

**Form 27**

**[Rule 6.3]**

Clerk's stamp:



COURT FILE NUMBER: 1001-03215

COURT OF QUEEN'S BENCH OF  
ALBERTA

JUDICIAL CENTRE OF CALGARY

PLAINTIFF: FIRST CALGARY SAVINGS & CREDIT UNION  
LTD.

DEFENDANTS: PERERA SHAWNEE LTD., PERERA  
DEVELOPMENT CORPORATION, DON L.  
PERERA and SHIRANIE M. PERERA

PLAINTIFFS BY COUNTERCLAIM PERERA SHAWNEE LTD., DON L. PERERA and  
(APPLICANTS) SHIRANIE M. PERERA

DEFENDANTS BY COUNTERCLAIM FIRST CALGARY SAVINGS & CREDIT UNION  
(RESPONDENTS) LTD. and DELOITTE & TOUCHE LLP

DOCUMENT: **APPLICATION BY PERERA SHAWNEE LTD., DON L. PERERA  
and SHIRANIE PERERA, DEFENDANTS / PLAINTIFFS BY  
COUNTERCLAIM**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS DOCUMENT

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## **NOTICE TO RESPONDENTS (S)**

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

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

### **Remedy claimed or sought:**

1. The Applicants seek advice and directions respecting the Receivership Order granted by Madame Justice A. Kent in these proceedings on March 3, 2010 (the "Receivership Order") on the following issues:
  - a. The question of whether the Receivership Order allows the individual defendants and directors of the Perera Corporations from retaining, at their expense, counsel to act for the Perera Corporations to file pleadings and otherwise on behalf in this action; and
  - b. The question of whether the Receivership Order allows Perera Shawnee Ltd. to file the Amended Counterclaim it has filed without leave of this Court.
2. If this Court should find that leave is required before the Perera Corporations may file the Amended Counterclaim, the Applicants seek an Order that this Court grant the Perera Corporations leave to file the pleadings that they have filed in this Action.
3. Such further and other relief that the Applicants may seek and this Honourable Court may deem just.

### **Grounds for making this application:**

4. The Plaintiff commenced this action seeking, *inter alia*, judgment against the Defendants including the Perera Corporations;
5. On March 3, 2010 Justice A. Kent granted the Receivership Order;

6. On September 3, 2010 the Defendants filed a Statement of Defence and Counterclaim including a Counterclaim against the Plaintiff and Deloitte Touche LLP.
7. On November 8, 2010 the Plaintiffs by Counterclaim filed an Amended Counterclaim.
8. Counsel for the Receiver Deloitte and Touche Inc. has advised counsel for the Defendants that the Perera Companies may require leave of this court to file pleadings in this action pursuant to the terms of the Receivership Order.
9. The Parties have agreed that it is appropriate that application be made to this Honourable Court for advice and Directions on these issues.

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

10. The Applicants will be relying on the following materials or evidence:
  - a. the Pleadings in this action;
  - b. the Receivership Order of March 3, 2010;
  - c. the Demand for Particulars filed September 1, 2010;
  - d. the Reply to Demand for Particulars dated September 8, 2010;
  - e. the Affidavit of Michael Wheatley sworn February 26, 2010 (the "Wheatley Affidavit");
  - f. a Cross Examination of Michael Wheatley on the Wheatley Affidavit;  
and
  - g. the Costs Undertaking of D. Perera.



**Applicable Acts and Regulations:**

- 11. The Applicants will be relying on the following Acts and Regulations:
  - a. *Judicature Act*, R.S.A. 2000, c. J-2, s. 8; and
  - b. Such further and other materials as counsel for the Applicants may advise and this Honourable Court may allow.

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

- 12. The Applicants propose that this Application be heard at a full day special scheduled before Madame Justice Kent commencing at 10 am on Monday December 20, 2010.

**NOTICE TO THE RESPONDENTS:**

You have the right to state your side of this matter before Justice Kent. To do so, you must be in court when the application is heard as shown below:

Date	Monday, December 20, 2010
Time	10 AM
Where	The Courthouse, Calgary, AB
Before	Madame Justice Kent

**WARNING:**

If you do not come to Court either in person or by your lawyer, the Court may give the Applicants 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 time shown above. 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 Applicants.