

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

ROYAL BANK OF CANADA

Applicant

and

EA LOGISTICS INC.

Respondent

APPLICATION UNDER: Bankruptcy and Insolvency Act, s 243(1); *Courts of Justice Act*, s101; *Rules of Civil Procedure*, rr 1.04, 2.03, 3.02, 14.05, 16.04 and 38.

**SUPPLEMENTARY APPLICATION RECORD
(Application returnable September 25, 2024)**

Date: September 24, 2024

LERNERS LLP

225 King Street West, Suite 1600
Toronto, ON M5V 3M2

Domenico N. Magisano LSO# 45725E
dmagisano@lernalers.ca
Tel: 416.601.4121

Emily Y. Fan LSO# 59788H
efan@lernalers.ca
Tel: 416.601.2390

Lawyers for the Applicant, Royal Bank
of Canada

TO: **EA LOGISTICS INC.**
15 Palomino Drive
Hamilton ON L0R 1H3

1959 Upper Water Street, Unit #1337
Halifax NS B3J 3N2

Respondent

AND TO: **CANADA REVENUE AGENCY**
c/o Department of Justice
Ontario Regional Office
120 Adelaide Street West
Suite 400
Toronto, ON M5H 1T1

Email: AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca

AND TO: **MINISTRY OF FINANCE**
Legal Services Branch
33 King Street West, 6th Floor
Oshawa, ON L1H 8H5

E-mail: insolvency.unit@ontario.ca

AND TO: **A2Z TRUCK CENTRE LTD.**
134 Kennedy Road South, Unit #5
Brampton, ON L6W 3G4

AND TO: **HOUSE OF TIRE CORP**
2611 Drew Rd
Mississauga, ON L4T 1G1

AND TO: **FINLOC 2000 INC.**
11505, 1st Avenue, Suite 500
Saint-George, QC G5Y 7X3

AND TO: **DAY & NIGHT TRUCK REPAIR CENTRE LTD.**
67 Ward Road, Unit 9 & 10
Brampton, On L6S 6A4

AND TO: **ITRUCK FINANCIAL INC.**
5959 Shawson Drive, Unit 7
Mississauga, ON L4W 3Y2

AND TO: **BANK OF MONTREAL**
5750 Explorer Drive, 3rd Floor
Mississauga, ON L4W 0A9

AND TO: **CWB NATIONAL LEASING INC.**
1525 Buffalo Place (3135430)
Winnipeg, MB R3T 1L9

AND TO: **DAIMLER TRUCK FINANCIAL SERVICES CANADA CORPORATION**
2630 Matheson Blvd. E., Suite 202
Mississauga, ON L4W 0A5

AND TO: **MERIDIAN ONECAP CREDIT CORP.**
4710 Kingsway, Suite 1500
Burnaby, BC V5H 4M2

AND TO: **LBEL INC.**
5035 South Service Road
Burlington, ON L7L 6M9

AND TO: **COAST CAPITAL EQUIPMENT FINANCE LTD.**
9900 King George Blvd., #800
Surrey, BC V3T 0K7

AND TO: **BENNINGTON FINANCIAL CORP.**
102 – 1465 North Service Road East
Oakville, ON L6H 1A7

AND TO: **msi Spergel inc.**
Licensed Insolvency Trustees
200 Yorkland Blvd., Suite 1100
Toronto, ON M2J 5C1

Mukul Manchanda, CPA, CIRP, LIT
mmanchanda@spergel.ca
Tel: 416.498.4314

Receiver

**ONTARIO
SUPERIOR COURT OF JUSTICE**

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Respondent

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TABLE OF CONTENTS

Tab		Page No.
1	Affidavit of Ruth Aleixo sworn September 24, 2024.....	2
	Exhibit "A" – Endorsement dated July 18, 2024.....	6
	Exhibit "B" - Email exchange between Ms. Fan and Mr. Khan dated July 24 – 25, 2024.....	8
	Exhibit "C" - Email from Ms. Fan to Mr. Khan dated July 26, 2024	13
	Exhibit "D" - Email exchange dated August 5 to September 23, 2024	17

TAB 1

Court File No. CV-24-00713709-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

ROYAL BANK OF CANADA

Applicant

and

EA LOGISTICS INC.

Respondent

APPLICATION UNDER: Bankruptcy and Insolvency Act, s 243(1); Courts of Justice Act, s101; Rules of Civil Procedure, rr 1.04, 2.03, 3.02, 14.05, 16.04 and 38.

