Truman be heard with the Harris appeal.

On April 1, Federal Court of Appeal Justice Stratas said not without a proper motion. I had wondered why Kent Truman's letter requesting to be joined with Jeff wasn't mentioned.

So I prepared 3 motions for them:

ART JACKES "NOT ORIGINAL SIGNATURES"

Court File No.: A-294-18
FEDERAL COURT OF APPEAL
BETWEEN:
ARTHUR JACKES
Appellant
and
HER MAJESTY THE QUEEN
Respondent

NOTICE OF MOTION

TAKE NOTICE that the Appellant will make a motion to the court on the basis of written representations for an order that the hearing of my appeal be expedited to that of Allan J. Harris A-258-18.

THE GROUNDS FOR THE MOTION are that
1) Harris represented me as lead plaintiff for over 300 plaintiffs below and his appeal is further advanced than mine and will raise the same issues as mine.
2) a separate appeal would waste resources.
Dated at Oakville on Monday April 8 2019.
Arthur Jackes

WRITTEN REPRESENTATIONS

1. In the Requisition for hearing - Appeal in Allan J. Harris v. HMQ A-258-18, the Defendant Canada wrote: In addition to the present appeal, the Court is currently seized of Her Majesty The Queen v. Igor Mozajko, Court File No. A-339-18 (the "Mozajko appeal") which raises similar issues. Canada proposes that these appeals be heard separately as the present appeal is farther advanced and the parties have requested hearings

in different cities (Vancouver and Toronto, respectively) owing to the locations of the self-represented plaintiffs. However, Canada wishes to call the Court's attention to the similar issues in the event the Court wishes to consider this in scheduling or assigning a panel to hear these matters.
Yours truly, Jon Bricker

2. I was also one of over 300 plaintiffs below for whom Allan J. Harris is Lead Plaintiff who will be arguing the issue raised in my appeal. My claim is for damages due to delay by rejection on a false premises of original signatures. Harris' appeal speaks for others claiming damages from delay due to improper rejection as "not original" signatures and I would like my appeal seeking to get me back with them to be heard with them.

3. The Harris appeal is only slightly more advanced than mine though with all our Memoranda having been filed, I am ready to file my Requisition for Hearing - Appeal too. With an opportunity to be heard, I am prepared to accept the decision handed down on the issues that apply to Harris's plaintiffs and would ask that my appeal be heard at the same time as the Harris appeal.

4. Assigning a second panel in Toronto to hear arguments he will be raising in Vancouver would be a waste of time and resources.

5. Merely adjourning my appeal until after that of Harris does not give me the opportunity to be heard by the Harris judges who would bind my fate.

6. Appellant seeks an order his appeal be expedited to be electronically heard with that of Allan J. Harris A-258-18.
Dated at Oakville on April 8 2019.
Arthur Jackes

IGOR MOZAJKO "ISSUES A&B SAME AS HARRIS

Court File No.: A-339-18
FEDERAL COURT OF APPEAL
BETWEEN:
IGOR MOZAJKO
Respondent
Cross-Appellant
and
HER MAJESTY THE QUEEN
Appellant
Respondent in Cross-Appeal

NOTICE OF MOTION
(Pursuant to Rule 369)

TAKE NOTICE that the Appellant will make a motion to the court on the basis of written representations for an order that the hearing of my appeal be expedited to be heard with that of Allan J. Harris A-258-18.

THE GROUNDS FOR THE MOTION are that
1) Harris already represents me as lead plaintiff for over

300 plaintiffs below and his appeal is further advanced than mine and raises the same issues as mine.
2) a separate appeal would waste resources.
Dated at Wasaga Beach on Monday April 8 2019.
Igor Mozajko

WRITTEN REPRESENTATIONS

1. In the Requisition for hearing - Appeal in Allan J. Harris v. HMQ A-258-18, the Defendant Canada wrote: In addition to the present appeal, the Court is currently seized of Her Majesty The Queen v. Igor Mozajko, Court File No. A-339-18 (the "Mozajko appeal") which raises similar issues. Canada proposes that these appeals be heard separately as the present appeal is farther advanced and the parties have requested hearings in different cities (Vancouver and Toronto, respectively) owing to the locations of the self-represented plaintiffs. However, Canada wishes to call the Court's attention to the similar issues in the event the Court wishes to consider this in scheduling or assigning a panel to hear these matters.
Yours truly, Jon Bricker

2. I am also one of over 300 plaintiffs below for whom Allan J. Harris is Lead Plaintiff who will be arguing issues raised in my appeal. I raised not only similar issues but identical issues about Claim A: "too long processing time" and Claim B: "too short period."

3. Judge Brown dismissed the Crown motion to strike Harris's A claim but granted the motion to strike the B claim. In a later decision, Judge Brown cited Harris in dismissing the Crown motion strike my A claim and granting the motion to strike my B claim. So Judge Brown ruled the same for me as he did for Harris and the 250 other plaintiffs. There is no advantage to having two separate appeal hearings of Judge Brown's same ruling for both situations when the Harris ruling affects me too.

4. Harris and I both seek to overturn dismissals of our claims for restitution of the shorted period of time in our medical registrations. Canada seeks to overturn the dismissal of both their motions to strike our delay damages claims. The Harris appeal speaks for over 300 other plaintiffs including me. My own appeal adds only repetition.

5. The Harris appeal is more advanced than mine so I wish to adopt the Harris submissions. With an opportunity to be heard, I am prepared to accept the decision handed down on the issues that apply to Harris's plaintiffs and would ask that my appeal be heard at the same time as the Harris appeal.

6. Assigning a second panel in Toronto to hear arguments he will be raising in Vancouver would be a waste of time and resources.

7. Merely adjourning my appeal until after that of Harris does not give me the opportunity to be heard by the Harris judges who would bind my fate.

8. Appellant seeks an order his appeal be expedited to be electronically heard with that of Allan J. Harris A-258-18.
Dated at Wasaga Beach on Monday April 8 2019.
Igor Mozajko

KENT TRUMAN "CLASS EXEMPTIONS DO NOT CHANGE START DATE"

File No: A-176-18
FEDERAL COURT OF APPEAL
BETWEEN:
Kent Wilfred Truman
Appellant
And
Her Majesty The Queen
Respondent

NOTICE OF MOTION

TAKE NOTICE that the Appellant will make a motion to the court on the basis of written representations for an order that the hearing of my appeal be expedited to that of Allan J. Harris A-258-18.

THE GROUNDS FOR THE MOTION are that
1) Harris represents me as lead plaintiff for over 300 plaintiffs below and his appeal is further advanced than mine and will raise the same issue as mine.
2) a separate appeal would waste resources.
Dated at York, Ontario on June 14 2018
Kent Wilfred Truman

WRITTEN REPRESENTATIONS

In the Requisition for hearing - Appeal in Allan J. Harris v. HMQ A-258-18, the Defendant Canada wrote:
In addition to the present appeal, the Court is currently seized of Her Majesty The Queen v. Igor Mozajko, Court File No. A-339-18 (the "Mozajko appeal") which raises similar issues. Canada proposes that these appeals be heard separately as the present appeal is farther advanced and the parties have requested hearings in different cities (Vancouver and Toronto, respectively) owing to the locations of the self-represented plaintiffs. However, Canada wishes to call the Court's attention to the similar issues in the event the Court wishes to consider this in scheduling or assigning a panel to hear these matters.
Yours truly, Jon Bricker

2. I am also one of the over 300 plaintiffs below for whom Allan J. Harris is Lead Plaintiff and will be arguing the issue raised in my appeal. My claim is that the Class Exemptions issued on March 2 2018 did not mooten my motion for interim remedy. The Harris appeal also argues the Class Exemptions had no effect.

3. The Harris appeal is more advanced than mine so I wish to adopt the Harris submissions. With an opportunity to be heard, I am prepared to accept the decision handed down on the issues that apply to Harris's plaintiffs and would ask

that my appeal be heard at the same time as the Harris appeal.

4. Assigning a second panel in Toronto to hear arguments he will be raising in Vancouver would be a waste of time and resources.

5. Merely adjourning my appeal until after that of Harris does not give me the opportunity to be heard by the Harris judges who would bind my fate.

6. Appellant seeks an order his appeal be expedited to be electronically heard with that of Allan J. Harris A-258-18.
Dated at York, Ontario on April 8 2019
Kent Wilfred Truman

JCT: When the motions were filed, Kent Truman's motion to join Harris was rejected because his appeal had been dismissed on April 2 2019.

A-176-18
FEDERAL COURT OF APPEAL
Date 20190402

Coram: STRATAS, J.A.
LASKIN J.A.
RIVOALEN J.A.

BETWEEN:
Kent Wilfred Truman
Appellant
And
Her Majesty The Queen
Respondent

ORDER

WHEREAS on Feb 6 2019, this Court issued a notice of status review;

AND WHEREAS the notice advised the appellant that he had to file representations within 30 days stating the reasons why the appeal should not be dismissed for delay;

AND WHEREAS the appellant was obligated to justify the delay and offer a proposed timetable for the completion of the steps necessary to advance the appeal in an expeditious manner,

AND WHEREAS the appellant failed to do these things;

AND WHEREAS the appellant requests that his appeal be heard with the appeal in the file A-258-18 but the appellant has not established that his appeal is related in any way to that appeal;

AND WHEREAS, beyond filing a notice of appeal, the appellant has not advanced his appeal in any way whatsoever;

THIS COURT ORDERS that the appeal is dismissed.

JCT: Yes, I had been derelict in pursuing his appeal paperwork which is why joining up with Jeff Harris whose paperwork on the same issue is done was an easy out.

So despite his asking to join Jeff, they say he has not established that his appeal against the Class Exemptions was "related in any way" to Jeff's appeal against the Class Exemptions.

And so they can dismiss his appeal on a technicality rather than let it be resolved with Harris. Sad.

THIS IS EXHIBIT "116" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

Federal Court of Appeal | Cour d'appel fédérale

Date: 20190513

Docket: A-294-18

Ottawa, Ontario, May 13, 2019

Present: GAUTHIER J.A.

BETWEEN:

ARTHUR JACKES

Appellant

and

HER MAJESTY THE QUEEN

Respondent

ORDER

UPON the appellant's motion made in writing requesting that the appeal be expedited and set down for hearing, together with the appeal in *Allan Harris v. Attorney General of Canada* (A-258-18);

HAVING reviewed the materials filed by the parties, including the reply filed late by the appellant;

UPON considering the direction of Stratas J.A. dated April 1, 2019, and that the appeal in A-258-18 will be heard in Vancouver during the week of June 24, 2019;

UPON noting that the explanations provided by Mr. Jackes do not add anything significant in respect of the concerns raised by Stratas J.A. when he issued his direction on April 1, 2019;

UPON considering that at this stage, no Requisition for a Hearing has been filed in the present appeal. Thus, it is not even clear if Mr. Jackes is available that week. I have carefully reviewed the two decisions that are the subject of both appeals and reviewed the files' history before the Federal Court, as set out in the respondent's responding record. It is clear that Mr. Jackes always insisted to proceed on his own, contrary to the many other files where the applicants were willing to have their proceedings stayed, while Mr. Harris' application, the lead file, proceeded. In fact, the Appellant expressly requested to be heard before the Federal Court;

UPON determining that, like Stratas J.A, I am not satisfied that this appeal should be expedited and set for a hearing together with A-258-18. The Court is not satisfied that these appeals, which were filed at different locations, and involve different issues, even if related, should be heard together or one after the other;

THIS COURT ORDERS that the motion is dismissed.

"Johanne Gauthier"
J.A.

THIS IS EXHIBIT "117" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

TURMEL: Court nixes Jackes with Harris MedPot appeal

5 views

John KingofthePaupers Turmel May 16, 2019, 5:32:17 PM
to

TURMEL: Court nixes Jackes with Harris MedPot appeal

JCT: We just found out that the appeal for Allan J. Harris' restitution of the subtracted permit time and the Crown's striking all the claims for damages due to delay is going to be heard in the week of June 24 2019.

Federal Court of Appeal Justice Gauthier ruled on Arthur Jackes' motion to have his appeal heard with Jeff Harris':

Date: 20190513
FEDERAL COURT OF APPEAL

Date: 20190513
Docket: A-294-18

Ottawa, Ontario, May 13, 2019

Present: GAUTHIER J.A.

BETWEEN:
HER MAJESTY THE QUEEN
Respondent
and
ARTHUR JACKES
Appellant

ORDER

UPON the appellant's motion made in writing that his appeal be expedited and set down for hearing, together with the appeal in Allan Harris v. AGoC (A-258-18);

HAVING reviewed the materials filed, including the reply filed late by the appellant;

UPON considering the direction of Stratas J.A.. and that the appeal in A-258-18 will take place in Vancouver during the week of June 24, 2019;

UPON noting that the explanations provided by Mr. Jackes do not add anything significant in respect of the concerns raised by Stratas J.A. when he issued his direction on April 1 2019.

UPON considering that at this stage, no Requisition for Hearing has been filed in the present appeal. Thus, it is not even clear if Mr. Jackes is available that week. I have carefully reviewed the two decisions that are the subject of

both appeals and reviewed the files' history before the Federal Court, as set out in the respondent's responding record. It is clear that Mr. Jackes always insisted to proceed on his own, contrary to the many other files where the applicants were willing to have their proceedings stayed, while Mr. Harris' application, the lead file, proceeded. In fact, the Appellant expressly requested to be heard before the Federal Court.

UPON determining that, like Stratas J.A., I am not satisfied that this appeal should be expedited and set for a hearing together with A-258-18. The Court is not satisfied that these appeals, which were filed at different locations, and involve different issues, even if related, should be heard together or one after the other.

THIS COURT ORDERS that the motion is dismissed.
"Johanne Gauthier" J.A.

JCT: Okay, so Art will ask the Crown what days they can't make it and prepare a Requisition for Hearing - Appeal by next week.

Then file a motion in writing for an extension of time to file the Requisition because he was only late in trying to get in with Jeff's hearing.

And he can still ask that his appeal hearing be with Jeff in the week of June 24!! Har har har har har har. Another kick at the can.

JCT: Even if the Crown puts down that they're not available on the dates of Jeff's hearing, we'll ask anyway.

THIS IS EXHIBIT "118" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

TURMEL: Art Jackes seeks extension to requisition appeal

2 views

John KingofthePaupers Turmel May 29, 2019, 11:46:40 AM
to

TURMEL: Art Jackes seeks extension to requisition appeal

JCT: Art Jackes's documentation for his appeal was complete but rather than requisition his own appeal hearing date in Toronto, he made a motion to be heard by telephone at the same time as the Jeff Harris appeal in Vancouver. His motion was dismissed for lack of requisition and so Art has filed a Motion for an extension of time to requisition his appeal date.

We wanted to keep things moving so we wanted to include the Requisition with the suggested dates. So Art had written the Crown asking what dates they weren't available in the next 3 months. And of course, to slow things down so we get two appeal panels instead of one, Wendy Wright refused to give him the dates they were not free until the extension of time to file it had been received.

So Art filed his Motion asking for the extension of time:

Court File No.: A-294-18
FEDERAL COURT OF APPEAL
BETWEEN:
ARTHUR JACKES
Appellant
and
HER MAJESTY THE QUEEN
Respondent

NOTICE OF MOTION

TAKE NOTICE that the Appellant will make a motion to the court on the basis of written representations for an order extending the time to file the Requisition for hearing of appeal.

THE GROUNDS FOR THE MOTION are that Appellant will requisition that the appeal be heard if possible by telephone on June 27 2019 with the live Vancouver appeal of Allan J. Harris A-258-18 because my Memorandum provides more arguments on the very same issue of delay from the "unsupported application rejection on the basis of non-originality of the signatures."
Dated at Toronto on May 27 2019.

_____
Arthur Jackes
For the Appellant

WRITTEN REPRESENTATIONS

1. I was one of over 300 plaintiffs below for whom Allan J. Harris is Lead Plaintiff who will be arguing the same issue raised in my appeal.

2. My claim is for damages due to delay by unsupported rejection of application on the basis of non-originality of the signatures as raised by other plaintiffs.

3. When my motion for interim exemption pending processing of my application was mooted by delivery of the permit, the action for damages over the 13-week delay was also dismissed as too trivial for Charter relief despite the Crown's motion to strike the action of Donald Cote for damages over four "not original signature" rejections that caused an 8-month delay was dismissed.

4. I appealed from the Aug 28 2018 Order of Federal Court Justice Brown in the action in T-1564-17 striking my action for damages and seeking it be re-instituted below.

5. With the Memoranda completed, my Requisition for hearing of appeal was served on Canada on time but then was rejected by the Registry for technical reasons and was late.

6. I filed a motion to be heard with Harris, dismissed on May 13 2019 by Stratas J.A. for want of a Requisition.

7. Canada refused to provide the dates they were not available for the hearing until the extension of time has been granted so I could not file a Requisition for a hearing date with this motion.

8. The appeal in Allan J. Harris v. HMQ A-258-18 is to be heard on June 27 2019 in Vancouver.

9. I now seek such extension of time to file a Requisition for hearing of appeal which will also ask that my appeal be heard by telephone on June 27 2019 with the appeal of Allan J. Harris A-258-18 if still possible.

10. Canada had pointed out that the Harris decision could be brought to the attention of my panel and will no doubt also point out that a different decision contradicting the Harris decision from my panel would violate the principles of stare decisis and judicial comity. Appellant wishes his stronger arguments to be heard by the Harris panel to avoid such possibility.
Dated at Toronto on May 27 2019.

_____
Arthur Jackes

JCT: Harris's appeal is slated for June 27 2019. The Crown has 10 days to Respond until June 6 and I'd bet they're going to waste the whole 10 days. Next day, June 7, Art files a Reply and it goes to the judge.

Say it's granted on June 8. Still 19 days until Jeff's appeal to request the Crown's dates of availability and get the Requisition filed as soon as possible hoping it's possible to let Art's appeal be heard with Jeff's.

So the only variable is
1) how long it takes for the court to grant the extension of time for Requisition
2) how long it takes the Crown to provide the dates,
3) how long it takes to give Art a date or slate him with Harris.

I can't imagine the extension of time for booking a hearing being refused on a completed file. It always takes a 3-judge panel to dismiss an appeal and the reason for not hearing the appeal would be that he didn't book his date on time and they don't want to give him an extension! Unheard of!

And if we don't get in on the Harris appeal, the Crown gets to waste a live hearing before a second panel of 3 judges on the very same issue but with different facts. Har har har har har har.

Under normal guerrilla law circumstances, I'd be the one wanting separate appeals to waste twice as much court time as possible. And Mozajko a third panel to waste even more time. So let's see what happens.

THIS IS EXHIBIT "119" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

Federal Court of Appeal | Cour d'appel fédérale

Date: 20190619

Docket: A-294-18

Ottawa, Ontario, June 19, 2019

CORAM: **GAUTHIER J.A.**
STRATAS J.A.
DE MONTIGNY J.A.

BETWEEN:

ARTHUR JACKES

Appellant

and

HER MAJESTY THE QUEEN

Respondent

ORDER

UPON motion by the appellant for an extension of time to file a requisition for hearing, and for the appeal to be heard at the same time as the appeal in *Allan J. Harris v. Attorney General of Canada* (A-258-18);

AND UPON reading the appellant's motion record, the responding motion record of the respondent, and the appellant's reply;

AND UPON noting that for an extension of time to be granted, the Court must consider: (1) whether there has been a continuing intention to pursue the appeal; (2) whether the appeal has

some merit; (3) whether any prejudice arises from the delay; and (4) whether there is a reasonable explanation for the delay (*Canada (Attorney General) v. Hennelly*, [1999] FCJ No. 846, at para 3);

AND UPON finding that the appellant has neither demonstrated that the appeal has merit, nor that there is a reasonable explanation for the delay. There is not a scintilla of an argument purporting to establish a reviewable error in the Federal Court's conclusion that any violation of the appellant's Charter rights is, at best, trivial. Moreover, the appellant had until February 25, 2019 to file his requisition for a hearing, yet he delayed his bringing of the present motion until May 17, 2019 despite numerous occasions to do so prior to that date.

THIS COURT ORDERS that the motion be dismissed. As a result, the appeal is also dismissed, with costs.

"Johanne Gauthier"
J.A.

"DS"
"YdM"

Federal Court of Appeal | Cour d'appel fédérale

Date: 20200212

Docket: A-294-18

BETWEEN:

ARTHUR JACKES

Appellant

and

HER MAJESTY THE QUEEN

Respondent

CERTIFICATE OF ASSESSMENT OF COSTS

UPON an Order of the Court dated June 19, 2019, dismissing the Appellant's appeal with costs;

AND UPON the Respondent filing a Bill of Costs on September 20, 2019 and costs submissions on October 25, 2019;

AND UPON the Appellant filing a letter dated November 21, 2019, wherein an offer is made to pay the full amount contained in the Respondent's Bill of Costs with a payment arrangement;

AND UPON CONSIDERING that the court registry did not receive any further material related to the assessment of costs from either party after receipt of the Appellant's letter dated November 21, 2019;

AND UPON CONCLUDING that any payment arrangement would be between the parties and would be an issue outside of the assessment of costs;

I HEREBY CERTIFY that the Bill of Costs presented by the Respondent is assessed and allowed in the amount of $2,174.98; payable by the Appellant to the Respondent.

"Garnet Morgan"
Assessment Officer

CERTIFIED AT TORONTO, ONTARIO, this 12th day of February, 2020.

THIS IS EXHIBIT "120" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

URMEL: Challenge to 150-gram Possess & Shipping limit

7 views

KingofthePaupers Oct 1, 2018, 10:15:21 AM
to

TURMEL: Challenge to 150-gram Possess & Shipping limit

JCT: Judge Manon imposed the 30 days supply or 150-gram possession limit on patients despite some patients having more than 150 grams per day prescriptions.

B.C. Superior Court had to correct Manson's mistake in Garber v. HMQ by giving the Plaintiffs a 10-day supply, not quite equal treatment with those with 30-day supply.

So I'm preparing a kit for those who'd like to ask Federal Court to give them not only a 10-day supply but the full 30 days. Here's the draft:

File No: _____
FEDERAL COURT
Between:
150 GRAM
Plaintiff
AND
Her Majesty The Queen
Defendant

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

1. The Plaintiff seeks a declaration that Sections 6(1)(d); 9(4); 93(1)(e); 145(1)(e); 146(5); 178(2)(f)(ii) in the Access to Cannabis for Medical Purposes Regulations ("ACMPR") imposing a 150-gram cap on possessing and shipping cannabis marijuana which compel patients to destroy any unused cannabis before receipt of any new supply are unconstitutional on the grounds they pose a threat of fines or incarceration to the lives of patients with larger prescriptions, some in excess of 150 grams per day, that violate their S.7 & S.15 Charter Rights to Life, Liberty, Security and Equality not in accordance with principles of fundamental justice to not be arbitrary, grossly disproportional, conscience-shocking, incompetent, malevolent.

PARTIES

2. The Plaintiff is a person Possessing ACMPR Authorization

MCR-_____ to use _____ grams of cannabis per day.

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 and the ACMPR.

BACKGROUND:

4. The previous Medical Marijuana Access Regulations ("MMAR") regime limited patients to possessing a 30-day supply of cannabis prescribed in the medical document.

5. Health Canada has long urged doctors to limit prescriptions to no more than 5 grams per day, a maximum of 150 grams per month!

6. On April 1 2014, the introduction of the Marijuana for Medical Purposes Regulations ("MMPR") offered the Defendant the chance to pressure doctors to prescribe not more than Health Canada's recommended 5 grams per day by imposing a possession or shipping limit of 30 x daily dosage or 150 grams."

7. Patients whose doctors comply with Health Canada's medical opinion may possess a 30-day supply. But patients whose doctors do not comply are punished by being permitted to carry fewer and fewer days of supply until some patients with over 150 grams per day may not even possess one full day's supply! Prescriptions over 50 grams per day run short over a 2-day weekend. Prescriptions of 38 grams run short over a 3-day long weekend. Prescriptions over 30 grams run short over a 4-day Christmas holiday.

8. In the Federal Court pre-trial motion in Allard v. HMTQ T-2030-13 for an injunction to extend the MMAR pending a determination of the constitutionality of the MMPR, Health Canada asked the court to impose the MMPR's proposed 150 gram possession and shipping limit onto MMAR exemptees.

