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	T-294-25 Natalie Wong
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Federal Court of Appeal File No.: \_\_\_\_\_  
Federal Court File No.: T-294-25

**FEDERAL COURT OF APPEAL**

BETWEEN:

**CANADIAN FOOD INSPECTION AGENCY**

Appellant

AND

**UNIVERSAL OSTRICH FARMS INC.**

Respondent

**NOTICE OF APPEAL**

TO: Universal Ostrich Farms Inc. (the “Respondent”)

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Appellant. The relief claimed by the appellant appears on the following page.

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard at 701 West Georgia Street, Vancouver, British Columbia.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341A prescribed by the *Federal Courts Rules*, and serve it on the appellant’s solicitor, or where the appellant is self-represented, on the appellant, WITHIN 10 DAYS after being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the order appealed from, you must serve and file a notice of cross-appeal in Form 341B prescribed by the *Federal Courts Rules*, instead of serving and filing a notice of appeal.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (613-992-4283) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGEMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

*Date:* \_\_\_\_\_ *Issued by:* \_\_\_\_\_  
(Registry Officer)

**Address of local office:**

Federal Court of Appeal  
701 West Georgia Street  
Vancouver, BC V7Y 1K8

**TO:** Universal Ostrich Farms Inc. (Respondent)  
301 Langille Road  
Edgewood, BC V0G 1J0

## **APPEAL**

**THE APPELLANT APPEALS** to the Federal Court of Appeal from the order of the Honourable Justice Battista (“Motions Judge”) dated January 31, 2025 (Court File No. T-294-25) (“Order”), by which the Motion Judge granted the Respondent’s motion for an interlocutory injunction staying a notice dated December 31, 2024 requiring the Respondent to dispose of their ostriches by February 1, 2025 pursuant to subsection 48(1) of the *Health of Animal Act*, SC 1990, c 21 (“Notice”).

**THE APPELLANT ASKS** that this Honourable Court:

- (a) allow the appeal and set aside the Order; and
- (b) grant such further and other relief as counsel may advise and this Honourable Court may permit.

**THE GROUNDS OF APPEAL** are as follows:

1. The Motions Judge erred in law and in principle, and/or seriously misapprehended the facts, in:
  - a. finding that irreparable harm “in the form of the closure of its 25-year old business and the loss of the [Respondent’s] decades-long efforts in cultivating a unique herd of ostriches” would flow to the Respondent if an injunction were not granted, notwithstanding that the injunction motion was only in respect of the Notice and not in respect of the Minister’s authority to dispose of the ostriches pursuant to subsection 48(1) of the *Health of Animals Act* if the Respondent did not do so; and
  - b. finding that the balance of convenience favoured granting the injunction, including by:
    - i. erroneously concluding that not issuing the injunction would render the underlying application moot;
    - ii. finding that the Appellant has “a range of options under the *HAA* [*Health of Animal Act*] to address its concerns regarding public

safety”, when there were no options other than disposal of the ostriches; and

- iii. failing to account for or seriously misapprehending the facts concerning public interest factors that overwhelmingly favoured not issuing an injunction.

2. To the extent the Motions Judge made an order enjoining the Minister from disposing of Universal’s ostriches under subsection 48(1) of the *Health of Animals Act*, or pursuant to the Minister’s authority under other sections of that *Act*, the Motions Judge erred in law and in principle, including by exceeding his jurisdiction. On February 7, 2025, the Appellant filed a motion in Federal Court file T-294-25, seeking clarification as to the scope of the Federal Court’s January 31, 2025 Order, including whether the Order was intended to enjoin the Minister from disposing of Universal’s ostriches under subsection 48(1) of the *Health of Animals Act*.
3. Such further and other grounds as counsel may advise and this Honourable Court may permit.

4. The Appellant relies on, *inter alia*:
- a. *Health of Animals Act*, SC 1990, c 21, including s. 48, and regulations made under that Act;
  - b. *Canadian Food Inspection Agency Act*, SC 1997, c 6; and
  - c. Such other and further legislation and materials as counsel may advise and this Honourable Court may permit.



Dated: February 10, 2025

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