

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF CRATE MARINE SALES LIMITED, F.S.  
CRATE & SONS LIMITED, 1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,  
1282648 ONTARIO LTD., and 1382416 ONTARIO LIMITED

**SUPPLEMENTARY MOTION RECORD**

**(returnable May 15, 2015)**

May 14, 2015

**SOLMON ROTHBART GOODMAN LLP**

Barristers

375 University Avenue

Suite 701

Toronto, Ontario

M5G 2J5

Randall M. Rothbart (LSUC# 23220P)

*rrothbart@srglegal.com*

Tel: 416-947-1093 (Ext. 328)

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Lawyers for 2124915 Ontario Inc.

TO: THE SERVICE LIST

**SERVICE LIST**

<p><b>CHAITONS LLP</b> 5000 Yonge Street, 10th Floor Toronto, ON M2N 7E9</p> <p><b>Harvey Chaiton</b> Tel: (416) 218-1129 Fax: (416) 218-1866 Email: <a href="mailto:harvey@chaitons.com">harvey@chaitons.com</a></p> <p><b>Maya Poliak</b> Tel: (416) 218-1161 Fax: (416) 218-1844 Email: <a href="mailto:maya@chaitons.com">maya@chaitons.com</a></p> <p><b>Lawyers for Crawmet Corp.</b></p>	<p><b>A. FARBER &amp; PARTNERS INC. 150 York Street, Suite 1600 Toronto, ON M5H 3S5</b></p> <p><b>Stuart Mitchell</b> Tel: (416) 496-3774 Fax: (416) 496-3839 Email: <a href="mailto:smitchell@farberfinancial.com">smitchell@farberfinancial.com</a></p> <p><b>Receiver</b></p>
<p><b>GOLDMAN SLOAN NASH &amp; HABER LLP</b> 480 University Avenue, Suite 1600 Toronto, ON M5G 1V2</p> <p><b>Michael Rotsztain</b> Tel: 416-597-7870 Fax: 416-597-3370 Email: <a href="mailto:rotsztain@gsnh.com">rotsztain@gsnh.com</a></p> <p><b>R. Brendan Bissell</b> Tel: 416-597-6489 Fax: 416-597-3370 Email: <a href="mailto:bissell@gsnh.com">bissell@gsnh.com</a></p> <p><b>Sanja Sopic</b> Tel: 416-597-7876 Fax: 416-597-3370 Email: <a href="mailto:sopic@gsnh.com">sopic@gsnh.com</a></p> <p><b>Lawyers for the Receiver</b></p>	<p><b>DICKINSON WRIGHT LLP</b> 199 Bay Street, Suite 2200 Commerce Court West Toronto, ON M5L 1G4</p> <p><b>Michael Weinczok</b> Tel: (416) 777-4026 Fax: (416) 865-1389 Email: <a href="mailto:mweinczok@dickinsonwright.com">mweinczok@dickinsonwright.com</a></p> <p><b>David Preger</b> Tel: (416) 646-4606 Email: <a href="mailto:dpreger@dickinsonwright.com">dpreger@dickinsonwright.com</a></p> <p><b>Lisa Corne</b> Tel: (416) 646-4608 Email: <a href="mailto:lcorne@dickinsonwright.com">lcorne@dickinsonwright.com</a></p> <p><b>Lawyers for the Debtors</b></p>

