

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
CROWN CREST CAPITAL MANAGEMENT CORP., CROWN CREST FINANCIAL
CORP., CROWN CREST FUNDING CORP., SIMPLY GREEN HOME SERVICES INC.,
SIMPLY GREEN HOME SERVICES CORP., AND CROWN CREST CAPITAL TRUST

PEOPLES TRUST COMPANY

Applicant

AND

CROWN CREST CAPITAL MANAGEMENT CORP., CROWN CREST FINANCIAL CORP.,
CROWN CREST FUNDING CORP., SIMPLY GREEN HOME SERVICES INC., SIMPLY
GREEN HOME SERVICES CORP., AND CROWN CREST CAPITAL TRUST

Respondents

AFFIDAVIT OF KAREN WHIBLEY
(Sworn November 15, 2023)

I, Karen Whibley, of the City of Toronto, in the Province of Ontario, MAKE OATH AND
SAY:

1. I am a law clerk at Sotos LLP, counsel to the plaintiffs in the class proceeding bearing the court file number CV-21-00665193-00CP (the “**Class Action**”). Class members routinely, and at times on a daily basis, contact our firm about the issues underlying this case. I have assisted with this file and also routinely speak to such class members. As a result, I have personal knowledge of the matters contained in this affidavit. Where I make statements in this affidavit that are not within

my personal knowledge, I indicate the source of the information and I believe such information to be true.

PLEADINGS

2. The Amended Fresh as Amended Statement of Claim in the Class Action was filed on July 4, 2023. Attached hereto as Exhibit “**A**” is a copy of this pleading.

3. The Amended Statement of Defence of Lawrence Krimker dated July 28, 2023 is attached as Exhibit “**B**”.

4. The Amended Statement of Defence of the other defendants dated July 28, 2023 is attached as Exhibit “**C**”.

5. The plaintiffs’ Reply dated September 7, 2023 is attached as Exhibit “**D**”.

TIMELINE OF THE CLASS ACTION

6. The plaintiffs have served a total of 26 affidavits in support of their upcoming concurrent summary judgment and certification motions. Mr. Krimker served one responding affidavit. The other defendants served a separate responding affidavit.

7. The following chart summarizes the steps that have been taken in this class action over the last two years:

Date	Event
July 7, 2021	The plaintiff, Alga Bonnick, issued her Statement of Claim, naming Lawrence Krimker and Crown Crest as defendants
September 2, 2021	The plaintiff served her certification motion record

September 20, 2021	The plaintiff served her supplementary certification motion record
January 28, 2022	Sotos LLP, counsel for the representative plaintiffs, was granted carriage of the class action in accordance with the order of Justice Perell ¹
May 25, 2022	The plaintiff issued her Fresh as Amended Statement of Claim with leave of Justice Belobaba, adding Sandpiper and Simply Green as defendants as well as more recently discovered particulars relating to the existing defendants' conduct
January 12, 2023	The plaintiff served her second supplementary certification motion record relating to the newly added defendants, as well as further evidence on Krimker and Crown Crest such as the recent charges laid against them and the information obtained through the Ontario Court of Justice. The plaintiff also served a third supplementary certification motion record attaching a Fresh as Amended Notice of motion for Certification
March 23, 2023	The plaintiffs received approval of funding from the Law Foundation of Ontario's Class Proceedings Fund
April 17, 2023	The named corporate defendants served a Statement of Defence
April 18, 2023	The defendant, Lawrence Krimker, served a Statement of Defence
May 2, 2023	The plaintiff served her fourth supplementary certification motion record
July 4, 2023	The plaintiff issued an Amended Fresh as Amended Statement of Claim with leave of Justice Akbarali, adding Goran Donev as a representative plaintiff
July 28, 2023	The corporate defendants served their Amended Statement of Defence
July 28, 2023	Mr. Krimker served his Amended Statement of Defence
September 7, 2023	The plaintiffs served their Reply to the statements of defence of all defendants
September 18, 2023	Mr. Krimker served a responding certification motion record
September 29, 2023	Simply Group served a responding certification motion record
October 31, 2023	The plaintiffs served a reply certification motion record

¹ [*Blackford-Hall v Simply Group*, 2021 ONSC 8502](#)

8. A certification hearing has been scheduled for October 1-3, 2024, and at the time when this CCAA application was served last week, the parties were in the midst of scheduling cross-examinations to begin on November 24, 2023. Attached as Exhibit “E” is the most recent timetable order by Justice Akbarali, who is case management judge in the class action.

ORDERS, DECISIONS, AND CHARGES AGAINST THE DEFENDANTS

9. In the following paragraphs I attach a few, but not all, of the documents that have been produced in the class action.

10. Attached as Exhibit “F” is a copy of the Order of the Director of Fair Trading of Alberta, issued August 16, 2019 against Crown Crest Capital Management Corp. pursuant to Alberta’s *Consumer Protection Act*, RSA 2000, c. C-26.3.

11. Attached as Exhibit “G” is a copy of the Decision of the Director of British Columbia’s Consumer Protection BC, issued June 15, 2020, against Simply Green Home Services Inc. pursuant to the *Business Practice and Consumer Protection Act*, SBC 2004, c. 2.

12. Attached as Exhibit “H” are screenshots from the Consumer Beware List of the Ministry of Government and Consumer Services, showing charges laid against Crown Crest Capital Corp., obtained on June 25, 2021 and December 22, 2022 from:
<https://www.consumerbewarelist.mgs.gov.on.ca/en/CBL/businessdetail/dcd2ca8e-d237-e711-8d08-00155d3b69ab>.

13. Attached as Exhibit “I” are screenshots from the Consumer Beware List of the Ministry of Government and Consumer Services, showing charges laid against Lawrence Krimker, obtained on June 29, 2021, December 22, 2022, and November 14, 2023 from the following links:

<https://www.consumerbewarelist.mgs.gov.on.ca/en/CBL/businessdetail/cf361edb-800c-ea11-bac2-00155d3b69c9> and

<https://www.consumerbewarelist.mgs.gov.on.ca/en/CBL/businessdetail/bbce220d-e7f6-ec11-82e5-002248ae46f5> .

14. Attached as Exhibit “J” are screenshots from the Consumer Beware List of the Ministry of Government and Consumer Services, showing charges laid against Simply Green Home Services, obtained on December 22, 2022 from:

<https://www.consumerbewarelist.mgs.gov.on.ca/en/CBL/businessdetail/93aadd63-d237-e711-8d08-00155d3b69ab>.

15. On December 1, 2020, the Ontario Ministry of Government and Consumer Services announced that it was considering how to improve the *Consumer Protection Act*. The consultation process sought input from consumers and other stakeholders. Attached as **Exhibit “K”** is a printout of the government’s webpage with a questionnaire titled “Improving Ontario’s Consumer Protection Act, Strengthening Consumer Protection in Ontario”, obtained from this URL: <https://www.ontariocanada.com/registry/view.do?language=en&postingId=35387>.

16. Pro Bono Ontario has been collaborating with us in prosecuting this class action given the magnitude of the problem. Pro Bono Ontario responded to the Ontario government’s consultation. Attached as Exhibit “L” is Pro Bono Ontario’s submission provided to us by Brian R. Houghton, Litigation Projects Manager at Pro Bono Ontario.

17. On February 6, 2023, the Government of Ontario posted a follow-up call for submissions titled Consultation Paper on Modernizing the Consumer Protection Act, 2002 with a deadline for complete responses by March 17, 2023. Attached as Exhibit “M” is a printout of the Ontario

government's website on that consultation, obtained from the following URL:
<https://www.ontariocanada.com/registry/view.do?postingId=43452&language=en>.

18. Pro Bono Ontario has advised us that they responded to the Consultation Paper. Attached as Exhibit "N" is a copy of Pro Bono Ontario's March 2023 submission provided to us by Matt Cohen, Director of Legal Services - Pro Bono Ontario.

19. On October 17, 2023, the Government of Ontario issued another consultation with respect to Ontario's consumer protection legislation as it relates to issues surrounding notices of security interests specifically. Attached as Exhibit "O" is a printout of the Ontario government's website on that consultation, obtained from the following URL:
<https://www.ontariocanada.com/registry/view.do?language=en&postingId=45767>.

20. In October 2023, the Government of Ontario tabled *Bill 142, Better for Consumers, Better for Businesses Act, 2023*, which revises Ontario's *Consumer Protection Act*, and includes specific provisions with respect to notices of security interests. The Ontario government also concurrently started "Consultation on Issues Related to Notices of Security Interest (NOSIs)" Attached as Exhibit "P" is that consultation paper, obtained from the following URL:
<https://www.ontariocanada.com/registry/showAttachment.do?postingId=45767&attachmentId=59390>.

SIMPLY GROUP'S CONTINUED CONDUCT SINCE NOVEMBER 9, 2023

21. I am advised by my colleague, Mohsen Seddigh, and I believe, that since the issuance of the court's initial order in this proceeding on November 9, 2023, class counsel have continued receiving complaints from consumers who indicate that Simply Group is continuing with its

practices, and demanding exorbitant sums from consumers for leased equipment and in return for discharging notices of security interests registered on consumer's homes.

22. I am advised by Mr. Seddigh, and I believe that a class member called him yesterday on November 14, 2023 to advise: She called Simply Group on behalf of her father who is currently in hospital. Her parents are elderly immigrants who do not speak much English. She had called Simply Group on November 14, 2023 to find out how she could discharge the NOSIs filed by these companies on her parents' home for basic HVAC equipment that is some six years old and heavily depreciated. The same door-to-door vendor company involved in Ms. Bonnick's case, MGA Home Services, was involved in inducing her parents to sign for this equipment.

23. The equipment had previously malfunctioned and they had received no assistance from Simply Group such that her brother had to fix it using duct tape.

24. A Simply Group agent advised her yesterday that the NOSIs would not be discharged unless her parents paid: over \$5,600 in alleged arrears plus over \$25,000 to buyout the equipment.

25. I am advised by my colleague, Maria Arabella Robles, and believe that: Ms. Robles received a call from another consumer today on whose home title Simply Group has registered NOSIs. She has been unable to discharge the NOSIs despite numerous attempts. The consumer called Simply Group on November 15, 2023, and was given a buyout quote from "Crown Crest" of almost \$10,000 in exchange for equipment that had already been removed from her home, including fees for discharging the NOSIs. On the same day, Simply Group provided her with a further buyout quote from "Simply Group" demanding an additional \$23,842.94 to buy out equipment worth a few thousand dollars at most.

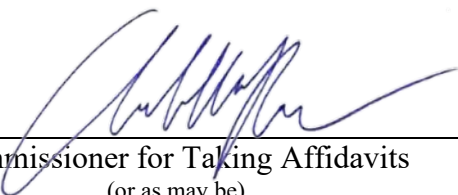
FURTHER INFORMATION ABOUT THE RESPONDENTS' CONDUCT

26. The certification motion record contains evidence that Simply Group carries its conduct against consumers individually, as well as *en masse*, by financing the installation of HVAC and HVAC-related Equipment in new condominium buildings. This way, hundreds of new condominium owners suddenly find out that Simply Group has registered NOSIs on their home title.

27. I am advised by Nicole Perez, who is an articling student at Sotos LLP, and believe that she attended a trial before Justice Centa to observe the cross-examination of Mr. Krimker, and that he admitted that his company paid \$26 million in dividends in 2019. The period after 2019 was not at issue in that trial and were not the subject of the cross-examination.

SWORN by Karen Whibley of the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on November 15, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.





