

Court File No. 04-CV-2451

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

PEGGY JANE DAVIS

**Plaintiff**

and

CLIVE METCALF, TIMOTHY VOISIN, GEORGE VOISIN, ELAINE VOISIN, CLAYTON METCALF, SNC INSURANCE COMPANY (BARBADOS) INC., 1394174 ONTARIO INC. (d.b.a. STOP 'N' CASH 1230), STOP 'N' CASH 1010 INC. (d.b.a. STOP 'N' CASH 1010), STOP 'N' CASH 1020 INC. (d.b.a. STOP 'N' CASH 1020), NEW MANOR DEVELOPMENTS LIMITED (d.b.a. STOP 'N' CASH 1030), 1543570 ONTARIO INC. (d.b.a. STOP 'N' CASH 1040), 1388200 ONTARIO LTD. (d.b.a. STOP 'N' CASH 1100), THE REFERRAL GROUP LTD. (d.b.a. STOP 'N' CASH 1110 and as STOP 'N' CASH 1580)), 1361864 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1120), STOP 'N' CASH 1130, 1404867 ONTARIO INC. (d.b.a. STOP 'N' CASH 1140), 1396502 ONTARIO LTD. (d.b.a. STOP 'N' CASH 1150), 1517380 ONTARIO INC. (d.b.a. STOP 'N' CASH 1160), 1410160 ONTARIO INC. (d.b.a. STOP 'N' CASH 1170), 1035507 ONTARIO INC. (d.b.a. STOP 'N' CASH 1180), DINAH J. HOGG (C.B.A. STOP 'N' CASH 1190), 1553618 ONTARIO INC. (d.b.a. STOP 'N' CASH 1201), 1389584 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1210), 1432615 ONTARIO INC. (d.b.a. STOP 'N' CASH 1220), 1568560 ONTARIO INC. (d.b.a. STOP 'N' CASH 1241), 1410176 ONTARIO INC. (d.b.a. STOP 'N' CASH 1250), 1423043 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1260), KRT ONE INC. (d.b.a. STOP 'N' CASH 1270), 1325681 ONTARIO INC., (d.b.a. STOP 'N' CASH 1290), 1410616 ONTARIO INC. (d.b.a. STOP 'N' CASH 1300), 1484838 ONTARIO INC. (d.b.a. STOP 'N' CASH 1320), 1432694 ONTARIO INC. (d.b.a. STOP 'N' CASH 1330), 1399227 ONTARIO INC. (d.b.a. STOP 'N' CASH 1350), 1438158 ONTARIO INC., (d.b.a. STOP 'N' CASH 1360), 1445130 ONTARIO INC. (d.b.a. STOP 'N' CASH 1370), 1457210 ONTARIO INC. (d.b.a. STOP 'N' CASH 1380), 1465009 ONTARIO INC. (d.b.a. STOP 'N' CASH 1390), 1445175 ONTARIO INC. (d.b.a. STOP 'N' CASH 1400), FRANCHISE INVESTMENT GROUP INC. (d.b.a. STOP 'N' CASH 1410), 2002415 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1420), 1473451 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1430), 1476550 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1440), DYNAMIC DEVELOPMENTS INC. (d.b.a. STOP 'N' CASH 1450), KRISWAY INC. (d.b.a. STOP 'N' CASH 1470), STOP 'N' CASH 1480, BEST SALES INC. (d.b.a. STOP 'N' CASH 1490), 2025579 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1500), BARUKCIC HOLDING COMPANY INC. (d.b.a. STOP 'N' CASH 1520), 1561593 ONTARIO INC. (d.b.a. STOP 'N' CASH 1530), 1543441 ONTARIO INC. (d.b.a. STOP 'N' CASH 1540), 1543541 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1550), 1553785 ONTARIO LTD. (d.b.a. STOP 'N' CASH 1560), 2025871 ONTARIO INC. (d.b.a. STOP 'N' CASH 1590), 2028022 ONTARIO INC. (d.b.a. STOP 'N' CASH 1600), 1573780 ONTARIO INC. (d.b.a. STOP 'N' CASH 1610), 1561469 ONTARIO INC. (d.b.a. STOP 'N' CASH 1620), 1587428 ONTARIO INC. (d.b.a. STOP 'N' CASH 1630), 2036998 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1640), 2024670 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1650), STOP 'N' CASH 1660, 1445174 ONTARIO INC. (d.b.a. STOP 'N' CASH 5010), 1449150 ONTARIO INC. (d.b.a. STOP 'N' CASH 5020), 1484809 ONTARIO INC. (d.b.a. STOP 'N' CASH 5040) and STOP 'N' CASH INC. (d.b.a. STOP 'N' CASH 5050)

