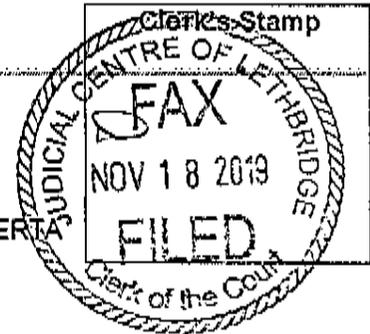


FORM CC1  
(Subrule 5(1) and rule 14)



COURT FILE NUMBER [REDACTED]  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE LETHBRIDGE  
CROWN HER MAJESTY THE QUEEN  
THE ACCUSED [REDACTED]  
DOCUMENT APPLICATION BY THE ACCUSED – NOTICE OF MOTION  
ADDRESS FOR SERVICE & CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT DANIEL J. SONG - PRINGLE CHIVERS SPARKS TESKEY  
[REDACTED]

**NOTICE TO RESPONDENT:** Her Majesty the Queen  
**Date:** [REDACTED]  
**Time:** 10:00 a.m.  
**Place:** Lethbridge – Court House, 320 4 St. S. Lethbridge, AB T1J 1Z8

**REMEDY SOUGHT:**

1. The exclusion of all evidence obtained through and as a result of the execution of a tracking device warrant on August 18, 2017;
2. The exclusion of all evidence obtained through and as a result of the execution of a tracking device warrant and production order on September 13, 2017;
3. The exclusion of all evidence obtained through and as a result of the execution of a search warrant on September 27, 2017;
4. The exclusion of all evidence obtained through and as a result of the execution of warrants for DNA and cellphone searches on October 5 and 10, 2017; and,

5. The exclusion of any other evidence whose admission could bring the administration of justice into disrepute.

## **GROUNDNS FOR MAKING THIS APPLICATION:**

### **OVERVIEW**

#### **Cocaine at [REDACTED]**

6. On July 14, 2017, members of the Lethbridge Police Service ("LPS") received a report of a stash of cocaine hidden under a rock in a hedge row off of [REDACTED] near [REDACTED].
7. LPS members took a statement from [REDACTED], who indicated that on July 13, 2013, [REDACTED] told him there was a stash of drugs hidden in a field nearby. On July 14, [REDACTED] noticed fresh tracks in the area [REDACTED] had described. [REDACTED] followed the tracks and found bags of white drugs hidden under a rock. He picked up one of the bags and took a photo of it in his hand. He showed the photo to his neighbour, [REDACTED], who subsequently contacted police. [REDACTED] had not noticed any unfamiliar vehicles or people in the area.
8. LPS were guided to the location by [REDACTED]. LPS members moved the rock and discovered a metal cannister buried in the ground. Inside the thermos were 27 bags containing individually wrapped baggies containing a total 855.4 g of cocaine, with an estimated street value of \$85,540.
9. Cst. Snowden left his business card in the recess where the thermos had been stashed, with a message saying, "I have your cocaine. Please call me." The rock was put back into place. A hidden camera was installed in the trees.
10. Police also interviewed [REDACTED], who told police that in late May of 2017, he had passed an unfamiliar "white SUV" on [REDACTED]. A few days later on May 30, 2017, he observed the same vehicle parked on the side of the road with its flashers on. He observed a tall white male with a "scruffy" beard walking out of the trees. [REDACTED] indicated that the licence plate number of the white SUV was [REDACTED]. [REDACTED] had not seen the white SUV since.

