

CV-09-00005758-

Court File No.

CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:



Plaintiff

- and -

**IKO INDUSTRIES LTD., IKO SALES LIMITED, CANROOF CORPORATION INC.,  
GH INTERNATIONAL INC., BRAMCAL PRODUCTION INC.,  
and I.G. MACHINE & FIBERS LTD.**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**STATEMENT OF CLAIM**

TO THE DEFENDANTS

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

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the 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.

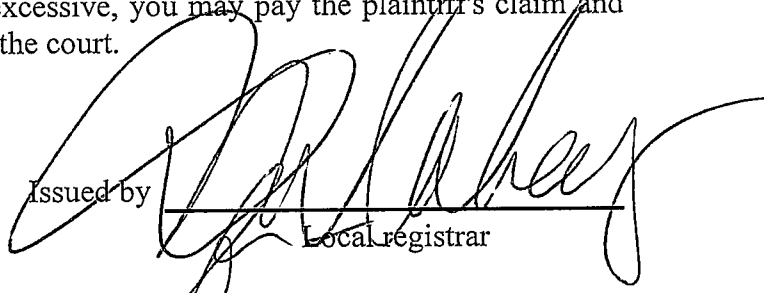
IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400.00 for costs and have the costs assessed by the court.

Date

December 18, 2009

Issued by



Local Registrar

Address of Court House  
court office 7755 Hurontario Street  
P.O. Box 8000  
Brampton, ON L6V 4T6

N.S. MAHARA

7755 Hurontario Street  
Court House  
Brampton, Ontario  
L6W 4T6

- TO: IKO INDUSTRIES LTD.**  
Suite 900, 700-4 Avenue SW  
Calgary, AB T2P 3J4
- AND TO: IKO SALES LIMITED**  
Suite 900, 700-4 Avenue SW  
Calgary, AB T2P 3J4
- AND TO: CANROOF CORPORATION INC.**  
71 Orenda Road  
Brampton, ON L6W 1V8
- AND TO: GH INTERNATIONAL INC.**  
2540 Rena Road  
Mississauga, ON L4T 3C9
- AND TO: BRAMCAL PRODUCTION INC**  
71 Orenda Road  
Brampton, ON L6W 1V8
- AND TO: I.G. MACHINE & FIBERS LTD.**  
87 Orenda Road  
Brampton, ON L6W 1V7

## CLAIM

1. The Plaintiff claims on behalf of herself and other persons in Canada who are similarly situated:
  - (a) general damages for conduct that is contrary to the *Competition Act*, R.S., 1985, c. C-34, the *Consumer Protection Act, 2002*, S.O. 2002, c. 30, Sched. A, s. 9, the *Business Practices Act*, R.S.O. 1990, c. B.18, *Fair Trading Act*, R.S.A. 200, c. F-2, *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, the *Trade Practice Act*, R.S.B.C. 1996, c. 457, *The Business Practices Act*, S.M. 1990-91, c. 6, *Trade Practices Act*, R.S.N.L. 1990, c. T-7, *Business Practices Act*, R.S.P.E.I. 1988, c. B-7, *Consumer Protection Act*, R.S.Q. c. P-40.1, and *Consumer Protection Act*, R.S.S. 1996, c.C-30.1, in the amount of \$200,000,000.00;
  - (b) general damages for negligence and negligent misrepresentation in the amount of \$200,000,000.00;
  - (c) punitive and exemplary damages in the amount of \$5,000,000.00;
  - (d) pre-judgement and post-judgement interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C-43;
  - (e) costs of this action on a substantial indemnity basis; and
  - (f) such further and other relief as this Honourable Court awards.

## THE PARTIES

### Plaintiff

2. The plaintiff, [REDACTED] resides in London, Ontario. In or around 2000, Ms. White installed asphalt roofing shingles manufactured by the Defendants at her personal residence, located at [REDACTED], London, Ontario.

### Defendants

3. The defendant, IKO Industries Ltd. is an Alberta corporation with its registered head office in Calgary, Alberta. IKO Industries Ltd. designs, manufactures, markets and sells

roofing materials in Canada. IKO Industries Ltd.'s roofing materials are used in municipal, industrial, commercial and residential applications across Canada.

