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

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

Proceeding under the *Class Proceedings Act, 1992*

RESPONDING MOTION RECORD OF THE DEFENDANT, LAWRENCE KRIMKER

(Plaintiffs' Certification Motion and Summary Judgment Motion)

September 18, 2023

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AFFIDAVIT OF LAWRENCE KRIMKER

I, Lawrence Krimker, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the Chief Executive Officer of a group of affiliated companies often known as "Simply Green" (described below), which includes the other Defendants in this proposed class proceeding, to the extent that those Defendants exist (collectively, the "Corporate Defendants"). As such, I have knowledge of the matters contained in this affidavit. Where I do not have personal knowledge, I state the source of my information and belief and believe it to be true.

2. At certain points in this affidavit, I describe the roles and responsibilities of both myself and others working at or on behalf of Simply Green, including lawyers and compliance staff. I do

so in order to explain the division of labour between different members of the Simply Green team and describe our general business and processes. In so doing, I do not intend to disclose or rely on any legal advice that I or Simply Green received, nor do I intend to waive privilege over any legal advice that I or Simply Green received.

OVERVIEW

3. I understand that the Plaintiffs seek to "pierce the corporate veil" and hold me personally liable for allegedly wrongful conduct of corporations within Simply Green. The Amended Fresh as Amended Statement of Claim (the "Claim") alleges that I have incorporated multiple companies through which I "attempt to evade liability" for allegedly wrongful conduct. The Plaintiffs' allegations are false, for three reasons that I summarize here and describe in greater detail below.

4. ***First***, Simply Green was not created to further any unlawful conduct. I started Simply Green to fulfill what I perceived to be a gap in the market for home comfort equipment: assisting Canadians with obtaining acquiring new, energy-efficient heating, air conditioning, and ventilation ("HVAC") equipment at no upfront cost. Simply Green was created to compete with the major players in the market, such as Enercare and Reliance, using a similar business model to theirs, not to engage in an unlawful business.

5. ***Second***, neither I nor Simply Green have ever engaged in any corporate structuring with the objective of evading any liability to customers or any third party or for any other improper purpose. As explained below, the various corporate entities within Simply Green were largely created as a result of how portfolio acquisitions were structured and/or as a condition of obtaining financing. The companies carrying out the leasing business within Simply Green bear similar

names, operate in similar markets, and share staff, departments, and functions. They were designed for transaction and/or financing efficiency, and any suggestion otherwise is inaccurate.

6. ***Third***, I had no personal involvement in any of the alleged conduct that the Plaintiffs say is unlawful. I understand from the Claim that the Plaintiffs allege that the Corporate Defendants breached various provisions of the Ontario *Consumer Protection Act*, including by allegedly not disclosing certain information to customers and for the alleged unfairness of the terms of agreements with customers. I will leave it to the Corporate Defendants to respond to those allegations substantively. However, I have had no personal involvement in the conduct alleged by the Plaintiffs in the Claim, including drafting any disclosure provided to customers, drafting or deciding on terms included in any contracts or lease agreements for HVAC or HVAC-related equipment with customers, speaking directly to customers about the terms of their leases, or registering Notices of Security Interest ("NOSIs") on title to customers' homes. While I have ultimate responsibility over the business as a whole as CEO, my primary responsibilities are the overall direction of the business and the supervision of the senior management. The alleged conduct impugned in the Claim falls within the purview of other teams within Simply Green to whom I and others have delegated responsibility.

7. In this affidavit, after first setting out my own background, I will address each of these three areas in turn.

MY BACKGROUND

8. I was raised in Toronto by a single mother who had immigrated to Canada. My mother worked multiple jobs to provide for us. The fact that we could only afford to live in subsidised housing inspired me at a young age to become entrepreneurial and work hard, as I wanted to help

provide for my mother and family. I started my first company at 14 years old and worked multiple jobs throughout high school.

9. I received a scholarship to attend York University’s Schulich School of Business, and in 2008, I completed my Bachelor’s degree.

10. Since high school, I have been a serial entrepreneur, founding a series of companies. For example, among others:

(a) In approximately 2004, I founded Sparkle Window Cleaning, which hired university students to provide window cleaning services to customers in the Greater Toronto Area. I was the Chief Executive Officer of that company from approximately 2004 through early 2008. It was through Sparkle Window Cleaning that I funded my education.

(b) In approximately 2012, I became the Chief Executive Officer of Paystack, a tech start-up that offered payment processing services. In 2013, Paystack won admission to the coveted Y-Combinator program, an American tech start-up accelerator, in Palo Alto, California. As a result, I relocated to San Francisco, and helped build a successful company, raising capital from billion-dollar investors, hiring employees, and helping negotiate the sale of the business for a profit.

11. I have also been involved in my community. For example, in 2014, I participated in the Covenant House Sleep Out, where business and community leaders sleep on the streets for a night to raise awareness and donations for youth homelessness. I am also a Board member and donor at the Jewish Community Centre.

12. I was first introduced to the world of home comfort equipment in approximately 2008, when I took a summer job at Superior Energy in Toronto. From approximately 2008 through 2013, apart from taking approximately 18 months off to build Paystack in Palo Alto, I worked as a consultant for Superior Energy and National Home Services to help assist with their expansion plans. At both companies, I was responsible for managing a local branch that sold, installed, and serviced hot water tanks in the Greater Toronto Area. In this role, I learned how the lease financing model worked for home comfort equipment, which, at the time, was predominately used by large corporations such as Reliance and Enercare.

13. Reliance and Enercare have each participated in the same market as Simply Green, but at a much larger scale:

(a) I understand that the business that became Reliance was initially an arm of Union Gas, a gas utility that operated across Ontario. Based on public reports, I understand that Reliance was most recently acquired by the CK group of companies in 2017 for $2.8 billion. A copy of a May 31, 2017 Reliance Home Comfort news release is attached as **Exhibit "A"**.