11. An MVID search was conducted for license plate number [REDACTED]. The plate was found to be registered to a 2017 Toyota Camry (colour listed as “other”) owned by Enterprise Rent-a-Car in Calgary.
12. [REDACTED]’s statement indicates that his father, [REDACTED], had seen another vehicle in the area and had confronted the driver:
  - Q: Did your father see anything?
  - A: Yes, he confronted one of them and got licence plate of their car. [REDACTED]. 403-[XXX]-[XXX].
13. There is no documentation of any conversation or correspondence between [REDACTED] and police.
14. A general report compiled by Cst. Snowdon of the Alberta Law Enforcement Response Team (ALERT) on July 14 records a licence plate number for the unknown second vehicle:
  - [REDACTED] stated that his father saw another vehicle in the area; with Alberta license plate [REDACTED].
15. The report indicates that this plate number was registered to [REDACTED].
16. On July 17, 2017, police returned to the area and observed that the rock had been flipped over and Cst. Snowden’s card had been moved. The card was seized for fingerprint processing. Police reviewed the photos from the hidden camera, but there was nothing of value as the wind had caused the camera to point in the wrong direction.

**Drug Activity at [REDACTED]**

17. A Crime Stoppers tip was provided by an unknown informant at an undisclosed time in 2017. The report describes suspected drug transactions taking place out of the alley behind [REDACTED] in Lethbridge, Alberta.
18. The suspect was described as a Caucasian male, 6’2” tall, 160 lbs, age 20 to 30, with short hair. A “heavy set female” was reported to live with him at that address. The suspect was “last seen” in a Black Nissan Altima with license plate number [REDACTED].

## Surveillance Reports

19. On August 10, 2017, Cst. Snowdon conducted surveillance on [REDACTED]. A black Nissan Murano with license plate number [REDACTED] was observed driving past the residence but not stopping. The driver was observed to be a Caucasian male with short dark hair. He was noted as a “good possible” for [REDACTED].
20. On August 17, while conducting surveillance on another target, Cst. Snowdon observed the black Nissan Murano with license plate number [REDACTED] parked on [REDACTED]. Cst. Snowdon took photos of the driver and recorded the driver’s identity as [REDACTED]. He followed the driver to the Coast Hotel in Lethbridge. LPS members then took over surveillance on the Nissan Murano and observed suspected drug transactions.

## Application for a Tracking Warrant pursuant to s. 492.1(1) - August 18, 2017

21. An application for a Tracking Warrant for [REDACTED] and the Nissan Murano with license plate number [REDACTED] was made on August 17, 2018. It was granted but not executed due to an error in the dates requested. A new application was submitted and approved on August 18, 2017, permitting police to covertly place a GPS tracker on the Nissan Murano for 60 days.
22. The “Information on Oath” (“ITO”) submitted in support of the Tracking warrant on August 18, 2017, states that the affiant, Cst. Snowdon, has reasonable grounds to suspect that [REDACTED] has or will commit the offence of Possession for the Purpose of Trafficking cocaine, contrary to Section 5(2) of the Controlled Drugs and Substances Act (para 2).
23. The ITO says that the Combined Forces Special Enforcement Unit (CFSEU) began an investigation in July of 2017 after receiving a complaint about a stash of cocaine hidden outside of Lethbridge. Three key pieces of information are listed:
  - i. “A witness said they had observed Caucasian males walking away from the area where the cocaine was located and that one of the vehicles observed at the site was a black SUV with Alberta license plate [REDACTED].”
  - ii. “[A] Crime Stoppers tipster provided information in relation to suspected drug activity involving a vehicle, registered to the same person as the Murano.”

iii. "Subsequent surveillance has shown [REDACTED] driving the Nissan Murano in Lethbridge, conducting quick meets consistent with drug transactions."

24. These three elements connect the Nissan Murano to the stash of cocaine and suspected drug transactions in Lethbridge. The nexus between these factors is what forms the basis for the affiant's belief that [REDACTED] "sells cocaine in the Lethbridge area" while driving the Murano and uses rural areas to hide the bulk cocaine.

**SECTION 8: Everyone has a right to be secure against unreasonable search or seizure.**

25. A search is reasonable within the meaning of s. 8 of the Charter if it is authorized by law and is conducted reasonably.