**Defendants**

Proceeding Under the *Class Proceeding Act, 1992*

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**FRESH AS AMENDED  
STATEMENT OF DEFENCE AND CROSSCLAIM  
OF THE DEFENDANTS**

**1394174 ONTARIO INC. (d.b.a. Stop 'N' Cash 1230),  
1396502 ONTARIO LTD. (d.b.a. Stop 'N' Cash 1150),  
1517380 ONTARIO INC. (d.b.a. Stop 'N' Cash 1160),  
1432694 ONTARIO INC. (d.b.a. Stop 'N' Cash 1330),  
BARUKCIC HOLDING COMPANY INC. (d.b.a. Stop 'N' Cash 1520),  
1410616 ONTARIO INC. (d.b.a. Stop 'N' Cash 1300),  
1473451 ONTARIO LIMITED (d.b.a. Stop 'N' Cash 1430),  
FRANCHISE INVESTMENT GROUP INC. (d.b.a. Stop 'N' Cash 1410),  
1589869 ONTARIO INC. (d.b.a. Stop 'N' Cash 1660),  
and 1465009 ONTARIO INC. (d.b.a. Stop 'N' Cash 1390)  
(the "SNC Franchisee Defence Group")**

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1. The pleading Defendants [hereinafter collectively referred to as "the SNC Franchisee Defence Group" and where the context requires, the "SNC Franchisee Defence Group members"] admit the allegations contained in paragraphs 3 (save and except that the services provided by the SNC Franchisee Defence Group are not restricted or limited to the group referred to therein), 4, 5 (as to the outline of the interest and other charges rendered but not the illegality as pleaded therein), 9, 10, 17 (save and except that some of the SNC Franchisee Defence Group members no longer operate as Stop 'N' Cash franchises), 18, 20, 21, 22 (as to the text of the Application Agreement referred to therein), 23 (save and except that no request to negotiate the terms of the Application Agreement was received from the Class), 28, 29, 32 (as to the similar nature of the various forms of Payday Loan Application Agreements) and 56 of the Statement of Claim.

Agreements) and 56 of the Statement of Claim.

2. The SNC Franchisee Defence Group denies the allegations contained in paragraphs 5 (as to the allegations that the aggregate of all interest, other fees, expenses and premiums constitutes Interest, that such Interest is charged at a Criminal Rate as defined by the *Criminal Code*, R.S.C. 1985, c.C-46 (as amended) s.347(2) [hereinafter referred to as the "*Criminal Code*"] and/or that SNC Franchisee Defence Group has and is engaged in a loan sharking operation), 6, 7, 19, 24, 25, 27, 30, 31, 32 (as to the allegation that the Interest charged is at a Criminal Rate as defined therein), 33 (as to the allegations that the SNC Franchisee Defence Group has conspired with their co-defendants and that they have received monies in breach of s. 347(1) and s. 462.31 of the *Criminal Code*), 34, 35 (each and every allegation set out therein), 36 (each and every allegation set out therein), 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53 and 54 of the Statement of Claim.
  
3. The SNC Franchisee Defence Group has no knowledge as to the allegations contained in paragraphs 8, 11 (save and except that Metcalf is not an officer or director of the SNC Franchisee Defence Group, or any of them), 12 (save and except that Voisin is not an officer or director of the SNC Franchisee Defence Group, or any of them), 13 (save and except that George is not an officer or director of the SNC Franchisee Defence Group, or any of them), 14 (save and except that Elaine is not an officer or director of the SNC Franchisee Defence Group, or any of them), 15, 16, 26, 33 (as to the allegations that Metcalf and Voisin are the operating minds of the Franchisor, Stop 'n' Cash 1000 Inc., and its affiliated or related operating minds of the Franchisor, Stop 'n' Cash 1000 Inc., and its affiliated or related

corporate defendants set out therein ("Franchisor"), that these corporations are the alter ego of Metcalf and Voisin, and that they are liable as provided for therein) and 37 of the Statement of Claim.