4. IKO Industries Ltd. was, at all relevant times, engaged in the design, manufacture, marketing and sale of asphalt roofing shingles ("IKO Shingles"). IKO Shingles are composed of asphalt, natural fibres, filler, and mineral granules. IKO Shingles were sold under various trade names and were installed in homes and buildings across Canada.
5. The defendant, IKO Sales Limited is an Alberta corporation with its registered head office in Calgary, Alberta. IKO Sales Limited was, at all relevant times, engaged in the design, manufacture, marketing and sale of IKO Shingles in Canada.
6. The defendant, Canroof Corporation Inc. is an Ontario corporation, with its registered office in Brampton, Ontario. Canroof Corporation Inc. was, at all relevant times, engaged in the design, manufacture, marketing and sale of IKO Shingles in Canada.
7. The defendant, GH International Inc. is an Ontario corporation, with its registered office in Mississauga, Ontario. GH International Inc. was, at all relevant times, engaged in the design, manufacture, marketing and sale of IKO Shingles in Canada.
8. The defendant, Bramcal Production Inc., is an Ontario corporation, with its registered office in Brampton, Ontario. Bramcal Productions Inc. was, at all relevant times, engaged in the design, manufacture, marketing and sale of IKO Shingles in Canada.
9. The defendant, I.G. Machine & Fibers Ltd. is an Ontario corporation, with its registered office in Calgary, Alberta and principal place of business in Brampton, Ontario. I.G. Machine & Fibers Ltd. was, at all relevant times, engaged in the design, manufacture, marketing and sale of IKO Shingles in Canada.
10. The business of each of IKO Industries Ltd., IKO Sales Limited, Canroof Corporation Inc., GH International Inc., Bramcal Productions Inc., and I.G. Machine & Fibers Ltd. (collectively "IKO") is inextricably interwoven with that of the other and each is the agent of the other for the design, manufacture, marketing and sale of IKO Shingles.

11. Other IKO entities, including but not limited to IKO Manufacturing, Inc., IKO Pacific, Inc., IKO Chicago, Inc., Blair Rubber Company, Fibreteq LLC, Hyload Roofing Systems, Hyload Masonry Flashing System, MW/MB LLC, and IKO Midwest Inc., may have been involved in the design, manufacture, marketing and sale of IKO Shingles. The Defendants named herein are jointly and severally liable for the acts and liability of all IKO entities involved in the design, manufacture, marketing and sale of IKO Shingles.
12. IKO is a vertically integrated company. IKO manufactures or supplies all the components that go into its final products.
13. IKO has substantial business operations in Canada and, more specifically, in Ontario. IKO has six manufacturing facilities in located in Canada, including three located in Ontario: Brampton, Hawkesbury, and Toronto. IKO has four sales offices located in Canada, including three located in Ontario: Madoc, Mississauga, and Barrie.

#### **BACKGROUND**

14. Commencing in or around 1979 until present, IKO manufactured, warranted, advertised, marketed and sold IKO Shingles in Canada that were not of merchantable quality or reasonably fit for their intended purpose, and that were prone to premature failure.
15. During the relevant period, IKO marketed, represented and warranted its IKO Shingles as durable products, and as offering long-lasting protection for a specified life ranging from 25 to 50 years, or in some cases, a lifetime. IKO's brochures contain representations that IKO Shingles are "[t]ime-tested and true" and "an excellent choice for exceptional roofing value". IKO's website states "Our company motto is 'Setting the Standard' and that's what we do; set the standard for quality, durability, and innovation."
16. Through advertising and through its authorized agents and sales representatives, IKO has represented and warranted that IKO Shingles have undergone extensive testing and that, based on the results of the research and tests, IKO Shingles were properly designed, developed and manufactured so as to operate adequately, reliably and as represented.
17. IKO and its authorized agents and sales representative made the above-described assertions, representations and warranties with the intent and purpose of inducing

builders, roofing contractors, roofers, and consumers to purchased IKO Shingles for installation on homes, offices and other buildings.

18. IKO's various representations did not disclose that IKO Shingles were defective and prone to premature failure or that they would not last the entire warranty period.

