



## **COMPLAINT FOR WRIT OF PROHIBITION**

This action seeks a peremptory writ, and if needed, an alternative writ, of prohibition from this Court forbidding the Honorable Frank G. Forchione, Judge of Common Pleas Court, Stark County, Ohio, from further exercising jurisdiction in *In re Cynthia Huntsman Transfer of Dangerous Wild Animals*, 2016 MI 138. Relator Ohio Department of Agriculture executed an administrative order on May 4, 2016 transferring dangerous wild animals from an unlicensed facility to the Ohio Department of Agriculture temporary holding facility pursuant to R.C. 935.20. Respondent has ordered the return of the animals by May 19, 2016, and scheduled a preliminary injunction hearing for the same day. Respondent's action has circumvented the special statutory proceeding to appeal the transfer of animals established by the General Assembly.

Immediate relief is required because Judge Forchione and the Common Pleas Court of Stark County patently and unambiguously lack jurisdiction over this matter. There has been no complaint, verified affidavit, or sworn testimony, the order compels the performance of a discretionary act to reverse the status quo, and the court lacks jurisdiction over the mandatory special statutory proceedings to appeal these matters. Attached as Exhibit 1 is a supporting affidavit from Dr. Melissa Simmerman.

### **JURISDICTION**

1. This Court has original jurisdiction to issue a writ of prohibition to lower courts pursuant to Article IV, Section 2(B)(1)(d), of the Constitution of the State of Ohio.

### **PARTIES**

2. Relator David Daniels is the Director of the Ohio Department of Agriculture and is responsible for administering the department pursuant to R.C. 121.02(E), and was the de facto defendant in the lawsuit below, *In re Cynthia Huntsman Transfer of Dangerous Wild Animals*.

3. Respondent Frank G. Forchione (“the trial court”) is a duly elected Judge of the Stark County Court of Common Pleas. The Stark County Common Pleas Court is the judicial body for Stark County, Ohio. Respondent is empowered to decide only those cases and controversies over which his court has proper jurisdiction.

### **BACKGROUND FACTS**

4. Ohio’s Dangerous Wild Animals and Restricted Snake Act, codified in R.C. Chapter 935, became effective on September 5, 2012.

5. Pursuant to R.C. 935.04, Cyndi Huntsman registered two Syrian brown bears, two baboons, six black bears, one bobcat, one chimpanzee, two North American cougars, one black panther, two albino Burmese pythons, two Siberian tigers, eight Bengal tigers, one serval, two American alligators, two African lions, and two gray timber wolves.

6. All owners of dangerous wild animal were required to obtain a permit to maintain their dangerous wild animals by December 31, 2013. R.C. 935.05(A), R.C. 935.07(A), R.C. 935.101(A).

a. A wildlife shelter permit issued under R.C. 935.05 is required to continue to possess dangerous wild animals in the State of Ohio after January 1, 2014.

b. A wildlife propagation permit issued under R.C. 935.07 is required to propagate dangerous wild animals in the State of Ohio after January 1, 2014.

c. A rescue facility permit under R.C. 935.101 is required to continue to operate after January 1, 2014 a dangerous wild animal rescue facility that was in existence prior to that date.

7. Cyndi Huntsman did not apply for a dangerous wild animal permit.

8. Cyndi Huntsman, through her counsel, John Juergensen, claimed that she was in the process of obtaining accreditation from the Zoological Association of America and was exempt from the permit requirements of the statute.

9. Ohio Revised Code 935.03(B)(1) states that the chapter does not apply to “a facility that is an accredited member of the association of zoos and aquariums or the zoological association of America and that is licensed by the United States department of agriculture under the federal animal welfare act.”

10. The Ohio Department of Agriculture notified Cyndi Huntsman in early February, 2014, that she had not submitted an application for a dangerous wild animal permit.

11. Cyndi Huntsman claimed an exemption from the permitting requirement on the basis of a permit for a bald eagle issued to her by the Ohio Department of Natural Resources under R.C. 1533.08.

12. Ohio Revised Code 935.03(B)(10) states that the chapter does not apply to “any person who has been issued a permit under section 1533.08 of the Revised Code, provided that the permit lists each specimen of wild animal that is a dangerous wild animal or restricted snake in the person’s possession.”

13. The Ohio Department of Agriculture notified Cyndi Huntsman that her bald eagle permit did not cover any of the dangerous wild animals in her possession, and that she was not exempt from the permit requirements under R.C. 935.03(B)(10).

14. The Ohio Department of Agriculture learned that in early 2014 and continuing into the Spring of 2015, Huntsman smuggled dangerous wild animals that had never been registered with the Ohio Department of agriculture, including:

- a. a spotted leopard, transferred to a park in Calvert, Texas on December 18, 2014;
- b. a crested macaque, transferred to Smalley Exotic Farm, LLC in Silver Lake, Indiana on February 4, 2015;
- c. and a tiger cub to Wild Acres Ranch in Sandusky, Ohio on February 23, 2015.

15. On March 5, 2015, Cyndi Huntsman again claimed that she was in the process of obtaining accreditation from the Zoological Association of America and was exempt from the permit requirements of the statute.

16. Huntsman provided the Ohio Department of Agriculture with documentation of the steps that she intended to take in order to obtain Zoological Association of America accreditation, including a reduction in the number of animals in her possession.

17. Huntsman voluntarily relinquished some of her dangerous wild animals to the Ohio Department of Agriculture. Specifically,

- a. four black bears in July 2015;
- b. four alligators in September 2015;
- c. and two black and bears and two Syrian brown bears in December 2015.

18. Huntsman maintained possession of the rest of her dangerous wild animals.

19. A female black bear relinquished by Cyndi Huntsman to the Ohio Department of Agriculture in December 2015 gave birth to three cubs while in the custody of the Ohio Department of Agriculture.

20. It is unknown when Cyndi Huntsman acquired two additional American alligators because she had previously only registered two American alligators with the Ohio Department of Agriculture.

21. In January 2015, Huntsman transported a Syrian brown bear to Sandusky, Ohio.

22. It is unknown when Cyndi Huntsman acquired this third Syrian brown bear because Cyndi Huntsman had previously only registered two Syrian brown bears with the Ohio Department of Agriculture.

23. In November 2015, Huntsman transported an unregistered Bengal tiger cub to New York City.

24. On January 7, 2016, an inspector for the United States Department of Agriculture observed that Cyndi Huntsman maintained possession of one chimpanzee, two Hamadryas baboons, two pumas, and five tigers.

25. Cyndi Huntsman did not maintain a dangerous wild animal permit on January 7, 2016.

26. Cyndi Huntsman had never applied for a dangerous wild animal permit prior to that date.

27. Cyndi Huntsman had never been granted an exemption from Ohio's Dangerous Wild Animal Law by the Director of the Ohio Department of Agriculture on that date.

28. In March 2016, the Ohio Department of Agriculture delivered a quarantine order issued under R.C. 935.20 to Cyndi Huntsman.

29. The quarantine order prohibited Cyndi Huntsman from acquiring or removing dangerous wild animals from her premises without approval from the Ohio Department of Agriculture.

30. Cyndi Huntsman requested an administrative hearing on the quarantine order pursuant to Ohio Revised Code 935.20 and R.C. Chapter 119.

31. This hearing is currently scheduled for August 22 and 23, 2016.

32. On May 2, 2016, the Ohio Department of Agriculture received a fax from Kristi de Spain, Executive Administrator of the Zoological Association of America denying Cyndi Huntsman professional membership and accreditation.

33. On May 4, 2016, the Ohio Department of Agriculture implemented a transfer order of Cyndi Huntsman's dangerous wild animals pursuant to R.C. 935.20.

34. The Ohio Department of Agriculture transferred the following dangerous wild animals:

- a. Five tigers, weighing 512 pounds, 483 pounds, 322 pounds, 285 pounds, and 276 pounds;
- b. two pumas, weighing 180 pounds and 123 pounds;
- c. two baboons estimated to weigh 45 pounds and 35 pounds;
- d. one chimpanzee estimated to weigh 140 pounds.

35. The dangerous wild animals identified in the paragraph above are defined as dangerous wild animals under R.C. 935.01(C)(4), R.C. 935.01(C)(7)(c), and R.C. 935.01(C)(19).

36. The afternoon of May 4, 2016, counsel for Cyndi Huntsman, John Juergensen, had a telephone conference with the assistant attorney general for the Ohio Department of Agriculture.

37. The afternoon of May 4, 2016, counsel for Cyndi Huntsman, John Juergensen, filed a motion for temporary restraining order and preliminary injunction in Stark County Court of Common Pleas.

38. Respondent Judge Frank G. Forchione informed counsel for Cyndi Huntsman, John Juergensen, that a hearing would take place the next day at 8:30am.

39. The motion for temporary restraining order and a preliminary injunction did not contain any affidavit or verified statement of facts.

40. The motion for temporary restraining order and a preliminary injunction did not identify any parties.

41. The motion for temporary restraining order and a preliminary injunction did not contain any claim for permanent injunction or relief.

42. Counsel for Cyndi Huntsman, John Juergensen, did not serve a copy of the motion for temporary restraining order and a preliminary injunction on any assistant attorney general for the Ohio Department of Agriculture.

43. Counsel for Cyndi Huntsman and counsel for the Ohio Department of Agriculture appeared for the hearing on the motion for temporary restraining order and preliminary injunction at 8:30am on May 5, 2016.

44. No sworn testimony was presented at the hearing on May 5, 2016.

45. The Court ordered the Ohio Department of Agriculture to return the dangerous wild animals to Cyndi Huntsman within two weeks, or by May 19, 2016.

46. The Ohio Department of Agriculture has never issued Cyndi Huntsman any permit to possess dangerous wild animals.

47. The Ohio Department of Agriculture has never received an application for a permit to possess dangerous wild animals from Cyndi Huntsman.

48. The Ohio Department of Agriculture has never approved any exemption from the dangerous wild animal permitting requirements for Cyndi Huntsman or her facility.

49. On May --, a tiger seized from Cyndi Huntsman's facility gave birth to four tiger cubs while in the custody of the Ohio Department of Agriculture.

### **COUNT I – WRIT OF PROHIBITION**

50. Relators incorporate and re-allege the above paragraphs.

51. Respondent Judge Forchione of the Stark County Court of Common Pleas has improperly exercised judicial power over the action below, *In re Cynthia Huntsman Transfer of Dangerous Wild Animals*.

52. Respondent's purported exercise of jurisdiction power is unauthorized by law. Respondent is patently and unambiguously without jurisdiction over transfer orders authorized under R.C. 935.20.

53. Relator's have no adequate remedy at law if forced to defend the decision to execute a transfer order of Respondent's illegally held dangerous wild animals before the common pleas court.

54. Denial of the writ will result in an injury for which no other adequate remedy exists in the ordinary course of law.

### **RELIEF REQUESTED**

WHEREFORE, Relators pray that the Court will grant a peremptory writ, and if needed, an alternative writ, prohibiting the Respondent from further exercising jurisdiction over *In re Cynthia Huntsman Transfer of Dangerous Wild Animals*, Case No. 2016 MI 138, pending before Judge Frank G. Forchione of the Stark County Court of Common Pleas, and a final writ declaring the Respondent has no jurisdiction over the matter below.

Respectfully submitted,

MICHAEL DEWINE (0009181)

Ohio Attorney General

*/s Eric E. Murphy*

ERIC E. MURPHY\* (0083284)

State Solicitor

*\*Counsel of Record*

PETER T. REED (0089948)

Deputy Solicitor

JAMES R. PATTERSON (0024538)

LYDIA M. ARKO (0085597)

Assistants Attorney General

30 East Broad Street, 17th Floor

Columbus, Ohio 43215

614-466-8980; 614-466-5087 fax

[eric.murphy@ohioattorneygeneral.gov](mailto:eric.murphy@ohioattorneygeneral.gov)

Counsel for Relator

Director, Ohio Department of Agriculture



4. I directly supervise permitting and other requirements for dangerous wild animals.

5. In 2012, Cynthia Huntsman (“Huntsman”) registered two Syrian brown bears, two baboons, six black bears, one bobcat, one chimpanzee, two North American cougars, one black panther, two albino Burmese pythons, two Siberian tigers, eight Bengal tigers, one serval, two American alligators, two African lions, and two gray timber wolves with the Department. All of these are dangerous wild animals or restricted snakes as defined in R.C. 935.01.

6. At that time, Huntsman claimed she was exempt from the permit requirements, stating that she was in the process of obtaining accreditation from the Zoological Association of America (“ZAA”). Absent an exemption, Huntsman had to obtain a permit for her dangerous wild animals from the Department prior to January 1, 2014.

7. Huntsman did not apply for a permit for her dangerous wild animals prior to the deadline.

8. More than a month after the deadline, the Department advised Huntsman that she had failed to apply for a permit. Huntsman, through her attorney John Juergenson, then said she was exempt from the dangerous wild animal permit requirement because she held a permit from the Ohio Department of Natural Resources under R.C. 1533.08 for a bald eagle. ODNR Permit, Exhibit A-1. The Department told her that the bald eagle permit did not exempt her from any requirements of the Dangerous Wild Animals Act, and besides, it could never exempt her from the permitting requirements for all her other animals. The Department and Huntsman continued to correspond during 2014, with Huntsman claiming an exemption and the Department stating that she was not exempt.

9. On March 5, 2015, Huntsman advised the Department that she was claiming an exemption from R.C. Chapter 935 on the basis of her efforts to obtain accreditation from ZAA.

But Huntsman never provided the Department with documentation that she had obtained accreditation.

10. An inspector for the United States Department of Agriculture visited Huntsman's premises on January 7, 2016, and observed that Huntsman had possession of a chimpanzee, two Hamadryas baboons, two pumas, and five tigers. All of these animals are dangerous wild animals as defined in R.C. 935.01.

11. I also visited Huntsman's premises and personally observed the ten dangerous wild animals observed in January on March 3, 2016, accompanied by the Department veterinarian Dr. Dennis Summers and enforcement agent William Lesho. As Huntsman had not established an exemption from the permit requirement, the Department placed her animals under quarantine at that time under R.C. 935.20. Quarantine Order, attached as Exhibit A-2. This meant the animals could not enter or leave the property without authorization from the Department.

12. On April 1, 2016, the Department sent Huntsman a letter asking her to provide documentation of her ZAA accreditation status by May 2, 2016. On May 2, attorney Juergenson sent the Department a letter Huntsman received from ZAA Executive Administrator Kristi de Spain, denying her application for professional membership. ZAA Letter, attached as Exhibit A-3. Professional membership is required before she can get the accreditation needed for the exemption.

13. On May 4, 2016, the Department asked Huntsman for consent to enter and search her premises under R.C. 935.19. Huntsman refused consent. The Department obtained a search warrant from Judge Frank Forchione of Stark County Common Pleas Court. Search Warrant, attached as Exhibit A-4. The Department found five tigers, two pumas, two baboons, and one

chimpanzee for which no permits had been granted. The Department served and executed a transfer order under R.C. 935.20 and took possession of these dangerous wild animals. Transfer Order, attached as Exhibit A-5. All of the animals have been in the Department's legal custody since that time. The chimpanzee was immediately transported to an approved out of state facility that is well-equipped to deal with chimpanzees, and is being housed subject to further instructions from the Director. The remaining animals were directly transported to the Department's temporary holding facility and will be maintained according to veterinary standards of care. The Department subsequently examined the animals and obtained the following weights: male tiger – 483 lbs.; pregnant female tiger – 322 lbs.; male tiger – 512 lbs.; female tiger – 285 lbs.; male tiger – 276 lbs.; male puma – 180 lbs.; female puma – 123 lbs.; male chimpanzee – estimated 150 pounds; male baboon – estimated 45 lbs.; and female baboon – estimated 35 lbs.

14. Later that day, the Department was advised by attorney Juergenson that Judge Forchione intended to proceed with a hearing on a motion for temporary restraining order on May 5, 2016 at 8:30 a.m. I first obtained a copy of the motion the morning of May 5, 2016, prior to entering the courtroom. Motion for Injunctive Relief, attached as Exhibit A-6. I appeared with counsel for the Department at the scheduled time before Judge Forchione. I informed Judge Forchione that the animals would need to be sedated to transfer them again because the transport cages do not marry up to Huntsman's enclosures to prevent animal escape. Hearing Transcript, attached as Exhibit A-7.

15. In the afternoon of May 5, 2016, the Department received a copy of an Order issued that day by Judge Forchione. Temporary Restraining Order, attached as Exhibit A-8.

16. Throughout the above described course of dealings between the Department and Huntsman, the Department has observed and/or documented numerous violations of the Dangerous Wild Animals Act by Huntsman, including the following:

A. Unlawful possession of non-permitted dangerous wild animals on and after January 1, 2014, as noted above.

B. Unlawful possession and transfer of an unregistered and non-permitted spotted leopard and a black leopard to a park in Calvert, Texas on December 18, 2014.

C. Unlawful possession and transfer of an unregistered and non-permitted crested macaque to a Smalley Exotic Farm, LLC on February 4, 2015.

D. Unlawful possession and transfer of an unregistered and non-permitted tiger cub to Wild Acres Ranch in Sandusky, Ohio on February 23, 2015.

E. Unlawful possession and transfer of an unregistered and non-permitted Bengal tiger cub to New York City on November 16, 2015.

F. Unlawful possession of at least one unregistered and non-permitted Syrian brown bear. Huntsman surrendered two brown bears to the Department in December, 2015, and transferred a third brown bear to Sandusky, Ohio on January 2, 2015. However, Huntsman had registered only two brown bears with the Department.

G. Unlawful possession of at least two unregistered and non-permitted alligators. In September, 2015, Huntsman surrendered four alligators to the Department. However, Huntsman had registered only two alligators with the Department.

H. Unlawful breeding of a brown bear. One of the brown bears surrendered to the Department in December, 2015 gave birth to cubs shortly thereafter, indicating unlawful propagation of a dangerous wild animal in violation of R.C. 935.07.

I. Unlawful breeding of a tiger. One of the tigers moved from Huntsman's property on May 4, 2016 has just given birth to four cubs, indicating unlawful propagation of a dangerous wild animal in violation of R.C. 935.07.

J. Due to Huntsman's failure to disclose the true number and identification of dangerous wild animals in her possession, her unlawful transfer of dangerous wild animals, and her unlawful breeding of dangerous wild animals, the Department did not know about many of these violations until after they occurred.

17. For the reasons stated at the hearing and in the pleadings filed in this matter, the Department believes that it has exclusive subject matter jurisdiction with regard to the quarantine order, the transfer order, and all other matters pertaining to Huntsman's dangerous wild animals.

FURTHER AFFIANT SAYETH NAUGHT.

  
Melissa Simmerman, D.V.M.

Sworn to before me and subscribed in my presence on this 10<sup>th</sup> day of May, 2016.

  
Notary Public



JAMES R. PATTERSON  
Attorney at Law  
Notary Public, State of Ohio  
My Commission Has No Expiration  
Section 147.03 R.C.



# DIVISION OF WILDLIFE

Ohio Department of Natural Resources

Division of Wildlife Headquarters  
2045 Morse Road, Bldg. G  
Columbus, Ohio 43229-6693  
1-800-WILDLIFE

Chief, Division of Wildlife **Scott Zody**

**WILD ANIMAL PERMIT: 15-25**

EDUCATION

CYNDI M. HUNTSMAN  
STUMP HILL FARM INC.  
6633 KLICK ST.  
MASSILLON, OH 44646

**DATE ISSUED**

2/27/2012 Revised: 2/25/2013

Others authorized on permit

NO

is hereby granted permission to take, possess, and transport at any time and in any manner specimens of wild animals, subject to the conditions and restrictions listed below or any documents accompanying this permit. This permit, unless revoked earlier by the Chief, Division of Wildlife, is effective from:

**3/15/2012 to: 3/15/2015**

This permit must be carried while collecting wild animals and be exhibited to any person on demand.

**THIS PERMIT IS RESTRICTED AS FOLLOWS:**

1. Permittee may possess a bald eagle and other non-releaseable raptors for educational purposes.
2. Specimens may only be obtained from licensed rehabilitators.
3. Permittee must maintain migratory bird permits as required by the U.S. Fish and Wildlife Service and must comply with the conditions of the permit.
4. Biosecurity measures must be taken at all times to minimize the potential transmission of diseases of wild animals held in captivity and/or exposure to humans.
5. All cages or enclosures must prevent ingress or egress of wild animals, have appropriate food and water, maintain appropriate temperature and provide protection from the weather. Enclosures must allow the animal to maintain species-specific and/or taxa specific seasonal and biological functions (e.g. bats hibernating).
6. Unless otherwise approved by the Chief (or their representative), wild animals held in captivity may not be released to the wild.
7. An annual report of educational activities must be provided to the Division of Wildlife.

