

COPY

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL

NOTICE

Re: Wells Fargo Equipment Finance Company	Appellant
General Motors Acceptance Corporation	1st Respondent
John Deere Limited and John Deere Credit Inc.	2nd Respondent
CIBC Equipment Finance Limited	3rd Respondent
Hickman Leasing Ltd.	4th Respondent
Canadian Imperial Bank of Commerce	5th Respondent
PricewaterhouseCoopers Inc., as Trustee	
in Bankruptcy and Receiver of Hickman Equipment	
(1985) Limited	6th 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 12:00 PM

Thomas Kendell, 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

2003 No. 0140004

COPY

**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 Second Respondent
Credit Inc.**

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 Sixth Respondent
in Bankruptcy and Receiver of Hickman
Equipment (1985) Limited**

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.



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

ADDRESS FOR SERVICE:

c/o Learmonth, Dunne & Clarke
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To: McInnes, Cooper
 Solicitors for General Motors Acceptance Corporation
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Attention: Thomas R. Kendell, O.C.

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

White, Ottenheimer & Baker
 Solicitors for CIBC Equipment Finance Limited
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 6th Floor, Baine Johnston Centre
 10 Fort William Place
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Attention: Gregory W. Dickie

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 Solicitors for Hickman Leasing Ltd.
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Attention: Frederick J. Constantine