#### **THE DEFECTIVE NATURE OF IKO SHINGLES**

19. IKO Shingles are prone to premature failure and are not suitable for use as exterior roofing products for the length of time advertised, marketed and warranted. IKO Shingles are prone to premature failure as a result of moisture invasion. IKO Shingles crack, curl, blister, split, warp, discolour, delaminate, blow off, and otherwise deteriorate prematurely. IKO Shingles do not perform in accordance with the reasonable expectation of consumers that they be durable and suitable for use as an exterior roofing product.
20. As a result of the defective nature of IKO Shingles, it is inevitable that homeowners and other property owners will be required to repair and eventually replace the IKO Shingles installed on their homes or other building structures at a substantial cost to the property owner and substantial damage to the property. In many circumstances, homeowners and other property owners will have to remove and replace all IKO Shingles on their roofs.
21. The damage caused by the defective IKO Shingles has included damage to the underlying felt, damage to structural roof components, damage to plaster and sheetrock, and damage to walls, ceilings, and structural components.
22. The Plaintiff alleges that IKO knew or ought to have known before and during the time it sold IKO Shingles that they were defective, not fit for use as exterior roofing products for the length of time advertised, marketed and warranted, and prone to premature failure.
23. IKO has received complaints and warranty claims from customers relating to the premature failure of IKO Shingles. As well, IKO customers have complained about the defective nature and premature failure of their IKO Shingles on a host of internet websites.

24. Notwithstanding, IKO has not provided effective notice to customers about the defects. IKO has refused to repair defective roofs fully or repair the property damage caused by the premature failure of its product.
25. IKO's response to warranty claims is woefully inadequate under the circumstances. IKO limits recovery to the replacement costs of individual IKO Shingles and does not include any labour costs. Furthermore, in at least some cases, the recovery under the warranty is only available if the homeowner or property owner purchases replacement shingles manufactured by IKO.

### **THE PLAINTIFF'S IKO SHINGLES**

26. In or around 2000, Ms. White purchased IKO Shingles for installation on her personal residence. The Plaintiff alleges that the IKO Shingles installed on her residence were manufactured by IKO in a facility located in Ontario.
27. Ms. White's IKO Shingles failed before the expiry of IKO's 25-year warranty period, as a result of the defects described herein. Ms. White's IKO Shingles have begun leaking, curling, splitting, and cracking, such that they have caused damage to the interior of her residence and will require replacement.

### **CONSUMER PROTECTION LEGISLATION**

#### **Canada Consumer Protection Legislation**

28. The Plaintiff pleads and relies upon the *Competition Act*, R.S., 1985, c. C-34, s. 74.01, and pleads:
  - (a) a person engages in "reviewable conduct" who, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever,
    - (i) makes a representation to the public that is false or misleading in a material respect or
    - (ii) makes a representation to the public in the form of a statement, warranty or guarantee of the performance, efficacy or length of life of a product that is not based on an adequate and proper test thereof, the proof of which lies on the person making the representation.

**Ontario Consumer Protection Legislation**

29. The Plaintiff pleads and relies upon the *Consumer Protection Act, 2002*, S.O. 2002, c. 30, Sched. A, s. 14, the *Business Practices Act*, R.S.O. 1990, c. B.18, ss. 2 and 3 and pleads:

- (a) it is an unfair practice contrary to the *Consumer Protection Act, 2002* to make false, misleading or deceptive representations, including representations that goods are of a particular standard, quality and grade, if they are not; and
- (b) it is an unfair practice contrary to the *Business Practices Act* to make false, misleading or deceptive representations, including representations that goods are of a particular standard, quality and grade, if they are not and representations that goods have performance characteristics that they do not have.

**Alberta Consumer Protection Legislation**

30. The Plaintiff pleads and relies upon the *Fair Trading Act*, R.S.A. 200, c. F-2, ss. 1 and 6, and pleads:

- (a) it is an unfair practice contrary to the *Fair Trading Act* for a supplier to do or say anything that might reasonably deceive or mislead a customer, to represent that goods are of a particular standard, quality, grade, style or model if they are not, or to make a representation about the performance, capability or length of life of the goods unless: (i) the representation is based on adequate and proper independent testing that was done before the representation was made, (ii) the testing substantiates the claim, and (iii) the representation accurately and fairly reflects the results of the testing. A supplier is defined to include, a person who, in the course of the person's business, manufactures, assembles or produces goods, or promotes the use or purchase of goods or services.