9. To further that aim, on Feb 7 2014, Health Canada provided false and misleading data to Judge Manson. Health Canada's Jeanine Ritchot Affidavit paragraphs 24-29 with regard to the MMPR Sections S.5, S.130, S.122, S.123 stated these facts up to December 2013:
24. 36,797 ATPs.
25. 675,855 daily grams prescribed.
26. Average licensed indoor plants 101, outdoor 11.
27. Average Canadian daily dosage 17.7 grams.
28. According to Ex. A "Information for Health Care Professionals" at page 24 "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 grams of cannabis per week or approximately 1-3 grams of cannabis per day."
29. Individuals who purchase their dried marijuana from Health Canada have on average purchased 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" Ex.A"

10. There is something inherently wrong with speaking of average of 1 to 3 grams. An average is not a range, it is a point, the average of several points. The average of 1-3 grams is 2 grams. Being given a range for the average suggests improper or incompetent statistical analysis for a nefarious purpose.

11. 675,855 grams per day divided by 36,797 users is 18.37 grams per day, not 17.7. Health Canada bureaucrats can't even do basic division right. The true total average Canadian consumption is about 18 grams per day.

12. Each gram prescribed allows the growing of nearly 5 plants so the 101-plant average is supported by an average prescribed home-grown dosage of over 20 grams per day. Commercial cannabis includes taxes and shipping costs so 10 times more prescribed for tax- and shipping-free home-grown than prescribed for purchase from commercial growers is not unexpected. Combining the Health Canada sales averaging 2 grams per day with the 20 grams per day prescribed for home-grown use does bring the new total average down to the actual 18 grams per day reported.

13. Footnote 165:
(1) Clark, A. J., Ware, M. A., Yazer, E., Murray, T. J. and others. (2004). Patterns of cannabis use among patients with multiple sclerosis. Neurology. 62: 2098-2100. The sample size 144 was calculated to detect an estimated prevalence of 10% with a 2.5% standard error.

14. Clark's study says not a word about daily dosage at all. Results from a sample of only Muscular Dystrophy patients is hardly indicative of the average dosage for all other illnesses. A 2.5% standard error from the mean of 10% is a pretty big error due to the small number of subjects. Significance was set at the 95% level, that's 2 Standard Deviations according to the Statistics Rule of 66-95-99.7: 1SD: 66% 2SD: 95% 3SD: 99.7%.

15. Footnote 277,
(2) Carter, G. T., Weydt, P., Kyashna-Tocha, M., and Abrams, D. I. (2004). Medicinal cannabis: rational guidelines for dosing. IDrugs. 7: 464-470: "In informal surveys from patients in Washington and California, the average reported consumption ranges between 10-20g raw cannabis per week or 1.42-2.86 grams per day.

16. Carter's study has informal surveys for its guestimate, not peer-reviewed at all. Carter continues:
Our recommended doses are further reinforced by two studies that utilized smoked cannabis in a well-documented dosing regime... (3) Chang and co-workers studied the effects of smoking 3.6 grams per day containing 15% THC... (4) Vinciguerra studied smoked cannabis dosed at 1.5 grams per day. These doses fall within the medical cannabis guidelines in the Canadian medical system.

17. (3) Chang's study on 3.6 grams per day can't be found by Google and still could not tell us the average grams smoked by the general population. With everyone in the test getting

3.6 grams, of course, the average would be 3.6 grams in any and every sampling. (4) Vinciguerra's study on the effect of 1.5 grams per day also cannot tell us the average smoked in the general population. If everyone got 1.5 grams, that's the average they would sample and did report. They averaged what they were given! So it was false to say that his "recommended doses are further reinforced by two studies that utilized smoked cannabis in a well-documented dosing regime." Those were fixed dosing regimes. If Carter had used a test with a fixed dosage of 50 grams per day, his average have been much higher than using only 1.5 and 3.6 grams!

18. Footnote 350.
(5) Ware, M. A., Adams, H., and Guy, G. W. (2005). The medicinal use of cannabis in the UK: results of a nationwide survey. Int.J.Clin.Pract. 59: 291-295.

19. Ware's survey gives no dosage average at all, and even if it did, over half the survey participants quit for lack of access or affordability! With more than half having a hard time getting it, an artificially-low average would be expected.

20. On Feb 7 2014, Health Canada's Todd Cain's affidavit in the Allard proceeding at paragraphs 30-31:
"30. Health Canada took significant steps to project demand and available supply for medical use. In anticipating demand, Health Canada took into account available information on numbers of individuals licensed to use dried marijuana for medical purposes, the upward trend in that number, the daily dosage amounts identified in the most current scientific literature and international practice around dosage, as set out in the "Information for Health Care Professionals" available online at http://hc-sc.gc.ca/dhp-mps/marihuana/med/infoprof-eng.php

21. With the actual Canadian daily dosage known, presenting the Court with the "daily dosage amounts identified in the most current scientific literature and international practice around dosage" could only be to support their hoped-for 150 gram per month limit.

22. Todd Cain continues:
31. The "Information for Health Care Professionals" document, at page iii states that "following the most recent update to this document (Feb 2013) a study was published in the Netherlands tracking data obtained from the Dutch medical cannabis program over the years 2003-2010. The study reported that in a population of over 5,000 Dutch patients using cannabis for medical purposes, the average daily dose of dried cannabis (various potencies) used was .68 grams per day (Range 0.65-0.82 grams per day) (Hazencamp and Heerdink 2013).

GRAPH #1
.575g .61 .65 .68 .72 .75 .785g

23. Google doesn't find the Hazencamp and Heerdink 2013 survey with the only mention being in Todd Cain's Affidavit, certainly not yet in any peer-reviewed journal. The actual

Canadian mean of 18 is (18.0-.68)/.034 = 500 Standard Deviations from their Netherlands average!!! It cannot be an accurate representation of Canadian demand upon which to base the 150 gram limit! It would be a miracle that one 18 gram result, let alone the average of 40,000 home-grown users, could be so off the 0.68 grams per day average cited in the Netherlands survey.

24. Presuming the Hazencamp survey of 5,000 patients may exist, it stated the Standard Error around their average of 0.68 was .065-0.72. Under a Bell Curve, half the results reported more and half reported less than 0.68 grams per day. Bell Curve #1 shows that:
3,333/5,000 results (66%) fell between 0.65-0.72;
4,750/5,000 results (95%) fell between 0.61-0.75;
4,985/5,000 (99.7%) fall within 0.575-0.785; and
4,999.7/5,000 (99.997%) fell within 0.54-0.82;
33,000:1 against any result exceeding 0.82g;
millions to one against exceeding even 0.9 grams;
billions to one against exceeding 1.0 gram in that study let alone an 18 gram result.

25. Todd Cain continues:
In addition, information from Israel's medical marijuana program (7) suggests that the average daily amount used by patients was approximately 1.5 grams of dried cannabis per day in 2011-2012 (Health Canada personal communication)."

26. A suggestion in a "personal communication" from Israel ("Hey Izzy, suggest a number!") is not a survey in a peer-reviewed journal on Israel's medical marijuana program suggesting the average daily amount used by patients was approximately 1.5 grams of per day in 2011-2012. It must have been prescriptions for commercial, not home-grown.

27. Yet, Health Canada cited the informal Israeli "survey" that suggests an average of 1.5 grams per day. For the Dutch 0.68 average survey to find a 1.5 grams per day result is (1.50-0.68))/.034 = 24 Standard Deviations off possible. Didn't someone notice the two polls contradicted each other? were that far apart. It is completely improbable that both of the surveys are honest random samplings of the general population consumption. The data was mis-represented to the court.

28. Of all the studies cited at Health Canada's "Information for Health Care Professionals" page: (1) Clark discusses single doses; (2) Carter has "informal surveys" citing (3) Chang who studies fixed 3.6 grams per day, not different dosages, and (4) Vinciguerra who studies fixed 1.5 grams per day, again, not different dosages; (5) Ware doesn't mention daily dosage at all; (6) Hazencamp isn't found; (7) Izzy's suggestion shouldn't count.

GRAPH #2
15.3 16.2 17.1 18 18.9 19.8 20.7

29. Bell Curve #2 shows the actual known mean of 18 and presuming the same spread of 5% either side of the mean, that's 17.1-18.9g for 1SD, 16.2-19.8 for 2SD, 15.3-20.7 for

3SD and 14.4-21.6 for 4SD. For any surveys sampling a Canadian population with known mean of 18g to claim results with Bell Curves around averages of 3g [(18-3)/0.9 = 17SD] or 1g [(18-1)/0.9 = 19SD] cannot be taken as valid or honest. The fix was in. But averaging prescriptions of 2 grams purchased and 20 grams home-grown does explain the 18 grams per day true average.

30. Not one study cited by Health Canada was "peer reviewed scientific literature" that backs up the proposition that the proper estimated average daily use upon which to base a possess and shipping limit is 1-3 grams per day in the face of actual admitted evidence that the average prescribed dosage in Canada was 18 grams per day when counting home-grown.

31. Counsel for the Crown in Allard was made aware of this statistical fraud in the over 300 actions before Justice Phelan by self-represented patient-plaintiffs whose grow permits had been back-dated to Oct 1 2013 but were of no use to them when Judge Manson did not also back-date their Permits to Possess the product for which they had been granted back-dated permits to grow. Counsel for the Allard did not know. Yet, Counsel for Health Canada did not apprise Judge Manson of the use of unscientific non-peer-reviewed data upon which he had been asked to base his decision. Justice Manson ruled at Para. 55:
As of Dec 3, 2013, the average daily dosage is 17.7 grams per day. Despite this, the average amount used by those being supplied by Health Canada was between 1 and 3 grams.

32. "Being supplied by Health Canada," no doubt means "being purchased from Health Canada with added sales tax and shipping costs." The Health Canada product is more expensive with taxes and shipping which would explain why people had such small prescriptions for commercial product and 10 times larger for home-grown. More affordable home-grown called for a 10 times larger possession limit than that set for commercial purchases. And it was clear that the average dosage of commercial product prescribed was between 1-3 grams per day while home-grown at 20 grams per day was less clear but computable for an total average dosage of 18 grams per day.

33. Despite two regimes, commercial and home-grown, Judge Manson explained his limit:
"iii. Speculation about the Effect of Limits on Personal Production
[86] The Respondent also argues that the Applicants' concerns regarding the limits on personal possession under the MMPR are unfounded. The new limit of 150 grams limit was based on an average use of 1-3 grams per day of medicinal marihuana by those being supplied by Health Canada and reflects appropriate dosage amounts identified in scientific literature.

34. Justice Manson based his ruling on an average use of 1-3 grams per day of medicinal marihuana by those being supplied by Health Canada supported by reflections of appropriate dosage amounts identified in scientific literature before

him which was not scientific nor peer-reviewed as he was told. The Court based the cap on the data from those who can afford commercial herb and not on the data of those who can grow inexpensive herb tax- and shipping-free.

35. Not a statistician, Judge Manson did not catch the fraud in the statistical evidence before him nor did Counsel for the Allard Plaintiffs. The court imposed a 10-times too low limit on home-grown patients using stats from "product purchased with tax and shipping costs." But he should have suspected that estimates of 1 to 3 are way off base when he had been given the actual mean of 17.7! All the polls cited are off the true mean by incredible numbers of standard deviations.

36. Given the true population mean is 18 grams, not 2 grams, a month's supply for the average patient would be 30 times 18 grams = 540 grams rather than 30 times 2 grams = 60 grams! And given a 2.5 safety factor for those dosages above average, that would be not 150 grams maximum possession limit per delivery but 1,500 grams shippable by a designated grower for home-grown!! But still only a week's supply for a 200 gram user.

37. Health Canada underestimates supply of 90%! offering 10 times too low a supply for the average home-grown users. Health Canada's 150-gram personal possession limit imposed on Exemptees under-medicates by a factor of 10 based on non-peer reviewed surveys thus inflicting on the group conditions of life calculated to bring about its physical destruction in violation of S.318(2) of the Criminal Code of Canada.

38. Justice Phelan, despite being informed of the non-peer-reviewed data entered before Judge Manson left the 150 gram limit in the final Allard judgment intact.

39. Justice Manson explained:
[91] The Applicants also have failed to prove that the 150 gram personal possession limit imposed by the MMPR would constitute irreparable harm.

40. None of the Allard Plaintiff's were large users so the irreparable harm was not so evident. Shawn Davey at 25 grams per day could possess a 6-day supply. Neil Allard prescribed 20 grams per day could possess a week's supply, and only Tanya Beemish with 5 grams per day could possess a full month's supply. Why should Tanya Beemish needing a regular dosage get a month supply while Neil Allard needing a quadruple dossage may carry only a week supply?

41. But in Garber v. Canada (Attorney General) 2015 BCSC 1797, four patients sought longer periods of supply. Tim Sproule prescribed 36 grams per day could not get enough delivered to last a 4-day Christmas holiday. Kevin Garber prescribed 60 grams per day, Marc Boivon prescribed 100 grams per day, and Philip Newmarch prescribed 167 grams per day couldn't get enough delivered to last one weekend. If Justice Manson had had Philip Newmarch before him with a daily usage of 167 grams per day, he may not have imposed the 150 gram cap. How could Justice Manson have explained a

150-gram limit to those with prescriptions greater than 150 grams per day had they been present? Plaintiff will adopt the reasons in Garber et al as to the deleterious effects of the 150-gram cap.

42. The 150 gram cap causes the following problems:
A) Mobility restriction
B) Shipping costs and restrictions
C) Destruction of unused before accepting new
D) Bulk discounts and juicing not possible.

A) MOBILITY RESTRICTION

43. While a patient prescribed under 5 grams per day can take a 30-day holiday, a patient prescribed:
- double gets gets a 15-day supply for only half a month;
- 20 grams per day may only possess enough for a week;
- 50 grams per day may only possess a 3-day supply;
- 100 grams per day may only holiday for a day-and-a-half;
- 150 grams per day may possess a 1-day supply;
- 200 grams per day may possess an 18-hour supply.
- 300 grams per day may possess a 12-hour supply.

B) SHIPPING COSTS AND RESTRICTIONS

44. The shipping costs for a 150-gram package by Priority Post is about $35. A 50 gram per day patient needs a shipment every 3 days, a minimum 10 shipments a month. A 100-gram per day patient needs 20 shipments a month, every day and a half. A 200-gram per day patient needs 40 shipments a month, one every every 18 hours. A 300-gram per day patient needs 60 shipments a month, every 12 hours.

45. Canada Post does not deliver on week-ends. A 50-gram patient would need 150 grams delivered on Friday to last 3 days until Monday. A new 100 grams delivered on Monday to last until Wednesday, and 100 grams delivered on Wednesday to last to Friday. Three Priority Posts a week, 156 a year! At $35 per delivery, that's over $5,000 a year in shipping costs. With over 50 grams per day, it is impossible not to run short over a weekend.

C) DESTROY OF UNUSED BEFORE ACCEPTING NEW

46. Should Canada Post fail to deliver on Friday and then deliver 2 packages on Monday, part of the first package must be destroyed before taking possession of the second package after a weekend with no medication. Any unused cannabis from the previous prescription must be destroyed before accepting the next prescription to remain under the 150 gram possession limit. Or should a patient have a good weekend and under-use and be left with some spare, it is prohibited to possess his next week's supply without destroying the remainder of his previous supply. Should a patient then have a bad weekend and over-use, he can't buy more.

D) BULK DISCOUNTS FOR JUICE NOT POSSIBLE

47. Cannabis must be heated to remove the "A" from the "THCA" to get the psychoactive "THC!" Considering the

necessary mass to make cannabis juice with no "high" from THCA, the 5 gram per day cap deters access to juice. The limit fails to take into consideration the reduction of plant to oil for topicals and medibles which right to use was established in R. v. Smith [2015].

48. The 150-gram limit makes the option of bulk discount buying impossible. If an LP has an over-supply, who does it benefit that he can't sell any at discount to patients who may want to purchase at a discount? With over 200 ACMPR patients prescribed over 200 grams per day in 2013, one would think bulk buying should be an option to home-growing.

PER INCURIAM

49. Given there were no high-dosage Allard plaintiffs, it does not seem possible Judge Manson could not have considered the effects of his cap on high-dosage users. His decision is therefore per incuriam in that things that ought to have been considered were not. Could he have considered how Applicants with larger prescriptions
a) must stay home to receive their 150-gram packages?
b) have to pay for multiple small deliveries that are impossible over a weekend for those above 50 grams per day, impossible over a long weekend for those above 37.5 grams per day, and impossible over the Christmas holiday for those over 30 grams per day?
c) must destroy first package if second arrives?
d) cannot get enough for juice?

50. The B.C. Superior Court had to remedy the problems created by Judge Manson's 150-gram cap with an Order that the Garber plaintiffs may possess more than 150 grams, a 10-day supply. That's better but not quite the equal treatment for the 30-day supply of patients with doctors who comply with Health Canada's medical opinion.

51. Relying on the S.15 Right to Equal Treatment under the law in the Charter, Plaintiff seeks the right to carry the same 30-day supply as smaller dosers by striking down the 150 gram cap on possession and shipping and leaving the 30-day supply cap in effect.

52. The Plaintiff proposes this action be tried in the City of _____, Province of _____

Dated at _____ on _____ 201__.
_____

JCT: I have several people ready to file, two with 200 gram prescriptions and two with 100 gram prescriptions!

I'd appreciate any suggestions or any typos found. Just mail to johnt...@yahoo.com

Kit should go up this week with instructions at http://johnturmel.com/150grams.pdf

THIS IS EXHIBIT "121" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

STRIKE 150 GRAM CAP

FEDERAL COURT FORMS
From http://johnturmel.com/kits

http://johnturmel.com/150cn1j.pdf is the May 7 2019 decision of Federal Court Justice Brown dismissing the Crown's motion to strike the Statement of Claim challenging the 150-gram cap on possession and shipping of marijuana and leaving the previous 30-day supply under the MMAR. The new Statement of Claim has deleted all the extra commentaries I had thrown in which the judge objected to.

He also granted the motion of Allan J. Harris to carry a 10-day 1 Kilogram supply for his 100 gram/day prescription pending trial.

He also gave the Crown 20 days to explain why he should not grant the same remedy to all those who filed a Statement of Claim with him.
If you are inconvenienced by the 150-gram cap, you only have to pay a $2 filing fee to file your own claim online and be dealt with too.
Sadly, only those who file claims for 30-days can get the 10-day interim remedy until we win the 30-days.
So take the 10 minutes to fill out the form and file it online.

STATEMENT OF CLAIM TO STRIKE 150 GRAMS CAP

http://johnturmel.com/150sc2.pdf is the Statement of Claim to strike the 150 gram limit on possession and shipping for plaintiffs with large dosages used if you can amend a PDF or want to print and fill it out by pen on paper.
http://johnturmel.com/150sc2.docx is the Statement of Claim in Word to be saved as a PDF.

Fill in the blanks, including your town and province, then follow the instructions at http://johnturmel.com/efiling.pdf to prepare and file with the registry. Remove blank lines if typing in info.

You can read Jeff's motion that won the 10-day supply here:

MOTION FOR INTERIM RELIEF FROM JUDGE

[Hearing has been ordered for Oct 30. Jeff Harris will ask for all Plaintiffs]
http://johnturmel.com/150n1.docx is the motion for interim 10-day supply.
http://johnturmel.com/150n1.pdf is the motion as PDF.

You don't need to file it, he already won it. Just need to get on Schedule A with a $2 Statement of Claim.

Any problems, call John @ 519-753-5122

Follow John Turmel's Blog:
https://groups.google.com/forum/#!forum/alt.fan.john-turmel

File No: _____

FEDERAL COURT

Between:

_____

Plaintiff

AND

Her Majesty The Queen

Defendant

STATEMENT OF CLAIM

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

1. The Plaintiff seeks a declaration that S.266(2)(b), (3)(b), (4)(b), (6)(b), (7), S.267(2)(b), (3)(b), (4)(b), (5),S.290(e), S.293(1), S.297(e)(iii), S.348(3)(a)(ii), in the Cannabis Regulations (SOR 2018-144) imposing a 150-gram cap on possessing and shipping cannabis are unconstitutional on the grounds they pose a threat of fines or incarceration to the lives of patients with larger prescriptions, some in excess of 150 grams per day, that violate their S.7 & S.15 Charter Rights to Liberty, Security and Equality not in accordance with principles of fundamental justice to not be arbitrary, grossly disproportional, conscience-shocking, incompetent, malevolent.

PARTIES

2. The Plaintiff is a person Possessing Health Canada Authorization Number _____ to use _____ grams of cannabis per day.

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 Cannabis Act and the Cannabis Regulations.

BACKGROUND:

4. The previous Medical Marijuana Access Regulations ("MMAR") regime limited patients to possessing a 30-day supply of cannabis prescribed in the medical document.

5. Health Canada has long urged doctors to limit prescriptions to no more than 5 grams per day, a maximum of 150 grams per month!

6. On April 1 2014, the introduction of the Marijuana for Medical Purposes Regulations ("MMPR") offered the Defendant the chance to pressure doctors to prescribe not more than Health Canada's recommended 5 grams per day by imposing a possession or shipping limit of 30 x daily dosage or 150 grams."

7. Patients whose doctors comply with Health Canada's medical opinion may possess a 30-day supply. But patients whose doctors do not comply are punished by being permitted to carry fewer and fewer days of supply until some patients with over 150 grams per day may not even possess one full day's supply! Prescriptions over 50 grams per day run short over a 2-day weekend. Prescriptions of 38 grams run short over a 3-day long weekend. Prescriptions over 30 grams run short over a 4-day Christmas holiday.

8. In the Federal Court pre-trial motion in Allard v. HMTQ T-2030-13 for an injunction to extend the MMAR pending a determination of the constitutionality of the MMPR, Health Canada asked the court to impose the MMPR's proposed 150 gram possession and shipping limit onto MMAR exemptees.

9. Health Canada's Jeanine Ritchot Affidavit paragraphs 24-29 with regard to the MMPR Sections S.5, S.130, S.122, S.123 stated these facts up to December 2013:

> **24. 36,797 ATPs.**
> **25. 675,855 daily grams prescribed.**
> **26. Average licensed indoor plants 101, outdoor 11.**
> **27. Average Canadian daily dosage 17.7 grams.**
> **28. According to Ex. A "Information for Health Care Professionals" at page 24 "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 grams of cannabis per week or approximately 1-3 grams of cannabis per day."**
> **29. Individuals who purchase their dried marijuana from Health Canada have on average purchased 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" Ex.A"**

10. There is something inherently wrong with speaking of average of 1 to 3 grams. An average is not a range, it is a point, an average of several points. The average of 1-3 grams is 2 grams. Being given a range for the average suggests improper or incompetent statistical analysis.

11. 675,855 grams per day divided by 36,797 users is 18.37 grams per day, not 17.7. About 18 grams per day is the true total average Canadian consumption.

12. Each gram prescribed allows the growing of almost 5 plants so the 101-plant average is supported by an average prescribed home-grown dosage of over 20 grams per day. Commercial cannabis includes taxes and shipping costs so 10 times more prescribed for home-grown than prescribed for purchase from commercial growers is not unexpected. Combining the Health Canada sales averaging 2 grams per day with the 20 grams per day prescribed for home-grown use does bring the new total average down to the actual 18 grams per day reported.

13. Footnote 165:

> **(1) Clark, A. J., Ware, M. A., Yazer, E., Murray, T. J. and others. (2004). Patterns of cannabis use among patients with multiple sclerosis. Neurology. 62: 2098-2100. The sample size 144 was calculated to detect an estimated prevalence of 10% with a 2.5% standard error.**

14. Clark's study says not a word about daily dosage at all. Results from a sample of only Muscular Dystrophy patients is hardly indicative of the average dosage for all other illnesses. A 2.5% standard error from the mean of 10% is a pretty big error due to the small number of subjects. Significance was set at the 95% level, that's 2 Standard Deviations according to the Statistics Rule of 66-95-99.7: 1SD: 66% 2SD: 95% 3SD: 99.7%.