**Locations of Collecting:**

STUMP HILL FARM INC.

**Equipment and method used in collection:**

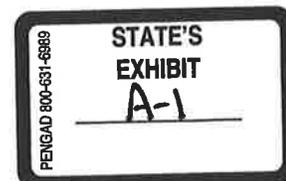
SALVAGE AND DONATION ONLY

**Name and number of each species to be collected:**

MAY POSSESS A NON-RELEASEABLE FEMALE BALD EAGLE #BE02016. MUST MAINTAIN EAGLE EXHIBITION PERMIT FROM THE U.S. FISH & WILDLIFE SERVICE(FWS#MB068999-0). NON-RELEASEABLE RAPTORS OBTAINED FROM REHAB FACILITIES FOR EDUCATIONAL DISPLAY AND PROGRAMMING.

**RESTRICTIVE DOCUMENTS ACCOMPANYING THIS PERMIT? YES**

**NO ENDANGERED SPECIES MAY BE TAKEN WITHOUT WRITTEN PERMISSION FROM THE CHIEF**



**Department of Agriculture  
State of Ohio**

**In re:**

Cyndi Huntsman  
Quarantine of Dangerous Wild Animals  
Stump Hill Farm, Inc.  
6633 Klick Road  
Massillon, Ohio 44646

**Order No. 2016- 062**

**ORDER**

R.C. Section 935.20(A) provides:

(A) On and after January 1, 2014, the director of agriculture immediately shall cause an investigation to be conducted if the director has reason to believe that one of the following may be occurring:

- (1) A dangerous wild animal is possessed by a person who has not been issued a wildlife shelter permit, wildlife propagation permit, or rescue facility permit under this chapter.
- (2) A restricted snake is possessed by a person that has not been issued a restricted snake possession permit or restricted snake propagation permit under this chapter.
- (3) A dangerous wild animal or restricted snake is being treated or kept in a manner that is in violation of this chapter or rules.

For purposes of the investigation, the director or the director's designee may order the animal or snake that is the subject of the notification to be quarantined or may order the transfer of the animal or snake to a facility that is on the list maintained by the director under this section. If the director's designee orders the animal or snake to be quarantined or transferred, the designee shall provide a copy of the order to the director.

The Director has reason to believe that the following facts are true:

On October 31, 2012, Ms. Cyndi Huntsman registered several dangerous wild animals with the Ohio Department of Agriculture (ODA). On that registration, Ms. Huntsman stated at that time she was in possession of two Syrian brown bears, two baboons, six black bears, one bobcat, one chimpanzee, two North American cougars, one black panther, two albino Burmese pythons, two Siberian tigers, eight Bengal tigers, one serval, two American alligators, two African lions and two gray timber wolves, which are dangerous wild animals (DWA) or restricted snakes under R.C. Chapter 935 at the premises located at 6633 Klick Road, Massillon, Ohio 44646 (Property). Ms. Huntsman's registration stated that she was in the process of obtaining accreditation from the Zoological Association of America (ZAA) to exempt her from the prohibition of possessing DWA under R.C. Section 935.03(A)(1).



On February 11, 2014, ODA notified Ms. Huntsman that she had not submitted an application for a DWA permit. On March 7, 2014, Mr. John L. Juergenson, counsel for Ms. Huntsman, notified ODA that it was their understanding that Ms. Huntsman was not required to obtain a permit as she was exempt under R.C. Section 1533.08. On March 28, 2014, ODA notified Ms. Huntsman's attorney that Ms. Huntsman was not exempt under R.C. Chapter 935. Specifically, her Ohio Department of Natural Resources wildlife education permit was issued for a single female bald eagle only and not for any of the numerous DWA in her possession.

On August 12, 2014, ODA again notified Ms. Huntsman that she has not submitted a permit application for the DWA or restricted snakes located on the Property. On August 18, 2014, Ms. Huntsman again attempted to claim an exemption under R.C. Section 1533.08 even though she had been notified that this permit does not exempt the DWA and restricted snakes in her possession. On October 22, 2014, Ms. Huntsman was again notified by ODA that her claim for exemption under R.C. Section 1533.08 was not applicable and that she was subject to the permit requirements under R.C. Chapter 935.

On or about March 5, 2015, Ms. Huntsman notified ODA that she remained in the process of seeking ZAA accreditation. Ms. Huntsman provided ODA documentation as to the steps she was going to take in order to obtain that accreditation including the reduction of animals in her possession. Ms. Huntsman sought to work with ODA to reduce the number of DWA in her possession.

On July 27, 2015, Ms. Huntsman voluntarily relinquished four black bears to ODA. On September 29, 2015, Ms. Huntsman voluntarily relinquished four alligators to ODA. Finally, on December 4, 2015, Ms. Huntsman voluntarily relinquished two black bears and two Syrian brown bears to ODA.

However, based on recent documents acquired by ODA, Ms. Huntsman's actions throughout this period have demonstrated a clear disregard for the law. For example, on December 18, 2014, Ms. Huntsman transported a black leopard and a spotted leopard to a wildlife park in Calvert, Texas. Ms. Huntsman's original registration did not list a spotted leopard. Therefore, from the date of registration to December 18, 2014, it appears that Ms. Huntsman illegally acquired an additional DWA in violation of R.C. Chapter 935.

On January 2, 2015, Ms. Huntsman transported a young Syrian Brown bear to a premise in Sandusky, Ohio. Ms. Huntsman's original registration listed two adult Syrian brown bears. As stated above, Ms. Huntsman relinquished two adult Syrian brown bears to ODA on December 4, 2015. Therefore, from the date of registration to January 2, 2015, it appears that Ms. Huntsman illegally acquired an additional DWA in violation of R.C. Chapter 935.

On February 4, 2015, Ms. Huntsman transported a crested macaque to Smalley Exotic Farm, LLC located in Silver Lake, Indiana. Ms. Huntsman's original registration did not list a macaque. Therefore, from the date of registration to February 4, 2015, it appears that Ms. Huntsman illegally acquired an additional DWA in violation of R.C. Chapter 935.

On February 23, 2015, Ms. Huntsman transported a tiger cub, weighing five pounds, to Wild Acres Ranch in Sandusky, Ohio. No such animal was listed on Ms. Huntsman's original registration. Therefore, from the date of registration to February 23, 2015, it appears that Ms. Huntsman illegally acquired an additional DWA in violation of R.C. Chapter 935.

On September 29, 2015, Ms. Huntsman voluntarily relinquished four alligators to ODA's temporary holding facility. Ms. Huntsman's original registration listed only two alligators. Therefore, from the date of registration to September 29, 2015, it appears that Ms. Huntsman illegally acquired additional DWA in violation of R.C. Chapter 935.

On November 16, 2015, Ms. Huntsman transported a 10 week old Bengal tiger cub to New York City. No such animal was listed on Ms. Huntsman's original registration. Therefore from the date of registration to November 16, 2015, Ms. Huntsman illegally acquired an additional DWA in violation of R.C. Chapter 935.

Additionally, a female Syrian brown bear that was relinquished to ODA on December 4, 2015, gave birth to 3 bear cubs while at the Ohio Department of Agriculture Temporary Holding Facility. According to R.C. 935.07, "[a] person that possesses a registered dangerous wild animal in this state on October 1, 2013, that wishes to continue to possess the dangerous wild animal on and after January 1, 2014, and that intends to propagate the animal solely for the purposes of a species survival program that complies with rules shall apply for a wildlife propagation permit under this section." Here, Ms. Huntsman continued to engage in practices which led to the propagation of bear cubs without a wildlife propagation permit in violation of the law.

On January 7, 2016, the United States Department of Agriculture conducted an inspection of Ms. Huntsman's premise. During that inspection, USDA observed the following animals: one chimpanzee, two Hamadryas baboons, two pumas, and five tigers. Each animal observed by USDA is classified as DWA pursuant to R.C. Chapter 935.

Ms. Huntsman has stated she is still seeking the ZAA accreditation on behalf of her facility to demonstrate that she is able to possess DWA pursuant to R.C. Section 935.03(A). However, Ms. Huntsman has not provided any further evidence that she is proceeding in the accreditation process. Therefore, as of today's date Ms. Huntsman has failed to demonstrate she is legally able to possess DWA pursuant R.C. Chapter 935 and further failed to submit any applicable permit applications as required under law.

Based on Ms. Huntsman's illegal possession of DWA as described under R.C. Chapter 935, her failure to demonstrate that she is exempt or legally permitted to possess DWA under R.C. Chapter 935, her failure to obtain a permit as required under R.C. Chapter 935, her additional violations of R.C. Chapter 935, and based on review of the preliminary results of the investigation, these animals must be quarantined to the Property to protect public safety and the health of the animals until the conclusion of this investigation.

Therefore, by the authority vested in my office by law, it is hereby

**ORDERED:**

1. That in accordance with R.C. 935.20(A), and in furtherance of the ongoing investigation of Ms. Cyndi Huntsman for alleged unpermitted possession of dangerous wild animals, any

dangerous wild animal or restricted snake located on the Property whose the address is 6633 Klick Road, Massillon, Ohio 44646, shall be quarantined at said Property;

2. That no dangerous wild animal or restricted snake is permitted to be taken, moved, or otherwise removed from the geographic area of 6633 Klick Road, Massillon, Ohio 44646. Ms. Cyndi Huntsman shall secure and confine the dangerous wild animals in such cages and facilities to prevent escapes;
3. That no public shall come into contact, with the express exception of the owner and owner's employees, with any dangerous wild animal or restricted snake;
4. That Ms. Cyndi Huntsman shall continue to feed and care for the dangerous wild animals and restricted snakes during the quarantine as required under R.C. Chapter 935 and Ohio Administrative Code Section 901:1-4-01.2;
5. That Ms. Cyndi Huntsman shall permit access to the Property for the purposes of this quarantine as required under ORC Section 935.19 by ODA as necessary;
6. That this quarantine shall be effective until such time the Director determines that release is appropriate based on the requirements of R.C. Chapter 935; and
7. That upon journalization a certified copy of this Order be sent to Ms. Cyndi Huntsman.

Effective date of this Order: Upon journalization



David T. Daniels, Director  
Ohio Department of Agriculture

3/2/2016  
Date



Entered, Ohio Department of Agriculture Journal this 2nd day of March  
2016 by Cornie Ellis

## NOTICE

This order may be appealed to the Department of Agriculture in accordance with the Revised Code section 935.20 by requesting a hearing **within thirty (30) days of the date of mailing of this order**. This notice is being hand delivered and/or posted at two locations on your property on March 3, 2016.

Revised Code section 935.20(D) states:

(D) A person that is adversely affected by a quarantine or transfer order pertaining to a dangerous wild animal or restricted snake owned or possessed by the person, within thirty days after the order is issued, may request in writing an adjudication in accordance with Chapter 119. of the Revised Code. A request for an adjudication does not stay a quarantine or transfer order.

Pursuant to Ohio Revised Code Chapter 935.20, you have the right to request a formal hearing should you disagree with this action. Any request for hearing must be made to the Ohio Department of Agriculture, Attention: Laura Zarlino, Office of the Chief Legal Counsel, 8995 East Main Street, Reynoldsburg, Ohio 43068-3399, telephone (614) 728-6390, or at [legal@agri.ohio.gov](mailto:legal@agri.ohio.gov).

At the hearing, you may appear in person, be represented by an attorney at your expense, or you may represent your position, arguments or contentions in writing. At the hearing, you may present evidence and examine witnesses appearing for and against you to show cause why the proposed action should not be levied against you. The Assistant Attorney General assigned to the Department will represent the Department at this hearing.

If you are incorporated in the State of Ohio, e.g. a corporation, limited liability company, or other entity, please note that in accordance with rulings from the Ohio Supreme Court, corporations must be represented by a licensed attorney in administrative hearings. Should your corporation appear without an attorney, you will not be able to cross-examine witnesses or make legal arguments. Please consult your own legal counsel if you have questions concerning this requirement.

**CERTIFICATION**

**STATE OF OHIO**

**COUNTY OF LICKING, SS:**

I, David T. Daniels, Director, Ohio Department of Agriculture, do hereby certify that the annexed instrument is a true and correct copy of **ORDER No. 2016-062** which was entered upon the order journal of the Ohio Department of Agriculture on the 2nd day of March, 2016.

In testimony whereof, I have hereunto set my hand and affixed the seal of the Ohio Department of Agriculture at Reynoldsburg, Ohio, this 2nd day of March, 2016.



David T. Daniels, Director  
Ohio Department of Agriculture



## RECEIPT OF QUARANTINE ORDER

I, Cyndi Huntsman, received the attached Quarantine Order on the \_\_\_\_\_ day of March, 2016.

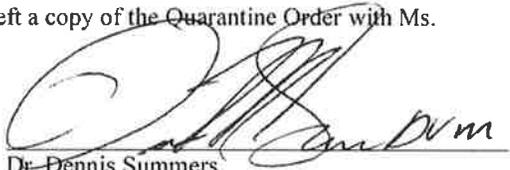
\_\_\_\_\_  
Cyndi Huntsman

*[If acknowledgement refused or unavailable, use below section]*

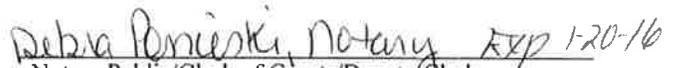
## FAILURE TO ACKNOWLEDGE RECEIPT OF QUARANTINE ORDER

**State of Ohio**  
**Stark County, ss.**

I, Dr. Dennis Summers, Ohio Department of Agriculture Enforcement Agent, served by hand-delivery the attached Quarantine Order on Cyndi Huntsman on the 3rd day of March, 2016. I requested acknowledgment of receipt of the Quarantine Order, but Ms. Huntsman failed to acknowledge receipt. I left a copy of the Quarantine Order with Ms. Huntsman at 6633 Klick Road, Massillon, Ohio.

  
Dr. Dennis Summers  
ODA DWA Veterinarian

Sworn to before me, and subscribed in my presence by ODA DWA Veterinarian Dr. Dennis Summers, this 3<sup>rd</sup> day of March, 2016.

  
Notary Public/Clerk of Courts/Deputy Clerk

I, William Lesho, witnessed the service of the attached Quarantine Order on the above identified individual on the 3rd day of March, 2016.

  
Printed Name:  
William Lesho



ZOOLOGICAL ASSOCIATION  
OF AMERICA

December 2, 2015

Cyndi Huntsman  
Stump Hill Farm  
4325 Kernary St  
Navarre, OH 44662

Dear Cyndi,

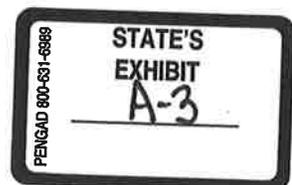
On behalf of the Zoological Association of America, we regret to inform you that your application for Professional membership has been declined at this time. The application submitted failed to receive enough votes by the Board of Directors for approval.

I am returning check # 5309 that was submitted for membership dues.

Sincerely yours,

Kristi de Spain  
Executive Administrator  
Zoological Association of America

Enclosed: Check #5309



IN THE COURT OF COMMON PLEAS, STARK COUNTY, OHIO

2016SW0097

**WARRANT TO SEARCH**

THE STATE OF OHIO

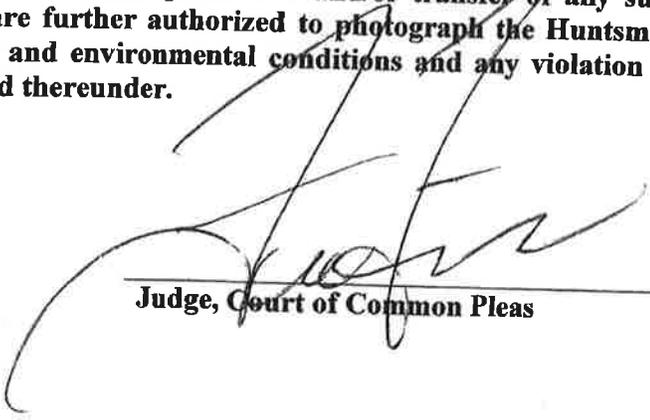
ss.

STARK COUNTY

**FILED**  
MAY 04 2016  
LOUIS P. GIAYASIS  
STARK COUNTY OHIO  
CLERK OF COURTS

To: *David T. Daniels, Director, Ohio Department of Agriculture, Greetings:*

WHEREAS, there has been filed with me an affidavit, a copy of which appears attached hereto, demonstrating probable cause under R.C. 935.19 for a search to be made of the premises located at 6633 Klick Street SW, Massillon, Ohio 44646, Perry Township, and consisting of the property of Cynthia M. Huntsman, dba Stump Hill Farm, a one-story single family dwelling; barn(s); outbuildings; numerous chain link fence animal enclosures; bound by Klick Street to the south, Stump Avenue to the east, Fairgrove Avenue to the west, and curtilage thereof (See Attachment A), and further described as Stark County Auditor parcel ID's 4308352, 4317715, 4307026, 4317712, and 4319592 (See Attachment B) ["Huntsman Premises"]; **YOU ARE HEREBY COMMANDED** to enter, with the necessary and proper assistance from the Stark County Sheriff's Office and Perry Township Police Department in the daytime, into the aforesaid Huntsman Premises and to execute a search thereof within three (3) days (72 hours) after the issuance of this warrant, and there diligently search for the following goods, chattels, or articles, to wit: evidence of violation of R.C. Chapter 935 and the rules enacted thereunder, including specifically any and all animals defined as dangerous wild animals pursuant to R.C. 935.01. Nothing in this warrant shall limit your authority to order the quarantine and/or transfer of any such animals under R.C. 935.20(A). You are further authorized to photograph the Huntsman Premises to document animal caging and environmental conditions and any violation of R.C. Chapter 935 and the rules enacted thereunder.

  
\_\_\_\_\_  
Judge, Court of Common Pleas

PENGAD 600-631-6989  
STATE'S  
EXHIBIT  
AA

2016 MAY -4 PM 1:55

**RETURN; RECEIPT OF SEARCH WARRANT**

**State of Ohio**  
**Stark County ss.**

2016SW0087

I, Enforcement Agent William Lesho, received the attached search warrant on the 4TH day of May, 2016, and (check appropriate box):

I am returning the Warrant without having executed the same.

I executed it as follows: On the 4TH day of May, 2016, at 11:04 o'clock A .M., I searched the premises and structures of Cynthia M. Huntsman, dba Stump Hill Farm, described in the warrant, and left a copy of the warrant (check one):

with Cynthia M. Huntsman  at Stump Hill Farm, 6633 Klick St. SW, Massillon Ohio,

*David A. Hunt*  
*William Lesho*  
Enforcement Agent William Lesho

Sworn to before me, and subscribed in my presence by Enforcement Agent William Lesho, this 4th day of May, 2016.

Notary Public/Clerk of Courts/Deputy Clerk

*[Signature]*  
*John Frank Funchone*

**FILED**

MAY 04 2016

LOUIS P. GIAYASIS  
STARK COUNTY OHIO  
CLERK OF COURTS

**SEARCH WARRANT AFFIDAVIT**

**THE STATE OF OHIO**

ss.

**STARK COUNTY**

2016SW 0087

Before me, the undersigned, Honorable Judge of the Court of Common Pleas for Stark County, Ohio, personally appeared Enforcement Agent William Lesho of the Ohio Department of Agriculture, Enforcement Division, who being duly sworn according to law, deposes and states that he has good cause to believe that Cynthia M. Huntsman, dba Stump Hill Farm, is in violation of R.C. Chapter 935 and the rules enacted thereunder by reason of the unlawful possession of dangerous wild animals as defined under R.C. 935.01 at the premises located at 6633 Klick Street SW, Massillon, Ohio 44646, Perry Township, and consisting of the property of Cynthia M. Huntsman, a one-story single family dwelling; barn(s); outbuildings; numerous chain link fence animal enclosures; bound by Klick Street to the south, Stump Avenue to the east, Knoll Avenue to the west, and curtilage thereof (See Attachment A), and further described as Stark County Auditor parcel ID's 4308352, 4317715, 4307026, 4317712, and 4319592 (See Attachment B) ["Huntsman Premises"].

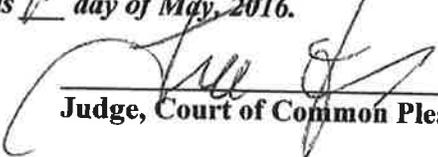
The facts upon which such belief is based are as follows:

Affiant, William Lesho, is employed as an Enforcement Agent for the Ohio Department of Agriculture (ODA) and has been so since 1988. Prior to this, affiant served as a Reserve Deputy with the Trumbull County Sheriff's Office in Trumbull County, Ohio before taking his current position with ODA. Affiant has spent the last 24 years of his career with ODA conducting investigations under the regulatory jurisdiction of ODA.