(b) I understand that the business that became Enercare traces its origins back to Consumers' Gas, a gas utility that operated in the Toronto area. Enercare later became a publicly listed company. Based on public reports, I understand that Enercare was acquired and made private by Brookfield Infrastructure, a subsidiary of Brookfield Corporation, in 2018 for $4.3 billion. A copy of an October 16, 2018 Enercare news release is attached as **Exhibit "B"**.

14. In 2013, I founded Simply Green Home Services Inc. ("SGHSI"), a home comfort equipment consumer leasing company. As the business evolved organically into new asset classes, expanded into more Canadian provinces, and grew through corporate acquisitions, several entities were created under the Simply Green umbrella, all wholly-owned subsidiaries. For ease of reference, in this affidavit I will refer to the business as a whole as "Simply Green". Since 2013, my primary role has been to act as Simply Green's Chief Executive Officer.

SIMPLY GREEN'S BUSINESS

15. In this section, I describe the evolution of Simply Green's business. Contrary to what the Plaintiffs allege, Simply Green was not established for any unlawful purpose. To the contrary, Simply Green's business model has allowed Canadians to acquire new, energy-efficient HVAC equipment at no upfront cost. From 2015 onward, Simply Green's business was in substance the same as the business model of major players like Enercare and Reliance.

16. At the outset, I should note that since 2013, Simply Green has had a number of distinct business lines. However, I understand that this action involves allegations relating to "HVAC or HVAC-related equipment" only, which I understand the Plaintiffs have defined in their Notice of Motion for certification as "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". As a result, my evidence in this affidavit will relate primarily to those business lines.

A. SIMPLY GREEN'S INITIAL BUSINESS MODEL

17. When I started SGHSI in 2013, SGHSI focused on originating leases of consumer home comfort equipment. SGHSI's business was initially financed by selling these leases to arms' length third party companies, primarily EcoHome Financial Services Inc. ("EcoHome").

18. In effect, as an originator of leases ultimately assigned to EcoHome, the SGHSI lease origination team would use EcoHome's infrastructure to acquire new customers on EcoHome's behalf. In general terms, the business was as follows:

(a) EcoHome provided SGHSI with a standard form of consumer information package, product offering, and draft contracts with customers. The lease agreements provided by EcoHome were similar in substance to those offered by competitors like Enercare and Reliance.

(b) SGHSI's lease origination team would enroll homeowners into a lease program for HVAC equipment. The SGHSI lease origination team would use EcoHome's standard form of consumer information package, product offering, and draft contracts with customers.

(c) As the financing party, EcoHome was responsible for the underwriting and the adjudication of the leases and would either approve or decline the application.

(d) Once a lease was approved by EcoHome, SGHSI would install the equipment. It would then sell and assign that equipment and related lease obligations over to EcoHome.

(e) Upon transfer of the originated leases to EcoHome, all lease payments would then be made to EcoHome. SGHSI would then have no further involvement with the customers or the leases. EcoHome handled all customer service and billing services.

B. THE IMPETUS FOR A NEW BUSINESS MODEL

19. As time went on, I saw a gap in the market that Simply Green could help satisfy. It had become clear that a growing number of Canadians were interested in energy-efficient improvements to their existing HVAC systems that would not only enable them to achieve lower home operating costs over the long term, but also contribute to environmental sustainability and greater levels of home comfort.

20. It was also clear that a major barrier preventing Canadians from installing new, more efficient HVAC equipment was, and continues to be, the substantial up-front financial cost of such equipment. HVAC equipment can be expensive. The upfront cost of new energy-efficient HVAC equipment, as well as the labour costs to install such equipment, can be significant, totalling thousands of dollars. Such substantial upfront costs are unaffordable to many Canadian homeowners, precluding them from making upgrades to their HVAC equipment.

21. Further, even where a customer can afford the upfront costs of new HVAC equipment, ongoing repairs to ensure the continued operation of those systems expose customers to the risk of significant additional costs over time. Advancements in the energy efficiency of the equipment resulted in additional complexities in its design, which in turn require an additional layer of service, more frequently. If equipment does break down unexpectedly for any reason, this can be financially devastating to customers. It is not an option for Canadians to be without a working furnace in winter months or, for many, a functioning air conditioner in the summer. The additional

costs that urgent repairs might entail can be unaffordable, especially during peak season when contractors are busy and demand for repair service is high.

22. The value proposition of no upfront cost for brand new high-efficiency equipment, coupled with free 24/7 customer care and ongoing equipment repair, seemed to resonate with Canadian homeowners. The majority of HVAC upgrades are reactive purchases, where the customer is confronted by an expected breakdown of their existing equipment. Homeowners do not typically proactively seek new equipment, unless there are indications of a malfunctioning unit (such as cold spots in the home, loud noises coming from the equipment, prolonged duration in getting to targeted temperature, etc.). In such scenarios, homeowners who do not have the money required to purchase new equipment rely heavily on a leasing program. Such leases allow the equipment costs to be amortized with manageable monthly payments over the lease term, and customers are able to acquire high-quality, more energy-efficient equipment, that is fully serviced at no cost throughout its life. This lease-financing option is, for many, preferable to traditional upfront payment options.

23. Despite there being market demand for HVAC upgrades with no upfront cost, there was comparatively little competition in this space. In 2015, there were only two major players in the HVAC space: Enercare and Reliance. The lack of competition resulting from their market dominance, coupled with the increase in homeowner adoption of the lease program as a viable alternative financing method, created a market opportunity for Simply Green to compete directly with the incumbents.

24. While the considerations above persuaded me that there was an opening in this market to compete with major players like Enercare and Reliance in order to facilitate Canadians' access to

home comfort equipment, it also became clear that there was potential additional value for Simply Green as well. It had become apparent to me that the value resulting from the significant growth in SGHSI's consumer lease origination business was accruing mostly to EcoHome as the financing party and ultimate owner of the leases. If Simply Green shifted from merely being an originator of leases to being a comprehensive provider of HVAC equipment that both financed new HVAC equipment and provided customer support and repair services over the long term, it could create economic value that would allow SGHSI to compete more effectively against the industry incumbents and provide a more competitive alternative to Canadian homeowners.

