

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

CANADIAN ALLIANCE FOR SEX WORK LAW REFORM,
MONICA FORRESTER, VALERIE SCOTT, LANNA MOON PERRIN, JANE X,
ALESSA MASON and TIFFANY ANWAR

Applicants

- and -

THE ATTORNEY GENERAL OF CANADA

Respondent

**AFFIDAVIT OF ALESSA MASON
(Affirmed July 13, 2021)**

I, Alessa Mason AFFIRM THAT:

1. I am an Applicant in the above-noted matter. I have knowledge of the matters to which I hereinafter depose.
2. I make this Affidavit in support of the Application that ss. 213(1), 213(1.1), 286.1(1), 286.2(1), 286.3(1), and 286.4 of the *Criminal Code* be declared unconstitutional.

Initial Involvement in the Sex Industry

3. I am a trans woman living with a disability. I have had a lot of housing insecurity throughout my life, and moved out of my family home at age seventeen due to abuse. In 2013, I became homeless, and began staying at an emergency shelter [REDACTED] While I was staying there, I met an older woman who was involved in sex work. I joined her at meetings with clients to provide her with additional security. It was then that I became involved in sex work – to seek stability, security, and resiliency.
4. The older woman served as a mentor to me. She taught me many things about sex work and shared her skills with me. This included advising me on ways to stay safe, how to place an advertisement, and how to navigate online communications. Her guidance

about the industry helped me to get on my feet. It allowed me to get out of homelessness. The older woman and I mutually assisted one another – while she taught me about the industry allowing me to secure a stable income, I offered her a layer of safety in return by accompanying her to meet clients. This arrangement worked well for a few months, as we were able to work together to generate income and enhance each other's safety.

5. We eventually parted ways. I felt that the older woman started to take advantage of me. She tried to take a portion of the fees that I received from clients in exchange for the guidance that she shared with me. However, this type of fee arrangement was never part of our agreement. While I was happy to pay for a portion of the hotels and items that we shared, I was not willing to provide her with a portion of my income since that was never something that we had discussed.

6. Despite disagreeing with her demands, I knew that I really had no power due to the illegality of what we were doing. The older woman was also aware that I had no power. She became physically aggressive and violent with me, and I had to leave our work arrangement. Even though she assaulted me, I did not feel like I could approach law enforcement because our work was criminalized. If we had been engaged in any other trade, I would not have hesitated to seek the assistance of the police. Instead, I had nowhere to turn. I wanted to protect myself, and have greater control over my working conditions and income, so I started to work independently.

7. Not long after leaving my partnership with the older woman, I started working out of a hotel. Before the *Protection of Communities and Exploited Persons Act* (“**PCEPA**”), I was primarily engaged in outcall work. During this period, in 2013-2014, I used third party drivers. These drivers would wait outside of any place that I went to provide outcall services. We would determine code words in advance (typically “green”, “yellow”, and “red”), which I would use to communicate with the driver by text to alert them if a troubling situation occurred. These signals informed the driver that their intervention was required to protect my safety.

8. Then, in 2014, I secured an apartment. I have been primarily working out of my residence ever since. I feel most comfortable when I see regular clients with whom I have

built a rapport. Whenever I see a new client, I prefer to not be at my apartment alone, in case anything bad were to happen. However, it is difficult to ensure that I am accompanied by others as I am unable to hire any third parties under the *PCEPA*. I would hire third parties if it were legal to do so, because it would allow me to be safer while at work.

9. As I describe further in this affidavit, I have not felt safe while working since the *PCEPA* came into force. At its core, the *PCEPA* interferes with my autonomy by facilitating, fostering, and forcing me to work in unsafe working conditions.

Criminalization of Clients Limits Advanced Screening and Negotiation

10. Before the *PCEPA*, my practice was to call clients and have full conversations with them. This included discussing the terms of my services – including which specific services were offered and which were off limits, conditions on safe sex practices, and pricing. All of this would be determined before agreeing to meet in person. These conversations were explicit. My clients asked me questions. We got to know each other. And we built a rapport. Both myself and the client understood the expectations of one another. I rarely had to use coded terms and acronyms. Instead, we openly discussed the terms of our engagement, which were mutually understood and agreed to.

