



Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

(Court Seal)

VASILE PAVLIOGLU and ABRAM BRAUN

Plaintiffs

- and -

FINANCEIT CANADA INC.

Defendant

Proceeding under the *Class Proceedings Act, 1992*

STATEMENT OF CLAIM

TO THE DEFENDANT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. 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 Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, 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.

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.

April 7, 2025

Issued by

Local Registrar

Address of court office: 245 Windsor Ave.,
Windsor, Ontario N9A 1J2

TO: FINANCEIT CANADA INC.
8 Spadina Avenue, Suite 2400
Toronto, ON M5V 0S8

CLAIM

A. OVERVIEW

1. This proceeding is brought on behalf of homeowner victims of widespread, predatory door-to-door sales practices. Lured by promises of government rebates, energy savings, and “free repairs”, the unsuspecting homeowners instead find themselves locked into long-term, improvident loans with none of the promised rebates or savings. Many of the victims are elderly homeowners who are unable to pay these predatory loans.

2. The defendant, FinanceIt, acted in concert with door-to-door sales fraudsters, who engaged in unlawful business practices that misled consumers into signing agreements in breach of consumer protection legislation.

3. The scheme involves two levels of predatory agreements, which consumers are induced to enter into by the door-to-door salespersons working in concert with the defendant:

- (a) the agreement for home improvement goods and services as between the door-to-door salespersons (“Dealers” as defined below) and the consumer; and
- (b) a purported loan agreement between FinanceIt and the consumer to finance those goods and services.

4. In both instances, the agreements uniformly fail to comply with consumer protection legislation. The agreements have been intentionally structured to obscure material terms, mislead consumers, and induce them into transactions that are unconscionable, deceptive, and in violation of statutory protections.

5. Neither the plaintiffs nor anyone else in the class understood, nor could they have

understood, the true nature and implications of the agreements that FinanceIt and its army of door-to-door salespersons were having them enter into. No reasonable homeowner of sound mind would enter into an improvident arrangement such as those imposed by FinanceIt on class members if the true nature of the arrangement were known to them.

6. FinanceIt has admitted as much in some pre-emptive lawsuits that it has commenced against some of its door-to-door representatives. FinanceIt pleads in those cases, and thereby admits, that the sales practices of the very same door-to-door salespersons who induced their customers to sign the loan agreements with FinanceIt constituted fraudulent conduct contrary to the *Consumer Protection Act*. FinanceIt has nevertheless continued in the lucrative business of enforcing these very same fraudulently-obtained consumer agreements, offering no relief to the plaintiffs and the class.

7. FinanceIt is instrumental to this scheme. It:

- (a) finances and enables the predatory operations of these dealers against the plaintiffs and the class, by giving the dealer direct access to its portal to originate loans on its behalf;
- (b) effectively defines, leads, and controls the predatory operations of those dealers against the plaintiffs and the class with the singular goal of maximizing its profits; and
- (c) controls the unlawful profits flowing from the predatory, but extremely lucrative, conduct at issue in this litigation.

8. FinanceIt has knowingly received significant benefits from these transactions while

facilitating or, alternatively, turning a blind eye to the misleading sales tactics and breaches of consumer protection legislation by its dealers.

9. FinanceIt's conduct is part of a broader and notorious pattern of abusive practices within the door-to-door home improvement market, and particularly the HVAC industry. This market has a long history of aggressive sales tactics, predatory financing schemes, and misleading contractual arrangements.

10. FinanceIt's contracts with the plaintiffs and the class are uniformly unlawful and should be rescinded, cancelled or held to be unenforceable. The plaintiffs and the class should be freed of the burden unlawfully imposed on them by the defendant. FinanceIt should be held to account for the harm that it and its Dealers have caused to the class. FinanceIt should be permanently enjoined from engaging in the impugned conduct at issue in this litigation.

B. DEFINED TERMS

11. In this Statement of Claim, the following terms have the following meanings:

- (a) “**Class Proceedings Act**” means the *Class Proceedings Act*, 1992, S.O. 1992, c. 6, as amended;
- (b) “**Consumer Agreements**” means the Goods & Services Agreements and Loan Agreements, collectively;
- (c) “**Consumer Protection Act**” means Ontario’s *Consumer Protection Act, 2002*, SO 2002, c 30, Schedule A, and its Regulations, O. Reg. 8/18 and O. Reg. 17/05, all as amended;
- (d) “**Dealer**” means persons who contracted with the plaintiffs and the class—typically door-to-door dealers, suppliers, contractors, installers, and trades companies—for HVAC, pools and spas, windows and doors, water treatment, roofing and exteriors, home renovations, and similar goods and services, in association with a Loan Agreement with FinanceIt, such as Provincial Smart Home Services / 2587998 Ontario Inc. (“**PSHS**”), JBR & Associates Inc. (“**JBR**”), 10502740 Canada Inc. / Entire Smart Home, Encore Management Corp, CJR Flooring Inc. (“**CJR**”), and 2669215 Ontario Corp. o/a Ontario Smart Energy;
- (e) “**Equivalent Consumer Protection Legislation**” means the *Consumer Protection Act*, C.Q.L.R. c. P-40.1; *Business Practices and Consumer Protection Act*, S.B.C. 2004, c.2; *Consumer Protection Act*, R.S.A. 2000, c. C-26.3; *The Consumer Protection and Business Practices Act*, S.S. 2013, c. C-30.2; *The Business*

Practices Act, C.C.S.M. c. B120; *The Consumer Protection Act*, C.C.S.M. c. C200; *Consumer Protection Act*, R.S.N.S. 1989, c. 92; *Consumer Protection and Business Practices Act*, S.N.L. 2009, c. C-31.1; *Business Practices Act*, R.S.P.E.I. 1988, c. B-7; *Consumer Protection Act*, R.S.P.E.I. 1988, C-19, including all regulations passed under each statute and in force during the class period, all as amended;

- (f) “**FinanceIt**” means FinanceIt Canada Inc., and includes FinanceIt’s financing affiliates and predecessors, such as Simply Group Financial Corp. (“**Simply**”), SNAP Home Finance, and EcoHome Financial;
- (g) “**Goods & Services Agreement**” means the consumer transaction between each plaintiff and class member and a Dealer with respect to HVAC, pools and spas, windows and doors, water treatment, roofing and exteriors, home renovations, and similar goods and services purportedly provided by the Dealer;
- (h) “**Loan Agreement**” means the consumer transaction between each plaintiff and class member and FinanceIt, whereby FinanceIt extends a loan to the class member, as originated and facilitated by Dealers in connection with a Goods & Services Agreement;
- (i) “**Program Agreement**” means each of the agreements that FinanceIt has with its Dealers, which permit Dealers to provide FinanceIt’s Loan Agreements to consumers in connection with a Goods & Services Agreement.