Commissioner for Taking Affidavits
(or as may be)

MARIA ARABELLA ROBLES
LSO No. 87381F

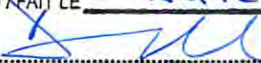


KAREN WHIBLEY

This is Exhibit "A" to the Affidavit of Karen Whibley of the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on November 15, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

AMENDED THIS JUL - 4 2023 PURSUANT TO
MODIFIÉ CE _____ CONFORMÉMENT A
 RULE/LA RÉGLE 26.02 (_____)
 THE ORDER OF Justice Akbarali
L'ORDONNANCE DU
DATED / FAIT LE June 21, 2023 Court File No.: CV-21-00665193-00CP

REGISTRAR GREFFIER **ONTARIO**
SUPERIOR COURT OF JUSTICE COUR SUPÉRIEURE DE JUSTICE SUPERIOR COURT OF JUSTICE

BETWEEN :

(Court Seal)

ALGA ADINA BONNICK and GORAN STOILOV DONEV

Plaintiffs

- and -

LAWRENCE KRIMKER, CROWN CREST CAPITAL MANAGEMENT CORP., CROWN CREST FINANCIAL CORP., CROWN CREST CAPITAL TRUST, CROWN CREST CAPITAL II TRUST, CROWN CREST BILLING CORP., CROWN CREST CAPITAL CORP., CROWN CREST FUNDING CORP., SANDPIPER ENERGY SOLUTIONS, SANDPIPER ENERGY SOLUTIONS HOME COMFORT, SIMPLY GREEN HOME SERVICES (ONTARIO) INC., SIMPLY GREEN HOME SERVICES INC., and SIMPLY GREEN HOME SERVICES CORP.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

AMENDED FRESH AS AMENDED STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiffs' lawyer or, where the Plaintiffs do not have a lawyer, serve it on the Plaintiffs, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

AMENDED THIS PURSUANT TO
MORÉ DE CONFORMÉMENT À

LE RÈGLEMENT/RÈGLE 38.02 ()

THE ORDER OF

L'ORDONNANCE DU

DATED/FAIT LE

REGISTRAR
SHERIFF OF THE COURT OF QUEBEC

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: July 7, 2021, ~~amended as of~~
~~June~~, 2023. *h*

Issued by

"E - Filed"
Local Registrar

Address of
court office:

Superior Court of Justice
330 University Avenue, 8th Floor
Toronto ON M5G 1R7

TO: LAWRENCE KRIMKER
800-2225 Sheppard Ave. East
Toronto, ON M2J 5C2

AND TO: CROWN CREST FINANCIAL CORP.
800-2225 Sheppard Ave. East
Toronto, ON M2J 5C2

AND TO: CROWN CREST CAPITAL MANAGEMENT CORP.
800-2225 Sheppard Ave. East
Toronto, ON M2J 5C2

AND TO: CROWN CREST CAPITAL CORP.
800-2225 Sheppard Ave. East
Toronto, ON M2J 5C2

AND TO: CROWN CREST BILLING CORP.
800-2225 Sheppard Ave. East
Toronto, ON M2J 5C2

AND TO: CROWN CREST CAPITAL TRUST
800-2225 Sheppard Ave. East
Toronto, ON M2J 5C2

AND TO: CROWN CREST CAPITAL II TRUST
800-2225 Sheppard Ave. East
Toronto, ON M2J 5C2

AND TO: CROWN CREST FUNDING CORP.

800-2225 Sheppard Ave. East
Toronto, ON M2J 5C2

AND TO: SANDPIPER ENERGY SOLUTIONS
800-2225 Sheppard Ave. East
Toronto, ON M2J 5C2

AND TO: SANDPIPER ENERGY SOLUTIONS HOME COMFORT
800-2225 Sheppard Ave. East
Toronto, ON M2J 5C2

AND TO: SIMPLY GREEN HOME SERVICES (ONTARIO) INC.
800-2225 Sheppard Ave. East
Toronto, ON M2J 5C2

AND TO: SIMPLY GREEN HOME SERVICES INC.
800-2225 Sheppard Ave. East
Toronto, ON M2J 5C2

AND TO: SIMPLY GREEN HOME SERVICES CORP.
800-2225 Sheppard Ave. East
Toronto, ON M2J 5C2

A. RELIEF SOUGHT

1. The plaintiffs, on ~~her~~ their own behalf and on behalf of all class members, seeks:
 - (a) a declaration that the defendants' conduct particularized herein breached the *Consumer Protection Act, 2002*, SO 2002, c 30, Schedule A, and its Regulations, O Reg 17/05 and O Reg 8/18;
 - (b) a declaration that it is not in the interests of justice to require that notice be given pursuant to s. 18(15) or any other section of the *Consumer Protection Act*, and waiving any such notice requirement;
 - (c) rescission, cancellation and/or a declaration that the subject consumer agreements with class members are unenforceable;
 - (d) general damages calculated on an aggregate basis or otherwise, for all payments the class members made to the defendants;
 - (e) special damages for out-of-pocket and inconvenience expenses incurred;
 - (f) punitive and exemplary damages in the amount of \$5,000,000;
 - (g) a declaration that the defendants were unjustly enriched at the expense of the plaintiffs and the class members;
 - (h) relief from amounts that the defendants claim are or were owed or owing to the defendants by the plaintiffs and the class members;
 - (i) an order under s. 160 of the *Land Titles Act* that all notices of security interest and other encumbrances that any of the defendants have registered, own or control, on title to the class members' real property be vacated and removed from title;
 - (j) disgorgement of the defendants' profits;
 - (k) a reference to decide any issues not decided at the trial of the common issues;
 - (l) an interlocutory injunction barring the defendants from engaging in the conduct

particularized herein;

- (m) an order permanently enjoining the defendants from engaging in the conduct particularized herein;
- (n) costs of administration and notice, plus applicable taxes, pursuant to s. 26(9) of the *Class Proceedings Act*;
- (o) costs of this action;
- (p) prejudgment interest compounded and post-judgment interest in accordance with ss. 128 and 129 of the *Courts of Justice Act*, RSO 1990, c C.43; and
- (q) such further and other relief as the parties may advise and this Honourable Court deems just.

B. THE PARTIES

The plaintiffs

2. The plaintiff, Alga Adina Bonnick, is an individual living in Toronto. She is one of many Ontario residents who entered into consumer agreements for HVAC and HVAC-related Equipment (as that term is defined in paragraph ~~26~~ 27 below) with persons such as the defendants.

3. The plaintiff, Goran Stoilov Donev, is an individual living in Etobicoke. He is also one of many residents who entered into consumer agreements for HVAC and HVAC-related Equipment with the defendants.

The defendants

4. The defendant Lawrence Krimker is an individual residing in Toronto, Ontario. During the materials times, Mr. Krimker has been the legal and/or beneficial owner, officer, and director of all the corporate defendants.

5. As particularized further below, Mr. Krimker has used the named corporate defendants, as well as other companies whose identity is not currently within the knowledge of the plaintiffs, to engage in the impugned conduct, including, but not limited to, by entering into impugned consumer agreements with the class members, billing the class members fees pursuant to such agreements, assigning the class member's agreements amongst the corporate defendants and other similar companies, and registering security interests against the title to the class members' homes to extract previously undisclosed sums of money from the class.

6. Mr. Krimker uses his companies as a puppet, a sham, a mere façade acting as his agents in carrying out the impugned conduct against the class members with impunity.

7. The plaintiffs does not currently know the identity of all the companies used by Mr. Krimker to engage in the unlawful conduct particularized herein. Mr. Krimker has actively concealed that information. The plaintiffs reserves the right to add such companies to this action whenever their identity becomes discoverable.

8. The defendants Crown Crest Capital Management Corp., Crown Crest Capital Corp., Crown Crest Capital Trust, Crown Crest Capital II Trust, Crown Crest Financial Corp., Crown Crest Billing Corp., and Crown Crest Funding Corp. (collectively and interchangeably "**Crown Crest**"), Sandpiper Energy Solutions, Sandpiper Energy Solutions Home Comfort, Simply Green Home Services (Ontario) Inc., Simply Green Home Services Inc., and Simply Green Home Services Corp. (collectively, the "**corporate defendants**") are affiliated HVAC equipment and financial services corporations incorporated under Ontario's *Business Corporations Act*, all sharing the same registered office located at 800-2225 Sheppard Avenue East, North York, Ontario, Canada, M2J 5C2.

9. The corporate defendants operate from the same physical location, maintain the same employees, share customer information amongst one another, use the same phone numbers, display similar website content and are all owned and controlled by Mr. Krimker.

10. During the Class Period, the corporate defendants have been, and continue to be, engaged in the business of: (a) entering into HVAC and HVAC-related Equipment agreements with Ontario Consumers directly, and assigning those agreements to the other corporate defendants; or (2) financing third party suppliers who entered into HVAC and HVAC-related Equipment agreements with individual Ontario consumers, including Ms. Bonnick and other class members, and then registering and/or enforcing notices of security on title to the consumers' homes.

11. The corporate defendants carry out this conduct against consumers, such as the plaintiffs, individually and at times on a mass basis, including by financing the installation of HVAC and HVAC-related Equipment in newly built condominium buildings and registering notices of security for previously undisclosed amounts on titles of hundreds of condominium units owned by the members of the class.

12. Ontario's Ministry of Government and Consumer Services has laid charges against Mr. Krimker and Crown Crest Financial Corp. for violating the *Consumer Protection Act* relating to the subject matter of this action.

13. At all relevant times, the named defendants acted in concert with each other in the conduct particularized herein. Reference to "the defendants" in this Statement of Claim includes reference to Mr. Krimker using his corporations to advance the unlawful activities particularized herein.

C. NATURE OF THE ACTION

14. This is an action about the non-disclosure of material, statutorily mandated, information to

consumers, and the unlawful use of encumbrances on consumers' home titles as ransom to extract unconscionable undisclosed amounts from consumers. The undisclosed material fact at issue is the consumers' total liability in consumer agreements relating to HVAC and HVAC-related Equipment. The action concerns the breaches of the *Consumer Protection Act* and slander of title by Mr. Krimker through his companies, including, but not limited to, the corporate defendants, to illegally benefit himself at Ontario consumers' expense.

15. The *Consumer Protection Act* strictly regulates “direct agreements” and “leases” to protect consumers against predatory sales practices. Parts IV and VIII of the *Consumer Protection Act* and its regulations strictly regulate the form and content of such agreements and give consumers rights and protections against breaches of those requirements.

16. A “direct agreement” means a consumer agreement that is negotiated or concluded in person at a place other than at the supplier's place of business. A “lease” means a consumer agreement for the lease of goods.

17. The relevant suppliers in this instance include companies such as those that seek to induce consumers—typically at consumers' homes—to enter into direct agreements and/or leases for HVAC and HVAC-related Equipment. The predatory practices of such companies were such that as of March 1, 2018, Ontario banned unsolicited, door-to-door sales of many HVAC and HVAC-related Equipment to protect consumers from the aggressive sales tactics exerted by these suppliers contracting with consumers, and the misleading agreements that these suppliers employed.

18. During the Class Period, the defendants obtained ownership or control of consumer contracts relating HVAC and HVAC-related Equipment in two ways.

19. First, the defendants created and maintained a common and uniform contractual program

for financing suppliers who rented HVAC and HVAC-related Equipment to consumers (“**Financing Arrangement**”).

20. The Financing Arrangement operated as follows. Suppliers, often engaging in door-to-door sales, entered into program agreements with one or more of the corporate defendants, their predecessors, or their affiliates. Under these program agreements, the corporate defendants would finance the suppliers’ sale of HVAC and HVAC-related Equipment, as defined below, to consumers under the following conditions:

- (r) the corporate defendants dictated or approved the terms of the agreements that the suppliers signed with class members as defined in paragraph ~~26~~ 27 below (These agreements, together with consumer agreements of a similar nature formed outside the Financing Arrangement but which have been assigned to any one of the corporate defendants through an intermediary or by another corporate defendant and where the corporate defendants registered an interest in their favour against class members’ home title or otherwise owns or controls such an interest on title, are collectively referred to here as “**Consumer Agreements**”).
- (s) The suppliers could only change the Consumer Agreements with the corporate defendants’ approval.
- (t) The Consumer Agreements commonly and uniformly included a provision in fine print giving the supplier the right to register a security interest against the class member and on title to their home, barring class members from selling, mortgaging or otherwise dealing with their property without first obtaining the supplier’s consent or the discharge of the security interest from title.
- (u) The Consumer Agreements also commonly and uniformly included a provision in fine print that the supplier may assign the Consumer Agreements to any person at the supplier’s sole discretion at any time, without the class member’s consent or notice to them.
- (v) the corporate defendants would directly vet each class member that any of the suppliers

targeted before the supplier signed a Consumer Agreement with the class member.

