

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

CAISSE DESJARDINS ONTARIO CREDIT UNION INC.

Applicant

and

PHILOVERA HOLDINGS INC., ALBER HANNA and LOURINE BOLOUS

Respondents

APPLICATION UNDER SECTION 243(1) OF *THE BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C.C.43, AS AMENDED

BOOK OF AUTHORITIES
(Appointment of Receiver)

September 17, 2026

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TAB 1 *Daimler Truck Financial Services Canada Corporation v. 2734247 Ontario Limited, et al.*, Ontario Superior Court of Justice (Commercial List), Court File No. CL-26-00000301-0000, July 21, 2026

TAB 1



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CL-26-00000301-0000

DATE: July 21, 2026

NO. ON LIST: 1

TITLE OF PROCEEDING: DAIMLER TRUCK FINANCIAL SERVICES CANADA
CORPORATION v. 2734247 ONTARIO LIMITED, et al.

BEFORE: JUSTICE FREDERICK L. MYERS

PARTICIPANT INFORMATION

For Applicant:

Name of Person Appearing	Name of Party	
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For Respondent:

Name of Person Appearing	Name of Party	Contact Info
Balbir Opal assisted by his son Rocky Uppal	Self-Represented Respondent	beera4u@live.ca rockyuppal@outlook.com

For Other:

Name of Person Appearing	Name of Party	Contact Info
Harvey Chaiton	Counsel to The Bank of Nova Scotia and Roynat Inc.	harvey@chaitons.com

ENDORSEMENT OF JUSTICE Frederick L. Myers:

1. The Applicant moves to appoint a receiver over 61 trucks and trailers it leased to the corporate Respondents.

2. The corporate Respondents have other similar cases against them including one brought by Mr. Chaiton's clients. At times, they corporate Respondents have been represented by counsel in those proceedings. The lawyer is Mr. Sina Nastarani.
3. Mr. Opal, the owner of the Respondents, appears today assisted by his son. They say they retained Mr. Nastarani on a limited retainer basis for this application too. After an earlier introductory email, Mr. Nastarani wrote to counsel for the Applicant yesterday to seek an adjournment on behalf of the Respondents.
4. Mr. Nastarani did not appear today. He did not send an agent on his behalf. He did not deliver any evidence on behalf of his clients. He did not deliver a Notice of Appearance. He did not write to the Registrar to advise that he was asking for an adjournment. He did not even provide Mr. Opal with a few future dates on which he is available.
5. The Respondents leased goods from the Applicant under nine distinct leases. Five of the nine leases have run out their terms and expired. The Respondents have not returned the leased trucks and trailers. Mr. Uppal,. for his father, says that they are hoping to finance or refinance the residual payout option price. But for now, they are actively using the trucks and trailers in their business without any legal basis to do so and without paying anything to the Applicant.
6. Some trucks and trailers remain under lease in the other four leases. The Applicant has given notice of default and served proper enforcement notices for these leases between last November and February of this year.
7. This proceeding was served on Mr. Opal personally on July 10, 2026. Given his familiarity with Mr. Nastari and their experience with two other proceedings of the same type as this brought by other lessors, the fact that Mr. Nastarani only sought an adjournment at the last minute and failed to appear or to take any steps to respond today seems more contrived than if this was a new process suddenly unleashed on the Respondents.

8. The Respondents did not have to search for counsel. They just had to send an email or make a telephone call to Mr. Nastarani on July 10, 2026. They know they are in default of some leases and that others have run their full terms. Mr. Nastarani knows the subject matter if not the specific facts of these particular leases.
9. The law applicable to requests for an adjournment is not controversial. Generally speaking, the issue on an adjournment motion is whether adjourning a proceeding is in the interests of justice considering all relevant factors. *Khimji v. Dhanani*, 2004 CanLII 12037 (ON CA). Case law provides numerous ways to recite or organize the relevant issues. I accept the following articulation by Weiler J.A. in *Toronto-Dominion Bank v. Hylton*, 2010 ONCA 752 (CanLII):

[37] Laskin J.A.'s passage [in *Khimji*] makes it clear that, in reviewing highly discretionary decisions such as whether to allow a request for an adjournment, the inquiry must focus on whether the court below took account of relevant considerations in balancing the competing interests and made a decision that was in keeping with the interests of justice.

[38] Against the backdrop of the nature of the proceeding and the parties to the proceeding, the court should consider **the evidence and strength of the evidence of the reason for the adjournment request, the history of the matter including deliberate delay or misuse of the court process, the prejudice to the party resisting the adjournment and the consequences to the requesting party of refusing the request.**

[Emphasis added.]

10. I am very concerned about the balance of prejudices. Mr. Uppal says that they have settled with prior lenders including Mr. Chaiton's clients. They want an adjournment to let them try to settle with the Applicant. But nothing has stopped them from proposing settlement terms with the Applicant from any time last February until today. It takes two to settle and the Applicant says the request is too little; too late.

