Vancouver

02-Sep-11

REGISTRY

This is the 1st affidavit
of Leslie Laforest in this case
and it was made on 22 Aug 2011

No. S112688
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

LEE CARTER, HOLLIS JOHNSON, DR. WILLIAM SHOICHET, THE BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION and GLORIA TAYLOR

PLAINTIFFS

AND:

ATTORNEY GENERAL OF CANADA

DEFENDANT

AND:

ATTORNEY GENERAL OF BRITISH COLUMBIA

INTERVENOR

AFFIDAVIT

I, **LESLIE LAFOREST**, entrepreneur and artist, of 4285 Yuculta Crescent, in the City of Vancouver, Province of British Columbia, SWEAR (OR AFFIRM) THAT:

1. I have personal knowledge of the facts and matters hereinafter deposed to, save and except where same are stated to be made on information and belief, and where so stated, I verily believe them to be true.

2. I have Stage IIIC anal cancer. I am a married, 54 year old mother of an 18 year old daughter. There are not enough words to adequately describe the despair my family, my friends and I are currently going through.

3. While doctors are aiming for a cure, there is a chance it might not happen, and death from this disease is ugly. If my condition worsens and becomes terminal, I want the right to die with dignity.

4. I want to have the right to die at a time that is within my control, not after unremitting pain has become my bedside companion or morphine has taken over my consciousness and I have passed into oblivion. My intention is not to wizen away, delusional, morphed out to the point of a comatose skeleton. It will be my suffering, my life and my death that will be involved, and I believe I should have the right and responsibility to make that critical choice for myself.

5. I am physically fit, strong and vibrant. I love my life, but now I am thinking about how I would like to die. I do not want to die a horrible death from this disease. I want my death to match the kind of life I have lived.

Personal History

6. I am not a person of suicidal persuasion. I have always been an adventurer, a risk taker, a person eager to take the interesting path over the predictable. I left home at a young age to live in Northern Ontario, moving from there to some of the most beautiful locations in BC. I have hunted wildlife with a camera in the Kootenays, lived in far Northern BC, hiked the Alaskan panhandle traipsing through a multitude of First Nation's villages, and jumped off snow trains into eight-foot banks of snow so I might snow shoe with gear to a trapper's cabin in the middle of nowhere, Ontario.

7. I have traveled the world and lived the ex-pat life for five years in Australia – no easy feat dragging around a kid, a husband, a dog and a cat all over this continent and to several other places in between. I ran my own clothing design studio for many years and worked as a commercial real estate paralegal professionally until my husband and I took over our electrical engineering firm. During all of this, I have run adventure clubs for kids, taught design classes, created costumes for theatre productions at my daughter's schools and renovated nine different houses for which I did half the physical work and acted as general contractor over the rest.

8. Currently I consider myself officially retired. I spend my time gardening, painting, creating glass mosaic installations and setting in motion the next phase of my life, as our daughter leaves the nest to head off to university.

9. I am a crucial hub in a large extended family and social network; people love me as much as I love them. Our family home is often the centre of large, raucous gatherings. Life is full for me and mine. We make the most of what time we have and never stop treasuring the fact that most of us are healthy and happy and a valued support to one another in any situation. In short, I am a person in love with life – vibrant, dynamic, ever changing life – wholly aware that a "great" life is intrinsically linked with quality. And mine is one of quality.

Medical History

10. I am unfortunately not a neophyte when it comes to medical issues. I have experienced several injuries and surgeries over the past 55 years, which have introduced a wide range of pain and physical impacts upon my body. From the time I was little, I was not a person one would peg for continuous health concerns. Alas, the reality of my situation at cellular level was quite different.

11. Having my tonsils out at five was the beginning of a long litany of hospitalizations throughout my life. At 18, I was hospitalized for what was speculated to be a severe kidney infection, but the tests were inconclusive. I tore my cartilage skiing in my early 20s and then suffered a traumatic eye injury from competitive badminton. When I turned 30, I had the first of three ectopic pregnancies that would occur over the next six years; meaning three lost babies, requiring three times a slit open belly. I recovered quickly through sheer determination and personal fortitude. I did not sink into depression; I simply persevered and looked to the "next try" heading out on my bike each day at 7 a.m.