C. RELIEF SOUGHT

12. The plaintiffs, on their own behalf and on behalf of all class members, seek:
- (a) an order certifying this proceeding as a class proceeding and appointing the plaintiffs as the representative plaintiffs for the class;
 - (j) a declaration that FinanceIt engaged in unfair practices contrary to the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation;
 - (k) a declaration that the Consumer Agreements are in breach of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation;
 - (l) a declaration that it is not in the interests of justice to require that notice be given pursuant to any section of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, and waiving any such notice requirement;
 - (m) rescission, cancellation and/or a declaration that the Consumer Agreements are invalid and unenforceable under the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation;
 - (n) a declaration that the Consumer Agreements are invalid for unconscionability and unenforceable against the class;

- (o) a declaration that FinanceIt conspired, agreed, and arranged to engage in the impugned conduct;
- (p) a declaration that FinanceIt engaged in a common design with its Dealers;
- (q) a declaration that FinanceIt was unjustly enriched at the expense of the plaintiffs and the class members, and restitution of all such amounts;
- (r) general damages calculated on an aggregate basis or otherwise for all payments the class members made to FinanceIt;
- (s) special damages for, including but not limited to, out-of-pocket expenses, fees, penalties, damage to credit, mental and emotional suffering, and inconvenience expenses incurred;
- (t) disgorgement of FinanceIt's profits;
- (u) punitive and exemplary damages in the amount of \$10,000,000 under the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, and under the common law;
- (v) relief from amounts that FinanceIt claims are or were owed or owing to FinanceIt by the plaintiffs and the class members;
- (w) an accounting of all revenues and profits made by FinanceIt as a result of the unlawful conduct set out herein;
- (x) a reference to decide any issues not decided at the trial of the common issues;

- (y) an interlocutory injunction barring FinanceIt from engaging in the conduct particularized herein;
- (z) an order permanently enjoining FinanceIt from engaging in the conduct particularized herein;
- (aa) costs of administration and notice, plus applicable taxes, pursuant to s. 26(9) of the *Class Proceedings Act*;
- (bb) costs of this action;
- (cc) prejudgment interest compounded and post-judgment interest in accordance with ss. 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c C.43; and
- (dd) such further and other relief as the parties may advise and this Honourable Court deems just.

D. THE PARTIES

a. The Plaintiff, Vasile Pavlioglu

13. The plaintiff, Vasile Pavlioglu, is a 72-year-old immigrant retiree living in Niagara Falls, Ontario, together with his family.

14. In or around January 2023, representatives of PSHS came to his door, unsolicited.

15. They convinced him to remove his fully functional air conditioner and water heater, and to install a heat pump and a hybrid electric water heater recommended by them.

16. PSHS advised Mr. Pavlioglu that he would receive a \$8,625 government rebate, a \$1,200 “Niagara Peninsula energy credit”, plus another \$500 credit. Additionally, the PSHS representative told Mr. Pavlioglu that he would receive for free:

Total Home Protection	Heating and Cooling protection includes parts and labour covered. Water heater protection and rental buyout for credit included.	\$0
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17. PSHS signed Mr. Pavlioglu up for a \$35,000 loan in two Loan Agreements. Mr. Pavlioglu was given a Loan Agreement to sign electronically, but never received a written agreement from PSHS, Simply, FinanceIt, or any other party setting out the terms of the Loan Agreements.

18. PSHS told him that he would pay \$48.27 bi-weekly and that the loan had 0% interest.

19. PSHS’s above representations were memorialized in a PSHS standard invoice, which was

then handed to Mr. Pavlioglu.

20. Unbeknownst to Mr. Pavlioglu, this loan was with Simply. Simply almost immediately registered a notice of security interest on Mr. Pavlioglu's home on January 31, 2023, without notice to him. Simply then assigned the loan to FinanceIt in June 2023, when its assets became subsumed into FinanceIt and its CEO and president, Lawrence Krimker, became a member of the FinanceIt board of directors.

21. Shortly after signing with PSHS, technicians attended at Mr. Pavlioglu's home to remove his existing, functional, and almost new air conditioner, and his water heater, and install the PSHS equipment.

22. Neither piece of equipment was as represented. In particular, PSHS installed an HVAC unit that is far too small for Mr. Pavlioglu's home and does not properly heat it in winter or cool it in summer. The water heater does not adequately heat the water in his home for the needs of his family.

23. The equipment that PSHS installed actually cost a fraction of the loan that FinanceIt advanced and for which it has been charging payments to Mr. Pavlioglu. Mr. Pavlioglu could have purchased similar or better equipment on the market for cash or borrowed against his home equity for far less.

24. Further, a few months after the transaction, Mr. Pavlioglu began to inquire about the promised rebates and credits. PSHS told Mr. Pavlioglu that he would receive his rebates and credits within six months. After the six-month period passed and despite his repeated inquiries, Mr. Pavlioglu never received any of the rebates or credits promised. PSHS has disappeared and

FinanceIt, after a number of inconsistent responses, has stopped responding.

25. Mr. Pavligolu cancelled the agreement pursuant to the *Consumer Protection Act*. FinanceIt has paid no attention and continues demanding against him.

26. His loan payment has now increased from \$48.27 bi-weekly to a total of \$381.18 per month, which he cannot afford.

27. Mr. Pavlioglu has been trying to have PSHS or FinanceIt fix the issues with the equipment and have the transaction with FinanceIt cancelled since early 2024 upon discovery of the fraud. He has repeatedly complained that he received no rebate or credit, and that his home is not properly heated in the winter. For example, he wrote to PSHS in September 2024:

... According the rules for 3100 sq feet heat pump should be 5.6 tone,
Provincial Smart Home installed 3 tone.

Winter time my panel warning me that auxiliary working more than 3 hours
it means that heat pump not working properly it can't afford heating of my
hose. You workers agree that this heat pump should be replaced to 6 tone.
They got pictures and suppose to report administration of this problem.

Winter coming this problem not fixed. Please

[Emphasis in original]

28. He has repeatedly tried to call PSHS and FinanceIt to no avail. His emails and letters to PSHS and FinanceIt have gone nowhere.