26. A search warrant may be issued pursuant to s.11 of the CDSA if a justice is satisfied by information on oath that there are reasonable grounds to believe that there can be found in a particular place a controlled substance or precursor in respect of which the CDSA has been contravened; or, anything which a controlled substance or precursor is contained or concealed; or, offence-related property; or, anything that will afford evidence in respect of an offence under the CDSA or an offence, in whole or in part in relation to an offence under the CDSA, under s. 354 or 462.31 of the Criminal Code.

27. Accordingly, an Information to Obtain (ITO) in support of a lawful warrant under s. 11 of the CDSA must (1) describe an offence that has already been committed; (2) indicate with specificity which items are to be seized; (3) designate with specificity which premises are to be searched; and, (4) provide objectively reasonable and probable grounds for believing that all of the above requirements are met.

28. Where an ITO relies upon the information of a confidential informant, that information should be corroborated and/or the underlying circumstances for the confidential informant's conclusions must be set out to enable the authorizing justice to satisfy themselves that there are indeed reasonable grounds for believing what is alleged.

29. The ability of the authorizing justice to assess the reliability of the information is paramount. The affiants and sub-affiants informing an ITO are obligated to provide full, fair, and frank disclosure in the ITO of all material information.

**A. The Tracking Device Warrant**

30. The law authorizing the tracking device warrant in this case is found in s. 492.1 of the *Criminal Code*:

**Warrant for tracking device — transactions and things**

**492.1 (1)** A justice or judge who is satisfied by information on oath that there are reasonable grounds to suspect that an offence has been or will be committed under this or any other Act of Parliament and that tracking the location of one or more transactions or the location or movement of a thing, including a vehicle, will assist in the investigation of the offence may issue a warrant authorizing a peace officer or a public officer to obtain that tracking data by means of a tracking device.

(emphasis added)

31. The Applicant submits that, upon a **Garofoli** review, the tracking device warrant that was issued on August 18, 2017 could not have issued. Even on its face, the ITO discloses no objective grounds to suspect that the offence described in Paragraph 2 of the ITO had been or would be committed, and that tracking the Nissan Murano would assist in the investigation of that offence.
32. In **Garofoli**, the Supreme Court of Canada confirmed that hearsay statements of an informant can provide reasonable grounds to justify a search. However, the overall reliability of the information must be assessed in the totality of the circumstances. Relevant factors include the degree of detail provided in the tip, the informer's source of knowledge, and other indicia of the informer's reliability or credibility.
33. At paragraph 17(a), the affiant discloses that the witness who saw the Murano near the cocaine stash was the father of [REDACTED], and that this information had been provided to the affiant in conversation.
34. In **R v Debot**, the Supreme Court of Canada identified three concerns to be addressed when weighing evidence relied on to justify warrantless searches:
- i. Was the information compelling?
  - ii. If it was a "tip" originating from a source outside the police, was that source credible?
  - iii. Was the information corroborated by police investigation prior to making the decision to conduct the search?

35. In *R v Hatton*, Yamauchi J. noted that “information which is “double hearsay” is not *ipso facto* unreliable, provided that information can withstand a rigorous analysis.” The court went on to identify a number of principles from case law that assist in conducting a **Garofoli/Debot** analysis.
36. In particular, the court noted that the affiant “must present facts” which would satisfy the issuing justice that reliable grounds exist for the officer’s belief and that the information which forms the foundation of that belief is true and accurate. Such “facts” would include complementary information relating to the informant’s past performance as an informant, whether they have a criminal record, and the “age” of the information.
37. The *most* reliable basis to test the information’s reliability would be the inclusion of facts relating to any investigative steps taken by police to independently verify the tip.
38. In support of the facial and sub-facial attack on the ITO for the tracking device warrant, the Applicant will point to deficiencies in the ITO and seek the excision of misleading and conclusory statements, including, but not limited to, the following:
  - Paragraph 5, where it states that “a witness” said they saw a black SUV with Alberta license plate [REDACTED], because it is misleading.
  - Paragraph 5, where it states that a vehicle from the Crime Stoppers tip was registered to the same person as the Murano, because it is conclusory.
  - Paragraph 5 where it states that [REDACTED] was observed, because it is conclusory.
  - Paragraph 5 where it states that the Murano was driving in a matter consistent with drug transactions, because it is conclusory.
  - Paragraph 16(b), where it states that [REDACTED]’s father saw another vehicle with license plate [REDACTED], because it is conclusory.
  - Paragraph 17(a) which states that [REDACTED]’s father saw a white car and a black SUV with license plate [REDACTED], because it is conclusory.
  - Paragraph 20 where it states that the Murano was observed at [REDACTED], because it is misleading.
  - Paragraph 21(a) where it says that [REDACTED] was observed, because it is conclusory.