C. THE BUSINESS MODEL FROM 2015 ONWARD

25. As a result, in 2015, Simply Green's business model shifted from simply lease origination to acting as a comprehensive provider of HVAC equipment and repairs. In general terms, since 2015, the core elements of Simply Green's HVAC leasing business have been as follows:

(a) Customers enter into a term lease of new HVAC equipment with lease buy-out rights. Those leases are then acquired and held within Simply Green. As described in more detail below, while some of these leases were originated by SGHSI, and some were originated by third parties directly for Simply Green, the vast majority of the leases acquired by Simply Green (or more specifically, by CCCT, as described below) after 2015 were acquired as portfolios of leases from arm's length third parties.

(b) Customers generally did not pay any upfront fee for the acquisition or installation of new HVAC equipment. Instead, they entered into a lease of the equipment and agreed to pay a monthly fee, calculated in accordance with each customer's own agreement, for a set period of time. The lease functioned as an "affordability" financing tool that would enable the consumer to avoid otherwise significant upfront costs by spreading them out over time.

(c) Customers are also relieved of any financial concerns relating to repair of HVAC equipment, because the leases generally provide that the service provider will be responsible for any repairs to equipment. This means that the holder of the lease within Simply Green has an obligation to repair (and if necessary, replace) equipment in accordance with the customer's contract. In practical terms, it means that if a customer's HVAC system breaks down, the lease holder will usually be obligated to repair or replace the HVAC system in accordance with the customer's lease contract, generally at no charge to the customer. This repair obligation extends well beyond the term of conventional warranties, so long as the customer makes their payments. In addition to covering repairs, some customers' leases also provide for regular service and maintenance for their equipment.

(d) If it suited the customer, they could exercise their lease buy-out rights in the contract and become the outright owner of the equipment with no further lease payment obligations. Upon completing the buy-out, however, the customer would forego any further entitlement to servicing, as described above.

26. This business model was in substance the same business model used by other major players, such as Enercare and Reliance.

D. THE CHANGE IN THE SIMPLY GREEN STRUCTURE

27. Prior to 2015, Simply Green did not have long-term relationships with its customers, so there was little need for extensive infrastructure to service customers' accounts. By contrast, Simply Green's HVAC-related business since 2015 has steadily shifted toward longer term lease relationships with customers, as described above. This new business model required a much more sophisticated and extensive infrastructure capable of financing and supporting Simply Green's growing portfolio of consumer lease assets and servicing the equipment repair needs of its long-term customers. The infrastructure required to provide high efficiency equipment at no upfront cost, 24/7 customer service, and repairs and replacements when necessary is extremely capital intensive. Indeed, the need for this infrastructure had created a barrier to market entry that had allowed large companies with economies of scale such as Enercare and Reliance to dominate, and Simply Green needed to build that out to compete.

28. To achieve this new goal, Simply Green created its own financing entities in the form of various bankruptcy-remote trusts and corporations commonly described as special purpose vehicles or "SPVs", which allow investors to fund the financed leases without exposure to the financial risks associated with the operating company. Crown Crest Capital Trust ("CCCT") was created as an SPV to finance the business by acquiring the leases originated first by SGHSI and eventually other third party lease originators. With the formation of CCCT as Simply Green's financing arm and the expansion of SGHSI's lease origination business into post-installation lease servicing, Simply Green evolved into a complete solution for the consumer home improvement equipment business.

29. This expansion of Simply Green's business model required substantial additional investment as well as institutional financing partnerships. Among other things:

(a) Simply Green, alongside its investors and OSFI-regulated banking partners, invested millions of dollars in developing enterprise-grade systems, processes, and governance.

(b) Simply Green created a Board of Directors to govern the activities of the business as a whole. This Board of Directors included a number of notable Canadians businesspeople and public figures.

(c) Simply Green ultimately secured financing for its SPVs from an OSFI-regulated federal trust company, now affiliated with a chartered Canadian bank. Through secured asset warehousing loans and private asset securitization transactions, Simply Green secured the capital required to operate its home comfort equipment business.

E. SIMPLY GREEN'S GROWTH SINCE 2015

30. Since 2015, Simply Green's growth in its HVAC business line has come from three sources.

31. ***First***, the vast majority of Simply Green's HVAC business growth has come from the acquisition of portfolios of leases from arm's length third parties. Two of Simply Green's key transactions pertaining to its HVAC business have been the following:

(a) In 2016, Crown Crest Capital II Trust acquired a portfolio of leases from Sandpiper Energy Solutions Inc., a subsidiary of Oakville Hydro, most of which were water heater leases entered into by customers in the process of purchasing newly constructed residential homes. These lease accounts were subsequently transferred to CCCT. As part of the acquisition of this portfolio, Simply Green also acquired the “Sandpiper Energy Solutions” business name.

(b) In 2017, Simply Green acquired consumer home equipment lease portfolios from Green Planet Home Services, Ontario Consumer Home Services, and Simply Comfort Home Services.

32. In circumstances where Simply Green purchased a portfolio of HVAC-related leases from an arm’s length third party, Simply Green typically had nothing to do with how the customer relationship was originated, how the terms of their agreements (including the price, duration, etc.) were determined, or what disclosure was provided to the customer. Rather, Simply Green took over that customer relationship, on whatever terms and basis had been previously agreed to between the customer and the originator. In some cases, Simply Green has purchased ongoing lease arrangements that were agreed to before SGHSI first came into existence in 2013.

33. The vast majority of customers in Ontario with whom Simply Green currently has an ongoing relationship in relation to HVAC equipment are customers whose leases were acquired by Simply Green through a portfolio transaction with a third party of the type described above.

