

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

CANADIAN EQUIPMENT FINANCE AND LEASING INC.

Applicant

-and-

THE HYPOINT COMPANY LIMITED, 2618905 ONTARIO LIMITED,  
2618909 ONTARIO LIMITED, BEVERLEY ROCKLIFFE,  
and CHANTAL BOCK

Respondents

AFFIDAVIT OF ROMAN ROCKLIFFE  
(sworn remotely on June 22, 2022)

I, Roman Rockliffe, of the Town of Oakville, in the Province of Ontario, AFFIRM  
AND SAY that:

1. I am a construction contractor and principal of Rock Cliff Construction and, as such, have knowledge of the following matter. Where I do not have direct knowledge of the facts, I have stated my source of information below and I believe such facts to be true.
2. I am familiar with the building located at 59 Roy Boulevard in Brantford, Ontario (the "*Building*") because I, through my construction company Rock Cliff Construction, built the Building.
3. I am familiar with the ventilation equipment which is the subject matter of this proceeding, and which is identified in the lease agreement between the parties as:

Eight (8) New 2020 Trane/Desert Aire Dehumidification Units AHUS:

Model No.	
QS46A5E82929D	1120E27154
QS46A5E82929G	1220E27155
QS46A5E82929E	1220E27156
QS46A5E82929B	1220E27157
QS46A5E82929H	1320E27183
QS46A5E82929F	1320E27185
QS46A5E82929A	1520E27198
QS46A5E82929C	1620E27223

Eight (8) New 2020 Trane/Desert Aire Dehumidification Units Cooled Remote RC8S022C5H22524 Condensers (Modine Model No. LCS8213-022-5C)

C2040000044
C2040000045
C2040000046
C2040000052
C2040000053
C2040000054
C2040000056
C2040000057

(collectively, the "*Equipment*")

4. I am familiar with the Equipment because I installed it.
  
5. I have reviewed the photographs which appear at Supplementary Exhibit "D" to the affidavit of Brent Keenan sworn May 16, 2022. From my familiarity with the Building and the Equipment, I know that:
  - (a) The first photograph shows two pieces of Equipment;
  - (b) The second photograph shows two pieces of Equipment; and
  - (c) The third and fourth photographs show interior rooms in the Building. None of the Equipment appears in either of those photographs.
  
6. I understand that one of the issues in this proceeding is the potential removal of the Equipment from the Building; and in particular:
  - (a) What, from a technical perspective, would be involved in removing the Equipment from the Building; and

- (b) What, from a technical perspective, would be required in order to repair the damage to the Building which would likely be caused to the Building in the event that the Equipment were to be removed.

7. On June 17, 2022, I inspected the Building and the Equipment; which I then confirmed remains in the same condition as when I installed it. In general, the Equipment is located to one side of the Building, on the ground.

**Photographs of the Equipment, showing the location beside Building, are attached hereto and marked as [Exhibit A](#)**

8. In general, each piece of Equipment is sitting on a frame that rests on the ground. Each piece of Equipment has connections as follows:

- (a) All of the Equipment is powered by electrical cables, coming from the Building and ending in a large box attached to each piece of Equipment.
- (b) Half of the Equipment is connected to the Building via rectangular HVAC ducting that runs up and onto the roof of the Building.
- (c) The pieces of Equipment are attached to each other via insulated pipes. The insulated pipes are not connected to the Building, but only between the pieces of Equipment.

**Annotated photographs of the Equipment, showing the electrical cables, the HVAC ducting, and the insulated pipes, are attached hereto and marked as [Exhibit B](#)**

9. The process of disconnecting the Equipment from the Building is simple:

- (a) An electrician would disconnect the electrical cables; and
- (b) An HVAC technician would disconnect the HVAC ducts by:

- (i) Removing the fasteners connecting that piece to the HVAC duct and then sliding the separate pieces apart; or
- (ii) Using metal shears to cut through the HVAC duct where it is connected to that piece.

10. The insulated pipes would also have to be disconnected before any of the Equipment could be moved. That could be done by disconnecting the fittings where they are connected to each piece, or by cutting them. However, that would have nothing to do with the Building.