- Paragraph 22(a) where it says that meets consistent with drug transactions were observed, because it is conclusory.
- Paragraph 23(a), where it states that [REDACTED] was driving in a manner designed to detect police detection, because it is conclusory.
- Paragraph 29, where it states that the affiant believes [REDACTED] sells cocaine in the Lethbridge area, uses rural areas to hide cocaine to avoid police detection, and uses the Murano in his drug trafficking operation, as it is conclusory.

**[REDACTED]'s Statements**

39. In the present case, the observations of [REDACTED]'s father are "triple hearsay". The ITO does not contain the complementary facts that would be required for a justice to accept that the witness who saw the Nissan Murano at the location where the cocaine was found was a reliable source. Nor does the ITO include facts which would allow a justice to conclude that the information was accurate.

40. The information that places the Nissan Murano at the site where the cocaine was found is on even shakier ground. [REDACTED]'s father is never identified by name. There is nothing in the ITO to suggest that police ever spoke with [REDACTED]'s father. It is entirely unclear from the ITO if his observations were made before or after May 30, 2017, so the age of the information is unknown. There is no information about whether the [REDACTED]'s had ever provided information to police before or if they had any criminal history. Within the written statement itself, no license plate is provided, the type of vehicle his father saw is not mentioned, and the statement itself does not suggest that there was more than one vehicle. The ITO does not address why this might be.

41. Furthermore, what [REDACTED]'s written statement *does* provide is omitted from the ITO: his father's name and phone number. The final two lines of the statement read:

Q: Did your father see anything?

A: Yes, he confronted one of them and got licence plate of their car.

[REDACTED]. 403-[XXX]-[XXX].

42. In *Hatton*, the court held that where the police take no investigative steps to confirm the tip, this is information that speaks in favour of *not* issuing the warrant and as such, it *must* be

disclosed. The ITO in this case leaves the question of what police did or did not do with this information unanswered.

43. Most problematic, however, is the fact that the General Report, entered the same day that [REDACTED]'s statement was taken, records a *different* plate number than the number recorded in the ITO:

[REDACTED] stated that his father saw another vehicle in the area; with Alberta license plate [REDACTED] (Registered to [REDACTED]).

44. This is an entirely different plate number from what is recorded in paragraph 16 of the ITO, which purports to be a summary General Report:

[REDACTED] stated that his father saw another vehicle in the area; with Alberta license plate [REDACTED].

45. It is unclear, based on the disclosure provided and the information contained in the ITO itself, why the affiant changed the license plate number. The note in the General Report that the license plate [REDACTED] was registered to [REDACTED] is not supported by any other supporting documents.

46. The Applicant submits that the information which places the Murano at the scene of the cocaine investigation is unsupported by objectively discernable facts and is therefore a conclusory statement which must be excised from the ITO.