34. ***Second***, Simply Green continued to originate some lease transactions on its own account via SGHSI until October 2020. Until approximately late 2017, this included some door-to-door

origination and residential new construction origination. However, effective March 1, 2018, Ontario banned unsolicited door-to-door sales of HVAC equipment as a consumer protection measure, in order to prevent consumers from entering into lease contracts in circumstances where they had been victimized by misinformation, misrepresentation, or other misconduct by the in-person leasing agent. Simply Green supported this new regulatory regime; in fact, Simply Green ceased all of its own "door-to-door" lease originations several months prior to the new rules coming into effect.

35. In October 2020, due to a corporate restructuring to support expansion into other lines of business, SGHSI was renamed Simply Green Home Services Corp., and SGHSI ceased all lease origination activities. A newly formed company within Simply Green named Simply Green Home Services Inc. continued to originate home equipment leases from consumers until its origination operations were wound down commencing in June 2023.

36. Today, no consumer equipment leases are originated in-house by Simply Green, and only a small proportion of the consumer leases acquired by Simply Green between 2016 and 2023 were originated in-house.

37. ***Third***, a limited portion of Simply Green's business growth resulted from arrangements with third party suppliers. In these cases, third party companies would originate lease transactions with customers for HVAC equipment, and immediately sell those relationships on to Simply Green, in exchange for a price, pursuant to standard sale and servicing agreements. In such circumstances, Simply Green did not own, control, or directly supervise the third party companies who originated those lease transactions, though Simply Green had arrangements with each of them

regarding the conditions which had to be satisfied in order for the leases to be eligible for acquisition by Simply Green.

38. Ongoing relationships with third party suppliers have played a relatively small role in the growth in Simply Green's HVAC business line since 2016. Simply Green did not knowingly purchase any consumer home equipment leases that were generated by third parties in Ontario through door-to-door sales after March 1, 2018.

F. RECOGNITION OF SIMPLY GREEN'S WORK

39. Since 2015, Simply Green has won a number of awards. For example:

(a) From 2015 through 2022, Simply Green has been ranked in the top 50 Best Places to Work list, following a thorough and independent analysis conducted by Great Place to Work, the global authority on high-trust, high-performance workplace cultures. This recognition is based on feedback from Simply Green's employees.

(b) In 2020, Simply Green was named the Ricoh Small Business of the Year at the Canadian SME National Business Awards. A copy of the relevant excerpts from the Canadian SME National Business Awards website page is attached as **Exhibit "C"**.

(c) In 2021, Simply Green was ranked on the Best Workplaces for Women list, following a thorough and independent analysis conducted by Great Place to Work.

(d) In 2021, Simply Green was named Small Business of the Year by Canadian SME National Business Awards.

(e) Simply Green was named Consumer Lender of the Year by the Canadian Lenders Association in 2022, and I was previously named Executive of the Year in 2021. A copy of a December 20, 2020 news release is attached as **Exhibit "D"**.

40. Likewise, in 2021, I was recognized as a winner of the EY Entrepreneur of the Year 2021 Ontario program. This award recognizes entrepreneurs for their leadership and innovative entrepreneurship, whose efforts contribute to changing customer needs while keeping up with new demands for personalization, security, and sustainability. A copy of a Financial Post article dated July 20, 2021 regarding this award is attached as **Exhibit "E"**.

MY ROLE WITH SIMPLY GREEN

41. I now turn to describing my role at Simply Green. Contrary to the suggestion in the Plaintiffs' materials, I had no personal involvement in the particular alleged misconduct. Simply Green is a large organization. As the CEO of Simply Green, I supervise the Senior Leadership and have ultimate responsibility for the strategy and direction of the business. However, tasks such as drafting lease terms, preparing disclosure for customers, and deciding whether to register a NOSI on title to a customer's home are the responsibility of other teams within Simply Green.

A. SIMPLY GREEN'S MANAGEMENT STRUCTURE

42. As described above, Simply Green is a large organization with a number of business lines, including but not limited to the HVAC business. At times, Simply Green has had several hundred employees, not including third-party service providers or contractors. It has a variety of stakeholders that it must work with, including its customers, funding sources, regulators, and other business partners.

43. While Simply Green's management structure has varied over time, Simply Green has always had a significant senior management team to manage the multiple aspects of its business. For example, as of early 2022, Simply Green's management structure was as follows:

(a) Simply Green was led by an Executive Team, which oversaw a broader Leadership Team, who in turn directly or indirectly supervised hundreds of employees.

(b) I was the CEO of Simply Green. I 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.

B. MY RESPONSIBILITIES AS CEO OF SIMPLY GREEN

44. I am and have always been the CEO of Simply Green. My focus as CEO of Simply Green has consistently been on high-level strategic matters, corporate and portfolio acquisitions, debt and equity capitalization, hiring for the key executive and management roles, and broader governance matters, including stakeholder relations.

45. As CEO, I have ultimate responsibility for the business as a whole. However, I exercise that responsibility by supervising other members of the senior management team to whom responsibilities have been delegated, and I expect senior management to manage their teams appropriately in the best interests of the business. It would be impossible for me to be involved in the nitty-gritty of every aspect of Simply Green's business. Simply Green's business, particularly from 2015 onward, has become large and complex, and it is simply not feasible for me to be involved in every decision. Moreover, while I have extensive business experience, I do not profess to be an expert in all aspects of our business. For example, I am not a lawyer, and I do not claim to be an expert in all applicable laws and regulations. Rather, specialized tasks are delegated to employees and external service providers with the requisite experience and expertise.

46. While I ultimately oversee Simply Green's leasing business as CEO of Simply Green, the particular allegations of impropriety made by the Plaintiffs with respect to Simply Green's leasing business—including allegations of improper sales tactics, allegations of improper or insufficient disclosure to customers, and allegations of improper registrations of NOSIs on title to customers' homes—relate to areas of Simply Green's business in which I personally have not been directly involved.