15. Footnote 277,

> **(2) Carter, G. T., Weydt, P., Kyashna-Tocha, M., and Abrams, D. I. (2004). Medicinal cannabis: rational guidelines for dosing. IDrugs. 7: 464-470: "In informal surveys from patients in Washington and California, the average reported consumption ranges between 10-20g raw cannabis per week or 1.42-2.86 grams per day.**

16. Carter's study has informal surveys for its guestimate, not peer-reviewed at all. Carter continues:

> **Our recommended doses are further reinforced by two studies that utilized smoked cannabis in a well-documented dosing regime... (3) Chang and co-workers studied the effects of smoking 3.6 grams per day containing 15% THC... (4) Vinciguerra studied smoked cannabis dosed at 1.5 grams per day. These doses fall within the medical cannabis guidelines in the Canadian medical system.**

17. (3) Chang's study on 3.6 grams per day can't be found by Google and still could not tell us the average grams smoked by the general population. With everyone in the test getting 3.6 grams, of course, the average would be 3.6 grams in any and every sampling. (4) Vinciguerra's study on the effect of 1.5 grams per day also cannot tell us the average smoked in the general population. If everyone got 1.5 grams, that's the average they would sample and did report. They averaged what they were given! So it was false to say that his "recommended doses are further reinforced by two studies that utilized smoked cannabis in a well-documented dosing regime." Those were fixed dosing regimes. If Carter had used a test with a fixed dosage of 50 grams per day, his average have been much higher than using only 1.5 and 3.6 grams!

18. Footnote 350.

> **(5) Ware, M. A., Adams, H., and Guy, G. W. (2005). The medicinal use of cannabis in the UK: results of a nationwide survey. Int.J.Clin.Pract. 59: 291-295.**

19. Ware's survey gives no dosage average at all, and even if it did, over half the survey participants quit for lack of access or affordability! With more than half having a hard time getting it, an artificially-low average would be expected.

20. On Feb 7 2014, Health Canada's Todd Cain's affidavit in the Allard proceeding at paragraphs 30-31:

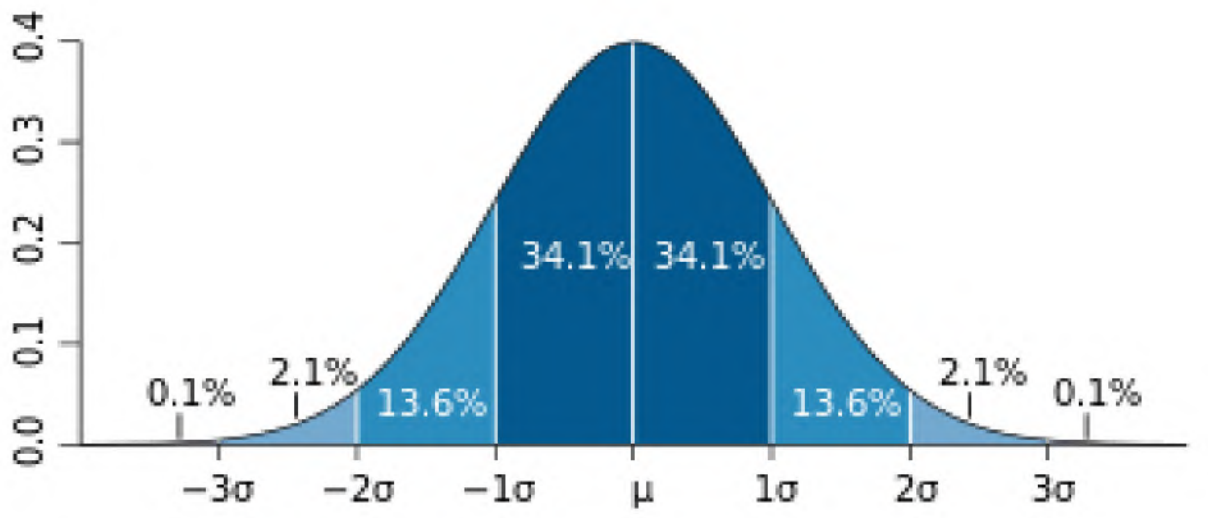
> **"30. Health Canada took significant steps to project demand and available supply for medical use. In anticipating demand, Health Canada took into account available information on numbers of individuals licensed to use dried marijuana for medical purposes, the upward trend in that number, the daily dosage amounts identified in the most current scientific literature and international practice around dosage, as set out in the "Information for Health Care Professionals" available online at http://hc-sc.gc.ca/dhp-mps/marihuana/med/infoprof-eng.php**

21. With the actual Canadian daily dosage known, presenting the Court with the "daily dosage amounts identified in the most current scientific literature and international practice around dosage" could only be to support their hoped-for 150 gram per month limit.

22. Todd Cain continues:

> **31. The "Information for Health Care Professionals" document, at page iii states that "following the most recent update to this document (Feb 2013) a study was published in the Netherlands tracking data obtained from the Dutch medical cannabis program over the years 2003-2010. The study reported that in a population of over 5,000 Dutch patients using cannabis for medical purposes, the average daily dose of dried cannabis (various potencies) used was .68 grams per day (Range 0.65-0.82 grams per day) (Hazencamp and Heerdink 2013).**

BELL CURVE #1



.54 .58 .61 .65 .68 .72 .75 .79g .82

23. Google doesn't find the Hazencamp and Heerdink 2013 survey with the only mention being in Todd Cain's Affidavit, certainly not yet in any peer-reviewed journal. The actual Canadian mean of 18 is (18.0-.68)/.034 = 500 Standard Deviations from their Netherlands average!!! It cannot be an accurate representation of Canadian demand upon which to base the 150 gram limit! It would be a miracle that one 18 gram result, let alone the

average of 40,000 home-grown users, could be so off the 0.68 grams per day average cited in the Netherlands survey.

24. Presuming the Hazencamp survey of 5,000 patients may exist, it stated the Standard Error around their average of 0.68 was .065-0.72. Under a Bell Curve, half the results reported more and half reported less than 0.68 grams per day. Bell Curve #1 shows that:
3,333/5,000 results (66%) fell between 0.65-0.72;
4,750/5,000 results (95%) fell between 0.61-0.75;
4,985/5,000 (99.7%) fall within 0.575-0.785; and
4,999.7/5,000 (99.997%) fell within 0.54-0.82;
33,000:1 against any result exceeding 0.82g;
millions to one against exceeding even 0.9 grams;
billions to one against exceeding 1.0 gram in that study let alone an 18 gram result.

25. Todd Cain continues:

> **In addition, information from Israel's medical marijuana program (7) suggests that the average daily amount used by patients was approximately 1.5 grams of dried cannabis per day in 2011-2012 (Health Canada personal communication)."**

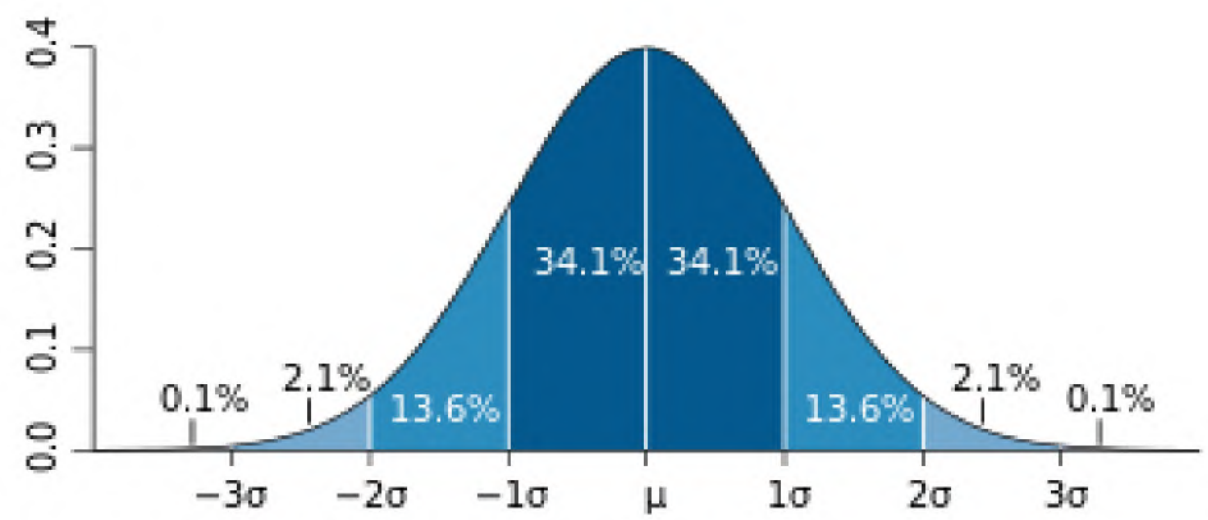
26. A suggestion in a "personal communication" from Israel is not a survey in a peer-reviewed journal on Israel's medical marijuana program suggesting the average daily amount used by patients was approximately 1.5 grams of per day in 2011-2012. It must have been prescriptions for commercial, not home-grown.

27. Yet, Health Canada cited the informal Israeli "survey" that suggests an average of 1.5 grams per day. For the Dutch 0.68 average survey to find a 1.5 grams per day result is (1.50-0.68))/.034 = 24 Standard Deviations off possible.

Didn't someone notice the two polls contradicted each other? were that far apart? It is improbable that both of the surveys are honest random samplings of the general population consumption.

28. Of all the studies cited at Health Canada's "Information for Health Care Professionals" page: (1) Clark discusses single doses; (2) Carter has "informal surveys" citing (3) Chang who studies fixed 3.6 grams per day, not different dosages, and (4) Vinciguerra who studies fixed 1.5 grams per day, again, not different dosages; (5) Ware doesn't mention daily dosage at all; (6) Hazencamp isn't found; (7) The Israeli suggestion shouldn't count.

BELL CURVE #2



15.3 16.2 17.1 18 18.9 19.8 20.7

29. Bell Curve #2 shows the actual known mean of 18 and presuming the same spread of 5% either side of the mean, that's 17.1-18.9g for 1SD, 16.2-19.8 for 2SD, 15.3-20.7 for 3SD and 14.4-21.6 for 4SD. For any surveys sampling a Canadian population with known mean of 18g to claim results with Bell Curves around averages of 3g [(18-3)/0.9 = 17SD]

or 1g [(18-1)/0.9 = 19SD] cannot be taken as valid. But averaging prescriptions of 2 grams purchased and 20 grams home-grown does explain the 18 grams per day true average.

30. Not one study cited by Health Canada was "peer reviewed scientific literature" that backs up the proposition that the proper estimated average daily use upon which to base a possess and shipping limit is 1-3 grams per day in the face of actual admitted evidence that the average prescribed dosage in Canada was 18 grams per day when counting home-grown.

31. Counsel for the Crown in Allard was made aware of this statistical error in the over 300 actions before Justice Phelan by self-represented patient-plaintiffs whose grow permits had been back-dated to Oct 1 2013 but were of no use to them when Judge Manson did not also back-date their Permits to Possess the product for which they had been granted back-dated permits to grow. Counsel for the Allard did not know. Yet, Counsel for Health Canada did not apprise Judge Manson of the use of unscientific non-peer-reviewed data upon which he had been asked to base his decision. Justice Manson ruled at Para. 55:

> **As of Dec 3, 2013, the average daily dosage is 17.7 grams per day. Despite this, the average amount used by those being supplied by Health Canada was between 1 and 3 grams.**

32. "Being supplied by Health Canada," no doubt means "being purchased from Health Canada with added sales tax and shipping costs." The Health Canada product is more expensive with taxes and shipping which would explain why people had such small prescriptions for commercial product and 10 times larger for home-grown. More affordable home-grown called for a 10 times larger possession limit than that set for

commercial purchases. And it was clear that the average dosage of commercial product prescribed was between 1-3 grams per day while home-grown at 20 grams per day was less clear but computable for an total average dosage of 18 grams per day.

33. Despite two regimes, commercial and home-grown, Judge Manson explained his limit:

> **"iii. Speculation about the Effect of Limits on Personal Production**
>
> **[86] The Respondent also argues that the Applicants' concerns regarding the limits on personal possession under the MMPR are unfounded. The new limit of 150 grams limit was based on an average use of 1-3 grams per day of medicinal marihuana by those being supplied by Health Canada and reflects appropriate dosage amounts identified in scientific literature.**

34. Justice Manson based his ruling on an average use of 1-3 grams per day of medicinal marihuana by those being supplied by Health Canada supported by reflections of appropriate dosage amounts identified in scientific literature before him which was not scientific nor peer-reviewed as he was told. The Court based the cap on the data from those who can afford commercial herb and not on the data of those who can grow inexpensive herb tax- and shipping-free.

35. The court imposed a 10-times too low limit on home-grown patients using stats from "product purchased with tax and shipping costs." But he should have suspected that estimates of 1 to 3 are way off base when he knew the actual mean was 18! All the polls cited are off the 18 gram mean by incredible numbers of standard deviations.

36. Given the true population mean is 18, not 2g, a month's supply for the average patient would be 30 times 18 grams = 540g rather than 30 times 2 grams = 60g! And given a 2.5 safety factor for those dosages above average, that would be not 150 grams maximum possession limit per delivery but 1,500 grams shippable by a designated grower for home-grown!! But still only a week's supply for a 200 gram user.

37. Health Canada underestimates supply of 90%! offering 10 times too low a supply for the average home-grown users. The 150-gram personal possession limit imposed on Exemptees under-medicates by a factor of 10 based on surveys by Health with non-peer-reviewed data.

38. Justice Phelan left the 150 gram limit in the final Allard judgment intact.

39. Justice Manson explained:

> **[91] The Applicants also have failed to prove that the 150 gram personal possession limit imposed by the MMPR would constitute irreparable harm.**

40. None of the Allard Plaintiff's were large users so the irreparable harm was not so evident. Shawn Davey at 25 grams per day could possess a 6-day supply. Neil Allard prescribed 20 grams per day could possess a week's supply, and only Tanya Beemish with 5 grams per day could possess a full month's supply. Why should Tanya Beamish needing a regular dosage get a month supply while Neil Allard needing a quadruple dosage may carry a week supply?

41. But in Garber v. Canada (Attorney General) 2015 BCSC 1797, four patients sought longer periods of supply. Tim Sproule prescribed 36 grams per day could not get enough delivered to last a 4-day Christmas holiday. Kevin Garber prescribed 60 grams per day, Marc Boivon prescribed 100 grams per day, and Philip Newmarch prescribed 167 grams per day couldn't get enough delivered to last one weekend. If Justice Manson had had Philip Newmarch before him with a daily usage of 167 grams per day, he may not have imposed the 150 gram cap. How could Justice Manson have explained a 150-gram limit to those with prescriptions greater than 150 grams per day had they been present? Plaintiff will adopt the reasons in Garber et al as to the deleterious effects of the 150-gram cap.

42. The 150 gram cap in the Cannabis Regulations causes the following problems:
A) Mobility restriction
B) Shipping costs and restrictions
C) Bulk discounts and juicing not possible.

A) MOBILITY RESTRICTION

43. While a patient prescribed under 5 grams per day can take a 30-day holiday, a patient prescribed:
- double gets a 15-day supply for only half a month;
- 20 grams per day may only possess enough for a week;
- 50 grams per day may only possess a 3-day supply;
- 100 grams per day may only holiday for a day-and-a-half;
- 150 grams per day may possess a 1-day supply;
- 200 grams per day may possess an 18-hour supply.
- 300 grams per day may possess a 12-hour supply.

B) SHIPPING COSTS AND RESTRICTIONS

44. The shipping costs for a 150-gram package by Priority Post is about $35. A 50 gram per day patient needs a shipment every 3 days, a minimum 10 shipments a month. A 100-gram per day patient needs 20 shipments a month, every day and a half. A 200-gram per day patient needs 40 shipments a month, one every 18 hours. A 300-gram per day patient needs 60 shipments/month, every 12 hours.

45. A 50-gram patient would need 150 grams delivered 10 times per month, 120 times a year. At $35 per delivery, that's over $4,000 a year in shipping costs. With over 100 grams per day, it's 20 deliveries per month, 240 times per year. That's over $8,000 in shipping costs.

C) BULK DISCOUNTS FOR JUICE NOT POSSIBLE

46. Cannabis must be heated to remove the "A" from the "THCA" to get the psychoactive "THC!" Considering the necessary mass to make cannabis juice with no "high" from THCA, the 5 gram per day cap deters access to juice. The limit fails to consider the reduction of plant to oil for topicals and medibles which right to use was established in R. v. Smith [2015].

47. The 150-gram limit makes the option of bulk discount buying impossible. If an LP has an over-supply, who does it benefit that he can't sell any at discount to patients who may want to purchase at a discount? With over 200 MMAR patients prescribed over 200 grams per day in 2013, one would think bulk buying should be an option to home-growing.

PER INCURIAM

48. Given there were no high-dosage Allard plaintiffs, it does not seem possible Judge Manson could have considered the effects of his cap on high-dosage users. His decision is therefore per incuriam in that things that ought to have been considered were not. Could he have considered how Applicants with larger prescriptions

a) must stay home to receive their 150-gram packages?

b) have to pay for multiple small courier deliveries?

c) may not obtain bulk discounts to enable juicing?

49. The B.C. Superior Court had to remedy the problems created by Judge Manson's 150-gram cap with an Order that the Garber plaintiffs may possess more than 150 grams, a 10-day supply. That's better but not quite the equal treatment for the 30-day supply of patients with doctors who comply with Health Canada's medical opinion.

50. Relying on the S.15 Right to Equal Treatment under the law in the Charter, Plaintiff seeks the right to carry the same 30-day supply as smaller dosers or heavy narcotics users by striking down the 150 gram cap on possession and shipping and leaving the 30-day supply cap in effect.

51. The Plaintiff proposes this action be tried in the City of _____, Province of _____

Dated at _____ on _____ 20___.

Signature: _____

Name: _____

Address: _____

_____

Tel/fax: _____

Email: _____

File No: T-_____

FEDERAL COURT

BETWEEN:

_____

Plaintiff

and

Her Majesty The Queen

Defendant

STATEMENT OF CLAIM

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

For the Plaintiff:

Name: _____

Address: _____

_____

Tel/fax: _____

Email: _____

THIS IS EXHIBIT "122" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN by video conference before the Commissioner the City of Toronto in the Province of Ontario, to the City of Brampton, in Regional Municipality of Peel, this 31st day of May, 2022

A COMMISSIONER FOR TAKING AFFIDAVITS

TURMEL KIT MMAR PROCESSING-TIME CLAIMS

T-1765-18	*Jeff Harris v HMQ*
T-1784-18	*Arthur Jackes v HMQ*
T-1822-18	*Colleen Abbott v HMQ*
T-1878-18	*Robert Dylan McAmmond v HMQ*
T-1900-18	*Scott Stanley McCluskey v HMQ*
T-2066-18	*Jeratt Michael Wollner v HMQ*
T-788-19	*Robert Roy v HMQ*
T-789-19	*Heidi Chartrand v HMQ*
T-831-19	*Simon Larocque v HMQ*
T-832-19	*Mario Grenier v HMQ*
T-833-19	*David Berman v HMQ*
T-834-19	*Francois Lacroix v HMQ*
T-835-19	*Frederic Patry v HMQ*
T-836-19	*Sophie Isabelle Girard v HMQ*
T-837-19	*Veronique Morneau v HMQ*
T-838-19	*Julien Gobeille Connolly v HMQ*
T-839-19	*Michael Scott Anderson v HMQ*
T-840-19	*Christian Berman v HMQ*
T-841-19	*Francois Pilon v HMQ*
T-842-19	*Richard Harton v HMQ*
T-843-19	*Lynn Marie Joanisse v HMQ*
T-845-19	*Audrey Belanger v HMQ*
T-846-19	*Jessyca Trottier v HMQ*
T-850-19	*Mathieu Duclos v HMQ*
T-853-19	*Andre Lavoie v HMQ*
T-854-19	*Nathalie Houle v HMQ*
T-855-19	*Michel Bibeau v HMQ*
T-856-19	*Harry Berman v HMQ*
T-857-19	*Richard Houle v HMQ*
T-858-19	*Paulo Correia v HMQ*
T-859-19	*Louis Galipeau v HMQ*
T-860-19	*Pierre Archambault v HMQ*
T-862-19	*Renee Cyr v HMQ*
T-863-19	*France Bourgeois v HMQ*
T-881-19	*Jaime Hagel v HMQ*
T-1549-19	*Eissa Haidar v HMQ*

THIS IS EXHIBIT "123" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

KingofthePaupers Oct 1, 2018, 11:21:03 AM

to

TURMEL: Challenge to 1-year medpot prescriptions cap for permanently ill

For many years, I've railed against yearly renewals for permanently-ill patients.

When you consider the hassles we've seen in getting permits renewed, imagine someone having to go through that stress every year!

This is not going to be a kit for many people, I really only need one person with an incurable disease who wants to ask the court to scrap the 1-year limit on prescriptions for permanently-ill patients.

It will be a really short and easy action.

Any volunteers for this attack? johnt...@yahoo.com

THIS IS EXHIBIT "124" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

STRIKE 1-YEAR CAP
FEDERAL COURT FORMS
http://johnturmel.com/kits

STATEMENT OF CLAIM TO STRIKE 1-YEAR CAP
http://johnturmel.com/yearsc.pdf is the Statement of Claim to strike the 1-year maximum term of prescription for people with permanent illnesses used if you can amend a PDF or want to print and fill it out by pen on paper.
http://johnturmel.com/yearsc.docx is the Statement of Claim in Word.

Fill in the blanks, including your town and province, then follow the instructions at http://johnturmel.com/efiling.pdf to prepare and file with the registry.

John Turmel's Blog:
https://groups.google.com/forum/#!forum/alt.fan.john-turmel

File No: _____

FEDERAL COURT

Between:

_____

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 Cannabis Regulations Section 273(2) requiring that the period of use must not exceed one year is a violation of the Charter S.7 Right to Life and Security for permanently-ill patients not in accordance with principles of fundamental justice to not be arbitrary, grossly disproportional, conscience-shocking, incompetent while many thousands of MMAR patients whose permits were extended since 2014 under the Allard injunction have wasted no resources and caused no notable problems by remaining authorized without having to get their doctor to renew their permits again and again and again and again.

THE PARTIES

2. The Plaintiff has Authorization #_____ to use cannabis for a permanent medical condition and paid $_____ for the last annual medical document.

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 Cannabis Act and the Cannabis Regulations.

4. The Plaintiff proposes this action be tried in the City of _____, Province of _____

Dated at _____ on _____ 20___.

_____

Name: _____

Address: _____

Tel/fax: _____

Email: _____

For the Plaintiff

File No: _____

FEDERAL COURT

BETWEEN:

_____

Plaintiff

and

Her Majesty The Queen

Defendant

STATEMENT OF CLAIM

(Pursuant to S.48 of

the Federal Court Act)

For the Plaintiff:

Name: _____

Address: _____

_____

Tel/fax: _____

Email: _____

THIS IS EXHIBIT "125" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

T-1913-18 *Spottiswood, Mike v HMQ*

T-217-19 *Harris, Allan v HMQ*

T-369-19 *Wollner, Jeratt v HMQ*

T-399-19 *McAmmond, Robert Dylan v HMQ*

THIS IS EXHIBIT "126" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

TURMEL: "Strike 150-gram cap" Claim and Motion to be amended

10 views

KingofthePaupers Nov 1, 2018, 7:40:49 PM

to

TURMEL: "Strike 150-gram cap" Claim and Motion to be amended

JCT: 6 people had filed Statements of Claim for a declaration striking the 150-gram caps in the ACMPR allowing the 30x days supply: Jeff Harris and wife Colleen, Ray Hathaway, Arthur Jackes, Robert McAmmond and Scott McCluskey.

Case Management Judge Brown slated a hearing on Oct 30. So Jeff filed a Motion for that day to be allowed a 10-day supply as had been granted by the BC Superior Court to the Garber plaintiffs which could be applied to the other five.

But the judge pointed out we were now no longer under the ACMPR but under the Cannabis Act and Cannabis Regulations. I hadn't realised the ACMPR had been replaced. So I've found all the sections on the 150 grams in the Cannabis Regulations and swapped them in to the new 150-gram cap challenge.

So I switched in the right updated section numbers we wish to strike. Judge Brown named Jeff Harris and Ray Hathaway as Lead Plaintiffs and granted them the right to file an amended Statement of Claim to match the new one up at http://johnturmel.com/ins150.pdf to strike the 150 gram limit with only Cannabis Regulations sections being challenged.