### *Crime Stoppers*

47. Paragraph 26 indicates that a Crime Stoppers Report was "completed by an unknown confidential informant" in 2017 and reported suspected "drug activity" taking place at [REDACTED]. The exact age of the tip is not disclosed. A Nissan Altima with license plate number [REDACTED] was reportedly involved.
48. The affiant connected this vehicle to [REDACTED], who is also the registered owner of the Nissan Murano.
49. The observations of [REDACTED]'s father are the only evidence connecting the cocaine stash and the Nissan Murano to the Crime Stoppers tip regarding [REDACTED]. The

ITO provides no other facts supporting the identification of [REDACTED] as the subject of the warrant.

50. The ITO omits the description of the suspect from the Crime Stoppers tip: 6'2" tall, 160 lbs, Caucasian male, age 20 to 30, with short hair. The ITO also omits the fact that a "heavy set female" was believed to reside with the male suspect.
51. The ITO fails to include a physical description of [REDACTED]. Information from his driver's license suggests he was 5'7" and 150 lbs Caucasian male, 19 years old at the time.
52. The description of the person in the Crime Stoppers tip does not match the description of [REDACTED]. Failure to include the descriptions of the suspect and of [REDACTED] creates a possibility that the Justice will be misled into thinking [REDACTED] was the person identified in the tip.
53. Although a vehicle registered to someone with the same last name was found to be associated with the vehicle, there was also a female suspect identified in the tip. The failure to mention the female creates a misleading impression that [REDACTED] is the only possible driver of the vehicle.
54. The Applicant submits that the information regarding the Crime Stoppers tip is presented in a manner which is misleading. Seen objectively, the affiant provides no support for [REDACTED]'s involvement in the offences complained of in the tip. Any reference to [REDACTED] should be excised from the ITO, on the basis that it is conclusory.

### *Surveillance*

55. The affiant refers to observations made during surveillance on August 10 and 17 in support of the tracking warrant. On August 10, 2017, a black Nissan Murano with license plate number [REDACTED] was observed driving into the alley behind [REDACTED]. The driver was observed to be a "good possible" for [REDACTED]. No further information was provided.
56. The affiant omits the fact that his notes from that day record the driver as a Caucasian male with short dark hair, or that the Murano drove past [REDACTED] without stopping.

57. On August 17, the affiant observed the Murano parked on [REDACTED]. He states that [REDACTED] was the driver and only occupant. No explanation is given for how this positive identification was made. The affiant later observes the Murano parked and unoccupied at the Coast Hotel.
58. The affiant then includes information from Cst. LeBlanc, who reported observing two “quick meets” consistent with transactions while observing the Murano. Cst. Leblanc also reports seeing [REDACTED] drive the Murano in a manner consistent with attempts to detect police surveillance. No explanation is given for why any of these conclusions were made.
59. This is an *ex parte* application. The affiant has a duty to provide full, fair and frank disclosure to the issuing justice. The affiant presented inferences that only assisted his application and did not provide the issuing justice the conclusions that the Applicant might have presented had he been present during the application. The affiant offers opinions that amount to conclusory or misleading statements for the sole purposes of assisting his application.
60. Finally, the affiant does not explain why he suspects, on reasonable grounds, that tracking this Nissan Murano would assist in the investigation possession of a controlled substance for the purpose of trafficking.
61. As such, the ITO for the tracking device warrant could not have issued. The Applicant will seek automatic excision from the ITO for the Tracking Warrant and Production Order for the VISA card of [REDACTED] and the Residential Search Warrant, all information that the police obtained directly from the tracking device warrant, and all surveillance that was a consequence of the police being aware of the location of the Nissan Murano through the tracking device.
62. The Applicant will also seek to exclude all evidence seized by the police in this case under s. 24(2) as the tracking device warrant was causally or temporally connected to the discovery of evidence at [REDACTED] or the Nissan Murano.