29. FinanceIt initially required that Mr. Pavlioglu make an “Affidavit of Fraud” on a form provided by FinanceIt, which Mr. Pavlioglu did on November 1, 2024. FinanceIt advised him later in November 2024:

FinanceIt's policy is to have the merchant [i.e. Dealer] cancel the loan, Unfortunately, we cannot cancel the loan. Your best course of action would be to seek legal counsel.

30. Desperate and without the ability to retain counsel, he next contacted the Advocacy Centre for the Elderly ("ACE") for help. Counsel at ACE emailed FinanceIt on Mr. Pavlioglu's behalf with his information and inquiry history, asking for relief.

31. No relief was provided.

32. FinanceIt continues to demand against Mr. Pavlioglu, harassing him with collections, knowing full well that it is seeking to enforce a loan induced by fraud.

b. The Plaintiff, Abram Braun

33. The plaintiff, Abram Braun, lives in Straffordville, Ontario, with his young family.

34. In September 2023, he saw an online ad from PSHS promising free thermostats, government rebates, and savings on monthly hydro bills with the installation of efficient HVAC home equipment.

35. He responded to the ad and shortly thereafter a PSHS representative came to his door. PSHS offered him a heat pump and a water heater. PSHS further promised him:

- (a) a government rebate of \$6,000;
- (b) 0% interest on the loan transaction with FinanceIt;
- (c) a bi-weekly payment of \$61.83;
- (d) a free nest thermostat;

- (e) a free humidifier;
- (f) a free doorbell camera;
- (g) free duct cleaning (in spring);
- (h) free instalments and materials; and
- (i) free service and repair for the life of the equipment.

36. Mr. Braun never received a written agreement from PSHS, FinanceIt or any other party setting out the terms of the Loan Agreement. A \$32,000 loan was merely listed on the PSHS invoice that he received.

37. PSHS attended at his home almost immediately to install the equipment. They removed and disposed of his fully functional air conditioner, and also removed and disposed of the functional rental water heater in his home.

38. Included in the \$32,000 loan transaction was an electrical panel upgrade priced at \$2,200. During installation, PSHS did not make the upgrade. When asked, PSHS said it had determined that this electrical panel upgrade was not necessary and promised that Mr. Braun would receive this money back.

39. The equipment that PSHS installed actually cost a fraction of the value of the loan that FinanceIt advanced and for which it has been charging payments to Mr. Braun. He could have purchased similar or better equipment on the market for cash or borrowed against his home equity for far less.

40. After the installation of the equipment, Mr. Braun never received a rebate.

41. Neither PSHS nor FinanceIt returned the \$2,200 that he was charged for the panel upgrade that did not take place.

42. FinanceIt is charging him in excess of 12% interest on the loan. While his initial payments were \$61.83 bi-weekly, his bi-weekly bill has now tripled to \$186.40, straining his family finances. Upon missing a single bi-weekly payment, FinanceIt has sent his account to collections who will not leave him alone.

43. PSHS has disappeared with no replacement designated. Neither Mr. Pavlioglu nor Mr. Braun expect to receive the service or repair on the equipment that they were promised.

c. The Class

44. The plaintiffs seek to represent the following class:

All individuals who are or were at any time, directly or indirectly, party to a Loan Agreement with the defendant, FinanceIt Canada Inc., through a Dealer intermediary for HVAC, pools and spas, windows and doors, water treatment, roofing and exteriors, home renovations, and similar goods and services.

d. The Defendant, FinanceIt

45. FinanceIt is a federally-incorporated corporation that operates from its headquarters in Toronto, Ontario. It acquired certain other similar predatory lending operations, Simply Group Financial Corp., SNAP Home Finance., and certain assets of EcoHome Financial in 2023.

E. FINANCEIT'S BUSINESS

a. FinanceIt's business model and relationship with Dealers

46. FinanceIt's business model in the subject consumer market is to capitalize on its network

of Dealers to reach consumers and convince them to enter into Loan Agreements.

47. FinanceIt enters into similarly termed Program Agreements with the Dealers, whereby the Dealers were and are permitted to provide financing arrangements on behalf of FinanceIt to consumers. FinanceIt enters into Program Agreements with Dealers specifically for the purpose of permitting Dealers to solicit and provide financing arrangements on its behalf directly to consumers in relation to Goods & Services Agreements. Dealers interact with consumers for their Goods & Services Agreements and also facilitate or execute the consumer's Loan Agreements with FinanceIt.

48. Pursuant to the Program Agreements, Dealers are given unique login credentials for accessing FinanceIt's digital lending platform, giving them real-time access to submit completed loan documents and view all applications that have been made, the status of such applications, the status of project completion for approved loans, and loans that have been funded.

49. In the case of the plaintiffs and every class member, FinanceIt's Dealer process has resulted in a Loan Agreement. Both of the plaintiffs and every class member has a Loan Agreement with FinanceIt. FinanceIt is the source of the unlawful terms imposed on the class.

50. Pursuant to the Program Agreements, the Dealer completes the work on the consumer's house, FinanceIt pays the Dealer's invoice, and consumers are on the hook for the loan principal, interest, and penalties under the Loan Agreement. Through its Program Agreements, FinanceIt takes on the lucrative role of a predatory loan shark company in disguise, and acquires a proprietary interest in the resulting Consumer Agreements.

51. Most of the time, the Dealer is the only representative of FinanceIt that the consumer

interacts with. The Dealer makes the representations and promises regarding the Loan Agreement to the consumer on FinanceIt's behalf. The Dealer's interests are aligned with FinanceIt—the Dealer is incentivized to maximize the number of Loan Agreements at any cost and by any means, and make the improvident terms of the Loan Agreements maximally one-sided to the consumer's detriment and FinanceIt's benefit.

52. Dealers are FinanceIt's agents and representatives:

- (a) At all material times, under the Program Agreements, the operations and business of the Dealers were subject to the direction, instruction, and approval of FinanceIt;
- (b) The Program Agreements impose extensive obligations on Dealers, and in turn provide FinanceIt with significant rights, ownership, control, and/or oversight over the assets and day-to-day business operations of Dealers; and
- (c) Through these Program Agreements, FinanceIt financed, owned, and controlled the origination and enforcement of the unlawful Consumer Agreements. The origination of the Consumer Agreements happens when Dealers directly induce class members to sign the Consumer Agreements. The Program Agreements in particular are agreements with Dealers to target class members and induce them to sign the unlawful Consumer Agreements. The financing aspect of this arrangement is crucial to the incentive Dealers have to induce class members into unlawful Consumer Agreements, as, without such financing, Dealers would not be paid for the work they do.