Ray Hathaway had also filed a Statement of Claim on his own behalf and included some of the sections I'm going to be dealing with individually. I didn't want Jeff's claim or motion for interim remedy on the 150 grams to be slowed down so Ray has agreed to adopt Jeff's Amended Claim with the other 4 Plaintiffs and to then filing his own new claims with respect to the other individual problems. For instance, he had argued to strike the 1-year cap on period of use but we have a whole separate kit that he can use for that. So no need to complicate the 150-gram challenge with the other torts.

At the Tuesday Oct 30 afternoon hearing, the judge had directed that all plaintiffs provide him with a proposed timetable and though I was going to write that we'll follow the regular court timeline after the Crown files their Statement of Defence in 30 days, I forgot. So Judge Brown gave them more time to submit their timetables.

Two Lead Plaintiffs were suggested, Jeff Harris filing for the group and Ray Hathaway filing on his own material.

Scott McCluskey thought Justice Brown showed prejudice over them not employing REAL lawyers, and doing this as self represented though they all said they could not afford lawyers.

Scott thought a clear prejudice was elucidated by Jon Bricker over seeing the same names on so many files from the past. He also acted like self-representation was the plague though they've been handling them for the past 4 years. And Bricker ain't seen nothing yet. Many people will be able to file several of the upcoming Statement of Claim kits. Everyone who filed over damages can also file to strike the 150 gram cap and also file to strike the 2-patient/grower and 4-licenses/site caps, and also file to declare the prohibitions invalid because they impede our right to juice from local growers. Every tort is different so no wonder Bricker's in a bad mood.

But Judge Brown was there to watch the whole recent process so he'll understand Bricker and Wright having good reason to be upset. But I see no gain in challenging Justice Brown's partiality given he's ruled our way so many times before. The proper way is to appeal on the merits if the eventual ruling is not favorable. But do you really think this Judge Brown is going to let people be illegal if they leave home with a whole day's dosage?

Seems Bricker also again suggested that he needed to know their illnesses before being able to decide whether the 150 gram limit is unreasonable. Jeff will repeat the argument against their last motion that a signed Dr form should be enough to prove a qualifying condition and why should they have to disclose their illness in a public forum?

I know the Plaintiffs may not like being berated over and over for using the Turmel's kits... like it's some sort of weakness. But I take pride in being mentioned as the mastermind of the Repeal Prohibition resistance.

But they kept saying the same thing about the actions being void of facts.... Same thing they said when the start date and end date on the permit were the only facts we submitted to determine a period of use! And whether it was unconstitutional. The Judge ignored their argument and let it go forward with just those facts establishing the period and not what illness the Plaintiffs were suffering. But it seems they're asking Judge Brown again.

But it boils down to Jeff filing an Amended Statement of Claim, a new amended Motion for his 10-day supply in the interim, and a letter informing the judge the timeline in the Rules can be used.

Today, Jeff got two emails from the Court. One his Order with respect to the motion and the other a timetable for Jeff's fresh motion:

Date: 20181101
Dockets: T-1716-18 T-1765-18
Ottawa, Ontario, November 1, 2018

PRESENT: The Honourable Mr. Justice Brown

Docket: T-1716-18

BETWEEN:
RAYMOND LEE HATHAWAY
Plaintiff
and
HER MAJESTY THE QUEEN
Defendant

Docket: T-1765-18
BETWEEN:
ALLAN HARRIS
Plaintiff
and
HER MAJESTY THE QUEEN
Defendant

AND BETWEEN:
THE PARTIES IDENTIFIED IN SCHEDULE vAb ATTACHED HERETO

ORDER
UPON the Court convening a case management meeting concerning these set cases assigned to me to case manage;

AND UPON hearing from the Plaintiffs and Counsel for the Defendant as to whether and how these matters should proceed;

AND UPON concluding that the most efficient course to follow is the appointment of two Plaintiffs as lead Plaintiffs who are to file amended Statements of Claim in a timely fashion following which the Defendant will bring a Motion to Strike.

THEREFORE THIS COURT ORDERS that:

1. The Plaintiffs Raymond Lee Hathaway and Allan Harris in file numbers T-1716-18 and T-1765-18 respectively are appointed representative or lead Plaintiffs in connection with this group of actions and any actions subsequently added to this group all of which shall be managed in accordance with this Order.

2. The said Raymond Lee Hathaway and Allan Harris shall serve and file their amended Statements of Claim on or before November 16, 2018.

3. The Defendant shall serve and file Her Motion to Strike on or before December 14, 2018.

4. The Plaintiffs Raymond Lee Hathaway and Allan Harris shall serve and file responding material on or before February 1, 2019.

5. The Defendant shall serve and file reply material on or before February 22, 2019.

6. The Defendant is at liberty to file one set of material on the representative Plaintiffs in respect of both actions.

7. The Plaintiffs Raymond Lee Hathaway and Alan Harris may serve and file material on the Defendant electronically, and the Defendant may serve and file Her material on the said Plaintiffs also electronically.

8. No proceedings may be brought by parties in this group of actions without leave of the Court.

9. A copy of this Order shall be placed in all files covered by this Order, and a copy of this Order shall be provided to all parties who are now or hereafter subject to this Order.

10. Costs in the cause.
Henry S. Brown Judge

SCHEDULE vAb
T-1784-18 T-1822-18 T-1878-18 T-1900-18

JCT: That's the timeline for the Crown's motion to strike the Statement of Claim. Then Jeff got a Direction from the judge on his Motion for interim remedy of 10-day supply: The Plaintiff is to file a fresh Motion within 5 days after he files an amended Statement of Claim.

JCT: Jeff just filed his new Statement of Claim and his fresh Motion Record at the same time as his letter to the judge with his timetable.

File No: T-1765-18
FEDERAL COURT

Between:
Allan J. Harris
Plaintiff
AND

Her Majesty The Queen
Defendant

AMENDED STATEMENT OF CLAIM
(Pursuant to S.48 of the Federal Court Act)

1. The Plaintiff seeks a declaration that Sections S.266(2)(b), (3)(b), (4)(b), (6)(b), (7), S.267(2)(b), (3)(b), (4)(b), (5),S.290(e), S.293(1), S.297(e)(iii), S.348(3)(a)(ii), in the Cannabis Regulations (SOR 2018-144) imposing a 150-gram cap on possessing and shipping cannabis marijuana

THIS IS EXHIBIT "127" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

TURMEL: Need more plaintiffs against "Year Max" prescription

6 views

John KingofthePaupers Turmel Jan 24, 2019, 9:13:24 AM
to

TURMEL: Need more plaintiffs against "Year Max" prescription

JCT: In the upcoming motion to strike our claims, the Crown has opposes the Jeff Harris' claim against the 150 gram cap and Mike Spottiswood's claim against the yearly visits to the doctor for people with permanent illnesses.

http://johnturmel.com/150cm.pdf has Written Representations being parsed here. I'm only including the paragraphs I'm commenting on. You can read the others online if you wish.

http://johnturmel.com/150cm11.pdf
http://johnturmel.com/150cm12.pdf
http://johnturmel.com/150cm2.pdf
http://johnturmel.com/150cmba.pdf
http://johnturmel.com/150cm.pdf

My report on it: "Crown Motion to strike 150-gram & 1-year permit challenges" is at
https://groups.google.com/forum/#!topic/alt.fan.john-

turmel/g8xdm8RXY14

The Crown argues that since Mike is under the MMAR and hasn't had to see his doctor since 2014, he can't complain about the new Cannabis Regulations still limiting prescriptions to one year.

There are many out there who are affected by the Cannabis Regulations including Jeff Harris. So yesterday, Jeff filed the Statement of Claim for a declaration that the 1-year limit violates the rights of permanently-ill patients by making them waste time and resources for nothing.

So, though they might be able to strike Mike's claim because he doesn't have to visit his doctor yearly, yet, they can't say that about Jeff.

Now, the Feb 1 Response to the Crown's motion is going to mention how Jeff represents those who have permanent illness and don't want yearly visits at high costs too.

But what we really need is more than just Jeff. So why don't you who have permanent illnesses join him by filing the $2 Statement of Claim. If a dozen more plaintiffs file, the Crown will have that much tougher a time to strike the claim.

http://johnturmel.com/insyear.pdf has the claims and

instructions for the simple online efiling at the Court site. Takes 10 minutes to prepare the Claim and 10 minutes to get it filed.

Or prepare an excuse for why you let Jeff stand up for your rights but you did not.

THIS IS EXHIBIT "128" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

John KingofthePaupers Turmel Feb 7, 2019, 9:46:17 AM

to

TURMEL: Need more permanently-ill plaintiffs

JCT: http://johnturmel.com/insyear.pdf has the kit to file a $2 Statement of Claim challenging the 1-year maximum prescription allowed. You'll remember 5 years ago, annual medical documents for permanently-ill patients was one of the torts in our Gold Star Statement of Claim which Justice Phelan said was mooted by his striking down the MMPR without dealing with that point. Though he did say we could always challenge it again in a later regime. Which is what we are doing.

Mike Spottiswood was the first to file the kit. But the Crown has responded that he is still protected under the Allard MMAR injunction and doesn't need to see a doctor annually until that ends. Then he'll be able to complain, but not now.

So Jeff Harris filed the kit because he has a permanent condition. And we pointed out in our Response to the Crown's MMAR argument against Mike that Jeff had now filed the challenge against the year cap too. So if Mike isn't qualified to object, Jeff is.

On Feb 1 2019, Case Management Justice Brown issued the following Direction:
RE: Allan Harris v. HMTQ No: T-217-19
Pursuant to the filing of the Statement of Claim on Jan 31 2019, the Court (Mr. Justice Brown) issued the following Direction on Feb 1 2019:
"The Defendant is requested to make submissions as to how this file should proceed given the other files in this subject area by February 11 2019. The Plaintiff shall serve and file a response by February 18 2019 and the Defendant shall serve and file a Reply by February 25 2019."

JCT: The obvious answer is for the Crown to include Jeff's case with Mike's and now deal with someone who does have to pay for a doctor every year and make their case why he should have to undergo annual check-ups like Mike does not.

This complaint would be stronger if more permanently-ill patients filed the Statement of Claim with Jeff. And before they have to answer by Feb 18 in 11 days.

So if you're permanently-ill and tired of paying a doctor every tons of cash every year, why not take the $2 gamble and join Jeff in objecting. If a bunch more plaintiffs got filed, the Crown would not be so easily able to argue that the annual filing is proper.

So come on, if you paid a ton to your doctor for your permit, why not spend $2 to try to avoid having to waste that cash and time every year.

http://johnturmel.com/insyear.pdf has the easy instructions to get filed in under 10 minutes. Do take the 10 minutes to try to save yourselves an expensive wasted visit every year. You know the gremlins in government made up the year cap precisely in order to make it harder for the patients to get their medicine. Besides, won't this be a great trophy on your wall when it wins.

Remember that the original Gold Stars can point at their Statements of Claim and note that of their 20 torts objected to, not only could they win:

3) MMAR S.13(1), S.33(1), s42(1)(a); MMPR S.129(2)(a) and ACMPR S.8(2) require annual renewals for permanent diseases and then short-change them on the year.

but that they did win:

4) MMAR S.65(1); MMPR and ACMPR S.199(1)&(2), S.200(1)&(2) compel exemptees to destroy unused cannabis before receipt of new batch with no refund.

JCT: That rule is now gone.

12) MMAR and ACMPR fail to license any garden help.

JCT: Patients can now have a Responsible Person help them.

18) MMPR S.117(7), S.118 and ACMPR S.139(7) prohibit the Licensed Producer from returning or transferring the medical document back to the patient;

JCT: L.P.s can now return your medical document.

So several of our beefs have been corrected even though our claims were all dismissed. Guess Health Canada knew they'd be coming back.

Plus we stopped them from subtracting the time for processing by dating the permit when the doctor signed.

And we stopped permits from expiring while waiting for the renewal to be processed. So now you can gain time by getting your renewal in 3 days before expiry making your old permit last longer before getting your new permit for the full term from the date of issuance.

You might think that striking down the 1-year cap not so big a deal but when someone has to pay a couple of thousand for a permit, maybe getting a permanent permit with no more annual visits will save tons.

So if you have a permanent illness, do join Jeff in demanding no more annual medical documents. It will be a nice trophy win or lose. At least you objected. So take the 10 minutes and protest about it on the record.

THIS IS EXHIBIT "129" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

Federal Court Cour fédérale

Date: 20190507

Dockets: T-1765-18
T-1716-18
T-1913-18

Citation: 2019 FC 553

Ottawa, Ontario, May 7, 2019

PRESENT: The Honourable Mr. Justice Brown

Docket: T-1765-18

BETWEEN:

ALLAN J. HARRIS

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-1716-18

AND BETWEEN:

RAYMOND LEE HATHAWAY

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-1913-18

AND BETWEEN:

MIKE SPOTTISWOOD

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

ORDER AND REASONS

I. Nature of matters

[1] These reasons deal with the Crown's motion to strike the action brought by the Plaintiff Allan J Harris [Harris], and a motion brought by Harris for an order granting him interim relief against the possession and shipping limit of 150 grams of medical cannabis. These reasons also deal with related actions brought by the Plaintiffs Raymond Lee Hathaway [Hathaway], and Mike Spottiswood [Spottiswood], whose actions have been case-managed together with that of Harris. Harris and Hathaway are the lead cases in this group. Each Plaintiff seeks a declaration regarding the unconstitutionality of provisions relating to medical cannabis.

A. *Summary re Harris action*

[2] Harris is authorized to use 100 grams of cannabis for medical purposes each day, which works out to a kilogram every 10 days and approximately three kilograms a month. He seeks a

declaration that various provisions of the *Cannabis Regulations*, SOR/2018-144 [*Cannabis Regulations*] which impose a 150-gram cap on possession and shipment of cannabis in a public place are unconstitutional because they pose a threat of fines or incarceration on him and others with large prescriptions like his. Harris claims the 150-gram cap violates his rights to life, liberty, and security of the person under section 7, and discriminates against him contrary to his equality rights under section 15 of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 [*Charter*]. Harris submits that because of this cap he is unable to travel more than a day and a half away from his home.

[3] In summary, I am dismissing the Crown's motion to strike, save certain phrases in Harris' claim. In addition, I am granting Harris a ten-day exemption to the 150-gram possession and shipping cap, such that he may possess and ship 1,000 grams of medical cannabis.

B. *Summary re Hathaway action*

[4] Hathaway claims he is disabled by an inoperable tumour on the spine and has ACMPR Authorization to use 100 grams of cannabis each day. He seeks a declaration that various provisions of the *Access to Cannabis for Medical Purposes Regulations*, SOR/2016-230 [*ACMPR*] imposing a 150-gram cap on possessing and shipping cannabis are unconstitutional on the ground that they pose a threat of fines or incarceration to patients with larger prescriptions. The regulations Hathaway relies upon were repealed in 2018, he was given an opportunity to amend but did not and therefore his action is dismissed as moot.

C. *Summary re Spottiswood action*

[5] Spottiswood claims he has authorization to use cannabis for a "permanent medical condition" without further detail. He seeks a declaration that subsection 273(2) of the *Cannabis Regulations*, requiring that the period of use of a prescription, or "medical document", must not exceed one year, violates section 7 *Charter* rights to life and security of permanently ill patients such as himself. He claims that patients affected by the *Marihuana Medical Access Regulations*, SOR/2001-227 [*MMAR*] (the regulatory part of the medical marijuana regime in place between 2001 and 2014) whose permits were extended since 2014 have no problems remaining authorized without renewing their permits. In summary, I am striking Spottiswood's action as well without leave to amend.

II. History and basis of right to medical marijuana

[6] I outlined the basis of the right to medical marijuana in *Harris v Canada*, 2018 FC 765 [*Harris I*] at paras 11-12, and in doing so relied on the decision of *Allard v Canada*, 2016 FC 236, per Phelan J [*Allard action*]:

> [11] The right to possess and cultivate marijuana for medical purposes has been litigated in Canada for almost two decades. A brief overview of this history is provided by Phelan J. of this Court in *Allard v Canada*, 2016 FC 236, from which I take the following:
>
> > 1 This is a *Charter* challenge to the current medical marihuana regime under the *Marihuana for Medical Purposes Regulations*, SOR/2013-119 [MMPR] brought by four individuals. It is important to bear in mind what this litigation is about, and equally, what it is not about.
> >
> > 2 This case is not about the legalization of marihuana generally or the liberalization of its

recreational or life-style use. Nor is it about the commercialization of marihuana for such purposes.

3 This case is about the access to marihuana for medical purposes by persons who are ill, including those suffering severe pain, and/or life-threatening neurological conditions. Such persons also encompass those in the very last stages of their life.

4 This is another decision in a line of cases starting with *R v Parker*, (2000) 49 OR (3d) 481, 188 DLR (4th) 385 (ONCA) [*Parker*], and culminating in *R v Smith*, 2015 SCC 34, [2015] 2 SCR 602 [*Smith*], that have examined, often with a critical eye, the efforts of government to regulate the use of marihuana for medical purposes and the various barriers and impediments to accessing this necessary drug.

5 Like other cases, this most recent attempt at restricting access founders on the shoals of the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11 [the *Charter*], particularly s 7, and is not saved by s 1.

1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.	1. La *Charte canadienne des droits et libertés* garantit les droits et libertés qui y sont énoncés. Ils ne peuvent être restreints que par une règle de droit, dans des limites qui soient raisonnables et dont la justification puisse se démontrer dans le cadre d'une société libre et démocratique.

…	…
7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.	7. Chacun a droit à la vie, à la liberté et à la sécurité de sa personne; il ne peut être porté atteinte à ce droit qu'en conformité avec les principes de justice fondamentale.

> 6 The Court has concluded that the Plaintiffs' liberty and security interest are engaged by the access restrictions imposed by the MMPR and that the access restrictions have not been proven to be in accordance with the principles of fundamental justice.

> [12] Suffice it to say that the right to access marijuana and cannabis for medical purposes is guaranteed by the *Charter*, an undoubted legal matter having been decided by this Court, the Supreme Court of Canada, and as well, by Superior Courts in the provinces. In addition, the right of access to marijuana and other cannabis products for medical purposes is a right conferred upon individuals, on application, by the Governor in Council in subordinate legislation, i.e., regulations issued pursuant to the relevant legislation.

[7] The following relevant jurisprudence, legislation, and regulations set out the context for the parties' submissions and the Court's analysis:

- *R v Parker* (2000), 49 OR (3d) 481(CA), per Rosenberg JA [*Parker*] declared the marijuana prohibition in section 4 of the *Controlled Drugs and Substances Act*, SC 1996, c 19 [*CDSA*] invalid because it infringed the respondent's section 7 *Charter* rights to security of the person and liberty.

- Canada enacted the *MMAR* in 2001 in response to *Parker*. The 2014 pre-repeal version of the *MMAR* authorized possession of dried marijuana at 30 times the prescribed daily dosage; and provided the Authorization to Possess which expired 12 months after its date of issue: section 11, subsection 13(1). Notably there was no cap at that time.

- Canada introduced the *Marihuana for Medical Purposes Regulations*, SOR/2013-119 [*MMPR*] in 2013, which soon after repealed the *MMAR*. *MMPR* introduced a 150-gram possession cap on dried marijuana to the lesser of 30 times the daily dosage or 150 grams.

- Four *Allard* plaintiffs with daily dosages not exceeding 25 grams commenced actions in this Court to determine whether the then-new *MMPR* regime limited their *Charter* rights. They sought pre-trial relief to preserve their rights under the repealed *MMAR* provisions, including the absence of the cap on possession enacted in the *MMPR* regime. The cases were decided in *Allard v Canada*, 2014 FC 280, per Manson J, aff'd 2014 FCA 298 [*Allard motion*]. Justice Manson granted an interim pre-trial constitutional exemption to the *Allard* plaintiffs, based on section 7 of the *Charter*. Justice Manson allowed them to continue to rely on the Authorizations to Possess issued under the *MMAR*, and to continue to grow their own cannabis under the Personal Use Production Licenses or the licences of other designated persons issued under the repealed *MMAR* regime. However, Justice Manson, on the facts before him, did not relieve the *Allard* plaintiffs from the new 150-gram possession cap created by the *MMPR* because he was unconvinced it would subject the *Allard* plaintiffs to irreparable harm until trial: *Allard* motion at paras 126, 128.

- After Justice Manson's decision in the *Allard motion*, numerous claimants, including Spottiswood and a Plaintiff named in Schedule "A" in this proceeding (Arthur Jackes), brought actions in this Court based on "kits" downloaded from a website, claiming that both the repealed *MMAR* and the then-newly enacted *MMPR* regimes violated their section 7 *Charter* rights. Many of them moved for interim relief seeking constitutional exemptions from the prohibition against marijuana in the *CDSA* for personal use: *In re numerous filings seeking a declaration pursuant to s 52(1) of the Canadian Charter of Rights and Freedoms*, 2014 FC 537, per Phelan J [*Kit Case motion*] at paras 9, 10. Justice Phelan's Order dated June 4, 2014 stayed these actions pending a decision in the trial of the *Allard action*.

- In British Columbia, four plaintiffs challenged the validity of the *MMPR* as infringing their sections 6, 7, and 15 *Charter* rights. They had been prescribed daily dosages of 36, 60, 100, and 167 grams per day. They brought an application for an interim injunction/exemption to preserve and extend their authorization to produce, transport, store, and possess cannabis: *Garber v Canada (Attorney General)*, 2015 BCSC 1797, per Cullen ACJSC [*Garber*] at paras 1-3. The Associate Chief Justice made an Order on the same terms as had Justice Manson in the *Allard motion*, except that *Garber* went on to exempt the plaintiffs from the 150-gram possession cap imposed by the *MMPR*: *Garber* at para 148. The Associate Chief Justice said that "a determination of irreparable harm is case-specific" and found that the *Garber* plaintiffs are "constrained in their ability to travel for <u>any</u> reason [emphasis in original]" possibly contrary to sections 7 and 15 of the *Charter*: *Garber* at para 127. The *Garber* decision was not appealed.

- In 2016, Justice Phelan made a final determination regarding the *Allard action* plaintiffs' actions (daily dosages not exceeding 25 grams) and found the *MMPR* contrary to section 7 of the *Charter* and unconstitutional. However, Justice Phelan found the 150-gram possession cap to be constitutional: *Allard action* at paras 286-88. *Allard*'s motion

for reconsideration was dismissed in *Davey v Canada*, 2016 FC 492, by Phelan J [*Davey*]. This decision was not appealed.

- In response to the *Allard action*, Canada enacted a new medical cannabis regime in 2016, the *ACMPR*. The *ACMPR* retained the 150-gram possession cap.

- In 2017, Justice Phelan rendered his judgment *In re subsection 52(1) of the Canadian Charter of Rights and Freedoms*, 2017 FC 30 [*Kit Case judgment*]. All 316 actions were dismissed without leave to amend because the claims were moot, in that they relied on the repealed *MMAR* and *MMPR* regulations which by then had been repealed, the pleadings were deficient, the claims disclosed no reasonable cause of action, and were frivolous, vexatious, and an abuse of process.

- In 2018, Parliament enacted the *Cannabis Act*, SC 2018, c 16 [*Cannabis Act*] to generally legalize cannabis possession. However, the *Cannabis Act* continues to provide restrictions on the medical use of cannabis. Under the *Cannabis Act*, adults may possess up to 30 grams of dried cannabis in public.

- Also in 2018, the Governor in Council enacted the *Cannabis Regulations*, which replaced the *ACMPR*. In the result, clients registered on the basis of a "medical document" (which I liken to a prescription) and registered persons, among others, that is, users of cannabis for medical purposes are allowed to possess in public of the lesser of 150 grams or 30 times the daily quantity of dried cannabis authorized by their health care practitioner in a medical document. The *Cannabis Act* and *Cannabis Regulations* place no limits on possession in a non-public place. A health care practitioner is a medical practitioner or a nurse practitioner, as defined by reference to provincial legislation.