12. I soldiered through the ectopics, and the lost pregnancies and the myriad of other accidents and physical thrashings, because that is what I do. I do not believe in giving up. I do not believe in caving into physical torment or the psychological wallops life deals us from time to time.

Heart Disease Diagnosis

13. However, nothing in my medical history prepared me for what came next. At the age of 47, being physically fit with no weight issues, no family history or life risks, I was diagnosed with severe premature cardiac artery disease ("CAD"). It came as a shock not only to me, but also to the medical team involved. Within three weeks of diagnosis, I was rushed to open heart surgery during which my chest was cracked open and a left internal mammary artery bypass graft was performed, a type of coronary artery bypass surgery ("CABG"). Five weeks later, the CABG completely failed and I was hospitalized for a second traumatic time. This time, the doctors determined that they would insert two drug-eluting stents.

14. I had been so thoroughly convinced by my treatment team that CABG was the only thing that could save my life, that I did not think I had a chance. I spent the night before stent deployment coming to terms with the fact that I might die the next day. I was glad that if the end came, it would come quickly on a catheter table away from my family's watching. I was also glad that I did not have cancer, or a heart attack or stroke, leaving me a writhing mess on a hospital gurney.

15. When I was going through the diagnosis, treatments and surgery for my heart condition, my husband and I had many end of life discussions. Like any mother, I wanted to know that everything was going to be alright for my then 11 year old daughter if I died. The night before the surgery to put the stents in my veins, I wrote letters to my husband and daughter to say good-bye.

16. I survived the life saving stent deployment, but I have never forgotten that near death experience. That experience taught me to be at peace with death, and to accept that I could not hold onto life forever, no matter how much I wanted to.

17. After the procedure, many months later I finally learned that the type of CAD I suffer from is called "intimal hyperplasia." It is rare, progressive and potentially lethal. There is only one specialist in all of North America currently studying this disease, which is thought to be autoimmune in nature. It affects women more than men. In layman's terms the arteries of my

heart are "delaminating." They are blistering and blocking blood flow to my heart, a condition known as stenosis. This will continue to happen for the rest of my life, and it is life-threatening.

18. At the time of surgery, it was thought I would stenose to potentially lethal levels every four to six months. I was told that if I was lucky and continue to have anginal warnings as I did in the past, I would get to an emergency room in time to be cleared out using stents. If I do not have any warning sign, I will undergo a massive cardiac infarction, with a highly elevated risk of massive stroke.

19. It has been seven years since the last intervention. An investigative CT scan in October 2009 showed my arteries blocked at a 50 percent level. It is suspected I am now at a 60 to 70 percent level. This is the reality under which I have lived for the past seven years.

Cancer Diagnosis and Treatment

20. I certainly believed at the time of my heart issues that there would never be anything worse than what I had gone through. I was wrong. I was diagnosed with Stage IIIC anal cancer, squamous cell carcinoma, in May 2011.

21. Only two people in 100,000 ever contract this type of disease. The statistical five year survival for this stage of anal cancer is around 45 to 60 percent, depending on the source. My radiation and chemo oncologists while cautiously optimistic for a cure, stress I have extensive pelvic disease. Although squamous cell carcinoma is one of the easier cancer cells to kill with chemotherapy and radiation, I have an extensive number of deep pelvic nodes and my tumor sits at 3-4 cm making it larger, denser and harder to kill. Because of the large number of nodes, there is a greater chance of recurrence.

22. As a patient, I have had to submit to a number of embarrassing and dehumanizing procedures. A recent treatment session required lying on a table with my butt wide open, with people standing around and putting fluids and dyes in my anus. No one who is healthy and dynamic can understand what this feels like. Unless you have been there yourself, you have no idea what it is like to be lying on a medical table, having a tumour in your anus be measured for radiation. It is horrific, embarrassing, frustrating and painful to be sick and dying.