**British Columbia Consumer Protection Legislation**

31. The Plaintiff pleads and relies upon the *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, ss. 1, 4 and 203, and the *Trade Practice Act*, R.S.B.C. 1996, c. 457, s. 3, and pleads:

- (a) it is a deceptive act or practice contrary to the *Business Practices and Consumer Protection Act* for a supplier to make an oral, written, visual, descriptive or other

representation that has the capability, tendency or effect of deceiving or misleading a consumer. A representation by a supplier that goods are of a particular standard, quality, grade, style or model if they are not constitutes a deceptive act or practice. A supplier is defined to include a person, who in the course of business, participates in a consumer transaction by (i) supplying goods to a consumer, or (ii) soliciting, offering, advertising or promoting with respect to the supply of goods by a supplier to a consumer for purposes that are primarily personal, family or household, whether or not privity of contract exists between that person and the consumer;

- (b) a contract or consumer transaction entered into before the *Business Practices and Consumer Protection Act* came into force is not invalid or does not contravene the *Business Practices and Consumer Protection Act* if the contract or consumer transaction complies with the provisions of a "former Act". A "former Act" is defined to include the *Trade Practices Act*; and
- (c) it is a deceptive practice under the *Trade Practices Act* to make a representation, including a failure to disclose that has the capability or effect of deceiving or misleading a person, and to make a representation that the subject of a consumer transaction is of a particular standard, quality, grade, style or model if it is not.

#### **Manitoba Consumer Protection Legislation**

32. The Plaintiff pleads and relies upon *The Business Practices Act*, S.M. 1990-91, c. 6, ss. 1 or 2, and pleads:

- (a) it is an unfair practice contrary to *The Business Practices Act* for a supplier to do or say anything, if as a result a consumer might reasonably be deceived or misled, to make a false claim, representing that goods are of a particular standard, quality, grade, style or model if they are not. A supplier is defined to include a person who is carrying on or is engaged in the business of manufacturing, producing or assembling goods.

**Newfoundland Consumer Protection Legislation**

33. The Plaintiff pleads and relies upon the *Trade Practices Act*, R.S.N.L. 1990, c. T-7, s. 5, and pleads:
- (a) it is an unfair practice contrary to *Trade Practices Act* to represent, act or fail to disclose material facts that has the effect, or might reasonably have the effect, of deceiving or misleading a consumer, or to make a representation that goods are of a particular standard, quality or grade where they are not.

**Prince Edward Island Consumer Protection Legislation**

34. The Plaintiff pleads and relies upon the *Business Practices Act*, R.S.P.E.I. 1988, c. B-7, ss. 2 and 3, and pleads:
- (a) it is an unfair practice contrary to the *Business Practices Act* to make a false, misleading or deceptive consumer representation, including a representation that goods are of a particular standard, quality, grade, style or model if they are not.

**Quebec Consumer Protection Legislation**

35. The Plaintiff pleads and relies upon the *Consumer Protection Act*, R.S.Q. c. P-40.1, s. 1, and 41-43, and pleads:
- (a) a manufacturer” is defined to include a person in the business of assembling, producing or processing goods, and, in particular, a person who represents himself to the public as the manufacturer of goods;
  - (b) goods provided must conform to the statements or advertisements regarding them made by the manufacturer. The statements or advertisements are binding on that manufacturer;
  - (c) a written or verbal statement by the representative of a manufacturer respecting goods or services is binding on that manufacturer; and
  - (d) a warranty respecting goods or services that is mentioned in a statement or advertisement of the manufacturer is binding on that manufacturer.

**Saskatchewan Consumer Protection Legislation**

36. The Plaintiff pleads and relies upon the *Consumer Protection Act*, R.S.S. 1996, c. C-30.1, ss. 1 and 5, and pleads:

- (a) it is an unfair practice contrary to the Consumer Protection Act for a supplier to do or say anything, if as a result a consumer might reasonably be deceived or misled, to make a false claim, representing that goods are of a particular standard, quality, grade, style or model if they are not. A supplier includes a person who carries on the business of manufacturing, importing, producing or assembling goods.

