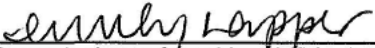


ABFE001

This is EXHIBIT " C " referred to in the the affidavit of MEGAN PATTERSON affirmed before me at Vancouver, B.C. this 5 day of April, 2022.

  
A Commissioner for taking Affidavits for British Columbia

This is the 2<sup>nd</sup> affidavit of [REDACTED] in this proceeding and it was made on March 07, 2022

Court of Appeal File No. CA47363  
Supreme Court File No. 210209  
Vancouver Registry

IN THE COURT OF APPEAL OF BRITISH COLUMBIA

Between

ALAIN BEAUDOIN, BRENT SMITH, JOHN KOOPMAN, JOHN VAN MUYEN,  
RIVERSIDE CALVARY CHAPEL, IMMANUEL COVENANT REFORMED CHURCH,  
and FREE REFORMED CHURCH OF CHILLIWACK, B.C.

APPELLANTS  
(Petitioners)

and

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,  
and DR. BONNIE HENRY IN HER CAPACITY AS PROVINCIAL HEALTH OFFICER  
FOR THE PROVINCE OF BRITISH COLUMBIA

RESPONDENTS  
(Respondents)

and

THE ASSOCIATION FOR REFORMED POLITICAL ACTION  
(ARPA) CANADA

INTERVENOR  
(Intervenor)

Type text here

**AFFIDAVIT OF [REDACTED]**

I, [REDACTED], of [REDACTED], in the Province of British Columbia, MAKE OATH AND SAY AS FOLLOWS THAT:

1. I am the Pastor of [REDACTED], BC and as such I have personal knowledge of the matters herein deposed to except where stated to be on information and belief and where so stated, I verily believe them to be true.
2. On May 5, 2021, I received an email response from Dr. Brian Emerson, Deputy Public Health Officer (acting) to [REDACTED]'s Request for Reconsideration, made on December 7, 2020 and reiterated on January 7, 2021, which response is attached as **Exhibit "A"** to this Affidavit.
3. This was the only substantive response [REDACTED] received to it request that Dr. Bonnie Henry reconsider her orders prohibiting in-person worship services.

4. Dr. Emerson's response stated in part as follows:

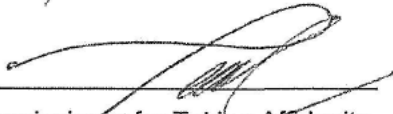
As you might imagine Dr. Henry has received a large volume of requests for reconsideration of Provincial Health Officer Orders. The time and expertise required to consider them has become beyond her capacity to manage and would require resources which are better directed at assessing and responding to threats to the health of the public as a whole.

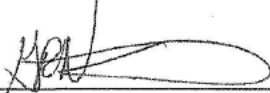
Therefore, in the interest of protecting the public health, Dr. Henry is not accepting requests to reconsider Orders until the level of transmission of infection, the incidence of serious disease, the number of hospitalizations, admissions to intensive care units and deaths, and the strain on the public health and health care systems, are significantly reduced.

5. I provided this information to counsel for the Appellants on March 7, 2022.

6. I swear this Affidavit *bona fide* and for no improper purpose.

SWORN BEFORE ME at the )  
City of [redacted] )  
in the Province of British Columbia, )  
on this 7 day of March, 2022. )

  
\_\_\_\_\_  
A Commissioner for Taking Affidavits  
within the Province of British Columbia

  
\_\_\_\_\_  
[redacted]

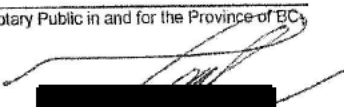
[redacted]  
- Notary Public -  
[redacted]  
[redacted]

ABFE003

From: Emerson, Brian P HLTH:EX <[REDACTED]>  
Date: Wed, May 5, 2021 at 5:36 PM  
Subject: [REDACTED] Request for Reconsideration (#1183750 )  
To: [REDACTED] >  
CC: Bruce, Alan HLTH:EX <[REDACTED]>

This is Exhibit "A" referred to in  
the Affidavit of [REDACTED]  
Sworn before me this 7 day of  
March, 2022

A Notary Public in and for the Province of BC,

  
[REDACTED]  
Notary Public -  
[REDACTED]

Dear [REDACTED],

Thank you for your email of January 7 (below) and letter of December 7 (attached) to Dr. Bonnie Henry regarding a request for reconsideration of the *Gatherings and Events* order so that indoor worship services could resume according to the proposed protocol that was attached to your letter.