23. I have been told that I will likely experience a number of alarming side effects. Radiation and chemotherapy will wipe out my red and white blood cells to dangerous levels, leaving me susceptible to infections, moulds and severe fatigue. The radiation may lead to severely burned skin. My doctors have told me to expect burning of my vulva, anus, bowel, vaginal canal and bladder. This cannot be avoided as I am being irradiated right through the pelvis.

24. If I survive the cancer, I may end up with permanent scarring of my bowel and anus resulting in diarrhea and incontinence. My vulva and vaginal canal will likely shrink and be scarred making intercourse painful in the future. My bladder may be damaged and require, like the vagina, dilators to stretch out badly scarred tissue, and stents to hold open vessels and canals that have collapsed.

25. I asked my oncologist what would happen if I decided not to have this painful treatment. They told me this was not an option. They described that death by this type of disease is ugly. It is not a way anyone would want to die. It would take time and I would die in agony, regardless of pain medication and therapies that currently exist. They described how my legs would swell to gross proportion as the poisons and toxins built up in my system. And the tumour would continue to grow to explosive proportions blocking off the bowel which will begin to twist and contort under pressure. I would ooze putrescence and mucous, blood and fecal matter out of every orifice. No amount of drugs they assured me would deal with the "break through" pain.

26. I decided that I would undergo the treatments to try to avoid an awful death, and also because my daughter is just starting university in the fall, and I wanted to make sure that she could take her first steps into adulthood unencumbered by that nightmare. Even if I were to only get another year, I want that time.

27. Of course, there is the possibility that even despite all my best attempts to beat this disease, I might not be one of the lucky ones. The normal course of incurable anal cancer is that the tumour in the rectal area infects local nodes, which go on to involve the lymphatic system. These nodes enter the bloodstream and are quickly spread to the adrenal glands, then to the liver and lungs, and then if you survive long enough, into the brain. It was easy for me to deduce that if I am not lucky this first time around, I have months, maybe years of medical torture and agony

to face before hitting the end of this vicious disease. Now if you were to take my place in this story, can you understand why I might want to skip the last chapter?

My Views on Death and Dying

28. I have honed my philosophy on death and dying over my 55 years on this planet. At the age of 19, I visited my mentor, Miss Claire Miller, who some months before had been diagnosed with a form of cancer. At the urging of my uncle, who said she did not have much time left, I went to the hospital to offer her my support.

29. I found her curled up in a hospital bed in a private room. Maybe 5'2" and 95 pounds well, she had shrunken to a 65 pound skeleton of waxy grey skin stretched over pointy bones sticking out from everywhere. I called her name and touched her hand, surprised at its warmth, but she did not recognize me and could not move, only moaned through a gawping mouth she was not able to close.

30. Her one free hand was scratching at her covers and it was obvious to me, despite my discomfort and shock, that she was trying to get me to help her and she was not happy. I kept asking what she needed and ended up pulling back the covers to see what she was trying to get at. She had bedsores through to the bone, a big Kotex pad between her legs tethered with one of those old-time belts. She was oozing out of orifices that were staining the bed beneath her. Despite no discernable language, I could tell she was in pain. I called for a nurse and told Miss Miller she was coming before I left, too frightened to look back at what remained of her.

31. Miss Miller, regardless of receiving the best medical care of the day, died alone, in agony, a festering pile of excrement, urine and bone. There was not an ounce of dignity to it. I vowed then and there that I would never die like that.

32. My philosophy was further refined 18 years ago, after my mother had a viral attack that went to her heart. The attack caused her to suffer from cardiomyopathy, which is when the heart muscles begin to deteriorate. Cardiomyopathy is a severe heart condition that generally leads to heart failure. The doctors told my mother that she only had another year or two to live, unless she had a heart transplant.

33. For personal reasons, my mother did not want a transplant and she took herself off the waiting list. My gut reaction was that she had no right to refuse a transplant. I felt that she had no right to do that to me. I was so angry with her. She insisted that it was her life and her body, therefore it was her choice. My mother was absolutely right. It was inconsequential how I felt about her decision, this was about self-determination.