11. The removal process would be easy. Once each piece of Equipment is completely disconnected, each piece would be hoisted by a crane and placed onto a flatbed truck. There is an open area next to the Equipment providing plenty of room for the crane and the trucks; indeed, it is the same area that I used when I lifted the Equipment, with a crane, off of the flatbed trucks which were used to deliver the Equipment, at the time of installation.

12. The removal process would create minimal damage to the Building:

- (a) The same electrician would have to safely terminate each of the disconnected electrical cables, and then collect and secure them in a way that they did not pose any risk of tripping or electrocution. I would think that since the Building would need replacement HVAC equipment, that the electrical cables would otherwise be left in place.
- (b) The same HVAC technician would have to safely cap each of the disconnected HVAC ducts, and then secure them in a way that they did not pose any risk of tripping, infiltration into the Premises by people or animals, and support them so that they do not become damaged. I would think that since the

Building would need replacement HVAC equipment, that the ducting would otherwise be left in place.

- (c) Because the insulated pipes have nothing to do with the Building, disconnecting them would have no effect on the Building.

13. I estimate that it would take approximately one day to disconnect all of the Equipment, and one day to load it securely onto trucks for removal.

#### ROCKCLIFFE INVOLVEMENT

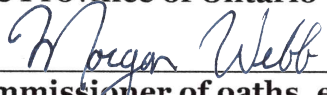
14. Beverlie Jean Rockliffe is my mother. I acknowledge that she is one of the guarantors of the debt under the Loan Agreement. Beverlie and I have no financial interests together.


15. More to the point, I have no idea whether removing the Equipment or leaving it in place would benefit or harm my Beverlie's interests as a guarantor.

16. Beverlie and Ali Rockliffe, who is my wife, are 50/50 shareholders of 2663176 Ontario Inc. ("266"). 266 is a holding company whose only asset is shares of the Hypoint Group of Companies.

17. I am certain that Beverlie's involvement as guarantor, and Beverlie's and Ali's involvement as shareholders, has in no way impacted the evidence which I have provided in this affidavit.

**AFFIRMED BEFORE ME this 22<sup>nd</sup> day of June, 2022 by video conference, in accordance with the provisions of the Regulation governing Administering Oaths or Declarations Remotely, while the affiant was at the Town of Oakville, in the Province of Ontario, and I was at the City of Toronto, in the Province of Ontario**

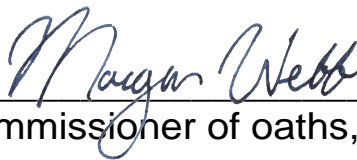
  
\_\_\_\_\_  
**A commissioner of oaths, etc.**  
Morgan Webb

  
\_\_\_\_\_  
**Roman Rockliffe**

EXHIBIT

A

THIS IS EXHIBIT  
A  
TO THE AFFIDAVIT OF  
ROMAN ROCKLIFFE  
SWORN/AFFIRMED THIS  
JUNE 22ND, 2022

A handwritten signature in cursive script, reading "Margie Webb". The signature is written in black ink and is positioned above a horizontal line.

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A commissioner of oaths, etc.