### **B. The Search Warrant**

63. The law authorizing the police to apply for a warrant for the search of [REDACTED] and for the 2012 Nissan Maxima found in s. 11 of the *Controlled Drugs and Substances Act* and s. 487.1 of the *Criminal Code*:

## Information for search warrant

11 (1) A justice who, on ex parte application, is satisfied by information on oath that there are reasonable grounds to believe that

- (a) a controlled substance or precursor in respect of which this Act has been contravened,
- (b) any thing in which a controlled substance or precursor referred to in paragraph (a) is contained or concealed,
- (c) offence-related property, or
- (d) any thing that will afford evidence in respect of an offence under this Act or an offence, in whole or in part in relation to a contravention of this Act, under section 354 or 462.31 of the Criminal Code

is in a place may, at any time, issue a warrant authorizing a peace officer, at any time, to search the place for any such controlled substance, precursor, property or thing and to seize it.

- 64. The Applicant submits that, upon a **Garofoli** review, the search warrant that was granted on September 27, 2017 could not have issued. Even on its face, the ITO discloses no objective grounds to believe that evidence of any of the offences listed in the ITO would be found at the residence.
- 65. Furthermore, in support of the facial and sub-facial attack on the ITO for the search warrant, the Applicant will point to deficiencies in the ITO and seek the excision of misleading and conclusory statements, including, but not limited to, the following:
  - i. The ITO states at paragraph 6 that CFSEU observed only [REDACTED] operating the Nissan Murano in late July into September, yet provides no information about why this identification was made. It is misleading because it omits the fact that the previous ITO for the tracking device identified [REDACTED]. The justice issuing the search warrant for [REDACTED] only had bald statements from the affiant about the identity of the target and could not reasonably assess the reliability of the identification.
  - ii. Paragraphs 25-37 and 58-60 are misleading because they use first-person “I” statements which are pulled directly from the ITOs written by Cst. Snowdon.

These were the actions and observations of Cst. Snowden and therefore not within the personal knowledge of the affiant.

- iii. In general, the affiant's commentary to buttress the ITO is conclusory. The affiant fails to discharge his duties in an *ex parte* application and provide the issuing justice alternative inferences that the other party (the Applicant) might present if he were permitted to participate.

66. Therefore, the Applicant submits that warrant was invalid and the searches of [REDACTED] and the Murano breached his right to be free from unreasonable search and seizure under s. 8 of the *Charter*.

67. He will further submit that, if the search warrant for [REDACTED] and Murano is set aside, then the information excised from the ITOs for the search warrants for DNA and cell phones in this case would also fail and should be set aside.

### **C. Application to Cross-Examine Affiants**

68. The Applicant will apply for leave to cross-examine Officers Snowden and Conway who authored the ITOs for the tracking warrants and search warrants.

69. Trial judges exercise discretion in permitting cross-examination of affiants of informations to obtain, but leave should be granted where cross-examination is necessary to enable the accused to make full answer and defence.

70. The threshold test for determining whether to allow cross-examination is separate and distinct from the ultimate question of whether the search warrant is valid, and a trial judge must not refuse leave to cross-examine an affiant simply because the proposed cross-examination is likely to leave other parts of the ITO that would support the search warrant.

71. It is not necessary for the defence to go further and demonstrate that cross-examination will be successful in discrediting one or more of the statutory preconditions for the authorization. A reasonable likelihood that the proposed cross-examine will assist the court in determining a material issue is all that must be shown. In other words, leave should be granted where the defence shows a basis for believing that cross-examination will provide evidence that is relevant to an issue that is material to the validity of the search warrant. The defence need only establish that the cross-examination would be relevant.

72. In ***R. v. Pires and Lising***, the Supreme Court of Canada recognized the following three circumstances where leave to cross-examine an affiant ought to be granted:

- i. Where cross-examination is reasonably likely to impugn the credibility of the affiant and so the reliability of the entire ITO;
- ii. Where cross-examination is reasonably likely to demonstrate that the affiant knew or ought to have known about undisclosed concerns regarding the credibility or reliability of the information set out in the ITO;
- iii. Where there is a facially obvious deficiency in the ITO.

