

Canadian Suit Offers Disclosure Lesson For US Cannabis Cos.

By **Ian Stewart** (July 7, 2025)

The legal cannabis industry in the U.S. and Canada is facing economic headwinds from higher-than-anticipated operating costs, an uncertain regulatory environment, and increasing competitive pressures from the illicit marijuana market and intoxicating hemp-derived products.

The hemp industry likewise faces an aggressive crackdown in many states and the existential threat of a potential federal ban on intoxicating hemp products.

This gathering storm also includes new product liability litigation against cannabis and hemp companies. Examples of this trend include lawsuits that allege failure to warn of the risk of cannabis-induced psychosis, so-called THC inflation cases, and the April decision by the U.S. Supreme Court in *Medical Marijuana Inc. v. Horn* to allow litigants who allege personal injury against cannabis companies to include civil Racketeer Influenced and Corrupt Organizations Act allegations.

One significant development is a recent class action filed in Canada against Aurora Cannabis, one of the world's largest cannabis producers. The lawsuit, which has significant implications for the U.S. cannabis industry, asserts that Aurora failed to adequately warn consumers about the risk of developing cannabinoid hyperemesis syndrome, or CHS, a serious and potentially debilitating condition associated with long-term cannabis use.

This article provides a detailed analysis of the lawsuit, an overview of CHS, and a discussion of the broader legal implications for cannabis and hemp companies.

Key Allegations in the Class Action

The class action was initiated by a Canadian Armed Forces veteran, identified as V.T., who alleges that she developed CHS after using Aurora's cannabis products as prescribed for post-traumatic stress disorder. The action, certified by the Ontario Superior Court of Justice in May, was brought on behalf of all individuals in Canada who purchased Aurora Cannabis products between February 2015 and May 2025 and were subsequently diagnosed with CHS.

V.T., the representative plaintiff, began using Aurora's cannabis oils and softgels daily in 2019, as prescribed for PTSD. She later developed severe and persistent gastrointestinal symptoms, including repeated nausea, vomiting and abdominal pain that led to multiple hospitalizations. She was eventually diagnosed with CHS, a condition characterized by severe nausea and vomiting, and was advised to cease cannabis use. V.T. asserts that she was never warned about the risk of CHS and that her symptoms resolved only after discontinuing the products.

The complaint alleges that Aurora knew or should have known about the risk of CHS but did not include any warnings on product labels, packaging, inserts or related materials. The complaint further alleges that Aurora's omission of CHS warnings amounts to a false, misleading or deceptive practice under both federal and provincial laws, including Canada's Cannabis Act and Food and Drugs Act. Those statutes prohibit the sale or promotion of



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drugs in a manner that is false, misleading, or likely to create an erroneous impression about their safety or health risks.

The class action is the first of its kind in Canada or the U.S. related to CHS. Estimates suggest that thousands of Canadians may have suffered from CHS during the relevant period, with a significant proportion potentially qualifying as class members in the action against Aurora. The case raises important questions about the adequacy of consumer warnings in the cannabis industry and could trigger similar litigation in the U.S.

What Is CHS?

CHS is a medical condition characterized by recurrent episodes of severe nausea, vomiting and abdominal pain in individuals who use cannabis regularly over a prolonged period. First described in medical literature in 2004, CHS has become increasingly acknowledged as cannabis use has become more widespread and potent.[1]

Because CHS is relatively new to medical awareness, it is often misdiagnosed as other gastrointestinal disorders, leading to unnecessary tests and delayed treatment.[2] The precise cause of CHS remains under investigation, but several contributing factors are believed to include long-term frequent cannabis use, genetic susceptibility and overstimulation of the endocannabinoid system, which disrupts the body's natural control of nausea and vomiting.[3]

The development of CHS starts with a chronic prodromal phase that is characterized by early morning nausea, abdominal discomfort and a fear of vomiting. It can last for months or years, and individuals may paradoxically increase cannabis use because they believe it will help to reduce nausea.[4]