47. With respect to the leases that Simply Green acquired from arm's length third parties as part of transactions to acquire whole portfolios of leases (which represent the vast majority of leases held by Simply Green), neither I nor anyone at Simply Green had any involvement in originating the leases, determining the terms of those lease agreements, or providing any disclosure to consumers at the time the leases were entered into. Rather, those steps were taken by arm's length third parties or their agents, and Simply Green later acquired those leases, whatever their terms, as part of transactions to acquire portfolios of leases. When Simply Green acquired those lease agreements, I would ensure that the necessary processes were in place to conduct a legal and compliance review of the leases we were acquiring. However, I was not directly involved in conducting that due diligence. I am not a lawyer, and I would not have personally had the skill set to assess the compliance of those leases with applicable laws. In any case, it would simply not have been feasible for me to review the thousands of new lease agreements we were acquiring.

48. With respect to leases that Simply Green originated, or that were originated through an arrangement with a third-party supplier, I personally was not directly involved in the business units that had responsibility for the conduct that the Plaintiffs claim was improper. Rather, decisions

relating to, for example, lease terms and whether to register a NOSI on title to a particular customer's property were delegated to other teams within Simply Group. For example:

(a) Arrangements between corporations within Simply Green and third party suppliers of leases generally fell under the purview of Simply Green's Executive Vice President Revenue until June 2023, and his team;

(b) Without intending to waive privilege over any particular advice provided, as a matter of process, lease agreements were drafted by Simply Green's legal counsel. As I noted above, I am not a lawyer, and I do not claim to personally have in-depth knowledge of Ontario's *Consumer Protection Act* or other applicable laws; and

(c) The decision about whether or not to register a NOSI is generally based on based on the requirements of its third party securitization partner. It is the Risk and Operations department that deals with the criteria for, and logistics of, registering NOSIs.

49. I am not and have never been the direct supervisor of any of those groups, nor have I been involved in any of their day-to-day work.

50. Regardless of how the leases came to be held by Simply Green, I have not been personally engaged in any of the following activities with respect to those leases:

(a) Drafting or revising lease agreements entered into with customers, including the Plaintiffs;

(b) Determining the content of any particular contractual terms contained in any agreements entered into with particular customers, including the Plaintiffs;

(c) Making any decisions about what information was disclosed or not disclosed (or what information should or should not be disclosed) to customers, including the Plaintiffs, in connection with the purchase or lease of home comfort equipment, or providing any directions or guidance to anyone else about what information should or should not be disclosed to customers;

(d) Communicating with potential customers to originate leases of home comfort equipment, including the Plaintiffs;

(e) Since Simply Green's business model changed in 2015, directly supervising any employees or agents of any Corporate Defendants, or any third parties, who engaged in the origination of leases of home comfort equipment to customers, including the Plaintiffs;

(f) Determining the cost of the equipment sold to any particular customers, including the Plaintiffs;

(g) Determining the cost of the monthly rent of the equipment for any particular customers, including the Plaintiffs;

(h) Engaging in any negotiations of the Agreements entered into with customers, including the Plaintiffs;

(i) Engaging in any credit verifications or otherwise with customers, including the Plaintiffs;

(j) Determining whether or not any NOSI should be registered on any particular customer's home or engaging in such registrations; or

(k) Determining the quantum of any security interest registered on title to a customer's home.

51. As such I have not had any involvement with the matters alleged to be unlawful in the Claim. I have also reviewed the affidavit of Alga Adina Bonnick sworn August 31, 2021 and the affidavit of Goran Soilov Donev sworn November 30, 2022. I had no involvement in any of the conduct they describe in their affidavits or any of the other supporting affidavits.

52. The Plaintiffs in their materials point to various charges made against me under the Ontario *Consumer Protection Act*. As I understand it, under the *Consumer Protection Act*, a director or officer of a corporation can be convicted of a provincial offence if such a corporation engages in certain conduct prohibited under the *Consumer Protection Act* and the director or officer "fails to take reasonable care to prevent the corporation from committing" such conduct.

53. As I understand the substance of the charges against me, it has never been alleged that I personally engaged in any prohibited conduct under the *Consumer Protection Act*. Each of the charges related to an allegation that there was a failure to refund a customer who was entitled to a refund as a result of specific misrepresentations made to the individual by the contractor originator, which I understand is not the subject-matter of this proposed class action. In any event, I have never been convicted of any offences under the *Consumer Protection Act*. As of the date on which I swear this affidavit, all but the two most recently laid charges have been withdrawn by the Crown.

THE VARIOUS CORPORATIONS WITHIN SIMPLY GREEN

54. Finally, I will address the suggestion by the Plaintiffs that Simply Green has acted inappropriately by carrying on business through various corporate entities.

55. Simply Green conducts business through a number of different corporate entities, including the Corporate Defendants. While there are a number of reasons why Simply Green's business is conducted through different corporations, the most important reason relates to the way in which Simply Green has financed its growth.

56. As noted above, the majority of Simply Green's growth from 2015 onward has been as a result of acquisitions of lease portfolios through transactions with third parties. Some of these lease portfolio acquisitions were effected through asset purchase transactions. However, several were accomplished by the vendor packaging its lease portfolio into a new company which Simply Green would then acquire. An example of the latter approach was the acquisition of the Sandpiper Energy Solutions Inc. home comfort equipment lease portfolio business from Oakville Hydro in 2016.

57. The origination or acquisition of a lease with a customer creates a long-term revenue stream, but it also entails significant up-front costs that Simply Green must incur. Consequently, in order to secure funding for such costs, Simply Green must have access to capital. In order to comply with the risk-insulation requirements of its financing partners, Simply Green generally ensures that each portfolio of leases that it originates or purchases in the course of a transaction is placed into a separate corporation or other entity that engages in no active business and acts only as a passive holder of the lease assets. The transaction vehicles related to lease portfolio acquisitions were often re-named when acquired by Simply Green under the “Crown Crest” brand, resulting in, for example, Crown Crest Financial Corp. (2017), and Crown Crest Billing Corp. (2018). In order to meet the requirements of each distinct financing party, different lease pools end up being held by different SPV entities within Simply Green. Ultimately, however, all of the leases originated prior to October 2020 were consolidated into Crown Crest Capital Trust funded by a single financing partner and, as a result, certain of the SPVs have been wound down or consolidated into CCCT.