**SUPPLEMENTARY AFFIDAVIT OF RUTH ALEIXO
(Sworn September 24, 2024)**

I, Ruth Aleixo, of the Town of Oakville, in the Province of Ontario, MAKE OATH
AND SAY:

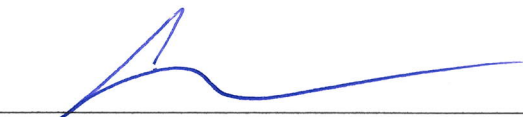
1. I am a legal assistant at Lerner's LLP, which is counsel to the Applicant, the Royal Bank of Canada ("RBC"). I have been involved in matters related to this file, and as such have personal knowledge of the matters to which I depose herein. Where this affidavit is based on information received from others, I have stated their source and verily believe such information to be true.
2. I swear this affidavit in support of RBC's application to appoint a receiver.

3. On July 18, 2024, RBC's counsel and Ibrar Khan, the principal for the debtor EA Logistics Inc. (the "**Debtor**") appeared before this court. RBC's motion to appoint a receiver was supposed to be heard that day – no responding materials were filed. However, Mr. Khan attended and the court granted a short adjournment for him to either seek counsel or bring his motion for leave to act on behalf of the Debtor. The court noted that Mr. Khan had been served with the application in May 2024 and in June indicated he was seeking counsel. Attached as Exhibit "**A**" to my affidavit is a copy of the court's endorsement dated July 18, 2024.
4. I am advised by Emily Fan, counsel at Lerner's with carriage of this matter, that, to date, no counsel for the Debtor has appeared and Mr. Khan has not brought any motion for leave to act on behalf of the Debtor.
5. On July 24, 2024, Ms. Fan exchanged emails with Mr. Khan, asking if the Debtor would consent to a bankruptcy, since he had advised that the Debtor was no longer an operating business and attempting to unwind the share purchase agreement dated July 17, 2023. Mr. Khan responded and advised he did not want a legal battle, and operations had ceased. Attached as Exhibit "**B**" to my affidavit is a copy of Ms. Fan's email exchange with Mr. Khan dated July 24 – 25, 2024.
6. I am advised by Ms. Fan that on July 26, 2024, she had a call with Mr. Khan. I am advised by Ms. Fan that on that call, Mr. Khan indicated that he would likely consent to a bankruptcy or receivership order, and would obtain legal advice and be in touch. Attached as Exhibit "**C**" to my affidavit is a copy of Ms. Fan's email to Mr. Khan dated July 26, 2024, confirming their conversation.

- 7. By email dated August 5, 2024, Mr. Khan indicated that the Debtor would be proceeding with the bankruptcy, and was speaking with a lawyer to commence the process. By email dated August 6, 2024, Ms. Fan inquired when the Debtor would commence the bankruptcy process. Ms. Fan followed-up on August 7, and again on August 14 and August 25, 2024. Mr. Khan responded on August 23, 2024, advising that he would reach out to msi Spergel inc (“**spergel**”) to proceed with the bankruptcy/ Attached as Exhibit “D” to my affidavit is a copy of the emails dated August 5 to September 23, 2024.

- 8. As of September 19, 2024, Mr. Khan still had not contacted spergel to commence the bankruptcy. So, Ms. Fan wrote to Mr. Khan on September 19th asking if the Debtor would oppose the receivership, and requested a response by end of day on September 20, 2024. Receiving no response, Ms. Fan followed up again on September 23, asking for a response by end of day. I am advised by Ms. Fan that she received no response and has heard nothing further from Mr. Khan.

SWORN before me at the City of Toronto, in the Province of Ontario, this 24th day of September, 2024.



Commissioner for Taking Affidavits
 (or as may be)
 Emily Y. Fan



(Signature of deponent)
 Ruth Aleixo

THIS IS EXHIBIT "A" TO
THE AFFIDAVIT OF RUTH ALEIXO
SWORN BEFORE ME THIS 24th DAY
OF SEPTEMBER, 2024.

A handwritten signature in blue ink, consisting of a stylized 'A' followed by a horizontal line.

A COMMISSIONER, ETC.



Superior Court of Justice
45 Main Street East
Hamilton, Ontario L8N 2 B7

SUPERIOR COURT OF JUSTICE

**FILE NO.: CV-24-85778
ENDORSEMENT**

RBC

Emily Fan

Applicant(s)/Plaintiff(s)

Counsel

EA Logistics Inc.