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<p><b>TOWN OF GEORGINA</b>  Georgina Civic Centre  26557 Civic Centre Road  R.R. #2  Keswick, ON L4P 3G1</p> <p><b>Patricia Nash, Deputy Clerk</b>  Tel: (905) 476-4301 x.2257</p> <p>Email: <a href="mailto:pnash@georgina.ca">pnash@georgina.ca</a></p>	<p><b>DODICK &amp; ASSOCIATES INC.</b>  4646 Dufferin St., Suite 6  Toronto, ON M3H 5S4</p> <p>Rahn Dodick  Tel: 416 645 0552  Fax: 416 649 7725  Email: <a href="mailto:rahn.dodick@dodick.ca">rahn.dodick@dodick.ca</a></p> <p><b>Proposal Trustee</b></p>
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<p><b>E. ALAN GARBE</b> 7507 Kennedy Road Markham, ON L3R 0L8</p> <p>Tel: 905-415-9100 Fax: 905-479-3625</p> <p>Email: <a href="mailto:egarbe@garbe-law.com">egarbe@garbe-law.com</a></p> <p><b>Lawyers for Structform Central Corp.</b></p>	<p><b>GE COMMERCIAL DISTRIBUTION FINANCE CANADA</b> 1290 Central Parkway West, Suite 1000 Mississauga, ON L5C 4R3</p>
<p><b>IRWIN JACOBS</b> 8096 Excelsior Blv. Hopkins. Minnesota, U.S.A. 55343</p>	<p><b>ED LEARN FORD LINCOLN</b> 375 Ontario Street St. Catharines, ON L2R 5L3</p>
<p><b>MP ACCOUNTING SERVICES INC.</b> 27 Arnold Heights Drive Markham, ON L6L 0E8</p>	<p><b>MATTHEW R. HARRIS</b> Barrister &amp; Solicitor 100 Sheppard Avenue West, Suite 103 Toronto, Ontario M2N 1M6 E-mail: <a href="mailto:m.harris@matthewrharrislawyer.com">m.harris@matthewrharrislawyer.com</a></p> <p><b>Lawyer for MP Accounting Services Inc.</b></p>
<p><b>FORD CREDIT CANADA LIMITED</b> P.O. Box 2400 Edmonton. AB T5J 5C7</p>	<p><b>MARQUIS YACHTS, LLC</b> 790 Markham Drive Pulaski, Wisconsin</p>
<p><b>BORDEN LADNER GERVAIS LLP</b> Scotia Plaza, Ste. 4400 40 King St. W. Toronto. Ontario M5H 3Y4</p> <p><b>John D. Marshall</b> Tel: 416-367-6024 Fax: 416-361-2763 Email: <a href="mailto:jmarshall@blg.com">jmarshall@blg.com</a></p> <p><b>Lawyers for Marquis Yachts, LLC</b></p>	<p><b>DWIGHT POWELL INVESTMENTS INC.</b> c/o 180 Ram Forest Road Gormley. ON LOH 1G0</p> <p><b>Dwight Powell</b> Email: <a href="mailto:dpowell@powell.ca">dpowell@powell.ca</a></p>
<p><b>DWIGHT POWELL</b> 178 Bedford Road Toronto, ON M5R 2K9</p> <p>Email: <a href="mailto:dpowell@powell.ca">dpowell@powell.ca</a></p>	<p><b>DAWSON'S MARINA LIMITED</b> 294 The Queensway South Keswick, ON L4P 2B5</p>
<p><b>LEEWAY AUTO SALES LTD. P.O.</b> Box 279 King City, ON L7B 1A6</p>	<p><b>PLAZA KIA OF THORNHILL</b> 7079 Yonge Street Thornhill, ON L3T 2A7</p>
<p><b>NATIONAL LEASING GROUP INC.</b> 1525 Buffalo Place (2611466) Winnipeg, MB R3T 1L9</p>	<p><b>KCS INTERNATIONAL, INC.</b> 804 Pecor Street Oconto, WI 54153-0078 U.S.A.</p>