- (w) If the defendants were satisfied of the class member's credit and particularly of the ownership of their home, the defendants would accept that consumer class member, whereupon the supplier would have the class member sign the Consumer Agreement.
- (x) The supplier would then assign the Consumer Agreement to one or more of the corporate defendants.
- (y) In return, the corporate defendants provided financing to the supplier for the purchase and installation of the equipment, and other start-up expenses.
- (z) Using the powers allotted to them in the Consumer Agreement, the corporate defendants would then register a security interest in an exorbitant and disproportionate amount against the title to the class member's home.

21. The second way in which the defendants have obtained ownership or control of Consumer Agreements of a similar nature but formed outside the Financing Arrangement is when such Consumer Agreements are sold or assigned to the defendants through an intermediary.

22. The defendants enforce security interests on class members' home titles in at least three ways that are currently known to the plaintiffs:

- (i) one or more of the defendants directly registers security interests on title under its own name and seeks to enforce it against the class member as particularized herein;
- (ii) one or more of the defendants obtain ownership rights to a security interest already registered by a previous company under that company's name, and then one or more of the corporate defendants registers its own security interest in its own name (or in the name of other companies whose identity is known to Mr. Krimker but not within the knowledge of the plaintiffs) and seeks to enforce it as particularized herein; and/or
- (iii) one or more of the defendants obtain ownership rights to a security interest already registered by a previous person under that person's name, and the defendants seek to enforce it as particularized herein without changing the security interest to the name of one

of the corporate defendants or another company belonging to or controlled by Mr. Krimker.

23. At no point during this process would the defendants, their predecessors, or other supplier disclose to the consumer the total amount payable by that consumer under the Consumer Agreement—the total amount being the amount that the defendants would later register against the consumer’s home title and eventually extract from the consumer or the amount that the defendants would extract from consumers in order to discharge security interests owned or controlled by the defendants, plus any monthly and all other payments already made by the consumer toward the HVAC and HVAC-related Equipment.

24. Similarly, in instances where one of the defendants obtained assignments of Consumer Contracts from intermediary companies outside the defendants’ Financing Arrangement, the class members’ total liability, as pleaded in paragraph 22 above, were not disclosed to the class members in compliance with the *Consumer Protection Act*, as particularized below.

25. Class members only become aware of the existence of the encumbrance registered, owned, or controlled by the defendants on their homes and the amount that the defendants had registered or demanded, once they obtain a title abstract to their property, which typically only occurs when the class members are in the process of selling or remortgaging their home.

26. In exchange for removing the charge from title, the defendants extract from consumers amounts grossly exceeding the price at which similar HVAC and HVAC-related Equipment are readily available to like consumers. Consumers have no choice or opportunity to challenge the charge; they must pay the price dictated to them by the defendants to discharge the security interest registered on title to their home and cannot proceed with the sale or remortgage of their home, until said charge is removed by the defendants.

The Class

27. The plaintiffs seeks to represent the following class, of which ~~she is~~ they are both a member:

All individuals in Ontario who:

(a) are or were at any time party to a consumer agreement for HVAC or HVAC-related Equipment* with any person who directly or indirectly assigned that consumer agreement to one of the defendants between July 17, 2013 and the date of certification of this action or any other date that the Court deems appropriate (“Class Period”); and

(b) against whose property the defendants registered, or caused to be registered, a security interest or other encumbrance on title, or the defendants otherwise owned or controlled such an encumbrance on title.

*“HVAC or HVAC-related Equipment” means furnaces, air conditioners, air purifiers, water heaters, water softeners, water purifiers, water treatment systems, water filters, boilers, air cleaners, humidifiers, chimney liners, duct cleaning services, filters, thermostats and other equipment or services offered under the rental contracts, or bundles of these goods and services.

The plaintiffs’s experience

Alga Adina Bonnick

28. Ms. Bonnick is 70 years old. After a life of hard work, she was able to buy her home—a small bungalow in Scarborough—in 2006. She works as a cleaner despite her advanced age, and chronic health issues.

29. On or about July 22, 2017, a person identifying himself as Noor Ullah attended at Ms. Bonnick’s home.

30. Mr. Ullah told Ms. Bonnick that he worked for “Enercare” and that he was sent to her home to inspect her Enercare furnace. In reality, Mr. Ulah was not an employee of Enercare, but a sales representative for MGA Home Services (“MGA”), a door-to-door supplier and an affiliated

corporate entity of the corporate defendants.

31. Mr. Ullah also told Ms. Bonnick that he was at her home to install a water softener, carbon filter, and air cleaner and that she would not be charged for these items.

32. At Mr. Ullah's request, Ms. Bonnick signed a document that was purported to be an agreement. However, Mr. Ullah refused to give her a copy of the document.

33. The following day, an unidentified person attended to install equipment. During the installation, a real Enercare representative was coincidentally at Ms. Bonnick's home fixing her air conditioner.

34. The Enercare representative asked Ms. Bonnick who was installing the air cleaner. Ms. Bonnick told him that it was another person from Enercare.

35. The Enercare representative told her that the person installing the air cleaner was not an Enercare employee. This was the first time that Ms. Bonnick realized she was not dealing with Enercare.

36. Ms. Bonnick immediately requested that the other person stop working. At this point, the air cleaner was already installed. This was the only product that was installed at this time.

37. Shortly after, Ms. Bonnick contacted Shaheem Khalid at MGA by phone to cancel the purported agreement and to request the removal of the equipment from her home.

38. Mr. Khalid confirmed the cancellation. However, he told her that she would still owe \$1,300.00.

39. Ms. Bonnick told him that she could not afford \$1,300.00. He suggested that she ask a

friend for the money, and he told her there was a law that required her to pay.

40. A few days later, Mr. Khalid attended at Ms. Bonnicks home. This time he demanded that she pay \$1,500.00. She asked why the price went up. He told her that interest had been added to the original amount he quoted on the phone.

41. Mr. Khalid suggested that instead of paying the \$1,500 fee to cancel, Ms. Bonnicks could pay \$20.00 per month for two years. She was told she could keep the air filter that was installed, and he would install a water softener. She was told that she would have no further obligations to MGA, at the end of the two years.

42. Mr. Khalid provided Ms. Bonnicks with a hand-written note that mentioned the \$20.00 monthly fee and two-year term. He never gave Ms. Bonnicks a copy of any agreement.

43. Several days later, a technician attended Ms. Bonnicks home and installed a water softener.

44. In or around November 2017, Ms. Bonnicks discovered that Crown Crest was billing her \$88.14 monthly for two water softeners and an air cleaner.

45. Ms. Bonnicks had never received two water softeners.

46. Ms. Bonnicks disputed the Crown Crest charge on her bill with Enercare. Enercare removed the charges from her Enercare bill.

47. Over the next several months, Ms. Bonnicks made several requests to Crown Crest to cancel any and all agreements she may have allegedly had. However, Crown Crest has continued to demand payment and threaten with collections and enforcement.

48. Despite making repeated requests to MGA and Crown Crest, Ms. Bonnick has never received a copy of her signed original agreement(s) in violation of the *Consumer Protection Act* and its regulations.

49. On April 3, 2018, Crown Crest registered a security interest on title of Ms. Bonnick's home in the amount of \$14,448.00.

50. The agreement(s) that the supplier, MGA, had Ms. Bonnick sign, and subsequently assigned to Crown Crest was a Consumer Agreement.

51. The total amount payable by Ms. Bonnick under the Consumer Agreement was the amount of \$14,448.00 that Crown Crest subsequently registered on Ms. Bonnick's title plus all the other amounts she had paid toward the equipment.

52. At no point did any of the persons particularized above disclose to Ms. Bonnick the total amount payable by her under the Consumer Agreement. The defendants unilaterally decided the total amount, and registered on title to her home.

53. It is the defendants' common practice to register an unconscionable amount on title to the class members' properties and to keep class members in the dark about the total amount payable by them under the Consumer Agreements.

54. The equipment installed in Ms. Bonnick's house was of minimal value and turned out to be defective, causing damage and covering her home in mold. She had to pay someone to uninstall the equipment and move it to her backyard.

55. One of MGA's directors most recently pleaded guilty in the Ontario Court of Justice to charges of deception, untrue statements, and false and misleading practices contrary to the

Goran Stoilov Donev

56. Mr. Donev is a resident of Etobicoke, Ontario. He lives with his family in a modest bungalow in Etobicoke, which he bought in 2012.

57. In or around May 2015, a salesperson from the defendants came to his home and told him of a great offer on a new air conditioner.

58. Despite Mr. Donev's assertion that he did not need to change his conditioner, the salesperson insisted that changing the air conditioner would help him save significant sums off his hydro bill. The salesperson assured Mr. Donev that the new air conditioner would use highly efficient technology so any increase in his Enbridge bill would be offset by decreases in his hydro bill. Mr. Donev did not receive any of these efficiency costs savings on his monthly bills.

59. On the insistence of the salesperson, Mr. Donev agreed to change his air conditioner and signed the document that the salesperson gave to him that was purported to be an agreement with "Simply Green Home Services" at the top.

60. The agreement did not include the total amount of money that Mr. Donev would later become liable for, nor did it include any kind of payment schedule or other material information required to enable him to know what sort of arrangement he was entering into.

61. The air conditioner was subsequently installed in Mr. Donev's home. The defendants removed his existing, functioning air conditioner.

62. In May 2015, the defendants started charging Mr. Donev around \$80 monthly on his Enbridge bill. This was later increased to \$100 per month. He has consistently paid these amounts

for the past seven years.

63. To date, Mr. Donev estimates that he has paid approximately \$8,000 for the air conditioner.

64. At no point did the salesperson or any person from Simply Green Home Services disclose to Mr. Donev what monthly amounts he was and continues to be required to pay.

65. Subsequently, Mr. Donev discovered that Simply Green Home Services Inc. had registered a NOSI in the amount of \$7,269 on his home title on July 30, 2015 without his information or knowledge.

66. At the time of signing the agreement, Mr. Donev was not told that a NOSI would be registered on his home title or for how much. At no point did any of the defendants or their agents disclose to Mr. Donev the total amount payable by him under agreement. At no point did any of the defendants or their agents disclose to Mr. Donev that a NOSI would be used to secure any payout amount that the defendants unilaterally determined. The defendants unilaterally decided the total amount, and registered on title to his home.

67. As in the case with Ms. Bonnick, it is the defendants' common practice to unilaterally determine an unconscionable amount after an agreement is signed, and register that unconscionable amount on the home titles of class members without their knowledge.

68. To date, Mr. Donev does not know what his total liability to these companies is.

69. More recently, Mr. Donev has started to be contacted by Crown Crest Capital by phone and by email. Notwithstanding that Mr. Donev has not signed any contract or agreement with them, Crown Crest Capital continues to demand direct payment from him rather than billing through his Enbridge account.

70. The market value for the air conditioner provided to Mr. Donev is only a fraction of the amounts he has paid to date and the bulk buyout amount the defendants still hold on his home title.

D. CAUSE OF ACTION

Breach of the *Consumer Protection Act, 2002*, and its Regulations

71. The defendants failed to comply with the *Consumer Protection Act*.

72. The suppliers are located in Ontario and are each a “supplier” for the purposes of the *Consumer Protection Act*.

73. The defendants are suppliers and/or successor parties to the Consumer Agreements concluded by the suppliers who acted as their agents under the Financing Arrangement. The defendants administer the accounts into which customer payments are received and register and/or maintain a notice of security interest or other encumbrance over class members’ homes. The defendants are jointly engaged with the suppliers in the business of renting HVAC or HVAC-related Equipment to the class.

74. Accordingly, the defendants are “suppliers” under the *Consumer Protection Act*.

75. Alternatively, the defendants are assignees, and are liable under s. 18(13) of the *Consumer Protection Act*.

76. The class members’ Consumer Agreements assigned to, or owned by, the defendants are “consumer agreements” for the purposes of the *Consumer Protection Act*.

77. Ms. Bonnick and the other class members are “consumers” for the purposes of the *Consumer Protection Act*.

The Consumer Agreements breached direct agreement provisions

78. The Consumer Agreements were direct agreements as defined under the *Consumer Protection Act*.

79. Part IV of the *Consumer Protection Act* governs direct agreements. Section 42(1) of the *Consumer Protection Act* mandates that all direct agreements be made in accordance with requirements specified in regulations.

80. *Requirements for Direct Agreements Subject to Section 43.1 of Act, O Reg 8/18*, required throughout the Class Period that the supplier furnish the consumer with an agreement setting out certain material information, including, but not limited to, the total amount payable by the consumer under the agreement, and all security given by the consumer in respect of money payable under the agreement.