53. While the Program Agreements also include references to Dealers' compliance with

applicable laws and the performance of their duties honestly, both FinanceIt and Dealers know, or ought to know, that the only way to originate the unlawful and one-sided Consumer Agreements is to deceive the consumer.

54. Dealers are fly-by-night shell companies designed to take advantage of consumers and disappear, while FinanceIt remains to reap the benefits of the Consumer Agreements.

55. FinanceIt knew from the outset that the door-to-door HVAC market was rife with fraud and elder abuse. FinanceIt knew or ought to have known that its Dealers were preying on consumers, acting unlawfully, and failing to comply with consumer protection legislation. As an example, in 2022, several consumers made allegations of fraud to FinanceIt regarding the conduct of CJR and Ontario Smart Energy. In 2023, FinanceIt commenced a lawsuit against CJR and Ontario Smart Energy and their principals alleging that they had engaged in fraud involving consumers and Simply.

56. FinanceIt has continued to enforce the Consumer Agreements against the class and benefit from its Dealers' ongoing unlawful acts against the class.

57. FinanceIt wilfully turns a blind eye to the misconduct of the Dealers, just like it has ignored the unlawful nature of the Loan Agreements it acquired through Simply, such as Mr. Pavlioglu's Loan Agreement.

b. The Loan Agreements

58. Notwithstanding that no representative of FinanceIt is present at the time that the Loan Agreements were entered into with the class, FinanceIt claims to have contracted directly with the class members to extend credit for the Goods & Services Agreements.

59. No plaintiff or class member entered into a Loan Agreement with FinanceIt other than through the agency and intermediacy of one of its door-to-door Dealers.

60. In entering into the Loan Agreements, FinanceIt and its Dealers collectively and systemically failed to disclose material information to consumers prior to entering into the agreements, including:

- (a) the true nature and onerous one-sided terms of the Loan Agreements;
- (b) that the zero interest promise was for a short time only and would be replaced by interest at a rate of 12% or higher, and that this interest would be payable for many years with minimal amounts of the bi-weekly or monthly payments going toward the principal;
- (c) that the loan would be payable even if the promised services were not provided or were deficient or defective, or if the service provider went out of business;
- (d) the class member's total liability under the Loan Agreement;
- (e) that the Dealers were fly-by-night and unable to deliver any long term equipment service and repair as promised;
- (f) that the principal amount under the Loan Agreement would be well above the value of the services or equipment provided;
- (g) that the promises of government rebates, credit, and savings were systemically false and unachievable at all or as represented;

- (h) that FinanceIt or its predecessor would register a Notice of Security Interest (“**NOSIs**”) against title to their home;
- (i) that there was a Program Agreement as between FinanceIt and the Dealer; and
- (j) that if the class member defaulted on the Loan Agreement, then the entire outstanding principal and any accrued interest became immediately due upon FinanceIt’s demand.

c. FinanceIt continues enforcement despite litigation against Dealers for improper conduct

61. On September 25, 2024, FinanceIt commenced litigation against one its most prolific Dealers, PSHS, bearing Court File No. CV-24-00033995-0000. FinanceIt pleaded the following facts that constitute admissions which are expressly pleaded and adopted herein:

Paragraph 9: “FinanceIt does not review any standard forms relied on by the Dealers.”

Paragraph 15: “[PSHS] has breached [...] representations and warranties as and engaged in deceitful, unlawful and fraudulent activity, including but not limited to the following:

a. Failed to sell the products in the ordinary course of its business free and clear of all liens, claims, taxes, charges and encumbrances other than those imposed through the program, and the customer has not obtained a good and valid title to the products;

b. Failed to sell the products in the ordinary course of its business free and clear of all liens, claims, taxes, charges and encumbrances other than those imposed through the program, and the customer has not obtained a good and valid title to the products;

- c. Offered agreements, commitments or understandings [to] the customer that impacted [FinanceIt's] loan agreement with each customer;
- d. Failed to deliver and or install the products in good working order;
- e. Acted in violation of the *Consumer Protection Act*;
- f. Have committed fraud and or induced customers with fraud;
- g. Have induced customers who lacked mental capacity into agreements which, if found to be true, are unenforceable.
- h. Made representations of government rebates which were not real or valid;
- i. Made representations of purchasing another product to induce them into a contract with you;
- j. Forged or signed on behalf of a customer without their consent or knowledge;
- k. Installation caused damages to the customer's property;

62. These allegations apply not only to the Goods & Services Agreements that the Dealers entered into with consumer but also to the Loan Agreements that the Dealers entered into with consumers on FinanceIt's behalf or which FinanceIt acquired through Simply.

63. FinanceIt commenced similar litigation against CJR and Ontario Smart Energy and their individual principals and associates on December 18, 2023, bearing the court file number CV-23-00711541-0000, and against JBR on November 18, 2024, bearing the court file number CV-24-00034193-0000. All of these actions allege similar fraudulent and deceitful conduct.

64. In its claim against CJR and Ontario Smart Energy, FinanceIt admits that it observed the following patterns:

- (a) consumers claimed that they were approached during a door-to-door sales campaign, which at the time would have been prohibited;
- (b) consumers reported that they did not receive the equipment purchased under the Consumer Agreements;
- (c) most consumer borrowers claimed that they were prior victims of predatory loans related to HVAC equipment and that the Dealers promised them that the existing loans would be taken over for more favourable terms; however the existing loans were never paid off;
- (d) some consumer borrowers claimed to never have heard of CJR or Ontario Smart Energy; and
- (e) some consumer borrowers had paperwork and some did not.

65. Notwithstanding its full knowledge of the Dealers' fraud and deceit, FinanceIt continues to enforce the full extent of the Loan Agreements against the class members, and has proceeded to sue class members, seeking to enforce the Loan Agreements procured by widespread and notorious fraud.

66. The Program Agreements continued unabated and many more class members, including both plaintiffs, fell prey to FinanceIt's web of Dealers.

67. FinanceIt's continued enforcement of these Consumer Agreements despite their acknowledgement of their impropriety continues to subject class members to the unfair practices,

breaches of consumer protection legislation, unconscionable conduct, and fraud, particularized herein.

68. FinanceIt knew of the impropriety of the Consumer Agreements and their noncompliance with consumer protection legislation. None of this is disclosed to consumers, including during FinanceIt's attempts to enforce the inequitable terms of the Loan Agreements.