34. This experience with my mother taught me that I have rights over my own body, including the right to choose to end my life. This right does not belong to the government, my husband or even my daughter.

35. My mother is still alive today, which means she exceeded her doctors' prognosis by 16 years and counting. I am well aware of the fallibility of medical prognoses. I am well aware that people can defy the odds. I defied the odds with my heart disease. Medical odds are defied all the time; sometimes people live longer, sometimes they live shorter. I am well aware that if I were to choose to take my life, I would lose the chance to prove my doctors wrong. But that is a risk that I may be willing to take. Either way, it is my choice.

36. My husband and I have discussed end of life issues in abstract form off and on throughout our 22 years together. We have discussed it in concrete terms since my heart surgeries and much more pressingly now that I have cancer. These most recent discussions have been heartbreaking because everything is so urgently real now. Our daughter is just now branching out into her own life, so the possibility of her losing her beloved mother weighs heavily on our discussions, but does not dissuade us – does not dissuade me – from dying with dignity if and when the time comes.

How I Intend to Die

37. My heart surgery and then my cancer diagnosis have solidified my views in dignified dying. I have worked very hard at the person I am to all of my people. I will not allow a long, lingering, painful death – their memory of it – to overwrite the "me" that exists today. I mean what I say. And I will die the way I mean to – whether laws are changed to help me do so with dignity or not.

38. It is fine to have such fervent beliefs, but when it is not backed by legislation, how exactly would I put-pay to my wishes? I have considered traveling abroad to a country that has supportive euthanasia laws to seek an assisted suicide. I currently do not know how this works, and I am daunted by the research and planning I would have to undertake to make this a viable option. In my current condition, this feels insurmountable.

39. There is also the difficulty in timing such a trip, because I would have to go probably well ahead of when I actually need to leave this life - as I would have to be ambulatory enough to fly there, to make it to a facility and to be of sound enough mind to make my intentions legally believable. There is also the financial impact I have absolutely no idea about – how much would such a venture cost? Body transport and legalities to get it back home? How would my husband handle it? My family? My friends? Particularly if I exit before eking out that last little bit of quality life I could have were I to die at home. This is not a vacation I would relish planning.

40. One of the more likely options I have considered is carbon monoxide asphyxiation. I would fix a large hose from the exhaust of my car. I would feed it into the rear window, fixing it securely and taping any gaps to ensure the carbon monoxide could not escape. I would take just enough sleeping tablets to ensure I would fall asleep without vomiting them up, crawl into the car with a good book and my iPod, turn on the engine and drift off into oblivion. I would do this at a time when my husband was out of town and my daughter was somewhere secure at university, to ensure she would not be the one to find my body.

41. I would have prepared ahead of time a large collection of DVDs and tapes and writings to do with my final days and a note for my husband to find on his return. In that note I would explain the how and why I chose that moment to exit. He would already know my many intimate thoughts around all of this, but just not the moment I would actually be saying goodbye. I would hope to alleviate his sorrow with this, but know in my heart nothing can replace a final goodbye. I would hope my husband and daughter would forgive me.

42. I have also considered trying to find street heroin. I would swallow enough pain killers with the hopes that the pills in conjunction with a first-time injection would stop my heart either instantly or sometime shortly thereafter. But I will have to first learn how to self-inject; it is something I do not know how to do, and I have no experience buying street drugs.

43. If it were winter, I might take myself up to my beloved mountains and snowshoe, say at Hollyburn. Having taken enough sleeping pills to ensure I did not wake I would simply pull off the trail when I got tired, preferably as the sun goes down, and drift off to sleep, freezing to death painlessly.

44. All of the options I have thought about would require me to end my life while I am still able bodied and capable of taking my life, well ahead of when I actually need to leave this life. I would never want to subject my husband or daughter to the possibility of criminal charges, so I would never enlist their help.

