

File No. A-55-08



FEDERAL COURT OF APPEAL

THE ATTORNEY GENERAL OF CANADA

Appellant

and

**DORA SFETKOPOULOS, DAVID MCGREGOR, PRISCILLA LAVELL,
EUGENE HARACK, ROBIN TURNEY, RONALD FOLZ, MICHAEL GIBBISON,
TIMOTHY DEGANS, MARK HUKULAK, LEONARD SISSON, PAUL
MANNING, RON REID, RON SPECK, JOHN LOBRAICO, EDDIE WALLACE,
MICHAEL DELARMEE, RONALD GEORGE WILSON, and JEFFREY LONG**

Respondents

NOTICE OF APPEAL

TO THE Respondents:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears on the following page.

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard at Toronto.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341 prescribed by the *Federal Courts Rules, 1998* and serve it on the appellant's solicitor, or where the appellant is self-represented, on the appellant, WITHIN 10 DAYS after being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the order appealed from, you must serve and file a notice of cross-appeal in Form 341

prescribed by the *Federal Courts Rules, 1998*, instead of serving and filing a notice of appearance.

Copies of the *Federal Courts Rules, 1998*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

(Date):

JAN 31 2008

Issued by:

VANESSA GEORGE

REGISTRY OFFICER

AGENT IN CHARGE
(Registry Officer)

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Solicitors for the Respondents

APPEAL

THE APPELLANT APPEALS to the Federal Court of Appeal from the order of the Honourable Mr. Justice Strayer, Deputy Judge, dated January 10, 2008 (the "Order"), by which:

- (1) The Honourable Deputy Judge declared subsection 41(b.1) of the *Marihuana Medical Access Regulations*, SOR/2001-227 ("MMAR") invalid as being contrary to section 7 of the *Canadian Charter of Rights and Freedoms*;
- (2) The Honourable Deputy Judge set aside the Minister of Health's refusal of the respondents' application for designated-person production licences designating Carasel Harvest Supply Corporation as their designated producer;
- (3) The Honourable Deputy Judge referred the matters back to the Minister for reconsideration in accordance with the Honourable Deputy Judge's reasons for judgment; and,
- (4) The Honourable Deputy Judge awarded the respondents their costs of the application.

THE APPELLANT ASKS that:

- (1) The Order be set aside;
- (2) The appellant be awarded the costs of this appeal and of the proceedings below; and,
- (3) The appellant be granted such further other relief as counsel may advise, and this Honourable Court may permit.

THE GROUNDS OF APPEAL are as follows:

- (1) The Honourable Deputy Judge erred in concluding that subsection 41(b.1) of the MMAR is contrary to section 7 of the *Charter*;
- (2) The Honourable Deputy Judge erred in concluding that the respondents' rights to liberty and/or security of the person were infringed as a result of the Minister's refusal to issue a designated-person production licence designating Carasel Harvest Supply Corporation as their designated producer;

- (3) The Honourable Deputy Judge erred in concluding that the requirement that a designated person production licence-holder produce marihuana for no more than one person is inconsistent with the principles of fundamental justice;
- (4) The Honourable Deputy Judge erred in concluding that the effect of subsection 41(b.1) of the MMAR is to force authorized users of medical marihuana to obtain it illicitly through the black market;
- (5) In the event that subsection 41(b.1) of the MMAR does infringe section 7 of the *Charter*, the Honourable Deputy Judge erred in concluding that it was not a justifiable infringement under section 1 of the Charter; and
- (6) Such other grounds as counsel may advise, and this Honourable Court may permit.

January 31, 2008

Sean Gaudet per: James Sims

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