On November 2, 2012, the Ohio Department of Agriculture (ODA) received a complete application from Ms. Cyndi Huntsman to register several dangerous wild animals. On that registration, Ms. Huntsman stated at that time she was in possession of two Syrian brown bears, two baboons, six black bears, one bobcat, one chimpanzee, two North American cougars, one black panther, two albino Burmese pythons, two Siberian tigers, eight Bengal tigers, one serval, two American alligators, two African lions and two gray timber wolves, which are dangerous wild animals (DWA) or restricted snakes under R.C. Chapter 935 at the premises located at 6633 Klick Road, Massillon, Ohio 44646 (Property). Ms. Huntsman's registration stated that she was in the process of obtaining accreditation from the Zoological Association of America (ZAA) to exempt her from the prohibition of possessing DWA under R.C. Section 935.03(A)(1).

  
Enforcement Agent William Lesho

Page 1 of 5 of this Affidavit sworn to before me and subscribed in my presence by Enforcement Agent William Lesho, this 1 day of May, 2016.

  
Judge, Court of Common Pleas

On February 11, 2014, ODA notified Ms. Huntsman that she had not submitted an application for a DWA permit. On March 7, 2014, Mr. John L. Juergenson, counsel for Ms. Huntsman, notified ODA that it was their understanding that Ms. Huntsman was not required to obtain a permit as she was exempt under R.C. Section 1533.08. On March 28, 2014, ODA notified Ms. Huntsman's attorney that Ms. Huntsman was not exempt under R.C. Chapter 935. Specifically, her Ohio Department of Natural Resources wildlife education permit was issued for a single female bald eagle only and not for any of the numerous DWA in her possession.

On August 12, 2014, ODA again notified Ms. Huntsman that she has not submitted a permit application for the DWA or restricted snakes located on the Property. On August 18, 2014, Ms. Huntsman again attempted to claim an exemption under R.C. Section 1533.08 even though she had been notified that this permit does not exempt the DWA and restricted snakes in her possession. On October 22, 2014, Ms. Huntsman was again notified by ODA that her claim for exemption under R.C. Section 1533.08 was not applicable and that she was subject to the permit requirements under R.C. Chapter 935.

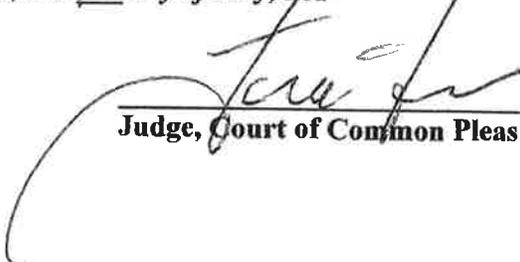
On or about March 5, 2015, Ms. Huntsman notified ODA that she remained in the process of seeking ZAA accreditation. Ms. Huntsman provided ODA documentation as to the steps she was going to take in order to obtain that accreditation including the reduction of animals in her possession. Ms. Huntsman sought to work with ODA to reduce the number of DWA in her possession.

On July 27, 2015, Ms. Huntsman voluntarily relinquished four black bears to ODA. On September 29, 2015, Ms. Huntsman voluntarily relinquished four alligators to ODA. Finally, on December 4, 2015, Ms. Huntsman voluntarily relinquished two black bears and two Syrian brown bears to ODA.

However, based on recent documents acquired by ODA, Ms. Huntsman's actions throughout this period have demonstrated a clear disregard for the law. For example, on December 18, 2014, Ms. Huntsman transported a black leopard and a spotted leopard to a wildlife park in Calvert, Texas. Ms. Huntsman's original registration did not list a spotted leopard. Therefore, from the date of registration to December 18, 2014, it appears that Ms. Huntsman illegally acquired an additional DWA in violation of R.C. Chapter 935.

  
Enforcement Agent William Lesho

Page 2 of 5 of this Affidavit sworn to before me and subscribed in my presence by Enforcement Agent William Lesho, this 7 day of May, 2016.

  
Judge, Court of Common Pleas

On January 2, 2015, Ms. Huntsman transported a young Syrian Brown bear to a premise in Sandusky, Ohio. Ms. Huntsman's original registration listed two adult Syrian brown bears. As stated above, Ms. Huntsman relinquished two adult Syrian brown bears to ODA on December 4, 2015. Therefore, from the date of registration to January 2, 2015, it appears that Ms. Huntsman illegally acquired an additional DWA in violation of R.C. Chapter 935.

On February 4, 2015, Ms. Huntsman transported a crested macaque to Smalley Exotic Farm, LLC located in Silver Lake, Indiana. Ms. Huntsman's original registration did not list a macaque. Therefore, from the date of registration to February 4, 2015, it appears that Ms. Huntsman illegally acquired an additional DWA in violation of R.C. Chapter 935.

On February 23, 2015, Ms. Huntsman transported a tiger cub, weighing five pounds, to Wild Acres Ranch in Sandusky, Ohio. No such animal was listed on Ms. Huntsman's original registration. Therefore, from the date of registration to February 23, 2015, it appears that Ms. Huntsman illegally acquired an additional DWA in violation of R.C. Chapter 935.

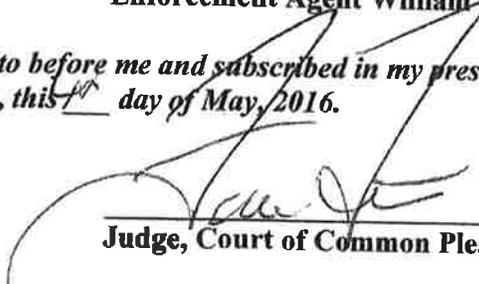
On September 29, 2015, Ms. Huntsman voluntarily relinquished four alligators to ODA's temporary holding facility. Ms. Huntsman's original registration listed only two alligators. Therefore, from the date of registration to September 29, 2015, it appears that Ms. Huntsman illegally acquired additional DWA in violation of R.C. Chapter 935.

On November 16, 2015, Ms. Huntsman transported a 10 week old Bengal tiger cub to New York City. No such animal was listed on Ms. Huntsman's original registration. Therefore from the date of registration to November 16, 2015, Ms. Huntsman illegally acquired an additional DWA in violation of R.C. Chapter 935.

Additionally, a female Syrian brown bear that was relinquished to ODA on December 4, 2015, gave birth to 3 bear cubs while at the Ohio Department of Agriculture Temporary Holding Facility. According to R.C. 935.07, "[a] person that possesses a registered dangerous wild animal in this state on October 1, 2013, that wishes to continue to possess the dangerous wild animal on and after January 1, 2014, and that intends to propagate the animal solely for the purposes of a species survival program that complies with rules shall apply for a wildlife propagation permit under this section." Here, Ms. Huntsman continued to engage in practices which led to the propagation of bear cubs without a wildlife propagation permit in violation of the law.

  
Enforcement Agent William Lesho

Page 3 of 5 of this Affidavit sworn to before me and subscribed in my presence by Enforcement Agent William Lesho, this 1<sup>st</sup> day of May, 2016.

  
Judge, Court of Common Pleas

On January 7, 2016, United States Department of Agriculture (USDA) Inspector Randall Coleman conducted an inspection of Ms. Huntsman's premise. During that inspection, Inspector Coleman observed the following animals: one chimpanzee, two Hamadryas baboons, two pumas, and five tigers. Each of these animals observed by Inspector Coleman is classified as DWA pursuant to R.C. Chapter 935.

Ms. Huntsman has stated she is still seeking the ZAA accreditation on behalf of her facility to demonstrate that she is able to possess DWA pursuant to R.C. Section 935.03(A). However, Ms. Huntsman has not provided any further evidence that she is proceeding in the accreditation process. Therefore, as of today's date Ms. Huntsman has failed to demonstrate she is legally able to possess DWA pursuant R.C. Chapter 935 and further failed to submit any applicable permit applications as required under law.

Based on Ms. Huntsman's illegal possession of DWA as described under R.C. Chapter 935, her failure to demonstrate that she is exempt or legally permitted to possess DWA under R.C. Chapter 935, her failure to obtain a permit as required under R.C. Chapter 935, her additional violations of R.C. Chapter 935, and based on review of the preliminary results of the investigation, these animals were quarantined to the Property pursuant to R.C. 935.20(A).

On March 3, 2016, ODA veterinarians Dr. Melissa Simmerman and Dr. Dennis Summers, along with the affiant, traveled to Stump Hill Farm, 6633 Klick St SW, to deliver the Quarantine Order for her DWA. At that time, they personally observed and verified the 10 DWA on the USDA inventory sheet. However, they were only shown the specific animals on the list. USDA records from early 2015 indicate that Stump Hill had three (3) tiger cubs on the premise, and those cubs were moved out of state or to another premise. In two (2) conversations with USDA since 3-3-2016, USDA has advised ODA that Huntsman has lied numerous times to USDA Inspectors about her inventory; specifically, the presence, location, and number of tiger cubs from Stump Hill Farm. USDA told ODA that tiger cubs are hand reared in Huntsman's home, 4325 Kemary Ave SW, and may not be at the location of the adult tigers across the street at 6633 Klick St. SW. ODA can also document and prove that Huntsman propagates her animals, specifically bears and tigers. Ms. Huntsman advised ODA veterinarians that it is her belief that these animals should remain intact and propagate.

  
Enforcement Agent William Lesho

Page 4 of 5 of this Affidavit sworn to before me and subscribed in my presence by Enforcement Agent William Lesho, this 7 day of May, 2016.

  
Judge, Court of Common Pleas

On April 1, 2016, ODA sent Ms. Huntsman a letter stating she had until close of business May 2, 2016, to provide documentation that she is accredited with ZAA.

On April 29, 2016, the USDA Inspector Randall Coleman conducted another inspection of Ms. Huntsman's premise at 6633 Klick St. SW, Massillon. During that inspection, USDA observed the following animals: 5 tigers, 2 cougars, 2 baboons, and 1 chimpanzee. Each of these animals observed by USDA is classified as DWA pursuant to R.C. Chapter 935. Of note, two (2) pairs of tigers, one male and female each, are housed together thus potentially capable of breeding.

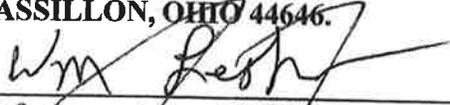
Also on April 29, 2016, ODA Assistant State Veterinarian Melissa Simmerman spoke with Kristi de Spain of ZAA. Ms. De Spain informed Dr. Simmerman that ZAA had never received an application from Cyndi Huntsman/Stump Hill Farm for accreditation. ZAA had received an application for professional membership but that has been denied.

On May 2, 2016, ODA received a faxed letter from Ms. Huntsman's attorney, John L. Juergensen, regarding the request from ODA dated April 1, 2016 for Ms. Huntsman's ZAA accreditation. Included with the cover letter from Mr. Juergensen was a letter from Kristi de Spain, Executive Administrator, ZAA addressed to Ms. Huntsman dated December 2, 2015 denying her application for professional membership.

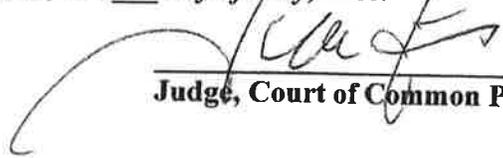
The ZAA website, [www.zaa.org/accreditation](http://www.zaa.org/accreditation), states:  
"Your facility must be a facility member prior to applying for accreditation."

On May 4, 2016, ODA Enforcement Agent David Hunt, along with veterinarians and other ODA personnel, traveled to 6633 Klick St., Massillon and made contact with Ms. Huntsman. Agent Hunt advised Ms. Huntsman that pursuant to ODA Director's Order #2016-\_\_\_\_\_, she was ordered to surrender her DWA to ODA. Ms. Huntsman refused to allow ODA personnel onto the property of 6633 Klick St. SW to obtain custody of all DWA present.

**BASED UPON ALL OF THE FOREGOING, AFFIANT BELIEVES, AND HAS PROBABLE CAUSE TO BELIEVE, THAT A VIOLATION OF R.C. CHAPTER 935 AND THE RULES ENACTED THEREUNDER HAS BEEN AND IS BEING CONDUCTED AT 6633 KLINK STREET SW, MASSILLON, OHIO 44646, AND FURTHER THAT ADDITIONAL EVIDENCE OF SUCH VIOLATION(S) WILL BE FOUND AT 6633 KLINK STREET SW, MASSILLON, OHIO 44646.**

  
Enforcement Agent William Lescho

Page 5 of 5 of this Affidavit sworn to before me and subscribed in my presence by Enforcement Agent William Lescho, this \_\_\_ day of May, 2016.

  
Judge, Court of Common Pleas

**ATTACHMENT A**  
**Stark County Auditor Parcels 4308352, 4317715, 4307026, 4317712, and 4319592**  
**6633 Klick St. SW, Massillon, Ohio 44646**



**Department of Agriculture  
State of Ohio**

**In re:**  
Cynthia Huntsman  
Transfer of Dangerous Wild Animals  
6633 Klick Road  
Massillon, Ohio 44646

Order No. 2016- 092

**ORDER**

Revised Code (R.C.) § 935.20(A) provides:

(A) On and after January 1, 2014, the director of agriculture immediately shall cause an investigation to be conducted if the director has reason to believe that one of the following may be occurring:

(1) A dangerous wild animal is possessed by a person who has not been issued a wildlife shelter permit, wildlife propagation permit, or rescue facility permit under this chapter.

[ . . . ] (3) A dangerous wild animal or restricted snake is being treated or kept in a manner that is in violation of this chapter or rules.

For purposes of the investigation, the director or the director's designee may order the animal or snake that is the subject of the notification to be quarantined or may order the transfer of the animal or snake to a facility that is on the list maintained by the director under this section. If the director's designee orders the animal or snake to be quarantined or transferred, the designee shall provide a copy of the order to the director.

The Director has reason to believe that the following facts are true:

As of today's date, Cynthia Huntsman is in possession of approximately 10 dangerous wild animals (DWA), specifically, 5 tigers, 2 cougars, 2 baboons, and 1 chimpanzee, and does not possess any type of valid permit for possession of the DWA as required under R.C. Chapter 935.

Ms. Huntsman registered several dangerous wild animals with the Ohio Department of Agriculture (ODA) in November 2012, but failed to seek a permit or otherwise comply with R.C. Chapter 935. Ms. Huntsman's registration stated that she was in the process of obtaining accreditation from the Zoological Association of America (ZAA) to exempt her from the prohibition of possessing DWA under R.C. § 935.03(A)(1). On February 11, 2014, ODA notified Ms. Huntsman that she had not submitted an application for a DWA permit. On March 7, 2014, Mr. John L. Juergenson, counsel for Ms. Huntsman, notified ODA that it was their understanding that Ms. Huntsman was not required to obtain a permit as she was exempt under R.C. § 1533.08. On March 28, 2014, ODA notified Ms. Huntsman's attorney that Ms. Huntsman was not exempt under R.C. Chapter 935. Specifically, her Ohio Department of Natural Resources wildlife



education permit was issued for a single female bald eagle only and not for any of the numerous DWA in her possession.

On August 12, 2014, ODA again notified Ms. Huntsman that she has not submitted a permit application for the DWA or restricted snakes located on the Property. On August 18, 2014, Ms. Huntsman again attempted to claim an exemption under R.C. § 1533.08 even though she had been notified that this permit does not exempt the DWA and restricted snakes in her possession. On October 22, 2014, Ms. Huntsman was again notified by ODA that her claim for exemption under R.C. § 1533.08 was not applicable and that she was subject to the permit requirements under R.C. Chapter 935.

On or about March 5, 2015, Ms. Huntsman notified ODA that she remained in the process of seeking ZAA accreditation, and provided documentation of starting the process. Such documentation indicated that Ms. Huntsman needed to decrease the number of animals in her possession in order to receive accreditation. Ms. Huntsman sought to work with ODA to reduce the number of DWA in her possession.

On July 27, 2015, Ms. Huntsman voluntarily relinquished four black bears to ODA. On September 29, 2015, Ms. Huntsman voluntarily relinquished four alligators to ODA. Finally, on December 4, 2015, Ms. Huntsman voluntarily relinquished two black bears and two Syrian brown bears to ODA. As stated above, on Ms. Huntsman's original registration sent to ODA on October 31, 2012, she indicated that she was in possession of two alligators and five black bears. From the time of registration to September 29, 2015, and December 4, 2015, Ms. Huntsman acquired at least two additional alligators and one additional black bear without a permit to possess or acquire these animals in violation of R.C. Chapter 935.

Additionally, a female black bear that was relinquished to ODA on December 4, 2015, gave birth to 3 bear cubs while at the Ohio Department of Agriculture Temporary Holding Facility. According to R.C. 935.07, "[a] person that possesses a registered dangerous wild animal in this state on October 1, 2013, that wishes to continue to possess the dangerous wild animal on and after January 1, 2014, and that intends to propagate the animal solely for the purposes of a species survival program that complies with rules shall apply for a wildlife propagation permit under this section." Here, Ms. Huntsman continued to engage in practices which led to the propagation of bear cubs without a wildlife propagation permit in violation of the law.

On January 7, 2016, the United States Department of Agriculture (USDA) conducted an inspection of Ms. Huntsman's premises. During that inspection, USDA observed the following animals: one chimpanzee, two Hamadryas baboons, two pumas, and five tigers. Each animal observed by USDA is classified as DWA pursuant to R.C. Chapter 935.

On March 2, 2016, ODA Director's Order No. 2016-062 ("Order") quarantined 5 tigers, 2 cougars, 2 baboons, and 1 chimpanzee, and any other dangerous wild animal in Ms. Huntsman's possession on his property located at 6633 Klick Road, Massillon, Ohio 44646. Pursuant to that Order, the quarantine is effective until such time the Director determines that the release of the quarantine is appropriate based on the requirements of R.C. Chapter 935.

Ms. Huntsman has stated she is still seeking the ZAA accreditation on behalf of her facility to demonstrate that she is able to possess DWA pursuant to R.C. § 935.03(A). On April 1, 2016, ODA sent correspondence to Ms. Huntsman requesting proof of seeking such accreditation to be presented by May 2, 2016. However, Ms. Huntsman has not been able to provide any confirmation via written correspondence from ZAA that she has applied to said program or such accreditation is in progress. ZAA has since confirmed that Ms. Huntsman's application for professional membership has been denied, and that no application for accreditation was received.

On April 29, 2016, USDA inspected Ms. Huntsman's premises again and indicated the same animals were present as were found on January 7, 2016.

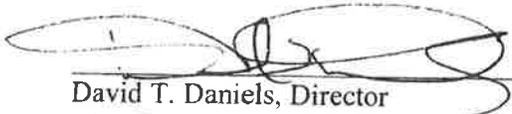
Based on Ms. Huntsman's failure to demonstrate that she is exempt under R.C. Chapter 935, her failure to obtain a wildlife shelter permit or a wildlife propagation permit, and based on review of the preliminary results of the investigation, I have determined the quarantine must be released and these animals must be transferred to a secure location to protect public safety and the health of the animals until the conclusion of this investigation.

Therefore, by the authority vested in my office by law, it is hereby

**ORDERED:**

1. Ohio Department of Agriculture Director's Order No. 2016-062 is hereby rescinded and the quarantine is released as of journalization of this Order.
2. In accordance with R.C. 935.20(A), and in furtherance of the ongoing investigation of Cynthia Huntsman for alleged unpermitted possession of dangerous wild animals, that 5 tigers, 2 cougars, 2 baboons, and 1 chimpanzee and any other dangerous wild animals located on the Property whose the address is 6633 Klick Road, Massillon, Ohio 44646, be transferred to the Ohio Department of Agriculture's Dangerous Wild Animal Holding Facility or an approved facility on the list maintained by the Director.
3. That upon journalization a certified copy of this Order be sent to Cynthia Huntsman.

Effective date of this Order: Upon journalization

  
\_\_\_\_\_  
David T. Daniels, Director  
Ohio Department of Agriculture

5/3/2016  
\_\_\_\_\_  
Date



Entered, Ohio Department of Agriculture Journal this 3rd day of May,  
2016 by Cornie Ellis

## NOTICE

This order may be appealed to the Ohio Department of Agriculture in accordance with Ohio Revised Code § 935.20 by requesting a hearing **within thirty (30) days of the date that you received this order**. This notice is being mailed/hand-delivered on May 4, 2016.

