

4th Judicial District  
STATE OF UTAH  
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Attorneys for Defendants Raymond J.  
Noorda and Lewena Noorda, as Trustees  
of the Noorda Family Trust, William Mustard, and  
Intervenor The Canopy Group, Inc.

**IN THE FOURTH JUDICIAL DISTRICT COURT  
FOR UTAH COUNTY, STATE OF UTAH**

**RALPH J. YARRO III, an individual,  
DARCY G. MOTT, an individual,  
BRENT D. CHRISTENSEN, an individual**

**Plaintiffs,**

vs.

**VAL NOORDA KREIDEL, an individual,  
TERRY PETERSON, an individual,  
WILLIAM MUSTARD, an individual,  
THE NOORDA FAMILY TRUST, a Trust,  
RAYMOND J. NOORDA, an individual,  
and a trustee of the Noorda Family Trust,  
LEWENA NOORDA, an individual and a  
trustee of the Noorda Family Trust, and  
JOHN DOES I THROUGH 10,**

**Defendants.**

**MEMORANDUM IN SUPPORT OF  
THE CANOPY GROUP, INC.'S  
MOTION TO INTERVENE**

Civil No. 050400205

Honorable Anthony W. Schofield  
Division 8

Pursuant to Rule 24(a) of the Utah Rules of Civil Procedure, The Canopy Group, Inc. (“Canopy”), by and through its counsel, Ballard Spahr Andrews & Ingersoll, LLP, hereby moves for an Order permitting it to intervene in this action.

### **ARGUMENT**

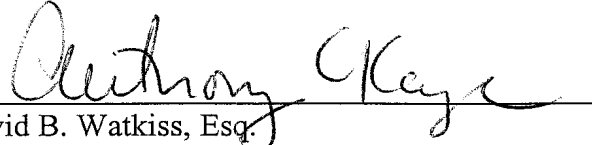
Rule 24(a) of the Utah Rules of Civil Procedure provides:

(a) *Intervention of right.* Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

*Id.*

Under the requirements of Rule 24(a), Canopy has a right to intervene in this action. Pursuant to their Motion and Application for Temporary Restraining Order and Preliminary Injunction (“Motion”), Plaintiffs have requested that they be reinstated to their former positions with Canopy, as those positions existed prior to December 17, 2004. (*See* Motion, filed January 31, 2005, at 1-2). This inarguably affects Canopy’s “ability to protect” its interests under the rule. Plaintiffs seek relief that will force Canopy to take particular actions (i.e. to reinstate Plaintiffs). Since Canopy’s rights and interests will be determined by the Court’s ruling on Plaintiffs’ Motion, Canopy has a right to participate in the proceedings. *See, e.g., Jenner v. Real Estate Services*, 659 P.2d 1072 (Utah 1983) (holding that a party has a right to intervene when that party may be adversely affected by the court’s ruling).

DATED this 31<sup>st</sup> day of January, 2005.

A handwritten signature in cursive script that reads "Anthony C. Kaye". The signature is written in black ink and is positioned above a horizontal line.

David B. Watkiss, Esq.

Anthony C. Kaye, Esq.

James W. Stewart, Esq.

Boyd L. Rogers, Esq.

BALLARD SPAHR ANDREWS & INGERSOLL, LLP

Attorneys for Defendants Raymond J.

Noorda and Lewena Noorda, as Trustees

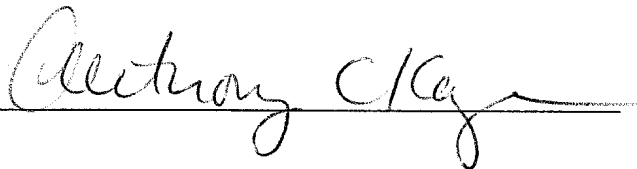
of the Noorda Family Trust, William Mustard,

and Intervenor The Canopy Group, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 31st day of January 2005, I caused a true and correct copy of **MEMORANDUM IN SUPPORT OF THE CANOPY GROUP, INC.'S MOTION TO INTERVENE** to be hand-delivered to:

Stanley J. Preston, Esq.  
SNOW, CHRISTENSEN & MARTINEAU  
10 Exchange Place, 11<sup>th</sup> Floor  
Salt Lake City, Utah 84145



A handwritten signature in cursive script, appearing to read "Anthony C. Kay", is written over a horizontal line.