<p><b>FINANCIALINX CORPORATION</b>  2001 Sheppard Ave. E., 6th Floor  Toronto, ON, M2J 4Z8</p>	<p><b>1728259 ONTARIO INC.</b>  100 Grandview road  Port McNicoll, ON  LOK 1R0</p>
<p><b>VFS CANADA INC.</b>  205 Industrial Pkwy N. Unit 5  Aurora, ON  L4G 4C4</p>	<p><b>GENERAL ELECTRIC CANADA  EQUIPMENT FINANCE G.P.</b>  5500 North Service Road, 8th Floor  Burlington, ON  L7L 6W6</p>
<p><b>GE COMMERCIAL DISTRIBUTION  FINANCE CANADA</b>  1290 Central Parkway West, Suite 1000  Mississauga, ON  L5C 4R3</p>	<p><b>BISCEGLIA &amp; ASSOCIATES</b>  7941 Jane Street, Suite 200  Concord, ON, L4K 4L6</p> <p><b>Emilio Bisceglia</b>  Tel: (905) 695-3100  Fax: (905) 695-5201  Email: <a href="mailto:ebisceglia@lawtoronto.com">ebisceglia@lawtoronto.com</a></p> <p><b>Lawyers for Cesaroni Management  Limited</b></p>
<p><b>Office of the Superintendent of  Bankruptcy Canada*</b></p> <p>25 St. Clair Avenue E, 6th Floor  Toronto, Ontario M4T 1 M2</p> <p>*Document will be electronically filed by  A. Farber &amp; Partners Inc. with the Office of  the Superintendent of Bankruptcy.</p>	<p><b>MILLER THOMPSON LLP</b>  Scotia Plaza  40 King Street West, Suite 5800 P.O. Box  1011  Toronto, ON M5H 3S1</p> <p><b>Jeffrey Carhart</b>  Direct Line: 416-595-8615  Fax: 416-595-8695</p> <p>Email: <a href="mailto:jcarhart@millerthomson.com">jcarhart@millerthomson.com</a></p> <p>Lawyers for Structform Central Corp.</p>
<p><b>GREGORY W. ROBERTS</b>  1595 Sixteenth Avenue, Suite 301  Richmond Hill, Ontario  L4B 3N9</p> <p><b>Gregory Roberts</b>  Fax: 1 (866) 824-8757</p> <p>E-mail: <a href="mailto:greg.roberts@roblaw.ca">greg.roberts@roblaw.ca</a></p> <p>Lawyer for Bill Labanovich</p>	<p><b>DONALD ROGERS</b>  7 Sonley Drive  Whitby, ON L1R 3B3</p>

<p><b>PROSSER'S GARAGE</b> 3385 Old Homestead Rd., RR #3 Sutton, Ontario L0E 1R0</p>	<p><b>THE BANK OF NOVA SCOTIA</b> 23556 Woodbine Avenue Keswick, Ontario, L4P 0E2</p> <p><b>Attention: Garry Donnelly, Small Business Advisor</b> Direct: (905) 476-4150 Ext. 4300 Fax: (905) 476-8812 E-mail: <a href="mailto:garry.donnelly@scotiabank.com">garry.donnelly@scotiabank.com</a></p>
<p><b>The Regional Municipality of York</b> 17250 Yonge Street Newmarket, Ontario L3Y 6Z1</p> <p><b>Attention: Regional Clerk</b> Tel: 905-830-4444 Ext. 71320 E-mail: <a href="mailto:regionalclerk@york.ca">regionalclerk@york.ca</a></p>	<p><b>Joseph Markin</b> Barrister and Solicitor 77 Hillmount Avenue Toronto, ON M6B 1 X5 E-mail: <a href="mailto:markintoronto@bell.net">markintoronto@bell.net</a></p> <p><b>Lawyer for Steven L. Crate, Gregory J. Crate and Lynn J. Marko, Ryan Gregory Crate and Robin Crate a.k.a. Robin Price</b></p>
<p><b>DEPARTMENT OF JUSTICE CANADA</b> Business, Regulatory and Extradition Law Division Ontario Regional Office</p> <p>130 King Street West Suite 3400, Box 36 Toronto, Ontario M5X 1 K6</p> <p><b>Attention: Mary Shenouda</b> Legal Counsel Tel.: (416) 954-8947 Fax: (416) 973-0809 Email: <a href="mailto:mary.shenouda@justice.gc.ca">mary.shenouda@justice.gc.ca</a></p>	<p><b>NORTON ROSE FULBRIGHT</b> Royal Bank Plaza, South Tower, Suite 3800 200 Bay Street, P.O. Box 84 Toronto, ON M5J 2Z4</p> <p><b>Attention: Tony Reyes</b> Tel: (416) 216-4825 Fax: (416) 216-3930 E-mail: <a href="mailto:tony.reyes@nortonrosefulbright.com">tony.reyes@nortonrosefulbright.com</a></p> <p><b>Lawyers for 1889863 Ontario Inc.</b></p>
<p><b>WEIR FOULDS</b> 66 Wellington Street West, Suite 4100, P.O. Box 35, Toronto-Dominion Centre Toronto, Ontario</p> <p><b>Attention: Krista Chaytor</b> T: (416)- 947-5074 F: (416)-365-1876 e-mail: <a href="mailto:kchaytor@weirfoulds.com">kchaytor@weirfoulds.com</a></p> <p><b>Lawyers for Centre City Capital Ltd.</b></p>	<p><b>PRIDE MARINE GROUP LTD.</b></p> <p><b>Paul Nickel</b> <a href="mailto:pnickel@pridemarinegroup.com">pnickel@pridemarinegroup.com</a></p>