Unrepresented

Respondent(s)/Defendant(s)

Counsel

**Date July 18, 2024 (CR #600 /ZOOM # 567)
Justice Krawchenko**

RELIEF REQUESTED: ORDER SIGNED ON CONSENT
 UNOPPOSED NO ONE APPEARED

ADJOURNED TO Long motion week of 6 August 2024

1. Ms. Fan appearing for Applicant.
2. Mr. Khan, principal of the Respondent attended today as well. Mr. Khan has not status in these proceedings and was advised of the process available to him to rectify that, being the retaining of counsel or seeking leave via separate motion.
3. This matter is best suited for a long motion hearing and is adjourned to the week of 6 August 2024.
4. This short adjournment will allow Mr. Khan a final opportunity to either seek counsel of bring his motion seeking leave to act on behalf of the corporation. It must be noted that Mr Khan was served with the application in May 2024 and in June indicated that he was seeking counsel, the matter must move forward.
5. In the interim, this court orders that there be no dissipation of assets of the corporate respondent other than in the normal course of business, or pursuant to a further order of the court or on consent of the Applicant.

Krawchenko J

THIS IS EXHIBIT "B" TO
THE AFFIDAVIT OF RUTH ALEIXO
SWORN BEFORE ME THIS 24th DAY
OF SEPTEMBER, 2024.

A handwritten signature in blue ink, consisting of a stylized 'R' followed by a long horizontal stroke.

A COMMISSIONER, ETC.

Ruth Aleixo

From: Ibrar Khan <ibrarkhan1319@gmail.com>
Sent: July 25, 2024 2:35 PM
To: Emily Y. Fan
Cc: Ruth Aleixo
Subject: Re: *EXT*-RBC v EA Logistics CV-24-85778

Hi Emily

Let me know what time tomorrow works.

Ibrar Khan

On Thu, Jul 25, 2024 at 10:24 AM Emily Y. Fan <efan@lernalers.ca> wrote:

Ibrar – thanks for your note. If everything of what you are saying is true, this is why we are wondering whether you would consent to a bankruptcy order. If you need to speak, let me know if there are a few times tomorrow late morning that would work.

Thanks,

Emily

LEARNERS
EMILY Y. FAN
Partner

 efan@lernalers.ca

 416.601.2390 |  416.867.9192

 [225 King St. West, Suite 1600, Toronto, Ontario, M5V 3M2](#)

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From: Ibrar Khan <ibrarkhan1319@gmail.com>
Sent: July 24, 2024 1:06 PM
To: Emily Y. Fan <efan@lernalers.ca>
Subject: Re: *EXT*-RBC v EA Logistics CV-24-85778

Hi Emily

I was frauded into a deal. With fake financials, money they were supposed to give to me, not making payments on equipment, and even at the beginning saying me telling them unless the LOC is transferred in my name I'm not doing this deal. All done by Khurram Shahzad.

They (old ownership) based on messages from then RBC account manager Ryan said everything was done. Ryan in phone conversations told me to continue working as things are in progress. He gave me a few conditions which I fulfilled.

Then RBC decided to terminate the relationship and demand payment. This affected everything. Cash crunch occurred further because based on the financials the old ownership provided the revenue was not there.

The old owners had kept all the assets under their own corporations and removed the equipment. One of the old owners, Khurram Shahzad, even registered a new sole proprietorship "Khurram Shahzad" operating as "EA Logistics" and collected receivables and deposited them.

So I had no choice to cease operations, losing over \$1.5 million invested of my own money. I lost clients which I have not been able to recover. I lost reputation. I have unpaid drivers and owner operators.

I don't want a legal battle. I cannot afford it. I know there is no personal guarantee on my part as cleared by Raj Grewal earlier, but EA has no assets. Nothing, not even computers. They took all the computers etc.

Muhammad Usman will be taking back ownership.

Would a call between us be better?

Ibrar Khan

On Wed, Jul 24, 2024 at 10:46 AM Emily Y. Fan <efan@lernalers.ca> wrote:

Ibrar – you indicated during the application that EA Logistics is no longer an operating business, and you are now trying to unwind the share purchase agreement entered into in July 2023. Given this, would you agree to a bankruptcy of EA Logistics?

Cheers,

Emily

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EMILY Y. FAN
Partner

 efan@lernalers.ca

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From: Emily Y. Fan
Sent: July 18, 2024 3:05 PM
To: Inch, Susan (MAG) <Susan.Inch@ontario.ca>; 'ibrarkhan1319@gmail.com' <ibrarkhan1319@gmail.com>
Subject: RE: *EXT*-RBC v EA Logistics CV-24-85778

Received, thank you.

