

COURT OF APPEAL FOR ONTARIO

CITATION: Sweda Farms Ltd. v. Ontario Egg Producers, 2012 ONCA 337

DATE: 20120518

DOCKET: C54138

Simmons, Armstrong and Pepall, JJ.A.

BETWEEN

Sweda Farms Ltd., carrying on business as Best Choice Eggs

Plaintiff

and

Ontario Egg Producers, Mark Beaven and Harry Pelissero

Defendants (Respondents)

AND BETWEEN

Best Choice Eggs, a division of Sweda Farms Ltd., Verified Eggs Canada Inc.,  
and Svante Lind

Plaintiffs

and

Burnbrae Farms Limited, Burnbrae Holdings Inc., Joseph P. Hudson, Craig  
Hunter, L. H. Gray & Son Limited, William Harding Gray, Michael Walsh, Maple  
Lynn Foods Limited, Johannes Klei and John Klei

Defendants (Respondents)

J. Gardner Hodder and Guillermo Schible, for the appellant Norman Bourdeau

David B. Williams and Allison M. Webster, for the respondents L.H. Gray & Son  
Limited, William Harding Gray and Michael Walsh

Heard and released orally: April 30, 2012

On appeal from the order of Justice Justice Peter Lauwers of the Superior Court of Justice, dated July 28, 2011.

### ENDORSEMENT

[1] The appellant appeals from an order of Lauwers J. finding the appellant in contempt of an order of Corkery J. made on February 12, 2010. The essence of the finding of contempt is that the February 12, 2010 order in issue required the appellant to transfer to a supervising solicitor “any and all other evidence or documents in his possession” and that instead of turning over everything he had, the appellant retained copies of, and eventually disseminated, certain material.

[2] The appellant advances two arguments on appeal. First, he claims that on a plain reading of the February 12, 2010 order, the order does not prohibit him from retaining copies of the materials. Second, he claims that he should not be found in contempt of terms in an order that have now been set aside.

[3] We do not accept these submissions. In our view, the copies that the appellant retained are clearly caught within the language in the order: “any and all other evidence or documents”. Further, the fact that the terms of the order were later set aside because of the appellant’s incorrect statements in an affidavit filed in support of the order, did not excuse him from complying with the order while it was in force.

[4] The appeal is therefore dismissed.

[5] Costs of the appeal are to the respondent on a partial indemnity scale fixed in the amount of \$10,000, inclusive of disbursements and applicable taxes.

Signed: "Janet Simmons J.A."

"Robert P. Armstrong J.A."

"S. E. Pepall J.A."