4. The SNC Franchisee Defence Group adopts, for purposes of the within pleading, the definitions provided in paragraph 1 of the Statement of Claim.
5. The SNC Franchisee Defence Group states that Davis and the Class (hereinafter collectively referred to as "the Class") are not entitled to the relief claimed in paragraph 2 of the Statement of Claim.
6. The SNC Franchisee Defence Group objects to the trial of the present action in the City of Windsor, as requested in paragraph 55 of the Statement of Claim, in that Windsor is not the most convenient forum, and request that the trial of this action take place in the City of Toronto pursuant to Rule 13.1.02 of the *Rules of Civil Procedure*.
7. The SNC Franchisee Defence Group members are, or were at the material time, franchisees of the Franchisor, engaged in the business of advancing loans to individuals, under the trade name of Stop 'N' Cash. For purposes of the within pleading only, reference hereinafter to the SNC Franchisee Defence Group is made in the present tense, unless otherwise required by the context.

8. The SNC Franchisee Defence Group members operate under the terms of franchise agreements, entered into individually as between individual members of the SNC Franchisee Defence Group and the Franchisor. The said franchise agreements provide for all matters related to the operation of the SNC Franchisee Defence Group's business, inclusive of the quantum of interest to be charged on the loans, and the payment of fees and other charges by customers.
9. By and large, the customers of the SNC Franchisee Defence Group are individuals that, for various reasons, but principally by virtue of poor or non-existent credit histories, cannot secure credit facilities from traditional sources, such as chartered banks. The SNC Franchisee Defence Group offer such customers a safe, secure and convenient means of obtaining loans, nominally secured against their incomes or wages.
10. By virtue of the nature of the borrowers and the lack of any effective security, the SNC Franchisee Defence Group members assume significant risk in advancing the aforesaid loans. The return on such loans, as complained of by the Class, is fair and equitable in the circumstances, given the inherent risk.
11. In addition to the interest charged, and in accordance with the Franchisor's requirements, and as set out in the Statement of Claim, customers are charged a one time administrative fee at the time that they set up accounts with the a member of the SNC Franchisee Defence Group.

The said administrative fee is fair and reasonable in all of the circumstances and does not constitute interest.

12. The SNC Franchisee Defence Group members plead that each offered payday loans in strict adherence to the terms and conditions established by the Franchisor as reflected in their respective franchisee agreements and all related documentation. The SNC Franchisee Defence Group members further plead that the business methodology employed by each of them was created, structured, established and implemented solely by the Franchisor as part of the Franchisor's business model [the "SNC Business Model"]. The SNC Business Model obliged each franchisee to obtain life and disability insurance coverage in respect of each loan advanced to a customer. The SNC Franchisee Defence Group members were required to purchase this form of insurance solely and exclusively from the defendant, SNC Insurance Company (Barbados) Inc. ("SNC Insurance Barbados") on terms and conditions set forth in individual written agreements amongst the Franchisor, SNC Insurance Barbados and each franchisee.

13. Pursuant to the SNC Business Model, all insurance premiums or charges for each customer loan were collected by the SNC Franchisee Defence Group members from each borrower and thereafter remitted to SNC Insurance Barbados. Further the SNC Business Model's terms and conditions stipulated that in the event a loan was in arrears or unpaid as a result of a borrower's intervening death or disability, the franchisees were authorized to submit a claim to SNC Insurance Barbados for repayment of the loan under the terms of the life and

disability insurance policies underwritten by SNC Insurance Barbados.

14. In accordance with the SNC Business Model, the amount of interest charged to a borrower and the borrower's cost of the life and disability insurance coverage, were clearly specified in the standard Stop 'n' Cash Payday Loan application forms.
15. The SNC Franchisee Defence Group members plead and rely upon the provisions of section 347(2) of the *Criminal Code*, and, in particular, the definition of "interest" which excludes insurance charges from the definition of "interest". The allegations that SNC Insurance Barbados was a sham insurer or that insurance was not provided, are expressly denied. In particular, insurance was provided by SNC Insurance Barbados to any borrowers who elected such life and/or disability coverage. All insurance charges and premiums collected from each borrower by the SNC Franchisee Defence Group members were legally enforceable and legitimate insurance charges and did not constitute "interest" within the meaning of the *Criminal Code*, or otherwise.
16. The terms and conditions of the loans advanced by the SNC Franchisee Defence Group are and were, at all times, fully explained to customers and, further, are and were, at all material times, fully understood by such customers.