69. In the actions commenced by FinanceIt jointly against Dealers, FinanceIt pleads that the Dealers systemically made misrepresentations to the class members in purported contravention of FinanceIt's Program Agreements.

70. In these claims, FinanceIt has also alleged that some or all of the Dealers have committed fraud, induced customers with fraud, made false representations to consumers, breached consumer protection legislation, caused damages to customers' property, forged signatures or signed agreements on behalf of consumers without their consent or knowledge, failed to provide the promised goods or services or such were defective, failed to honour the terms of any warranty provided to consumers, and that the Dealers obtained or induced the transactions by fraud, misrepresentation, unfair, unconscionable, or deceptive trade practices.

d. FinanceIt's continued collection efforts

71. Until June 2024, these Consumer Agreements were enforced in Ontario by registering NOSIs against the home titles of consumers in order to extract unconscionable sums from them. Simply's NOSI on Mr. Pavlioglu's home title is one such example.

72. The predatory use of NOSIs became so prevalent in the market that the Ontario government passed Bill 200, *The Homeowner Protection Act, 2024*.

73. This legislation banned the registration of NOSIs for consumer goods on the Land Registry and deems NOSIs for consumer goods currently registered against title to be expired as of June 5, 2024. Without this legislative change, FinanceIt would have been able to continue their normal practice of registering such NOSIs on title to consumers' homes and using such registrations as leverage to pressure consumers to pay sums under the unconscionable Consumer Agreements.

74. FinanceIt has now moved on to other avenues of coercing payment. In particular, FinanceIt uses aggressive demand letters, collections, and threats of litigation against helpless consumers to enforce the Consumer Agreements which it knows and has acknowledged as being deceitful, unlawful, and fraudulent.

75. Outside of Ontario, NOSIs remain an instrument of consumer extortion.

76. Notwithstanding that FinanceIt has itself characterized the agreements entered into by its Dealer agents as illegal consumer transactions, it has continued to attempt to collect sums from the class pursuant to these illegal consumer transactions.

77. FinanceIt sends threatening letters to class members, demanding payment of the entirety of the loans it purports to hold. These letters threaten class members with legal action if they do not pay the thousands or tens of thousands of dollars remaining on the fraudulently obtained Loan Agreements within a few weeks.

78. In addition to these aggressive collection tactics, FinanceIt has commenced collections actions against class members, notwithstanding its acknowledgement that the Loan Agreements it seeks to enforce were obtained through unfair practices, fraud, and improper means contrary to the

Consumer Protection Act and similar provisions of the Equivalent Consumer Protection Legislation.

79. These legal actions brought by FinanceIt are purely intended to intimidate consumers into making payments on void and unenforceable consumer transactions, further exacerbating the harm already inflicted upon the class for which FinanceIt was a willing and active participant.

80. FinanceIt's continued collection efforts, including its direct legal threats and active litigation, have caused significant harm to class members, including financial hardship, emotional distress, and damage to their credit.

F. CAUSES OF ACTION

a. Breach of the *Consumer Protection Act* and its Regulations, and similar provisions of the Equivalent Consumer Protection Legislation

81. FinanceIt failed to comply with the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation. The Consumer Agreements are premised on breaches of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

82. With respect to all Ontarian class members, the suppliers are located in Ontario and are each a "supplier" for the purposes of the *Consumer Protection Act*.

83. The *Consumer Protection Act* explicitly defines "supplier" as including a person who is in the business of selling, leasing, trading in, or supplying goods or services, and includes an agent of the supplier and a person who holds themselves out to be a supplier or an agent of the supplier.

84. In this case, FinanceIt's Dealers are explicitly in the business of supplying goods and services directly through the Goods & Services Agreements.

85. FinanceIt is also a supplier within the meaning of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation by way of:

- (a) its direct contracting with the plaintiffs and class members for the Loan Agreements; or
- (b) its agency relationship with the Dealers who transact with the class for the entirety of the Consumer Agreements.

86. Accordingly, FinanceIt is a "supplier" under the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

87. The Consumer Agreements, including both the Loan Agreement and the Goods & Services Agreement, are "consumer agreements" for the purposes of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

88. The plaintiffs and the other class members are "consumers" for the purposes of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

i. The Consumer Agreements breach direct agreement provisions

89. Both the Goods & Services Agreements and the Loan Agreements with the class members are direct agreements within the meaning of the *Consumer Protection Act* and similar provisions

of the Equivalent Consumer Protection Legislation. In each case, these agreements were negotiated and entered into by the class members at their homes.

90. In particular, with respect to the Loan Agreements, the Program Agreements explicitly permitted Dealers to induce class members into entering such consumer transactions in order to allow Dealers to facilitate the agreement process within class members' homes. The very purpose of the Program Agreements was to permit Dealers to directly provide the Loan Agreements to consumers.

91. As such, the Goods & Services Agreements and the Loan Agreements are direct agreements within the meaning of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

92. 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.

93. *Requirements for Direct Agreements Subject to Section 43.1 of Act*, O. Reg. 8/18, required at all material times that the supplier provide the consumer with an agreement setting out certain material information, including, but not limited to, a fair and accurate description of the prescribed good or service to be supplied, the total amount payable by the consumer under the agreement, all credit agreements as defined in Part VII of the *Consumer Protection Act* related to the agreement, and any other restrictions, limitations, and conditions that are imposed by the supplier with respect to the agreement, including the consumer's responsibilities under the agreement.

94. In respect of the Goods & Services Agreements, the Dealers systemically did not provide a true picture of the onerous terms that would be imposed on the class member, nor an accurate description of the goods or services to be provided. In fact, such failure is pleaded by FinanceIt against the Dealers in the claims advanced by FinanceIt particularized above. In each of these actions, FinanceIt alleges that its Dealers failed to deliver or install the products in good working order or at all. The plaintiffs here plead and allege the same.

95. Further, neither FinanceIt nor its Dealers at any point properly disclose that the services to be provided by the Dealers are necessarily linked to Loan Agreements with FinanceIt, or what the true terms of those Loan Agreements are. Such systemic failure to disclose this key aspect of the arrangement is an inaccurate description of the goods and services to be provided and a failure to disclose other restrictions, limitations and conditions that are imposed by the supplier.

96. In respect of the Loan Agreements, the Loan Agreements do not disclose to class members that it is a service provided specifically under the Program Agreements that FinanceIt has with Dealers nor the true terms imposed. Failure to disclose these particulars renders the description of this financing service inaccurate contrary to the requirements under the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

97. Under both Consumer Agreements, the total amount of the principal of the loan, all fees and penalties, the interest charged thereon, the costs associated with the impact on each individual's credit reputation, plus the non-delivery of promised government rebates and credit, constituted the total amount payable by the consumer.

