



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-21-00658423-00CL **DATE:** November 16 2023

NO. ON LIST: 4

TITLE OF PROCEEDING: JUST ENERGY GROUP INC. et al v MORGAN STANLEY
CAPITAL GROUP INC.

BEFORE JUSTICE: CAVANAGH

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Jeremy Dacks	Counsel to the Just Energy Group	jdacks@osler.com
David Salter Nina Bombier Evan Linn	XL Specialty Insurance Company	dsalter@litigate.com nbombier@litigate.com elinn@litigate.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Vlad Calina	Haidar Omarali, in his capacity as Representative Plaintiff of the certified class (the "Class) in Omarali v. Just Energy, Court File No. CV-15-527493-00CP	vcalina@kmlaw.ca

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Rebecca Kennedy Paya Fesharaki Jim Robinson	Court Appointed Monitor, FTI Consulting Canada Inc	rkennedy@tgf.ca pfesharaki@tgf.ca jim.robinson@fticonsulting.com

ENDORSEMENT OF JUSTICE CAVANAGH:

A case conference was held on November 16, 2023 to, among other things, provide directions regarding the motion brought by Haidar Omarali in his capacity as Representative Plaintiff of the certified class in *Omarali v. Just Energy*, Court File No. CV-15-527493-00CP.

I am advised by counsel to Mr. Omarali that they provided a copy of his motion record dated August 25, 2023 on the insurers listed below in accordance with the notice provision in their insurance policies.

- XL Specialty Insurance Company – claimscanada@axaxl.com
- Tokio Marine HCC – D&O Group – usclaims@tmhcc.com and jmcelya@tmhcc.com
- Paragon International Insurance Brokers Ltd. – info@paragonbrokers.com and switham@paragonbrokers.com
- CNA Canada - brock.mckechnie@cna.com

I advised counsel at the case conference that I am not comfortable proceeding with any scheduling of this matter until the insurers are personally served. As such, I direct Mr. Omarali to personally serve his August 25, 2023 motion record on these insurers following the procedure in rule 16.02(1).

I further direct Mr. Omarali to attach the letter set out in Schedule "A" to this endorsement as the covering letter accompanying the motion record.

Endorsement released: January 16, 2024



January ●, 2024

Vlad Calina
Direct Dial: 416-595-2029
Direct Fax:
vcalina@kmlaw.ca

[NTD: Insert insurers' head office address]

To whom it may concern:

Re: Omarali v. Just Energy
Our File No.: 150110

We are counsel to Haidar Omarali, in his capacity as representative plaintiff of the certified class in Haidar Omarali v. Just Energy Group Inc., Just Energy Corp. and Just Energy Ontario L.P. (collectively, "**Just Energy**"), in Court File No. CV-15-527493-00CP (the "**Omarali Action**").

You are hereby served with the enclosed motion record pursuant to the *Rules of Civil Procedure* and the directions of Justice Cavanaugh of the Ontario Superior Court of Justice. A copy will be available on the Monitor's website (<http://cfcanada.fticonsulting.com/justenergy/courtOrders.htm>).

The Procedural History

Mr. Omarali represents a class of 7,723 employees (the "**Class**") who worked for Just Energy. The Omarali Action alleges that the workers were misclassified as "independent contractors" and that Just Energy never paid the Class minimum wage, overtime, holiday and vacation pay, which they would have been entitled as employees.

On March 9, 2021, Just Energy filed for CCAA protection, staying the Omarali Action. As part of the CCAA claims process and given the state of affairs of Just Energy, the Class filed a claim for unpaid wages against Just Energy's then-current directors and officers, who are claimed to be liable for unpaid wage debts pursuant to the Ontario Business Corporations Act ("**OBCA**") and Canada Business Corporations Act ("**CBCA**"). The claims were disputed but ultimately not determined in the claims process.

You have received a copy of this letter because you were a provider of directors and officers' insurance to Just Energy on the date that it filed for CCAA protection.

The Immediate Motion

In approving a restructuring transaction involving Just Energy, this Court made an order permitting Class members to pursue statutory wage claims solely against available insurance proceeds, if any, and to seek to join applicable insurers. A copy of the approval and vesting order for the restructuring transaction is included in the enclosed motion record.

Mr. Omarali, on the Class members' behalf, has sought to schedule a motion seeking such relief, including a briefing schedule for parties who wish to file materials with the Court. At a recent case conference, the Superior Court of Justice required that you receive personal service of the attached motion materials as your rights would likely be affected by the motion.

As such, once you retain legal counsel, please within 30 days of today's date have them file a Notice of Appearance to the Service List in the CCAA Proceeding and have them contact the Monitor's counsel, Thornton Grout Finnigan LLP at the following so that we can proceed to schedule the next case conference in this matter:

FTI Consulting

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Rebecca Kennedy

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If you would like to discuss any of these matters, please contact the undersigned.

Yours truly,

Vlad Calina
VC:jr