III. Issues

[8] The issues of Harris' Amended Statement of Claim [Harris claim] and Spottiswood's Statement of Claim [Spottiswood claim] will be discussed together. This Court will determine:

A. Hathaway
    i. Should Hathaway's Statement of Claim be struck?
B. Harris and Spottiswood
    ii. Should the Harris claim and or the Spottiswood claim be struck?
C. Should Harris be granted interim relief?

IV. Relevant legislation including regulations

[9] Subsection 272(1) of the *Cannabis Regulations* sets out who may authorize a "medical document" (prescription) for medical cannabis:

Authorization — health care practitioner	**Autorisation — praticien de la santé**
272 (1) A health care practitioner is authorized, in respect of an individual who is under their professional treatment and if cannabis is required for the condition for which the individual is receiving treatment,	272 (1) Si le cannabis est nécessaire en raison de l'état de santé d'un individu qui est soumis à ses soins professionnels, le praticien de la santé est autorisé, à l'égard de cet individu :
(a) to provide a medical document;	a) à fournir un document médical;
…	…

[10] A "health care practitioner" is defined as "except as otherwise provided, a medical practitioner or a nurse practitioner." A medical practitioner generally means an individual who is entitled under the laws of a province to practise medicine in that province. A nurse practitioner generally means an individual who is entitled under the laws of a province to practise as a nurse practitioner or an equivalent designation and is practising as a nurse practitioner or an equivalent designation in that province. See: *Cannabis Regulations*, subsection 264(1).

[11] A "medical document" is defined as "a document provided by a health care practitioner to support the use of cannabis for medical purposes": *Cannabis Regulations*, subsection 264(1).

A. *30- and 150-gram possession limits*

[12] Harris claims relief against the possession and shipping limits set out in the *Cannabis Regulations*.

[13] Paragraph 8(1)(a) of the *Cannabis Act* authorizes adults to possess cannabis in the amount equivalent to 30 grams of dried cannabis in a public place:

Possession	**Possession**
8 (1) Unless authorized under this Act, it is prohibited	8 (1) Sauf autorisation prévue sous le régime de la présente loi :
(a) for an individual who is 18 years of age or older to possess, in a public place, cannabis of one or more classes of cannabis the total amount of which, as determined in accordance with Schedule 3, is equivalent to more than 30 g of dried cannabis;	a) il est interdit à tout individu âgé de dix-huit ans ou plus de posséder, dans un lieu public, une quantité totale de cannabis, d'une ou de plusieurs catégories, équivalant, selon l'annexe 3, à plus de trente grammes de cannabis séché;
...	...

[14] Sections 266 and 267 of the *Cannabis Regulations* set out limits on possession in a public place for individuals in different circumstances. The limit is set at 150 grams of dried cannabis: for adults such as Harris: see paragraph 266(2)(b) (Client registered on basis of medical document), (3)(b) (Registered person). Harris also claims relief with reference to subsections 290(e) (Refusal – purchase order), 293(1) (Replacement of returned cannabis), paragraph 297(e)(iii) (Monthly reports), and subparagraph 348(3)(a)(ii) (Requirements – distribution or

sale) of the *Cannabis Regulations*, however in my view his claim falls under paragraph 266(3)(b) as a Registered person. As such he is entitled to possess "150 g of dried cannabis" in public.

[15] The 150-gram limit in the *Cannabis Regulations* referred to above is in addition to the amount authorized in the *Cannabis Act*: see section 268 of the *Cannabis Regulations*:

Cumulative quantities	**Cumul des quantités**
268 Any quantity of cannabis that an individual is authorized to possess under section 266 or 267 is in addition to any other quantity of cannabis that the individual may possess under the Act.	268 La quantité de cannabis qu'un individu est autorisé à avoir en sa possession au titre des articles 266 ou 267 s'ajoute à toute autre quantité de cannabis qu'il peut avoir en sa possession sous le régime de la Loi.

[16] Therefore the total cannabis limit for Harris is 180 grams in a public place. A "public place" is defined as "any place to which the public has access as of right or by invitation, express or implied, and any motor vehicle located in a public place or in any place open to public view": *Cannabis Act*, subsection 2(1).

[17] There is no prescribed limit to possession of cannabis in a non-"public place" such as a home or private dwelling, in either the *Cannabis Act* or the *Cannabis Regulations*.

B. *150-gram limit on shipping*

[18] Harris also claims relief with reference to a 150-gram cap on shipping cannabis. The provisions of the *Cannabis Regulations* that impose this limit in relation to shipping are: paragraph 290(1)(e) (Refusal – purchase order); subsection 293(1) (Replacement of returned

cannabis); and subparagraphs 297(1)(e)(iii) (Monthly reports) and 348(3)(a)(ii) (Requirements – distribution or sale).

C. *Duration of prescription or medical document*

[19] Spottiswood claims relief with reference to subsection 273(2) of the *Cannabis Regulations*, which prescribes the maximum period of use of a medical document:

Maximum period	**Période maximale**
273 (2) The period of use specified in a medical document must not exceed one year.	273 (2) La période d'usage indiquée dans le document médical ne peut excéder un an.

V. Law on a motion to strike

[20] I reviewed the law on a motion to strike in *Harris I* referred to above, at paras 14-18:

> [14] In *Lee v Canada*, 2018 FC 504, at para 7, Heneghan J stated the following in respect of the test for motions to strike:
>
> > The test upon a motion to strike a pleading is set out in the decision in *Hunt v. Carey Canada Inc.*, [1990] 2 S.C.R. 959, that is whether it is plain and obvious that the pleading discloses no reasonable cause of action. According to the decision in *Bérubé v. Canada (2009)*, [2009 FC 43] at paragraph 24, a claim must show the following three elements in order to disclose a reasonable cause of action
> >
> > i. Allege facts that are capable of giving rise to a cause of action
> >
> > ii. Indicate the nature of the action which is to be founded on those facts, and

iii. Indicate the relief sought, which must be of a type that the action could produce and that the court has jurisdiction to grant

[15] The moving party bears the onus of meeting the test set out by the Supreme Court of Canada in *Hunt v Carey Canada Inc*, [1990] 2 SCR 959 [*Hunt*]: *Al Omani v Canada*, 2017 FC 786 per Roy J. at paras 12-16:

> [12] The test to strike a claim under Rule 221 sets a high bar. First, it is assumed that the facts stated in the statement of claim can be proven. The Court must be satisfied that it is plain and obvious that the pleading discloses no reasonable cause of action assuming the facts pleaded are true: *R v Imperial Tobacco Canada Ltd.*, 2011 SCC 42, [2011] 3 SCR 45 at para 17; *Hunt v Carey Canada Inc*, [1990] 2 SCR 959 [*Hunt*] at p 980. The Defendant bears the onus of meeting this test: *Sivak v Canada*, 2012 FC 272, 406 FTR 115 [*Sivak*] at para 25.
>
> [13] In *Hunt*, the Supreme Court sided with the articulation of the rule in England to the effect that "if there is a chance that the plaintiff may succeed, then the plaintiff should not be "driven from the judgment seat" (p. 980). A high bar indeed to succeed on a motion to strike. Some chance of success will suffice or, as Justice Estey said in *Att. Gen. of Can. v Inuit Tapirisat et al*, [1980] 2 SCR 735, "(o)n a motion such as this a court should, of course, dismiss the action or strike out any claim made by the plaintiff only in plain and obvious cases and where the court is satisfied that "the case is beyond doubt" (p.740).
>
> [14] To show a plaintiff has a reasonable cause of action, the statement of claim must plead material facts satisfying every element of the alleged causes of action: *Mancuso v Canada (National Health and Welfare)*, 2015 FCA 227, 476 NR 219 [*Mancuso*] at para 19; *Benaissa v Canada (Attorney General)*, 2005 FC 1220 [*Benaissa*] at para 15. The plaintiff needs to explain the "who, when, where, how and what" giving rise to the Defendant's liability (*Mancuso*, para 19, *Baird v Canada*, 2006 FC 205 at paras 9-11, affirmed in 2007 FCA 48).

> [15] Thus, there appears to be a balance. On one hand, a chance of success is enough for the matter to proceed. On the other, the material facts must be pleaded in sufficient detail such that the cause of action may exist. The purpose of pleadings is to give notice to the opposing party and define the issues in such a way that it can understand how the facts support the various causes of action. As the Court of Appeal put it in *Mancuso*, "(i)t is fundamental to the trial process that a plaintiff plead material facts in sufficient detail to support the claim and relief sought" (para 16). The Plaintiffs note that pleadings can still proceed despite being "far from models of legal clarity" (*Manuge v Canada*, 2010 SCC 67, [2010] 3 SCR 672 at para 23). But it remains that adequate material facts must be pleaded. Parties cannot make broad allegations in their statement of claim in the hope of later going on a "fishing expedition" to discover the facts: *Kastner v Painblanc* (1994), 176 NR 68, 51 ACWS (3d) 428 (FCA) at p.2.

[16] On motions to strike, no evidence outside the pleadings may be considered (except in limited instances that do not apply here). This is expressly enacted by Rule 221(2) and confirmed by the authorities: *Pelletier v Canada*, 2016 FC 1356 [*Pelletier*] per Leblanc J. at para 6:

> [6] As is well-settled too, no evidence outside the pleadings may be considered on such motions and although allegations that are capable of being proven must be taken as true, the same does not apply to pleadings which are based on assumptions and speculation and to those that are incapable of proof (*Imperial Tobacco*, at para 22; *Operation Dismantle v The Queen*, [1985] 1 SCR 441, at p. 455 [*Operation Dismantle*]; *AstraZeneca Canada Inc. v Novopharm Ltd.*, 2009 FC 1209 at paras 10-12).

[17] In *Pelletier*, Leblanc J. also stated that while a Statement of Claim must be read as generously as possible with a view to accommodating any inadequacies due to drafting deficiencies, the claimant must plead the facts upon which he makes his claim and is not entitled to rely on the possibility of new facts turning up as the case progresses:

> [7] In this regard, while the Statement of Claim must be read as generously as possible with a view to accommodating any inadequacies due to drafting deficiencies (*Operation Dismantle*, at p. 451), it is incumbent on the claimant to clearly plead the facts at the basis of its claim:
>
> > [22] […] It is incumbent on the claimant to clearly plead the facts upon which it relies in making its claim. A claimant is not entitled to rely on the possibility that new facts may turn up as the case progresses. The claimant may not be in a position to prove the facts pleaded at the time of the motion. It may only hope to be able to prove them. But plead them it must. The facts pleaded are the firm basis upon which the possibility of success of the claim must be evaluated. If they are not pleaded, the exercise cannot be properly conducted". (*Imperial Tobacco*) *(My emphasis)*

[18] In *Mancuso v Canada (National Health and Welfare)*, 2015 FCA 227, the Federal Court of Appeal said at paras 16-17 that plaintiffs must plead material facts in sufficient detail to support the claim and relief sought:

> [16] It is fundamental to the trial process that a plaintiff plead material facts in sufficient detail to support the claim and relief sought. As the judge noted "pleadings play an important role in providing notice and defining the issues to be tried and that the Court and opposing parties cannot be left to speculate as to how the facts might be variously arranged to support various causes of action."

VI. Parties' positions and analysis

A. *The Hathaway claim*

[21] I will deal with the Hathaway claim first. It is based on statutory and regulatory frameworks that have been repealed. It discloses no cause of action because the requested relief cannot be granted. I allowed Hathaway to amend his claim, so that he could refer to the current *Cannabis Act* and *Cannabis Regulations*. He chose not to do so. Nor did he file any material in support of his claim. I see no point in granting leave to amend again, and decline to do so. The Hathaway claim will be dismissed without leave to amend.

B. *The Harris and Spottiswood claims*

[22] The Defendant submits several bases for striking the Harris and Spottiswood claims. I will review the following issues to determine whether the Harris and/or Spottiswood claims should be struck: (1) Are the Plaintiffs attempting to relitigate their prior claims? (2) Is the Court's previous affirmation of the constitutionality of possession limits and the annual medical authorization requirement binding? (3) Do theses actions fail to disclose a reasonable cause of action? (4) Are the actions scandalous, frivolous, and vexatious?

(1) Are the Plaintiffs attempting to relitigate their prior claims?

Defendant's position

[23] The Defendant submits these Plaintiffs are attempting to relitigate prior claims contrary to judicial comity being an abuse of process. Rule 221(1)(f) of the *Federal Courts Rules*, SOR/98-106 provides:

Motion to strike	**Requête en radiation**
221(1) On motion, the Court may, at any time, order that a pleading, or anything contained therein, be struck out, with or without leave to amend, on the ground that it	221 (1) À tout moment, la Cour peut, sur requête, ordonner la radiation de tout ou partie d'un acte de procédure, avec ou sans autorisation de le modifier, au motif, selon le cas :
...	...
(f) is otherwise an abuse of the process of the Court,	f) qu'il constitue autrement un abus de procédure.
…	…

[24] The Defendant submits that the Federal Court of Appeal characterizes judicial comity as an aspect of *stare decisis*, only to be departed from where there are strong/cogent reasons for doing so: *Apotex Inc v Pfizer Canada Inc*, 2013 FC 493, per O'Reilly J, aff'd 2014 FCA 54 [*Apotex*] at paras 11-15. Strong reasons means the Plaintiffs must establish either subsequent decisions have affected its validity; the prior decision failed to address some binding case law or statute; or the prior decision was unconsidered or given in circumstances where trial exigencies did not allow for full argument: *Apotex* at para 14.

[25] Further, the Defendant submits abuse of process bars proceedings where *res judicata* requirements are not met but a party nevertheless attempts to relitigate issues in a manner, potentially undermining the integrity of the administration of justice: *Toronto (City) v CUPE, Local 79*, 2003 SCC 63 [*CUPE*] at para 35. If a matter is relitigated and the same result is reached, relitigation will have been a waste of resources and judicial economy will be undermined. Conversely, if a different result is reached, the inconsistency will undermine the entire judicial process by diminishing its authority, credibility and aim of finality: *CUPE* at para 51.

[26] Harris and Spottiswood brought prior kit claims alleging *MMAR* and *MMPR* provisions infringed patients' section 7 *Charter* rights. Like the current claims, their prior claims challenged the constitutionality of the prohibition on the 150-gram possession cap and requirements for the annual medical authorization to use cannabis. The prior claims were adjudicated in the *Kit Case judgment*, which struck the claims because they contained a "dearth of detail" concerning the plaintiffs' personal circumstances, the pleadings were frivolous and vexatious, and raised matters of settled law, and for judicial comity of the *Allard action*.

[27] The Defendant also submits there is no suggestion prior proceedings are tainted by fraud or that it would be unfair to apply the prior findings to this case. Moreover, the claims are an abuse of process because it was open to the Plaintiffs to appeal their prior claims, but they declined to do so. And there is no reason Harris could not have raised his section 15 of the *Charter* claims before, which the Defendant submits is a further abuse of process.

Plaintiffs' position

[28] Harris submits (for himself and others, a point to which I will return) their claims raise sufficient facts. While the Defendant criticizes their alleged "dearth" of facts, the Plaintiffs submit the real issue is whether the facts are "enough" to support the essential elements of the constitutional causes of action. The facts in the Harris claim are the same necessary facts found sufficient in *Garber*: (a) the Plaintiff has a medical authorization for (b) 100 grams per day meaning he cannot carry enough for more than 1.5 days away from home and needs 20 costly couriers a month, 240 per year. These were the same facts relied upon by *Garber* plaintiff Boivin (who likewise had permission to use 100 grams per day) which was sufficient to establish a possible violation of Boivin's section 7 and 15 rights.

[29] As I understand them, the Plaintiffs agree the 150-gram possession cap and one-year medical document renewal requirement (raised by Spottiswood) were raised previously, but they distinguish their cases on the facts. The Court notes that the 150-gram possession cap was upheld by Justice Manson in the *Allard* motion and by Justice Phelan in the *Allard action*. The Court also notes that the one-year medical authorization renewal requirement was upheld in *R v Beren*, 2009 BCSC 429, leave to appeal refused 2009 SCCA No 272 [*Beren*] at paras 33(e), 94-95; see also the *Kit Case judgment* by Justice Phelan at para 36 who held the general requirement for medical authorization is constitutional.

[30] The Plaintiffs submit the *Allard action* did not consider an allegation of "fraudulent scientific evidence leading to genocidal undermedication."

[31] Regarding the necessity of "cogent reasons", the Plaintiffs note that *Garber* granted high-dose users (like Harris) a ten-day supply by way of constitutional exemption in excess of the 150-gram possession cap, resulting in one 167-gram-per-day patient having a possession limit over 1.6 kilograms every ten days. There is a difference the Plaintiffs submit, in the evidence and patient dosage from the motion before Justice Manson, who heard from low-dose users, i.e. those with medical authorizations for 5 to 25 grams per day.

[32] As for not raising section 15 before, the Plaintiffs submit there are more plaintiffs now who were not present then, and that they are raising section 15 equality rights for the first time right now. They submit there is no reason not to allow others to rely on section 15.

Analysis

[33] In my view and based on the facts pleaded in his Statement of Claim, which as required I accept as true, Harris has a medical document entitling him to a very high dose of medical cannabis-100 grams per day. It is clear to me that Harris and others like him are in a very different factual situation from the Plaintiffs before the Court in the *Allard motion* and *Allard action*: they only had permission to use between 5 and 25 grams per day. Harris has permission to use far more medical cannabis—between four and twenty times that amount every day.

[34] Frankly, the amount Harris has been prescribed is extraordinarily high: it is in some months more than 3 kilograms. Harris does not state the nature of his illness, nor why he needs so much medical cannabis. At one point the Defendant suggests such a high dose might only be justified by a terminal medical condition. But the Defendant does not submit that Harris must

plead the nature of his illness or why so much is required, nor am I persuaded Harris or Spottiswood should be required to do so. The determination of what is required to treat Harris' medical condition is for the prescribing health care professional to decide, not the Court, at least for the purposes of a motion to strike or for interim relief.

[35] The 2018 *Cannabis Regulations* enacted by the Governor in Council allow "medical practitioners" and "nurse practitioners" as defined in the province concerned to issue prescriptions for medical cannabis; these prescriptions are called "medical documents." I take it as a given on the motion to strike—as I must—that Harris' medical practitioner or nurse practitioner, whichever signed his medical document, approved his very large prescription. If the Defendant seeks to challenge the amount prescribed, contrary evidence is required. However, the Defendant didn't file contrary evidence to that effect, nor is such evidence generally allowed on a motion to strike.

[36] I conclude the facts pleaded here significantly depart from those before Justices Manson and Phelan in the *Allard* matters.

[37] Another distinguishing factor between the case at bar and the *Allard* matters is that the Harris action is brought within a completely new access to cannabis regime, enacted by Parliament in 2018 to generally legalize possession and use, within limits. Access to medical cannabis is no longer a carve-out from a highly restricted criminal law regime set up by the *CDSA*; the current medical cannabis regime now fits within an entirely new framework and context of generally legalized access to cannabis.

[38] I also note that the *Kit Case* judgment did not deal with or focus upon high dose profile medical cannabis users such as Harris.

[39] The effect of the previous jurisprudence is also attenuated because in the interim, a constitutional exemption from the 150-gram possession cap was granted by the Associate Chief Justice of the Supreme Court of British Columbia in the *Garber* case, albeit on an interim basis (as is sought here on the interim motion). The *Garber* case involved high-dose users with authorization to use between 36 and 167 grams per day for medical purposes, the latter being an even higher dose than prescribed to Harris in the case at bar. *Garber* changed the legal environment; *Garber* does not seem to have been appealed.

[40] Given these factors I am not persuaded the Harris claim involves a relitigation of either the *Allard* or *Kit Case* matters. Thus, and with respect, I have concluded comity does not apply. In addition, I am not satisfied the Defendant has established an abuse of process; with respect there is no merit to that submission.

(2) Is the Court's previous affirmation of the constitutionality of possession limits and the annual medical authorization requirement binding?

Defendant's position

[41] The Defendant says that this Court previously affirmed the constitutionality of the 150-gram possession cap in the *Allard action* and did so again in *Davey*, which dismissed the motion for reconsideration of the *Allard action*: *Davey* at para 28. The Defendant submits the Plaintiffs do not raise a cogent reason why the Court should depart from the *Allard action*.

[42] Further, regarding the Plaintiffs' argument on the high- versus low-dose users of medical cannabis, the Defendant submits that while the four *Allard* plaintiffs were authorized to use 5 to 25 grams per day, there was evidence in *Allard* of patients authorized to use larger quantities, some in excess of 100 grams. Nevertheless this Court deemed the 150-gram possession cap constitutional.

[43] Moreover, the Defendant says no weight should be given to *Garber* on a motion to strike. The Defendant submits decisions granting interlocutory injunctions have no bearing on subsequent motions to strike for no reasonable cause of action, given the significantly different tests involved in the two motions: *Coca-Cola Ltd v Pardhan* (1999), 172 DLR (4th) 31 (FCA), per Strayer JA at para 30. Even if the interlocutory injunction decisions were relevant, Justice Manson rejected a similar request for interlocutory exemption from the 150-gram possession cap, and the decision was affirmed on appeal.

[44] The requirement for medical authorization to use cannabis has consistently been held constitutional: *Hitzig v Canada* (2003), 231 DLR (4th) 104 (Ont CA) [*Hitzig*] at paras 138-45, leave to appeal refused 2004 SCCA No 5 ("[j]ust as physicians are relied on to determine the need for prescription drugs, it is reasonable for the state to require the medical opinion of physicians here" at para 139); *Beren* ("we conclude that the *MMAR* implicate the right of security of the person of those with the medical need to take marihuana" at para 95); *Kit Case judgment* ("It is settled law ... that the requirement for medical authorization is constitutionally sound" at para 36). *Hitzig* notes its holding may be revisited if physician participation ever declined to a point that a medical exemption was practically unavailable: at para 139. However,

Spottiswood does not raise this, but instead appears to take issue with patients needing to annually visit a health care practitioner. *Beren* rejects a similar argument that the requirement for annual renewal was arbitrary as applied to terminally ill patients and those with prescribed chronic conditions.

Plaintiffs' position

[45] The Plaintiff Harris says that the *Allard action*'s discussion of the 150-gram possession cap considered relatively trivial inconveniences. For a 25-gram patient to not leave home for more than six days and replenish five times a month seems minor. However the 150-gram possession cap is grossly disproportional for a person with approval to use far larger amounts of medical cannabis. This is evidenced where Justice Phelan said in his reasons, "[t]he possession cap still allows one to possess more than their necessary amount of marijuana": *Allard action* at para 288. This is not true of those allowed to use far larger amounts for medical purposes.

[46] Further, the *Allard* plaintiffs sought a declaration to strike the 150 gram per day possession in a public place cap so as to leave no maximum cap; however, the court would not grant such an overbroad remedy. Here, however the Plaintiffs only seek to strike the "150 gram maximum"; but not the "30-day maximum" cap.

[47] Regarding reliance on *Garber*, the Plaintiffs submit the decision's finding that high-dose users would suffer irreparable harm is now in evidence; and there have been no decisions in this Court dealing with high-dose medical cannabis users and dying patients; whereas *Garber* deals

with such and disposes of Justice Manson's limit. Moreover, the "Defendant did not point out the different tests for Applicants herein seeking the same remedy for the same harms."

[48] As for the one-year prescription renewal requirement, which Spottiswood raises, the Plaintiffs submit the Defendant misleads this Court in asserting several courts affirmed the constitutionality of requirements for annual medical authorization to use cannabis for medical purposes, when not one court has affirmed it. While the constitutional requirement for medical authorization to use cannabis is settled law, *annual* medical authorization is not, and neither adjudicated in *Beren* nor the *Allard action*.

Analysis

[49] Regarding the constitutionality of the 150-gram possession cap, the Defendant correctly argues that this Court in the *Allard action* found it constitutionally sound. However, in my view the facts were very different. The permitted medical authorizations in this case are at least double and in many cases many multiples of the maximum amounts allowed to the *Allard* plaintiffs. The *Allard* plaintiffs had permits for 5 to 25 grams while Harris has a prescription or medical document authorizing 100 grams per day which is twenty times the *Allard* low end of 5 grams, and four times the *Allard* high end of 25 grams per day. None of the *Allard* plaintiffs had daily dosages exceeding 25 grams.