98. Nowhere in the Consumer Agreement is this total liability disclosed to any of the class members.

99. Lastly, in its enforcement of the Loan Agreements, FinanceIt explicitly does not disclose to class members that it is seeking to enforce agreements which it has alleged in other proceedings to be premised on fraud and breaches of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

100. Nowhere in the Consumer Agreement is it disclosed that any equipment or service provided is at a material markup, effectively building into the Loan Agreement an inordinately high interest rate that no homeowner of sound mind would willingly enter into.

101. The arrangement created by FinanceIt failed to disclose and continues to fail to disclose this information and other material information required under the governing regulations to the plaintiffs and other class members.

102. This information was material and required disclosure under the regulations, and it was not known until the defendant began enforcing the unlawful agreements.

103. Any attempt by FinanceIt to enforce or collect on the Loan Agreements is unlawful, given the statutory non-compliance and the failure to make the required disclosures both for the underlying Goods & Services Agreement upon which the Loan Agreements are premised and further for the Loan Agreements themselves.

ii. The Consumer Agreements breached remote agreement provisions

104. If any of the Consumer Agreements do not meet the definition of a direct agreement because it was executed remotely, such Consumer Agreements with the class members are remote agreements within the meaning of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

105. FinanceIt and its Dealers were required to comply with all statutory obligations applicable to such remote agreements.

106. Part IV of the *Consumer Protection Act* also governs remote agreements. Pursuant to section 45(1), before a consumer enters into a remote agreement, the supplier shall disclose the prescribed information to the consumer and shall satisfy the prescribed requirements as set out in the general regulations. Section 45 of the *Consumer Protection Act* and section 38 of the *General Regulations*, O. Reg. 17/05 prohibits a supplier from entering into a remote agreement unless the consumer is given an express opportunity to accept or decline the agreement and to correct errors before being bound.

107. Further, the *General Regulations*, O. Reg. 17/05, required at all material times that the supplier provide the consumer with an agreement setting out certain material information, including, but not limited to, a fair and accurate description of the prescribed good or service to be supplied, the total amount payable by the consumer under the agreement, and any other restrictions, limitations, and conditions that are imposed by the supplier with respect to the agreement, including the consumer's responsibilities under the agreement.

108. The plaintiffs repeat and rely on their pleadings above with respect to direct agreements, which equally apply to remote agreements, and were breached by FinanceIt and its Consumer Agreements.

iii. Alternatively, the Loan Agreements breached credit agreement provisions

109. If the Loan Agreements with FinanceIt are found not to be direct agreements or remote agreements, the Loan Agreements with the class members are "credit agreements" within the

meaning of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

110. In each case, these agreements were consumer agreements under which FinanceIt extended credit or lent money to the class members.

111. The class members are “borrowers” within the meaning of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, as parties to the Financing Agreements who purportedly received a loan of money from FinanceIt, although neither plaintiff nor any class members actually received a loan from FinanceIt: any and all funds went to FinanceIt’s own Dealers.

112. FinanceIt is a “lender” within the meaning of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, as a supplier which is party to the Loan Agreements and which purported to loan money to the class.

113. Part VII of the *Consumer Protection Act*, and similar provisions of the Equivalent Consumer Protection Legislation, govern credit agreements. Section 77 of the *Consumer Protection Act* requires that no lender shall make representations or cause representations to be made with respect to a credit agreement, whether orally, in writing or in any other form, unless the representations comply with the prescribed requirements. That is, not only is there information that is statutorily mandated to be disclosed, but even further, no representations can be made in respect of credit agreements unless expressly in compliance with the requirements.

114. Pursuant to section 79 of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, every lender shall deliver an initial disclosure

statement for a credit agreement to the borrower at or before the time that the credit agreement is entered into. This initial disclosure statement shall disclose all brokerage fees and the prescribed information, which is provided under the general regulations of the statute, and includes the mandatory disclosure of certain material information.

115. The prescribed information required to be disclosed includes, but is not limited to, the total cost of borrowing, details about the interest rate under the agreement including relating to whether or not it may change during the term of the agreement, the total amount to be repaid under the agreement including all interest, fees, and other charges, and the rights and obligations of the parties upon default including acceleration.

116. Further, lenders are also required under section 80 of the *Consumer Protection Act* to provide continuing disclosure statements at least once every 12 months after entering into a fixed credit agreement with the prescribed information in the general regulations.

117. The prescribed information that must be included in these statements includes, but is not limited to, details about changes to the interest rate (if any) and how such changes affect the timing and amount of any payment the borrower is obligated to make under the credit agreement.

118. The Loan Agreements (and the Goods & Services Agreements) systemically failed to reach this minimum level of statutorily mandated disclosure.

119. Where, as here, such disclosure is not provided, pursuant to section 70 of the *Consumer Protection Act*, a borrower under a credit agreement, such as the Loan Agreements, is not liable to pay the lender the cost of borrowing under the credit agreement if no statements are received by

the borrower, or any amount in excess of the amounts specified in the statements required to be delivered.

120. Pursuant to sections 18(14) and 94 of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, where consumers rescind or cancel an agreement, which the class members seek to do here in respect of the totality of the Consumer Agreements, but especially the Goods & Services Agreements, this operates to cancel all related credit agreements.

121. As such, by the Loan Agreements' direct relation to the Goods & Services Agreements, particularly solidified through the Program Agreements, the Loan Agreements must be necessarily cancelled.

iv. The Consumer Agreements are premised on unfair practices

122. Section 14 of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation prohibit unfair practices, and particularly false, misleading, or deceptive representations.

123. Such unfair practices include representations that misrepresent the authority of an agent to negotiate the final terms of an agreement and the failure to state a material fact if such failure deceives or tends to deceive a consumer.

124. 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 section 15 of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

125. Here, the Consumer Agreements' failure to disclose the material information particularized herein to the plaintiffs and other class members constituted an unfair practice contrary to section 14 of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

126. Further, the grossly inflated amounts that the defendant commonly structured into loans under the Loan Agreements and the grossly adverse unilateral terms of the Consumer Agreements render them unconscionable contrary to section 15 of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

127. FinanceIt knew, or ought to have known, the illegality of these Consumer Agreements under the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation. It pleads as much in its lawsuits brought against some of its Dealers.