81. The amounts for which the defendants registered security interests against the titles to the homes of Ms. Bonnicks and other class members, as well as amounts demanded by the defendants where the security interest was registered by another person but was assigned to any of the defendants, plus any monthly and all other amounts already paid or allegedly owed by the class member toward the HVAC and HVAC-related Equipment, constituted the total amount payable by the consumer under the Consumer Agreement.

82. The defendants and other suppliers that assigned the subject Consumer Agreements to the defendants failed to disclose this information and other material information required under the governing regulations to Ms. Bonnicks and other class members. The suppliers did not disclose the payable amounts to Ms. Bonnicks and other class members when they were signing the Consumer Agreements because the defendants unilaterally determine the total amount of the security interest

they register or own or control on title to consumers' homes after the fact.

83. This information was material, required under the regulations, and it was not known until the defendants registered a security interest against title unbeknownst to the consumer or demanded payment for a security interest assigned to them previously registered or owned by another person.

The Consumer Agreements breached leasing requirements

84. The Consumer Agreements failed to comply with the leasing requirements contained in Part VIII of the *Consumer Protection Act*. Specifically, s. 89(2) of the *Consumer Protection Act* requires a lessor to deliver a disclosure statement for the lease to the consumer, disclosing prescribed information.

85. *General Regulation*, O Reg 17/05, prescribed during the Class Period the information that must be disclosed to a consumer for a lease that is subject to Part VIII of the *Consumer Protection Act*. Section 74(2) requires the supplier to furnish the consumer with a disclosure statement setting out certain material information, including, but not limited to, the total lease cost as well as the implicit finance charge for the lease.

86. The above leasing provisions applied to the Consumer Agreements.

87. The amounts for which the defendants registered security interests and other encumbrances on the titles to the homes of Ms. Bonnick and other class members, as well as amounts demanded by any of the defendants where the security interest was registered by another person but was assigned to any of the defendants, plus any monthly and all other amounts already paid by the consumer toward the HVAC and HVAC-related Equipment, constituted the total lease cost under the Consumer Agreements.

88. The Consumer Agreements that suppliers signed with Ms. Bonnicks and other class members did not disclose, nor could they have disclosed, this information or the implicit finance charge, amongst others, to Ms. Bonnicks and other class members.

89. This information was material, required under the regulations, and it was not known until the defendants registered a security interest against title or demanded payment for a security interest assigned to them previously registered or owned by another person.

The Consumer Agreements constituted an unfair practice

90. Section 14 of the *Consumer Protection Act* prohibits unfair practices. Failure to state a material fact if such failure deceives or tends to deceive a consumer constitutes an unfair practice.

91. Further, a consumer agreement where the price grossly exceeds the price at which similar goods or services are readily available to like consumers or where the terms of the consumer transaction are so adverse to the consumer as to be inequitable constitutes unfair practices contrary to s. 15 of the *Consumer Protection Act*.

92. Here, the Consumer Agreements' failure to disclose the material information particularized above to Ms. Bonnicks and other class members constituted an unfair practice contrary to s. 14. The grossly inflated amounts that the defendants commonly registered against title or demanded in order to discharge registrations owned or controlled by them and the grossly adverse unilateral terms of the Consumer Agreements render them unconscionable contrary to s. 15.

93. Ms. Bonnicks's situation illustrates the grossly one-sided and improvident terms imposed by the defendants against unknowing, vulnerable consumers: even disregarding the misrepresentations of the door-to-door supplier in this instance, for an air cleaner and a water softener (each valued at a few hundred dollars) the defendants have charged Ms. Bonnicks's home

title in the exorbitant amount of \$14,448, without any prior disclosure, breakdown of the cost, implicit finance charge, or opportunity for Ms. Bonnicks to dispute this charge. The defendants have still not even provided a copy of the purported Consumer Agreement to Ms. Bonnicks contrary to the *Consumer Protection Act*.

94. The impugned conduct breached ss. 14 and 15. The defendants knew, or ought to have known, the illegality under the *Consumer Protection Act*.

95. The defendants took advantage of the inability of Ms. Bonnicks and other class members to reasonably protect their own interests because of the gross information asymmetry between the contracting parties and class members' ignorance or inability to realize the character and nature of the Financing Arrangement and Consumer Agreements.

96. The defendants are liable as suppliers for these unfair practices.

97. Alternatively, pursuant to s. 18(12) of the *Consumer Protection Act*, the defendants are jointly and severally liable for these unfair practices particularized above together with the persons who signed Consumer Agreements with Ms. Bonnicks and other class members.

98. Alternatively, pursuant to s. 18(13) of the *Consumer Protection Act*, the defendants are liable as assignees of the Consumer Agreements.

Slander of title

99. The defendants' conduct constituted slander of title.

100. The defendants registered, or caused to be registered, false statements contrary to the *Consumer Protection Act*, *Personal Property Security Act*, and *Land Titles Act* against Ms. Bonnicks and other class members' home title.

101. The defendants' registration on title and their abuse of registrations assigned to them by other persons was intended to induce others not to deal with Ms. Bonnicks and other class members unless the amounts registered were paid and the registration discharged.

102. Malice motivated the defendants' conduct: the defendants had an improper motive to injure Ms. Bonnicks and other class members without just cause or excuse contrary to the *Consumer Protection Act*.

103. As a result of the defendants' conduct, Ms. Bonnicks and other class members suffered monetary loss, including but not limited to, their inability to dispose of their property without first paying the illegal charges imposed by the defendants, receiving a lowered price for their homes because of the amounts charged by the defendants, paying higher interest rates when refinancing or obtaining a loan secured against their home title, and damaged credit.

The corporate veil should be pierced

104. The legal principle that corporations are separate legal entities should be disregarded to hold Mr. Krimker personally liable for the wrongful conduct of the corporate defendants.

105. Mr. Krimker is the directing mind of all the corporate defendants. He is their founder, owner, CEO, president, and director. He exercises complete control over the corporate defendants and their actions.

106. Mr. Krimker has had five charges laid against him pursuant to s. 116(3) of the *Consumer Protection Act*, which holds an officer or director directly liable for a company's offence under the *Act* where that individual fails to take reasonable care to prevent the company from committing an offence.

107. This provision recognizes the significant role that directors and officers exercise in a corporation in the consumer context and their ability to make, authorize, condone, and encourage wrongful and improper conduct, such as the impugned conduct in this case.

108. Mr. Krimker's position as founder and CEO of the corporate defendants and their affiliated companies has allowed him to incorporate multiple corporations, including the corporate defendants, through which he acts to attempt to evade liability while reaping the benefits at consumers' expense.

109. As the founder, legal and beneficial owner, CEO, president, and director of the corporate defendants, Mr. Krimker has been instrumental in the development of the scheme of obtaining Consumer Agreements improperly entered into with Ms. Bonnick and other class members to register security interests and other encumbrances in arbitrary amounts against the home titles of those consumers.

110. Mr. Krimker created the corporate defendants to facilitate the practice of using Consumer Agreements to register security interests against the properties of consumers. The sole or primary purpose for incorporating the corporate defendants was an improper activity contrary to the *Consumer Protection Act*. Many such companies go out of business, sometimes by bankruptcy and many are taken over by other companies, making it both difficult and futile for consumers to obtain any remedial relief for breaches of the consumer protection legislation against corporate defendants.

111. Mr. Krimker used the corporate defendants as a puppet, a sham and mere façade acting as his agent in carrying out the wrongful conduct particularized herein.

112. Further, Mr. Krimker engaged in unfair practices personally, knowing of the companies'

improper practices, yet continuing to authorize, and condone the use of illegal Consumer Agreements.

113. As the directing mind of the corporate defendants, Mr. Krimker engaged in unfair practices in his capacity as a director and officer and is thus jointly and severally liable with the corporate defendants pursuant to s. 18(12) of the *Consumer Protection Act*.

E. REMEDIES

114. As a result of the conduct pleaded above, Ms. Bonnick and the other class members have suffered loss and damage in an amount to be determined at trial.

115. The Consumer Agreements were not made in accordance with the *Consumer Protection Act* and are not binding on Ms. Bonnick and the other class members.

116. The Consumer Agreements resulted from unfair practices for which Ms. Bonnick and other class members are entitled to remedies under s. 18 and at law.

117. Ms. Bonnick and other class members are entitled to rescission of the Consumer Agreements.

118. Further, Ms. Bonnick and the other class members seek their damages for, amongst other things, the amounts by which the class members' payment under the Consumer Agreements exceed the value that the goods or services have to the class members, the registration of undisclosed amounts on title, all amounts paid to remove the security interests from title, damage to their credit, and all of their out of pocket and inconvenience damages.

119. It is in the interests of justice to waive any notice requirements under the *Consumer Protection Act*, particularly as the defendants and their affiliated suppliers concealed the actual

state of affairs from the class members.

120. In the alternative to damages, Ms. Bonnick and the other class members claim the remedy of disgorgement of the profits generated by the defendants as a result of the wrongful conduct particularized herein.

121. Disgorgement is appropriate for the following reasons, among others:

- (1) the defendants made profits as a result of slander of title and breaches of the *Consumer Protection Act*;
- (2) the defendants made profits in such a manner that the defendants cannot in good conscience retain it;
- (3) the integrity of the marketplace would be undermined if the defendants were to profit from the wrongful conduct;
- (4) absent the wrongful conduct, class members would not have entered into the Consumer Agreements, and the defendants would never have received profits arising from the Consumer Agreements; and
- (5) disgorgement of profits retained by the defendants would serve a compensatory purpose.

Interlocutory and permanent injunction

122. The impugned conduct is ongoing.

123. The impugned conduct is causing irreparable harm to Ontario consumers. The defendants should be enjoined from engaging in the impugned conduct until the resolution of this action on its merits.

124. Further, the defendants should be permanently enjoined from engaging in the conduct

particularized herein.

125. Mr. Krimker's conduct is sufficiently likely to occur or recur in the future that it is not only appropriate, but necessary, for the Court to exercise its equitable jurisdiction to grant an injunction. In the context of the consumer market at issue, no other alternative will provide reasonably sufficient protection against the threat of the continued occurrence of the impugned wrong. Absent an injunction, nothing stops Mr. Krimker from continuing to incorporate companies to repeat the same conduct at issue in this action.

Unjust enrichment

126. The defendants have been unjustly enriched to the extent that they have charged and retained unlawful fees, interest and other amounts under the Consumer Agreements.

127. The class members suffered a deprivation corresponding to the defendants' enrichment.

128. The Consumer Agreements being unenforceable, there is no juristic reason for the defendants' enrichment and the class members' corresponding deprivation.

129. Accordingly, the class members are entitled to restitution.

Punitive damages

130. Due to the egregious nature of the defendants' conduct, including, without limiting the generality of the foregoing, registering exorbitant undisclosed amounts on consumers' homes in order to obtain illegal profits at the expense of consumers, Ms. Bonnick and the other class members are entitled to recover aggravated, punitive, and exemplary damages.

131. The wrongful conduct particularized here was willful, deliberate, high-handed, outrageous,

callous and in contemptuous disregard of consumer rights and interests.

132. The defendants have callously taken advantage of consumers' vulnerabilities to trap consumers in a scheme that threatened to deprive them of their homes.

133. Further, Ms. Bonnick and the other class members are entitled to punitive damages under the *Consumer Protection Act* and at common law to relieve the defendants of their wrongful profits made while flouting the law.

F. FRAUDULENT CONCEALMENT

134. The defendants willfully concealed the unlawfulness of the Consumer Agreements from Ms. Bonnick and the class members. Ms. Bonnick and the class members plead and rely on the doctrine of fraudulent concealment to assert that any applicable statute of limitation has been tolled by the defendants' knowledge, concealment and denial of facts which prevented the class from discovering their cause of action.

135. Mr. Krimker continues to actively conceal the identity of the companies, other than the presently known and named corporate defendants, that he has used to encumber class members' home titles to demand exorbitant payout fees as ransom.

136. In addition, Ms. Bonnick and the class members could not reasonably have known that loss or damage had occurred, that it was caused or contributed to by acts of the defendants, or that a court proceeding would be an appropriate means to seek to remedy the injury until this action was filed.

