

**FEDERAL COURT**

BETWEEN:

**LÉOPOLD DELISLE**

Plaintiff

-and-

**THE ATTORNEY GENERAL OF CANADA**

-and-

**DEPARTMENT OF HEALTH  
(HEALTH CANADA)**

-and-

**DIRECTOR GENERAL  
THERAPEUTIC PRODUCTS DIRECTORATE  
(HEALTH CANADA)**

Defendants

**AFFIDAVIT**

I, the undersigned, Léopold Delisle, residing at -----, Quebec, -----, solemnly declare the following:

1. I am the plaintiff as regards the application for interim relief by which it is sought to order defendants, up to the date of final judgment on the application for judicial review filed in this case, to:

- To order defendants to authorize requests for use of 714X, duly filed with the defendants by attending doctors, without imposing any further terms or conditions, such authorizations to be granted within 24 hours of their reception by the defendants, whether or not the patients subjects of these requests have benefited from such authorizations in the past; and,
  - To order defendants to notify by mail all doctors having prescribed or having solicited an authorization for the use of 714X in the past of the possibility of obtaining this product on demand from the Special Access Programme (hereafter SAP);
2. This affidavit is to inform you that it is imperative that the Federal court rapidly examine the 714X file and its availability in Canada by way of doctors treating patients with serious, potentially life threatening diseases or patients in terminal phases;
  3. At my request, my attorney Me Michel Bélanger, filed a motion in the Federal Court on April 7<sup>th</sup> 2004 seeking an interlocutory injunction against Health Canada so that Canadian patients may benefit from an urgently needed alternative treatment requested by their doctor when conventional treatments have proven themselves ineffective, inadequate or unavailable. 714X remains for these patients, according to their doctors, their one and only chance to improve their health and their quality of life, and this opportunity is being taken away from them without any care for human life, by the deciders at the SAP without any valid reason justifying their actions;
  4. This pleading is part of a class action that was filed on January 29<sup>th</sup> 2004 and concerns hundreds of people who have all been treated similarly as regards their requests for 714X, filed by their doctors, further to an unjustified change of policy within Health Canada;
  5. Given the delays in the hearing of this motion, notwithstanding its interlocutory nature, it seems important to me to state the reasons justifying the urgency of being heard rapidly, if such reasons do not already appear from prior pleadings filed in this case;
  6. Even though the defendants do not consider the situation urgent, even denying the usefulness of the product being requested by doctors themselves, my daily contact with patients force me to testify to the contrary and to insist on receiving a prompt hearing of this request for interim relief;

7. I can testify that dozens of patients suffering from serious and potentially life threatening illnesses, for whom conventional medicine can no longer help, sole condition to benefit from SAP, continue to await a response from SAP notwithstanding the repeated requests of their doctors;
8. Contrary to the sworn affidavit of the defendants' representative, Ian MacKay, filed on April 13<sup>th</sup> 2004, (at paragraph 89), to the effect that there is no proof that would confirm that I or other patients have suffered or will suffer irreparable harm as a result of denials or delays in treating requests for 714X, I can further testify, after having spoken with several patients or family members of deceased patients, that all are unanimous in concluding that the deterioration of their health is due to the halt in their treatment of 714X, a treatment that had stabilized their condition and improved their quality of life. In certain cases, patients died and their family directly attributes their demise to the defendants;
9. It is precisely to substantiate the above allegation that I filed in support of this motion for interim measures, exhibit 12 (pp. 85 to 139 of the motion file) being letters from patients and their grievances as regards the application of the SAP and its deciders;
10. If halting treatment has resulted in the above-described consequences for patients, what can be said of those people who have been completely denied access to 714X notwithstanding the pressing demands of their doctors;
11. Contrary to the sworn affidavit of Ian MacKay (at paragraph 90) to the effect that there is no proof to sustain that refusal of access to 714X will result in physical damage to patients, because, according to him, there is no proof of the safety and efficacy of 714X as a drug that will heal or improve the symptoms of any disease, I refer you specifically to exhibit 13 (pp. 140 to 204 of the motion file) where doctors comments dealing with their patients state of health appear in the last two columns;
12. Accompanying the manufacturer's sworn affidavit is exhibit 19 (pp. 385 to 388) where three letters of Canadian doctors appear stating the beneficial effects of 714X for their patients, some of whom have used the product for over ten years without any adverse reactions whatsoever and all confirming that 714X improved the quality of life and prolonged the life of their patients;

13. Is it further necessary to note again that SAP has itself authorized over 440 000 injections of 714X on Canadian patients without any complaints having been brought to their attention since 1989;
14. As to 714X' effectiveness, tab 81 of the documents filed with the Federal Court on April 7<sup>th</sup> 2004, a letter signed by Dr. Arthur B. Pardee, professor emeritus at the Dana-Farber Cancer Institute in Boston, clearly indicates the amazing properties of 714X further to analyses conducted in his laboratory in 1999;
15. Should further evidence of the urgency of the situation be needed, the case of a 41-year-old man from Ontario suffering from colorectal cancer, brought to my attention less than three days ago, should suffice. In his SAP request filed less than a week ago, his doctor clearly states that no other alternatives exist for this young man. It is worth noting that this doctor is well informed of Health Canada's policy as regards new patients seeking 714X, refusing all such requests, and filed his SAP notwithstanding this policy;
16. Cancer, in the phases where most patients seeking 714X are generally located, does not afford any delays that will not compromise the chances of survival of these patients. In this perspective, all delays in hearing this motion for interim relief places in jeopardy the life and health of imperiled Canadian patients and further jeopardizes the treatment sought to be applied by Canadian doctors for their patients;

And I have signed:

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Léopold Delisle

Solemnly declared before me at Montreal  
This 22<sup>rd</sup> day of April 2004

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Commission of oaths  
For the district of Montreal