

FEDERAL COURT OF APPEAL

BETWEEN:

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

**Appellants
(Plaintiffs)**

and

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

**Respondents
(Defendants)**

REPLY WRITTEN REPRESENTATIONS

1. The Respondents' submissions filed and served June 5, 2014 on this motion appear to misconstrue the central issue.
2. The first of the Appellants' grounds of appeal turns in part on whether the learned Motions Judge misapprehended some of the Appellants' submissions, which he characterized as improper and struck. The result was that the Motions Judge failed to consider relevant law.
3. The inclusion of the written submissions that were struck is necessary for this Court to assess that ground of appeal and consider if the striking of the written submissions reflected flawed reasoning leading to error in the decision under appeal.
4. This is not, as the respondents argue, an attempt to appeal from the Motions Judge's Reasons, as opposed to his Order. The Appellants are not appealing the Motions Judge's decision to strike portions of their submissions. The Appellants' appeal is from the

Motions Judge's decision striking their action, which of necessity involves a consideration of his decision to strike portions of their submissions.

5. As the cases referred to by the Respondents in paragraph 31 of their submissions illustrate, the rule that an appeal lies from the decision and not the reasons embodies the principle that winners do not have a right of appeal in order to get different reasons for the same result. That is not the case here.
6. The Respondents' argument suggests that it would be wrong for this Court, in considering the appeal, to ask what the argument was that the Motions Judge struck and how that bore on his decision. Such a result cannot be correct.
7. With respect to the Respondents' submission that if the Disputed Materials are included in the Appeal Book, the Respondents' written representations on the Strike Motion should also be included, the Appellants state that they have no objection to the inclusion of any of the Respondents' written representations relevant to the issues in the Appeal.

**Respondents' Written Representations
at paras 46-47, TAB 2, p 129**

8. In response to the Respondents' submission that the costs of this Motion should be deferred to the hearing of the Appeal, this Court in *Campbell v Canada* made clear the law regarding the operation of the "no costs" rule of Rule 334.39(1). The Respondents raise no issue that precludes the application of the law to this Motion. However, if this Court wishes to revisit its earlier decision or defer the issue to a full panel of the Court, the Appellants do not object to the issue being deferred.

**Respondents' Written Representations
at paras. 48-53, TAB 2, pp 130-131
Campbell v Canada, 2012 FCA 45 at paras 45-47
Motion Record of the Appellants, TAB 4(H), p 154**

9. The Appellants agree that this Court's disposition of costs of this Motion would be without prejudice to the disposition of any costs issue at the Appeal.

DATED at the City of Edmonton, in the Province of Alberta, this 11th day of June, 2014.

Field LLP

Per: 

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