73. Upon application for review of a warrant, the justice reviewing the ITO must consider material omissions and excise from the ITO any information that is misleading, erroneous, or unlawfully obtained.

74. The Applicant seeks leave to cross-examine the affiant of the tracking device warrant ITO, Cst. Snowden, on the basis that he omitted material information or provided misleading information in the ITO, including:

- i. The affiant attempted to mislead the justice by misstating the evidence, omitting evidence that weighed against the granting of the warrant, and overstated conclusory statements regarding the identification of the target. The affiant did not fulfill his duty to provide full, frank and fair disclosure in an *ex parte* application.
- ii. The police did not have reasonable grounds to obtain [REDACTED]'s credit card information from the Coast Hotel without a warrant.
- iii. Such further and other areas of questioning that will assist in determining material issues in his case and upon which this Court grants leave.

75. The Applicant seeks leave to cross examine the affiant of the residential search warrant ITO, Cst. Conway, on the basis that he omitted material information or provided misleading information in the ITO, including:

- i. Stating that CFSEU observed only [REDACTED] operating the Nissan Murano in Late July into September;

- ii. Lifting much of the information word for word from the ITO of Cst. Snowden, leading the Justice to believe that the affiant had more personal knowledge of the investigation than they truly did;
- iii. Such further and other areas of questioning that will assist in determining material issues in his case and upon which this Court grants leave.

**SECTION 8: Everyone has a right to be secure against unreasonable search or seizure.**

76. A warrantless search or seizure will be reasonable only if it is authorized by law, the authorizing law is reasonable, and the manner of the search or seizure is reasonable. Warrantless searches and seizures are *prima facie* unreasonable. The onus is on the Crown to prove that the warrantless search was constitutionally compliant.
77. Police may not rely on unlawfully obtained evidence as grounds for an arrest. The excision of unlawfully obtained evidence from grounds to arrest is not a *Charter* remedy but, rather, is a function of the common law. The Supreme Court of Canada has repeatedly held that the police are not entitled to benefit from illegal acts. The integrity of the administration of justice would be seriously undermined if the police were permitted to make arrests or obtain warrants based on illegally obtained evidence; indeed, this process of excision is central to a **Garofoli** review.
78. For the purposes of a **Garofoli** review, the Applicant does not have to demonstrate “standing” to argue that the police breached a third-party’s Charter rights to have the unlawful fruits of any breaches excised from an ITO. This is not a “remedy” under s. 24(2) of the Charter that requires an applicant to establish “standing”. In any event, the litigation of these breaches involves the same evidence that applies to the arrest and search of the Applicant. Indeed, a pattern of disregard of Charter rights in an investigation, even related to third parties, is relevant to the analysis under s. 24(2) of the Charter.
79. The police did not have reasonable grounds to obtain [REDACTED]’s credit card information from the Coast Hotel. This was warrantless search and *prima facie* unreasonable.

80. The Applicant will rely on breaches of his s. 8 Charter rights in this context to seek both excision of relevant passages from the [REDACTED] search warrant ITO and exclusion of evidence under s. 24(2) of the Charter.

**MATERIAL RELIED ON:**

81. The Applicant will be relying on the following authorities:

- 1) *R. v. Garofoli*, [1990] 2 SCR 1421
- 2) *R. v. Pires; R. v. Lising*, 2005 SCC 66
- 3) *R. v. Debot*, [1989] 2 SCR 1140
- 4) *R. v. Araujo* 2000 SCC 65
- 5) *R. v. Morelli*, 2010 SCC 8
- 6) *R. v. Hatton*, 2011 ABQB 242
- 7) *R. v. Grant*, 2009 SCC 32
- 8) Such further and other authorities as the Applicant may cite and this Court may permit.

**APPLICABLE RULES:**

N/A

**APPLICABLE ACTS AND REGULATIONS:**

82. Sections 8 and 24(2) of the *Charter of Rights and Freedoms*.

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