137. Ms. Bonnick and the class members plead and rely on and the *Limitations Act, 2002*, SO 2002, c 24, Sched B, s. 5 and on the doctrines of postponement and discoverability to postpone the

running of the limitation period until the date on which this action is commenced.

138. Ms. Bonnick and the other class members also plead and rely on the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, SO 2020, c 17, O Reg 73/20 to suspend the running of the limitation period from March 16, 2020, to September 13, 2020.

(Date of issue) July 7, 2021
m

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Plaintiffs

-and-

LAWRENCE KRIMKER et al.
Defendants

Court File No. CV-21-00665193-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding commenced at TORONTO

Proceeding under the *Class Proceedings Act, 1992*

AMENDED FRESH AS AMENDED
STATEMENT OF CLAIM

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This is Exhibit “B” to the Affidavit of Karen Whibley of the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on November 15, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

ALGA ADINA BONNICK and GORAN STOILOV DONEV

Plaintiffs

and

LAWRENCE KRIMKER, CROWN CREST CAPITAL MANAGEMENT CORP., CROWN CREST FINANCIAL CORP., CROWN CREST CAPITAL TRUST, CROWN CREST CAPITAL II TRUST, CROWN CREST BILLING CORP., CROWN CREST CAPITAL CORP., CROWN CREST FUNDING CORP., SANDPIPER ENERGY SOLUTIONS, SANDPIPER ENERGY SOLUTIONS HOME COMFORT, SIMPLY GREEN HOME SERVICES (ONTARIO) INC., SIMPLY GREEN HOME SERVICES INC. and SIMPLY GREEN HOME SERVICES CORP.

Defendants

**AMENDED STATEMENT OF DEFENCE
OF THE DEFENDANT, LAWRENCE KRIMKER**

1. Except as expressly admitted herein, the Defendant Lawrence Krimker denies all of the allegations contained in the Amended Fresh as Amended Statement of Claim and puts the ~~Plaintiff~~ Plaintiffs to the proof thereof.

LAWRENCE KRIMKER

2. Mr. Krimker is an individual residing in Toronto, Ontario. He is the founder and Chief Executive Officer of Simply Group. Mr. Krimker is the director and/or officer of certain corporations within Simply Group, as described below.

THE CORPORATE DEFENDANTS

3. Crown Crest Capital Management Corp., Crown Crest Financial Corp., Crown Crest Capital Trust, Crown Crest Capital II Trust, Crown Crest Billing Corp., Crown Crest Capital Corp., Crown Crest Funding Corp., Simply Green Home Services (Ontario) Inc., Simply Green Home Services Inc., and Simply Green Home Services Corp. (together, the “Corporate Defendants”) are or were each part of Simply Group.

4. Crown Crest Capital Management Corp. is a corporation incorporated under the laws of Ontario. It is a management company and has been the beneficiary of the Defendant Crown Crest Capital Trust since January 1, 2019. At all material times, Mr. Krimker was an officer and director of Crown Crest Capital Management Corp.

5. Crown Crest Financial Corp. is an inactive Ontario subsidiary of Crown Crest Capital Management Corp. It had no involvement with the ~~Plaintiff's~~ Plaintiffs' home comfort equipment ~~lease~~ leases. At all material times, Mr. Krimker was the President and a director of Crown Crest Financial Corp.

6. Crown Crest Capital Trust is a special purpose funding trust existing under the laws of Ontario.

7. Crown Crest Capital II Trust is an inactive trust. It had no involvement with the ~~Plaintiff's~~ Plaintiffs' home comfort equipment ~~lease~~ leases.

8. Crown Crest Billing Corp. is a corporation incorporated under the laws of Ontario. It had no involvement with the ~~Plaintiff's~~ Plaintiffs' home comfort equipment ~~lease~~ leases. At all material times, Mr. Krimker was an officer and director of Crown Crest Billing Corp.

9. Crown Crest Capital Corp. is an inactive corporation incorporated under the laws of Ontario and a wholly owned subsidiary of the Defendant Simply Green Home Services Corp. It had no involvement with the ~~Plaintiff's~~ Plaintiffs' home comfort equipment ~~lease~~ leases. At all material times, Mr. Krimker was an officer of Crown Crest Capital Corp.

10. Crown Crest Funding Corp. is a corporation incorporated under the laws of Ontario. It is the trustee of the Defendant Crown Crest Capital Trust.

11. Simply Green Home Services (Ontario) Inc. is corporation incorporated under the laws of Ontario. It is a wholly-owned subsidiary of the Defendant Simply Green Home Services Corp It had no involvement with the ~~Plaintiff's~~ Plaintiffs' home comfort equipment ~~lease~~ leases. At all material times, Mr. Krimker was an officer and director of Simply Green Home Services (Ontario) Inc.

12. Simply Green Home Services Inc. is a corporation incorporated under the laws of Ontario. It had no involvement with the ~~Plaintiff's~~, Alga Adina Bonnick's, home comfort equipment lease. It originated the Plaintiff, Goran Stoilov Donev's, home comfort equipment lease. At all material times, Mr. Krimker was an officer and director of Simply Green Home Services Inc.

13. Simply Green Home Services Corp., formerly known as Simply Green Home Services Inc., is a corporation incorporated under the laws of Ontario. It had no involvement with the ~~Plaintiff's~~ Plaintiffs' home comfort equipment ~~lease~~ leases. At all material times, Mr. Krimker was an officer and director of Simply Green Home Services Corp.

14. Sandpiper Energy Solutions and Sandpiper Energy Solutions Home Comfort are not legal entities and do not exist. Sandpiper Energy Solutions is a registered business name of the

Defendant Simply Green Home Services Corp. Sandpiper Energy Solutions Home Comfort is a registered business name of the Defendant Crown Crest Funding Corp. Neither Simply Green Home Services Corp. nor Crown Crest Funding Corp. had any involvement with the ~~Plaintiff's~~ Plaintiffs' home comfort equipment ~~lease~~ leases.

MR. KRIMKER'S ROLE WITHIN SIMPLY GROUP

15. Simply Group is a large organization with a number of business lines, including but not limited to the consumer equipment leasing business. While the size and organization of Simply Group and the Corporate Defendants has changed over time, Mr. Krimker has consistently held a senior role focused on high-level strategic matters. Mr. Krimker has not generally been involved in day-to-day operational matters pertaining to Simply Group or any of the Corporate Defendants. The vast majority of decisions made by the Corporate Defendants, including decisions relating to the subject-matter related to the allegations in the Amended Fresh as Amended Statement of Claim, have been made by others working at corporations within Simply Group.

16. In terms of Simply Group's structure, by way of example, as of early 2022:

- (a) Simply Group was led by an Executive Team, who oversaw a broader Leadership Team, who in turn directly or indirectly supervised hundreds of employees.
- (b) Mr. Krimker was the CEO of Simply Group. He was part of the Executive Team, along with the Chief Financial Officer and the Chief Operating Officer.
- (c) At that time, reporting to the COO was a broader Senior Leadership Team, which included individuals in the following roles:

- (i) Chief Risk Officer;
 - (ii) Executive Vice-President, Operations;
 - (iii) Executive Vice-President, Strategic Relationships and Business Development;
 - (iv) Senior Vice-President, Technology;
 - (v) Senior Vice-President, Product and Consumer Lending;
 - (vi) Executive Vice-President, Sales;
 - (vii) Senior Vice-President, Sales;
 - (viii) Vice-President, Marketing;
 - (ix) Vice-President, Collection and Recovery;
 - (x) Senior Vice-President, Operations; and
 - (xi) Vice President, Human Resources.
- (d) The individuals on the Senior Leadership team themselves oversaw, directly or indirectly, teams of up to 20 employees.

17. Mr. Krimker's role at Simply Group and the Corporate Defendants in particular is limited primarily to strategic decisions and initiatives. Mr. Krimker's primary efforts have been directed at growing Simply Group's business through the acquisition of portfolios of relationships that have been originated by third-parties.

18. Contrary to paragraph 96 97 of the Amended Fresh as Amended Statement of Claim, Mr. Krimker has not personally engaged in or directly overseen any of the conduct alleged to be unlawful in the Amended Fresh as Amended Statement of Claim. In particular, Mr. Krimker did not:

- (a) Draft the lease agreements (“Agreements”) entered into with customers, including the Plaintiff Plaintiffs;
- (b) Determine the content of any particular contractual terms contained in any Agreements entered into with customers, including the Plaintiff Plaintiffs;
- (c) Make any decisions about what information was disclosed or not disclosed to customers, including the Plaintiff, in connection with the purchase or lease of home comfort equipment, or provide any directions or guidance to anyone else about what information should or should not be disclosed to customers, including the Plaintiff Plaintiffs;
- (d) Engage in any sale or lease of home comfort equipment to customers, including the Plaintiff Plaintiffs;
- (e) Supervise any employees or agents of any Corporate Defendants, or any third-parties, who engaged in the sale or lease of home comfort equipment to customers, including the Plaintiff Plaintiffs;
- (f) Determine the cost of the equipment sold to particular customers, including the Plaintiff Plaintiffs;

- (g) Determine the cost of the monthly rent of the equipment sold to particular customers, including the ~~Plaintiff~~ Plaintiffs;
- (h) Engage in any negotiations of the Agreements entered into with customers, including the ~~Plaintiff~~ Plaintiffs;
- (i) Engage in any credit verifications or otherwise with customers, including the ~~Plaintiff~~ Plaintiffs;
- (j) Determine which customers, including the ~~Plaintiff~~ Plaintiffs, have a notice of security interest (“NOSI”) registered on their home;
- (k) Determine the quantum of any security interest on a customer’s home, including the Plaintiffs; or
- (l) Register any NOSIs on any customers’ homes, including the Plaintiffs.

19. Simply put, Mr. Krimker had no direct involvement or communication with customers, including the ~~Plaintiff~~ Plaintiffs, nor did he have any indirect involvement regarding any of the matters alleged in the Amended Fresh as Amended Statement of Claim.

NO PERSONAL LIABILITY

20. There is no basis for imposing any personal liability on Mr. Krimker in respect of any allegations advanced in the Amended Fresh as Amended Statement of Claim.

21. Mr. Krimker did not personally engage in any of the alleged conduct which is alleged to be unlawful in the Amended Fresh as Amended Statement of Claim.

22. Moreover, Mr. Krimker denies that there is any basis under which to pierce the corporate veil and/or impose any liability on him in respect of the conduct alleged as against any of the Corporate Defendants. In particular, contrary to paragraphs ~~89-97~~ 90-98 of the Amended Fresh as Amended Statement of Claim:

- (a) Mr. Krimker is not the directing mind of the Corporate Defendants with respect to the matters alleged in the Amended Fresh as Amended Statement of Claim;
- (b) Mr. Krimker has not had any involvement, directly or indirectly, with the drafting, negotiation, or execution of the Agreements entered into with the ~~Plaintiff~~ Plaintiffs on the one hand and any Corporate Defendant on the other hand;
- (c) Mr. Krimker has not had any involvement, directly or indirectly, with the registration of NOSIs and/or other encumbrances on the title to the home of the ~~Plaintiff~~ Plaintiffs. Nor does Mr. Krimker have any involvement, directly or indirectly, with when the NOSIs are registered and/or in what amount;
- (d) Mr. Krimker did not incorporate the Corporate Defendants in order to conduct any improper activity; and
- (e) Mr. Krimker denies that he used the Corporate Defendants as a puppet, a sham, or as a mere façade acting as his agent in carrying out the conduct alleged in the Amended Fresh as Amended Statement of Claim.

NO BREACH OF THE CONSUMER PROTECTION ACT

23. Mr. Krimker is not liable under the *Consumer Protection Act* (“CPA”) in respect of any of the conduct alleged. Mr. Krimker specifically denies paragraphs ~~66-68~~ 67-69, ~~70-73~~ 71-74, and ~~76-82~~ 77-83 of the Amended Fresh as Amended Statement of Claim.

24. Mr. Krimker did not personally engage in any conduct alleged to be unlawful under the *CPA*.

25. Mr. Krimker is not a “supplier” as defined in section 1 of the *CPA*. A “supplier” is a “person who is in the business of selling, leasing or trading in goods or services or is otherwise in the business of supplying goods or services.” Mr. Krimker is not personally in the business of selling, leasing, or trading in goods or services.