11. There is evidence presented by the Applicant to the effect that the Respondents blocked their efforts to collect their trucks and trailers. A bailiff swears that Mr. Opal threatened him with harm personally and with damage the trucks and trailers. Mr. Uppal says that his father will deny this.
12. The Applicant also has evidence that the Respondents are changing VINs on some of the trucks and trailers to impair identification. They have hearsay to suggest that many of the trucks and trailers have been immobilized and their parts may be being scavenged.
13. Mr. Uppal says that it is normal for trucks to be in various states of maintenance and ill-repair. I note that the leases seem to contemplate some work being done by the tenant to reassemble trucks and trailers before returning them at the end of the term. This suggests that some transitory degree of change to their states or conditions are expected. I am not able to determine today the extent of changes or whether on the few observations made by the bailiff a wholesale chop shop operation is being run by the Respondents.
14. Nevertheless, I am cognizant of the fact that the trucks and trailers are mobile by definition. The Applicant has located only a handful whether being blocked by the Respondents or not.
15. In light of the difficulty locating the trucks and trailers, Mr. Uppal made submissions that greatly exacerbated my concern. I asked if he could provide the Respondents with a list showing the location of all the Respondents' leased trucks and trailers and agree to hold them in place during the period of an adjournment to allow for inspection by the Applicant.
16. Mr. Uppal answered that they could not do this. He said they could try to make a list of trucks and trailers for disclosure at an unspecified time. But then he said that they are dispersed around the continent. Their locations are changing because the Respondents are using the Applicant's trucks and trailers for the Respondents' business.

17. Mr. Uppal was quite clear that holding the trucks and trailers stationary would hurt the Respondents' business so they could not agree to maintain the *status quo* in return for the indulgence they sought.
18. I reminded Mr. Uppal that this meant the Respondents were asserting the right to use the Applicant's trucks in their business for free. Five leases are over and the Respondents are not in a position to agree to hold even those trucks stationary for a few days to convenience these proceedings.
19. Without considering the allegations of wrongdoing levelled by the bailiff, I am very concerned that the Applicant will be prejudiced by the adjournment sought given the Respondents' inability or unwillingness to provide locations and hold the goods there for inspection and perhaps for later efficiency of collection. Mr. Uppal was clear that the best interests of the Respondents' business was their prime concern even when using the Applicant's assets and keeping them from the Applicant without colour of right.
20. Mr. Uppal submits that the Respondents are concerned that a receivership over the leased trucks and trailers would impair the reputation of the Respondents' business. That may be so. But here, the Applicant narrowly seeks the appointment of a receiver over only the trucks and trailers themselves. The Respondents' business undertaking is not being put into receivership.
21. In any event, the cause of any reputational harm to be suffered by the Respondents is their non-payment of their debts as they fall due and their wrongful retention of the Applicant's goods after their right to possession has expired. Enforcement of lawful rights may cause some prejudice to the wrongdoer. But it was avoidable by lawful conduct by the Respondents such as payment, return of goods, or settlement.
22. Compared to the harm to the Applicant of continued inability to find its goods and the costs of chasing vehicles that are on the move, the potential for harm to the Respondents is speculative and limited. Moreover, the harm to the Respondents is self-inflicted. It is not fairly avoided by allowing them to continue to inflict harm on the Applicant.

23. In my view, as the motion is readily decided on facts that are not contested, there is no need for an adjournment to allow Mr. Opal to deny the evidence of the bailiff. I have not relied on that evidence in deciding the issues. Moreover, while it could be preferable to hear from the Respondents' counsel to give a greater appearance of *audi alteram partem*, the Respondents' unwillingness to stop using the Applicant's property and to hold the *status quo* during the adjournment period tips the balance of prejudice in favour of the Applicant.
24. In my view, the Respondents' conduct deferring any meaningful engagement with the Applicant until seeking a last-minute adjournment and their unwillingness to protect the Applicant against further harm during the period of indulgence that they seek means that is not in the interest of justice to adjourn this application. The application is technically brought with appropriate notice under Rule 38.06 (3). The burden is on the Respondents to justify an adjournment. While this is often not a difficult burden to meet, on the facts of this case, I am satisfied that the interests of justice require that the matter be heard today. This is without considering the need for "special circumstances" to support an adjournment on the Commercial List in the ordinary course as set out in the *Toronto Region Consolidated Practice Direction*, §G.11 (38).
25. In my view it is just and convenient to appoint a receiver over the 61 trucks and trailers claimed by the Applicant. While the specific quantum of arrears need not be determined today, there is no denying the liability of the Respondents for the leases that have expired and for the others all in arrears to some degree. The Applicant tried self-help and failed to locate its property. The Respondents say that they are using the Applicant's goods and are unable or unwilling to say where they are or to turn them over to the Applicants.
26. Mr. Chaiton also advises that his clients have general security over one of the corporate Respondents and other affiliates. He makes the point that although the Applicant asserts that its leases are true leases rather than security interests, Mr. Chaiton's clients and other creditors may have a different view. They may assert

priority over the claims of the Applicants against the leased trucks and trailers or the proceeds of sale of the property.

27. The fact that there are numerous claims to the same collateral provides additional need for a neutral party to locate them and maximize liquidation proceeds in the interests of all. The trucks and trailers need to be preserved and protected from the Respondents' ongoing movement and use, but also from a tactical race for possession by creditors.
28. I make no ruling at all today on the validity or nature of the priority attaching the Applicants' leases. They may be true leases. They may be equipment leases. Someone else will decide that. It makes no difference to the outcome of this proceeding however. Whatever rights the Applicant has, there is a need for a court appointed neutral officer to exercise fair and transparent stewardship over the collateral or leased property in the interests of the Applicant, the Respondents, and their creditors.
29. Order signed as asked. This includes a power of sale by public auction that is customary for goods of these types. The Receiver will hold net proceeds realized which will be charged with all creditors' pre-existing rights in the ordinary course of vesting orders made in this court.

Date: July 21, 2026


Frederick L. Myers

Justice FL
Myers

Digitally signed by
Justice FL Myers
Date: 2026.07.21
14:55:23 -04'00'

CAISSE DESJARDINS ONTARIO CREDIT UNION INC.

Applicant

- and - PHILOVERA HOLDINGS INC., et al.

Respondents

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PROCEEDING COMMENCED AT
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