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF CRATE MARINE SALES LIMITED, F.S.  
CRATE & SONS LIMITED, 1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,  
1282648 ONTARIO LTD., and 1382416 ONTARIO LIMITED

**AFFIDAVIT OF NATHAN MCLACHLAN**

I, Nathan McLachlan of the City of Toronto, in the Province of Ontario, MAKE OATH  
AND SAY:

1. I am the Director, Property Management for Talisker Corporation, which manages the interests of 2124915 Ontario Inc. ("212"). I make this affidavit supplemental to Maeve Callery's affidavit of May 12, 2015.
2. On May 13, 2014, counsel for Krates Keswick Inc. ("KKI") wrote to counsel for 212. In that letter, counsel advised that KKI took the Conolift Hydraulic trailer from the Marina at some point before April 30, 2015, and that it considered itself the undisputed owner of that piece of equipment. Now shown to me and marked as Exhibit "A" to this my affidavit is a true copy of that letter.
3. 212 has obtained a receipt which appears to show that it purchased a type YH-915 Conolift hydraulic trailer in September, 1988. The invoice indicates that Lagoon City Marina owned a type YH-915 trailer prior to May 1, 2005, when the lease term commenced.

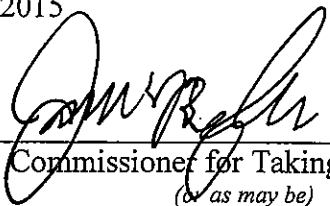


4. Pursuant to the Lease, the equipment owned by the Lagoon City Marina and situate at the Marina on the commencement date of the lease, was leased to the tenant for the Lease term. The Tenant also acknowledged a duty to repair and to replace such equipment.

5. Accordingly, it is 212's position that if Lagoon City Marina owned a YH-915 trailer prior to the commencement of the Lease, a YH-915 trailer must be left behind at Lagoon City Marina upon the expiry of the Lease term.

6. Now shown to me and marked as Exhibit "B" to this my affidavit is a true copy of a letter from counsel to 212 to counsel for KKI, advising that it is 212's view that compliance with Justice Pattillo's order of April 30, 2015, requires KKI to return the trailer to Lagoon City Marina.

**SWORN BEFORE ME** at the City of  
Toronto, in the Province of Ontario on May  
14, 2015



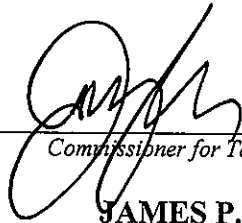
Commissioner for Taking Affidavits  
*(or as may be)*

**JAMES P. MCREYNOLDS**



**NATHAN MCLACHLAN**

This is Exhibit "A" referred to in the Affidavit of Nathan McLachlan sworn May 14, 2015



---

*Commissioner for Taking Affidavits (or as may be)*

**JAMES P. MCREYNOLDS**



REPLY TO: HARVEY CHAITON  
FILE NO.: 56429  
DIRECT: 416-218-1129  
FAX: 416-218-1829  
EMAIL: harvey@chaitons.com

May 13, 2015

**VIA EMAIL (Email: [jmcreynolds@srglegal.com](mailto:jmcreynolds@srglegal.com))**

James P. McReynolds  
Solmon Rothbart Goodman LLP, Barristers  
701-375 University Avenue  
Toronto, Ontario M5G 2J5

**Re: *Crate Marine***

Dear Sir,

I have been provided with a copy of your letter to Mr. Brendan Bissell dated May 12, 2015 and have been requested to respond to your demand for the return of the conolift hydraulic trailer.

The trailer was an asset of Crate Marine purchased by K.K.I. pursuant to an Approval and Vesting Order dated March 31, 2015. A copy of the invoice dated April 17, 1989 for the sale of the trailer by Conolift Distributors to Crate Marine is enclosed for your information. The trailer was removed by my client from the Lagoon City Marina prior to the order of Justice Pattillo. The landlord of The Lagoon City Marina did not own, and has no colour of right, to the trailer.