11. These discussions were critical to mitigating risks of conflict arising, since everyone understood the terms of an engagement. This type of clarity prevents clients from pressuring me to offer services I do not provide or to reduce my fees. It is a proactive means to prevent violence, and better equips me to safeguard my own mental and physical health while working.

12. When the *PCEPA* became law, this all changed. I noticed that clients became unwilling to have the types of direct conversations that we once had. Instead, clients demanded blunt and quick dialogue. Clients became uncooperative, uncomfortable, and were noticeably trying to be discreet. Clients continue to be reticent to offer any information. This results in fewer, shorter, and disappearing phone conversations. My clients tell me that they fear having explicit communications with sex workers due to the

criminal risks created by the *PCEPA* – particularly because of the prohibition on purchasing sexual services. Ultimately, my clients fear detection by law enforcement.

13. I would prefer to engage in explicit conversations about terms of service by phone. If the *PCEPA* were struck down, I would be able to comfortably and effectively do so, and would maintain my own business line to facilitate these discussions. Unfortunately this is not possible under the *PCEPA*.

14. In the few instances where potential clients do talk to me by phone in advance of meeting, it is easy for me to decline an engagement if their behaviour is disrespectful or dismissive of my terms. These are clear indicators of how they may treat me in person. These are the types of insights enabled by explicit phone conversations, and have been critical to my safety. But this degree of screening is usually difficult to achieve through the coded text messages fostered by the *PCEPA*.

15. Now, I am typically only able to engage in text message conversations with clients, where coded acronyms are widely used to keep our communications discreet and avoid criminalization. Text message communication makes it very difficult to have a discussion that explicitly sets the terms of an engagement before agreeing to meet in person.

16. Other screening measures have also disappeared. This includes obtaining a photo of the faces of potential clients. While clients generally provided their image prior to the *PCEPA*, most clients are now extremely reluctant to send me their photo. I cannot obtain a photo of their face for screening and security purposes, even though I provide photos of myself. This contrast illustrates the dynamic: clients can obtain fulsome information from sex workers while fading into the background as they wish, while sex workers are denied access to any information and screening measures – no matter the risks or consequences.

17. Under the *PCEPA*, potential clients refuse to provide almost anything. This includes any other identifying information, such as their identification or health-related information – which are additional measures that help with screening and safety. These realities illuminate the dangers fostered by the *PCEPA*, as sex workers cannot obtain even the most basic and essential information from clients.

18. These realities prevent me from obtaining a record of personal information from clients, which is a critical tool for decreasing the power imbalances created by the *PCEPA*. Identification signals to clients that their actions are not untraceable and that they can be held accountable if they try to harm me. This information would provide me with evidence to share with police and seek recourse should an engagement become violent. It would also allow me to warn the sex worker community about violent clients through information sharing. This would allow other sex workers to avoid violent clients and enhance our individual and collective safety.

19. Under the *PCEPA*, many clients now demand to see me immediately, and spontaneous interactions have become the norm. The pace of these encounters further compromise my ability to adequately screen and negotiate before agreeing to meet in person. All of this creates rushed and anonymous encounters, where I cannot take appropriate measures to protect myself from violent or abusive clients.

20. For all of the reasons described, I have to forego pre-screening and negotiations, deferring these discussions to when the client arrives at my home. This form of engagement carries huge risks – namely, increasing my exposure to violence. I am often not sure who I am meeting, what they are like, or what they expect from our engagement, and my ability to protect myself is impaired and limited.

21. These are the consequences of being unable to explicitly communicate with clients. Misunderstandings are made possible from limited advance discussion, which fosters a breeding ground for hostility and aggression. However, I try my best to manage these risks because I need the income. Ultimately, the *PCEPA* dictates these sub-optimal conditions of screening and negotiation by criminalizing purchasing and communication with clients. The *PCEPA* has directly created and forced me to work in the often dangerous and precarious working environments. In turn, this compromises my ability to set terms, expectations, and assert my autonomy.

