

2003 No. 01 H 0004
IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL

BETWEEN:

Wells Fargo Equipment Finance Company **Appellant**

AND:

General Motors Acceptance Corporation **First Respondent**

AND:

**John Deere Limited and John Deere
Credit Inc.** **Second Respondent**

AND:

CIBC Equipment Finance Limited **Third Respondent**

AND:

Hickman Leasing Ltd. **Fourth Respondent**

AND:

Canadian Imperial Bank of Commerce **Fifth Respondent**

AND:

**PricewaterhouseCoopers Inc., as Trustee
in Bankruptcy and Receiver of Hickman
Equipment (1985) Limited** **Sixth Respondent**

NOTICE OF APPEAL

TAKE NOTICE that the Appellant appeals from the order or decision of the Honourable Justice Hall dated the 3 day of January, 2003 in proceedings in the Supreme Court of Newfoundland and Labrador, Trial Division, bearing No. 2002 01 T 0352 and entitled:

**IN THE MATTER OF the Application
of Wells Fargo Equipment Finance Company
for possession of two pieces of equipment in
the possession of Hickman Equipment
(1985) Limited**

**AND IN THE MATTER OF the Receivership of
Hickman Equipment (1985) Limited**


AND THAT the grounds of the proposed appeal are:

1. **THAT Justice Hall erred in concluding that the perfection of the security interests of the equipment leases held by the Appellant were not properly transitioned under the provisions of the Personal Property Security Act ("PPSA"), and that the Appellant has therefore lost whatever priority over the equipment it may have held by reason of the pre-PPSA registrations;**
2. **THAT Justice Hall erred in concluding that the omission by the Appellant in its financing statements of March 21 and March 22 2000 of the required particulars of the Prior Law registrations under Regulation 26 of the Personal Property Security Regulations is seriously misleading and is not capable of being cured under s.44 of the PPSA; and**
3. **Such further and other grounds as counsel for the Appellant may advise and this Honourable Court may permit.**

AND THAT the Appellant files this Notice of Appeal for the purpose of preserving its right to appeal.

AND THAT the Appellant does not presently intend to apply to proceed with the proposed appeal until the application in the Trial Division has been completed.

DATED AT St. John's, Newfoundland and Labrador, this 13 day of January, 2003.


Richard B. Jones
Jones, Rogers LLP
Solicitors for the Appellant

Jan-23-03
01-18-2003

10:11am
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From-
From-LEARNMOUTH DUNNE

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1-1/18 P.003/008 F-983

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ADDRESS FOR SERVICE:

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To: McInnes, Cooper
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10 Fort William Place
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Attention: Thomas R. Kendell, O.C.

Stewart McKelvey Stirling Scales
Solicitors for John Deere Limited and John Deere Credit Inc.
P.O. Box 5038
11th Floor, Cabot Place
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Attention: Michael Harrington, O.C. and Maureen Ryan

White, Ottenheimer & Baker
Solicitors for CIBC Equipment Finance Limited
P.O. Box 5457
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Attention: Gregory W. Dickie

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Attention: Griffith D. Roberts

Jan-23-03 10:11am From-
01-13-2003 18:43 From-LEARMONTH DUNNE

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T-129 P.005/005 F-852
1-118 P.000/000 F-000

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Benson Myles
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Attention: Frederick J. Constantine