17. Contrary to the allegations contained in paragraph 5 of and otherwise in the Statement of Claim, the SNC Franchisee Defence Group specifically denies that “the aggregate of all interest, other fees, expenses and premiums relating to each Payday Loan agreement constitutes Interest charged at a Criminal Rate” and puts the Class to the strictest proof thereof. The SNC Franchisee Defence Group specifically plead and rely upon the provisions of sections 347(2), (4), (5) and (7) of the *Criminal Code*.
18. Contrary to the allegations contained in paragraph 7 of and otherwise in the Statement of Claim, the SNC Franchisee Defence Group specifically denies that they have been unjustly enriched, and puts the Class to the strictest proof thereof.
19. Contrary to the allegations contained in paragraph 35 of and otherwise in the Statement of Claim, the SNC Franchisee Defence Group states and the fact is that they did not engage in any conspiracy or agreement contrary to s.462.31 of the *Criminal Code* with any of their co-defendants (or with anyone else) for the purposes and objectives set out in the said paragraph and further in paragraph 36 of the Statement of Claim. The SNC Franchisee Defence Group puts the Class to the strictest proof thereof.
20. The SNC Franchisee Defence Group requests that the present action be dismissed as against them, with costs on a substantial indemnity scale or, alternatively, on a partial indemnity scale.

## CROSSCLAIM

21. The SNC Franchisee Defence Group claims, jointly and severally:
- (1) against the Defendants, SNC INSURANCE COMPANY (BARBADOS) INC. and STOP 'N' CASH 1000 Inc., as these parties are defined in paragraph 1 of the Statement of Claim (hereinafter "Defendants to the Crossclaim"):
    - a. contribution and indemnity for any amounts as may be awarded against the SNC Franchisee Defence Group, jointly and severally, inclusive of costs, taxes and interest, as may be awarded by this Honourable Court;
    - b. costs of this crossclaim and of the main action, on a substantial indemnity basis or, alternatively, on a partial indemnity scale;
    - c. Goods and Services Tax, as well as any other taxes, federal, provincial or municipal, as may be payable on any amounts awarded hereunder;
    - d. pre and post-judgment interest in accordance with the provisions of the *Courts of Justice Act*, R.S.O. 1990, Chap. C.43, as amended; and,
    - e. such further and other relief as to this Honourable Court seems just.

(2) The SNC Franchisee Defence Group claims, jointly and severally, against the Defendants, CLIVE METCALF, TIMOTHY VOISIN, GEORGE VOISIN, ELAINE VOISIN, and CLAYTON METCALF:

- (a) Full indemnity for any and all amounts for which the SNC Franchisee Defence Group may be found liable to the Class Members;
- (b) In the alternative, damages equivalent to any amounts for which the SNC Franchisee Defence Group may be found liable to the Class Members;
- (c) In the further alternative, damages for breach of contract, negligence, negligent misrepresentation, and/or breach of fiduciary duty equivalent to any amounts for which the SNC Franchisee Defence Group may be found liable to the Class Members;
- (d) In the further alternative, as against the defendant, George Voisin, damages for solicitor's negligence, breach of contract and breach of fiduciary duty equivalent to any amounts for which the SNC Franchisee Defence Group may be found liable to the Class Members;
- (e) costs of this crossclaim and of the main action, on a substantial indemnity basis or, alternatively, on a partial indemnity scale;
- (f) Goods and Services Tax, as well as any other taxes, federal, provincial or municipal, as may be payable on any amounts awarded hereunder;
- (g) pre and post-judgment interest in accordance with the provisions of the *Courts of Justice Act*, R.S.O. 1990, Chap. C.43, as amended; and
- (h) such further and other relief as to this Honourable Court seems just.

22. The SNC Franchisee Defence Group repeats and relies upon the allegations contained in the Statement of Defence herein.
23. The SNC Franchisee Defence Group states and the fact is that, at all material times, they acted in accordance with the terms of the applicable franchise agreements.