22. Without criminalization, there would be a more equitable negotiation of terms between sex workers and clients. Sex workers would also have an added protection of being able to approach law enforcement as needed. I would be less apprehensive to do so

if the concerns I were raising were not delegitimized just because of the context in which they occur. Sex workers would have greater access to justice if the basis of our lives and work were decriminalized.

Constrained Communication Creates Opportunities for Violence

23. While I usually try to set the terms of engagement as best as I can through text messages, many clients do not carefully read, or do not fully understand, the limits of what we are agreeing to. The elimination of detailed conversations sets the stage for clients to take advantage of me. Often, this results in clients pressuring me into lower prices and to offer services that we never agreed to. As a result, I have found myself on the receiving end of abuse.

24. I am a trans woman who has retained her penis. I need my clients to understand this about me, to understand my body and its capabilities, before they engage my services. Otherwise, I would be scared to be undressed with a client who may react in a number of ways, and I have had transphobic and violent responses. The threat of harm is real because I am often alone in my residence with clients. This is one of the few situations where I will return payment to a client, as I want to diffuse and exit the situation as quickly as possible without setting off further hostility. Even though it causes me to lose income, I do not want to get into an altercation or get hurt.

25. The *PCEPA* ultimately sets up these conditions that endanger me. This includes disregard for my boundaries, which occur in many forms. I have had clients try to video record my engagements with them by propping up their phone on a bedside table. While I typically explain in advance that recording is not permitted, my practice is to gently remind them that it is not allowed, giving them the benefit of the doubt. I have to approach these situations delicately, even when clients are violating the terms of our engagement and my privacy, as maintaining a calm atmosphere is essential to protecting my safety and safeguarding my income when I am forced to work alone.

26. I also require the use of condoms. While clients typically agree to this term over text, when they arrive at my apartment, they sometimes complain and try to pressure me

into foregoing safe sex supplies. As a result, I am continually trying to protect by bodily autonomy while working. This creates tremendous stress and anxiety for me at work, as it is difficult for me to assert my boundaries while simultaneously trying to maintain my safety.

27. At times, clients will also try to convince me that because they are paying me, I must perform any sexual act that they wish. Some think that if they pressure me enough that I will succumb to their demands. But that is not safe. It is not consensual. And it is not sex work. However, since I am physically small in stature I have to worry about being subject to physical or sexual violence for saying no to client demands. I would not find myself in this situation if I could use my preferred methods of screening and clearly set the terms of engagement in advance of meeting.

28. The criminalization of sex work reduces and impairs our power over the trade. The *PCEPA* forces sex workers to work alone, in isolated conditions, and it stigmatizes and delegitimizes our labour by seeking to eliminate our livelihood. In turn, disrespectful clients or aggressors posing as clients are able to take advantage of us. Criminalization fosters unsafe working situations, as clients exploit the power dynamics created by the *PCEPA*. In the context of my work, I fear they will pay less than we agree or attempt to inflict violence on me.

29. Although my clients generally fear their own criminalization, many recognize that I am more vulnerable to the legal and non-legal consequences of sex work. Sex workers bear the brunt of criminalization through stigma, threats, and violence. Criminalizing sex work, in any form, has always diminished my bargaining power and facilitated situations where my safety is at risk. This remains true under the *PCEPA*.

Alternative Measures Are Relied on to Protect Safety

30. The conditions created by the *PCEPA* have left me with no choice but to take other measures to protect my safety. This includes using a pseudonym when working as a sex worker to prevent my legal name from being known. I have also installed extra locks on my doors [REDACTED]

████████████████████ and a sonic panic alarm that makes a loud noise to alert the neighbours, should something go wrong.