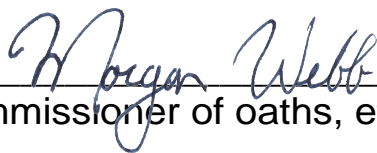




EXHIBIT

B

THIS IS EXHIBIT  
B  
TO THE AFFIDAVIT OF  
ROMAN ROCKLIFFE  
SWORN/AFFIRMED THIS  
JUNE 22ND, 2022

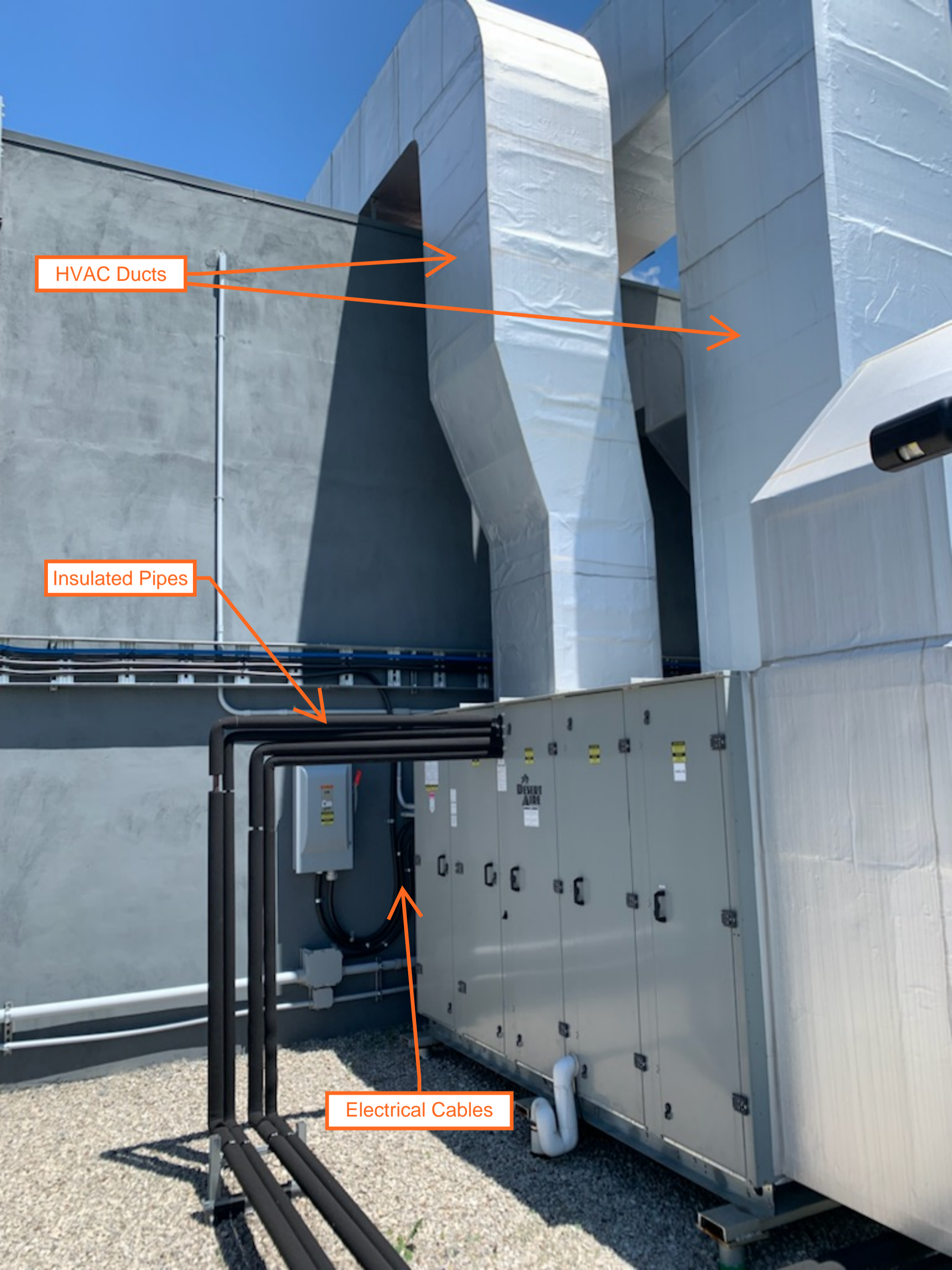
A handwritten signature in cursive script, reading "Morgan Webb", is written over a horizontal line.