The acute hyperemetic phase is marked by intense, persistent nausea and repeated vomiting, potentially many times an hour, that typically results in the person seeking medical care.[5] Some emergency physicians have described this phase as "scromiting" whereby the patient screams while vomiting.[6] Patients also may have a compulsion to take hot showers or baths, which can temporarily relieve symptoms.[7]

The only proven cure for CHS is complete cessation of cannabis use.[8] Symptom relief typically occurs within days to weeks after stopping cannabis, though full recovery may take longer. Symptoms typically recur if cannabis use is resumed.[9] There are currently no medications specifically for CHS that are approved by the U.S. Food and Drug Administration, and ongoing research is needed to better understand and treat the condition.[10]

The Importance of Product Warnings

Failure to provide adequate warnings can expose companies to significant litigation risks, including claims alleging negligence, product liability, breach of warranty, and breach of consumer protection statutes, as well as class actions or mass torts.

It is axiomatic that a manufacturer, distributor or retailer may be liable in tort if a defect in the product causes injury while the product is being used in a reasonably foreseeable way. To prove a warning defect exists, a plaintiff must establish that the defendant failed to adequately warn of a potential risk that was known or knowable in light of the scientific and medical knowledge that was generally accepted in the scientific community at the time of manufacture, distribution or sale. A plaintiff also must prove that an ordinary consumer

would not have recognized the potential risk without the warning.

It is not enough for an individual defendant to claim that it had no actual knowledge of the hazard or risk. Companies have an obligation to stay informed about potential risks associated with their products. On the other hand, a defendant may defend itself by presenting state-of-the-art evidence that the particular risk was neither known nor knowable by the application of scientific knowledge available at the time of manufacture or sale of the product.

Cannabis Products and the Failure to Warn

In the early years of the U.S. cannabis industry, product liability lawsuits were widely anticipated but did not materialize in a meaningful way. That is now changing because of product risks that are better understood in light of new scientific studies, advancing medical knowledge and customer experience. The adoption of more robust cannabis product warnings is nevertheless slow in an industry that often equates cannabis products with wellness products, and because of a persistent impression by many customers that "plant-based" means "risk-free."

The Aurora case may spawn copycat filings in the U.S., and it is a cautionary tale for the U.S. cannabis and hemp industries to prioritize consumer protection in product development and marketing. There is an evolving expectation for cannabis and hemp companies regarding risk disclosure.

Conditions such as CHS, once considered rare or poorly understood, are becoming better recognized as risks that cannabis companies should monitor to ensure adequate product warnings. To mitigate against the risk of litigation, best practices may include regular review of scientific literature, consultation with medical experts, transparent communication with consumers, and prompt updating of product labels and educational materials.

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[1] Russo et al, Cannabinoid hyperemesis syndrome: genetic susceptibility to toxic exposure, *Front. Toxicol.*, 22 October 2024.

[2] Perrotta et al, (2012). Cannabinoid hyperemesis: relevance to emergency medicine. *Acad. Emerg. Med.*19, S286-S287.

[3] See, Cleveland Clinic's information on CHS; <https://my.clevelandclinic.org/health/diseases/21665-cannabis-hyperemesis-syndrome>.

[4] *Id.*

[5] *Id.*

[6] See, Cedars Sinai's information on CHS; <https://www.cedars-sinai.org/health-library/diseases-and-conditions/c/cannabinoid-hyperemesis-syndrome.html>.

[7] Id.

[8] See, JAMA Patient page for CHS; <https://jamanetwork.com/journals/jama/fullarticle/2824833>.

[9] See, Cedars Sinai's information on CHS; <https://www.cedars-sinai.org/health-library/diseases-and-conditions/c/cannabinoid-hyperemesis-syndrome.html>.

[10] See, Cleveland Clinic's information on CHS; <https://my.clevelandclinic.org/health/diseases/21665-cannabis-hyperemesis-syndrome>.