From: Inch, Susan (MAG) <Susan.Inch@ontario.ca>
Sent: July 18, 2024 3:01 PM
To: Emily Y. Fan <efan@lernalers.ca>; 'ibrarkhan1319@gmail.com' <ibrarkhan1319@gmail.com>
Subject: *EXT*-RBC v EA Logistics CV-24-85778

Please find attached the Endorsement of Justice Krawchenko on the above matter.

Any follow up inquiries should be directed to the Civil Office at Hamiltonciviloffice@ontario.ca or the Trial Co-ordinators at Hamilton.superior.court@ontario.ca .

Thank you.

Susan Inch

Court Registrar

THIS IS EXHIBIT "C" TO
THE AFFIDAVIT OF RUTH ALEIXO
SWORN BEFORE ME THIS 24th DAY
OF SEPTEMBER, 2024.

A handwritten signature in blue ink, consisting of a stylized initial 'A' followed by a long horizontal stroke.

A COMMISSIONER, ETC.

Ruth Aleixo

From: Emily Y. Fan
Sent: July 26, 2024 11:45 AM
To: Ibrar Khan
Cc: Ruth Aleixo
Subject: RE: *EXT*-RBC v EA Logistics CV-24-85778

Ibrar – thanks for the call this morning. Will wait to hear from you about any consent bankruptcy or receivership order, after you have a chance to get legal advice.

Have a good weekend,
 Emily

From: Emily Y. Fan
Sent: July 25, 2024 1:25 PM
To: Ibrar Khan <ibrarkhan1319@gmail.com>
Cc: Ruth Aleixo <raleixo@lernalers.ca>
Subject: RE: *EXT*-RBC v EA Logistics CV-24-85778

Ibrar – thanks for your note. If everything of what you are saying is true, this is why we are wondering whether you would consent to a bankruptcy order. If you need to speak, let me know if there are a few times tomorrow late morning that would work.

Thanks,
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Cheers,

Emily

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From: Emily Y. Fan
Sent: July 18, 2024 3:05 PM
To: Inch, Susan (MAG) <Susan.Inch@ontario.ca>; 'ibrarkhan1319@gmail.com' <ibrarkhan1319@gmail.com>
Subject: RE: *EXT*-RBC v EA Logistics CV-24-85778

Received, thank you.

From: Inch, Susan (MAG) <Susan.Inch@ontario.ca>
Sent: July 18, 2024 3:01 PM
To: Emily Y. Fan <efan@lernalers.ca>; 'ibrarkhan1319@gmail.com' <ibrarkhan1319@gmail.com>
Subject: *EXT*-RBC v EA Logistics CV-24-85778

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Susan Inch

Court Registrar

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A COMMISSIONER, ETC.

Ruth Aleixo

From: Emily Y. Fan
Sent: September 23, 2024 2:02 PM
To: Ibrar Khan
Cc: Ruth Aleixo
Subject: RE: *EXT*-RBC v EA Logistics CV-24-85778

Ibrar – can we hear from you by 5pm today?

From: Emily Y. Fan
Sent: September 19, 2024 3:54 PM
To: Ibrar Khan <ibrarkhan1319@gmail.com>
Cc: Ruth Aleixo <raleixo@lernalers.ca>
Subject: RE: *EXT*-RBC v EA Logistics CV-24-85778

Ibrar – it has been a lengthy period of time and we understand you have not contacted Mukul. In previous discussions, you had also mentioned you would no longer oppose the receivership application. Can you please confirm by end of day tomorrow, that is the case?

Thanks,
 Emily

From: Ibrar Khan <ibrarkhan1319@gmail.com>
Sent: August 23, 2024 10:28 AM
To: Emily Y. Fan <efan@lernalers.ca>
Cc: Ruth Aleixo <raleixo@lernalers.ca>; Spencer Jones <SJones@lernalers.ca>
Subject: Re: *EXT*-RBC v EA Logistics CV-24-85778

Hello

I will be reaching out to Mukul of MSI to proceed with Bankruptcy

Thank you

Ibrar Khan

On Thu, Aug 15, 2024 at 2:11 PM Emily Y. Fan <efan@lernalers.ca> wrote:

Ibrar – we haven't heard from you for some time. Please meet with Mukul of msi Spergel (<https://www.spergelcorporate.ca/team/mukul-manchanda/>) and bankrupt EA Logistics by Friday, August 23, and confirm same. Otherwise, when the hearing date for the receivership application comes up, we will proceed with seeking the appointment of a receiver.

Also, I will be away the balance of August. My colleague, Spencer Jones (copied) will be stepping in on this file – please include him on emails and he will respond to you.

