

<i>SUMMARY OF CURRENT DOCUMENT</i>	
Name of Issuing Party or Person:	John Deere Limited and John Deere Credit Inc.
Date of Document:	7 February 2003
Summary of Order/Relief Sought or Statement of Purpose in filing:	Reply Memorandum of Fact and Law of John Deere Limited and John Deere Credit Inc. to the Interlocutory Application (Inter Partes) of various creditors in respect of the Security Interest claimed by GMAC
Court Sub-File Number:	7:05, 7:24, 7:25, 7:26, 7:27, 7:33, 7:33A, 7:34, 7:37, 7:38, 7:39, 7:42, 7:43, 7:45, 7:49, 7:50

2002 01 T 0352

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION**

IN THE MATTER OF A Court ordered Receivership
Of Hickman Equipment (1985) Limited ("Hickman
Equipment") pursuant to Rule 25 of the *Rules of the
Supreme Court, 1986* under the *Judicature Act*, RSNL
1990, c. J-4, as amended

AND IN THE MATTER OF the *Bankruptcy and
Insolvency Act*, RSC 1985, c. B-3, as amended

AFFIDAVIT OF DOUGLAS A. DICKER
Sworn 7 February 2003

I, **DOUGLAS A. DICKER**, of the Town of Grimsby, in the Province of Ontario, make
oath and say as follows:

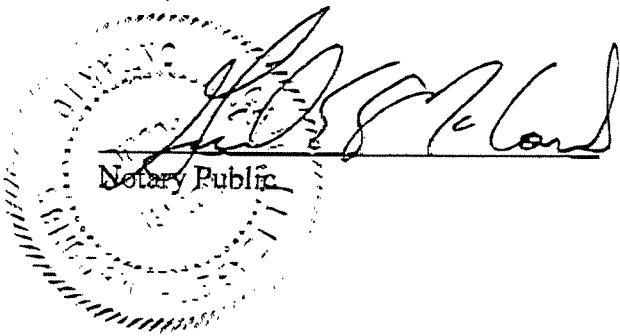
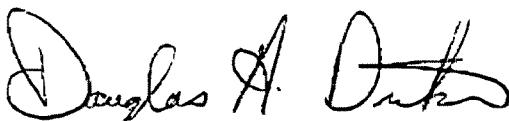
1. THAT I am Division Manager of John Deere Limited ("JDL") and as such have personal
knowledge of the matters herein deposed.

2. THAT I have personal knowledge of the matters herein deposed to except where stated to be on information and belief, and whereso stated I verily believe same to be true.
3. THAT I have been employed with JDL since 1981, and have otherwise been involved in the heavy equipment business for 30 years. From 1983 to August 1985, I was a territory manager in Atlantic Canada for JDL dealers. I transferred to Alberta in September 1985 to April 1986 as territory manager for JDL dealers in that Province. In both of those positions, I had overall responsibility for inventory control with all dealers located in the territory.
4. THAT I am currently the Canadian division manager for the Worldwide Construction and Forestry Division with JDL, and have held that position since August 2000.
5. THAT I have been provided with a copy of the agreement dated 25 July 2000 (the "GMAC Security Agreement (Leasing)") which was entered into between Hickman and General Motors Acceptance Corporation of Canada, Limited ("GMAC"), a copy of which is attached hereto and marked Exhibit "A".
6. THAT the GMAC Security Agreement (Leasing) sets out in the first paragraph thereof the phrase "new and used vehicles (including chassis)...". The word "vehicles" and the related defined term "Vehicles" are referred to in several places in the GMAC Security Agreement (Leasing). The units which are the subject of the within application are backhoes, graders, excavators and other heavy equipment; they are not cars, trucks or other vehicles for the transporting of people or goods. Such heavy equipment is not designed for, intended for, or, to the best of my knowledge, information and belief, used for, the transporting of people or goods.
7. THAT to the best of my knowledge, information and belief, in the construction and forestry equipment industries, heavy equipment is supplied to dealers for sale or lease on a complete and fully equipped basis. In the case of JDL, all heavy equipment supplied by

JDL is supplied as "complete goods". Construction and forestry equipment is built upon a base or frame. The base or frame would not normally be referred to by anyone in the construction and forestry equipment industries as a "chassis". A "chassis" would be something found on a truck or motor car, not a unit of heavy equipment.