*Solicitor/Client Relationship and Conflict of Interest*

24. The Defendant by Crossclaim, George Voisin is a solicitor, duly qualified to practice law in the Province of Ontario and was at all material times a partner of Voisin, Lubczuk Law Firm and also a director, officer and shareholder of the Franchisor and SNC Insurance Barbados.
25. Furthermore, George Voisin place himself in an invidious and inherent conflict of interest position by utilizing SNC Insurance Barbados as the insurance vehicle for the SNC Business Model, in circumstances where, directly and indirectly, he had an ownership interest in same and SNC Insurance Barbados was operated and controlled by him.
26. The SNC Franchisee Defence Group pleads and the fact is that George Voisin designed, developed and implemented the SNC Business Model on behalf of the Franchisor. Furthermore, George Voisin prepared a legal opinion (the George Voisin Business Model Opinion") which was circulated to all prospective franchisees, including the SNC Franchisee Defence Group members, the primary purpose of which was to induce them to take
- Defence Group members, the primary purpose of which was to induce them to take

franchises offered by the Franchisor. In that opinion, George Voisin stated that the SNC Business Model was legal and compliant with all applicable laws and regulations, and that compliance with that Model would not contravene the *Criminal Code* or other relevant legislation. George Voisin knew and intended that such opinion would be circulated to and relied upon by prospective franchisees including those comprising the SNC Franchisee Defence Group, and in fact, George Voisin personally provided that opinion directly to some of the members of the SNC Franchisee Defence Group. The provision of such opinions in such circumstances constituted the giving of legal advice by George Voisin, and gave rise to a solicitor-client relationship between George Voisin and his law firm and the members of the SNC Franchisee Defence Group, and to all the obligations and duties attendant upon such relationship. Those obligations and duties required George Voisin to act in the best interests of and with utmost good faith and loyalty towards the SNC Franchisee Defence Group members.

27. The SNC Franchisee Defence Group plead that George Voisin represented and undertook to provide legal opinions to all franchisees confirming the legality and legitimacy of the insurance charges arising from the insurance coverage provided by SNC Insurance Barbados. The SNC Franchisee Defence Group members were each given written or oral assurances by George Voisin, Elaine Voisin, Timothy Voisin, Clive Metcalf and Clayton Metcalf that the life and disability insurance policies through SNC Insurance Barbados were legitimate, that SNC Insurance Barbados was at all material times duly licensed as an insurer in the Province

of Ontario, and that any premiums collected from Stop 'n' Cash clients, borrowers or the public were legally enforceable and in compliance with the *Insurance Act* and related regulatory requirements, and with the *Criminal Code*.

*Breach of Contract, Negligent Misrepresentation and Breach of Fiduciary Duties*

28. The SNC Franchisee Defence Group further pleads that the George Voisin Business Model Opinion contained express and implied representations which were material and were intended to induce, and did in fact induce the SNC Franchisee Defence Group members to purchase franchisees from the Franchisor, and to carry on business in accordance with the SNC Business Model. It was known and intended by George Voisin and by all the Defendants to the Crossclaim that the SNC Franchisee Defence Group members would rely upon those representations, and they did so. Particulars of the representations are as follows:

- (i) that the SNC Business Model was legitimate, legally enforceable and complied with all federal and provincial statutory, legislative and regulatory requirements in respect of Payday Loans and legal interest charges to prospective Stop 'n' Cash borrowers;
- (ii) that the implementation of the SNC Business Model did not contain any material risks or adverse legal consequences to the SNC Franchisee Defence Group members, or such risks or legal consequences were negligible;

(iii) that George Voisin exercised all due care, competence and diligence in advising the SNC Franchisee Defence Group members in respect of the legal consequences and risks attendant upon designing and implementing the SNC Business Model and carrying on business in accordance with that Model;

(iv) that he made all necessary investigations and disclosed all relevant and material information relating to the risks of the SNC Business Model.

29. The foregoing representations were material to the SNC Franchisee Defence Group in that:

(i) the SNC Franchisee Defence Group members had no knowledge of the risks, and relied solely and exclusively upon the professional advice of George Voisin, who held himself out as having the requisite skill, judgment and knowledge of a competent solicitor.

(ii) the SNC Franchisee Defence Group members were each particularly vulnerable to the Franchisor and its directors, officers and shareholders, given the Franchisor's monopoly over all financial dealings and business and accounting information underpinning the SNC Business Model;

(iii) the SNC Franchisee Defence Group members were unaware of the inherent conflict of interest created by George Voisin providing legal advice and opinions on the veracity and legitimacy of the SNC Business Model in circumstances where George Voisin had a personal financial interest in the Franchisor and was concurrently acting as the Franchisor's legal advisor;