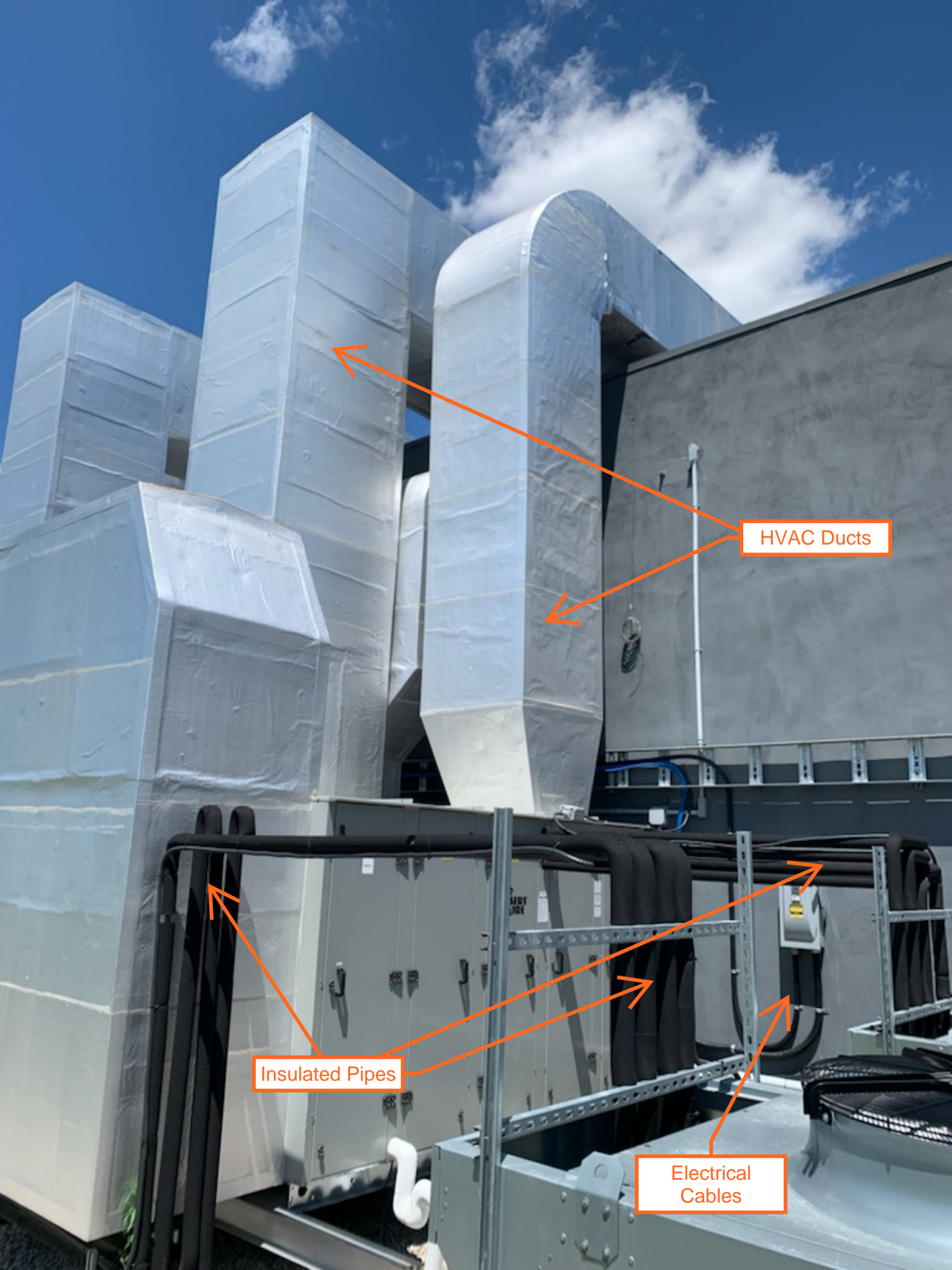
A commissioner of oaths, etc.

HVAC Ducts

Insulated Pipes

Electrical Cables





HVAC Ducts

Insulated Pipes

Electrical Cables

Insulated Pipes



**CANADIAN EQUIPMENT FINANCE AND LEASING INC.**

- and -

Court File No. CV-22-00678808-00CL  
**THE HYPOINT COMPANY LIMITED et al.**

Applicant

Respondents

*ONTARIO*  
SUPERIOR COURT OF JUSTICE

Proceedings commenced at Toronto

AFFIDAVIT OF  
ROMAN ROCKLIFFE  
AFFIRMED JUNE 22<sup>ND</sup>, 2022

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