

COPY

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL

NOTICE

Re:	Wells Fargo Equipment Finance Company	Appellant
	General Motors Acceptance Corporation	1 st Respondent
	John Deere Limited and John Deere Credit Inc.	2 nd Respondent
	CIBC Equipment Finance Limited	3 rd Respondent
	Hickman Leasing Ltd.	4 th Respondent
	Canadian Imperial Bank of Commerce	5 th Respondent
	PricewaterhouseCoopers Inc., as Trustee	
	in Bankruptcy and Receiver of Hickman Equipment	
	(1985) Limited	6 th Respondent
	<u>200301H0004</u>	

Barry Learmonth, Q.C.
Learmonth, Dunne & Clarke
22 Church Hill
St. John's, NL
A1C 5L4

Pursuant to Rule 57.20(4) of the Rules of the Supreme Court of Newfoundland and Labrador, the appeal in respect of the above matter is deemed abandoned.

Dated at St. John's in the Province of Newfoundland and Labrador this 26th day of January, A.D. 2004.

Madonna Morris

Madonna Morris
Deputy Registrar

filed Jan 26, 2004

20 Jan 2004 12:04 1100

Thomas Kendall, Q.C. for 1st Respondent
Michael Harrington, Q.C. for 2nd Respondent
Gregory Dickie for 3rd Respondent
Griffith Roberts for 4th Respondent
Geoffrey Spencer for 5th Respondent
Frederick Constantine for 6th Respondent

CCPY

2003 No. 01H0004

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:

FILED JAN 13 2003

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.

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

ADDRESS FOR SERVICE:

c/o Learmonth, Dunn & Clarke
22 Church Hill
P.O. Box 700
St. John's, NL
A1C 5L4

To: McInnes, Cooper
Solicitors for General Motors Acceptance Corporation
P.O. Box 5939
5th Floor, Baine Johnston Centre
10 Fort William Place
St. John's, NL, A1C 5X4
Attention: Thomas R. Kendall, Q.C.

Stewart McKelvey Stirling Scales
Solicitors for John Deere Limited and John Deere Credit Inc.
P.O. Box 5038
11th Floor, Cabot Place
100 New Gower Street
St. John's, NL, A1C 5V3
Attention: Michael Harrington, Q.C. and Maureen Ryan

White, Ottenheimer & Baker
Solicitors for CIBC Equipment Finance Limited
P.O. Box 5457
6th Floor, Baine Johnston Centre
10 Fort William Place
St. John's, NL, A1C 5W4
Attention: Gregory W. Dickie

Cox, Hanson, O'Reilly, Matheson
Solicitors for Hickman Leasing Ltd.
4th Floor, Scotia Centre
235 Water Street
St. John's, NL, A1C 1B6
Attention: Griffith D. Roberts

Benson Myles
Solicitors for Canadian Imperial Bank of Commerce
P.O. Box 1538
9th Floor, Atlantic Place
215 Water Street
St. John's, NL, A1C 5N8
Attention: Geoffrey L. Spencer

Patterson Palmer
Solicitors for PricewaterhouseCoopers Inc.
Suite 1000, 235 Water Street
P.O. Box 610
St. John's, NL, A1C 5L3
Attention: Frederick J. Constantine