Firstly, I want to assure you that we are saddened to hear about the hardship that the pandemic and response measures has had on religious communities while we all work at keeping our communities safe.

Secondly, I hope that you were connected to, or at least made aware of, the process with faith leaders supported by Dr. Henry and led by Dr. Robert Daum that led to the production of a class variance for outdoor worship services on March 23, and for indoor worship services on March 25 which were posted on the Provincial Health Officer website (link below).

I hope that the class variance for outdoor services, which allows for up to fifty people, as well as people in fifty vehicles, to be present, with other requirements, has perhaps enabled some group services to happen for your congregation.

Unfortunately, a surge in cases led Dr. Henry to suspend the indoor worship variance on March 29 to April 19, which she subsequently extended until May 24.

It was with a heavy heart that she suspended the indoor worship variance, but as you are likely aware, BC is experiencing another substantial increase in transmission of COVID-19, our "third wave" of this serious disease. The consequence is that we are seeing persisting high levels of cases, and increased clusters and outbreaks. This is producing

ABFE004

increasing incidences of people with serious disease, resulting in elevations in hospitalizations, intensive care unit admissions and deaths. Both our health care system and public health system are being significantly strained. This surge is in part being driven by increasingly widespread transmission of virus variants of concern. These are more transmissible, leading to more rapid spread of this disease, and have the potential to cause more serious illness.

To help stop the spread of disease and protect as many people as possible it is imperative that everyone strictly limit their in-person social interactions. This necessitated the prohibition of indoor dining in restaurants and pubs on March 29, and the recent travel restrictions. Interactions with people from other households than one's own should only occur outdoors while maintaining physical distancing. People should only be going into places where many other people are present for essential purposes, like work or school. They should be going into other settings only for essential activities or services, and spending very limited time in those other settings.

I recognize how challenging this has been, particularly in the past few months, and that many people are stretched to their limits of endurance. I recognize the strain and mental and emotional toll these restrictions have had on religious communities and hope that you and your members are finding the supports needed to cope with these extraordinary pressures.

The positive news is that the ramping up of the vaccination campaign with safe and effective vaccines continues. As more of the most vulnerable in our community are protected the need for restrictions will diminish. I expect by the summer, and potentially sooner, we will be able to return fewer restrictions once again.

However, given the precarious position we are in, restrictive actions must continue to be taken to protect people and their communities.

As you might imagine Dr. Henry has received a large volume of requests for reconsideration of Provincial Health Officer Orders. The time and expertise required to consider them has become beyond her capacity to manage and would require resources which are better directed at assessing and responding to threats to the health of the public as a whole.

ABFE005

Therefore, in the interest of protecting the public health, Dr. Henry is not accepting requests to reconsider Orders until the level of transmission of infection, the incidence of serious disease, the number of hospitalizations, admissions to intensive care units and deaths, and the strain on the public health and health care systems, are significantly reduced.

To this end Dr. Henry has issued an order varying existing orders to suspend reconsiderations, subject to an exception for a request which establishes an infringement of a right or freedom protected by the *Charter of Rights and Freedoms*; except a request to reconsider the prohibition of indoor

worship services, since the prohibition, and applications to vary it, have been fully considered and are now before the courts. For more details see this order posted at <https://www2.gov.bc.ca/gov/content/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/current-health-topics/covid-19-novel-coronavirus>.

We wish things could be better as we know how hard this year has been. We continue to monitor this situation very closely and will lift restrictions as soon as safe to do so.

If you have questions or concerns about this decision, please let me know.