Yours truly,  
CHAITONS LLP

*Harvey Chaiton*  
(computer generated signature)

Harvey Chaiton  
PARTNER  
Encl.

c. Brendan Bissell, Goldman, Sloan, Nash & Haber LLP  
([bissell@gsnh.com](mailto:bissell@gsnh.com))

**CON-O-LIFT DISTRIBUTORS**

P.O. BOX 36

POINTE AU BARIL, ONT. P0G 1K0

(705) 366-2210

**"C" INVOICE**

520

TO

Creston Machine  
 200 West Cunningham Road  
 KESWICK, Ontario  
 L4P 2B3

TERMS:

C.O.D.

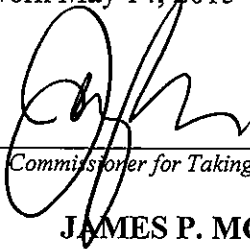
DATE	April 17th. 1989
CUSTOMER ORDER NO	
SALES PERSON	Steve Strata
VIA	Deve Hutchinson Con-O-Lift

QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	Model YH-915 Con-O-Lift Marine Hydraulic Trailer, equipped with standard pads and crossbars, including lights, electric brakes, fenders, cantilever pads, bar carriers, fifthwheel noose-neck, spare tire, spare tire carrier		\$24,200.00
1	Binkley inverted hitch with one retractable pin 2" S.A.E. Pin		779.00
	Rubber installation on fenders		84.00
	Serial #2C9B85H4XRP050004		
	Capacities: 9 tons - on-road 15 tons - off-road		
	TOTAL:		\$25,063.00
	Due on Delivery		
	(Tax Exempt)		
	<i>paid in full.</i>		

WARRANTY: One Year Warranty On Frame  
 and Hydraulic Systems—Three Months On  
 Lights, Brakes, Wheel Bearings. All  
 Warranty Work To Be Carried Out At  
 Perry Sound, Ontario Facility. Unless  
 Otherwise Authorized By Con-O-Lift

*Thank You!*

This is Exhibit "B" referred to in the Affidavit of Nathan  
McLachlan sworn May 14, 2015



A handwritten signature in black ink, appearing to read 'JPM', is written over a horizontal line. The signature is stylized and cursive.

*Commissioner for Taking Affidavits (or as may be)*

**JAMES P. MCREYNOLDS**



**Solmon Rothbart Goodman LLP**  
Barristers

May 14, 2015

**SENT VIA EMAIL: [harvey@chaitons.com](mailto:harvey@chaitons.com)**

Mr. Harvey Chaiton  
Chaitons LLP  
5000 Yonge Street, 10<sup>th</sup> Floor  
Toronto, Ontario  
M2N 739

Dear Mr. Chaiton:

Re: 2124915 Ontario Inc. re: Crate Marina Receivership  
Our File: 17427

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Receipt of your letter dated May 13, 2015, is acknowledged.

According to the agreement of purchase and sale included in the motion record of the receiver dated February 8, 2015, Crate Marine Sales Limited listed multiple Conolift YH-915 trailers.

We have obtained a receipt which appears to indicate that Lagoon City Marina also purchased its own YH915 Conolift Hydraulic Trailer in September, 1988. A copy of that receipt is attached to this letter.

It may be helpful if you would provide the serial number of the trailer that your client removed from Lagoon City. However, as it appears that Lagoon City Marina owned its own YH-915 trailer on or before the commencement of the Lease dated May 1, 2005, by operation of that Lease, that trailer is defined as "Equipment", which the tenant only held an interest in the for the duration of the Lease, and for which the tenant had a duty both to repair and replace.

In other words, if there was a YH-915 trailer at Lagoon City on May 1, 2005, a YH-915 trailer must be left at Lagoon City Marina at the end of the Lease term. Your client can have no ownership interest in such an item.

Given that:

- A. our client's position that disputed equipment should not be removed from Lagoon City Marina pending proper adjudication of the court or consent of the parties has been placed on the record by the receiver, and

Melvyn L. Solmon, B.A.Sc., LL.M. (Harv) \*\*

Randall M. Rothbart, B.A., LL.B.