58. There have also been occasions on which assets have been moved within Simply Green for other business reasons, including, for example, lease portfolio consolidation for a specific common financing party.

59. Simply Green has never transferred leases between different corporations within Simply Green to defeat creditors or to preclude customers from exercising their legal rights. The companies carrying out the leasing business within Simply Green generally bear similar names (usually including the words “Crown Crest” or “Simply Green”). Sometimes, a corporation maintained the same or a similar name to the entity from whom assets had been acquired (such as

the "Sandpiper" corporations), for continuity and billing purposes. In any event, there is no intention to obfuscate or mislead customers.

SWORN by Lawrence Krimker at the City of Vancouver, in the Province of British Columbia, before me on September 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits **PAUL-ERIK VEEL**	**LAWRENCE KRIMKER**

This is Exhibit "A" referred to in the Affidavit of Lawrence Krimker sworn by Lawrence Krimker at the City of Vancouver, in the Province of British Columbia, before me on September 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

PAUL-ERIK VEEL

Reliance Comfort Limited Partnership™

RELIANCE TO BE ACQUIRED BY CHEUNG KONG PROPERTY HOLDINGS LIMITED

Toronto, March 31, 2017 – Cheung Kong Property Holdings Limited ("CKP") via its subsidiary CKP (Canada) Holdings Ltd. has entered into a definitive agreement today with investment funds managed by Alinda Capital Partners ("Alinda"), a US-based private investment firm, to acquire Reliance Home Comfort ("Reliance").

CKP's largest shareholder is Canadian Victor Li's Li family trust. CKP is rated A2 by Moody's and A- by S & P and Fitch.

The transaction comprises an equity purchase price of C$2.82 billion funded from cash on hand and an assumption of all of Reliance's existing debt. The transaction will not involve the incurrence of any incremental indebtedness by Reliance. CKP intends to on-sell up to 25% of Reliance to CK Infrastructure ("CKI"), a company of which the largest shareholder is the Li family trust, upon obtaining the necessary approvals.

"We are thrilled to have CKP as our new investment partner. This acquisition will continue to support our offerings to our customers," says Sean O'Brien, President & CEO, Reliance. "We believe that CKP will help accelerate the momentum we have generated over the last few years where Reliance experienced strong business results over that time."

Chris Beale, Alinda's Managing Partner, said, "We have been proud owners of Reliance since June 2007 when we took private the income trust UE Waterheater Income Fund. The company has been well led by its management team and its team members have provided exceptional customer service. We believe Reliance and its customers will be in great hands with CKP as the new owners."

"I am very happy about the Reliance acquisition. With my close ties in the country, I have always been on the lookout for sizeable investments back in Canada," said Mr. Victor Li, Managing Director of CKP and co-Chairman of Husky Energy Inc.

"For our Group, Canada has always been an important market. We have had very positive experiences nurturing Canadian businesses like Husky Energy and Park'N Fly. We hope that Reliance will also grow and succeed just like our other Canadian companies, creating value to Canadians and contributing to the growth and development of the country's economy," Mr. Li continued.

The Li family trust has a substantial investment portfolio in Canada. In addition to Husky Energy, other Canadian businesses in their investment portfolio include Park'N Fly, Canadian Power Holdings Ltd, Wex Pharmaceuticals and Santé Naturelle AG. Staff employed by businesses of this Canadian portfolio amounts to over 6,000. The Li family has also made a number of donations in Canada, totaling approximately C$95 million, including to St Michael's Hospital in Toronto, University of Alberta, and the Centre for Conservation Research at the Calgary Zoo.

Upon completion, CKP's intention is that Reliance will continue to be based in Ontario with the existing executive team managing the business.

Completion of the acquisition is conditional upon customary approvals under the Investment Canada Act and the Competition Act.

Goldman, Sachs & Co. served as Alinda's lead financial advisor and CIBC Capital Markets served as Alinda's financial co-advisor on the transaction. Torys LLP served as Alinda's legal counsel on the transaction.

Reliance Comfort Limited Partnership™

For more information, contact:

Mike Kolatschek
Manager, Corporate Communications
Reliance Home Comfort
mkolatschek@reliancecomfort.com

\- End -

This is Exhibit "B" referred to in the Affidavit of Lawrence Krimker sworn by Lawrence Krimker at the City of Vancouver, in the Province of British Columbia, before me on September 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

PAUL-ERIK VEEL

enercare®

Home / Press Releases / **Brookfield Infrastructure completes C$4.3 billion acquisition of Enercare Inc.**

Brookfield Infrastructure completes C$4.3 billion acquisition of Enercare Inc.

TORONTO, Oct. 16, 2018 /CNW/ -Enercare Inc. (TSX: ECI, "Enercare"), Enercare Solutions Inc. and Brookfield Infrastructure (NYSE: BIP; TSX: BIP.UN) and its institutional partners (collectively, "Brookfield") today announced the completion of their previously announced plan of arrangement under section 192 of the *Canada Business Corporations Act* (the "Arrangement"). Pursuant to the terms of the Arrangement, Brookfield has acquired all the issued and outstanding common shares of Enercare (each a "Share") for C$29.00 per Share, without interest, or, in the case of a shareholder resident in Canada who is not exempt from tax under the *Income Tax Act* (Canada) and who elected to receive class B limited partnership units of Brookfield Infrastructure Partners Exchange LP ("Exchangeable LP Units"), 0.5509 of an Exchangeable LP Unit for each Share elected. An aggregate of 5,726,170 Exchangeable LP Units were issued pursuant to the Arrangement. Each Exchangeable LP Unit is exchangeable for one non-voting limited partnership unit of Brookfield Infrastructure Partners L.P. ("BIP Units"). The BIP Units issuable on exchange of the Exchangeable LP Units have been conditionally approved for listing on the Toronto Stock Exchange (BIP.UN) and the New York Stock Exchange (BIP).

enercare™

With the Arrangement now complete, Enercare's common shares will be delisted from the Toronto Stock Exchange at the close of business on October 17, 2018. Enercare will also apply to cease to be a reporting issuer under applicable Canadian securities laws; however, Enercare's subsidiary, Enercare Solutions Inc., will continue to be a reporting issuer in connection with its outstanding public debt.