26. Likewise, Mr. Krimker is not an “assignee” as defined in section 82(1) of the *CPA*. Section 82(1) provides that if a “a person assigns a negotiable instrument given to secure credit or a loan of money”, then certain obligations flow therefrom. No person or corporation has ever assigned a negotiable instrument to Mr. Krimker.

27. Moreover, Mr. Krimker has never had direct interactions with any of the customers of any of the Corporate Defendants. Mr. Krimker has never been involved in the drafting of the Agreements, communicating with customers regarding their home comfort equipment, or the registering NOSIs on title to customers’ homes. Mr. Krimker has never engaged in any unfair practices under sections 14 and 15 of the *CPA*.

28. There is no basis in law or fact to pierce the corporate veil and/or impose any liability on Mr. Krimker in respect of any breaches of *CPA* alleged as against any of the Corporate Defendants.

29. In any event, Mr. Krimker denies that any of the Corporate Defendants engaged in any breaches of the *CPA* as alleged in the Amended Fresh as Amended Statement of Claim or at all.

NO SLANDER OF TITLE

30. Mr. Krimker is not liable for slander of title vis-à-vis the ~~Plaintiff~~ Plaintiffs. Mr. Krimker specifically denies paragraphs ~~83-87~~ 84-88 of the Amended Fresh as Amended Statement of Claim.

31. Mr. Krimker has never been involved in the registration of any NOSIs on title to customers' homes. He did not register or cause to be registered false statements contrary to the *CPA* or any other statutes.

32. There is no basis in law or fact to pierce the corporate veil and/or impose any liability on Mr. Krimker in respect of any slander of title alleged as against any of the Corporate Defendants.

33. In any event, Mr. Krimker denies that any of the Corporate Defendants engaged in any slander of title as alleged in the Amended Fresh as Amended Statement of Claim or at all. Mr. Krimker denies that the registration of NOSIs constitutes slander of title. He also denies that any NOSIs were registered with an improper motive to injure the ~~Plaintiff~~ Plaintiffs.

NO UNJUST ENRICHMENT

34. Mr. Krimker is not liable for unjust enrichment vis-à-vis the ~~Plaintiff~~ Plaintiffs. Mr. Krimker specifically denies the allegations at paragraphs ~~110-113~~ 111-114 of the Amended Fresh as Amended Statement of Claim.

35. Mr. Krimker specifically denies that he was enriched by charging and retaining unlawful fees, interest, and other amounts under the Agreements. Mr. Krimker did not charge and/or retain unlawful fees, interest, and other amounts, as he is not a counterparty to any of the Agreements.

36. In any event, the ~~Plaintiff~~ Plaintiffs did not suffer a deprivation corresponding to any enrichment to Mr. Krimker.

37. If Mr. Krimker was enriched, which is denied, there was a juristic reason for the charging of fees, interest, and other amounts, namely, the Agreements pursuant to which fees, interest, and other amounts were charged.

38. There is no basis in law or fact to pierce the corporate veil and/or impose any liability on Mr. Krimker in respect of unjust enrichment alleged as against any of the Corporate Defendants.

39. In any event, Mr. Krimker denies that any of the Corporate Defendants were unjustly enriched as alleged in the Amended Fresh as Amended Statement of Claim or at all.

NO ENTITLEMENT TO RESCISSION OF THE AGREEMENTS

40. The Plaintiff is not entitled to rescission of the Agreements. Mr. Krimker specifically denies paragraph ~~101~~ 102 of the Amended Fresh as Amended Statement of Claim.

41. Any Corporate Defendants involved with the ~~Plaintiff~~ Plaintiffs are third parties who acquired the Agreements in good faith and for value. Pursuant to subsection 18(2) of the *CPA*, rescission is not available to the ~~Plaintiff~~ Plaintiffs.

42. In the alternative, if subsection 18(2) does not apply, the ~~Plaintiff~~ Plaintiffs ~~is~~ are not entitled to rescission because ~~the~~ their home comfort equipment was used after ~~its~~ their installation.

The ~~Plaintiff~~ Plaintiffs cannot return the equipment in ~~its~~ their original condition. To the extent any remedy were available to the ~~Plaintiff~~ Plaintiffs, the only remedy available would be damages.

43. In the further alternative, if subsection 18(2) does not apply, the ~~Plaintiff~~ Plaintiffs ~~has~~ have not given notice of ~~her~~ their claims in accordance with the *CPA*. As such, ~~she~~ they ~~is~~ are not entitled to rescission.

NO DAMAGES

44. Mr. Krimker denies that the ~~Plaintiff~~ Plaintiffs has suffered any damages as a consequence of the alleged conduct or otherwise.

45. To the extent the ~~Plaintiff~~ Plaintiffs ~~has~~ have suffered damages, which is denied, such damages are excessive, remote, and/or arise from acts for which Mr. Krimker is not responsible in fact or in law. Further, the ~~Plaintiff~~ Plaintiffs ~~has~~ have failed to mitigate ~~her~~ their damages.

46. Mr. Krimker denies that the ~~Plaintiff~~ Plaintiffs ~~is~~ are entitled to disgorgement, as claimed in paragraphs ~~104-105~~ 105-106 of the Amended Fresh as Amended Statement of Claim. Disgorgement is not an available remedy under the *CPA*. In any event, disgorgement would not be an appropriate remedy in the circumstances.

NO ENTITLEMENT TO INJUNCTIVE RELIEF

47. The ~~Plaintiff~~ Plaintiffs ~~is~~ are not entitled to injunctive relief. Mr. Krimker specifically denies paragraphs ~~106-109~~ 107-110 of the Amended Fresh as Amended Statement of Claim.

NO PUNITIVE DAMAGES

48. Mr. Krimker denies that the ~~Plaintiff~~ Plaintiffs ~~is~~ are entitled to punitive damages.

49. Mr. Krimker denies that he has engaged in wrongful conduct that was willful, deliberate, high-handed, outrageous, callous, or in contemptuous disregard of the ~~Plaintiff's~~ Plaintiffs' rights and interests.

NO JOINT AND SEVERAL LIABILITY

50. Mr. Krimker denies that he is jointly or severally liable with any other Defendant in relation to the ~~Plaintiff~~ Plaintiffs, as alleged in the Amended Fresh as Amended Statement of Claim or at all, under s. 18(12) of the *CPA*, in law, or otherwise.

THE PLAINTIFF'S CLAIM IS STATUTE-BARRED

51. The ~~Plaintiff's~~ Plaintiffs' claims ~~is~~ are statute-barred pursuant to the *Limitations Act, 2002*, S.O. 2002, c. 24. The material facts on which the ~~Plaintiff~~ Plaintiffs ~~relies~~ rely in the Amended Fresh as Amended Statement of Claim were or reasonably ought to have been known to ~~her~~ them more than two years before ~~she~~ they commenced the within Action.

52. Mr. Krimker did not participate in any fraudulent concealment as alleged in the Amended Fresh as Amended Statement of Claim or at all. Mr. Krimker specifically denies paragraphs ~~118-~~ ~~119~~ 119-120 of the Amended Fresh as Amended Statement of Claim.

53. Mr. Krimker denies that either he or any Corporate Defendant wilfully concealed any material facts from the ~~Plaintiff~~ Plaintiffs, including any material terms of any Agreement entered into by the ~~Plaintiff~~ Plaintiffs, or the identity of the companies through which Simply Group offers home comfort equipment to customers.

NOT SUITABLE FOR CLASS PROCEEDING

54. Mr. Krimker denies that this action is suitable for a class proceeding. The criteria for certification under s. 5(1) of the *Class Proceedings Act*, S.O. 1992, c. 6 have not been met.

55. This Statement of Defence responds to the ~~Plaintiff's~~ Plaintiffs' individual claims only. Mr. Krimker reserve the right to amend this Amended Statement of Defence if the action is certified as a class proceeding in order to respond to the action as certified, if at all.

56. Mr. Krimker asks that this action be dismissed with costs.

~~April 18, 2023~~ July 28, 2023

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ALGA ADINA BONNICK et al
Plaintiff

-and- LAWRENCE KRIMKER et al.
Defendants

Court File No. CV-21-00665193-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

**AMENDED STATEMENT OF DEFENCE
OF THE DEFENDANT, LAWRENCE KRIMKER**

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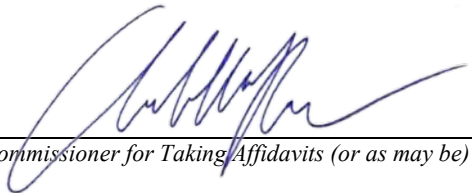
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This is Exhibit “C” to the Affidavit of Karen Whibley of the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on November 15, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

3. The Defendants Sandpiper Energy Solutions and Sandpiper Energy Solutions Home Comfort are not legal entities and do not exist.

The Corporate Defendants

4. The only Corporate Defendants that had any involvement with the ~~Plaintiff's~~ Plaintiffs' home comfort equipment leases (the "**Leases**" and each, individually, a "Lease") are Simply Green Home Services Corp., Crown Crest Capital Management Corp., Crown Crest Capital Trust, and its trustee Crown Crest Funding Corp.

5. **Crown Crest Capital Management Corp.**, an Ontario corporation, is a management company. It has been the beneficiary of the defendant Crown Crest Capital Trust since January 1, 2019.

6. **Crown Crest Capital Trust** is a special purpose funding trust existing under the laws of Ontario.

7. **Crown Crest Funding Corp.** is an Ontario corporation and the trustee of Crown Crest Capital Trust.

8. Crown Crest Capital Trust, through its trustee Crown Crest Funding Corp., purchased from and was assigned ~~the Plaintiff's~~ Ms. Alga Adina Bonnick's ("Ms. Bonnick") Lease by 2558561 Ontario Inc. dba. MGA Home Services ("**MGA Home Services**"). Crown Crest Capital Management Corp. registered a notice of security interest (the "**NOSI**") on title to ~~the Plaintiff~~ Ms. Bonnick's property in relation to the Bonnick Lease.

9. **Simply Green Home Services Corp.**, formerly known as **Simply Green Home Services Inc.**, is an Ontario corporation. It had no involvement with **Ms. Bonnicks's Lease. It originated Mr. Goran Stoilov Donev's ("Mr. Donev") Lease.**

10. None of the other Corporate Defendants had any involvement with the **Plaintiff's Plaintiffs' Leases.**

11. **Crown Crest Financial Corp.** is an inactive Ontario subsidiary of the Defendant Crown Crest Capital Management Corp. It had no involvement with the **Plaintiff's Plaintiffs' Leases.**

12. **Crown Crest Capital II Trust** is an inactive trust. It had no involvement with the **Plaintiff's Plaintiffs' Leases.**

13. **Crown Crest Billing Corp.** is an Ontario corporation. It had no involvement with the **Plaintiff's Plaintiffs' Leases.**

14. **Crown Crest Capital Corp.** is an inactive Ontario corporation and a wholly owned subsidiary of the Defendant Simply Green Home Services Corp. It had no involvement with the **Plaintiff's Plaintiffs' Leases.**

15. **Simply Green Home Services (Ontario) Inc.** is an Ontario corporation. It is a wholly-owned subsidiary of the Defendant Simply Green Home Services Corp. It had no involvement with the **Plaintiff's Plaintiffs' Leases.**

16. **Simply Green Home Services Inc.** is an Ontario corporation. It had no involvement with the **Plaintiff's Plaintiffs' Leases.**

17. ~~Simply Green Home Services Corp.~~, formerly known as ~~Simply Green Home Services Inc.~~, is an Ontario corporation. It had no involvement with the ~~Plaintiff's Lease~~.

18. **Sandpiper Energy Solutions** and **Sandpiper Energy Solutions Home Comfort** are not legal entities and do not exist. Sandpiper Energy Solutions is a registered business name of the Defendant Simply Green Home Services Corp. Sandpiper Energy Solutions Home Comfort is a registered business name of the Defendant Crown Crest Funding Corp. ~~Neither Simply Green Home Services Corp. nor Crown Crest Funding Corp. had any no~~ involvement with the ~~Plaintiff's Plaintiffs'~~ Leases. Simply Green Home Services Corp. did not have involvement with Ms. Bonnick's Lease.

19. Lawrence Krimker is an individual residing in Toronto, Ontario. He is the founder and Chief Executive Officer of Simply Green Home Services Corp. and Crown Crest Capital Management Corp.

