Federal Court of Appeal | Cour d'appel fédérale

Date: 20140620

Docket: A-169-14

Ottawa, Ontario, June 20, 2014

Present: **MAINVILLE J.A.**

BETWEEN:

PARADIS HONEY LTD., HONEYBEE ENTERPRISES LTD. and ROCKLAKE APIARIES LTD.

Appellants

and

HER MAJESTY THE QUEEN, THE MINISTER OF AGRICULTURE AND AGRI-FOOD and THE CANADIAN FOOD INSPECTION AGENCY

Respondents

ORDER

UPON the motion of the appellants for an order determining the content of the appeal book;

AND UPON reviewing the motion record of the appellants, the motion record of the respondents, and the reply motion record of the appellants;

CONSIDERING that the issues in dispute between the parties with respect to this motion are (a) the inclusion in the appeal book of parts of the appellant's written representations submitted in the Federal Court and (b) the costs related to this motion;

AND CONSIDERING that, in the circumstances of this appeal, the pertinence of the inclusion in the appeal book of some of the appellants' written representations is a matter better left to be determined by the panel of this Court which will hear the appeal on its merits, and that therefore, out of an abundance of caution, the disputed extracts of the written representations of the appellants should be provisionally included in the appeal book with any related written submissions of the respondents;

AND FURTHER CONSIDERING that since the issue of costs related to this motion may be tied to one or more of the issues under appeal, costs on this motion should be deferred to the panel hearing this appeal on its merits;

THIS COURT ORDERS that

1. The content of the appeal book shall be as follows:

    a. Table of contents;

    b. Notice of Appeal filed March 28, 2014;

    c. Order and Reasons for Order of March 5, 2014 of the Honourable Mr. Justice Scott (as he then was);

    d. Originating document and pleadings as follows:

        i. Proposed Class Action and Statement of Claim filed December 28, 2012;

        ii. Notice of Motion for Certification filed September 12, 2013 by the appellants; and

iii. Notice of Motion to Strike filed November 8, 2013 by the respondents;

e. Extracts of the appellants' Written Representations at Tab A of the Motion Record filed November 29, 2013 as follows:

i. Parts I and II, being paragraphs 1-16;

ii. Parts IV(A), IV(B)(1)(iii) and IV(B)(2), being paragraphs 19-26, 48-50 and 68-86; and

iii. Appendix A;

f. Extracts of the respondents' Written Representations before the Federal Court relating to those extracts of the appellants' Written Representations described above, as may be identified by the respondents to the appellants;

g. Tabs B(2)-(3) and (B)(5)-(7) of the respondents' Reply Motion Record filed December 5, 2013, namely:

i. Letter from Daniel P. Carroll, QC, to the Federal Court dated August 13, 2013 with attached "Meeting Agenda";

ii. Direction of Prothonotary Lafrenière in *Simon v. Her Majesty the Queen in Right of Canada* (T-1029-12);

iii. Federal Court recorded entries for *Gagné v. Canada* (T-1935-12);

iv. Federal Court recorded entries for *Simon v. Her Majesty the Queen in Right of Canada* (T-639-10); and

v. Federal Court recorded entries for *Collins v. The Queen* (T-997-09);

h. Correspondence between counsel and the Federal Court Registry as follows:

i. Letter from appellants' counsel dated December 6, 2013 to the Federal Court Registry, copied to respondents' counsel with proof of facsimile transmission;

ii. Letter from appellants' counsel copied to respondents' counsel dated August 19, 2013;

iii. Email from Bonnie Suter of the Federal Court Registry to counsel dated August 29, 2013; and

iv. Letter with attachments from appellants' counsel dated September 6, 2013 to the Federal Court Registry, copied to respondents' counsel;

i. A copy of this order; and

j. A certificate in Form 344, signed by the appellants' solicitor, stating that the contents of the appeal book are complete and legible.

2. The issue of costs on this motion is deferred to the panel hearing the appeal on its merits.

"Robert M. Mainville"

J.A.