[50] For a 25-gram patient to not leave home for more than six days and be required to replenish five times a month does seem relatively minor. Even more minor is the situation for a 5-gram a day patient to have to renew every 30 days, when compared to the impact of a 150-

gram possession cap. The impact of the 150-gram possession cap, in my view, is grossly disproportional for a person with medical approval to use the very large amounts of medical cannabis as in this case. Harris in this context must renew every day and a half if he travels away from his home.

[51] While the Defendant is correct in submitting evidence existed in the *Allard action* that there were individuals with higher permitted uses than 25 grams, the profile of high-dose users was not expressly discussed within paragraphs 286 to 288 where Justice Phelan decided the constitutionality of possession limits.

[52] This submission of the Defendant overlaps with the argument on relitigation and comity. As already noted, the facts are remarkably different between the Harris case and the previous jurisprudence. So too might the ultimate outcome if this matter proceeds to trial as, in my view, it should.

[53] In my view, the Harris action is sufficiently different from the previous litigation such that the previous litigation does not predetermine the result in the case at bar. The Harris action will not be struck on this basis because in my view it cannot be said it has no chance of success; see *Hunt v Carey Canada Inc*, [1990] 2 SCR 959, per Wilson J [*Hunt*] at para 24:

> [24] In England, then, the test that governs an application under R.S.C., O. 18, r. 19, has always been and remains a simple one: assuming that the facts as stated in the statement of claim can be proved, is it "plain and obvious" that the plaintiff's statement of claim discloses no reasonable cause of action? ... But if there is a chance that the plaintiff might succeed, then that plaintiff should not be "driven from the judgment seat". Neither the length and complexity of the issues of law and fact that might have to be

> addressed nor the potential for the defendant to present a strong defence should prevent a plaintiff from proceeding with his or her case. Provided that the plaintiff can present a "substantive" case, that case should be heard.

[54] I wish to add that compelling arguments supporting a decision to grant an interlocutory injunction may be equally compelling to defeat a motion to strike.

[55] However, the Spottiswood claim that there should be no requirement that medical documents or prescriptions be renewed annually should be struck. I say this for several reasons. While the *Allard action* and the *Kit Case judgment* did not specifically discuss *annual* medical authorizations, the *Kit Case judgment* does affirm the constitutionality of medical authorizations. I accept the Defendant's submission that the requirement for medical authorization to use cannabis has also been consistently held constitutional in *Hitzig* and *Beren* at paras 94-95 ("we conclude that the *MMAR* implicate the right of security of the person of those with the medical need to take marihuana" at para 95). Also relevant is the *Kit Case judgment* ("It is settled law ... that the requirement for medical authorization is constitutionally sound" at para 36). *Beren* rejected a similar argument that the requirement for annual renewal was arbitrary as applied to terminally ill patients and those with prescribed chronic conditions.

[56] In my respectful view, there is no chance Spottiswood may succeed. While the one-year renewal requirement for medical documents may at most be an inconvenience, there have been no facts pleaded to establish it is a violation of section 7. In my view, the requirement to renew the medical document is a reasonable requirement and in general, the medical authorization is constitutional. In addition, Spottiswood's claim does not even indicate he possesses a current

medical authorization to use cannabis. He provides no facts regarding the current annual medical authorization or how it impacts his section 7 *Charter* rights. If he is simply alleging he should not have to visit a health care practitioner once a year, this inconvenience does not engage the *Charter*. I see no purpose in allowing an amendment to his claim.

[57] Spottiswood's action will be dismissed without leave to amend.

[58] The Plaintiffs named in Schedule "B" are case managed with Spottiswood because they also challenge the one-year renewal requirement of medical documents under subsection 273(2) of the *Cannabis Regulations*. While two of the three Plaintiffs in Schedule "B" include in their pleadings the amount they paid for their last annual medical document, I am of the view that these payments do not add materially to the merit of the constitutional issue they raise. The same reasons given in respect of Spottiswood apply to the Schedule "B" Plaintiffs. Therefore the actions of Plaintiffs named in Schedule "B" shall be dismissed without leave to amend.

(3) Does the Harris claim fail to disclose a reasonable cause of action?

[59] Rules 174, 181(1)(a), (b), 221(1)(a), and 221(2) of the *Federal Courts Rules* provide:

Material facts	**Exposé des faits**
174 Every pleading shall contain a concise statement of the material facts on which the party relies, but shall not include evidence by which those facts are to be proved.	174 Tout acte de procédure contient un exposé concis des faits substantiels sur lesquels la partie se fonde; il ne comprend pas les moyens de preuve à l'appui de ces faits.
...	...

Particulars

181 (1) A pleading shall contain particulars of every allegation contained therein, including

(a) particulars of any alleged misrepresentation, fraud, breach of trust, wilful default or undue influence; and

(b) particulars of any alleged state of mind of a person, including any alleged mental disorder or disability, malice or fraudulent intention.

...

Motion to strike

221(1) On motion, the Court may, at any time, order that a pleading, or anything contained therein, be struck out, with or without leave to amend, on the ground that it

(a) discloses no reasonable cause of action or defence, as the case may be,

...

Evidence

(2) No evidence shall be heard on a motion for an order under paragraph (1)(a).

Précisions

181 (1) L'acte de procédure contient des précisions sur chaque allégation, notamment :

a) des précisions sur les fausses déclarations, fraudes, abus de confiance, manquements délibérés ou influences indues reprochés;

b) des précisions sur toute allégation portant sur l'état mental d'une personne, tel un déséquilibre mental, une incapacité mentale ou une intention malicieuse ou frauduleuse.

...

Requête en radiation

221 (1) À tout moment, la Cour peut, sur requête, ordonner la radiation de tout ou partie d'un acte de procédure, avec ou sans autorisation de le modifier, au motif, selon le cas :

a) qu'il ne révèle aucune cause d'action ou de défense valable;

...

Preuve

(2) Aucune preuve n'est admissible dans le cadre d'une requête invoquant le motif visé à l'alinéa (1)a).

[60] In *Hunt* at para 37, the Supreme Court of Canada stated:

> [37] The question therefore ... is whether it is "plain and obvious" that the plaintiff's claims ... disclose no reasonable cause of action or whether the plaintiff has presented a case that is "fit to be tried" ....

[61] The Defendant submits it is "plain and obvious" the Harris claim fails to disclose a reasonable cause of action. The requirement to plead material facts is heightened in *Charter* cases; the Supreme Court of Canada cautions that *Charter* decisions must not be made in a "factual vacuum": *MacKay v Manitoba*, [1989] 2 SCR 356 at para 9. The Defendant submits the Plaintiffs fail to disclose a reasonable cause of action under section 7 of the *Charter*, because they fail to demonstrate both a deprivation of life, liberty, or security of the person that is attributed to legislation or state action, and that such deprivation is inconsistent with a principle of fundamental justice, as required by *Carter v Canada*, 2015 SCC 5 [*Carter*]. As to the right to life, the Plaintiffs do not allege any terminal medical condition or provisions that restrict access to cannabis in a manner that risks their lives. As to liberty and security of the person, the Defendant "acknowledges that the former right is engaged in the limited sense that individuals possessing or producing cannabis outside the scope of the Act and Regulations are guilty of an offence potentially punishable by imprisonment": *Cannabis Act*, subsection 8(2) and section 51. However, the Defendant submits the Plaintiffs do not plead facts to show these rights are otherwise engaged. While provisions may make it less convenient to use cannabis, there is no suggestion they substantially restrict the Plaintiffs' medical decisions by preventing them from lawfully accessing adequate treatment.

[62] With respect, I disagree. In my view, sufficient facts are pleaded to establish a section 7 violation—Harris has a prescription for 100 grams of medical cannabis a day, yet he cannot carry even two days' worth outside his home. Unlike other Canadians he is unable to travel anywhere more than a day and a half from home. If he does so he is liable to prosecution punishable by fine and or imprisonment for breach of the *Cannabis Act* and/or the *Cannabis Regulations* depending on the charge.

[63] In effect Harris is under a form of home arrest brought about solely because of the inadequately low cumulative total possession limit manifesting itself in the circumstances of his particular case. With respect, this is an injustice, and more to the point on the motion to strike, this fact likely establishes a material breach of Harris' rights to liberty guaranteed by section 7 of the *Charter*. I say this having regard to the law that an individual's liberty interest, according to the Supreme Court of Canada, is engaged where state compulsions or prohibitions affect important and fundamental life choices: see *Blencoe v British Columbia (Human Rights Commission)*, 2000 SCC 44 at para 49:

> [49] The liberty interest protected by s. 7 of the *Charter* is no longer restricted to mere freedom from physical restraint. Members of this Court have found that "liberty" is engaged where state compulsions or prohibitions affect important and fundamental life choices. ...

[64] The restrictions imposed on Harris' right to travel outside his home town affect important and fundamental life choices.

[65] I note the Defendant does not argue section 1 of the *Charter*.

[66] That said, the Defendant suggests Harris may travel away from home if he directs shippers to send small amounts to different addresses every day or so along his way. I need not discuss this issue given my conclusion. However in my respectful view, the cost and great impracticality of shipping many additional supplies of cannabis every day and a half, while Harris attempts to travel outside his home city for a week or two, for example, puts paid to this submission.

[67] In the context of shipping, I note in addition that Harris requests and in my view needs an exemption from the 150-gram shipping limit as well, or he will be no further ahead with an exemption from the 150-gram possession limit under the *Cannabis Regulations*. The results on the motion to strike the claim for an increased possession limit therefore will apply to the claim for an increase in the shipping limit.

[68] I find no merit in the Defendant's submission that Harris does not in detail explain how shipping costs infringe his section 7 rights. In fact, Harris pleads in his Amended Statement of Claim:

> [44] The shipping costs for a 150-gram package by Priority Post is about $35. A 50 gram per day patient needs a shipment every 3 days, a minimum 10 shipments a month. A 100-gram per day patient needs 20 shipments a month, every day and a half. A 200-gram per day patient needs 40 shipments a month, one every every [*sic*] 18 hours. A 300-gram per day patient needs 60 shipments a month, every 12 hours.
>
> [45] Canada Post does not deliver on week-ends. A 50-gram patient would need 150 grams delivered on Friday to last 3 days until Monday. A new 100 grams delivered on Monday to last until Wednesday, and 100 grams delivered on Wednesday to last to Friday. Three Priority Posts a week, 156 a year! At $35 per delivery, that's over $5,000 a year in shipping costs. With over 50 grams per day, it is impossible not to run short over a weekend.

[69] The fact the treatment afforded to Harris arises because he suffers from a medical condition leads me to strongly suggest that the cumulative cap also offends his rights under section 15 of the *Charter*: there is in this case what appears to be a distinction based on a specific enumerated ground, namely "disability." It may be found discriminatory in the sense that it fails to respond to the claimant's actual capacities or reinforces or perpetuates existing disadvantage, namely his disability: *Kahkewistahaw First Nation v Taypotat*, 2015 SCC 30, at paras 19-20.

[70] Respectfully, I disagree with the Defendant that the Harris claim fails to disclose a reasonable cause of action under either sections 7 or 15 of the *Charter*. In my respectful view, there is a possibility that Harris' claim may succeed on both. I am certainly unable to say his pleadings fail to disclose a reasonable cause of action, that is, his claim has no chance of success. Therefore the Harris claim will not be struck on these grounds. Moreover, in my respectful view, some of the suggested alternatives put forward by the Defendant are unreasonable and impractical.

[71] Harris also pleads and relies upon his rights to life and security of the person. I am not satisfied Harris has established in his pleadings that the law in question imposes death or an increased risk of death on him either directly or indirectly: *Carter* at para 62; and see *Chaoulli v Quebec (Attorney General)*, 2005 SCC 35 at para 123. Therefore his pleadings respecting right to life under section 7 of the *Charter* will be struck, which is set out in paragraph 1of his Amended Statement of Claim.

[72] In terms of security of the person, Harris has pleaded sufficient facts to permit the Court to find the 150-gram possession and shipping caps give rise to a likely infringement of his right to security of the person, in that without an exemption should he exercise his *Charter*-protected right to travel more than a day and a half from his home, he is subject to prosecution for violation of the *Cannabis Regulations*. The law provides that if a prosecution is successful, Harris might be subject to both fines and imprisonment. In terms of imprisonment, I note that breach of paragraph 8(1)(a) of the *Cannabis Act* carries a maximum term of imprisonment of five years less a day if prosecuted by indictment: *Cannabis Act*, subparagraph 8(2)(a)(i). In my respectful view, the imposition of a term of imprisonment would in the circumstances in which Harris finds himself, for medical reasons, would likely constitute an infringement of Harris' right to security of the person contrary to section 7 of the *Charter*.

(4) Are the claims scandalous, frivolous, and vexatious?

[73] Rule 221(1)(c) of the *Federal Courts Rules* provides:

Motion to strike	**Requête en radiation**
221(1) On motion, the Court may, at any time, order that a pleading, or anything contained therein, be struck out, with or without leave to amend, on the ground that it	221 (1) À tout moment, la Cour peut, sur requête, ordonner la radiation de tout ou partie d'un acte de procédure, avec ou sans autorisation de le modifier, au motif, selon le cas :
...	...
(c) is scandalous, frivolous or vexatious,	c) qu'il est scandaleux, frivole ou vexatoire;
…	…

[74] Common hallmarks of scandalous, frivolous or vexatious proceedings include the relitigation of issues that have already been determined and the bringing of claims that are so bereft of material facts that the defendant cannot know how to answer: *Sivak v Canada*, 2012 FC 272 at para 92 [*Sivak*]. There is no merit to this suggestion in this case given the findings I have already made.

[75] A pleading is frivolous and vexatious if it is argumentative or includes statements that are irrelevant, incomprehensible, or inserted for colour: *Sivak* at paras 5, 77-78, 88-89. Here, for example, Harris repeatedly claims possession limits are based on "fraudulent" Health Canada survey data. The Harris claim compares Canada's reliance on this data to an act of criminal genocide; claims a Health Canada official "[c]an't even do basic division right"; and employs mocking language to refer to Health Canada's evidence in the *Allard action*: Harris claim at paras 37, 11, 26.

[76] I agree some of Harris' language goes too far, and will strike all references to genocide, criminality, fraud and fraudulent conduct, as well as statements employing mocking language, as frivolous and vexatious: see for example paragraphs 9 ("To further that aim, on Feb 7 2014, Health Canada provided false and misleading data to Judge Manson."); 11 ("Can't even do basic division right."); 26 ("(Hey Izzy, suggest a number!)"); 31 ("statistical fraud"); 35 ("Not a statistician, Judge Manson did not catch the fraud in the statistical evidence he heard nor did Counsel for the Allard Plaintiffs ..."); 37 ("fraudulent"); and 37 ("in violation of s. 318(2) of the Criminal Code of Canada" —reference to genocide). Harris is to serve and file a further

Amended Statement of Claim conforming with this determination within 15 days of the date of this decision.

C. *Should Harris be granted interim relief?*

[77] As noted, Harris seeks interim relief by way of a personal constitutional exemption from paragraph 266(3)(b) of the *Cannabis Regulations*' 150-gram possession limit, and the 150-gram shipping limits in paragraph 290(1)(e), subsection 293(1), and subparagraph 297(1)(e)(iii) of the *Cannabis Regulations* such that he may possess and ship a 10-day supply of cannabis. In this connection, Harris repeats submissions already referred to.

[78] The Defendant submits the motion for interim relief should be dismissed for several reasons. First, while this Court has undoubted jurisdiction to issue interlocutory injunctions to preserve existing rights pending the outcome of ongoing proceedings, pursuant to rule 373 of the *Federal Courts Rules*, Harris neither has an existing right to possess in public or ship cannabis in amounts exceeding 180 grams (*Cannabis Regulations*' 150 grams plus the *Cannabis Act*'s 30 grams) nor a *Charter* right to do so. The requested relief is therefore tantamount to an interlocutory declaration that Harris may possess in public and ship over 180 grams of cannabis. The Defendant submits declaratory remedies are not available on an interlocutory basis: *Sawridge Band v Canada* [2003] 4 FC 748 at para 6, aff'd 2004 FCA 16 ("[a]n interim declaration of right is a contradiction in terms"). Harris is effectively asking this Court to rule on the central, constitutional issue on an interlocutory basis without benefit of a full evidentiary record or trial.

[79] In my view, there is little merit in the Defendant's submission.

[80] In the first place, similar exemptions have been sought and granted both by this by Justice Manson in the *Allard motion*, and by Associate Chief Justice Cullen in *Garber*. As will be seen, I propose to follow this jurisprudence.

[81] Secondly, the Defendant submits that even if the interlocutory injunction test is applied, Harris fails to meet the test in *RJR MacDonald v Canada (Attorney General)*, [1994] 1 SCR 311 [*RJR MacDonald*] at p 334. With respect, this is the proper starting place of the analysis of this issue. And, also with respect, I disagree with the Defendant's submission that the tripartite test for interim relief has not been met. I will look separately at the serious issue, irreparable harm and balance of convenience branches of the tripartite test.

[82] In the normal case the serious issue test requires an applicant to raise a serious issue, that is, an issue that is not frivolous or vexatious (*RJR MacDonald* at pp 314-15). More recently the Supreme Court of Canada in *R v Canadian Broadcasting Corp*, 2018 SCC 5 [*Canadian Broadcasting*] at para 15 elevated the test where the applicant is seeking an interim order that would give the same result as sought on a final determination, from *RJR MacDonald*'s "serious issue" to the higher test of "whether the applicant has shown a strong *prima facie* case."

[83] In my respectful view, Harris has met both variants of the serious issue test. Moreover, in my respectful view, the fact Harris cannot leave his home for more than a day and a half is amply supported by the record. In my view the restraints imposed on Harris by operation of the

Cannabis Regulations' 150-gram possession and shipping cap may constitute a breach of his section 7 *Charter* rights at the present time, which breach will certainly continue to the date of trial judgment and thereafter if left unrelieved. In other words I am unable to envisage a trial judgment that differs from my determination on this interim motion.

[84] I need not find a breach of Harris' sections 15 *Charter* rights. That said, it appears likely those rights are currently being breached and will continue to be breached unless and until a *Charter* remedy is granted.

[85] In my view, Harris has established irreparable harm occurring to him now and until such time as his legal rights are determined. To repeat, Harris is not able to travel for more than a day and a half from his home. This is likely an ongoing and present infringement of his rights under section 7 of the *Charter*. He has also established a strong case of unlawful discrimination contrary to section 15 of the *Charter*. Both derive from the operation against him of the prohibition set out in paragraph 266(3)(b) of the *Cannabis Regulations*, against possessing more than 150 grams of cannabis in public. This cap applies to Harris even though he requires a far higher amount if he is to travel more than a day and a half from his home. I take it as a given that this level of need for medical cannabis has been assessed by a qualified health care provider.

[86] In my view Harris has not simply made a general assertion of harm, as suggested by the Defendant. Further, there is "evidence at a convincing level of particularity that demonstrates a real probability that unavoidable harm will result": *Gateway City Church v Canada (Minister of National Revenue)*, 2013 FCA 126 at paras 16.

[87] The third part of the test for interim relief is the balance of convenience. In my view, the balance of convenience favours granting an interim exemption. I appreciate the Defendant's submission that the public interest generally favours the continued application and enforcement of validly enacted federal law: *RJR Macdonald* at para 71; *Harper v Canada (Attorney General)*, 2000 SCC 57 at para 9. However, in my view Harris has demonstrated that relief from the *Cannabis Regulations* would itself provide a public benefit: *RJR MacDonald* at para 80, because the relief requested flows from the likely ongoing breach of his *Charter* rights. With respect, the public interest favours Harris' *Charter*-protected right to travel more than a day and a half from his home: every Canadian has or should have that right unless justifiably limited by state action which does not appear to be established in this case.

[88] Harris does not ask to possess any amount "over 150 grams", but seeks only enough for ten days' worth of use. In other words, he seeks substantially the same exemption granted to the plaintiff Boivin in *Garber* who was granted the right to possess 1,000 grams. Another plaintiff in the Garber case, with a prescription for 167 grams a day, was granted an exemption entitling him to possess up to 1,670 grams. Both exemptions were based on a ten-day supply. Associate Chief Justice Cullen in *Garber* found these figures would "strike a balance between the public interest in limiting the risks to public safety and public health by avoiding the right to possess an overabundance of marihuana, and it will limit the number of medical cannabis users who would benefit from a challenge to the 150-gram possession cap, while at the same time ameliorating the restrictions on the applicants' ability to travel with their medications. It will also avoid the need for frequent replenishments of supply": *Garber* at para 138. I respectfully agree with these comments.

[89] I will mention one further factor in assessing the balance of convenience. At present, Harris pleads and I therefore must accept that he needs to travel to pick up his medical cannabis 20 times a month; priority post cost of $35 per 150 grams is $700 per month. An interim exemption for a ten-day supply would allow Harris to cut back to three shipments a month. Annualized, it would reduce shipping costs from $700 a month to $105 a month, and the number of shipments would drop from 240 times a year to three dozen. These economic realities factor into the Court's assessment of the balance of convenience.

[90] Overall, in my view the balance of convenience favours Harris.

[91] Having satisfied the tripartite test set out in *RJR MacDonald* at p 334 and elevated in *Canadian Broadcasting Corp* at para 15, the Court will grant Harris an exemption from the 150-gram possession limit imposed by paragraph 266(3)(b) of the *Cannabis Regulations* and the 150-gram shipping limits in paragraph 290(1)(e), subsection 293(1), and subparagraph 297(1)(e)(iii) of the *Cannabis Regulations* such that he may possess and ship a ten-day supply.

(1) Other Parties

[92] Harris seeks similar Orders for the other high-use Plaintiffs shown on Schedule "A" hereto, whose actions are stayed pending determination of this Harris action and in particular the Defendant's motion to strike. The Defendant opposes.

[93] To inform this discussion I have attached to these Reasons as Schedules “C” and “D” respectively the order-related parts of the decisions of Justice Manson in the *Allard motion*, and Associate Chief Justice Cullen in *Garber*.

[94] While Harris is one of the lead Plaintiffs on this motion to strike, in accordance with Rules 119 and 121 of the *Federal Courts Rules*, it would be not be appropriate to allow Harris to seek this relief on behalf of the other Plaintiffs, because Harris is not a solicitor.

[95] However, in my view fairness requires the Court to afford the same relief to Plaintiffs who are similarly situated to Harris. It appears the other Plaintiffs in this group, namely, the Schedule “A” Plaintiffs, are authorized to possess medical cannabis in amounts ranging from 50 to 200 grams per day. I would like to hear from the Defendant how these other claims should be treated, and will allow 20 days for such input. I propose to review the other files thereafter, with a view to granting similar exemptions from the 150-gram possession limit imposed by paragraph 266(3)(b) of the *Cannabis Regulations* such that each of the others may possess a ten-day supply, which seems appropriate; however I will hear from the Defendant before coming to a conclusion in that respect.

VII. Conclusion

[96] I am respectfully of the view Harris' Amended Statement of Claim should be preserved, except for the specific sentences found to be scandalous, frivolous, and vexatious, as mentioned above. I am of the view the Defendant's motion to strike Hathaway and Spottiswood's Statements of Claim should be granted on the bases of mootness and disclosing no reasonable cause of action, respectively; without leave to amend. The actions of the Plaintiffs named in Schedule "B" shall also be dismissed without leave to amend given my decision in the Spottiswood action.

[97] I note that the Statements of Claim of the Plaintiffs named in Schedule "A" rely on the repealed *ACMPR*, as did Hathaway. However, the Order of November 1, 2018 only permitted Harris and Hathaway to amend their Statements of Claim. Respectfully, I am of the view that the Schedule "A" Plaintiffs should not be affected by this, and that their case should 'piggy-back' on Harris' Amended Statement of Claim as if it had been amended as in the Harris case (Hathaway didn't amend though he could have). For the purposes of the trial of their actions, they shall have leave to amend their pleadings to plead and rely upon the current *Cannabis Act* and *Cannabis Regulations*.

VIII. Costs

[98] In my discretion I make no order as to costs.

