

**FEDERAL COURT**  
**PROPOSED CLASS ACTION**

**BETWEEN:**

**JOHN DOE**

PLAINTIFF

- and -

**HER MAJESTY THE QUEEN**

DEFENDANT

**STATEMENT OF CLAIM**

**TO THE DEFENDANT:**

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the Plaintiff.  
The claim made against you is set out in the following pages.

**IF YOU WISH TO DEFEND THIS PROCEEDING**, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the *Federal Courts Rules*, serve it on the Plaintiff's solicitor or, where the Plaintiff does not have a solicitor, serve it on the Plaintiff, and file it, with proof of service, at a local office of this Court, **WITHIN 30 DAYS** after this Statement of Claim is served on you, if you are served within Canada.

If you are served in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period for serving and filing your Statement of Defence is sixty days.

Copies of the *Federal Courts Rules*, 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 DEFEND THIS PROCEEDING**, judgment may be given against you in your absence and without further notice to you.

Date: \_\_\_\_\_

Issued by: \_\_\_\_\_  
[Registry Officer]

Address of local office: 1801 Hollis Street,  
17<sup>th</sup> Floor, Suite 1720  
Halifax, N.S. B3J 1S7

To: The Attorney General of Canada  
Attention: Mr. William F. Pentney, Deputy Attorney General of Canada

### **Claim**

1. The Plaintiff claims on his own behalf and on behalf of the proposed Class:
  - a. An Order pursuant to Rules 334.16(1) and 334.17 of the *Federal Courts Rules* certifying this action as a class proceeding;
  - b. An Order pursuant to Rules 334.12(3), 334.16(1)(e) and 334.17(b) appointing the Plaintiff as the representative plaintiff for the Class;
  - c. Damages for the torts of intrusion upon seclusion, publicity given to private life, breach of confidence and negligence;
  - d. An Order pursuant to Rule 334.28(1) and (2) for the aggregate assessment of monetary relief and its distribution to the Plaintiff and the Class;
  - e. Prejudgment interest pursuant to section 36 of the *Federal Courts Act*;
  - f. Costs, if appropriate; and
  - g. Such further and other relief as this Honourable Court deems just.

### **Parties**

2. The Plaintiff is an individual who resides in Nova Scotia. He is employed in the health care field.
3. The Plaintiff brings this action on his own behalf and on behalf of the members of the proposed class, which is defined as follows:

All persons who were sent a letter from Health Canada in November 2013 that had the phrase Marihuana Medical Access Program or a similar French phrase visible on the front of the envelope.

4. The Defendant, Her Majesty the Queen, is named as a representative of the Federal Government of Canada and Health Canada. Health Canada administers the Marihuana Medical Access Program under the *Marihuana Medical Access Regulations*.

### **Medical Marihuana Access Program**

5. Through the Marihuana Medical Access Program, the Defendant grants access to marihuana for medical use to Canadians suffering from grave and debilitating illnesses.
6. Marihuana (cannabis) is categorized as a controlled substance, regulated in Canada under the *Controlled Drugs and Substances Act*. It is not legal to grow or possess marihuana except with legal permission by the Defendant under the Marihuana Medical Access Program.
7. The Plaintiff applied to participate in the Defendant's Marihuana Medical Access Program to grow and possess marihuana to alleviate the pain that he suffers due to a medical condition. The Defendant approved the Plaintiff's application.

#### **Disclosure of the Plaintiff's Private Information**

8. The Defendant typically corresponds to the Plaintiff by courier service with plain unmarked brown envelopes.
9. During the week of November 21, 2013, the Defendant sent the Plaintiff a letter plainly and clearly indicating on the envelope that it was from Health Canada and that it was in regards to the Marihuana Medical Access Program.
10. By publically indicating that the Plaintiff was a participant in the Marihuana Medical Access Program, the Defendant disclosed the personal health information about the Plaintiff. Furthermore, the Defendant's disclosure creates a security concern by alerting other individuals that the Plaintiff may possess and/or grow marihuana at his residence.

#### **Negligence**

11. At all material times, the Defendant owed a duty of care to the Plaintiff and the proposed Class.
12. Furthermore, the Defendant had a statutory duty under subsection 8(1) of the *Privacy Act* to not disclose personal information without that individual's consent. The Plaintiff's and the Class' participation in the Marihuana Medical Access Program constitutes personal information as it is confidential information and relates to their medical history.
13. The Defendant breached its duty of care owed to the Plaintiff and the Class by:
  - a. Failing to meet its statutory duties and/or policies in the collection, retention and disclosure of personal information;
  - b. Failing to take reasonable steps to ensure the personal information was not disclosed;
  - c. Failing to communicate with the Plaintiff and the Class in a manner that did not disclose their personal information; and
  - d. Other such particulars as counsel may advise.

#### **Publicity Given to Private Life**

14. Through its actions stated above, the Defendant gave publicity to the Plaintiff's private, personal information, particularly his medical condition.

15. The Plaintiff's private personal information is of no legitimate concern to the public. The Defendant's disclosure of the Plaintiff's private personal information is highly offensive to a reasonable person.

#### **Breach of Confidence**

16. The Plaintiff states that the Defendant committed the tort of breach of confidence.

17. In applying to participate in the Marihuana Medical Access Program, the Plaintiff conveyed confidential information in confidence to the Defendant.

18. In its actions stated above, the Defendant misused the Plaintiff's confidential information to the Plaintiff's detriment.

#### **Intrusion upon Seclusion**

19. The Defendant's above stated actions constitute an intrusion on seclusion in a manner that would be highly offensive to a reasonable person.

#### **Relief Sought**

20. The Defendant's actions have caused the Plaintiff and the Class to suffer the following damages:

- a. Costs incurred in taking additional security precautions;
- b. Damage to reputation;
- c. Damage to employment;
- d. Mental distress;
- e. General damages; and
- f. Inconvenience, frustration and anxiety.

#### **General**

21. The Plaintiff proposes that this trial take place in Halifax.

**DATED** at Halifax, in the Province of Nova Scotia, this 25<sup>th</sup> day of November 2013.

**PLACE OF TRIAL:** HALIFAX, NOVA SCOTIA

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**David T.S. Fraser**

**Solicitor for the Plaintiff**