Mark L. Goodman, B.A., LL.B.

Avrum D. Slodovnick, LL.B.

Nancy J. Tourgis, B.Sc.H., LL.B.

James P. McReynolds, B.Comm., LL.B.

Raffaele Sparano, B.A.(Hon.), LL.B.

Matthew Valitutti, B.A., LL.B.

Cameron J. Wetmore, B.A.C.S., LL.B.

Ryan R. McKeen, B.A.(Hon.), J.D.

Eric P. Borzi, B.A.(Hon.), LL.B.

Member of the New York Bar \*\*

[jmcreynolds@srglegal.com](mailto:jmcreynolds@srglegal.com)

375 University Ave., Suite 701, Toronto, ON M5G 2J5

T 416 947 1000 F 416 947 1001

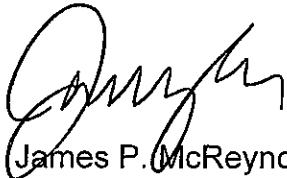
- B. Justice Pattillo's order dated April 30, 2015, was made clearly on the understanding that the items listed in Schedule A to that Order remain at Lagoon City Marina, and
- C. Your client is aware of that order and submissions were made on your client's behalf which led to the making of that order.

Your client may not simply and unilaterally declare the dispute to be at an end with regard to this piece of equipment and retain it. Accordingly, our client requires your client to immediately return the trailer to Lagoon City Marina. Should your client remain unwilling to do so, submissions will be made to the court at our attendance tomorrow for its guidance on this matter.

It is a source of concern to our client that yours appears to have had access to Lagoon City Marina and been afforded the opportunity to the remove equipment. Please advise on what day the trailer was removed and provide any documentation between your client and the Receiver which authorized such removal.

Yours very truly,

SOLMON ROTHBART GOODMAN LLP



James P. McReynolds  
JPM/mg

cc: Brendan Bissell, Goldman Sloan Nash & Haber, via email: [bissell@gnsh.com](mailto:bissell@gnsh.com)

ROBERT SNIDER

LAGOON CITY MARINE CENTRE  
 A DIVISION OF  
 INDUCON DEVELOPMENT CORPORATION  
 235 YORKLAND BLVD., NORTH YORK (TORONTO) ONT. M2J4Y8 (416) 494-2800

CON-O-LIFT DISTRIBUTORS  
 P.O. BOX 36  
 POINTE AU BARIL, ONT. P0G 1K0  
 (705) 366-2210

# INVOICE

410

TO

Roy Lease Limited  
 Commercial Finance Centre  
 180 Wellington Street, 10th Floor,  
 TORONTO, Ontario. M5J 1J1

DATE	September 15th, 1988
CUSTOMER ORDER NO.	
SALES PERSON	Dave Hutchinson
VIA	

TERMS:

C.O.D.

QUANTITY	DESCRIPTION	PRICE	AMOUNT
	Re: Lagoon City Marine Centre		
1	Model YH-915 Con-O-Lift Marine Hydraulic trailer, equipped with standard pads and bars, including lights, fenders, spare tire & carrier, hydraulic fifth wheel gooseneck, with Binkley inverted hitch, vac/hydraulic brakes, fifth wheel bed plate & retractable pin, vac/hydraulic brake control kit for truck, installation of bed plate and control kit.		
	TOTAL:		\$29,000 00
	Ser. # 2C9B8SK40JP050026 LESS DEPOSIT RECEIVED		
	On-road capacity - 18,000 lbs. FROM LAGOON CITY:		2,900 00
	Off-road capacity - 30,000 lbs. BALANCE OWING:		\$26,100 00

Warranty: One year warranty on frame and hydraulic systems. Three months on lights, brakes & wheel bearings. Warranty work to be carried out at Ferry Point, Ont. unless otherwise authorized by Con-O-Lift.

Thank You!



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

**AFFIDAVIT OF NATHAN MCLACHLAN**

**SOLMON ROTHBART GOODMAN LLP**

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Toronto, Ontario  
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Lawyers for 2124915 Ontario Inc.

File Number: 17427

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

**SUPPLEMENTARY MOTION RECORD**

**SOLMON ROTHBART GOODMAN LLP**  
Barristers  
375 University Avenue  
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