30. The SNC Franchisee Defence Group pleads that in the event that the SNC Business Model, including the provision of life and disability insurance coverage through SNC Insurance Barbados and the charges therefor, is held to be unlawful, which is not admitted but denied, then the foregoing statements, opinions and representations made by George Voisin, vis-à-vis the SNC Business Model, made on behalf or at the behest of the Defendants by Crossclaim, were incorrect, inaccurate and misleading and constitute a breach of contract, negligent misrepresentation and breach of fiduciary duties owed to the SNC Franchisee Defence Group, the particulars of which are as follows:

(i) George Voisin failed to properly and thoroughly research and investigate all aspects of the SNC Business Model that he was retained to design and implement on behalf of the Franchisor, in circumstances where he knew, or ought to have known, that the SNC Franchisee Defence Group members would rely upon his legal opinion;

- (ii) George Voisin failed to advise the SNC Franchisee Defence Group members of the legal consequences and attendant risks involved, and failed to properly investigate and disclose all relevant and material information relating to such risks;
- (iii) George Voisin failed to disclose or provide the SNC Franchisee Defence Group members with all necessary information within his personal and professional sphere of knowledge, which compromised his ability to adequately advise or opine on the legality and legitimacy of the SNC Business Model to prospective franchisees;
- (iv) George Voisin failed to disclose his conflict of interest by providing legal advice, in circumstances where he had a direct, indirect or potential interest as a franchisee;
- (v) George Voisin failed to exercise the necessary due diligence, and failed to consider the ramifications that the offering of insurance by SNC Insurance through payments remitted in the Province of Ontario may have constituted unlawful or unauthorized sales of insurance to the public;
- (vi) In formulating and furnishing his legal opinion, rather than retaining expert advice and opinions from specialists or experts in the insurance, accounting and business fields, he relied on the opinions of Timothy Voisin, Elaine Voisin, Clive Metcalf and/or Clayton Metcalf, none of whom was qualified to provide such opinions;

(vii) George Voisin provided opinions which he was not qualified to give and failed to disclose to SNC Franchisee Defence Group members his lack of qualification and his failure to rely on appropriate legal, financial and accounting experts, including, but not limited to, failing to secure a certificate of a Fellow of the Canadian Institute of Actuaries stating that he or she has calculated the effective annual rate of interest on any credit advanced under an agreement or arrangement and setting out the calculations and the information on which they are and that such effective annual rate is not a criminal rate as defined under section 347(2) of the *Criminal Code*;

(viii) George Voisin gave written legal opinions dated February 28, 2000 and March 13, 2000 to the Franchisor and its directors, officers, shareholders, directing minds, alter egos as identified herein, and to members of the SNC Franchisee Defence Group wherein he advised that the insurance charges under the SNC Business Model would not constitute "interest" as defined under s.347(2) of the *Criminal Code*;

(ix) George Voisin failed to draft a franchise agreement to adequately protect the legal and beneficial interests of the SNC Franchisee Defence Group members;

(x) George Voisin failed to exhibit the necessary skill, knowledge and care of a prudent solicitor in the circumstances;

31. The SNC Franchisee Defence Group further states that, at all material times, the Defendants to the Crossclaim represented, warranted and guaranteed that all terms and conditions pertaining to the subject loans were legitimate and in accordance with all legal and regulatory requirements.
  
32. The SNC Franchisee Defence Group pleads and the fact is that the Defendants to the Crossclaim represented, warranted and guaranteed that SNC Insurance was a legitimate insurance carrier, properly constituted in its home jurisdiction and licensed to carry on business in the Province of Ontario.
  
33. The SNC Franchisee Defence Group pleads that the Defendants by Crossclaim knew, or ought to have known, that the SNC Franchisee Defence Group members were relying upon them to protect their interests, and that any representations made to them were to be true, accurate and fair. The SNC Franchisee Defence Group pleads that the Defendants by Crossclaim owed a duty of care to the SNC Franchisee Defence Group to ensure that any and all representations reflected in the George Voisin Business Model Opinion and the franchisee agreements were true and accurate, and to ensure full legal compliance with the laws of Canada and Ontario.

34. The SNC Franchisee Defence Group pleads that they relied upon the aforesaid misrepresentations and, to the extent that they did so to their detriment, they have suffered damages as a result, and the Defendants to the Crossclaim are liable therefore.
35. The SNC Franchisee Defence Group requests that this crossclaim be tried together with or immediately following the main action.

Date: March 6, 2006

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Plaintiff and

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Defendants

Court File No. 04-CV-2451

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

**AMENDED STATEMENT OF DEFENCE**  
**AND CROSSCLAIM**

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