8. THAT to the best of my knowledge, information and belief, in the construction and forestry equipment industries the goods which are the subject of the within application are usually referred to as "equipment", "construction equipment" or "forestry equipment", and sometimes as "units", "pieces of equipment" or "items"; they are very rarely, if ever, referred to as "vehicles".

SWORN at Grimsby, in the Province
of Ontario, this 7th day of February,
2003, before me:

A circular notary seal with a decorative border. Inside the border, the words "NOTARY PUBLIC" are printed in a serif font. In the center of the seal, there is a signature that appears to read "DICKER".
DOUGLAS A. DICKER

SECURITY AGREEMENT (LEASING)

**TO: GENERAL MOTORS ACCEPTANCE CORPORATION OF CANADA, LIMITED
(GMAC)**

In the course of business, we acquire new and used vehicles (including chassis) from manufacturers, distributors and others which we will hold for lease or which now or may be leased to the public, all of which are hereinafter referred to as "Vehicles", which term shall include all vehicles of like kinds or types now owned or hereafter acquired by us (including all accessories and attachments thereto) and all replacements and substitutions therefor and all additions and accessions thereto.

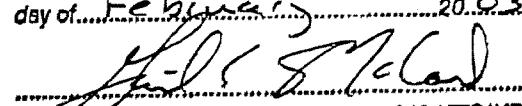
We desire GMAC to furnish financing accommodation to us upon the security of Vehicles and proceeds thereof and hereby agree, upon demand, to pay to GMAC the amount it advances or is obligated to advance in connection with the financing by GMAC of Vehicles with interest at the rate per annum designated by GMAC from time to time and then in force under the GMAC Wholesale Plan or otherwise as may be agreed upon.

To secure collectively the payment of all amounts owing by us to GMAC including, without limitation, all amounts advanced by GMAC or which GMAC may be obligated to advance as aforesaid and all amounts owing by us to GMAC from time to time in connection with the financing of Vehicles leased by us to the public and interest due thereon and any ultimate balance thereof, we hereby grant, assign, transfer, set over, mortgage and charge in favour of and grant to GMAC a security interest in all Vehicles so acquired and in the proceeds thereof and in all leases relating thereto to the full extent provided or permitted by law. The word proceeds shall have the meaning ascribed to it under applicable personal property security laws.

Our possession of the Vehicles shall be for the purpose of storing and exhibiting same for lease and the leasing thereof to the public in the ordinary course of business. Save as hereinafter provided we shall not use the Vehicles illegally, improperly or for hire. GMAC shall at all times have the right of access to and inspection of the Vehicles and the right to examine our books and records pertaining to the Vehicles.

We agree to keep the Vehicles free of all taxes, liens and encumbrances, and any sum of money that may be paid by GMAC in release or discharge thereof shall be paid to GMAC on demand as an additional part of the obligation secured hereunder.

We shall not mortgage, pledge or lend the Vehicles and shall not transfer or otherwise dispose of or encumber them except as in the next paragraph more particularly provided. We shall execute in favour of GMAC any form of document which may reasonably be required by GMAC for the amounts advanced to the manufacturer, distributor or seller, and shall execute such additional documents as GMAC may at any time reasonably request in order to confirm or perfect title or security in the Vehicles. Execution by us of any instrument for the amount advanced shall be deemed evidence of our obligation and not payment therefor. We authorize GMAC or any of its officers or employees or agents to execute such documents in our behalf and to supply any omitted information and correct patent errors in any document executed by us as such officers, employees or agents may reasonably consider necessary and the said officers, employees and agents and each of them are hereby appointed our true and lawful attorney for such purposes.

This is Exhibit "A" referred to in the
affidavit of Douglas A. Dicker
sworn before me, this 7th
day of February, 2003

A COMMISSIONER FOR TAKING AFFIDAVITS

We understand that we may lease the Vehicles in the ordinary course of business and all such Vehicles shall be held by us as inventory. We further agree that as each such Vehicle is sold, we will faithfully and promptly remit to you the amount you advanced or have become obligated to advance on our behalf pursuant to this agreement, with interest at the aforesaid rate per annum designated and in effect under the GMAC Wholesale Plan or as otherwise agreed and any other amounts which we may have become obligated to pay with respect to such Vehicle.