31. I have also installed video-cameras inside and outside of my apartment. Some clients get very upset when they see video-cameras in my home, and erroneously fear being recorded for the purpose of extortion or blackmail due to the criminalized context of our exchange. I always have to explain that the cameras are there for my safety, as I will only use the recordings as evidence in the event that the client becomes violent. Despite how uncomfortable my video-cameras might make clients, who tell me that they worry about being charged with a criminal offence for purchasing sexual services, I am aware of the reality that some potential clients or aggressors may want to hurt me. I have to work under conditions in which I could get murdered for simply trying to earn a living. The video-cameras throughout and outside of my apartment will provide evidence if a client were to hurt me. I have friends who are sex workers who have been stabbed, physically assaulted, robbed, and sexually assaulted while working in the criminalized context. Under the *PCEPA*, I worry that I may be subject to similar forms of violence, as the current criminal laws impair my ability to implement my preferred safety measures and to seek justice.

The *PCEPA* Prohibits Sex Workers from Working Together

32. The *PCEPA* makes it illegal for me to work with other sex workers. However, many sex workers rely on each other for support and safety. It would be easier to assert my boundaries if I was able to work with others. I would be able to share signals of discomfort or alarm, and have others nearby to intervene if there was danger or difficulty. Everyone would be safer. Not only would I be physically safer, but it would also provide me with psychological relief because my clients would be aware that we are in a monitored environment. This kind of setup would deter clients from doing me harm.

33. However, such an arrangement is not possible under the *PCEPA*. I hope and dream that such a collective working arrangement will be possible one day – where I can go to work and feel safe, and know that safeguards are in place should intervention be required. In a decriminalized context, I could also work with other trans and non-binary sex workers,

and have access to non-discriminatory workplaces. I have tried to work at an indoor agency; however, when the agency learned that I am trans, they rescinded their offer for work. This has maintained my independent work operation.

34. Because I have to work alone, I use online community forums to engage with other sex workers. These online groups are an invaluable tool for sex workers to communicate with each other and share information. This includes sharing the names of predatory clients who disregard boundaries and agreements, recent trends by clients, safer sexual practices, as well as providing a space for support.

35. For example, I recently learned about a new client trend on one of these forums. There is an increase in clients wearing glasses with hidden cameras in them in order to secretly film engagements. Sharing this type of information with one another is a powerful way to protect our safety and privacy, and avoid potentially aggressive clients.

36. But our ability to assist each other is limited under the *PCEPA*. Sex workers cannot even help each other place advertisements, even though some members of our community are unable to put up advertisements for themselves. I am connected to many sex workers who do not have access to a computer, internet, or a credit card, and need support to secure work in order to feed their families. Many sex workers have approached me for assistance with placing advertisements online. While I want to assist, I have never felt comfortable doing so, as I fear criminal prosecution. If the *PCEPA* were repealed, I would be happy to help other sex workers with advertising and establishing safer worker conditions.

37. Although advertising is prohibited under the *PCEPA*, assistance with placing an advertisement is akin to the assistance that I needed to start working in safer conditions when I began selling sexual services. At the time, like many other sex workers, I did not know how, and I did not have the resources to place an advertisement myself.

38. Unfortunately, under the *PCEPA*, my ability to share information is severely restricted because there is always a threat of criminalization. I fear that providing advice to other sex workers, even about safety practises, would expose me to surveillance, eviction, and perhaps even criminalization. But many sex workers do not know where to

go for advice and help with their work. For some, depending on where they are located, there is nowhere to go. The *PCEPA* makes sex workers live in fear of breaking the law. While I sometimes provide advice to other sex workers, such as which websites to advertise on, I only do so in a discreet manner and under a pseudonym in order to minimize my risk of criminal prosecution.

39. These limitations have real consequences, especially on trans sex workers who provide services that are particular to our bodies and lived experiences. I cannot provide other sex workers with client referrals, or refer clients to other trans sex workers. It is a very important safety measure for trans sex workers to be able to share and refer clients who have been screened and vetted for transphobia.

40. I am involved with a sex workers' rights organization [REDACTED]. I wish that I could develop a webinar to assist fellow sex workers with deploying safety practises. Presently, I would not lead such programming, because I fear being arrested, especially in my city, where I know that sex workers are watched by the police.

Criminalization Impacts Sex Workers' Everyday Lives

41. The criminalization of sex work impacts every aspect of my life and livelihood. It fuels stigma towards sex workers, which has profound consequences.