**Breaches of the Consumer Protection Legislation**

37. The Plaintiff pleads that IKO is in breach of the above-listed consumer legislation in that:

- (a) IKO Shingles were not of merchantable quality, reasonably fit for the intended purpose or durable for a reasonable period of time having regard to the use to which they would normally be put; and
- (b) IKO engaged in unfair practices by:
  - (i) making false, misleading and deceptive representations;
  - (ii) representing that IKO Shingles were of a particular standard, quality and grade, which they were not;
  - (iii) failing to disclose that IKO Shingles were defective and prone to early failure; and
  - (iv) making representations about the performance, capability or length of life of IKO Shingles that were not based on adequate and proper independent testing that was done before the representation was made and that were not substantiated by the testing.

The representations were made with the intention that consumers, including the Plaintiff, would rely upon them and consumers, including the Plaintiff, reasonably relied on these representations when purchasing IKO Shingles.

## **NEGLIGENCE**

38. The Plaintiff pleads that IKO owed to her and other persons in Canada who are similarly situated the following duties of care and other duties:

- (a) to ensure that IKO Shingles were designed and manufactured properly and in a good and workmanlike manner;
- (b) to properly research the proper design of IKO Shingles;
- (c) to engage in adequate pre-market testing of IKO Shingles;
- (d) to accurately represent the nature and quality of IKO Shingles and to not conceal information regarding the defective nature of IKO Shingles;
- (e) upon discovering IKO Shingles were defective and prone to premature failure, to promptly remove IKO Shingles from the marketplace, disclose the defects to the Plaintiff and other persons similarly situated, and take other appropriate remedial action; and
- (f) to act in good faith towards the Plaintiff and other consumers in Canada.

39. The Plaintiff pleads that IKO is in breach of its duties of care and other duties in that:

- (a) IKO Shingles were negligently designed and manufactured in a manner which, under normal conditions, usage and applications would cause IKO Shingles to fail prematurely;
- (b) IKO failed to properly research the design of IKO Shingles;
- (c) IKO failed to engage in adequate pre-market testing of IKO Shingles to detect the defects before warranting, advertising and marketing IKO Shingles as durable, suitable and long-lasting exterior roofing products;

- (d) IKO failed to institute an effective products recall upon discovering the defects or the potential for the defects to occur;
- (e) IKO failed to remedy and/or repair the defects upon discovering them;
- (f) IKO acted recklessly in that it knew or ought to have known that IKO Shingles were defective and would fail prematurely when it marketed and sold IKO Shingles to Canadian consumers, including the Plaintiff;
- (g) representations made by IKO, its authorized agents and sales representatives regarding IKO Shingles were false, misleading and deceptive and were not made in good faith, honestly or truthfully in that IKO misrepresented various facts regarding the quality, reliability and character of IKO Shingles and failed to disclose the existence of the defects.

The misrepresentations were contained in various advertising, press releases, packaging, and correspondence from IKO. The misrepresentations were further reiterated and disseminated by IKO's authorized agents and sales representatives acting within the actual or ostensible scope of their authority; and

- (h) IKO did not act in good faith towards the Plaintiff or other consumers in Canada, in that IKO designed, manufactured and marketed IKO Shingles that it knew or ought to have known were defective, and failed to disclose the defects to consumers.

#### **WARRANTY**

40. IKO expressly warranted that IKO Shingles would provide superior strength, durability, wind and weather resistance, and would be free of manufacturing defects such that they would last 25 to 50 years and, in some cases, a lifetime. This warranty was relied upon by the Plaintiff and other similarly situated persons in Canada in purchasing IKO Shingles. IKO has refused and/or failed to honour the terms of its expressed warranty.

41. The Plaintiff pleads that to the extent that the warranty provided by IKO purports to limit the obligations of IKO it is invalid in that:
- (a) the terms of the expressed warranty are unreasonable, unconscionable and were not agreed to by the Plaintiff or other similarly situated persons at the time that IKO Shingles were purchased; and
  - (b) IKO knew that IKO Shingles would fail before the expiry of the warranty period as a result of the defects, or in the alternative, acted recklessly or negligently in failing to ascertain this fact.