Thanks,

Emily

LERNERS
EMILY Y. FAN
 Partner

 efan@lernalers.ca

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From: Emily Y. Fan

Sent: August 14, 2024 11:22 AM

To: Ibrar Khan <ibrarkhan1319@gmail.com>

Cc: Ruth Aleixo <rleixo@lernalers.ca>

Subject: RE: *EXT*-RBC v EA Logistics CV-24-85778

Ibrar – do you have an update on this?

From: Emily Y. Fan

Sent: August 07, 2024 12:28 PM

To: Ibrar Khan <ibrarkhan1319@gmail.com>

Cc: Ruth Aleixo <rleixo@lernalers.ca>

Subject: RE: *EXT*-RBC v EA Logistics CV-24-85778

Ibrar – just following up with you on this.

Also, we would be prepared to proceed with the bankruptcy instead of the receivership, provided that the trustee is still msi Spergel – we proposed Mukul Manchanda for the receivership. They already have the background to this case and are experienced. Please advise.

From: Emily Y. Fan
Sent: August 06, 2024 3:56 PM
To: Ibrar Khan <ibrarkhan1319@gmail.com>
Cc: Ruth Aleixo <rleixo@lernalers.ca>
Subject: RE: *EXT*-RBC v EA Logistics CV-24-85778

Thanks for the update Ibrar. Do you know when that process will be starting? I'm asking because the hearing date for our receivership is supposed to be this week, and I don't want to lose this date. If the bankruptcy does not happen before the receivership, it probably makes sense to go ahead with the receivership hearing and ask for an order appointing the receiver, but that it does not take effect until x amount of days later. This gives you an opportunity to sort out the bankruptcy proceedings, and means that we don't have to go back to court for the appointment of a receiver if for some reason the bankruptcy doesn't go ahead.

From: Ibrar Khan <ibrarkhan1319@gmail.com>
Sent: August 05, 2024 12:06 PM
To: Emily Y. Fan <efan@lernalers.ca>
Cc: Ruth Aleixo <rleixo@lernalers.ca>
Subject: Re: *EXT*-RBC v EA Logistics CV-24-85778

Hello Emily

We will be proceeding with Bankruptcy

I'm speaking with a bankruptcy lawyer on starting the process.

Ibrar Khan

On Fri, Jul 26, 2024 at 11:44 AM Emily Y. Fan <efan@lernalers.ca> wrote:

Ibrar – thanks for the call this morning. Will wait to hear from you about any consent bankruptcy or receivership order, after you have a chance to get legal advice.

Have a good weekend,

Emily

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Partner

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From: Emily Y. Fan

Sent: July 25, 2024 1:25 PM

To: Ibrar Khan <ibrarkhan1319@gmail.com>

Cc: Ruth Aleixo <rleixo@lernalers.ca>

Subject: RE: *EXT*-RBC v EA Logistics CV-24-85778

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Emily

From: Ibrar Khan <ibrarkhan1319@gmail.com>

Sent: July 24, 2024 1:06 PM

To: Emily Y. Fan <efan@lernalers.ca>

Subject: Re: *EXT*-RBC v EA Logistics CV-24-85778

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Cheers,

Emily

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From: Emily Y. Fan

Sent: July 18, 2024 3:05 PM

To: Inch, Susan (MAG) <Susan.Inch@ontario.ca>; 'ibrarkhan1319@gmail.com'

<ibrarkhan1319@gmail.com>

Subject: RE: *EXT*-RBC v EA Logistics CV-24-85778

Received, thank you.

From: Inch, Susan (MAG) <Susan.Inch@ontario.ca>

Sent: July 18, 2024 3:01 PM

To: Emily Y. Fan <efan@lerner.ca>; 'ibrarkhan1319@gmail.com' <ibrarkhan1319@gmail.com>

Subject: *EXT*-RBC v EA Logistics CV-24-85778

Please find attached the Endorsement of Justice Krawchenko on the above matter.

Any follow up inquiries should be directed to the Civil Office at Hamiltonciviloffice@ontario.ca or the Trial Co-ordinators at Hamilton.superior.court@ontario.ca .

Thank you.

Susan Inch

Court Registrar

ROYAL BANK OF CANADA
Applicant

-and- EA LOGISTICS INC.
Respondent

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**
**PROCEEDING COMMENCED AT
HAMILTON**

**AFFIDAVIT OF RUTH ALEIXO
(SWORN SEPTEMBER 24, 2024).**

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ROYAL BANK OF CANADA
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-and- EA LOGISTICS INC.
Respondent

Court File No. CV-24-00085778-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT HAMILTON

SUPPLEMENTARY APPLICATION RECORD
(Application returnable September 25, 2024)

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