42. The stigmatization of sex workers is evident in the healthcare setting. Many healthcare providers will immediately identify sex workers when canvassing our sexual health practises. Whenever I disclose the number of sexual partners that I have seen, I can instantly see a look of shock and disgust on the faces of those providing me with healthcare services – their discomfort and contempt is painfully visible to me. As a result, an instant barrier is created. Each time that I encounter this, I am less likely to return for ongoing screening and healthcare services or treatment. It results in my healthcare needs going unmet.

43. The stigmatization of sex workers has also impacted my ability to secure other types of employment and income. Being known as someone who does sex work keeps me out of secular employment spaces. With each year that passes, I am prevented from

obtaining and lose other workforce experience, and cannot share my entrepreneurial and business skills from my engagement in the sex industry. These realities create tremendous barriers to securing other employment, should I want to divide my time between sex work and other work, or leave the sex industry entirely.

44. But securing my own apartment was made possible through sex work. Sex work has allowed me to gain independence and stability – beyond what I have ever experienced in my life. I am grateful for my work. No matter what my personal milestones are, I will continue to be held back as long as sex work is criminalized. As an [REDACTED] resident, I have had various housing regulations threatened against me. This includes my landlord threatening to file an N6 – *Notice to End Your Tenancy for Illegal Acts* due to my engagement in sex work in the apartment. I worry that the thing that provided me with security might also be able to eliminate it – a genuine possibility under the *PCEPA*.

45. I have also been threatened by my landlord with an N7 – *Notice to End Your Tenancy for Causing Serious Problems in the Rental Unit or Residential Complex*, based on the false assumption that I am causing harm to my neighbours by simply engaging in sex work. This stems from the misconception that sex work is inherently risky and unsafe. While neither of these forms have been filed, everyday I worry that I may not have a place to live.

46. Our lives are shaped by the *PCEPA*. It determines everything we do – the way that we conduct our work, how we interact with clients, and the social stigma and its consequences that we are subjected to everyday. The *PCEPA* has institutionally and systemically victimized sex workers through creating the conditions that put our lives, well-being, and prosperity at risk. We are not victims for engaging in sex work – but we have become victims of the criminalization of our industry. Our victimization is not just through the law, but also through the entrenched stigma attributed to us by society.

Sex Work Offers Benefits to Workers and Clients

47. As a trans woman, sex work has been incredibly affirming to my gender identity. Sex work has allowed me to secure a stable income, where I would normally face

discrimination in secular employment. It has allowed me to be able to afford gender affirming cosmetic procedures. I have clients who pay to spend time with me and treat me well. While people often assume that sex work is very transactional, it is often about compassion and healing. Many clients do not just see me for sex – often, our intimacy is more interpersonal than physical.

48. I have a sense of pride in what I do, and it makes me feel worthy. My clients treat me in a way that makes me feel worshiped, divine, and loved. They affirm my gender identity as a woman, and my being. The misrepresentation of sex work as a moral evil in society completely contradicts my experiences and is so harmful to everyone involved.

49. I provide my clients with a service that they need. I create space for people, notably trans-amorous men, who are treated as though their desires are abnormal or evil. I facilitate the experience of intimacy for them. My work helps demystify and disillusion trans women’s bodies and transgender sexuality. For me, sex work is a source of dignity, resilience, strength, and power. What I do is sacred.

50. This Affidavit is affirmed in support of the Application.

AFFIRMED remotely in accordance with O. Reg 431/20 with Alana Robert in Toronto, Ontario at the time of the affirmation on July 13, 2021.



Commissioner for taking Affidavits
ALANA ROBERT
LSO#79761P

*Signed electronically over video on July 13, 2021 during
COVID-19 pandemic*



ALESSA MASON

*Signed electronically over video on July
13, 2021 during COVID-19 pandemic*

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HER MAJESTY THE QUEEN AS REPRESENTED
BY THE ATTORNEY GENERAL OF CANADA

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AFFIDAVIT OF ALESSA MASON
(Affirmed July 12, 2021)

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