

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

CULLIGAN SOFT WATER CO., et al.,

Plaintiffs,

v.

CLAYTON, DUBILIER & RICE, LLC, et al.,

Defendants.

Index No. 651863/2012

IAS Part 48 (Justice Andrea Masley)

NOTICE OF MOTION

Oral Argument Requested

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, Affirmation of Rhys Williams dated March 15, 2019, Affirmation of David A. Berger dated March 15, 2019 and upon all prior pleadings and proceedings herein, the undersigned, attorneys for nominal defendant Culligan Ltd. in Members' Voluntary Liquidation will move this Court in Room 130, at 60 Centre Street, New York, New York, on the 20th day of May, 2019, at 9:30 a.m., or as soon thereafter as counsel can be heard, for an order to substitute Michael W. Morrison and Charles Thresh, liquidators of nominal defendant Culligan Ltd. in Members' Voluntary Liquidation, as plaintiffs in place of the shareholder Plaintiffs pursuant to CPLR 1017 and 1021, and to dismiss for Plaintiffs' failure to make demand on the liquidators pursuant to CPLR 3211, and for such other and further relief as the Court may deem just and proper.

Pursuant to the stipulation agreed, by and between the parties who have appeared in this action, filed on February 25, 2019 (NYSCEF Doc. No. 355), opposition papers to this motion shall be served and filed no later than May 1, 2019 and reply papers shall be served and filed no later than May 15, 2019.

Dated: New York, New York
March 15, 2019

Respectfully submitted,

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By: /s/ David A. Berger
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Members' Voluntary Liquidation, and Michael W.
Morrison and Charles Thresh as Liquidators for
Culligan Ltd. In Members' Voluntary Liquidation*