45. I would never hang myself, slit my wrists or use a gun. I would never do that to my family. I do not want my family to have to deal with that. And I hate the thought of plummeting from a bridge or drowning so those options too are ruled out. I will look into organization "Dying with Dignity" to see if I meet their criteria and if they might be able to help me out by providing counseling or advice.

46. It is an emotional journey every time I reflect in this manner. Tears never fail to stream down my face when thinking this way. I have sometimes been reduced to racking sobs, so I limit the amount of time I dwell on dying to sensible amounts, but it is difficult to determine what is sensible in matters such as this. At all costs, I do not wish to become depressed, so I try to only think about these plans when I have the strength to dissect the matter and cogently turn it over in my mind before putting it away for a while to go and live! There is no doubt in my mind or heart that I can and would make it happen if the time comes. It is heartbreaking for me to contemplate that I may have to make this choice while I am still able bodied, but before I am ready to go.

47. I fervently believe I should not have to do this on my own. I should not have to think of barbaric ways to do myself in, especially at times like this, when I am my most weakest. But the law leaves me with no other choice.

48. I believe there is a clear difference between being "suicidal" and wishing to have an assisted death. The former is a byproduct of hopelessness and depression in the face of very clear ways forward if a person is helped. Wishing for an assisted death, on the other hand, is

when pain, loss of dignity and physical suffering affects so drastically that person's individual take on quality of life that they no longer wish to endure.

49. On paper, I look like a very ill person. Reading my medical history you would think that I am a failure. You would think that I am frail. You might be tempted to think: "Of course she wants to die. She is depressed due to all of these medical struggles." That could not be further from the truth. I love my life. I am strong and vibrant. After my heart surgery, I healed by gardening and laying five coats of stain on my hardwood floors.

50. I love my life, but I do not want to live if I cannot do any of the things that make my life enjoyable. I do not want to live if I can no longer bike, ski, hike, paint, write, garden and walk. It is possible that I will lose all the things that bring me joy in this life. My life, at this very moment, is full of so many things that make me happy. I do not want to be forced to live without all of them.

51. I do not want to lose control. I see the loss of control as being when my mind is extinguished and when my essence is gone. I believe that people are not their bodies or what they say, they are their thoughts and minds. I will not allow my illness to reach the point where it affects my cognition, and I will not agree to be sedated to the point of terminal sedation.

52. I wish to have the choice to die with dignity. I wish to do so at a time that is within my control. My line-in-the-sand, so to speak, is when my mind is still "me" – not the residual grey goo left over from a losing battle of good tissue versus bad. I do not wish to be hooked up and kept alive with countless medical devices keeping my body alive when there is little of anything left of my mind.

53. My every waking moment is overshadowed with the omnipotence of my cancer. It is rather like a Peter Pan shadow, acting on its own but every bit a part of me, pulling me forward into the unknown. I look out on a beautiful sunrise or the rain with as much interest as I have always had, but there is an added dimension now - how much more of this will I see? I think of how much of a role I will be able to play in my child's life, my beautiful accomplished daughter whom I treasure even more now than I ever thought possible. And my husband, who has kept our family strong as he shoulders his caretaker role so beautifully and generously. These are my

people. The sorrow I feel when I think about how much I will hurt them should I die sometimes leaves me gasping.

54. Life has changed, irretrievably changed. And neither my husband, daughter nor I know exactly where this new circumstance will lead us. We approach it with hope, but pragmatism dictates we should all at least have backup plans if the situation does not pan out the way we want it too.

55. I would have much preferred to have the fortune of good health for a lifetime. But I do not have that, so I simply ask to exit this life quickly, painlessly and with the dignity I choose. Who has the right to say when and how an ill individual dies? Should it be left to society, comprised mostly of people who are not dying? Or should it be left to the ill person who is, simply put, doing the actual dying? It is my fervent belief that no one has the right to tell me how, when and where my dying ought to occur.

SWORN (OR AFFIRMED) BEFORE ME)
at Vancouver, British Columbia, on 22 Aug)
2011)
)
______________________________)
A Commissioner for taking Affidavits for) **LESLIE LAFOREST**
British Columbia.)

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