

COURT FILE NUMBER 24-1906774

COURT COURT OF QUEEN'S BENCH OF ALBERTA  
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE EDMONTON

IN THE MATTER OF THE BANKRUPTCY OF  
SPRAGUE-ROSSER CONTRACTING CO. LTD.  
(Ordinary Administration)



AND:

COURT FILE NUMBER 1403 10990

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

APPLICANT ROYAL BANK OF CANADA

RESPONDENTS SPRAGUE-ROSSER CONTRACTING CO.  
LTD., SPRAGUE-ROSSER DEVELOPMENTS  
INC., PACIFIC FEDERATION EQUITY  
GROUP INC., JEFFERY JESSAMINE, DANIEL  
EDWARDS and MATTHEW MACKAY

DOCUMENT APPLICATION

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT Emery Jamieson LLP  
1700, 10235 - 101 Street  
Edmonton, Alberta, T5J 3G1  
Attention: Kyle R. Kawanami  
Tel. 780-426-5220  
Fax. 780-420-6277

File 23577-0011 KRK

#### NOTICE TO RESPONDENTS

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date	October 27, 2014
Time	2:00 p.m.
Where	Court of Queen's Bench of Alberta, Law Courts Building, Edmonton Alberta
Before Whom	The Honourable Mr. Justice D.R.G. Thomas, in Chambers

Go to the end of this document to see what else you can do and when you must do it.

**Remedy claimed or sought:**

**1. An Order:**

- a. Abridging time for service of notice of this Application, if necessary, and declaring service good and sufficient.
- b. Declaring that the following Equipment does not form part of the Property of Sprague-Rosser Contracting Co. Ltd., as that term is defined in paragraph 2 of the Receivership Order and the Amended and Restated Receivership Order:

- 2012 John Deere 770GXDW Motor Grader, s/n: 1DW770GXJBD641098;
- 2013 John Deere 544 KXDW 4WD Loader, s/n: 1DW544KZECD649700;
- 2013 John Deere 350 GLFF Excavator, s/n: 1FF350GXJCD808927;
- 2013 John Deere 350 GLFF Excavator, s/n: 1FF350GXTCD808938;
- 2012 John Deere 872 GP Motor Grader, s/n: 1DW872GPLCD646096;
- 2012 John Deere 872 GP Motor Grader, s/n: 1DW872GPCDD654518;
- 2012 John Deere 470 GLC Excavator, s/n: 1FF470GXTBE470075;
- 2010 Ditch Witch R300 Trencher, s/n: DVA01016.

(collectively, the "EHER Equipment")

- c. Declaring that the security of John Deere Financial Inc. ("JDFI") in the EHER Equipment is in priority to all other parties or other interests;
- d. Directing the Receiver to immediately and unconditionally release the following Equipment to JDFI:

- 2012 John Deere 770GXDW Motor Grader, s/n: 1DW770GXJBD641098;
- 2012 John Deere 872 GP Motor Grader, s/n: 1DW872GPLCD646096;
- 2012 John Deere 470 GLC Excavator, s/n: 1FF470GXTBE470075;
- 2010 Ditch Witch R300 Trencher, s/n: DVA01016.

(the "Edmonton EHER Equipment")

- e. Authorizing JDFI to dispose of the following Equipment in any manner which it deems appropriate:

- 2013 John Deere 350 GLFF Excavator, s/n: 1FF350GXTCD808938;
- 2013 John Deere 350 GLFF Excavator, s/n: 1FF350GXJCD808927;
- 2012 John Deere 872 GP Motor Grader, s/n: 1DW872GPCDD654518;
- 2013 John Deere 544 KXDW 4WD Loader, s/n: 1DW544KZECD649700.

(the "Saskatchewan EHER Equipment")

- f. Directing that any surplus obtained by JDFI following any sale of the EHER Equipment, after payment of JDFI's indebtedness and costs in full, be paid into Court pending agreement between all interested parties or further order of the Court, but otherwise directing that JDFI shall not be required to account to anyone regarding any disposition of the EHER Equipment;
- g. Declaring that the Receiver, either in its capacity as Receiver of Sprague-Rosser Contracting Co. Ltd or in its capacity of Trustee in Bankruptcy of Sprague-Rosser Contracting Co. Ltd, has no interest in the EHER Equipment;
- h. Directing that the Receiver release to JDFI the 2010 John Deere 350 DLC Excavator, s/n: 1FF350DXJA0806846 (the "Contracting Equipment"), on the condition that JDFI account to the Receiver for any proceeds obtained in any sale of the Contracting Equipment, and that any surplus in the disposition of the Contracting Equipment be paid into Court pending further order or agreement between all interested parties;
- i. Declaring that no part of the Receiver's Charge or the Receiver's Borrowing Charge shall be allocated against any of the EHER Equipment;
- j. Directing that any determination of the allocation of the Receiver's Charge or the Receiver's Borrowing Charge against the Contracting Equipment be adjourned to an unspecified date;
- k. Granting costs to JDFI, on a solicitor and own client basis, against any party opposing this Application.

**Grounds for making this application:**

- 2. JDFI has a perfected security interest in the following Equipment:
  - 2012 John Deere 770GXDW Motor Grader, s/n: 1DW770GXJBD641098;
  - 2013 John Deere 544 KXDW 4WD Loader, s/n: 1DW544KZECD649700;
  - 2013 John Deere 350 GLFF Excavator, s/n: 1FF350GXJCD808927;
  - 2013 John Deere 350 GLFF Excavator, s/n: 1FF350GXTCD808938;
  - 2012 John Deere 872 GP Motor Grader, s/n: 1DW872GPLCD646096;
  - 2012 John Deere 872 GP Motor Grader, s/n: 1DW872GPCDD654518;
  - 2012 John Deere 470 GLC Excavator, s/n: 1FF470GXTBE470075;
  - 2010 Ditch Witch R300 Trencher, s/n: DVA01016;
  - 2010 John Deere 350 DLC Excavator, s/n: 1FF350DXJA0806846.
- 3. The agreements between JDFI and Edmonton Heavy Equipment Rentals Ltd., and between JDFI and Sprague-Rosser Contracting Co. Ltd. are in default.
- 4. Despite requests, the Receiver has failed or refused to release the Edmonton EHER Equipment or the Contracting Equipment to JDFI.

5. JDFI has possession of the Saskatchewan EHER Equipment, and would like to begin remarketing efforts with respect to same.
6. Despite requests, the Receiver and Edmonton Heavy Equipment Rentals Ltd. have failed to produce a copy of any lease agreement between Edmonton Heavy Equipment Rentals Ltd. and Sprague-Rosser Contracting Co. Ltd. which relates to any Equipment over which JDFI has security.
7. The EHER Equipment and the Contracting Equipment are highly depreciable assets.
8. At the time of the appointment of the Receiver, the EHER Equipment was not the property of Sprague-Rosser Contracting Co. Ltd.

**Material or evidence to be relied on:**

9. Affidavit of Linda Merk, sworn October 23, 2014.

**Applicable rules:**

10. 6.3

**Applicable Acts and regulations:**

11. *Personal Property Security Act*, R.S.A. 2000, c.P-7.
12. *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3.
13. *Judicature Act*, R.S.A. 2000, c.J-2.

**Any irregularity complained of or objection relied on:**

14. None.

**How the application is proposed to be heard or considered:**

15. Counsel for the Applicant will be appearing in person before the presiding Justice in Chambers.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.