Revised Code § 935.20(D) states:

(D) A person that is adversely affected by a quarantine or transfer order pertaining to a dangerous wild animal or restricted snake owned or possessed by the person, within thirty days after the order is issued, may request in writing an adjudication in accordance with Chapter 119. of the Revised Code. A request for an adjudication does not stay a quarantine or transfer order.

Pursuant to Ohio Revised Code Chapter 935.20, you have the right to request a formal hearing should you disagree with this action. Any request for hearing must be made to the Ohio Department of Agriculture, Attention: Julie Phillips, Chief Legal Counsel, 8995 East Main Street, Reynoldsburg, Ohio 43068-3399, telephone (614) 728-6430, or at [legal@agri.ohio.gov](mailto:legal@agri.ohio.gov). Your request for a hearing must be received by the Ohio Department of Agriculture on or before June 4, 2016.

At the hearing, you may appear in person, be represented by an attorney at your expense, or you may represent your position, arguments or contentions in writing. If you are a corporation, the Ohio Supreme Court has ruled that you must be represented by an attorney, in order to present evidence, make legal arguments, or examine witnesses. At the hearing, you may present evidence and examine witnesses appearing for and against you to show cause why the proposed action should not be levied against you. The Assistant Attorney General assigned to the Ohio Department of Agriculture will represent the Department at this hearing.

**CERTIFICATION**

**STATE OF OHIO**

**COUNTY OF LICKING, SS:**

I, David T. Daniels, Director, Ohio Department of Agriculture, do hereby certify that the annexed instrument is a true and correct copy of **ORDER No. 2016-042** which was entered upon the order journal of the Ohio Department of Agriculture on the 3rd day of May, 2016.

In testimony whereof, I have hereunto set my hand and affixed the seal of the Ohio Department of Agriculture at Reynoldsburg, Ohio, this 3rd day of May, 2016.



David T. Daniels, Director  
Ohio Department of Agriculture



**IN THE COURT OF COMMON PLEAS  
STARK COUNTY, OHIO**

<b>IN RE:</b>	)	<b>ORDER NO. 2016-092</b>
	)	
<b>CYNTHIA HUNTSMAN</b>	)	<b>JUDGE FORCHIONE</b>
<b>TRANSFER OF DANGEROUS WILD</b>	)	
<b>ANIMALS</b>	)	
	)	
	)	
	)	<b>MOTION FOR TEMPORARY</b>
	)	<b>RESTRAINING ORDER AND</b>
	)	<b>PRELIMINARY INJUNCTION</b>
	)	
	)	
	)	
	)	
	)	
	)	
	)	
	)	

Pursuant to Rule 65 of the Ohio Rules of Civil Procedure, Cynthia Huntsman hereby moves this Court for a Temporary Restraining Order and Preliminary Injunction enjoining the State of Ohio Department of Agriculture from removing Huntsman's animals until this matter comes for hearing before the ODA on August 22, 2016.

The standards for injunctive relief under Civ.R. 65 as well as Ohio law support the issuance of a temporary restraining order and preliminary injunction against ODA in this case. The Court should consider four criteria to determine whether a temporary restraining order should issue:

1. Whether the Movant has a substantial likelihood of succeeding on the merits;
2. Whether the Movant will suffer irreparable injury if the injunction is not issued;
3. Whether the injunctive relief would unjustifiably harm third parties; and



4. Whether the public interest would be served by issuing the relief.

See, e.g., *Johnson v. Morris* (1995), 108 Ohio App.3d 343, 353.

Huntsman is likely to succeed on the merits because she has a duly issued permit from the state for her animals. The state disagrees with Huntsman's interpretation, and this issue is being litigated between the parties on August 22, 2016.

Huntsman will suffer irreparable harm if this injunction is not granted as moving these animals will cause them unnecessary distress. This distress will, in turn, affect Huntsman's ability to properly care for the animals when she gets them back. Furthermore, removing the animals will destroy her farm and permanently damage her reputation.

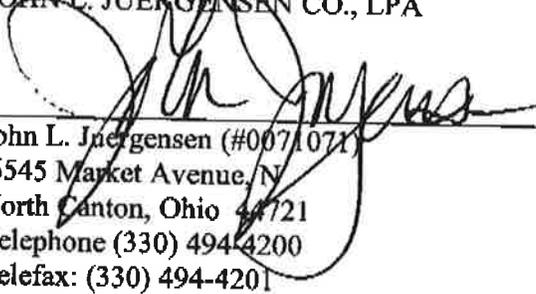
No third parties would be harmed if the injunction is granted. The animals do not pose a threat to anyone nor are they themselves in any danger.

The public interest would be served by issuing the relief. One, these innocent animals are being put through unnecessary distress for no reason other than for the state to gain an unfair advantage in this litigation. The state's purpose can only be described as putative. Two, the law favors the status quo during pending litigation. Three, these animals are personal property, and Huntsman is entitled to due process before they are removed from her possession.

WHEREFORE, Cynthia Huntsman hereby moves this Court for a Temporary Restraining Order and Preliminary Injunction ordering the Department of Agriculture to return the animals seized on May 4, 2016 and leave them in Huntsman's possession until the conclusion of the pending litigation.

Respectfully submitted,

JOHN L. JUERGENSEN CO., LPA



---

John L. Juergensen (#0071071)  
6545 Market Avenue, N  
North Canton, Ohio 44721  
Telephone (330) 494-4200  
Telefax: (330) 494-4201  
E-mail: [jlj@juergensenlaw.com](mailto:jlj@juergensenlaw.com)  
Counsel for Cynthia Huntsman

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE COURT OF COMMON PLEAS  
STARK COUNTY, OHIO  
CASE NO. 2016MI00138

IN RE: CYNTHIA )  
          HUNTSMAN )     TRANSCRIPT OF  
                          )     PROCEEDINGS  
                          )       
                          )       
                          )       
                          )     MAY 5, 2016

BE IT REMEMBERED, That upon the  
hearing of the above-entitled matter in the  
Court of Common Pleas, Stark County, Ohio,  
before the Honorable Frank Forchione,  
Judge, and commencing on May 5, 2016, the  
following proceedings were had:

- - - - -

ALANNA HILL, CSR-RPR-CRR  
OFFICIAL COURT REPORTER  
STARK COUNTY COURTHOUSE



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES:

On Behalf of the Plaintiff:

JOHN JUERGENSEN, ATTORNEY AT LAW  
Washington Square Office Park  
6545 Market Avenue N.  
North Canton, Ohio 44721

On Behalf of the State:

JAMES PATTERSON, ATTORNEY AT LAW  
LYDIA ARKO, ATTORNEY AT LAW  
Assistant Attorney General  
Ohio Attorney General's Office  
30 E. Broad Street, 26th Floor  
Columbus, Ohio 43215

1 - - - - -  
2 (Court convened on Thursday,  
3 May 5, 2016, at 8:30 a.m.,  
4 and the following proceedings  
5 were had.)  
6 - - - - -

7 THE COURT: This is regarding a  
8 search warrant that was presented yesterday  
9 to me that I signed, and in the afternoon I  
10 received a call from Attorney Juergensen.

11 The basic summary, the way I  
12 recall it, and I want to make sure that the  
13 record is clear, was regarding some animals  
14 on Stump Hill.

15 I believe there were approximately  
16 ten dangerous animals. I think five  
17 tigers, some pumas, baboons, and  
18 chimpanzees; and they were asked to be  
19 removed and transferred to a holding  
20 facility in Reynoldsburg.

21 I met with the Department of  
22 Agriculture, the Stark County Prosecutor's  
23 Office. Based on the representations at  
24 that time made to me I felt sufficient  
25 evidence to sign the warrant.

1 I did receive a call later in the  
2 afternoon from Attorney Juergensen  
3 concerned and that he shed some light on  
4 some things that I was not aware of, that  
5 there had been previous discussions about  
6 this, that there may have been a hearing in  
7 August in another type of forum.

8 And what I indicated to Attorney  
9 Juergensen is simply this. I mean due  
10 process is a 2-sided coin in my opinion and  
11 I need to see both sides.

12 I was not made aware that there  
13 had been discussions going on, you know,  
14 the way I understood it to believe that the  
15 Department of Agriculture indicated that  
16 the animals fell under a dangerous wildlife  
17 animal law and they needed a State permit,  
18 which I think is the correct law.

19 I think the point counsel is  
20 indicating is that there is some type of  
21 preexisting permit that would allow them to  
22 keep the animals, and it seems to be in  
23 some type of litigation at this point.

24 So at this time I still don't  
25 understand what is going on with the

1 further hearing and, Attorney Juergensen, I  
2 think in fairness to you I will let you  
3 present any type of challenge and request  
4 that you want me to stay.

5 I want to simply say this. The  
6 search warrant that I have signed simply  
7 puts the animals in a holding facility.  
8 There is no danger to them, things like  
9 that.

10 I want to be real honest with  
11 everybody. I mean I am not Doctor  
12 Doolittle here. I mean my main focus is to  
13 protect the public.

14 On the other hand, I am dismayed  
15 and upset that I was not aware that there  
16 was counsel involved in this case and that  
17 there were other issues that were going on;  
18 and that wasn't made aware to me. I find  
19 that disappointing.

20 But, counsel, go ahead and I  
21 certainly want to give you the opportunity  
22 in any way to give me whatever information  
23 you think is necessary.

24 MR. JUERGENSEN: First of all, I  
25 do want to thank you very much for taking

1           the time. I mean, like you said, I called  
2           yesterday afternoon and you were able to  
3           squeeze us in; and I know we appreciate  
4           that.

5                       Miss Huntsman, who I have already  
6           introduced, she appreciates that as well.

7                       Miss Huntsman is the owner of  
8           Stump Hill Farm. It is an animal farm  
9           located in Massillon.

10                      She has been doing this for over  
11           30 years. This is, at least as far as the  
12           Federal government is concerned, is an  
13           animal sanctuary. They take in abused  
14           animals, unwanted animals, and there are  
15           what the State refers to as exotic animals  
16           which would fall under their Dangerous  
17           Wildlife Act.

18                      And, yes, you have a very good  
19           grasp of a lot of what is going on here.

20                      The State changed the law after,  
21           you probably recall the incident in  
22           Muskingum County --

23                      THE COURT: Right.

24                      MR. JUERGENSEN: -- where the  
25           gentleman was down and allegedly let his

1 animals out --

2 MR. PATTERSON: Allegedly let them  
3 out.

4 MR. JUERGENEN: And then committed  
5 suicide, and it was a big mess and the  
6 people were, the public was in grave danger  
7 at the time.

8 So as a result the legislature  
9 changed the law and enacted this Dangerous  
10 Wildlife Act which falls under Section 935  
11 of the Revised Code.

12 Now, that act required that  
13 certain permits had to be obtained or some  
14 other exception had to be found under the  
15 code.

16 One of which is this, you could be  
17 an accredited member of the Zoological  
18 Association of America which Miss Huntsman  
19 is trying to do and you are probably going  
20 to hear from the other side.

21 But another exception is whether  
22 or not you have a permit under Section  
23 1533.08 of the Revised Code. I have a copy  
24 of this permit for you here.

25 For the last two years we have

1           been fighting with the Department of  
2           Agriculture --

3                   MR. PATTERSON:   This?

4                   MR. JUERGENSEN:   Yes.   We have  
5           been fighting with the Department of  
6           Agriculture over the interpretation of this  
7           permit.

8                   Because if this permit is deemed  
9           to be valid for all of these animals, then  
10          there is an exception and she doesn't fall,  
11          she is exempted under the Dangerous  
12          Wildlife Act which certainly would not  
13          allow the State to come in and take them.

14                   Our position has been, you see in  
15          Paragraph No. 1 right here that says "The  
16          permit is restricted as follows.   Permittee  
17          may possess mammals, a bald eagle, and  
18          other nonlethal raptors for educational  
19          purposes."

20                   Now, the State has been relying on  
21          these capped letters, these capped words  
22          down at the bottom, Name and Number of Each  
23          Species to Be Collected; and it says it may  
24          possess a bald eagle or nonreleasable  
25          raptors.

1                    Their position has been that it  
2                    only applies to the bald eagle.

3                    Our position is if you read the  
4                    plain language of Paragraph 1 as well as  
5                    capped language is inconsistent with the  
6                    words that are on this page.

7                    So we have been fighting back and  
8                    forth over this. I have sent letters to  
9                    them, they have sent letters back to me.

10                   Well, at the beginning of March --

11                   THE COURT: Let me just stop you  
12                   here. Okay?

13                   MR. JUERGENSEN: Yes.

14                   THE COURT: Because I am not an  
15                   expert in wildlife.

16                   MR. JUERGENSEN: Yeah.

17                   THE COURT: And my experience is  
18                   going to the Cleveland Zoo. Okay?

19                   MR. JUERGENSEN: Okay.

20                   THE COURT: This dispute that you  
21                   are having and it is clearly a dispute?

22                   MR. JUERGENSEN: Right.

23                   THE COURT: Is it just with the  
24                   Division of the Wildlife? Is that who the  
25                   agency --

1 MR. JUERGENSEN: Correct.

2 THE COURT: There is no Court  
3 hearing or Court system that you are  
4 dealing with at this time?

5 MR. JUERGENSEN: There is no case.

6 THE COURT: Got you.

7 MR. JUERGENSEN: There is no case  
8 that is pending in this Court.

9 THE COURT: Okay.

10 MR. JUERGENSEN: And so at the  
11 beginning of March under 935.20, there is  
12 two things that the State is allowed to do.

13 They can issue a quarantine order  
14 or they can issue a transfer order.

15 So at the beginning of March what  
16 they did was the State issued a quarantine  
17 order, and they served that by certified  
18 mail on us; and we received that, and we  
19 agreed to abide by the terms.

20 Just like it sounds, it is a  
21 quarantine order. Miss Huntsman has to  
22 keep the animals on the property, she is  
23 not allowed to move them anywhere; and  
24 she is required to care for them to make  
25 sure they don't pose a threat to the

1 community.

2 THE COURT: When did you get the  
3 quarantine?

4 MR. JUERGENSEN: First or second  
5 week of March.

6 THE COURT: Of this year?

7 MR. JUERGENSEN: Yes.

8 THE COURT: Okay. So you have  
9 gotten the quarantine in March and you have  
10 followed the quarantine.

11 MR. JUERGENSEN: Correct. That is  
12 the order number that we have that I put on  
13 this case.

14 THE COURT: Right.

15 MR. JUERGENSEN: So it looks like  
16 March 2.

17 THE COURT: So you get an order to  
18 be quarantined, and that means that the  
19 animals just remain on the property --

20 MR. JUERGENSEN: Correct.

21 THE COURT: All right.

22 MR. JUERGENSEN: You will see in  
23 the back there that under 935.20 we have  
24 the right to request a hearing, which we  
25 did.

1                   We requested a hearing, and that  
2                   was duly accepted by the Department.

3                   We initially had the hearing set  
4                   up for June. There was some conflict on  
5                   their end. They asked if we could move it,  
6                   I agreed; and we moved it to August.

7                   THE COURT: Let me just stop you  
8                   there, and I am not being rude to you or  
9                   disrespectful to you in any way.

10                  The hearing, where is it conducted  
11                  and how is it conducted? I am just  
12                  curious.

13                  MR. JUERGENSEN: It is going to be  
14                  at the the Division of National Resources  
15                  in Reynoldsburg is my understanding.

16                  THE COURT: Is that like a one  
17                  person panel, a 3 person panel? How does  
18                  that work?

19                  MR. JUERGENSEN: That I don't  
20                  know.

21                  MR. PATTERSON: Your Honor, I will  
22                  be happy to answer that question.

23                  THE COURT: I will come to you,  
24                  okay. I like to do this orderly but I will  
25                  give you all the time you need. Go ahead.

1 MR. JUERGENSEN: That would be my  
2 first hearing in this Division, in this  
3 Department.

4 But it is set for August 22. We  
5 even have a second date set which is  
6 August 24.

7 But as far as we are concerned,  
8 the sole issue for that hearing is going to  
9 be whether or not this permit is valid.  
10 The State is fully aware of our position  
11 that we believe that we have a valid  
12 permit.

13 THE COURT: Your preexisting  
14 permit, whether that's valid; and that's  
15 the dispute.

16 MR. JUERGENSEN: Right.

17 THE COURT: Okay, right.

18 MR. JUERGENSEN: The point is,  
19 though, that they are aware of this, we are  
20 aware of it, we are in pending litigation.

21 And then all of a sudden yesterday  
22 the State shows up at the farm and decides  
23 that under 920.35 that now they are going  
24 to seize the animals.

25 THE COURT: Right.

1 MR. JUERGENSEN: We had no notice.  
2 There was no hearing. All right? Which  
3 obviously does not comport with in our mind  
4 any semblance of due process.

5 THE COURT: Well, slow down. You  
6 don't need a hearing to get a search  
7 warrant as you know and you have been in  
8 this business for a long time.

9 MR. JUERGENSEN: Sure.

10 THE COURT: There is not hearings  
11 on search warrants.

12 MR. JUERGENSEN: Right, but it is  
13 the seizure of the animals. They have  
14 taken her property which we believe is a  
15 violation under the Fifth Amendment.

16 They have taken her property,  
17 seized it, and now they transported to  
18 Reynoldsburg. Our understanding is that  
19 they already have animal sanctuaries in  
20 place, and they are going to scatter these  
21 animals all over the country.

22 THE COURT: Let me be a little  
23 more candid. You are angry because you  
24 have been working with them, there is a  
25 legitimate dispute.

1           They issued a quarantine. You hve  
2           complied with the quarantine. You even  
3           agreed to continue the hearing two months  
4           for them, and now they came and took the  
5           animals.

6           MR. JUERGENSEN: Correct.

7           THE COURT: Is that a synopsis of  
8           what you are angry about?

9           MR. JUERGENSEN: Yes. We don't  
10          have a pending case. We don't have any  
11          means short of filing some sort of lawsuit  
12          in Federal Court or something to stop  
13          this, and I understand this is unusual  
14          procedurally --

15          THE COURT: Well, this is my first  
16          one. I call it unusual.

17          MR. JUERGENSEN: We are basically  
18          here today because we at this point don't  
19          have any other option.

20          THE COURT: No, I understand.  
21          That's why I got you here quickly.

22          MR. JUERGENSEN: Right.

23          THE COURT: No, I understand; and  
24          I want to hear both sides, sure.

25          MR. JUERGENSEN: So we ask that

1           until this hearing is held on August 22 --

2                   THE COURT: Right.

3           MR. JUERGENSEN: -- that the  
4           animals be returned to the farm.

5                   And if we have to have an  
6           evidentiary hearing on -- here is the --  
7           the long and short of it there is  
8           absolutely no reason to take the animals.

9                   They don't pose a threat to the  
10          community. All right. They are not in  
11          danger themselves. She has been doing this  
12          for over 30 years.

13                  THE COURT: Again, I am not an  
14          animal expert. How are they kept on the  
15          farm? I am just curious.

16                  MR. JUERGENSEN: Well, would you  
17          like her --

18                  THE COURT: Yeah. It is an open  
19          hearing.

20                  MR. JUERGENSEN: I will defer to  
21          her.

22                  MS. HUNTSMAN: Your Honor, I have  
23          a Federal license, USDA license. That's  
24          the United States Department of  
25          Agriculture.

1 I have had that for over 20 years.  
2 I was just inspected last week, and I  
3 passed my inspection with flying colors.

4 THE COURT: Who inspected you last  
5 week, ma'am?

6 MS. HUNTSMAN: United States  
7 Department of Agriculture.

8 THE COURT: And what do they do?  
9 They come out -- and, again, if I sound  
10 dumb, I just don't understand how it works  
11 and I want to. Are they in cages?

12 MS. HUNTSMAN: They are in  
13 enclosures that meet all the specifications  
14 of the United States --

15 THE COURT: When you say  
16 enclosures, I don't know what that means.

17 MS. HUNTSMAN: They are in cages,  
18 if you want to say cages.

19 THE COURT: Got you. Okay.

20 MS. HUNTSMAN: That meets the  
21 standard of the United States Department of  
22 Agriculture, and those cages also meet the  
23 new specifications for the State's new law  
24 because I have been in the process over the  
25 last three years of trying to meet ZAA

1 accreditation which is actually part of the  
2 new law that you either have to have a ZAA  
3 or an AZA accredited facility or a 1533.08  
4 license or some other exemptions that are  
5 listed.

6 MR. JUERGENSEN: This is what I  
7 was mentioning earlier.

8 THE COURT: Sure.

9 MR. JUERGENSEN: The new law  
10 provides for these different exemptions,  
11 one of which is this permit.

12 The other one which is sort of,  
13 she is working on Plan B which is to get  
14 this accreditation through the Zoological  
15 Association of America.