ORDER IN T-1765-18, T-1716-18 and T-1913-18

THEREFORE THIS COURT ORDERS that:

1. The Defendant's motions to strike the Hathaway and Spottiswood actions are granted without leave to amend.

2. In accordance with the Spottiswood action, actions in Schedule "B" are dismissed without leave to amend.

3. The Defendant's motion to strike the Harris action is dismissed.

4. All references to genocide, criminality, fraud and fraudulent conduct are to be removed from the Harris Amended Statement of Claim and Harris is to serve and file a further Amended Statement of Claim conforming with this Order within 15 days of the date of this Order to delete the following references: in para 1 ("Life,"); para 9 ("To further that aim, on Feb 7 2014, Health Canada provided false and misleading data to Judge Manson."); para 11 ("Can't even do basic division right."); para 26 ("(Hey Izzy, suggest a number!)"); para 31 ("statistical fraud"); para 35 ("Not a statistician, Judge Manson did not catch the fraud in the statistical evidence he heard nor did Counsel for the Allard Plaintiffs ..."); para 37 ("fraudulent"); and para 37 ("in violation of s. 318(2) of the Criminal Code of Canada").

5. The Harris motion for interim relief for possession is granted such that the Plaintiff Allan J. Harris is hereby exempted from paragraph 266(3)(b) of the *Cannabis Regulations* and the said Allan J. Harris may possess 1,000 grams of

dried cannabis in addition to the 30 grams of dried cannabis he may possess under the *Cannabis Act*, until such time as a decision in this action is rendered.

6. Allan J. Harris is also hereby exempted from the 150-gram shipping limits in paragraph 290(1)(e), subsection 293(1), and subparagraph 297(1)(e)(iii) of the *Cannabis Regulations*, such that the said Allan J. Harris may be shipped 1,000 grams of dried cannabis until such time as a decision in this action is rendered.

7. The Defendant shall have 20 days from the date of this Order to make submissions on how the Court should treat the other Plaintiffs in this group, save Hathaway and Spottiswood, as set out in paragraph 95 of these Reasons.

8. The Plaintiffs named in Schedule "A" shall have leave to amend their pleadings to plead the *Cannabis Act* and *Cannabis Regulations* to refer to the current *Cannabis Act* and *Cannabis Regulations* for the purposes of trial, and shall amend their pleadings to delete references similar to those referred to in Part 2 of this Order, namely: "Life," or other references to right to life under section 7 of the *Charter*; "To further that aim, on Feb 7 2014, Health Canada provided false and misleading data to Judge Manson."; "Can't even do basic division right."; "(Hey Izzy, suggest a number!)"; "statistical fraud"; "Not a statistician, Judge Manson did not catch the fraud in the statistical evidence he heard nor did Counsel for the Allard Plaintiffs ..."; "fraudulent"; and "in violation of s. 318(2) of the Criminal Code of Canada".

9. There is no order as to costs.

10. A copy of these Order and Reasons shall be placed in all files concerned namely T-1765-18; T-1716-18; and T-1913-18 and those shown in Schedules “A” and “B” attached hereto.

“Henry S. Brown”
Judge

Schedule "A"

T-1784-18	T-1822-18	T-1878-18
T-1900-18		

Schedule “B”

T-217-19	T-369-19	T-399-19

Schedule "C"

ORDER

THIS COURT ORDERS that:

1. The Applicants who, as of the date of this Order, hold a valid Authorization to Possess pursuant to section 11 of the *Marihuana Medical Access Regulations*, are exempt from the repeal of the *Marihuana Medical Access Regulations* and any other operation of the *Marihuana for Medical Purposes Regulations* which are inconsistent with the operation of the *Marihuana Medical Access Regulations*, to the extent that such an Authorization to Possess shall remain valid until such time as a decision in this case is rendered and subject to the terms in paragraph 2 of this Order;

2. The terms of the exemption for the Applicants holding a valid Authorization to Possess pursuant to section 11 of the *Marihuana Medical Access Regulations* shall be in accordance with the terms of the valid Authorization to Possess held by that Applicant as of the date of this Order, notwithstanding the expiry date stated on that Authorization to Possess, 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;

3. The Applicants who held, as of September 30, 2013, or were issued thereafter a valid Personal-use Production Licence pursuant to section 24 of the *Marihuana Medical Access Regulations*, or a Designated-person Production Licence pursuant to section 34 of the *Marihuana Medical Access Regulations*, are exempt from the repeal of the *Marihuana Medical Access Regulations* and any other operation of the *Marihuana for Medical Purposes Regulations* which is inconsistent with the operation of the *Marihuana Medical Access Regulations*, to the extent that the Designated-person Production Licence or Personal-use Production Licence held by the Applicant shall remain valid until such time as a decision in this case is rendered at trial and subject to the terms of paragraph 4 of this Order;

4. The terms of the exemption for an Applicant who held, as of September 30, 2013, or was issued thereafter a valid Personal-use Production Licence pursuant to section 24 of the *Marihuana Medical Access Regulations* or a Designated-person Production Licence pursuant to section 34 of the *Marihuana Medical Access Regulations*, shall be in accordance with the terms of their licence, notwithstanding the expiry date stated on that licence;

5. Scheduling directions shall be issued after consultation with counsel for the parties with the view of fixing a trial date as soon as practicable;

6. The Applicants are not bound by an undertaking pursuant to r 373(2) of the *Federal Courts Rules*; and

7. The parties shall bear their own costs.

Schedule "D"

(v) Summary of Orders Made

[148] The order will be made in the same terms as the *Allard* order except that the plaintiffs in the present case will be exempt from the 150 gram personal possession limit imposed by s. 5(c) of the *MMPR* to the following extent:

a) Kevin Garber will be entitled to possess up to 600 grams of cannabis on his person;

b) Philip Newmarch will be entitled to possess up to 1,670 grams of cannabis on his person;

c) Timothy Sproule will be entitled to possess up to 360 grams of cannabis on his person; and

d) Marc Boivin will be entitled to possess up to 1,000 grams of cannabis on his person.

[149] Additionally, Marc Boivin will be permitted to produce 486 plants and store 21,870 grams of cannabis at the address set out in his *MMAR* licences.

[150] The application for an order for a constitutional exemption from ss. 4, 5 and 7 of the *CDSA* is dismissed.

[151] The application by Timothy Sproule to store 7,920 grams of cannabis at his current residential address in Vancouver and to transport 7,920 grams from his production site to his storage site is dismissed.

[152] The application to permit the plaintiffs to produce and store medical cannabis at any address where they reside if such address is different from those set out in their *MMAR* licences is dismissed.

[153] The parties shall bear their own costs.

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1765-18
STYLE OF CAUSE:	ALLAN J. HARRIS v HER MAJESTY THE QUEEN
AND DOCKET:	T-1716-18
STYLE OF CAUSE:	RAYMOND LEE HATHAWAY v HER MAJESTY THE QUEEN
AND DOCKET:	T-1913-18
STYLE OF CAUSE:	MIKE SPOTTISWOOD v HER MAJESTY THE QUEEN

MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO

ORDER AND REASONS:	BROWN J.
DATED:	MAY 7, 2019

WRITTEN REPRESENTATIONS BY:

Allan J Harris	ON HIS OWN BEHALF IN T-1765-18
Raymond Lee Hathaway	ON HIS OWN BEHALF IN T-1716-18
Jon Bricker Wendy Wright	FOR THE DEFENDANT

SOLICITORS OF RECORD:

Attorney General of Canada Ottawa, Ontario	FOR THE DEFENDANT

THIS IS EXHIBIT "130" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

Federal Court of Appeal | Cour d'appel fédérale

Date: 20190614

Docket: A-175-19

Citation: 2019 FCA 182

Present: **NEAR J.A.**

BETWEEN:

HER MAJESTY THE QUEEN

Appellant

and

ALLAN J. HARRIS

Respondent

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on June 14, 2019.

REASONS FOR ORDER BY: NEAR J.A.

Federal Court of Appeal | Cour d'appel fédérale

Date: 20190614

Docket: A-175-19

Citation: 2019 FCA 182

Present: **NEAR J.A.**

BETWEEN:

HER MAJESTY THE QUEEN

Appellant

and

ALLAN J. HARRIS

Respondent

REASONS FOR ORDER

NEAR J.A.

[1] In order to establish entitlement to a stay, the Attorney General must show: (1) that there is a serious issue to be tried, (2) that it would suffer irreparable harm if the stay is not granted; and (3) that the balance of convenience favours a stay (*RJR MacDonald v. Canada* (*Attorney General*), [1994] 1 S.C.R. 311 at para. 43, 1994 CanLII 117 [*RJR MacDonald*]). I address each issue in turn.

I. Serious Issue

[2] The threshold for establishing a serious issue pending appeal is low, and requires only that the party seeking the stay establish that their appeal is not destined to fail or that it is neither frivolous nor vexatious (*RJR MacDonald* at para. 50). The Attorney General alleges that a serious issue arises as the Federal Court erred in law and made palpable and overriding errors of fact in finding that Mr. Harris established entitlement to interim constitutional relief from the application of certain provisions of the *Cannabis Regulations*, SOR/2018-144, which impose a 150-gram limit on the public possession and shipment of medical cannabis authorized by a patient's health care practitioner.

[3] I would agree with the Attorney General's submissions that a serious issue is raised in this matter given the ongoing litigation in this and other cases concerning the possession and shipment limits in question. In particular, I am of the opinion that Mr. Harris may not have satisfied the test for granting interim constitutional relief, which requires that he establish: (1) a strong prima facie case; (2) irreparable harm; and (3) that the balance of convenience lies in his favour (*R. v. Canadian Broadcasting Corp.*, 2018 SCC 5 at para. 12, [2018] 1 S.C.R. 196; *RJR MacDonald*).

[4] In my view, Mr. Harris may not have established that he would suffer irreparable harm as a result of the 150-gram limit. Evidence of irreparable harm must be "clear and compelling" and "of a convincing level of particularity that demonstrates a real probability that unavoidable harm will result" if the relief is not granted (*Haché v. Canada*, 2006 FCA 424 at para. 11; *United*

States Steel Corporation v. Canada (*Attorney General*), 2010 FCA 200 at para. 7; *Gateway City Church v. Canada* (*National Revenue*), 2013 FCA 126 at para. 16).

[5] It appears that the only evidence before the Federal Court on Mr. Harris' motion was a three-paragraph affidavit stating that Mr. Harris is authorized to use 100 grams of cannabis per day. As the Attorney General submits, "there was no other evidence as to his medical circumstances, whether his condition is temporary or chronic in nature, or the health impacts or treatment alternatives available if he is unable to access this quantity of cannabis pending this action" (Written Submissions at para. 31). Further, there was "no evidence [Mr. Harris] […] cannot use the various alternatives available under the *Act* and *Regulations* for accessing cannabis while travelling" which "[…] include shipping or having a designated or licensed producer ship cannabis to his travel location, purchasing cannabis from a provincially regulated online store or retail outlet […]." Absent this evidence, it is questionable whether it was open to the Federal Court to find irreparable harm. Given this conclusion it is unnecessary to consider the other two elements, strong *prima facie* case and balance of convenience, which are necessary to grant interim constitutional relief. As such, I find that a serious issue in this matter has been established.

II. Irreparable Harm

[6] The Attorney General alleges that by granting Mr. Harris' request for a constitutional exemption, the Federal Court's Order causes irreparable harm to the public interest. I agree. Irreparable harm to the public interest is presumed where legislation is restrained (*RJR MacDonald* at para. 71). Further, courts should not lightly order that laws enacted for the public

good are inoperable in advance of a complete constitutional review, which includes section 1 justification if a breach is found (*Harper v. Canada*, 2000 SCC 57 at para. 9, [2000] 2 S.C.R. 764).

[7] I accept that the 150-gram public possession and shipment cap was enacted as a measure intended to reduce the increased risks of theft, violence and diversion associated with possession of large quantities of cannabis, following the objectives listed under section 7 of the Cannabis Act. Justice Phelan found in *Allard v. Canada*, 2016 FC 236, [2016] 3 F.C.R. 303 (at para. 287) that the 150-gram limit is rationally connected to these objectives. Nevertheless, the Federal Court suspended the effect of the 150-gram limit for Mr. Harris, and likewise indicated intent to do so in respect of other high dosage claimants. In my view, this restraining action may be presumed, following *RJR MacDonald*, to harm the public interest as it prevents the Attorney General from exercising its statutory powers as guardian of the public interest.

[8] Moreover, I would accept the Attorney General's submission that, given the Federal Court's stated intention to grant similar exemptions to other high dosage plaintiffs who claim to have medical authorization to use between 50 and 200 grams of cannabis per day, the interim constitutional exemptions that he is inclined to grant may result in judicial authorization of public possession and shipment of up to two kilograms of cannabis. This would be more than thirteen times the quantity authorized by the *Regulations*. In addition, the Attorney General submits that there are 7,679 such individuals registered with Health Canada for personal or designated production, which does not include those registered to purchase cannabis from a licensed producer. If the constitutional exemption for Mr. Harris is granted, there is a likelihood

that others will seek and obtain similar relief, with the effect that the 150-gram limit will be effectively suspended for a large number of people without undergoing a full constitutional review. In these circumstances, it is my opinion that the Attorney General has shown irreparable harm to the public interest.

III. Balance of Convenience

[9] Given my conclusions with respect to serious issue and irreparable harm, it follows that the balance of convenience favours granting the requested stay of Mr. Harris' constitutional exemption.

[10] For the reasons outlined above, I would grant the Attorney General's motion without costs and order a stay of paragraphs 5, 6, and 7 of the May 7, 2019 Order pending the final decision of this Court on appeal.

"D. G. Near"
J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	A-175-19
STYLE OF CAUSE:	HER MAJESTY THE QUEEN v. ALLAN J. HARRIS

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY:	NEAR J.A.
DATED:	JUNE 14, 2019

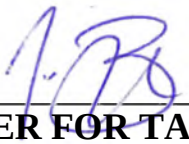
WRITTEN REPRESENTATIONS BY:

Andrea Bourke Jon Bricker	FOR THE APPELLANT
Allan J. Harris	ON HIS OWN BEHALF

SOLICITORS OF RECORD:

Nathalie G. Drouin Deputy Attorney General of Canada	FOR THE APPELLANT

THIS IS EXHIBIT "131" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.



A COMMISSIONER FOR TAKING AFFIDAVITS

TURMEL: Court of Appeal stays Harris 10-day supply pending appeal

10 views

John KingofthePaupers Turmel Jun 16, 2019, 7:16:44 PM
to

JCT: Judge Brown dismissed the Crown's motion to strike the Statements of Claim of Jeff Harris and other plaintiffs on Schedule A and granted an interim exemption for Jeff to possess a 10-day supply like the B.C. Garber plaintiffs. And is considering granting the same 10-day remedy to the other plaintiffs.

The Crown has appealed his not striking the claims and for a stay of the interim remedy granted to Jeff pending their appeal. Justice Near's decision:

Date: 20190614
Docket: A-175-19
Citation: 2019 FCA 182
Present: NEAR J.A.
BETWEEN:
HER MAJESTY THE QUEEN
Appellant
and
ALLAN J. HARRIS
Respondent

Dealt with in writing without appearance of parties.
Order delivered at Ottawa, Ontario, on June 14, 2019.

REASONS FOR ORDER

NEAR J.A.

J: [1] In order to establish entitlement to a stay, the Attorney General must show: (1) that there is a serious issue to be tried, (2) that it would suffer irreparable harm if the stay is not granted; and (3) that the balance of convenience favours a stay (RJR MacDonald v. Canada (Attorney General), [1994] 1 S.C.R. 311 at para. 43, 1994 CanLII 117 [RJR MacDonald]). I address each issue in turn.

I. Serious Issue

[2] The threshold for establishing a serious issue pending appeal is low, and requires only that the party seeking the stay establish that their appeal is not destined to fail or that it is neither frivolous nor vexatious (RJR MacDonald at para. 50). The Attorney General alleges that a serious issue arises as the Federal Court erred in law and made palpable and overriding errors of fact in finding that Mr. Harris established entitlement to interim constitutional relief

from the application of certain provisions of the Cannabis Regulations, SOR/2018-144, which impose a 150-gram limit on the public possession and shipment of medical cannabis authorized by a patient's health care practitioner.

[3] I would agree with the Attorney General's submissions that a serious issue is raised in this matter given the ongoing litigation in this and other cases concerning the possession and shipment limits in question. In particular, I am of the opinion that Mr. Harris may not have satisfied the test for granting interim constitutional relief, which requires that he establish: (1) a strong prima facie case; (2) irreparable harm; and (3) that the balance of convenience lies in his favour (R. v. Canadian Broadcasting Corp., 2018 SCC 5 at para. 12, [2018] 1 S.C.R. 196; RJR MacDonald).

[4] In my view, Mr. Harris may not have established that he would suffer irreparable harm as a result of the 150-gram limit.

JCT: Even though Judge Brown said he had.

J: Evidence of irreparable harm must be "clear and compelling" and "of a convincing level of particularity that demonstrates a real probability that unavoidable harm will result" if the relief is not granted (Hache v. Canada, 2006 FCA 424 at para. 11; United States Steel Corporation v. Canada (Attorney General), 2010 FCA 200 at para. 7; Gateway City Church v. Canada (National Revenue), 2013 FCA 126 at para. 16).

JCT: Even if it's obvious, you have to show it in detail..

J: [5] It appears that the only evidence before the Federal Court on Mr. Harris' motion was a three-paragraph affidavit stating that Mr. Harris is authorized to use 100 grams of cannabis per day. As the Attorney General submits, "there was no other evidence as to his medical circumstances, whether his condition is temporary or chronic in nature, or the health impacts

JCT: Judge thinks cancer patients would be more persuasive than mere arthritis patients. Looks bad that Judge Near wants to play doctor.

J: or treatment alternatives available if he is unable to access this quantity of cannabis pending this action" (Written Submissions at para. 31).

JCT: He hasn't fully explained how not being to leave home for more than 1.5 days harms his personal security. Has to show how he could not work around a non-working regime, it's not enough to just show it isn't working, have to show the objectionable conditions it imposes on patients like Garber did. Seems courts love nothing better than duplication.

J: Further, there was "no evidence [Mr. Harris] [.] cannot use the various alternatives available under the Act and Regulations for accessing cannabis while travelling" which "[.] include shipping or having a designated or licensed

producer ship cannabis to his travel location, purchasing cannabis from a provincially regulated online store or retail outlet [.]."

JCT: Judge Brown found the alternatives not reasonable. But maybe he didn't show enough of how the unreasonable alternatives were not reasonable.

J: Absent this evidence, it is questionable whether it was open to the Federal Court to find irreparable harm.

JCT: Maybe he didn't notice that the judge in Garber found irreparable harm and Judge Brown quoted him. You know he can't bring in the Garber precedent.

J: Given this conclusion it is unnecessary to consider the other two elements, strong prima facie case and balance of convenience, which are necessary to grant interim constitutional relief. As such, I find that a serious issue in this matter has been established.

JCT: It's a serious issue that Judge Brown didn't care what sickness the person stuck at home had suffered. It was established in Garber. But notice Judge Near didn't tackle the reason used by Judge Brown: the Garber precedent.

J: II. Irreparable Harm

[6] The Attorney General alleges that by granting Mr. Harris' request for a constitutional exemption, the Federal Court's Order causes irreparable harm to the public interest.

JCT: How is going back to the way it was harming the public interest other than making its stewards look incompetent.

J: I agree.

JCT: Not using the new limit causes irreparable harm to the public interest. "Irreparable!"

J: Irreparable harm to the public interest is presumed where legislation is restrained (RJR MacDonald at para. 71).

JCT: So irreparable harm doesn't have to be shown, the court accepts that irreparable harm is presumed!

J: Further, courts should not lightly order that laws enacted for the public good are inoperable in advance of a complete constitutional review, which includes section 1 justification if a breach is found (Harper v. Canada, 2000 SCC 57 at para. 9, [2000] 2 S.C.R. 764).

JCT: Echoing Crown arguments.

J: [7] I accept that the 150-gram public possession and shipment cap was enacted as a measure intended to reduce the increased risks of theft, violence and diversion associated with possession of large quantities of cannabis, following the objectives listed under section 7 of the Cannabis Act.

JCT: Har har har. We explained how the risk of theft, violence are increased by more shipments and they have no right to presume you are a risk of diversion.

J: Justice Phelan found in Allard v. Canada, 2016 FC 236, [2016] 3 F.C.R. 303 (at para. 287) that the 150-gram limit is rationally connected to these objectives. Nevertheless, the Federal Court suspended the effect of the 150-gram limit for Mr. Harris, and likewise indicated intent to do so in respect of other high dosage claimants. In my view, this restraining action may be presumed, following RJR MacDonald, to harm the public interest as it prevents the Attorney General from exercising its statutory powers as guardian of the public interest.

JCT: Notice Judge Near can't face the Garber precedent.

J: [8] Moreover, I would accept the Attorney General's submission that, given the Federal Court's stated intention to grant similar exemptions to other high dosage plaintiffs who claim to have medical authorization to use between 50 and 200 grams of cannabis per day, the interim constitutional exemptions that he is inclined to grant may result in judicial authorization of public possession and shipment of up to two kilograms of cannabis. This would be more than thirteen times the quantity authorized by the Regulations.

JCT: One Garber plaintiff got the right to possess 1.67KG. Wow, one of ours might carry 2KG. b

J: In addition, the Attorney General submits that there are 7,679 such individuals registered with Health Canada for personal or designated production, which does not include those registered to purchase cannabis from a licensed producer.

JCT: Almost 7,000 other patients who can't leave home for more than a few days.

J: If the constitutional exemption for Mr. Harris is granted, there is a likelihood that others will seek and obtain similar relief, with the effect that the 150-gram limit will be effectively suspended for a large number of people without undergoing a full constitutional review. In these circumstances, it is my opinion that the Attorney General has shown irreparable harm to the public interest.

JCT: It is irreparable harm to the public interest that the high-dosage patients not be allowed the same relief as the Garber Four in B.C.

J: III. Balance of Convenience

[9] Given my conclusions with respect to serious issue and irreparable harm, it follows that the balance of convenience favours granting the requested stay of Mr. Harris' constitutional exemption.

JCT: The balance of convenience favors no one able to get the relief the Garbers got.

J: [10] For the reasons outlined above, I would grant the Attorney General's motion without costs and order a stay of paragraphs 5, 6, and 7 of the May 7, 2019 Order pending the final decision of this Court on appeal.
"D. G. Near" J.A.

JCT: Notice the Crown had asked us to pay their costs of the motion and it was denied. Pretty tough to take away a man's freedom from quasi-home-arrest for no crime and stick him with the bill.

But let's just say that Justice Near has found that capping it like they used to cap it would cause irreparable harm... which it had not caused during the 15 years of the MMAR.

And notice that he couldn't deal with the Garber precedent, just ignored it and decided as if it hadn't been there. By ducking Garber who provided all the facts about their illnesses so we should no longer have to, he's trying to say we have to repeat all of the same evidence they did and not rely on them as precedent.

And he ducked mentioning Jeff got how much Garber were granted and still wants how much it used to be under the MMAR!

And notice he didn't deal with the expense of so many postal shipments as an obvious form of financial damage. But it would irreparably harm to the public interest if they weren't paying so much to Canada Post for 10, 20, 30, 40 shipments every month!!

I feel sad for what he has done to punish 7,000 sick people. Because that's the number who will benefit when we strike the cap. God'll get him.

ORDER
UPON MOTION for an Order staying paragraphs 5, 6 and 7 of the Order of Justice Brown dated May 7, 2019, in Court File No. T-1765-18 pending the determination of the appeal of that decision to this Court;

AND UPON reviewing the material submitted by the parties;

IT IS HEREBY ORDERED that the request for a stay of paragraphs 5, 6 and 7 of Justice Brown's Order dated May 7, 2019 is granted without costs pending the determination of the appeal of that decision to this Court for reasons issued concurrently.
"D. G. Near" J.A.

JCT: Now, this doesn't mean that the 3-judge panel are going to overturn Judge Brown to not give Jeff his exemption back if they let the actions proceed. Because in the end, they are dependent on showing the 150-gram limit makes sense, not just because the government wants it.

Besides, all we have to do is change to claims to insert all the irrelevant stuff they say they need to see. So sure, let's tell them about all our ailments and the sufferings

the cap has imposed on people. Even how it made you break the law when you bought more than that for the discount and carried it home illegally. No one likes to be a criminal if they can avoid it.

