

HISTORIC COURT VICTORY

Truehope's historic court victory one year ago in the Provincial Court of Alberta, Canada, gives all EMPowerplus users cause to celebrate. Here are a few key excerpts from the written decision of the Honorable Judge G. M. Meagher:

CASE BACKGROUND

'Health Canada insisted that the Defendants [Truehope]...stop selling and distributing EMPowerplus to the thousands of participants in the Truehope program in Canada.'

'Since the Defendants made claims that EMPowerplus was useful for the treatment of depression and bi-polar disorder, Health Canada took the position that this brought the supplement within the definition of a "drug" within the meaning of the *Food and Drugs Act*, even though the product was clearly a vitamin/mineral supplement.'

'Health Canada advised the Defendants that they could not sell or distribute the supplement in Canada without a Drug Identification Number or "D.I.N.". However...it would not be possible for the Defendants to obtain...a D.I.N. for EMPowerplus, and Health Canada was well aware of this fact.'

'Fearing for the health, safety and well-being of their participants in the Truehope support program, the Defendants continued to take orders for the supplement, transmit the orders to their manufacturer in the United States, and distribute the supplement in Canada.'

EVIDENCE FROM EXPERT WITNESSES

'the significant results of treating depression and bi-polar disorder with vitamin/mineral supplements rather than conventional pharmaceuticals attracted interest from...experts in the field of treatment of depression and bi-polar disorder in Canada and the United States.'

'Dr. Charles Popper, a psychiatrist at Harvard University, who also teaches psychiatry to other psychiatrists, testified that...if the supplement [EMPowerplus] became unavailable, symptoms associated with depression and bi-polar disorder...would return.'

'Dr. Popper has most impressive qualifications. Although he was initially extremely skeptical with regards to the supplement, by the time of trial approximately 100 to 150 of his patients were using the supplement... In addition to his patients, Dr. Popper testified to having consulted on 300 to 500 additional patients on the supplement.'

'Dr. Charles Popper...testified that if the supplement became unavailable there would be aggressive behaviour, assaults, hospitalizations, incarcerations and suicides. He testified that his patients would have to be returned to medications which lack stability and had negative side-effects. Overall, Dr. Popper testified that he would not be able to manage his practice at the level to which it had grown and he would have to refer patients away from his practice.'

'The expert evidence before the Court with regards to the objective harm that could occur included the observations of Dr. Bonnie Kaplan, a psychologist from the University of Calgary, who observed the rapid return of symptoms once the supplement was discontinued'

EVIDENCE FROM OTHER WITNESSES

'the evidence of numerous witnesses called by the Defendants [Truehope] on the effects of the supplement [EMPowerplus] on their lives or on the lives of their family members...was compelling and persuasive.'

'If an individual stopped taking the supplement, or was denied access to the supplement, that person would revert within a matter of days to an earlier state of depression or bi-polar behaviour characterized by aggressiveness, mood swings, and violence to one's self or to others with a very real risk of personal injury and, in some cases, death.'

In his written decision, the Honorable Judge G. M. Meagher summarized the testimony before the court on the 'imminent harm or danger ... if access was prevented to the supplement and the Truehope program':

'Ms. Colson described self-inflicted injuries, being involuntarily committed, and becoming useless to the point where she had formulated a plan to kill herself before she lost her mental health again.'

'Ms. Oxby described the harm as having to hear her son beg her to kill him several times a day and watching her son deteriorate as he lost his mental health, his friends, his self- esteem, his dignity and his will to live.'

'Ms. Stringam described her severe incapacitation prior to the supplement and was fearful and concerned that without the supplement she would not be able to care for her children and her family and that she could not go out in public for fear of her behaviour. She feared being medicated and consumed with drugs, and becoming suicidal and hospitalized.'

'Ron LaJeunesse, the Alberta head of the Canadian Mental Health Association, was very knowledgeable of the risks facing persons with mental illnesses. He expressed grave concern for the conduct of Health Canada in preventing the supplement from coming into this country. He testified that death was a consequence of bi-polar disorder and that he was concerned that there would be suicides if individuals could not get access to the supplement.'

COURT RULING

'The Defendants [Truehope] are not guilty'

Necessity. 'The Defendants were overwhelmingly compelled to disobey the D.I.N. regulation in order to protect the health, safety and well-being of the users of the supplement [EMPowerplus] and the support program.'

'...thousands of individuals who had found relief from mental illness through the supplement [EMPowerplus] without the negative side effects of conventional medications were relying upon them [Truehope] to continue to sell and distribute their product and to maintain the Truehope program.'

'...the Defendants were under a duty or duties described in [Section] 216 and 217 of the *Criminal Code of Canada* to continue to provide the vitamin/mineral supplement and to maintain the support program or possibly face the consequences of being charged with criminal negligence.'

Due diligence. 'The Defendants took all reasonable care that could have been expected of a reasonable person in the circumstances to comply with the requirements of Health Canada under the *Food and Drugs Act and Regulations*.'

Health Canada dropped its appeal of this case on October 10, 2006.