16 MS. HUNTSMAN: And part of that  
17 accreditation process is to apply in six  
18 different steps.

19 There are no steps in the new  
20 State law that tells you how you can apply  
21 to ZAA. So you have to meet the ZAA  
22 standards.

23 So my facility has to be rebuilt  
24 in some manners and we were in the process  
25 of doing that, also.

1                   But there is no danger and there  
2                   has never been any danger to my animals  
3                   escaping or getting away or danger to the  
4                   public in any way. They have also been  
5                   maintained.

6                   THE COURT: Let me stop you here.  
7                   Just so I understand. The Department of  
8                   Agriculture came out last week?

9                   MS. HUNTSMAN: Yes.

10                  THE COURT: And inspected  
11                  everything.

12                  MS. HUNTSMAN: They do that at  
13                  least every three months at my facility.

14                  THE COURT: Do they give you a  
15                  certificate or anything that says --

16                  MS. HUNTSMAN: They give me  
17                  inspection report.

18                  THE COURT: Okay.

19                  MS. HUNTSMAN: And that inspection  
20                  report shows anything that they find that  
21                  is an irregularity that needs to be  
22                  corrected. Or if it is something that is  
23                  like a cage that has broken wires --

24                  THE COURT: Right.

25                  MS. HUNTSMAN: -- or something

1           like that, they write it down.

2                   THE COURT: Did they tell you that  
3 there were any infractions or anything that  
4 was done wrong?

5                   MS. HUNTSMAN: I had two  
6 write-ups. I had larvae, mosquito larvae  
7 in one of the rabbit's hutch cages in  
8 water.

9                   THE COURT: A what? I'm sorry.

10                  MS. HUNTSMAN: I had mosquito  
11 larvae in the rabbit's hutch cages.

12                  THE COURT: What is larvae?  
13 Again, I'm not trying to be a smart aleck

14                  MS. HUNTSMAN: Before a mosquito  
15 becomes a mosquito, it is a little wiggly  
16 thing that goes in the water.

17                  THE COURT: Okay.

18                  MS. HUNTSMAN: And there was an  
19 extra dish of water in one of the rabbit's  
20 cages and it had mosquito larvae.

21                  THE COURT: Got you.

22                  MS. HUNTSMAN: And the Department  
23 of Natural -- or, I'm sorry, USDA is also  
24 implementing on my perimeter fence.

25                   I have 8 foot perimeter fence

1           around my whole property. That if one of  
2           the animals should get loose, the 8 foot  
3           perimeter fence is there to stop them.

4                       That is required by the United  
5           States Department of Agriculture.

6                       I have five trees that now are  
7           6 inches in diameter or larger and the  
8           Department of Agriculture said that those  
9           trees had to be removed.

10                      Those are the two things that were  
11           on my inspection report.

12                      THE COURT: But these are not  
13           infractions, these are just  
14           recommendations.

15                      MS. HUNTSMAN: They are just  
16           recommendations.

17                      THE COURT: Okay.

18                      MS. HUNTSMAN: No infractions.

19                      MR. JUERGENSEN: They had nothing  
20           to do with the animals.

21                      THE COURT: Right. That's what I  
22           sense. That's why I just wanted to make  
23           sure it was clear.

24                      MS. HUNTSMAN: But nothing posed  
25           a threat to the public in any way.

1 THE COURT: Okay. All right.

2 MR. JUERGENSEN: And, again, we  
3 have been working with them for two years.  
4 If these animals were such a danger, why  
5 didn't they come two years go.

6 MS. HUNTSMAN: Also, Melissa  
7 Simmerman and Doctor Forshey, who is the  
8 Head Veterinarian for the State of Ohio,  
9 has been to our farm; and they walked  
10 through the farm, and I showed them what I  
11 was going to do.

12 In fact, I spoke to Doctor Forshey  
13 and Melissa Simmerman, and they helped me  
14 remove some of the bears that had been  
15 placed there by the State of Ohio about ten  
16 years ago that were only supposed to be  
17 there for 90 days in order to make more  
18 room for us to expand to meet the ZAA  
19 accreditation.

20 THE COURT: I am just curious, why  
21 do you have the animals?

22 MS. HUNTSMAN: Sir, I enjoy the  
23 animals. My facility does animal rehab.  
24 We take in animals that have been abused or  
25 mistreated.

1 I also do educational programs at  
2 our farm. We have field trips at our farm.

3 We haven't done any field trips in  
4 the last three years because we have been  
5 in the rebuilding process.

6 THE COURT: When you say field  
7 trips, do you bring schools in?

8 MS. HUNTSMAN: Schools, day care  
9 centers, preschools, nursing homes.

10 THE COURT: What kind of schools  
11 have you brought in?

12 MS. HUNTSMAN: Strausser  
13 Elementary.

14 THE COURT: And the schools come  
15 in?

16 MS. HUNTSMAN: The schools come  
17 in. I have had St. Clements. I have had  
18 Central. I have had St. Joan of Arc, St.  
19 Mary's, St. Mike's.

20 THE COURT: Not St. Thomas?

21 MS. HUNTSMAN: St. Thomas.

22 THE COURT: Good, they did?

23 MS. HUNTSMAN: Yes. Every school  
24 in Stark County at our farm for field  
25 trips.

1 THE COURT: When was the last  
2 field trip that hasa been out there?

3 MS. HUNTSMAN: The last field trip  
4 was three years ago, and it was a summer  
5 day camp from -- I don't know the name of  
6 it --

7 THE COURT: Did you stop these  
8 excursions with the schools because of this  
9 certificate issue?

10 MS. HUNTSMAN: I stopped the field  
11 trips because we have been rebuilding, and  
12 I have had to take guardrails and different  
13 things down.

14 Now, we also take the animals out  
15 to different places. My animals have  
16 worked with people like Jack Hanna, Maury  
17 Povich, David Letterman.

18 I hold three permits in other  
19 states. I am permitted in New York,  
20 Pennsylvania, and Michigan to do programs  
21 in those areas, also.

22 THE COURT: Where is it located  
23 at?

24 MS. HUNTSMAN: We are at  
25 6663 Massillon between Richfield and

1 Navarre.

2 MR. JUERGENSEN: One of the tigers  
3 is an Obie.

4 MS. HUNTSMAN: One of the tigers  
5 that they did take is the Massillon Obie.

6 THE COURT: That's what I  
7 understand.

8 MS. HUNTSMAN: For the past 15  
9 years we have provided the Obie for  
10 Massillon. They either remain at our farm  
11 or we find other sanctuary facilities for  
12 them to go to.

13 THE COURT: Okay.

14 MR. JUERGENSEN: Judge, you are  
15 going to hear I imagine in a few minutes.

16 The State is going to say what  
17 triggered this raid, because that's what it  
18 was. The Perry Police were there. The  
19 SWAT Team was there. I mean it was  
20 apparently quite a show.

21 But what triggered this raid  
22 yesterday --

23 THE COURT: Well, they have to be  
24 careful. I mean these are some vicious  
25 animals. I mean I know you don't agree to

1           what they did.

2                       But be fair to them. I mean if  
3           you are going to go do that, then you do  
4           have to be careful.

5                       MR. JUERGENSEN: With some  
6           cooperation it could have been handled more  
7           peacefully.

8                       THE COURT: I understand, and I  
9           know that that's why you are angry.

10                      MR. JUERGENSEN: What triggered  
11           this was I sent them information on Monday  
12           that, at least for now, for purposes of now  
13           the ZAA accreditation had been denied.

14                      But as Miss Huntsman was  
15           explaining, it is a several step process  
16           which, again, the State is fully aware of  
17           this, because it is even in their statute,  
18           you have to go back several times until you  
19           get it right.

20                      But we are working on that as our  
21           plan B.

22                      But, again, the bottom line is  
23           this was wholly unnecessary.

24                      THE COURT: Right.

25                      MR. JUERGENSEN: Especially in

1 light of the hearing coming up. The  
2 animals should be returned.

3 At the very least, we want to make  
4 sure they are not going to be spread out  
5 all over the country, that they are going  
6 to stay in Reynoldsburg at the very least.

7 Obviously our preference is to  
8 have them back, but at least keep them in  
9 Reynoldsburg until we get this resolved  
10 through the Courts.

11 THE COURT: Okay.

12 MR. JUERGENSEN: Thank you, Judge.

13 MR. PATTERSON: Good morning, Your  
14 Honor.

15 THE COURT: Just for the record.  
16 Mr. Bickis, you are just here watching. I  
17 mean your office really isn't involved in  
18 the case. I just want everyone to be  
19 clear.

20 You just kind of brought them over  
21 because you are familiar with the process.

22 MR. BICKIS: Well, Your Honor, the  
23 Sheriff's Department and Perry Police  
24 Department were helping to assist in  
25 executing the warrant.

1                   Attorney Patterson from the AG's  
2                   Office is really the one that has been  
3                   handling this.

4                   THE COURT:    Okay.

5                   MR. PATTERSON:   That's my  
6                   understanding, Your Honor.

7                   THE COURT:    Let me ask the magical  
8                   question in my eyes.  I am not a wildlife  
9                   expert, and I am honest enough to tell you  
10                  that.

11                  But it seems to me that there is a  
12                  legitimate dispute in the interpretation of  
13                  the law that has just been made.  Just from  
14                  listening to both sides limited, and I will  
15                  let you talk as long as you want.

16                  There is a hearing in August that  
17                  sounds like it may resolve this dispute.

18                  Why was there the need, if they  
19                  were cooperating, to take these animals?

20                  MR. PATTERSON:   Let me answer your  
21                  question first, and then there are three  
22                  legal points I would like to make which I  
23                  believe each demonstrates --

24                  THE COURT:    Let's just start with  
25                  answering the question I just asked.

1 MR. PATTERSON: First of all, Your  
2 Honor, ODA has been in communication with  
3 Miss Huntsman and her attorney for quite a  
4 while.

5 THE COURT: Right.

6 MR. PATTERSON: The hearing that  
7 is set in August actually has nothing to do  
8 with the transfer order. What happened in  
9 this case --

10 THE COURT: Well, tell me what  
11 will be conducted at this August hearing?  
12 What is it for and what's the purpose?

13 MR. PATTERSON: It is the  
14 opportunity for Miss Huntsman to challenge  
15 the legality of the quarantine order that  
16 was placed on the animals in March of this  
17 year.

18 THE COURT: Okay, and let me ask  
19 you this. Once you gave her the quarantine  
20 order that keeps the animals there and she  
21 is not allowed to move them or anything  
22 like that, right?

23 MR. PATTERSON: Correct.

24 THE COURT: Has she done anything  
25 to upset the quarantine?

1                   Has she tried to violate the  
2                   quarantine?

3                   Has she done anything that gave  
4                   the Department any concern?

5                   MR. PATTERSON:  Yeah -- well, I  
6                   don't know about violating the quarantine,  
7                   but circumstances did change since the  
8                   quarantine order was put on.

9                   THE COURT:  That's what I would  
10                  like to know.

11                  MR. PATTERSON:  First of all,  
12                  Miss Huntsman advised ODA that she was not  
13                  becoming an accredited member of ZAA which  
14                  would be a basis for an exemption.

15                  That exemption as far as ODA was  
16                  aware of was not going to happen.

17                  ODA gave her every opportunity to  
18                  try to demonstrate that she was exempt from  
19                  this statute and worked with her for many  
20                  months, communicated with her, gave her  
21                  every opportunity to present information  
22                  with regard to this ZAA accreditation  
23                  process.

24                  In addition, Your Honor, there are  
25                  various factors that the Director is

1 authorized to and is expected to take in  
2 consideration with regards to various legal  
3 remedies that he has in situations such as  
4 this.

5 THE COURT: You are saying who,  
6 that he has the --

7 MR. PATTERSON: The Director of  
8 Agriculture does under Chapter 935.

9 THE COURT: But let me just stop  
10 you, and I'm trying to understand this.

11 There is a dispute as to what kind  
12 of certification she has to have. She is  
13 under a legal quarantine.

14 From what I have heard so far, she  
15 has not done anything to violate the  
16 quarantine.

17 And there is this August hearing  
18 to decide whether, you know, her  
19 certification is correct or whatever the  
20 challenge is.

21 Why did we need to go in and take  
22 those animals? I am not following that.

23 MR. PATTERSON: Well, for various  
24 reasons, factors that the Director may take  
25 into account.

1                   One is that provided by  
2                   Miss Huntsman indicated that she was  
3                   apparently no longer in the process of  
4                   becoming an accredited member of ZAA.

5                   THE COURT:   But when she has the  
6                   hearing in August, and if it is in her  
7                   favor, then she is able to keep the animals  
8                   there?

9                   MR. PATTERSON:   If she were to  
10                  prevail and demonstrates that she is exempt  
11                  from the statute, she would be permitted to  
12                  have possession of the animals.

13                  THE COURT:   So we are going to  
14                  have a hearing in August that if she is  
15                  successful she gets to keep the animals,  
16                  right?

17                  MR. PATTERSON:   Your Honor, Doctor  
18                  Simmerman is here today.   I apologize.

19                  THE COURT:   Well, I am just asking  
20                  a simple question.

21                  MR. PATTERSON:   It is on a  
22                  different question, Your Honor.   It is not  
23                  the question of quarantine.   The quarantine  
24                  is a separate issue from the transfer  
25                  order.

1 THE COURT: Let me explain how  
2 this works.

3 MR. PATTERSON: Okay.

4 THE COURT: I get to ask the  
5 questions. Okay? My first question is  
6 simply this.

7 If she were to prevail in August,  
8 does she get to keep the animals then?

9 MR. PATTERSON: If she can prove  
10 that she is exempt from the statute --

11 THE COURT: Right.

12 MR. PATTERSON: -- she would be  
13 permitted to keep the animals.

14 THE COURT: Okay. And she has  
15 followed the quarantine, right?

16 MR. PATTERSON: To the best of  
17 ODA's knowledge, I believe she has.

18 THE COURT: So, again, this is  
19 where I am really struggling. Isn't the  
20 government overreaching?

21 Why do we have to take all these  
22 government resources and go take these  
23 animals when she has followed everything  
24 she is supposed to do under the quarantine  
25 and in three months we are going to have a

1           hearing that is going to dispose of this  
2           issue?

3                         MR. PATTERSON: It would dispose  
4           of quarantine issue, not the transfer  
5           order.

6                         But, Your Honor, there are factors  
7           for the Director to take into account.

8                         First, these animals were placed  
9           under quarantine during a period of time  
10          when this animal owner indicated that she  
11          was in the process of becoming an  
12          accredited member of ZAA.

13                        Had that been successful and she  
14          could demonstrate that she was doing what  
15          needed to be done to be exempt from the  
16          statute, that would be a different  
17          circumstance.

18                        But when she indicated to ODA that  
19          she was not becoming exempt, then -- I will  
20          get to this in a minute. I wanted to  
21          address the argument presented in the  
22          motion here that they would likely have  
23          prevailing on the merits.

24                        I would indicate, Your Honor, that  
25          I don't believe there is any issue of

1           statutory interpretation required here.

2           THE COURT: No, I understand that.

3           MR. PATTERSON: Statutory  
4           interpretation arises if there is ambiguity  
5           in the statute, and I believe that 935  
6           plainly on its face demonstrates that  
7           Miss Huntsman is not exempt from the  
8           statute under any circumstances.

9           But while she was in the process  
10          of trying to become an accredited member of  
11          ZAA, ODA continued to allow these animals  
12          to be on the property.

13          There are problems with the  
14          animals being on the property, Your Honor.  
15          I understand that Miss Huntsman disagrees  
16          with this statute and she doesn't like the  
17          statute.

18          THE COURT: Right.

19          MR. PATTERSON: She doesn't  
20          believe that these animals present any risk  
21          of harm to the public. The Ohio  
22          legislature found otherwise when they  
23          adopted Chapter 935.

24          THE COURT: Well, this is when it  
25          was adapted two years ago; right?

1 MR. PATTERSON: It was more than  
2 that. It was in 2012.

3 THE COURT: Okay, four years ago.

4 MR. PATTERSON: And Miss Huntsman  
5 was a Plaintiff in a Federal case  
6 challenging the constitutionality of this  
7 statute, Your Honor, in United States  
8 District Court in Columbus.

9 In case of Wilkins v Daniels, and  
10 this was decided in -- it was actually  
11 first decided in the Trial Court in  
12 913 F. Supp. 2d 517, decided by Judge Smith  
13 in the United States District Court For the  
14 Southern Division of Ohio in 2012. The  
15 Court ruled that this statute was  
16 constitutional.

17 THE COURT: Sure.

18 MR. PATTERSON: As against the  
19 constitutional challenge brought by  
20 Miss Huntsman and other animal owners.

21 That was subsequently sustained  
22 on appeal to the Sixth Circuit Court of  
23 Appeals in Wilkins v Daniels, 744 F. 3d  
24 409.

25 So I appreciate that Miss Huntsman

1           doesn't like this law and believes that  
2           these animals do not pose a danger to the  
3           public.

4                       I would say that the General  
5           Assembly has found otherwise, and that  
6           finding by the General Assembly has been  
7           sustained by the Court as being entirely  
8           constitutional.

9                       So there is a reason why it is not  
10          appropriate for these animals to stay  
11          indefinitely on a property where they can't  
12          legally be held.

13                      THE COURT: Well, let me just stop  
14          here. I am not passing judgment on the law  
15          or whose right or whose wrong about the  
16          law.

17                      Number one, no one told me about  
18          these other things yesterday, that there  
19          was going to be a hearing in August.

20                      MR. PATTERSON: Your Honor, I  
21          don't think that hearing is related to the  
22          issue of the search warrant and the  
23          transfer order.

24                      THE COURT: You know, some of the  
25          things I am hearing today, I wish I would

1           have heard out of the government yesterday.

2                   I mean why didn't we call  
3           Mr. Juergensen yesterday?

4                   I mean it just seems to me that if  
5           all this was going on in the backdrop, that  
6           we should have gotten all this information  
7           together and heard both sides.

8                   I mean no one mentioned Attorney  
9           Juergensen's name in my office.

10                   MR. PATTERSON: Your Honor, before  
11           the search warrant was sought in this  
12           Court, ODA spoke with Miss Huntsman and  
13           asked for her consent to enter the premises  
14           which is required by the statute.

15                   I don't know of any circumstance  
16           in which someone obtained a search warrant  
17           particularly in a situation where it could  
18           affect public safety where prior notice is  
19           given that the search warrant is going to  
20           be issued.

21                   Part of the search warrant is  
22           that it is issued and executed in such a  
23           way that protects the public and prevents  
24           any possibility of a --

25                   THE COURT: Well, we don't notify

1 the criminals that we are going to go in  
2 their house and raid them for drugs that we  
3 are coming. But this is a much different  
4 situation.

5 I mean was there any danger  
6 yesterday that the animals presented to the  
7 public in the way that they were being  
8 taken care of?

9 MR. PATTERSON: I don't know, Your  
10 Honor. But the legislature has held these  
11 animals to be dangerous wild animals.

12 THE COURT: Well, I understand  
13 that. If they were that dangerous, why  
14 did we quarantine them and not just take  
15 them?

16 MR. PATTERSON: Because  
17 Miss Huntsman was working toward becoming  
18 an accredited member of ZAA.

19 THE COURT: Right.

20 MR. PATTERSON: The Director has  
21 to consider what space is available at the  
22 temporary facility to house animals. Not  
23 every animal can be transferred and put in  
24 a facility at the same time.

25 If someone is making a good faith

1 effort to become an accredited member of  
2 ZAA and the Director believes that for a  
3 temporary period, while she is working on  
4 that progress, that it is acceptable for  
5 the animals to be quarantined on site, that  
6 is one of the options for the Director to  
7 take.

8 But this is not a case, Your  
9 Honor, where the Director is trying to  
10 harass Miss Huntsman in any way, to  
11 intimidate her, to interfere with anything,  
12 or --

13 THE COURT: I can see how they  
14 would get that impression. They are  
15 cooperating, it sounds like, and you have a  
16 hearing in August that is going to -- let  
17 me ask you this a question.

18 Because you made a point and I  
19 want to make sure I understand. This  
20 August hearing, is this only about the  
21 quarantine?

22 MR. JUERGENSEN: I was going to  
23 address that on reply.

24 The Assistant Attorney General is  
25 splitting hairs. If that hearing in

1           August, August 22, if they determine that  
2           this permit is valid and it would do away  
3           with the quarantine order, it is going to  
4           have the same effect on any potential  
5           transfer order.