20. At all material times, Mr. Krimker was an officer and director of the Corporate Defendants Crown Crest Capital Management Corp., Crown Crest Financial Corp., Crown Crest Billing Corp., Simply Green Home Services (Ontario) Inc., Simply Green Home Services Corp. and Simply Green Home Services Inc., and an officer of Crown Crest Capital Corp. Mr. Krimker was not an officer or director of the other Corporate Defendants at any relevant time.

The Plaintiff Ms. Bonnick's Lease

21. On or about July 22, 2017, the Plaintiff, Ms. Bonnick, entered into a home comfort equipment lease agreement with MGA Home Services for the lease of a water softener, carbon filter and HEPA air filter in the Plaintiff's home (~~defined above as the~~ "**Bonnick Lease**").

22. The ~~Plaintiff's~~ Bonnick Lease was originated by MGA Home Services. MGA Home Services is an arm's length party from the Corporate Defendants. None of the Corporate Defendants has any interest in MGA Home Services.

23. The Corporate Defendants had no involvement in the origination of the Bonnick Lease, including the events alleged at paragraphs ~~28-42~~ 29-43 of the Amended Fresh as Amended Statement of Claim. The Corporate Defendants put the Plaintiff, Ms. Bonnick, to the strict proof thereof.

24. The terms of the ~~Plaintiff's~~ Bonnick Lease provided the following:

- The initial monthly charges payable by ~~the Plaintiff~~ Ms. Bonnick, being \$59.99/month plus tax for each piece of equipment, for a total of \$179.97/month plus tax;
- The monthly charges could increase by up to 3.5% annually throughout the term of the Bonnick Lease, at the discretion of the lessor;
- The term of the Bonnick Lease, which ends when the Lease is terminated in accordance with its terms, or the useful life of the leased equipment has ended;
- The lessor's obligation to service and repair the leased equipment at no cost to ~~the Plaintiff~~ Ms. Bonnick during the Bonnick Lease term;
- The lessor's obligation to replace the leased equipment at no cost to ~~the Plaintiff~~ Ms. Bonnick if it is beyond repair;
- ~~The Plaintiff's~~ Ms. Bonnick's option to purchase the leased equipment or the Bonnick Lease for the buyout price specified in the Lease;

- MGA Home Services and its authorized personnel, representatives, contractors and assigns have the right to assign any interest in the Lease and the leased equipment, in their sole discretion without consent of or notice to ~~the Plaintiff~~ Ms. Bonnick; and
- ~~The Plaintiff~~ Ms. Bonnick granted an exclusive security interest to MGA Home Services and its authorized personnel, representatives, contractors and assigns and granted them the right to register the security interest against ~~the Plaintiff~~ Ms. Bonnick and against title to the lands where the leased equipment is located. ~~The Plaintiff~~ Ms. Bonnick waived the right to receive a copy of such registration.

25. The Lease advised ~~the Plaintiff~~ Ms. Bonnick of her consumer rights in large font, on the front and back page of the Bonnick Lease, including her right to cancel the Lease within 10 days of receiving the Lease.

26. ~~The Plaintiff~~ Ms. Bonnick received a verification call from MGA Home Services to confirm the Lease when it was entered into, before the leased equipment was installed. ~~The Plaintiff~~ Ms. Bonnick confirmed that she had a copy of the Lease, understood its terms, and understood her right to cancel the Lease within 10 days.

27. The Corporate Defendants deny the allegation that any sales representative of MGA Home Services who interacted with ~~the Plaintiff~~ Ms. Bonnick held themselves out as working for "Enercare". ~~The Plaintiff~~ Ms. Bonnick understood that the Lease was with MGA Home Services and that the sales representative with whom she dealt was a representative of MGA Home Services. The Corporate Defendants deny paragraphs 29 and 30 of the Amended Fresh as Amended Statement of Claim and put ~~the Plaintiff~~ Ms. Bonnick to the strict proof thereof.

28. ~~The Plaintiff~~ Ms. Bonnick received a number of goods and services under the Bonnick Lease, including the following:

- use of good and valuable home equipment over the course of the Lease term;
- the ability to finance the cost of using the leased equipment over the Lease term, instead of pay for equipment up-front;
- installation of the leased equipment at no additional cost;
- removal of her old home comfort equipment at no additional cost;
- repairs to or replacement of the leased equipment at no additional cost;
- access to a customer care service centre to address any problems with the leased equipment; and
- “peace of mind” that any problems with the leased equipment would be addressed without additional cost to her.

29. The Bonnick Lease disclosed all material terms required by law. ~~The Plaintiff~~ Ms. Bonnick received a copy of the Lease. ~~The Plaintiff~~ Ms. Bonnick was aware of and understood the terms of ~~the~~ her Lease before entering into it. ~~The Plaintiff~~ Ms. Bonnick was not at a gross informational disadvantage.

30. There was no obligation to disclose to ~~the Plaintiff~~ Ms. Bonnick the total lease cost, total amount payable, the security granted or the implicit finance charge or annual percentage rate under the Lease. In the alternative, these items were disclosed to ~~the Plaintiff~~ Ms. Bonnick at the time the Lease was entered into, insofar as it was possible to describe the manner in which they would

be calculated. However, it was not possible to quantify these items at the time the Bonnick Lease was entered into.

31. In any event, the information that ~~the Plaintiff~~ Ms. Bonnick pleads she did not receive, including as alleged at paragraphs ~~22-23, 51, 64, 66-67, 69, 72-73 and 76~~ 23-24, 52, 80, 82-83, 85, 88-89 and 92 of the Amended Fresh as Amended Statement of Claim, was not material and would not reasonably have affected ~~the Plaintiff's~~ Ms. Bonnick's or any decision to enter into the Lease. Importantly, ~~the Plaintiff~~ Ms. Bonnick did not request any such information when she entered into the Lease.

32. Contrary to the allegations in paragraph ~~49~~ 20 of the Amended Fresh as Amended Statement of Claim, MGA Home Services determined the Bonnick Lease terms, not the Corporate Defendants. MGA Home Services did not require the Corporate Defendants' approval to set the Lease terms or to enter into the Lease with ~~the Plaintiff~~ Ms. Bonnick. The Corporate Defendants did not "vet" ~~the Plaintiff~~ Ms. Bonnick before MGA Home Services could or did enter into the Lease.

33. The leased equipment was installed in ~~the Plaintiff's~~ Ms. Bonnick's home in a good and workmanlike manner. The leased equipment was good and valuable working home comfort equipment. ~~The Plaintiff~~ Ms. Bonnick did not ask that the leased equipment be repaired or replaced in accordance with the Lease. The leased equipment was not defective and did not cause damage to ~~the Plaintiff's~~ Ms. Bonnick's home. The Corporate Defendants specifically deny the allegations at paragraph ~~53~~ 54 of the Amended Fresh as Amended Statement of Claim.

34. Crown Crest Capital Trust, through its trustee Crown Crest Funding Corp., subsequently purchased and was assigned ~~the Plaintiff's~~ Ms. Bonnick's Lease from MGA Home Services

pursuant to a Master Assignment and Program Agreement, after determining in its discretion that the Lease was suitable for purchase. This included a determination that the Lease terms were satisfactory to Crown Crest Funding Corp. as trustee of Crown Crest Capital Trust, confirmation of a satisfactory credit check for ~~the Plaintiff~~ Ms. Bonnick and confirmation that she owned the property where the leased equipment was installed.

35. Although not required, Ms. Bonnick was subsequently advised that Crown Crest Capital Trust had purchased and taken assignment of the Lease. ~~The Plaintiff~~ Ms. Bonnick did not object to the assignment, and nor did she have a reason or right to object to the assignment.

36. MGA Home Services is an arm's length third party from the Corporate Defendants. Crown Crest Funding Corp. as trustee of Crown Crest Capital Trust acquired the Lease for fair value. It took reasonable steps to confirm the Lease was lawful and complied with applicable consumer protection laws before purchasing it. It did not have, and could not through reasonable diligence have had, notice of the possible liabilities alleged in ~~the Plaintiff's~~ Ms. Bonnick's Amended Fresh as Amended Statement of Claim.

37. On or about April 3, 2018, Crown Crest Capital Management Corp. registered a notice of security interest in the leased equipment in the amount of \$14,448.00 (defined above as the "NOSI"). The Bonnick Lease expressly permitted the registration of the NOSI on title to ~~the Plaintiff's~~ Ms. Bonnick's property. The ~~amount~~ registration of the NOSI was not unconscionable. The amount of the NOSI was not the total amount payable or total lease cost to be paid by ~~the Plaintiff~~ Ms. Bonnick under the Lease.

38. Contrary to paragraphs 1(i), ~~13, 24, 26, 57, 71, 93~~ 14, 25, 27, 73, 87, and 109 of the Amended Fresh as Amended Statement of Claim, the NOSI is not a lien or encumbrance on ~~the~~

~~Plaintiff's~~ Ms. Bonnick's property. The NOSI is notice that the Crown Crest Capital Management Corp. holds a security interest in the leased equipment that is installed in ~~the Plaintiff's~~ Ms. Bonnick's property. Without the NOSI, a subsequent purchaser for value might purchase the leased equipment or the entire property without knowledge of Crown Crest Capital Management Corp.'s interest. However, the NOSI does not entitle Crown Crest Capital Management Corp. to enforce the security interest against ~~the Plaintiff's~~ Ms. Bonnick's real property.

39. The registration of the NOSI ~~against the Plaintiff's~~ on title to Ms. Bonnick's property did not impede her ability to deal with the property, including to refinance or sell it. If ~~the Plaintiff~~ Ms. Bonnick had any concerns about the NOSI in connection with a sale of her property, Crown Crest Capital Management Corp. would have granted a reasonable waiver of its priority of registration. However, ~~the Plaintiff~~ Ms. Bonnick made no such request.

40. ~~The Plaintiff~~ Ms. Bonnick was invoiced \$67.79 per month for each piece of equipment, including HST. Thereafter, the monthly payments were increased for each piece of equipment as permitted under the Lease, as follows: \$70.16 including HST starting January 4, 2019; \$72.61 including HST starting January 23, 2020; and \$75.16 including HST starting March 23, 2021. All amounts invoiced to ~~the Plaintiff~~ Ms. Bonnick were in accordance with the Lease.

41. The price of ~~the Plaintiff's~~ Ms. Bonnick's Lease did not grossly exceed the price at which similar goods or services provided under the Lease are readily available to customers like ~~the Plaintiff~~ Ms. Bonnick. The cost of the Lease cannot be compared to the cost of purchasing the equipment outright. The Lease was a means of financing the cost of using home comfort equipment over a lengthy period of time, rather than making an upfront payment. The Lease also included lifetime services, including repair and replacement as needed, installation of the new equipment,

and the removal of any old equipment. Long-term financing and extended “peace of mind” services offer material value. ~~The Plaintiff’s~~ Ms. Bonnick’s Lease was competitively priced, including relative to any providers offering comparable packages of equipment and services.

42. ~~The Plaintiff’s~~ Ms. Bonnick’s Lease remains in effect and has not terminated in accordance with its terms. To date, ~~the Plaintiff~~ Ms. Bonnick has made no payments of the monthly amounts due under the Lease. Nor has ~~the Plaintiff~~ Ms. Bonnick ever paid the buyout amount to terminate her Lease. At all times, Crown Crest Capital Trust has been entitled to request payment from ~~the Plaintiff~~ Ms. Bonnick and to enforce the terms of the Lease.

Mr. Donev’s Lease

43. On or about May 19, 2015, the Plaintiff, Mr. Donev, entered into a home comfort equipment lease agreement with Simply Green Home Services Corp. (at the time known as Simply Green Home Services Inc.) (“Simply Green”) for the lease of an air conditioner in Mr. Donev’s home (the “Donev Lease”).

44. The Donev Lease was originated by Simply Green. The Donev Lease was subsequently assigned to Crown Crest Capital Trust, through its trustee Crown Crest Funding Corp. The remaining Corporate Defendants had no involvement in the Donev Lease.

45. Before Mr. Donev entered into the Donev Lease, the sales representative who attended Mr. Donev’s home accurately explained the Lease terms, answered all of Mr. Donev’s questions, and Mr. Donev indicated that he understood the terms.