People ask me why I keep fighting so many loser fights. It's because I love ruining the careers of the judges and Crowns who get added to the History Wall of MedPot Shame. The people who contributed to its prohibition. What they did can never be erased and will shame their careers in the eyes of a wiser posterity. Especially those judges whose decisions kept the prohibition alive to keep denying dying patients their life-saving meds. This is just keeping patients chained to their homes, not quite so deadly.

So now, it's 6 months for appeal preparation and plenty of time for a lot more people to file Statements of Claim below to join Jeff before Judge Brown demanding the 150-gram limit be struck allowing the old 3 days and the 10-day supply pending the appeal. Let the Court know they'll be cutting remedy to not just the current four but many many more. If all the 7,000 50+ grammers signed on, it would be tougher to deny them release from the bondage to their homes. http://johnturmel.com/ins150.pdf has the instructions

BIG HARRIS DELAY APPEAL JUNE 27 VANCOUVER

Finally, on Thursday June 27, 2019, Jeff's Big Appeal for restitution of the time short-changed from the permits of the over 300 plaintiffs seeking damages for the delay will be heard in Vancouver. Not only is losing half a permit period when the medical documents cost thousands not trivial, but the remedy of having the programmer add the days improperly subtracted from the early permit to the latest permit is too trivial not to be granted. Why would the court let them get away with a minor violation when there is such a minor fix. If the fix were not so trivial, okay, maybe trivial should matter. But when it involves adding back the days they wrongly subtracted, that's too easy?

And the Crown wants the actions dismissed by the Court of Appeal because their telling Judge Brown the actions were frivolous without offering any proof or arguments should have sufficed.

Brown said he wasn't ruling it frivolous just because they said so in one lousy paragraph!!

So will the Court of Appeal find their saying so should have been enough and that Judge Brown shouldn't have expected any arguments at all? Tough call.

We'll make sure Jeff asks the Court for permission to post the audio recording of the hearing on-line for other plaintiffs to hear unless the Court orders the Registry to send one to all 300 of them! It should be quite the show.

THIS IS EXHIBIT "132" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

Date: 20200721

Docket: A-175-19

Citation: 2020 FCA 124

CORAM: **PELLETIER J.A.**
GAUTHIER J.A.
WOODS J.A.

BETWEEN:

HER MAJESTY THE QUEEN

Appellant

And

ALLAN J. HARRIS

Respondent

Heard at Vancouver, British Columbia, on November 19, 2019.

Judgment delivered at Ottawa, Ontario, on July 21, 2020.

REASONS FOR JUDGMENT BY: WOODS J.A.

CONCURRED IN BY: PELLETIER J.A.
GAUTHIER J.A.

Date: 20200721

Docket: A-175-19

Citation: 2020 FCA 124

CORAM: **PELLETIER J.A.**
GAUTHIER J.A.
WOODS J.A.

BETWEEN:

HER MAJESTY THE QUEEN

Appellant

and

ALLAN J. HARRIS

Respondent

REASONS FOR JUDGMENT

WOODS J.A.

Introduction

[1] The Crown appeals from an order of the Federal Court (2019 FC 553) which dismissed the Crown's motion to strike out a claim instituted by Allan J. Harris. Similar claims filed by other individuals were also dealt with in the order, but these are not relevant to this appeal.

[2] Mr. Harris filed an amended statement of claim which challenges the constitutionality of certain provisions in the *Cannabis Regulations,* S.O.R./2018-144 relating to medical cannabis. In particular, Mr. Harris alleged the provisions in question violated the section 7 and section 15 *Charter* rights of individuals with large prescriptions for medical cannabis. Mr. Harris also sought a personal constitutional exemption from these provisions until a final decision was rendered.

[3] The Crown brought a motion to strike out Mr. Harris' claim in its entirety without leave to amend, and opposed his motion for interim relief. The Federal Court dismissed the Crown's motion, but deleted parts of the claim that used inflammatory language as well as Mr. Harris' reference to "life" under his section 7 claim. It otherwise allowed Mr. Harris' claim to proceed and granted him the interim relief requested.

[4] In this appeal, the Crown submits that the Federal Court erred in not striking out the claim in its entirety. It requests that the claim be struck without leave to amend, with costs.

[5] For the reasons that follow, I would allow the appeal.

Summary of claim

[6] Mr. Harris is one of the lead plaintiffs in a group of similar cases involving self-represented plaintiffs who are authorized to use large amounts of medical cannabis each day. Mr.

Harris himself states he is authorized to use 100 grams of cannabis for medical purposes each day.

[7] In his amended statement of claim, Mr. Harris takes issue with the public possession and shipping limits on medical cannabis set out in the *Cannabis Regulations* as applicable to individuals who are prescribed higher doses of cannabis. These limits allow individuals with medical authorization to possess in public or to ship the lesser of 150 grams or 30 times their daily dosage.

[8] In particular, Mr. Harris seeks "a declaration that Sections S.266(2)(b), (3)(b), (4)(b), (6)(b), (7), S.267(b), (3)(b), (4)(b), (5), S.290(e), S.293(1), S.297(e)(iii), S. 348(a)(ii), in the *Cannabis Regulations* (SOR 2018-144) imposing a 150-gram cap on possessing and shipping cannabis marijuana […] are unconstitutional on the grounds they pose a threat of fines or incarceration to the lives of patients with larger prescriptions, some in excess of 150 grams per day, that violate their S.7&S.15 Charter Rights to Life, Liberty, Security and Equality not in accordance with principles of fundamental justice to not be arbitrary, grossly disproportional, conscience-shocking, incompetent, malevolent."

[9] Citing his section 15 rights, Mr. Harris also seeks "the right to carry the same 30-day supply as smaller dosers by striking down the 150 gram cap on possession and shipping and leaving the 30-day supply cap in effect."

[10] Mr. Harris claims the possession and shipping limits cause the following problems for individuals with large prescriptions for medical cannabis:

- *Mobility:* The limit restricts the mobility of individuals with large prescriptions. While individuals prescribed under 5 grams a day can carry enough medication to leave their homes for 30 days, an individual prescribed 10 grams may only possess enough for 15 days. Similarly, an individual prescribed 20 grams may only leave her home for a week; 50 grams, for only three days; and 100 grams, a day and a half. Finally, individuals prescribed 150 grams may carry only a day's worth of medication. An individual with a 300 gram prescription may only possess enough for 12 hours.

- *Shipping:* The limit imposes higher shipping costs on individuals, by requiring more frequent shipping.

- *Bulk Discounts:* The limit precludes access to bulk discounts from licensed producers.

[11] In a separate motion, Mr. Harris sought interim relief by way of a personal constitutional exemption from the 150 gram public possession and shipping limits set out in the *Cannabis Regulations*, such that he could ship and possess a 10-day supply of medical cannabis.

The Crown's motion

[12] The Crown moved to strike Mr. Harris' amended statement of claim on a number of grounds, including that:

1. It was an attempt to relitigate matters decided in two other decisions: *In re numerous filings seeking a declaration pursuant to s 52(1) of the Canadian Charter of Rights and Freedoms*, 2014 FC 537 [*Re Numerous Filings*], and *Allard v. Canada*, 2016 FC 236, 394 D.L.R. (4th) 694 [*Allard*], which affirmed the constitutionality of the 150 gram limit under the previous medical cannabis regime. Mr. Harris was one of the plaintiffs in *Re Numerous Filings*;

2. The Court's previous affirmation of the constitutionality of the possession limits is binding;

3. The action failed to disclose a reasonable cause of action; and

4. The claim was scandalous, frivolous and vexatious.

[13] Before the Federal Court, the Crown also argued against granting Mr. Harris the interim relief sought.

Federal Court decision

[14] The motions judge declined to find that Mr. Harris' claim attempted to relitigate previous issues, and disagreed that he was bound by the previous jurisprudence to affirm the constitutionality of the possession limits.

[15] He determined that the facts pled by Mr. Harris differed significantly from those before the Court in *Allard* and the *Re Numerous Filings* decisions as those decisions did not focus on high-dose medical cannabis users like Mr. Harris. Further, he noted, these cases concerned an entirely different access to cannabis regime. Finally, the motions judge referenced *Garber v. Canada (Attorney General),* 2015 BCSC 1797, 389 D.L.R. (4th) 517, in which the British Columbia Supreme Court granted the plaintiffs a constitutional exemption from the 150 gram limit under a previous medical cannabis regime on an interim basis pending trial. According to the motions judge, *Garber* attenuated the effect of both *Allard* and *Re Numerous Filings.*

[16] With respect to Mr. Harris' section 7 claim, the motions judge determined that Mr. Harris had pleaded sufficient facts such that it was not plain and obvious that the claim should fail. The motions judge found that the possession and shipping limits likely engaged Mr. Harris' liberty interest, as he was unable to carry enough medication away from his home to permit more than a day and a half of travel. He found that the limits likely engaged Mr. Harris's security of the person because Mr. Harris could be subject to fines or imprisonment if he chose to exercise "his Charter-protected right to travel more than a day and a half from his home" (at para. 72). The motions judge expressed concern that imprisonment would likely infringe Mr. Harris's right to

security of the person, given his circumstances. However, he declined to find that Mr. Harris' right to life was engaged and struck that pleading.

[17] With respect to Mr. Harris' section 15 claim, the motions judge determined there was a possibility that the section 15 claim could succeed. He noted that the limit appeared to create a distinction based on disability, and stated that the distinction may be found discriminatory.

[18] Finally, the motions judge determined that Mr. Harris' motion for interim relief should be granted. With reference to the three-part interlocutory injunction test set out in *R.J.R. MacDonald v. Canada (Attorney General),* [1994] 1 S.C.R. 311 at 334, 111 D.L.R. (4th) 385, he concluded that Mr. Harris had established a serious issue as he could not travel for more than a day and a half from his home. Irreparable harm, according the motions judge, was made out by the possibility that Mr. Harris's section 7 and section 15 rights were likely infringed by the restrictions he faced under the Regulations. Finally, on a balance of convenience, the motions judge found the public interest favoured Mr. Harris' "*Charter*-protected right to travel more than a day and a half from his home" (at para. 87).

Issues and standard of review

[19] The central issue in this appeal is whether the Federal Court erred in failing to strike Mr. Harris' claim in its entirety. If no such error was made, the Court must also consider whether the Federal Court erred in granting Mr. Harris an interim exemption.

[20] Both the decision to grant or refuse a motion to strike, and the decision to grant interlocutory relief, are discretionary (*Canadian Imperial Bank of Commerce v. R.*, 2013 FCA 122 at para. 5, 444 N.R. 376; *Jamieson Laboratories Ltd. v. Reckitt Benckiser LLC*, 2015 FCA 104 at para. 21, 130 C.P.R. (4th) 414).

[21] Accordingly, the decisions are subject to the standards of review set out in *Housen v. Nikolaisen*: intervention by this Court is warranted only in cases of palpable and overriding error, absent error on a question of law or an extricable legal principle (*Hospira Healthcare Corp. v. Kennedy Institute of Rheumatology*, 2016 FCA 215 at para. 72, 402 D.L.R. (4th) 497).

[22] In this case, the discretionary decisions are based in large part on the facts before the Federal Court. The palpable and overriding standard should therefore be applied (*Montana v. Canada (National Revenue)*, 2017 FCA 194 at para. 3, 2017 D.T.C. 5115).

Analysis

Motion to Strike

[23] The test on a motion to strike an action is generous to plaintiffs: a claim will only be struck if it is plain and obvious, assuming the facts pleaded to be true, that the pleading discloses no reasonable cause of action (*R. v. Imperial Tobacco Canada Ltd.*, 2011 SCC 42 at para. 17, [2011] 3 S.C.R. 45).

[24] Nevertheless, a plaintiff must still plead sufficient facts to support of the claim. As this Court stated in *Mancuso v. Canada (Minister of National Health and Welfare),* 2015 FCA 227 at paras. 16-17, 476 N.R. 219, pleadings form the basis on which the possibility of success of the claim is evaluated, and frame the issues for the Court and opposing counsel:

> It is fundamental to the trial process that a plaintiff plead material facts in sufficient detail to support the claim and the relief sought. As the judge noted "pleadings play an important role in providing notice and defining the issues to be tried … the Court and opposing parties cannot be left to speculate as to how the facts might be variously arranged to support various causes of action."
>
> The latter part of this requirement - sufficient material facts - is the foundation of a proper pleading. If a court allowed parties to plead bald allegations of fact, or mere conclusory statements of law, the pleadings would fail to perform their role in identifying the issues. The proper pleading of a statement of claim is necessary for a defendant to prepare a statement of defence. Material facts frame the discovery process and allow counsel to advise their clients, to prepare their case and to map a trial strategy. Importantly, the pleadings establish the parameters of relevancy of evidence at discovery and trial.

[25] A proper factual foundation is crucial in the *Charter* context (see *MacKay v. Manitoba*, [1989] 2 S.C.R. 357 at 361–363, 61 D.L.R. (4th) 385). Facts are even more essential where, as here, the alleged infringement arises from the effects of the legislation rather than its purpose. As the Court stated in *Mackay* at 366, "[i]f the deleterious effects are not established there can be no Charter violation and no case has been made out."

[26] In my view, and in light of these requirements, the Federal Court made palpable and overriding errors in finding that Mr. Harris pleaded sufficient facts to support either his section 7 or section 15 claim. Construing his claims as generously as possible, Mr. Harris's amended statement of claim fails to disclose sufficient facts to support that (1) the law deprives individuals

with large prescriptions of their liberty or security interests; (2) any deprivation of these rights under section 7 is not in accordance with the principles of fundamental justice; or (3) that the impugned provisions create a distinction based on disability, and that distinction is discriminatory such that section 15 is engaged.

Section 7

[27] Section 7 states that "[e]veryone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."

[28] A claimant under section 7 must demonstrate both a deprivation of their life, liberty or security of the person, and a breach of fundamental justice (*Carter v. Canada,* 2015 SCC 5 at para. 80, [2015] 1 S.C.R. 331). "Plaintiffs must identify the principle of fundamental justice they claim has been engaged and provide particulars of that breach. In the absence of such pleadings, there is no properly pled cause of action." (*N.(F.R.) v. Alberta,* 2014 ABQB 375 at para. 76, 315 C.R.R. (2d) 8).

[29] The motions judge found Mr. Harris had pled sufficient facts to establish a potential deprivation of both his liberty and security interests. In particular, he found that Mr. Harris "was under a form of house arrest" (at para. 62) as the limits leave him "unable to travel anywhere more than a day and a half from his home" (at para. 62). Similarly, he suggested Mr. Harris'

security of the person could be infringed if Mr. Harris were to travel and subsequently face imprisonment (at para. 72).

[30] Respectfully, the facts pleaded were insufficient to allow the motions judge to draw these conclusions. Mr. Harris offers an inadequate factual basis to support the contention that the shipping and possession limits actually operate to preclude Mr. Harris or other individuals with large prescriptions from travel. Similarly, there are insufficient facts to conclude the limits force Mr. Harris or other large-prescription patients to choose between their health and imprisonment.

[31] Put simply, there is very little in the amended statement of claim on which the Federal Court could reasonably assess whether a deprivation could be made out. At this juncture, I would pause to contrast the current case with other medical cannabis cases such as *R v. Parker*, 49 O.R. (3d) 481, 188 D.L.R. (4th) 385 (C.A.) and *Allard v. Canada*, 2016 FC 237. Advancing similar claims regarding the constitutionality of medical cannabis regulations, the plaintiffs in those cases provided the Court with ample detail on which to evaluate their claims. Such detail is not present here.

[32] In my view, the motions judge further erred when he failed to consider whether Mr. Harris had pled sufficient facts to support the claim that any deprivation was not in accordance with the principles of fundamental justice. Plainly, Mr. Harris's amended statement of claim does not.

[33] The motions judge gave little to no comment on this issue, aside from suggesting the unspecified impact of the limit was "grossly disproportional for a person with approval to use [large] amounts of medical cannabis", with no reference to Mr. Harris' amended statement of claim. Again, the amended statement of claim does not present sufficient facts to support such a conclusion, even on a generous reading.

[34] In his amended statement of claim, Mr. Harris asserts that the possession and shipping limits deprive large-prescription patients of their rights in a manner that is "arbitrary, grossly disproportional, conscience-shocking, incompetent, malevolent."

[35] However, incompetence and malevolence are not recognized principles of fundamental justice, nor does Mr. Harris propose any facts to suggest that they are.

[36] Mr. Harris also pleads insufficient facts to suggest that:

- the law is at odds with its purpose, such that it is arbitrary;

- the law's impact on the section 7 interests of individuals with large prescriptions of medical cannabis is so extreme as to be completely out of sync with the objective, such that it is grossly disproportional; or

- that the law would "shock the conscience" of Canadians.

[37] In these circumstances, the comments of the Ontario Court of Appeal in *Abernethy v. Ontario*, 2017 ONCA 340 at para. 11, 278 A.C.W.S. (3d) 504 are pertinent: "A cause of action is not disclosed simply by naming it. The claims must be supported by more than a bald and conclusory narrative; they must be supported by a set of material facts that – assuming they could be proved – would establish the claims."

[38] I conclude that Mr. Harris has not provided sufficient support for his claim that the law deprives individuals with large prescriptions for medical cannabis of their liberty or security of the person, nor that any such deprivation offends the principles of fundamental justice. Without these elements, his claim cannot go forward. I would strike the claim.

Subsection 15(1)

[39] Subsection 15(1) of the *Charter* provides that "[e]very individual is equal before and under the law," and guarantees "equal protection and equal benefit of the law without discrimination …".

[40] To establish a breach of subsection 15(1), a claimant must show that "the law, on its face or in its impact, draws a distinction based on an enumerated or analogous ground," and that it imposes burdens or denies a benefit "in a manner that has the effect of reinforcing, perpetuating or exacerbating … disadvantage, including 'historical' disadvantage." (*Central des syndicats du Québec v. Québec (Procureure générale*), 2018 SCC 18 at para. 22, [2018] 1 S.C.R. 522).

[41] In my view, the motions judge erred in finding there were sufficient facts to show that the possession and shipping limits draw a distinction based on disability or that the limits are discriminatory. The limits treat users differently based on the amount of cannabis they require to treat their condition. Mr. Harris' claim alleges as such: his section 15 claim seeks "the right to carry the same 30-day supply as smaller dosers." The amended statement of claim is devoid of pleaded facts to support that the limits distinguish between users based on a disability or an analogous ground. Mr. Harris has also failed to provide a factual foundation for a finding of discrimination.

[42] Accordingly, Mr. Harris has not pled sufficient facts to support a section 15 claim. I would strike this claim as well.

Leave to Amend

[43] In order to strike a pleading without leave to amend, any defect in the pleading must be one that cannot be cured by amendment (*Collins v. R.*, 2011 FCA 140 at para. 26, 418 N.R. 23). In the current case, I am not convinced that any further amendment would result in a proper pleading. As a result, I would decline to grant leave to amend.

[44] Mr. Harris has brought constitutional claims before the Federal Court on at least three other occasions (*Harris v. Canada (Attorney General*), 2019 FCA 232, 310 A.C.W.S. (3d) 272; *Reference re subsection 52(1) of the Canadian Charter of Rights and Freedoms,* 2017 FC 30, 276 A.C.W.S. (3d) 567; *Harris v. The Queen*, unreported Federal Court order dated October 11,

2016). On each occasion, Mr. Harris advanced claims similar to those he currently advances, attacking the constitutionality of the medical cannabis regime in place. On each occasion, his claims were struck out without leave to amend for disclosing no reasonable cause of action.

[45] Of particular relevance is the Federal Court's decision in *Reference re subsection 52(1) of the Canadian Charter of Rights and Freedoms.* There, Phelan J. dealt with the claims from Mr. Harris and hundreds of others seeking declarations that the medical cannabis regimes in place were unconstitutional. Justice Phelan held that the template-type statement of claim lacked the type of detail necessary to properly plead the respective claims. In particular, he noted that none of the relevant claimants "filed claims that contain details of their personal circumstances and personal infringement of their rights", contrasting the pleadings with those in *Allard.* He further noted that plaintiffs were provided with an opportunity to amend the pleadings to address the lack of detail, but none availed themselves of this opportunity.

[46] Similarly, this Court struck Mr. Harris' claims that the medical cannabis regime in place violated his section 7 rights in *Harris v. Canada (Attorney General*), 2019 FCA 232, 310 A.C.W.S. (3d) 272. The Court emphasized that the facts, as alleged by Mr. Harris, were insufficient to ground a violation of section 7. I note that this decision was released on September 18, 2019, two months before this matter was heard.

[47] Claims based on the *Charter* are often complex and require a strong factual basis. The jurisprudence on medical cannabis-related *Charter* claims offers substantial guidance on what a statement of claim must include to properly equip courts to hear the claim. With this information,

and his past experience before the courts, Mr. Harris had ample opportunity to prepare a claim with sufficient detailed facts. But his claim was almost totally devoid of any factual foundation. Given these circumstances, I do not believe a further opportunity to amend is justified (see e.g. *Abernethy, supra* at para. 14).

Remaining Issues

[48] As this appeal can be resolved on these errors alone, I find it unnecessary to engage with the Crown's arguments that Mr. Harris' claim forms an abuse of process or violates judicial comity. Similarly, I decline to comment on the Federal Court's remarks regarding a "*Charter*-protected right to travel." I will leave the issue whether such a right exists for another day.

Motion for Interim Relief

[49] Given the above conclusion, it follows that the Federal Court erred in granting interlocutory relief. Mr. Harris' motion for interlocutory relief should be dismissed.

Conclusion

[50] I would allow the appeal, and set aside the decision of the Federal Court. Giving the order the Federal Court should have given, I would strike Mr. Harris's claim in its entirety without leave to amend and dismiss Mr. Harris' motion for interlocutory relief.

[51] In my view, it is appropriate in this case to award costs to the Crown in respect of this appeal, but not in respect of the Federal Court motion as the Crown has requested. I would award costs to the Crown in an amount fixed at $1,500, all inclusive.

"Judith Woods"
J.A.

"I agree.
J.D. Denis Pelletier J.A."

"I agree.
Johanne Gauthier J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	A-175-19
STYLE OF CAUSE:	HER MAJESTY THE QUEEN v. ALLAN J. HARRIS
PLACE OF HEARING:	VANCOUVER, BRITISH COLUMBIA
DATE OF HEARING:	NOVEMBER 19, 2019
REASONS FOR JUDGMENT BY:	WOODS J.A.
CONCURRED IN BY:	PELLETIER J.A. GAUTHIER J.A.
DATED:	JULY 21, 2020

APPEARANCES:

Jon Bricker	FOR THE APPELLANT
Allan J. Harris	ON HIS OWN BEHALF

SOLICITORS OF RECORD:

Nathalie G. Drouin Deputy Attorney General of Canada	FOR THE APPELLANT

THIS IS EXHIBIT "133" mentioned and referred to in the affidavit of LISA MINAROVICH SWORN before me by affiant in the City of Brampton, in the Regional Municipality of Peel, in the City of Toronto in the Province of Ontario this 31st day of MAY, 2022 in accordance with O. Reg. 431/20.

A COMMISSIONER FOR TAKING AFFIDAVITS

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50 BRANT AVE
BRANTFORD ON N3T 3G7
TEL: (519) 717-5198

033

DATE 2021-05-01 (YYYY MM DD)

PAY TO THE ORDER OF Receiver General for Canada $ 200—

Two hundred 100 DOLLARS

ROYAL BANK OF CANADA
BRANT & COLBORNE
22 COLBORNE STREET
BRANTFORD, ONTARIO N3T 2G2

MEMO A 258 18

J C Turmel MP

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J C Turmel MP

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22 COLBORNE STREET
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038

DATE 2021-10-01
Y Y Y Y M M D D

PAY TO THE ORDER OF Receiver General for Canada $ 100—

One hundred —— 100 DOLLARS

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BRANT & COLBORNE
22 COLBORNE STREET
BRANTFORD, ONTARIO N3T 2G2

MEMO A 858 18

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036

DATE 2021-08-01
Y Y Y Y M M D D

PAY TO THE ORDER OF Receiver General for Canada $ 200—

Two hundred —— 100 DOLLARS

ROYAL BANK OF CANADA
BRANT & COLBORNE
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MEMO A 858 18

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037

DATE 2021-09-01
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Two hundred —— 100 DOLLARS

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MEMO A 858 18

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