6                        Because those are both found in  
7           the same statute. They are both under  
8           935.20.

9                        THE COURT: So you are saying the  
10          August hearing is not just about  
11          quarantine, if they overrule the quarantine  
12          they are going to --

13                       MR. JUERGENSEN: Then they don't  
14          have basis for the transfer order, right.

15                       THE COURT: Okay.

16                       MR. JUERGENSEN: And I want to  
17          make it very clear, and Miss Huntsman will  
18          gladly testify under oath if the Court  
19          wants to swear her in, she is still in the  
20          process of getting ZAA accreditation.

21                       THE COURT: Well, that's what he  
22          is making a big point of, and I want to  
23          understand it.

24                       Are you telling the Department  
25          that you are not going to do it?

1 MS. HUNTSMAN: No.

2 MR. JUERGENSEN: No.

3 THE COURT: Explain that to me.

4 MS. HUNTSMAN: There are six  
5 steps to becoming accredited through ZAA.

6 THE COURT: Okay.

7 MS. HUNTSMAN: First you have to  
8 become a member. It costs you \$75.  
9 Anybody can become a member.

10 THE COURT: Did you do that?

11 MS. HUNTSMAN: I did.

12 THE COURT: Good. What is your  
13 second?

14 MS. HUNTSMAN: Then you apply for  
15 professional membership.

16 THE COURT: Okay, slow down,  
17 because we are going to go through all six  
18 steps. You are going to find I am a very  
19 thorough Judge.

20 MS. HUNTSMAN: You have to apply  
21 for professional membership.

22 THE COURT: Did you do that?

23 MS. HUNTSMAN: I did apply for  
24 professional membership.

25 THE COURT: All right. So you did

1 the first two.

2 MS. HUNTSMAN: This is the catalog  
3 of the, it says Animal Care Enclosure  
4 Standards and Related Policies ZAA.

5 THE COURT: Okay.

6 MS. HUNTSMAN: So this is the  
7 criteria that my facility has to meet to  
8 become a ZAA accredited facility.

9 THE COURT: So you did the first  
10 two steps. Let's go to number 3.

11 MS. HUNTSMAN: I did the first 2  
12 steps.

13 THE COURT: Let's go to number 3.

14 MS. HUNTSMAN: I applied for  
15 professional membership.

16 THE COURT: Is that number 3?

17 MS. HUNTSMAN: That's number 2.

18 THE COURT: Okay, so you applied  
19 for professional membership.

20 MS. HUNTSMAN: And I got a letter  
21 back from ZAA, and we provided Melissa  
22 Simmerman with this letter that says I  
23 was not approved at this time for my  
24 professional status, but my building and my  
25 standards of building at the farm never

1           ceased because in the ZAA standards in six  
2           months I can reapply for professional  
3           membership, and I was waiting for that time  
4           period to come.

5           THE COURT:   You just said some  
6           things that I don't understand.  They asked  
7           you -- do you have the letter?

8           MS. HUNTSMAN:   I do.

9           THE COURT:   Could I see the  
10          letter, that may help me.  You applied for  
11          professional membership.

12          MS. HUNTSMAN:   Uh-huh.

13          THE COURT:   They sent you this  
14          letter back.

15          MS. HUNTSMAN:   Saying that I was  
16          denied.  And it says --

17          THE COURT:   Slow down.  We have  
18          got to slow down because I am trying to  
19          soak all of this in.

20          Failed to receive enough votes by  
21          the Board of Directors.

22          So the Board of Directors gets to  
23          approve or disapprove of them?

24          MS. HUNTSMAN:   Yes.

25          THE COURT:   How many Board of

1 Directors are there?

2 MS. HUNTSMAN: I don't know. This  
3 is a public corporation. It is not a  
4 government entity at all.

5 THE COURT: But they don't give  
6 you any reason why you were denied?

7 MS. HUNTSMAN: No, they don't.

8 MR. JUERGENSEN: And I don't want  
9 to get into another tangent, but we can  
10 talk about the constitutionality of that  
11 all day long.

12 THE COURT: Let's just slow down.  
13 Everyone is excited, I understand. I'm  
14 excited I went to the Indians and they got  
15 a shut out last night.

16 But the letter says to me, "Dear  
17 Cyndi, on behalf of" -- I know there is  
18 media here and I want to read it so you  
19 understand it.

20 "Dear Cyndi, on behalf of  
21 Zoological Association of America, we  
22 regret to inform you that your application  
23 for professional membership has been  
24 declined at this time.

25 "The application submitted failed

1 to receive enough votes by the Board of  
2 Directors for approval.

3 "I am returning your check that  
4 was submitted for dues."

5 It doesn't give you a, you know,  
6 was there a vote, majority, how many Board  
7 of Directors. It doesn't even tell you why  
8 you got declined.

9 MS. HUNTSMAN: No. It doesn't.  
10 Then my next step is to reapply in 6  
11 months.

12 THE COURT: Right, but you don't  
13 even know what to do different.

14 MS. HUNTSMAN: Well, I have to  
15 make contact with some of the Board of  
16 Directors before I reapply my application.

17 THE COURT: How do you know who  
18 they are?

19 MS. HUNTSMAN: I guess because I  
20 am a member, I get a magazine periodically  
21 in the mail from ZAA and on that it lists  
22 the Board of Directors.

23 THE COURT: Got you.

24 MS. HUNTSMAN: And President of  
25 ZAA. I can contact within that period

1 before I reapply, contact them and find out  
2 why and see what I can do to change my  
3 application.

4 I am required to have two sponsors  
5 when I apply from ZAA members that are  
6 already accredited facility, and I did meet  
7 all of that criteria; and I have to also  
8 give them a copy of my background, and I  
9 did all of that.

10 I was told when I make a call to  
11 Christi who is the lady on the phone at  
12 ZAA, I was told that my application was  
13 intact, I met all the standards, it just  
14 had to go in front of the Board.

15 So I will reapply for that  
16 number 2 professional standard or  
17 professional membership.

18 Then I have to apply, once I am  
19 done there, I have to reapply for  
20 facilities membership, a facilities  
21 membership. That's for Stump Hill Farm  
22 itself.

23 My personal being has to become a  
24 professional member before my facility  
25 becomes a member.

1 THE COURT: So you are not saying  
2 that you don't want to be a part of the  
3 Zoological Association.

4 You are saying that you are  
5 trying, you got turned down.

6 Like me going to law school. I  
7 sent an application, and they turned me  
8 down; and so I have to send it back in  
9 again.

10 MS. HUNTSMAN: That's right. I  
11 have to meet the standards as I go. It  
12 doesn't mean I am not still participating  
13 and my facility isn't meeting the changes  
14 of the ZAA standards. It just means that I  
15 have to apply again.

16 THE COURT: Are you meeting the  
17 standards?

18 MS. HUNTSMAN: I am. I am  
19 rebuilding, and I have provided them with  
20 letters from Allen Chermonan (phonetic).  
21 He is a reviewer.

22 He works for ZAA and other  
23 facilities. He comes out and he goes  
24 through your facility, and he makes  
25 recommendations on changes that you need

1 to do to your facility to meet ZAA  
2 standards.

3 I paid him to come out and do a  
4 critiquing of the farm. There is his  
5 recommendation.

6 Here is a letter that he also  
7 wrote to Doctor Forshey saying that he was  
8 at our facility and he did critique our  
9 facility and when he did it. Here's a  
10 receipt for his bill.

11 And then I also sent, which I  
12 will find here in my mess, a bill from  
13 R.G. Smith Company that had come out and  
14 rebuilt all of our big cat cages to meet  
15 ZAA standards and to meet the State of  
16 Ohio's new standards; and that was well  
17 over \$13,000 -- I am sorry -- \$40,000.

18 THE COURT: That's what you put  
19 into it?

20 MS. HUNTSMAN: So far.

21 THE COURT: You put in \$40,000 to  
22 follow the plan to get reaccredited?

23 MS. HUNTSMAN: Yeah, to meet the  
24 ZAA standards.

25 THE COURT: Let me stop you there

1           because I want to be fair to them and then  
2           come back over.

3                       I mean it sounds like she is  
4           trying.

5                       MR. PATTERSON: Well, Your Honor,  
6           let me talk about the deadlines here and  
7           the time frame.

8                       THE COURT: Well, let me just ask  
9           this first.

10                      I mean this letter is troubling.  
11           They tell her she has been declined at the  
12           time, and maybe you don't know about this,  
13           but they don't like say why or what she did  
14           wrong or anything like that.

15                      MR. PATTERSON: ZAA is a private  
16           organization. I don't know exactly what --

17                      THE COURT: But that's who the  
18           government is like bracing onto. They are  
19           like a secret society it seems like.

20                      MR. PATTERSON: Your Honor, let me  
21           back up for a moment and talk about the way  
22           this works.

23                      THE COURT: We will get to that.  
24           I am just saying this is almost, this is  
25           kind of what you are basing on.

1 I thought I heard you say that she  
2 is not going to get approved by ZAA, and to  
3 me they are like some secret society.

4 They decline you, but they say you  
5 don't get enough votes; and they don't tell  
6 you why. I mean I am troubled by this.

7 MR. PATTERSON: I am trying to  
8 respond to that, Your Honor. I think this  
9 will answer your questions.

10 THE COURT: Okay.

11 MR. PATTERSON: This law became  
12 effective in 2012.

13 THE COURT: Right.

14 MR. PATTERSON: Okay. Now, under  
15 the law anyone claiming an exemption was  
16 supposed to get this nailed down by  
17 January 1, 2014. That is more than two  
18 years ago.

19 They had more than a year to deal  
20 with this process of getting accreditation  
21 if they were going to be exempt or to get a  
22 permit. First of all, they had more than a  
23 year even before the initial deadline came  
24 up.

25 THE COURT: But isn't that their

1 point? We don't need to do this because we  
2 already have the certificate.

3 MR. PATTERSON: But they have to  
4 show they were exempt. That deadline ran  
5 more than two years ago.

6 So, first of all, as a starting  
7 point Miss Huntsman had more than a year,  
8 of 2013 to deal with ZAA.

9 THE COURT: Let me ask you this.  
10 Is she a bad lady?

11 MR. PATTERSON: I'm sorry?

12 THE COURT: Is she a bad lady?

13 MR. PATTERSON: I'm not saying  
14 that, Your Honor. I don't think that is a  
15 legal ground --

16 THE COURT: Did she mistreat these  
17 animals?

18 MR. PATTERSON: She has held them  
19 illegally, I will say that.

20 THE COURT: Well, in your eyes  
21 illegally. But does she ask you, does she  
22 mistreat them?

23 MR. PATTERSON: I don't know, Your  
24 Honor.

25 THE COURT: Have there been any

1           complaints that she is, that this farm is  
2           mistreating anybody or doing anything?

3           MR. PATTERSON: I believe there  
4           have been quite a few complaints with  
5           regard to Stump Hill Farm.

6           THE COURT: Are there any copies  
7           of them? I don't know how this is all  
8           going to shake out legally, but it just  
9           seems that we may have overreacted in going  
10          and taking these animals.

11          MR. PATTERSON: Again, if I can  
12          talk about the time frame.

13          THE COURT: Yeah, sure.

14          MR. PATTERSON: So as far back as  
15          2014 ODA reached out to Miss Huntsman and  
16          tried to assist her, give her every --

17          THE COURT: How did you do that?  
18          How did the government --

19          MR. PATTERSON: First of all,  
20          there is a letter. I didn't make copies of  
21          these yet. I didn't know we would be  
22          getting into this, but I will be glad to do  
23          that.

24          THE COURT: That's okay.

25          MR. PATTERSON: For example,

1           there is a letter on October 22, 2014, to  
2           Miss Huntsman that explains to her exactly  
3           what the law requires with regard to  
4           exemption, addresses her statement that she  
5           believes she was exempt under the DNR  
6           permit for the bald eagle, and advises her  
7           as to what the law requires, indicates that  
8           she must obtain a permit from ODA if she  
9           wishes to continue to possess the DWA  
10          currently located on the farm. Please  
11          contact her with concerns and follow-up and  
12          that was as far back as October, 2014.

13                   THE COURT: Can you give that to  
14                   Sharon and I will have her make me a copy.

15                   MR. PATTERSON: Certainly.

16                   THE COURT: So you send that to  
17                   her.

18                   MR. PATTERSON: And there have  
19                   been other communications as well. But  
20                   most recently there is a letter that was  
21                   sent by Doctor Simmerman who is here today  
22                   on April 1 of this year.

23                   THE COURT: Okay.

24                   MR. PATTERSON: Again to  
25                   Miss Huntsman indicating that anyone,

1 reminding her that anyone possessing a  
2 dangerous wild animal must either possess a  
3 permit issued by ODA or meet an exemption.

4 At that time, as of April 1, ODA  
5 had not received any documentation  
6 supporting an exemption by Stump Hill Farm,  
7 reminding her that there is a limited  
8 exemption for individuals seeking to become  
9 an accredited member of AZA or ZAA.

10 In order for that to apply, the  
11 Director must inform the individual that  
12 they are exempt.

13 Indicates that ODA had received  
14 correspondence indicating that, from  
15 Miss Huntsman indicating that she was in  
16 the process of seeking accreditation from  
17 ZAA, but that ODA had not received anything  
18 as of the date of the letter, April 1.

19 THE COURT: So you are saying she  
20 is not cooperating. You are trying to send  
21 your letters, you are trying to work with  
22 her; and she is shunning you.

23 MR. PATTERSON: Well, she didn't  
24 solve the problem, let me put it that way.

25 THE COURT: Okay.

1                   MR. PATTERSON: And then  
2                   indicating, this is probably the most  
3                   paragraph in this letter, Your Honor,  
4                   indicating that in order to assist ODA in  
5                   the determination whether she was exempt,  
6                   asking her to provide written documentation  
7                   from ZAA that she was in fact in the  
8                   process of becoming an accredited member  
9                   of their organization.

10                   This documentation must be on ZAA  
11                   letterhead, must expressly state that she  
12                   is in the process of becoming accredited,  
13                   and asking that that documentation be  
14                   received by May 7, 2016.

15                   Again, if we can make a copy of  
16                   this.

17                   THE COURT: I will tell her what  
18                   copies to make. Let me ask you this.

19                   Isn't this the main point that  
20                   they are saying is that we don't need to  
21                   do this because we have a preexisting  
22                   permit?

23                   I mean isn't -- that's why she is  
24                   saying, hey, I don't need do that because I  
25                   have this permit.

1           And this hearing in August, you  
2           are saying it is just going to be a  
3           quarantine. But if they get rid of the  
4           quarantine, they basically are going to  
5           tell her she can have the animals there.

6           MR. PATTERSON: Your Honor, I am  
7           happy to jump ahead to the question of the  
8           merits of the statutory argument.

9           THE COURT: Yeah.

10          MR. PATTERSON: Okay. Your Honor,  
11          Chapter 935 of the Revised Code has several  
12          provisions that are pertinent to you.

13          The first is 935.20 which is the  
14          legal authority for the Director to issue  
15          the transfer order that is the subject of  
16          this case.

17          935.20(A) indicates that if the  
18          Director has reason to believe that someone  
19          is in possession of dangerous wild animals  
20          in the State and that if they have not been  
21          issued a permit under Chapter 935 that the  
22          Director is to open an investigation and in  
23          furtherance of that investigation may,  
24          among other things, order the transfer of  
25          the animals from the property.

1                   Now, I understand that  
2                   Miss Huntsman is claiming she is exempt  
3                   from Chapter 935.

4                   THE COURT:    Right.

5                   MR. PATTERSON:  If the exemptions,  
6                   Your Honor, are set forth in 935.03.

7                   THE COURT:    Right.

8                   MR. PATTERSON:  There are three  
9                   sections of that that conceivably relates  
10                  to her situation.

11                  But I would say that on the face  
12                  of each of those sections, her argument is  
13                  plainly incorrect.

14                  THE COURT:    I am not saying she  
15                  is.  I don't know that area of the law.

16                  But here is what I am telling you.  
17                  Had you come into my office yesterday and  
18                  said these animals had been under  
19                  quarantine there and there is a hearing in  
20                  August, there is a good chance I may not  
21                  have signed this search warrant.

22                  So I mean I was not made aware of  
23                  all these things, and I find them to be  
24                  very important.

25                  MR. PATTERSON:  All right.  I

1           apologize, Your Honor, if you believe that  
2           was relevant to the issue of the warrant.

3                   THE COURT: I think it is more  
4           than relevant. This is justice. You are  
5           taking, the government has taken property.  
6           I mean people have rights.

7                   I mean I'm the Judge, I am not a  
8           rubber stamp for the government. That is  
9           just not going to happen.

10                   But you came up to get a search  
11           warrant, and I listened to the facts.  
12           Nobody told me that she was under  
13           quarantine and that there has been no  
14           violations.

15                   No one told me there was going to  
16           be a hearing here in August.

17                   Nobody told me she is going to get  
18           a letter that she is denied being approved  
19           by the Zoological Association when they  
20           don't even tell her what she did wrong.

21                   I mean this is like taxation  
22           without representation. I mean this to me  
23           is why people frown on government right  
24           now.

25                   I mean don't you understand why I

1           am upset?

2                   MR. PATTERSON: I understand what  
3 you are saying, Your Honor, yes.

4                   THE COURT: But do you understand  
5 why I'm upset?

6                   MR. PATTERSON: I respectfully  
7 disagree.

8                   THE COURT: Okay.

9                   MR. PATTERSON: But I certainly  
10 understand what you are saying, Your Honor.

11                   THE COURT: Yeah.

12                   MR. PATTERSON: And the situation,  
13 Your Honor, is that the circumstances  
14 changed from the time of the quarantine to  
15 when this transfer order was issued.

16                   THE COURT: How did it change? I  
17 want to make sure I understand.

18                   MR. PATTERSON: When Miss Huntsman  
19 was sent a letter saying you have not been  
20 approved for ZAA membership.

21                   That is what ODA has been trying  
22 to work with Miss Huntsman for more than  
23 two years.

24                   THE COURT: How can ODA work with  
25 them when they don't tell you anything? I

1 mean they don't tell me anything.

2 They just told her her membership  
3 was declined with no reason. Then they say  
4 she didn't receive enough votes.

5 I mean this isn't like Trump and  
6 Kasich is out there and you know what the  
7 electoral votes are and you know what the  
8 people are voting.

9 They are telling her she has been  
10 declined with no reason. They don't tell  
11 her what she can do to get the membership.  
12 I mean it is almost like a secret society.

13 There is nothing on the letterhead  
14 about Board of Directors. It is almost  
15 like you are penalizing her for not being  
16 approved by them.

17 I don't know how she can deal with  
18 that.

19 MR. PATTERSON: She has had three  
20 and a half years to get through the  
21 accreditation process with ZAA. ODA  
22 doesn't control ZAA operations at all.

23 THE COURT: But you are relying on  
24 them, aren't you?

25 MR. PATTERSON: ODA is enforcing

1           the statute.

2                   THE COURT:   But you are relying on  
3           a group that is acting like the secret  
4           society, right?

5                   MR. PATTERSON:   No, Your Honor, I  
6           don't agree with that.   The statute says  
7           that one of the ways you can be exempt is  
8           to be an accredited member of ZAA.

9                   THE COURT:   Right.

10                   MR. PATTERSON:   So ODA has waited  
11           for Miss Huntsman for three and a half  
12           years since the law has become effective to  
13           get through the accreditation process.

14                   A number of people have  
15           successfully become accredited with ZAA  
16           during that time frame.

17                   ODA has tried to work with  
18           Miss Huntsman and assist her ever since the  
19           law has been effective to come in  
20           compliance.

21                   I don't know how ZAA operates,  
22           Your Honor, but ODA has tried to give  
23           her --

24                   THE COURT:   Neither do I.

25                   MR. PATTERSON:   ODA has tried to

1 give her every opportunity to get through  
2 this process that other people have  
3 successfully done.

4 I don't know exactly why ZAA  
5 indicated that her application was being  
6 denied.

7 But this is a case where ODA gave  
8 her a considerable period of time to do  
9 this, and eventually they placed a  
10 quarantine on the animals; but they didn't  
11 take any further steps, Your Honor, until  
12 after Miss Huntsman notified ODA that the  
13 ZAA application had been denied.

14 And therefore, Your Honor, there  
15 was no longer, in ODA's information, there  
16 was no longer this ongoing process for her  
17 to become accredited which if she were  
18 successful would be a basis for an  
19 exemption.