Sincerely,

*Brian Emerson*

Dr. Brian P. Emerson, Deputy Provincial Health Officer (acting)  
BC Ministry of Health, PO Box 9648 Stn Prov Govt, Victoria, BC V8W 9P1

From: [REDACTED] >

Sent: January 7, 2021 12:45 PM

To: Henry, Bonnie HLTH:EX <[REDACTED]>; Horgan.MLA, John LASS:EX

ABFE006

<[REDACTED]>; Dix.MLA, Adrian LASS:EX <[REDACTED]>  
 Cc: Minister, HLTH HLTH:EX <[REDACTED]>; OfficeofthePremier, Office PREM:EX  
 <[REDACTED]>  
 Subject: 1183750 [REDACTED] 3rd Incoming - PHOs

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We would like to thank you for your diligent labours. You have an immense responsibility, and we want you to know that we uphold you in our daily prayers.

As you know, faith communities are a tremendous blessing in British Columbia and continue to be a vital part of the community fabric in our province. **Faith communities are at the centre of life for people of all ages, every demographic, and every racial and ethnic group in this province, and offer vital services to their own members and to their neighbours.** Whether it be spiritual nourishment, feeding the hungry, comforting the sick, walking beside those with mental health struggles, offering hospitality to new Canadians, or providing community and love – faith communities are essential to the health and well-being of this province.

While we understand the need to protect and promote the well-being of our neighbours, especially the most vulnerable among us, we are disappointed that the latest restrictions have effectively banned our congregation's Sunday morning worship service.

We submit our concerns to you with our commitment to seek the welfare, not merely of the church, but of our neighbours. We believe God has called us to diligently pray for and seek the peace and prosperity of this province, and this work cannot be separated from our worship. We are, therefore, committed to adopting and enforcing COVID-19 protocols (see our proposed written proposal) and believe that our worship services are among the safest public places in our community.

#### **Our Religious Beliefs**

We believe that God requires us to gather in person at least once a week to celebrate the Eucharist, and our governing documents prevent us from celebrating the Eucharist virtually.

We believe that human beings are, above all, spiritual beings. For us, the celebration of the Eucharist at least weekly is essential for human flourishing. Without it, our health and well-being suffer.

We believe that the church exists to serve and care for our neighbours, including the vulnerable, struggling, sick and dying. While we are able to serve the broader community virtually in some ways (just as doctors can have phone consultations, we can Zoom for some spiritual support) there are important aspects of care that demand physical presence (just as doctors need to be present for surgery, we need to be present to comfort the dying). Additionally, virtual attendance discriminates against those who, for no fault of their own, lack the ability or means to use this technology.

#### **The Effect of the Provincial Order**

As you know, the Provincial Health Order affects religious bodies in different ways, depending upon

ABFE007

their beliefs and governing documents. For Roman Catholics, as Archbishop Miller observed, the order does not forbid daily Mass per se, but restricts it to the priest and those who are assisting the production of the virtual service. For Presbyterian churches like ours, however, the order effectively bans our weekly Sunday morning service. Our governing documents do not recognize a virtual service as a valid mode of celebrating the Eucharist.

In short, we grieve that the Provincial Health Order has placed us in a difficult position. **If we obey the present order, we act contrary to our religious beliefs as regulated by our governing documents. On the other hand, if we obey our religious beliefs as regulated by our governing documents, we act contrary to the law of our province.**

#### **Our Appeal**

We humbly request that Premier Horgan, Health Minister Dix and Public Health Officer Henry publicly acknowledge that the latest Provincial Health Order affects faith communities differently, depending upon their religious beliefs and governing documents. As noted, given our religious beliefs and governing documents, this order limits our freedoms of religion and peaceful assembly.

We humbly request that Dr. Henry consult with more faith communities, such as ours, to promote greater understanding of how orders affect those communities differently, depending upon their specific religious beliefs and governing documents. Our hope is that public health orders will reflect the delicate balance between protecting life and respecting the fundamental freedoms of religion and peaceful assembly.

We humbly request that Dr. Henry recognize faith communities as an essential service for human flourishing and allow them to gather for in-person services effective immediately.

Respectfully submitted,

Rev. [REDACTED]