At the option of GMAC, all amounts secured by this agreement shall immediately and automatically become due and payable upon the happening of any of the following events:

- (a) if we shall fail to pay any amounts secured by this agreement when due or comply with any of the terms and conditions of this or any other agreement with GMAC;
- (b) if we shall cease or threaten to cease to carry on business in the normal course, commit an act of bankruptcy, become insolvent, make an authorized assignment or a bulk sale of our assets or if we should propose a compromise or arrangement to our creditors or if a receiver should be appointed of any part of our assets;
- (c) if any proceeding is taken in bankruptcy, insolvency or receivership by or against us or with respect to a compromise or arrangement, or to have us declared bankrupt or wound-up, or if any encumbrancer takes possession of any part of our assets;
- (d) if any execution, sequestration or extent or any other process of any court having jurisdiction becomes enforceable against us or if any distress or analogous process is levied upon our assets or any part thereof; or
- (e) if GMAC in good faith deems itself insecure or the vehicles to be in danger of misuse, loss, seizure or confiscation or that the prospect of payment or performance by us under this agreement is impaired.

Upon the happening of any of the foregoing events, GMAC may:

- (a) take immediate possession of the said Vehicles, without demand or further notice and without legal processes; for the purposes of facilitating such taking of possession and in the furtherance thereof, we shall, if GMAC so requests, assemble said Vehicles and make them available to GMAC at a reasonable convenient place designated by it, and GMAC shall have the right, and we hereby authorize and empower GMAC, to enter upon the premises wherever said Vehicles may be and remove the same. Thereupon GMAC may sell the said Vehicles and apply the net proceeds, after deducting all expenses and expenditures of taking and keeping possession thereof including reasonable legal fees and costs and any other legal expenses in connection with GMAC's exercise of any of its rights and remedies under this agreement, on account of amounts owing by us to GMAC and we shall be liable for any deficiency resulting from such sale and shall pay the same to GMAC forthwith upon demand. In the event of repossession of Vehicles as aforesaid by GMAC, the rights and remedies under applicable laws shall apply; provided that to the extent permitted by law, we, if a corporation, hereby agree that in the Province of Saskatchewan, The Limitation of Civil Rights Act, as the said Act is amended or may from time to time be amended, shall have no application to this agreement or any mortgage, charge or other security for the payment of money connected herewith or collateral hereto, or any agreement or instrument renewing or extending this agreement; all rights, benefits or protection whereof we hereby specifically waive;

(b) in its discretion, appoint by a document in writing a receiver or a receiver and manager (hereinafter referred to as the "receiver"), of the Vehicles or any part thereof and may remove any receiver so appointed and appoint another in his or its place. A receiver so appointed shall be vested with all and any of the powers and discretions of GMAC and, without limiting the generality of the foregoing, such receiver shall have the power:

- (i) to take possession of the Vehicles or any part thereof;
- (ii) to carry on our business or any part thereof;
- (iii) to borrow money required for the maintenance, preservation or protection of the Vehicles or any part thereof or for the carrying on of our business;
- (iv) to sell all or any portion of the Vehicles on those terms and conditions and in the manner that the receiver may establish.

A receiver so appointed by GMAC is considered to be our agent and GMAC shall not in any way be responsible for any misconduct or negligence of said receiver.

All the terms and provisions of this agreement shall be construed and determined in accordance with laws of the province where we maintain our principal place of business; provided, however, that any term, condition, clause or provision of this agreement which is not in conformity with the requirements of or is prohibited by such applicable laws of the said province shall be ineffective in that province, to the extent of such non-conformity or prohibition, without invalidating the remaining terms, conditions, clauses and provisions of this agreement.

This agreement is in addition to and not in substitution for any other agreement, contract or other document which GMAC may hold or be given creating a security interest in all or any Vehicles now owned or hereafter acquired by us.

IN WITNESS WHEREOF each of the parties has caused this agreement to be executed by its duly authorized representative this 6th day of March, 2000.

ACCEPTED:

GENERAL MOTORS ACCEPTANCE
CORPORATION OF CANADA, LIMITED

BY John W. Barker
TITLE ASSISTANT SECRETARY

Hickman Leasing Limited

BY John W. Barker
TITLE ASSISTANT SECRETARY

Witness John W. Barker

BY John W. Barker
TITLE ASSISTANT TREASURER