20 So I think that's why ODA felt  
21 it was appropriate at that point after  
22 having received that notification and the  
23 deadline May 2 that they had asked her, to  
24 notify her that she was in the process of  
25 accreditation had expired that ODA went

1           ahead and took the step. If I may, Your  
2 Honor --

3                   THE COURT: Sure.

4           MR. PATTERSON: If I may, Your  
5 Honor, there are a couple other very  
6 important legal points that I would like to  
7 make the Court aware of.

8                   THE COURT: Sure.

9           MR. PATTERSON: Your Honor, my  
10 co-counsel is reminding me that the  
11 quarantine is mentioned in the affidavit  
12 that was submitted as a part of the search  
13 warrant. I don't have it in front of me.

14                   THE COURT: I don't have it in  
15 front of me either.

16           MR. PATTERSON: It was never ODA's  
17 intent to withhold any information from  
18 this Court that ODA thought would be  
19 relevant with regard to this case.

20                   So I certainly have heard and  
21 understand the Court's position with regard  
22 to this.

23                   THE COURT: There is more to this  
24 case -- I mean this a complicated case.  
25 Would you agree with that?

1 MR. PATTERSON: I don't think it  
2 is a legally complicated case, Your Honor.

3 THE COURT: Okay.

4 MR. PATTERSON: If I may, Your  
5 Honor, there are two legal points. And one  
6 is the threshold question of jurisdiction  
7 that I would like to begin with.

8 THE COURT: Okay, sure.

9 MR. PATTERSON: First of all, Your  
10 Honor, I would respectfully call to the  
11 Court's attention that I believe this Court  
12 lacks subject matter jurisdiction with  
13 regard to the issuance of a temporary  
14 restraining order with regard to the  
15 issuing of the validity of the temporary --  
16 of a transfer order in this case.

17 The reason for that, and I would  
18 like to call to the Court's attention that  
19 I have courtesy copies of these cases for  
20 the Court if you would like them.

21 THE COURT: Let me make sure I  
22 understand this because I have not been  
23 given these cases.

24 You are saying I have jurisdiction  
25 to issue the search warrant, but now I

1 don't have jurisdiction to do anything  
2 more?

3 MR. PATTERSON: I do not believe  
4 this Court has subject matter jurisdiction  
5 to deal with the validity of the transfer  
6 order under which these animals were  
7 removed from the property. That is an  
8 administrative order.

9 ODA did not ask this Court to  
10 authorize the removal of the animals. What  
11 the search warrant asks for is permission  
12 to enter the premises and search for  
13 dangerous wild animals.

14 The search warrant does not say  
15 anything about removing the animals.

16 THE COURT: So the government is  
17 saying we are going to go to the Judge to  
18 get the authority to remove the animals and  
19 now, if they don't like the Judge's  
20 decision, they are going to say the Judge  
21 doesn't have the authority now to order  
22 these animals back.

23 MR. PATTERSON: I think the Court  
24 retains jurisdiction with regard to the  
25 search warrant. The statute requires --

1 THE COURT: If I overturn the  
2 search warrant, then you got her animals  
3 and she doesn't have her animals, what does  
4 she do, charge the government with theft?

5 MR. PATTERSON: I don't know what  
6 basis there would be to overturn the search  
7 warrant at this point, Your Honor.

8 THE COURT: Well, I don't know. I  
9 have heard a lot today that certainly has  
10 me thinking about it.

11 Let's take the next step because  
12 we are not here to -- this is what  
13 frustrates people about government. We are  
14 not here to obstruct and frustrate people.

15 If I were to overturn this search  
16 warrant, what does the government plan to  
17 do with the animals? Keep them?

18 When I have now revoked the  
19 authority for you to take them, you are  
20 going to now say okay, government, we rely  
21 on our judiciary branch, there is a  
22 separation of powers, we are now going to  
23 say, Judge, we are going to keep them  
24 anyway?

25 MR. PATTERSON: I don't think this

1 Court, Your Honor, ever authorized ODA to  
2 take possession of animals. That is not  
3 part of the Court order.

4 What the statute requires is for  
5 ODA to enter the premises without the  
6 consent of the owner, they first have to  
7 ask for the owner's consent, which they  
8 did.

9 If the consent is denied, then  
10 they are directed by the statute to seek a  
11 search warrant from the Court of competent  
12 jurisdiction for authority to enter the  
13 premises and to search, conduct a search  
14 for the animals.

15 That is the only thing the Court  
16 authorized ODA to do.

17 THE COURT: So if I overturn the  
18 search warrant, then you had no authority  
19 to go pull those animals out.

20 So you have got the animals now  
21 and you don't have the authority to have  
22 them. What does ODA say about that?

23 MR. PATTERSON: Your Honor, the  
24 search warrant was in effect when ODA went  
25 to the property.

1 THE COURT: Correct.

2 MR. PATTERSON: They were there  
3 pursuant to a search warrant that the Court  
4 had signed.

5 THE COURT: Correct.

6 MR. PATTERSON: The removal of the  
7 animals is not part of any Court order.

8 THE COURT: What was the basis of  
9 removing the animals? The search warrant  
10 had to be the basis for you to go remove  
11 the animals.

12 MR. PATTERSON: No, Your Honor, it  
13 is not. The search warrant is the basis  
14 for ODA to enter the premises and to  
15 conduct a search.

16 THE COURT: But you don't have  
17 that now because, if I revoke it, you  
18 didn't have the authority to go on the  
19 property in the first place. It is  
20 trespassing.

21 MR. PATTERSON: Can the Court  
22 retroactively revoke a search warrant? I  
23 don't know.

24 THE COURT: Absolutely.

25 MR. PATTERSON: I don't know, Your

1 Honor.

2 THE COURT: If the Court is given  
3 information that is faulty or incorrect,  
4 the Court always has the opportunity to  
5 make a change in the interest of justice.  
6 I mean, come on.

7 MR. PATTERSON: Your Honor, again,  
8 I believe that this quarantine was  
9 disclosed in the affidavit.

10 THE COURT: We never talked about  
11 a quarantine. You may have had the word  
12 there -- she wasn't even there. Were you  
13 at the meeting?

14 MS. ARKO: Which meeting, Your  
15 Honor?

16 THE COURT: The meeting yesterday.

17 MS. ARKO: The one in your office?

18 THE COURT: Yeah. So you weren't  
19 there?

20 MS. ARKO: No, Your Honor.

21 THE COURT: So you weren't there.  
22 You never mentioned Mr. Juergensen's name.  
23 You never mentioned this hearing in August.  
24 You never mentioned any of these things. I  
25 mean, come on.

1           You told me what you wanted me to  
2           hear. Right?

3           MR. PATTERSON: Your Honor, we  
4           told the Court the truth and I think --

5           THE COURT: Did you tell me that  
6           they had been cooperating?

7           Did you tell me that there was a  
8           hearing in August that was a very important  
9           hearing that could affect this certificate?  
10          Did you tell me that?

11          I mean do you think I am just a  
12          government rubber stamp?

13          MR. PATTERSON: No, Your Honor,  
14          certainly not.

15          THE COURT: Then why didn't you  
16          tell me these things?

17          MR. PATTERSON: I don't think they  
18          were legally relevant to the issue of the  
19          search warrant, Your Honor.

20          THE COURT: You may not think they  
21          were relevant, but as a Judge may think it  
22          is relevant.

23          MR. PATTERSON: Again, Your Honor,  
24          I wasn't aware that the Court considered  
25          the issue of the quarantine to be a

1 question of probable cause for the issuance  
2 of the search warrant.

3 So, again, Your Honor, there was  
4 no attempt to conceal anything that ODA  
5 believes to be relevant with regard to the  
6 search warrant from the Court.

7 But the issue of the removal of  
8 these animals, Your Honor, was not, that  
9 was not done pursuant to any Court order.

10 They were on the property pursuant  
11 to a search warrant issued by the Court.  
12 They searched the premises for dangerous  
13 wild animals pursuant to a search warrant  
14 issued by the Court.

15 But there is no provision for an  
16 inventory of evidence back to the Court.  
17 There was no request for authority from  
18 this Court to take possession of the  
19 animals.

20 That was done entirely under the  
21 Director's authority.

22 THE COURT: But it was based on me  
23 giving you the search warrant for you to go  
24 in.

25 If I don't give you the search

1 warrant to go in, you don't go in and take  
2 these animals.

3 MR. PATTERSON: They would not  
4 legally have been on the property without a  
5 search warrant.

6 THE COURT: That's the point I am  
7 trying to make to you.

8 MR. PATTERSON: Well, Your Honor,  
9 I think there was probable cause with the  
10 search warrant to issue based upon, and  
11 there was nothing, it was not ODA's intent  
12 to misrepresent anything to the Court.

13 Your Honor, I don't know if the  
14 Court has a copy of the search warrant  
15 affidavit in front of it.

16 THE COURT: No. I would like to  
17 have one.

18 MR. JUERGENSEN: So would I, Your  
19 Honor.

20 THE COURT: Give it to Sharon and  
21 let's make copies.

22 MR. PATTERSON: Mr. Leshure  
23 (phonetic) filed it, returned it to the  
24 Court. I would be happy to get a copy of  
25 that, Your Honor.

1 THE COURT: Yeah, I would like to  
2 get a copy of the search warrant.

3 MR. BICKIS: I have got one across  
4 the street.

5 THE COURT: Why don't we take a  
6 five minute break.

7 MR. PATTERSON: All right, thank  
8 you.

9  
10 (Court recessed at 9:25 a.m.  
11 and reconvened at 9:35 a.m.,  
12 and the following proceedings  
13 were had.)

14  
15 THE COURT: Anything more?

16 MR. PATTERSON: Yes, Your Honor.  
17 I have a courtesy copy for the Court. We  
18 did obtain the search warrant.

19 THE COURT: Sure, sure. Is there  
20 anything else from the State?

21 MR. PATTERSON: Yes, Your Honor.  
22 First of all, with regard to the search  
23 warrant and affidavit, let me note that  
24 there was a very detailed summary of  
25 everything that took place in the history

1 of this case including the quarantine order  
2 that was placed. I believe it is on Page 4  
3 of the affidavit.

4 THE COURT: Uh-huh.

5 MR. PATTERSON: In the large  
6 paragraph, begins on March 3, 2016, for  
7 example.

8 The affidavit also indicates  
9 numerous instances where it appears that  
10 ODA found animals on the premises that had  
11 not been disclosed by Miss Huntsman prior  
12 to the quarantine that went on. So as I  
13 indicated --

14 THE COURT: That was 2012?

15 MR. PATTERSON: No, no, Your  
16 Honor, even earlier this year.

17 THE COURT: Okay.

18 MR. PATTERSON: In response to the  
19 Court's earlier question, I indicated that  
20 ODA was not aware of a violation of the  
21 quarantine.

22 That didn't go on until March, but  
23 there were problems with this property  
24 prior to the quarantine being placed in  
25 March of this year.

1 THE COURT: But there has been no  
2 problem since there was a quarantine.

3 MR. PATTERSON: I am not aware of  
4 any violation of the quarantine itself,  
5 Your Honor.

6 Your Honor, if I might, I want to  
7 circle back to what I think are the two key  
8 legal points I would like to make this  
9 morning.

10 THE COURT: Sure.

11 MR. PATTERSON: First as I  
12 indicated before, I believe with regard to  
13 the transfer order, Your Honor, the  
14 administrative order, I respectfully  
15 suggest to the Court that this Court lacks  
16 subject matter and jurisdiction with regard  
17 to that issue.

18 THE COURT: Sure.

19 MR. PATTERSON: That is based upon  
20 case law, for example, and I have courtesy  
21 copies of these cases for the Court and  
22 Mr. Juergensen --

23 THE COURT: It sounds like I'm  
24 being bullied here.

25 MR. PATTERSON: I'm sorry?

1 THE COURT: I mean it is almost  
2 like you are saying to me, Judge, we got  
3 the search warrant; but even if you revoke  
4 the search warrant, too bad, you can't tell  
5 us to go get these animals.

6 I mean I feel like I am being  
7 bullied here.

8 MR. PATTERSON: That is certainly  
9 not my intent, Your Honor.

10 THE COURT: That's what I am  
11 getting. I mean for you to take those  
12 animals, you had to get a search warrant.  
13 Would you agree?

14 MR. PATTERSON: To be legally on  
15 those premises without consent, yeah.

16 THE COURT: Sure. So you are  
17 saying now if the Judge finds that the  
18 search warrant should not be issued and  
19 revoked, then you then illegally take the  
20 animals and then you don't bring them back?

21 MR. PATTERSON: I actually didn't  
22 anticipate the issue of the validity of the  
23 search warrant today.

24 THE COURT: Nobody did.

25 MR. PATTERSON: I was prepared to

1 talk about the transfer orders.

2 My argument with regard to subject  
3 matter jurisdiction of this Court deals  
4 with the transfer order, not the search  
5 warrant. So I want to be clear about that,  
6 first of all.

7 Your Honor, I would respectfully  
8 suggest to the Court that all the evidence  
9 in the record including the affidavit  
10 submitted to this Court prior to the  
11 issuance of the search warrant clearly  
12 demonstrates probable cause for the  
13 issuance of a warrant.

14 So I honestly don't know what  
15 legal basis there would be to vacate the  
16 search warrant which I believe was properly  
17 issued on probable cause and pursuant to  
18 935.20 where ODA did seek the consent of  
19 the property owner before entering the  
20 premises.

21 When that was denied, the State  
22 then sought the search warrant from this  
23 Court pursuant to 935.20; and I don't  
24 believe there was any dispute that  
25 Miss Huntsman was in possession of

1 dangerous wild animals and did not have a  
2 permit under 935.

3 So I guess, Your Honor, I did not  
4 come prepared for the issue of the search  
5 warrant; but I believe the record  
6 demonstrates that the search warrant was  
7 properly issued with regard to probable  
8 cause.

9 If I might just follow up with  
10 regard to the transfer order, Your Honor,  
11 there are again two points.

12 The first is what the cases have  
13 held, Your Honor, is that if the statute  
14 creates a comprehensive statutory scheme,  
15 deal with administrative orders, that in  
16 that circumstance the administrative agency  
17 is deemed to have exclusive jurisdiction  
18 with regard to disposition of that  
19 administrative order.

20 And the transfer order, not the  
21 search warrant, but the transfer order is  
22 an administrative order that I believe is  
23 subject to a pervasive and complete  
24 regulatory scheme set up under Chapter 935.

25 So on that issue, Your Honor, I

1 wanted to respectfully bring to the Court's  
2 attention the cases of Kazmaier Supermarket  
3 v Toledo Edison Company.

4 That's an Ohio Supreme Court  
5 decision from 1991, 61 Ohio St. 3rd 147.

6 Also another Ohio Supreme Court  
7 decision, this one from 1998, State ex rel  
8 Taft O'Connor 98 v Court of Common Pleas of  
9 Franklin County.

10 I believe those two cases, Your  
11 Honor, stand for the proposition of where  
12 the legislature has created a comprehensive  
13 statutory scheme dealing with  
14 administrative orders, that at that point  
15 the exclusive jurisdiction to deal with the  
16 administrative order rests with the  
17 administrative agency.

18 THE COURT: Do those cases involve  
19 a search warrant that the Judge feels that  
20 what was given to him was probable cause  
21 and now there is not probable cause?

22 MR. PATTERSON: No, Your Honor.

23 THE COURT: Okay.

24 MR. PATTERSON: I am not sure --  
25 well, it is not my position to interrogate

1           the Court. I am certainly not going to try  
2           to do that.

3                         But I am not sure what is lacking  
4           in this case with regard to probable cause  
5           for the issuance of the search warrant, so  
6           I am not sure how to respond to that.

7                         THE COURT: Okay.

8                         MR. PATTERSON: Your Honor, apart  
9           from the -- I have courtesy copies of that  
10          if you would like to have copies of those  
11          decisions.

12                        THE COURT: Sure. I would be  
13          happy to take it.

14                        MR. PATTERSON: I also have  
15          courtesy copies for Mr. Juergensen.

16                        THE COURT: Is there anything  
17          else?

18                        MR. PATTERSON: Yes, Your Honor.

19                        THE COURT: Okay.

20                        MR. PATTERSON: So with regard to  
21          the transfer order, the request to the  
22          motion that is pending which I believe goes  
23          to the issue of the transfer order as  
24          opposed to the search warrant which was  
25          served just shortly before we started the



1           the ownership rights of Miss Huntsman with  
2           regard to these animals at all. It deals  
3           only with temporary possession of the  
4           animals pursuant to the statutory  
5           procedures in 935.20.

6                       Miss Huntsman's ownership interest  
7           in these animals would not be affected at  
8           all.

9                       It would not be affected at all  
10          until some future date when a complaint for  
11          forfeiture of the animals were to take  
12          place and the Court would ultimately decide  
13          what the disposition of those animals would  
14          be.

15                      So what we are talking about here  
16          is temporary possession of the animals, not  
17          any ultimate determination of ownership  
18          interest of Miss Huntsman.

19                      There is a comprehensive remedy at  
20          law that is part and parcel of this statute  
21          and that remedy provides for a prompt  
22          administrative hearing with regard to the  
23          legality of the transfer order pursuant to  
24          the provisions of Chapter 119.

25                      That procedure is already in

1 process with regard to the quarantine  
2 order.

3 Miss Huntsman has a right to an  
4 administrative hearing both with regard to  
5 the quarantine order and with regard to the  
6 transfer order.

7 Because the quarantine order was  
8 issued first and she requested a hearing,  
9 that is already in process.

10 With regard to the transfer order  
11 that was issued yesterday, she has a right  
12 to an administrative hearing with regard to  
13 the transfer order.

14 The way the administrative process  
15 works, Your Honor, is the following.

16 Now, I wanted to respond to a  
17 question of the Court to Plaintiff's  
18 counsel a little bit earlier with regard to  
19 the mechanics of how that operates.

20 Under Chapter 119, Your Honor,  
21 there is an independent hearing officer who  
22 is an attorney, there is a panel of them in  
23 the Columbus area, and they are licensed  
24 attorneys.

25 They have a State contract to act

1 as securement officers. They conduct a 119  
2 hearing.

3 They hear all the evidence, and  
4 they then issue recommended findings of  
5 fact and a recommendation to the Court --  
6 to the Director with regard to whether or  
7 not legal action is justified and how the  
8 law applies to that.

9 The party, the affected party then  
10 has an opportunity if they disagree with  
11 that report and recommendation to file  
12 written objections.

13 After the record is submitted, the  
14 hearing officer issues a report and those  
15 objections are filed.

16 Then the Director of Agriculture  
17 is required to put on a Director's order  
18 either upholding or overturning the  
19 transfer order.

20 That order, Your Honor, is  
21 appealable to the Court of Common Pleas  
22 pursuant to the requirements of Revised  
23 Code 119.12.

24 So there is a basis for review by  
25 an independent tribunal under which the

1 Court is to determine whether or not the  
2 order is supported by reliable probative  
3 and substantial evidence and whether it is  
4 in accordance with law.

5 So there is a very explicit set of  
6 procedures established under Revised Code  
7 Chapter 119 and specifically referenced in  
8 Revised Code 935 that provides a prompt  
9 remedy for a party who believes that a  
10 transfer order was improperly issued to  
11 challenge the legality of that order  
12 through the 119 hearing process.

13 That procedure, Your Honor,  
14 creates an adequate remedy at law.

15 So even if there is harm to  
16 Miss Huntsman, it is not irreparable injury  
17 because that procedure which comports with  
18 due process as the Ohio Supreme Court has  
19 previously held provides her with an  
20 adequate remedy to address these issues.

21 THE COURT: Okay. Thank you.

22 MR. PATTERSON: I was just going  
23 to say, Your Honor, if there is any  
24 likelihood of success on the merits, I  
25 don't believe that there is and that's why

1 I touched on earlier the situation with  
2 regard to the statute.

3 I would suggest, Your Honor, that  
4 there is no likelihood of success on the  
5 merits because the statute provides very  
6 narrow and explicit exemptions to Chapter  
7 935, none of which on their face apply to  
8 Miss Huntsman.

9 Miss Huntsman does not have  
10 accreditation with ZAA. She does have a  
11 USDA permit.

12 But as Chapter 935.03(A(1))  
13 demonstrates, she doesn't meet that  
14 requirement for exemption because she would  
15 have to demonstrate, the Director would  
16 have to find that she is still in the  
17 process of becoming an accredited member of  
18 ZAA and that the Director has informed her  
19 that she is exempt under Section A of  
20 935.02. That is not met as a matter of  
21 law.

22 She is not licensed to do a  
23 wildlife rehabilitation facility for native  
24 Ohio species. These are not native species  
25 that we are dealing with, so she does not

1           qualify under 5.