128. FinanceIt took advantage of the inability of the 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 Consumer Agreements.

129. FinanceIt is liable as a supplier for these unfair practices. Alternatively, pursuant to section 18(12) of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, FinanceIt is jointly and severally liable for the unfair practices

particularized above together with the Dealers who signed Consumer Agreements with the class members.

b. The Consumer Agreements are unconscionable and invalid

130. The Consumer Agreements are unconscionable and it would be inequitable in the circumstances to bind the class members to such agreements. The Consumer Agreements are extremely improvident bargains obtained under one-sided and abhorrent circumstances.

131. The class members were ordinary consumers, many of whom are vulnerable individuals, who lacked legal or financial sophistication. FinanceIt, by contrast, is a sophisticated lender that implemented the agreements through a controlled network of Dealers acting pursuant to standardized Program Agreements.

132. Class members were not given an opportunity to obtain independent legal or financial advice, nor any opportunity for meaningful review or to negotiate. They were, to the contrary, actively misled.

133. Rather, class members were presented with the one-sided documents by the Dealers and required to sign in order to obtain goods or services for their homes, under circumstances of artificially imposed time pressures, under sales tactic pressures, and misrepresentations.

134. Class members were never advised that the Goods & Services Agreements were subject to Loan Agreements that involved long-term loans with material consequences for default, or that the total loan amount significantly exceeded the fair market value of the products or services provided—if any such products or services were delivered at all.

135. FinanceIt's business model relied on the delegation of consumer-facing responsibilities to its Dealers, while retaining centralized control through its digital platform, Program Agreements, and funding structure. FinanceIt knew or ought to have known that the Dealers were incentivized to engage in breaches of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, and target vulnerable consumers, but failed to intervene or modify its enforcement of the resulting agreements.

136. Moreover, and as pleaded above, FinanceIt knowingly has continued to enforce Loan Agreements that it admits were procured through misrepresentation, fraud, incomplete disclosures, and failures to provide functioning goods or services. It does so in order to benefit from the resulting financial obligations imposed on consumers.

137. The resulting Consumer Agreements are also particularly improvident and manifestly unfair for the following reasons:

- (a) the total amount payable under the Consumer Agreements grossly exceeds the value of the goods and services;
- (b) the interest rates and default provisions imposed significant risk and liability on consumers who had no opportunity to understand or mitigate them;
- (c) the entire consumer transaction, including both the Goods & Services Agreement, the Loan Agreements, and the underlying Program Agreements which consumers were not made aware of, were structured in such a way that consumers had no real ability to walk away from the financing once initiated; and

- (d) FinanceIt proceeded to enforce these agreements knowing that the goods and services from which they stemmed were often non-existent, defective, or otherwise problematic, and in every instance cost far in excess of the real value of any such good or service being provided.

138. The unconscionable nature of these transactions is further aggravated by FinanceIt's systemic control over and knowledge of the Dealers' conduct, its decision to continue funding and enforcing such agreements, and its deliberate indifference to the legal and practical consequences for class members.

139. Based on the foregoing, the Consumer Agreements are unconscionable in law and equity, and are therefore void and unenforceable.

c. FinanceIt conspired with each of its dealers

140. FinanceIt has engaged in a hub-and-spoke conspiracy with its Dealers, acting against the class. The hub of the conspiracy is FinanceIt. Its spokes are each of its Dealers.

i. Unlawful means conspiracy

141. FinanceIt is jointly and severally liable for conspiracy along with its Dealers and any other co-conspirators unknown to the plaintiffs at this time. Together, they engaged in unlawful conduct directed at the class, a significant portion of which included consumers in vulnerable positions who were preyed upon because of their vulnerability.

142. As part of the conspiracy, FinanceIt and the Dealers:

- (a) dictated, authorized, or otherwise approved the terms of the Consumer Agreements which were in violation of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, and unconscionable;
- (b) implemented a scheme of widespread and systematic non-disclosure of material information to class members; and
- (c) directed, encouraged, or otherwise authorized the improper enforcement of these agreements in order to compel class members to pay unconscionable sums.

143. As particularized above, by its own written Program Agreements, FinanceIt played a material role that it exercised in the business of the Dealers as it related to the Consumer Agreements entered into with the class. Through its Program Agreements, FinanceIt conspired to implement the wrongful and unlawful conduct and harm against the class.

144. FinanceIt has been the *sine qua non* of the plaintiffs' and class members' plight. Without FinanceIt's actions, none of the class members would find themselves in the circumstances giving rise to this action.

145. FinanceIt has been instrumental in the development of the scheme used by it and the Dealers to extort unconscionable sums from the plaintiffs and other class members.

146. Further, FinanceIt conspired with the Dealers to engage in unfair practices by effectively requiring, and directly engaging in, the impugned unlawful practices, while continuing to finance, facilitate, encourage, direct, authorize, and condone the use of illegal Consumer Agreements for FinanceIt's own benefit.

147. FinanceIt's conduct was unlawful and contrary to the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

148. The defendant knew or ought to have known that the unlawful conduct would result in injury to the class. The intended lucrative injury to the class in fact motivated the impugned conspiratorial conduct against the class.

149. The class suffered harm and losses as a result of this conspiracy including, but not limited to, damages for financial loss, credit impairment, and mental distress.

ii. Predominant purpose conspiracy

150. FinanceIt and its Dealers are jointly liable for predominant purpose conspiracy. They acted for the unlawful purpose of manipulating the subject consumer market for financial gain by:

- (a) exploiting vulnerable consumers by facilitating, coordinating, and authorizing the predatory sales tactics of the door-to-door Dealers;
- (b) failing to take steps to ensure that the obligations of the Dealers under the Program Agreements were fulfilled as required;
- (c) systemically failing to disclose, encouraging the non-disclosure of, and condoning the non-disclosure of material information to class members;
- (d) dictating, authorizing, and requiring the unlawful and unconscionable terms of the Consumer Agreements, the sole operative purpose of which has been to maximize FinanceIt's gain which directly equals the class's loss; and

- (e) continuing to enforce unlawful Consumer Agreements notwithstanding knowledge that such agreements are contrary to the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

151. FinanceIt knew or ought to have known that the impugned conduct would result in injury to the class. The intended injury to the class in fact motivated FinanceIt's conspiratorial conduct against the class.