Full details regarding the arrangement are set out in Enercare's management information circular dated August 22, 2018, a full copy of which can be found under Enercare's profile on SEDAR at

Call 1-855-642-8607

Former Enercare shareholders who have questions or require assistance in submitting their Enercare common shares in connection with the Arrangement can contact Kingsdale Advisors at 1-888-518-6813 toll free in North America, or at 416-867-2272 outside of North America, or by e-mail at contactus@kingsdaleadvisors.com.

Enercare Inc. is one of North America's largest home and commercial services and energy solutions companies with approximately 5,100 employees under its Enercare and Service Experts brands. Enercare, through its wholly-owned subsidiary Enercare Solutions Inc., is a leading provider of water heaters, water treatment, furnaces, air conditioners and other HVAC rental products, plumbing services, protection plans and related services. With operations in Canada and the United States, Enercare serves approximately 1.6 million customers annually. Enercare is also the largest non-utility sub-meter provider, with electricity, water, thermal and gas metering contracts for condominium and apartment suites in Canada and through its Triacta brand, a premier designer and manufacturer of advanced sub-meters and sub-metering solutions. Enercare's head office is located at 7400 Birchmount Road, Markham, ON L3R 5V4.

Brookfield Infrastructure Partners is a leading global infrastructure company that owns and operates high quality, long-life assets in the utilities, transport, energy and data infrastructure sectors across North and South America, Asia Pacific and Europe. We are focused on assets that generate stable cash flows and require minimal maintenance capital expenditures. Brookfield Infrastructure Partners is listed on the New York and Toronto stock exchanges. Further information is available at www.brookfieldinfrastructure.com. Brookfield Infrastructure Partners' head office is located at 73 Front Street, 5th Floor, Hamilton, Bermuda HM 12.

Brookfield Infrastructure is the flagship listed infrastructure company of Brookfield Asset Management, a leading global alternative asset manager with approximately $285 billion of assets under management. For more information, go to www.brookfield.com. Brookfield's head office is located at 181 Bay Street, Suite 300, Toronto, ON M5J 2T3.

The purpose of the Arrangement was to enable Brookfield to acquire 100% of the Shares. Immediately prior to the completion of the Arrangement, Brookfield did not own any securities of Enercare.

Cautionary Note Regarding Forward-looking Statements

This news release contains certain forward-looking statements within the meaning of applicable Canadian securities laws and within the meaning of Section 27A of theU.S.Securities Act of 1933, as amended, Section 21E of theU.S.Securities Exchange Act of 1934, as amended and "safe

Statements other than statements of historical fact contained in this news release may be forward-looking statements, including, without limitation, management's expectations, intentions and beliefs concerning anticipated future events, results, circumstances, economic performance or expectations with respect to Enercare and/or Brookfield Infrastructure, including, as applicable, the delisting of the Shares and Enercare's application to cease to be a reporting issuer. When used herein, the words "anticipates", "believes", "budgets", "could", "estimates", "expects", "forecasts", "goal", "intends", "may", "might", "outlook", "plans", "projects", "schedule", "should", "strive", "target", "will", "would" and similar expressions are often intended to identify forward-looking information, although not all forward-looking information contains these identifying words. These forward-looking statements may reflect the internal projections, expectations, future growth, results of operations, performance, business prospects and opportunities of Enercare or Brookfield Infrastructure, as applicable, and are based on information currently available to Enercare and/or Brookfield Infrastructure, as applicable, and/or assumptions that Enercare and/or Brookfield Infrastructure, as applicable, believes are reasonable. Many factors could cause actual results to differ materially from the results and developments discussed in the forward-looking information.

Brookfield
Infrastructure Partners

SOURCE Enercare Inc.

For further information: Media – Enercare: Perry Schwartz, Senior Manager, Public Relations, Tel: (905) 943-6260, Email: perry.schwartz@enercare.ca; Investors – Enercare: Sophia Bisoukis, Vice President, Investor, Relations, Tel: (905) 943-6437, Email: sophia.bisoukis@enercare.ca; Media – Brookfield: Claire Holland, Vice President, Communications, Tel: (416) 369-8236, Email: claire.holland@brookfield.com; Investors – Brookfield: Melissa Low, Vice President, Investor Relations, Tel: (416) 956-5239, Email: melissa.low@brookfield.com

Cooling

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Plans

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Why Enercare

Leadership

Enercare Guarantees

Consumer Protection

Careers at Enercare

ESG

Accessibility & Legal

Accessibility

Accessibility Policy

Accessibility Plan

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Call 1-855-642-8607

This is Exhibit "C" referred to in the Affidavit of Lawrence Krimker sworn by Lawrence Krimker at the City of Vancouver, in the Province of British Columbia, before me on September 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

PAUL-ERIK VEEL

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Ricoh Small Business of the Year

(50+ employees)

Simply Group

At Simply Group, we make change for the better. We are committed to empowering our people and partners to deliver exceptional outcomes in the communities they work and live in by creating meaning together. We love making things better for all of us.