2                       Finally, the Division of Wildlife  
3           permit that was presented this morning by  
4           Miss Huntsman's counsel as a matter of law  
5           does not provide any exemption under  
6           Section 10 of 935.03.

7                       That section says any person who  
8           has been issued a permit under Section  
9           1533.08 of the Revised Code, it would be  
10          exempt, provided that the permit lists each  
11          specimen of wild animal that is a dangerous  
12          wild animal or restricted snake in a  
13          person's possession.

14                      On its face, Your Honor, the  
15          permit that Miss Huntsman's counsel  
16          presented this morning references only a  
17          bald eagle which is not a dangerous wild  
18          animal.

19                      On its face it does not list  
20          dangerous wild animals in Miss Huntsman's  
21          possession.

22                      So, again, Your Honor, I would  
23          suggest from a plain reading of the statute  
24          that she can not demonstrate any likelihood  
25          on the success of the merits.

1           She will have every opportunity to  
2           make that argument. She can make that  
3           argument in administrative hearings.

4           She can make that argument with  
5           the hearing that is currently scheduled  
6           with regard to the quarantine.

7           She can make that argument with  
8           regard to the administrative hearing on the  
9           transfer order that was issued yesterday,  
10          but I do not believe she can show  
11          likelihood of success on the merits with  
12          regard to that argument because I would  
13          suggest that it is contradicted by the  
14          plain language of the statute.

15          So on that basis, Your Honor, I  
16          would respectfully ask the Court to refrain  
17          from exercising jurisdiction with regard to  
18          the transfer order, which is the subject of  
19          the motion pending before the Court, to  
20          find that the temporary restraining order  
21          is not justified pursuant to the  
22          requirements of what the moving party is  
23          required to prove, namely irreparable harm,  
24          lack of an adequate remedy of law, and  
25          likelihood on the success of the merits.

1                   And with regard to the search  
2                   warrant, Your Honor, based upon the  
3                   affidavit that I presented to the Court and  
4                   the information presented to the Court, I  
5                   would suggest that the search warrant is  
6                   clearly supported by probable cause to  
7                   issue a search warrant under 935.20, that  
8                   that is actually uncontested.

9                   The Department as required under  
10                  935.20 asked for Miss Huntsman's consent.  
11                  It was denied, and the Director laid out  
12                  in the affidavit in support of that warrant  
13                  the probable cause to believe that she had  
14                  possession of dangerous wild animals and  
15                  she did not possess a permit for those wild  
16                  animals under Chapter 935.

17                  And in response to the Court's  
18                  concerns raised earlier with regard to  
19                  notification of the quarantine and so  
20                  forth, as I say, I would note for the  
21                  record, Your Honor, that that information  
22                  is set out in great detail.

23                  THE COURT: Well, that was not  
24                  explained; but we have already been through  
25                  that. Okay.

1 MR. PATTERSON: We obviously had a  
2 very brief meeting yesterday morning. I  
3 believe the Court had an opportunity to  
4 review the affidavit.

5 THE COURT: Right, but you did not  
6 explain all the things about the  
7 quarantine. You did not go into all that  
8 explanation.

9 I mean we have been through this.  
10 If you want to go through that again, I  
11 will go through it again.

12 MR. PATTERSON: I don't want to  
13 beat a dead horse. I guess I wanted to  
14 make it clear to the Court there was no  
15 attempt to hide anything from the Court.

16 THE COURT: Well, you hid the  
17 August meeting. Did we talk about that?  
18 That this matter may be resolved in August?

19 MR. PATTERSON: Actually may I  
20 double check, Your Honor.

21 THE COURT: No, my question is did  
22 we talk about that.

23 MR. PATTERSON: We didn't discuss  
24 it in chambers.

25 THE COURT: Right. That's my

1 point.

2 MR. PATTERSON: Okay. Thank you,  
3 Your Honor.

4 THE COURT: Anything, counsel?

5 MR. JUERGENSEN: Very briefly,  
6 Your Honor. Again, we appreciate your  
7 time.

8 Again, I think you have a firm  
9 grasp of everything so I don't want to lose  
10 sight of the forest for the trees.

11 The ZAA stuff was the plan B.  
12 Miss Huntsman and I had discussion a couple  
13 years about in the event that the State  
14 does not agree with our interpretation of  
15 this permit, that's a plan B.

16 But I will say as far as our  
17 motion yesterday and the jurisdictional  
18 issue, I think the Court is absolutely  
19 right. The Court certainly has  
20 jurisdiction over its own search warrant.

21 That was the basis by which they  
22 entered the property, basis by which they  
23 were able to seize the property.

24 I also feel that the Court has  
25 subject matter jurisdiction over any

1           personal property located in Stark County.

2           The Judge may not be able to quash  
3           the transfer order, but I think you still  
4           have jurisdiction to enter equitable  
5           remedies with respect to any personal  
6           property that is in Stark County and with  
7           respect to the search warrant.

8           And so that is ultimately what we  
9           are doing here with this preliminary  
10          injunction/temporary restraining order.

11          As far as the standard goes, out  
12          of the remedy is not one of the four  
13          standards.

14          The four standards are likelihood  
15          of success on the merits, harm, irreparable  
16          harm, harm to third-parties, and public  
17          interest.

18          I just want to focus on the fourth  
19          one here and that is the public policy  
20          behind what we are requesting.

21          What the State has done is come in  
22          and seized property without any notice,  
23          without any hearing.

24          The Court has correctly pointed  
25          out, we were in the process of cooperating

1 with them.

2 We had coordinated a hearing to be  
3 held in August to address an issue which if  
4 it comes our way negates any transfer order  
5 and negates any quarantine order.

6 These animals were not in danger.  
7 They do not pose a danger. Absolutely no  
8 reason to come on the property yesterday  
9 and seize these animals.

10 As far as our likelihood on  
11 success of the merits, this permit at the  
12 very least is ambiguous with respect as to  
13 what is and what is not included.

14 We are going to ask ultimately  
15 that that be resolved in favor of us and  
16 against the State.

17 But, also, the other exemption is  
18 that Miss Huntsman has to be in the process  
19 of seeking ZAA accreditation.

20 And as we have shown you, we have  
21 documentation going as far as back as 2012  
22 that she has been in this.

23 So we feel we have met the four  
24 standards. We are simply asking at this  
25 point that the animals be returned to the

1 Court and pending the August 22 hearing,  
2 Your Honor. Thank you.

3 THE COURT: Okay. After a full  
4 hearing on the TRO and preliminary hearing,  
5 I will be honest with you and I will be  
6 candid with you.

7 I don't find that there is  
8 probable cause to believe that there is a  
9 violation of Revised Code 935 that has  
10 occurred.

11 Obviously there is a dispute. It  
12 will be decided in August. I don't know  
13 why we took this action that we needed to  
14 come take these animals.

15 There is no evidence that she  
16 mistreated the animals. There is no  
17 evidence that she has damaged the animals.  
18 There is evidence that she has tried to do  
19 some good things with the animals.

20 I will grant the restraining order  
21 and grant the injunction. Again, I don't  
22 find that there is probable cause; and I  
23 will revoke the authority under the search  
24 warrant.

25 Now, I want to point this out to

1           you because this case disturbs me in a lot  
2           of ways.

3                       This is a case where someone is  
4           actually cooperating with the government.

5                       There is a dispute over a new law.  
6           Government shouldn't be obstructing or  
7           impinging on property rights that still may  
8           be legitimate.

9                       This matter is going to be  
10          resolved in August. There was no reason to  
11          waste the taxpayers money and go and remove  
12          those animals. I just don't see it.

13                      This Court is not going to be a  
14          rubber stamp to the government. So I am  
15          going to order that these animals are to be  
16          returned.

17                      I have looked at your cases, and I  
18          am not sure how they apply.

19                      The Kazmaier case talks about a  
20          customer bringing an action against the  
21          electric utility to recover funds stemming  
22          from the utility's alleged use of a wrong  
23          rates schedule.

24                      The other case is where a campaign  
25          committee brought action against opposing

1 campaign committee regarding election  
2 fraud.

3 So I don't know how that prevents  
4 me from ordering the animals to be  
5 returned.

6 But I am going to order the  
7 animals to be returned or face the perils  
8 of the Court with your inaction. Anything  
9 further?

10 MR. PATTERSON: Yes, there is.  
11 This is one of the reasons why we asked  
12 Doctor Simmerman to be here today.

13 From a veterinary standpoint it  
14 presents a risk of serious injury or harm  
15 to the animals to reanesthetize them for  
16 transfer during two weeks after the initial  
17 anesthesia.

18 THE COURT: Do you want to do it  
19 in two weeks?

20 MR. PATTERSON: We would ask for a  
21 preliminary injunction hearing, Your Honor,  
22 within that time frame, if we may, and we  
23 will present a full-blown evidentiary  
24 hearing.

25 THE COURT: I thought that's what

1           today was.

2                   MR. PATTERSON: This is a  
3 temporary restraining hearing order, Your  
4 Honor. We just got notice --

5                   THE COURT: Oh, no, I will give  
6 you a preliminary injunction. I mean you  
7 are entitled to it if you want a hearing on  
8 it, that's fine.

9                   How long does it take before the  
10 animals would be prepared to be able to  
11 come back?

12                   MR. JUERGENSEN: Well, they are  
13 saying --

14                   THE COURT: Let them go first, and  
15 then I will go to you.

16                   MR. PATTERSON: May I ask Doctor  
17 Simmerman to respond to that?

18                   THE COURT: Sure. Sharon, would  
19 you go get my book, please. I am sorry to  
20 do that to you.

21                   How long will it take to be able  
22 to bring them back?

23                   DR. SIMMERMAN: Thank you, Your  
24 Honor. What we typically recommend unless  
25 it is an extreme emergency that we not

1 reanesthetize these animals for a minimum  
2 of two weeks.

3 Additionally, we drew blood work  
4 from all the animals that we removed from  
5 the property yesterday.

6 We are going to do what we call  
7 CBC and profiles that gives us the general  
8 health status of these animals including  
9 kidney function and the liver function.

10 The kidneys and the liver are the  
11 organs that process the anesthetic agents  
12 that we use.

13 So until we get the blood work  
14 results back to determine the liver and  
15 kidney function of each individual animal,  
16 that would also dictate when we would  
17 recommend reanesthetization of the animals.

18 THE COURT: Go ahead.

19 MS. HUNTSMAN: My animals don't  
20 have to be anesthetized to move them. I  
21 have transport cages that they are  
22 accustomed to running into. I told them  
23 this yesterday.

24 They didn't even have to  
25 anesthetize them yesterday to remove them,

1 but nobody would listen to me.

2 My chimpanzee, all I have to do is  
3 put a collar on him; and he will walk into  
4 this cage. The baboon is the same way and  
5 my tigers the same way.

6 I don't have to walk them. All I  
7 have to do is put the transport cage up  
8 against the cage that they are facilitating  
9 to get them in and they will run in.

10 THE COURT: Let me tell you where  
11 I am at, okay? I don't know a lot about  
12 animals but I have a -- you are a doctor,  
13 ma'am?

14 DR. SIMMERMAN: Yes, sir.

15 THE COURT: I am going to rely on  
16 protecting the animals. This is really all  
17 about protecting the animals.

18 If the doctor says she needs two  
19 weeks to get these back, I am going to err  
20 on the side of protecting the animals.

21 I know it's not what you want and  
22 I can appreciate that.

23 But I have a lot of respect for  
24 the doctor and the doctor's opinion. So I  
25 don't see any harm in waiting the two

1 weeks. We have got to get a hearing date  
2 anyway.

3 So I don't have a problem  
4 following your two week recommendation,  
5 Doctor. I am not here to harm the animals.  
6 I want to do what's in their best interest  
7 to protect them.

8 Everybody got your calendars?

9 MR. PATTERSON: Your Honor, is it  
10 my understanding, then, that the Court will  
11 issue a written order setting forth the  
12 factual findings of the Court with regard  
13 to the search warrant and the temporary  
14 restraining order?

15 THE COURT: Sure, if you like  
16 that, I would be happy to. Yeah.

17 What does Thursday, May 16, look  
18 like for everybody? I'm sorry, that is  
19 June.

20 I apologize. I had the wrong  
21 month. I am sorry about that.

22 How about May 18?

23 MR. JUERGENSEN: What time would  
24 that be, Your Honor?

25 THE COURT: Nine.

1 MR. JUERGENSEN: I actually have  
2 to be in Court for a hearing.

3 THE COURT: What time do you think  
4 you would be done, ball park?

5 MR. JUERGENSEN: That hearing is  
6 at ten.

7 THE COURT: How long, counsel, do  
8 you think you need?

9 MR. PATTERSON: Well, we are  
10 certainly going to need to present  
11 testimony from, I would say from two  
12 veterinarians and probably from another  
13 enforcement agent at the property. So I am  
14 thinking half a day.

15 THE COURT: Lawyers say half a  
16 day, it's usually a day. Right, Sharon?  
17 What does Thursday, the nineteenth, look  
18 like?

19 MR. JUERGENSEN: Good for me.

20 MR. PATTERSON: I am open that  
21 day, Your Honor.

22 THE COURT: I may have to take  
23 one break at ten just to do a quick, quick  
24 hearing. Okay. So we will do, start at  
25 9 a.m. Anything else?

1 MR. JUERGENSEN: No, Your Honor.  
2 Thank you again for your time.

3 MR. PATTERSON: Your Honor, excuse  
4 me. Just to clarify.

5 It is my understanding that the  
6 Court's temporary restraining order with  
7 regard to these animals will be subject to  
8 that preliminary injunction hearing being  
9 held in two weeks.

10 THE COURT: It is granted for two  
11 weeks. In two weeks I expect that they be  
12 brought back in two weeks, two weeks from  
13 today. That's my order.

14 Unless the preliminary hearing  
15 were to change my thinking, but right now  
16 that's what I have ordered.

17 MR. PATTERSON: I don't think we  
18 have entered in an official appearance of  
19 record. I think I gave you one yesterday,  
20 but I have a card that has contact  
21 information on it.

22 I would ask that that order be  
23 sent to my attention.

24 THE COURT: Sure. Everybody  
25 exchange cards.

1 MR. JUERGENSEN: The Clerk's  
2 Office, are they going to give us an MI  
3 number?

4 THE COURT: They will now that you  
5 have filed your motion. Right now I don't  
6 have it.

7 MR. JUERGENSEN: Yeah.

8 THE COURT: Maybe she put it on  
9 here. She dropped something off.

10 MR. JUERGENSEN: They will have to  
11 assign an MI number.

12 THE COURT: I don't have a case  
13 number yet.

14 MR. JUERGENSEN: I am going to go  
15 talk to her. Thank you, Judge.

16 THE COURT: Can I give everybody  
17 some really good advice. You are here.  
18 Why don't everybody stay here about a half  
19 hour and talk.

20 You know how I feel about the  
21 case. You know how I feel about  
22 everything. Everybody is here.

23 MR. JUERGENSEN: Yeah, I will do  
24 that.

25 THE COURT: Had we talked before,

1           maybe we wouldn't have been where we are  
2           at. But everybody stay a half hour, that's  
3           an order, and talk for a half hour.

4                        It is amazing what can happen when  
5           everybody talks and maybe you can resolve  
6           this issue. Okay.

7                        MR. PATTERSON: Okay.

8                        MR. JUERGENSEN: Thank you, Your  
9           Honor.

10                      THE COURT: That will be all.

11                      - - - - -

12                      (Court adjourned on Tuesday,  
13                      May 5, 2016, at 10:05 p.m.)

14                      - - - - -

15

16

17

18

19

20

21

22

23

24

25

## C-E-R-T-I-F-I-C-A-T-E

I, Alanna Hill, a Certified Shorthand Reporter, Registered Professional Reporter, and Certified Realtime Reporter, do hereby certify that I reported in Stenotypy the proceedings had; and I do further certify that the foregoing is a true and accurate transcription of said proceedings.

*Alanna Hill*

-----

ALANNA HILL, CSR-RPR-CRR

FILED  
MAY 05 2016  
LOUIS P. GIAYASIS  
STARK COUNTY OHIO  
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS  
STARK COUNTY, OHIO

IN RE: )  
)  
CYNTHIA HUNTSMAN )  
TRANSFER OF DANGEROUS WILD )  
ANIMALS )  
)  
)  
)  
)  
)  
)

ORDER NO. ~~2016-092~~ 2016 NI 138

JUDGE FRANK FORCHIONE

ORDER

Now comes the Court in consideration of the Motion for Temporary Restraining Order and Preliminary Injunction filed on May 4, 2016 on behalf of Cynthia Huntsman, Transfer of Dangerous Wild Animals. The Court set a hearing for Thursday, May 5, 2016, which all parties attended.

The standards for injunctive relief under Ohio Civ.R. 65, as well as Ohio law, permits the issuance of a temporary restraining order and preliminary injunction if the following criteria are met: 1) the movant has substantial likelihood of succeeding on the merits; 2) the movant will suffer a reparable injury if the injunction is not issued; and, 3) the injunctive relief would unjustifiably harm third parties, or whether the public interest would be served issuing a relief.

After hearing oral arguments, this Court grants Huntsman's Motion for Temporary Restraining Order and sets this matter for a preliminary injunction hearing. There are two sides to the coin of "due process." Huntsman has provided sufficient evidence that she is likely to succeed on the merits since she has a duly issued permit from the State of Ohio for her animals. Although the State of Ohio disagrees with the interpretation of the validity of this permit, this issue will be mediated by the parties on August 22, 2016. This permits the Court to ponder the real question – why did the State want to take the animals in the first place? The animals have been placed in quarantine on Huntsman's property since March of 2016. There have been no allegations that the animals have been mistreated, are an escape threat, or pose

STATE'S EXHIBIT  
A-8  
PENGAD 800-651-8989

any danger to the general public.

Furthermore, Huntsman will suffer irreparable harm if the injunction is not granted. The moving of these animals can cause them unnecessary distress. Ms. Huntsman provides special care for them. The animals are often visited by schools, nursing homes, and other organizations. In addition, Huntsman has convinced the Court that removing the animals will destroy the farm and permanently damage her reputation within the Stark County community.

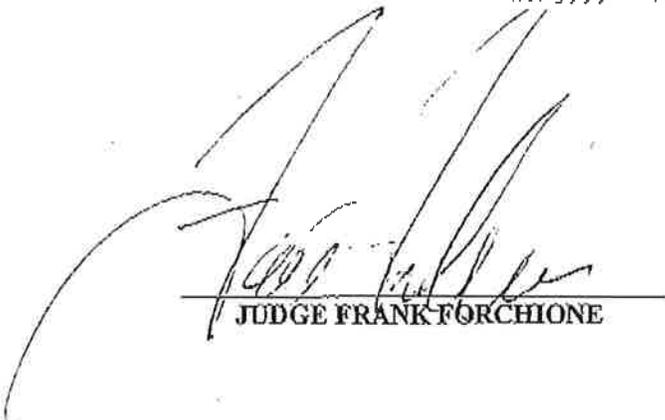
Finally, no third parties would be harmed if the injunction or a restraining order were to be granted. The animals do not pose a threat to anyone, nor are they themselves in any danger. Huntsman stated to the Court that the Department of Agriculture ("DOA") has recently conducted an inspection and has not found any infractions or found her to be in noncompliance, which would pose any threat or danger to the community.

The public interest would be served by issuing relief. Private individuals have a fundamental right to be safe from government overreaching or unnecessary taking of their property. These animals are being put through unnecessary distress, especially when a hearing that should resolve this issue will be taking place in August of 2016. The Court, further, has concerns that the confiscation allows the State to gain an unfair advantage in this litigation. Huntsman's claim that the State's only purpose is punitive in nature appears to have some merit. Furthermore, the law favors the status quo during pending litigation. These animals are personal property and Huntsman is entitled to due process before they are removed from her premises.

Accordingly, Huntsman is granted a temporary restraining order requiring the DOA to return the animals seized on May 4, 2016 and leave them in Huntsman's possession until the conclusion of any pending litigation. Huntsman would like the animals returned immediately; however, the DOA has provided medical testimony that indicates that there should be a two week delay in returning the animals back to Huntsman. The Court is going to err on the side of protecting the animals and will permit the DOA fourteen (14) days in which to return the animals.

A preliminary injunction hearing has been set for Thursday, May 19 2016 at 9:00 a.m.

**IT IS SO ORDERED.**



**JUDGE FRANK FORCHIONE**

cc: John Juergensen, Esq. (330-494-4201)  
Michael Bickis - Assistant Stark County Prosecuting Attorney  
James R. Patterson, Esq. - Ohio Attorney General's Office (614-728-9470)