152. The class suffered harm and losses as a result of this conspiracy including, but not limited to, damages for financial loss, credit impairment, and mental distress.

d. FinanceIt's common design with its Dealers

153. FinanceIt engaged in a common design with its Dealers to maximize their unlawful profits through the Consumer Agreements at the expense of the class. As such, FinanceIt is jointly and severally liable for the unlawful conduct if each of the Dealers that dealt with the class.

154. FinanceIt assisted the Dealers in carrying out the unlawful conduct particularized herein against the class. Indeed, without FinanceIt's assistance, none of the Dealers could or would have been incentivized to engage in any of the impugned conduct against the class.

155. FinanceIt's common design with its Dealers—in part memorialized in the Program Agreements and in part built upon the practical realities of needing to be unlawful to become as profitable as they wish—led to the Dealers' conduct against the class.

156. FinanceIt's Program Agreements are premised on unlawful conduct in order to be financially rewarding to FinanceIt and its Dealers. Without FinanceIt's common design with these

Dealers, no consumer of rational mind would find the arrangement offered by the Dealers attractive. Consumers would not agree to be bound if they knew the true terms being imposed on them.

157. This common design is further evidenced by FinanceIt's knowledge for years that Dealers engage in anti-consumer fraud to make the Consumer Agreements profitable, and FinanceIt's turning a blind eye and continuing to profit off of the class.

G. REMEDIES

a. Damages, rescission, declaratory relief

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

159. The Consumer Agreements must be rescinded or cancelled in their entirety pursuant to the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

160. Alternatively, class members are entitled to a declaration that the Goods & Services Agreements and Loan Agreements are not binding on them, and to restitution of all payments made under the agreements.

161. Class members seek damages for breaches of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, including, but not limited to, damages for financial loss, amounts paid, credit impairment, and mental distress, and any other remedy this Honourable Court deems just.

162. Further, pursuant to sections 18(14) and 94-95 of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, where consumers rescind or cancel an agreement, which the class members seek to do here in respect of all of the Consumer Agreements, such rescission or cancellation operates to cancel all related credit agreements. As such, by the direct relation between the Loan Agreements and the Goods & Services Agreements as solidified through the Program Agreements, rescission or cancellation of either the Goods &

Services Agreements or the Loan Agreements must necessarily result in the cancellation of the other.

163. It is in the interests of justice to waive any notice requirements under the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, particularly as the defendant concealed the actual state of affairs from the class members for their own benefit.

164. Further, the plaintiffs and the other class members seek damages at common law 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, damages to the credit reputation of class members as a result of having been misled to enter into these unconscionable loans, and all of their out of pocket and inconvenience damages.

165. In the alternative to damages, the plaintiffs and the other class members claim the remedy of disgorgement of the profits generated by FinanceIt as a result of the wrongful conduct particularized herein. Disgorgement is appropriate for the following reasons, among others:

- (a) FinanceIt made profits as a result of the breaches of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation and their conspiracy to defraud the class, and its common design;
- (b) FinanceIt made profits in such a manner that FinanceIt cannot in good conscience retain it;
- (c) the integrity of the marketplace would be undermined if FinanceIt were to profit from the wrongful conduct;

- (d) absent the wrongful conduct, class members would not have entered into the Consumer Agreements, and FinanceIt would never have received profits arising from the Consumer Agreements; and
- (e) disgorgement of profits retained by FinanceIt would serve a compensatory purpose.

b. Interlocutory and permanent injunction

166. As particularized above, the impugned conduct is ongoing. FinanceIt continues to enforce Loan Agreements which it knows and has admitted were premised on fraud and breaches of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation. In many cases, this has included reporting class member's delinquencies and non payments to credit agencies.

167. The impugned conduct is causing irreparable harm to the class. FinanceIt should be enjoined from engaging in the impugned conduct until the resolution of this action on its merits.

168. Further, FinanceIt should be permanently enjoined from engaging in the conduct particularized herein.

169. FinanceIt's conduct, and in particular FinanceIt's ability to continue to enter into further Program Agreements with Dealers which condone the same conduct, its aggressive collections tactics, and the propagation of unfair and predatory practices in this market is sufficiently likely to occur or recur in the future. As such, it is not only appropriate, but necessary, for the Court to exercise its equitable jurisdiction to grant an injunction.

170. In the context of the consumer market at issue, no alternative will provide reasonably sufficient protection against the threat of the continued occurrence of the impugned wrongdoing. Absent an injunction, nothing stops FinanceIt from continuing to partner with predatory door-to-door companies to repeat the same conduct at issue in this action.

c. Restitution for unjust enrichment

171. FinanceIt has been unjustly enriched to the extent that it has charged and retained unlawful fees, interest, and other amounts under the Consumer Agreements.

172. The class members suffered a deprivation corresponding to FinanceIt's enrichment.

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

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

175. In particular, FinanceIt's conduct amounts to an unjust enrichment at the expense of the class. By continuing to demand and, in some cases, collect payments under unlawful and void agreements, FinanceIt has received and retained benefits to which it was never legally entitled. The class seeks restitution and a declaration that all amounts collected by FinanceIt under these illegal agreements be returned.

d. Punitive damages

176. Due to the egregious nature of FinanceIt's conduct, the plaintiffs and other class members are entitled to recover aggravated, punitive, and exemplary damages.

177. The wrongful conduct particularized here was willful, deliberate, high-handed, outrageous, callous, and in contemptuous disregard of consumer rights and interests.

178. FinanceIt has callously taken advantage of consumers' vulnerabilities to trap consumers in a scheme that threatened to deprive them of their homes.

179. Further, the plaintiffs and the other class members are entitled to punitive damages under the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, and at common law to relieve the defendant of their wrongful profits made while flouting the law.

H. FRAUDULENT CONCEALMENT

180. FinanceIt and its Dealers willfully concealed the unlawfulness of the Consumer Agreements from the plaintiffs and the other class members, who plead and rely on the doctrine of fraudulent concealment to assert that any applicable statute of limitation has been tolled by the defendant's knowledge, concealment, and denial of facts which prevented the class from discovering their cause of action.

181. FinanceIt continues to actively conceal the identity of the companies, other than the ones presently known and listed herein, that it has used in its "network" of Dealers to perpetuate its scheme of entering into and enforcing unlawful Consumer Agreements.

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

183. As such, the plaintiffs and the class plead and rely on and the *Limitations Act, 2002*, S.O. 2002, c. 24, Sched B, section 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.

184. The plaintiffs and the class also plead and rely on the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, S.O. 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)

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Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Windsor

Proceeding under the *Class Proceedings Act, 1992*

STATEMENT OF CLAIM

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