Lawrence Krimker , CEO, Simply Group +

This is Exhibit "D" referred to in the Affidavit of Lawrence Krimker sworn by Lawrence Krimker at the City of Vancouver, in the Province of British Columbia, before me on September 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

PAUL-ERIK VEEL

Canadian Lenders Association 2021 Leaders in Lending

Last Updated: December 20, 2020

Written by: Caitlin Wood

CLA Canadian Lenders Association

lending strategies, and positive outcomes after implementing new technology and strategies.

40 standout leaders in the Fintech space were awarded a Leaders in Lending Award.

2021 Leaders in Lending Recipients

Lending Woman

Tiffany Kaminsky, Co-Founder Symend
Nicole Benson, CEO of Valeyo
Andrea Fiederer, EVP of goeasy Ltd.
Elena Ionenko, Co-Founder of TurnKey Lender

Fintech Innovator

Flinks
REPAY – Realtime Electronic Payments
VoPay
FundMore.ai
Provenir

Executive

Jason Mullins, CEO of goeasy
Wayne Pommen, CEO of PayBright
Lawrence Krimker, CEO of Simply Group
Andrew Graham, CEO of Borrowell
Maria Soklis, President of Cox Automotive Canada

Emerging Lender

Modelle
Moves
VendorLender
Lendle
goPeer

Hide
PERSONAL LOANS | CAR LOANS | DEBT RELIEF | CREDIT SCORE

Flexiti
CHICC
Marble Financial Inc.
PayBright
goeasy

Auto Lender

GoTo Loans Inc.
AutoCapital Canada Inc.
Carfinco
Canada Drives
Clutch

Tech Lender

BDC
TIMIA Capital
Flow Capital
Venbridge
SVB

Caitlin Wood

Caitlin Wood is the Editor-in-Chief at Loans Canada and specializes in

GoDaddy, and deBanked. She believes that education and knowledge are the two most important factors in the creation of healthy financial habits. She also believes that openly discussing money and credit, and the responsibilities that come with them can lead to better decisions and a greater sense of financial security.

More From This Author

This is Exhibit "E" referred to in the Affidavit of Lawrence Krimker sworn by Lawrence Krimker at the City of Vancouver, in the Province of British Columbia, before me on September 17, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

PAUL-ERIK VEEL

PMN Press Releases / Business Wire News Releases

Simply Group Founder and CEO Lawrence Krimker named EY Entrepreneur Of The Year® 2021 Ontario program

Business Wire

Published Jul 20, 2021 • 4 minute read

Join the conversation

simplygroup

TORONTO — Simply Group is pleased to announce that Lawrence Krimker, Founder and CEO of Simply Group, owner of SNAP Financial, is a winner of the EY Entrepreneur Of The Year® 2021 Ontario program. This award recognizes entrepreneurs for their leadership and innovative entrepreneurship, whose efforts contribute to changing customer needs while keeping up with new demands for personalization, security and sustainability.

"I am incredibly humbled to receive such a prestigious award," said Lawrence Krimker, CEO of Simply Group. "It is an honour to be listed among Canada's most inspiring business leaders. This award is a testament to our resilient team of entrepreneurial thinkers who continuously grow our business through innovation that transforms the experience for our dealers and our customers."

an opportunity to bring technology, innovative products, and a customer-centric approach to a previously monopolized, traditional HVAC and home-comfort industry. His relentless focus on customer experience has driven Simply Group to revolutionize the home improvement financing industry. Over the past 13 years, Lawrence has introduced first-of-its-kind products and services for customers and dealers, eliminating unnecessary barriers, to improve the lives of Canadians from coast-to-coast.

Succeeding in its expansion as one of the largest and fastest growing non-bank consumer lenders in the home improvement space, Simply Group provides flexible financing solutions to help Canadian consumers upgrade and modernize their properties in a cost-effective way. With $3 billion in home improvement loans to 500,000 Canadians, the company has grown into a powerhouse of more than 550 employees.

"Our core values are centered around our commitment to our customers, dealers, and communities," added Krimker. "It is incredible to see how far we have come since launching in 2013. We are excited to continue our growth and see what the future holds for us on this extraordinary journey."

About Simply Group

equipment and financing solutions, to modernize their residential properties. Simply Group knows that its people are its greatest asset and is proud to be Great Place to Work-Certified since 2016. In 2020, Simply Group was named Best Business of the Year by the Canadian SME National Business Awards.

About EY Entrepreneur Of The Year®

EY Entrepreneur Of The Year® is the world's most prestigious business awards program for unstoppable entrepreneurs. These visionary leaders deliver innovation, growth and prosperity that transform our world. The program engages entrepreneurs with insights and experiences that foster growth. It connects them with their peers to strengthen entrepreneurship around the world. EY Entrepreneur Of The Year is the first and only truly global awards program of its kind. It celebrates entrepreneurs through regional and national awards programs in more than 145 cities in over 60 countries. Winners go on to compete for the EY World Entrepreneur Of The Year title. **ey.com/eoy**

The 2021 Ontario independent judging panel consists of Alan Quarry, Chairman of Quarry Integrated Communications; Anne Sado, President of George Brown College; Bob Magee, Chairman of Woodbridge; Kim Mason, Senior Vice President & Head, Private Banking, RBC Wealth Management of Royal Bank of Canada; Mark Gordon, Senior Partner of ONCAP Management Partners LP; and Teresa Lee, Managing Director of OMERS Growth Equity.

This year's national sponsor is **TSX Inc**. The Ontario regional sponsor is **Ontario Global 100**.

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simplygroup

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THIS WEEK IN FLYERS

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ALGA ADINA BONNICK et al. -and- LAWRENCE KRIMKER et al.
Plaintiffs Defendants

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

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

AFFIDAVIT OF LAWRENCE KRIMKER

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Suite 2600
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Lawyers for the Defendant,
Lawrence Krimker

ALGA ADINA BONNICK et al.
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*

RESPONDING MOTION RECORD
OF THE DEFENDANT, LAWRENCE KRIMKER
(Plaintiffs' Certification Motion and
Summary Judgment Motion)

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