46. The Corporate Defendants put Mr. Donev to the strict proof of the facts alleged, including the events alleged at paragraphs 57-69 of the Amended Fresh as Amended Statement of Claim.

47. The terms of the Donev Lease provided the following:

- The initial monthly charges payable by Mr. Donev, being \$79.99/month plus tax for the air conditioner;
- The monthly charges could increase by up to 3.5% annually throughout the term of the Donev Lease;
- The term of the Donev Lease, which was 180 months;
- The lessor's obligation to service and repair the leased equipment at no cost to Mr. Donev during the Donev Lease term;
- The lessor's obligation to replace the leased equipment at no cost to Mr. Donev if it was beyond repair;
- Mr. Donev's option to purchase the leased equipment for the buyout price that can be calculated based on the formula in the Donev Lease;
- Simply Green and its authorized personnel, representatives, contractors and assigns have the right to assign any interest in the Donev Lease and the leased equipment, in their sole discretion without consent of or notice to Mr. Donev; and
- Mr. Donev expressly granted an exclusive security interest to Simply Green and its authorized personnel, representatives, contractors and assigns and granted them the right to register the security interest against Mr. Donev and against title to the lands where the leased equipment is located. Mr. Donev waived the right to receive a copy of such registration.

48. Mr. Donev received a verification call from Simply Green to confirm the Donev Lease when it was entered into, before the leased equipment was installed. Among other things, Mr. Donev confirmed that he had received a copy of the Donev Lease, understood its terms, and understood his right to cancel the Donev Lease within 10 days.

49. Mr. Donev received a number of goods and services under the Donev Lease, including the following:

- use of good and valuable home equipment over the course of the Donev Lease term;
- the ability to finance the cost of using the leased equipment over the Donev Lease term, instead of pay for equipment up-front;
- installation of the leased equipment at no additional cost;
- removal of his old home comfort equipment at no additional cost;
- repairs to the leased equipment at no additional cost;
- access to a customer care service centre to address any problems with the leased equipment; and
- “peace of mind” that any problems with the leased equipment would be addressed without additional cost to him.

50. Government rebates and energy cost savings for upgrading to and using more energy efficient equipment were generally available at the time of the Donev Lease. The Corporate Defendants have no knowledge of what specific rebates or cost savings Mr. Donev sought or

received or Mr. Donev's assertion at paragraph 58 of the Amended Fresh as Amended Statement of Claim.

51. The Donev Lease disclosed all material terms required by law. Mr. Donev received a copy of the Donev Lease. Mr. Donev was aware of and understood the terms of the Donev Lease before entering into it. Mr. Donev was not at a gross informational disadvantage.

52. There was no obligation to disclose to Mr. Donev the total lease cost, total amount payable, the security granted or the implicit finance charge or annual percentage rate under the Donev Lease. In the alternative, these items were disclosed to him at the time the Donev Lease was entered into, insofar as it was possible to describe the manner in which they would be calculated; however, it was not possible to quantify these items at the time the Donev Lease was entered into.

53. In any event, the information that Mr. Donev pleads he did not receive, including as alleged at paragraphs 23-24, 64, 80, 82-83, 85, 88-89 and 92 of the Amended Fresh as Amended Statement of Claim, was not material and would not reasonably have affected Mr. Donev's or any decision to enter into the Donev Lease. Importantly, Mr. Donev did not request any such information when he entered into his Lease.

54. Following the installation of the home comfort equipment, Simply Green called Mr. Donev who confirmed that the equipment was installed in a good and workmanlike manner. The leased equipment was good and valuable working home comfort equipment.

55. On or about July 30, 2015, Simply Green registered a notice of security interest in the leased equipment in the amount of \$7,269.00 (defined above as a "NOSI"). The Donev Lease expressly permitted the registration of the NOSI on title to Mr. Donev's property. The registration

of the NOSI was not unconscionable. The amount of the NOSI was not the total amount payable or total lease cost to be paid by Mr. Donev under the Donev Lease.

56. The Donev Lease was subsequently assigned to Crown Crest Capital Trust, through its trustee Crown Crest Funding Corp.

57. The registration of the NOSI on title to Mr. Donev's property did not impede his ability to deal with the property, including to refinance or sell it. If he had any concerns about the NOSI in connection with a sale of his property, Crown Crest Capital Trust would have granted a reasonable waiver of its priority of registration. However, he made no such request.

58. Mr. Donev was invoiced \$90.39 per month for the air conditioner, including HST. Thereafter, the monthly payments were increased for the equipment as permitted under the Donev Lease, as follows: \$93.55 including HST starting February 28, 2018; \$96.83 including HST starting January 23, 2019; \$100.22 including HST starting February 19, 2020; \$103.72 including HST starting May 16, 2021; and \$107.35 including HST starting February 16, 2023. All amounts invoiced to Mr. Donev were in accordance with his Lease.

59. Simply Green and Crown Crest Capital Trust were entitled to invoice and collect, and Mr. Donev paid, all amounts invoiced under the Donev Lease.

60. The price of Mr. Donev's Lease did not grossly exceed the price at which similar goods or services provided under the Donev Lease are readily available to customers like Mr. Donev. The cost of the Donev Lease cannot be compared to the cost of purchasing the equipment outright. The Donev Lease was a means of financing the cost of using home comfort equipment over a lengthy period of time, rather than making an upfront payment. The Donev Lease also included lifetime

services, including repair as needed. Long-term financing and extended “peace of mind” services offer material value. Mr. Donev’s Lease was competitively priced, including relative to any providers offering comparable packages of equipment and services.

61. Mr. Donev’s Lease remains in effect and has not terminated in accordance with its terms. At all times, Crown Crest Capital Trust has been entitled to request payment from Mr. Donev and to enforce the terms of his Lease.

No Liability of Defendants Not Involved or Non-Existent

62. Sandpiper Energy Solutions and Sandpiper Energy Solutions Home Comfort are not legal entities and do not exist. They cannot have any liability to the Plaintiffs.

63. Crown Crest Financial Corp., Crown Crest Capital II Trust, Crown Crest Billing Corp., Crown Crest Capital Corp., Simply Green Home Services (Ontario) Inc., and Simply Green Home Services Inc., ~~and Simply Green Home Services Corp.~~ had no involvement in the ~~Plaintiff’s~~ Plaintiffs’ Leases at any time and do not have any liability to the Plaintiffs.

No Liability Under the Consumer Protection Act

Corporate Defendants Not Liable

64. The Corporate Defendants are not liable under the *Consumer Protection Act, 2002*, S.O. 2002, c. 30, Sched. A (“*CPA*”) in relation to the Plaintiffs or ~~her~~ their Leases, as alleged in the Amended Fresh as Amended Statement of Claim or at all.

65. None of the Corporate Defendants are or were “suppliers” with respect to the ~~Plaintiff’s~~ Plaintiffs’ Leases as defined under the *CPA*. The Leases was not originated by any of the Corporate

Defendants, except for Simply Green. There was no relationship between the Corporate Defendants and MGA Home Services regarding the Bonnick Lease that would make any of the Corporate Defendants “suppliers” under the *CPA* in relation to the Plaintiff, Ms. Bonnick, or her Lease.

66. Other than Crown Crest Capital Trust through its trustee Crown Crest ~~Financial~~ Funding Corp., none of the Corporate Defendants are or were “assignees” with respect to the Plaintiff's Plaintiffs' Leases as defined under the *CPA*.

67. In the alternative, and further, the Corporate Defendants did not breach the *CPA* in relation to the Plaintiffs or ~~her~~ their Leases, as alleged in the Amended Fresh as Amended Statement of Claim or at all.

68. In the alternative, and further, the Leases ~~was~~ were not unlawful or contrary to the *CPA*, as alleged or at all. In the further alternative, the Corporate Defendants did not know, and had no reason to believe, that the Leases ~~was~~ were unlawful or contrary to the *CPA*, which is denied.

No Unfair Practices

69. The Corporate Defendants deny that they engaged in, or that the Leases constitutes, any unfair practices contrary to sections 14 or 15 of the *CPA* as alleged or at all.

70. None of the Corporate Defendants, except for Simply Green, originated the Plaintiff's Plaintiffs' Lease. Providing financing for, registering a NOSI in relation to, and subsequently

taking assignment of the Leases or originating and subsequently assigning the Leases does not constitute an unfair practices contrary sections 14 or 15 of the CPA.

71. There was no failure to disclose to the Plaintiffs any material information required to be disclosed to ~~her~~them. The Plaintiffs received all material information ~~she~~ they was were entitled to receive. There was no exaggeration, innuendo or ambiguity as to any material fact, and no failure to state a material fact. Any inadequate disclosure, which is denied, did not deceive or tend to deceive.

72. The total lease cost, total amount payable and the security given under the Leases are not material facts requiring disclosure to the Plaintiffs. In the alternative, they were adequately described to the Plaintiffs. In the further alternative, it was not possible to ascertain these amounts at the time the Leases was were entered into.

73. The terms of the Leases are not excessively one-sided, or so adverse to the Plaintiffs as to be inequitable, including with respect to the NOSIs.

74. The Lease prices does not grossly exceed the prices at which similar goods and services are readily available to customers like the Plaintiffs.

No Breach of the Direct Agreement Provisions

75. There is no breach of s. 42(1) of the CPA or of the *Requirements for Direct Agreements Subject to Section 43.1 of Act*, O. Reg 8/18 (the “**Direct Agreements Regulation**”) in relation to the Plaintiffs or ~~her~~ their Leases, as alleged or at all.

76. The Corporate Defendants, except for Simply Green, did not originate the Leases. They put the Plaintiffs to strict proof of establishing that the Leases ~~is~~ are a “direct agreement” as defined under the CPA.

77. Further, and in the alternative, the Direct Agreements Regulation does not have any application to the ~~Plaintiff's~~ Plaintiffs' Leases. The Direct Agreements Regulation came into force on March 1, 2018 and May 1, 2018, after the ~~Plaintiff's~~ Plaintiffs' Leases ~~was~~ were entered into, and does not have retroactive effect.

78. Further, and in the alternative, the Leases complied with all requirements of s. 42(1) of the CPA in force at the time of, and which apply to, the ~~Plaintiff's~~ Plaintiffs' Leases.

79. All prescribed information was disclosed to the Plaintiffs as required by law. The total amount payable under the Leases and the security given were not material facts requiring disclosure.

80. The Leases ~~was~~ were for goods and services to be supplied during an indefinite period. The Leases described the amount and frequency of the periodic payments.

81. In the alternative, the total amount payable under the Leases and the security given were appropriately described in the Leases. In the further alternative, it was not possible to ascertain the total amount payable under the Leases at the time the Leases ~~was~~ were entered into. In the further alternative, the Plaintiffs had sufficient information to ascertain the total amount payable and the security given under the Leases, and this was disclosed to the Plaintiffs at the time the Leases ~~was~~ were entered into.

No Breach of Lease Requirements

82. There is no breach of s. 89(2) of the *CPA* or s. 74(2) of *General Regulation*, O. Reg 17/05 in relation to the Plaintiffs or ~~her~~ their Leases, as alleged or at all.

83. At all times, all prescribed information was disclosed to the Plaintiffs as required by law, including any disclosure statement.

84. Further, and in the alternative, there was no requirement to disclose the total lease cost or implicit finance charge. It was not possible to determine the total lease cost or the amount of every periodic payment under the Leases at the time the Leases ~~was~~ were entered into. The Leases expressly provided that the periodic payments under the Leases could change during the Lease, and said changes were both variable and discretionary. Additionally, the term of the leases ~~was~~ were measured by the useful life of the equipment, which could not be determined at the outset. The Corporate Defendants plead and rely on s. 77 of *General Regulation*, O. Reg 17/05.

85. In the alternative, the Leases described the payments under the Leases, how the payments could change over time, and at whose discretion. The Plaintiffs had sufficient information to ascertain the total cost of the Leases and the implicit finance charge, and this information was appropriately disclosed to the Plaintiffs before the Leases ~~was~~ were entered into.

Slander of Title

86. The Corporate Defendants deny the registration of the NOSIs constituted slander of title, as alleged or at all.

87. The Leases expressly granted an exclusive security interest to MGA Home Services and Simply Green and their ~~its~~ authorized personnel, representatives, contractors and assigns, and