### **DAMAGES**

42. As a result of the breaches as pleaded above, the Plaintiff and those other persons similarly situated have suffered loss and damages, the particulars of which include:
- (a) damages equivalent to the costs of repairing and/or removing and replacing IKO Shingles installed on homes, offices and other buildings. In many circumstances, this will require the removal and replacement of all IKO Shingles on their roofs. This will result in substantial damage and expense to the property owner;
  - (b) damages for future costs of repairing and/or removing and replacing IKO Shingles;
  - (c) damages equivalent to any expenses incurred as a result of the repair and/or removal and replacement of IKO Shingles;
  - (d) damages equivalent to the resultant, progressive property damage caused by the premature failure of IKO Shingles, including damage to the underlying felt, structural roof components, plaster, sheetrock, walls, and ceilings;
  - (e) damages equivalent to the diminution in the value of IKO Shingles;
  - (f) damages equivalent to the diminution in the value of the property owner's property;
  - (g) damages for overpayment for IKO Shingles, which contained a latent defect;

- (h) damages including the full costs of any investigation in connection with this action; and
  - (i) damages as calculated pursuant to: *Competition Act*, R.S., 1985, c. C-34, the *Consumer Protection Act, 2002*, S.O. 2002, c. 30, Sched. A, s. 9, the *Business Practices Act*, R.S.O. 1990, c. B.18, *Fair Trading Act*, R.S.A. 200, c. F-2, *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, the *Trade Practice Act*, R.S.B.C. 1996, c. 457, *The Business Practices Act*, S.M. 1990-91, c. 6, *Trade Practices Act*, R.S.N.L. 1990, c. T-7, *Business Practices Act*, R.S.P.E.I. 1988, c. B-7, *Consumer Protection Act*, R.S.Q. c. P-40.1, and *Consumer Protection Act*, R.S.S. 1996, c.C-30.1.
43. The Plaintiff asserts that the Defendants' conduct was high-handed, outrageous, reckless, wonton, entirely without care, deliberate, callous, disgraceful, wilful, in contumelious disregard of the rights of the Plaintiff and the rights of others who are similarly situated, and as such renders the Defendants liable to pay aggravated, exemplary and punitive damages.
44. The Plaintiff's damages have been suffered in the Province of Ontario.
45. The Plaintiff pleads and relies on the *Class Proceedings Act, 1992*, S.O. 1992, c. 6.
46. The Plaintiff pleads and relies on the *Competition Act*, R.S., 1985, c. C-34, the *Consumer Protection Act, 2002*, S.O. 2002, c. 30, Sched. A, s. 9, the *Business Practices Act*, R.S.O. 1990, c. B.18, *Fair Trading Act*, R.S.A. 200, c. F-2, *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, the *Trade Practice Act*, R.S.B.C. 1996, c. 457, *The Business Practices Act*, S.M. 1990-91, c. 6, *Trade Practices Act*, R.S.N.L. 1990, c. T-7, *Business Practices Act*, R.S.P.E.I. 1988, c. B-7, *Consumer Protection Act*, R.S.Q. c. P-40.1, and *Consumer Protection Act*, R.S.S. 1996, c.C-30.1,
47. The Plaintiffs plead and rely on section 17 (g), (h), (o) and (p) of the *Rules of Civil Procedure*, allowing for service ex juris of the defendants located outside Ontario. Specifically, this originating process may be served without court order outside Ontario in that the claim is:

- (a) in respect of a tort committed in Ontario (rule 17.02(g));
  - (b) in respect of damages sustained in Ontario arising from a tort or breach of contract wherever committed (rule 17.02(h));
  - (c) against a person outside Ontario who is a necessary and proper party to this proceeding properly brought against another person served in Ontario (rule 17.02(o)); and
  - (d) against a person carrying on business in Ontario (rule 17.02(p)).
48. The Plaintiff states that she is representative of persons in Canada who purchased IKO Shingles during the relevant time period.
49. The Plaintiff proposes that this action be tried at London, Ontario.

December 18<sup>th</sup>, 2009

**Siskinds** <sup>LLP</sup>  
Barristers & Solicitors  
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Solicitors for the Plaintiffs

CV-09-00005758 -

CP

WHITE  
Plaintiff

and

IKO INDUSTRIES LTD. et al.  
Defendants

Court File No:

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Brampton

Proceeding under the *Class Proceedings Act, 1992*

**STATEMENT OF CLAIM**

**Siskinds** LLP  
Barristers & Solicitors  
680 Waterloo Street  
London, ON N6A 3V8

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Lawyers for the Plaintiff