

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

SG Equipment Finance USA Corp.,	)	Case No. 09-CV-7214
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Donna Malone and Mark Anstett,	)	
	)	
Defendants.	)	

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**COMPLAINT**

Plaintiff SG Equipment Finance USA Corp. ("Plaintiff"), by and through its attorneys, Fox, Hefter, Swibel, Levin & Carroll, LLP, and for its Complaint against Donna Malone ("Ms. Malone") and Mark Anstett ("Mr. Anstett" and collectively with Ms. Malone, the "Defendants"), states:

**NATURE OF ACTION**

1. Defendants guaranteed certain lease obligations of Equipment Acquisition Resources, Inc. ("EAR") to Plaintiff. EAR is currently in default of such lease obligations and has filed for bankruptcy. Therefore, pursuant to the guaranties executed in connection with those leases, Defendants are liable to Plaintiff in the amount of not less than \$2,798,395.99 plus attorneys' fees and costs, as of November 16, 2009.

**PARTIES**

2. Plaintiff SG Equipment Finance USA Corp. is a Delaware corporation with its main office located at 480 Washington Boulevard, Jersey City, New Jersey 07310.

3. Defendant Donna Malone is an individual and citizen of the State of Illinois residing in Cook County, Illinois at 454 N. Aberdeen, Chicago, IL 60622.

4. Defendant Mark Anstett is an individual and citizen of the State of Illinois residing in Lake County, Illinois at 1111 Estate Lane, Lake Forest, Illinois 60045

**JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. § 1332(a) because the parties are of diverse citizenship and the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391(a) because the Defendants reside in this district and because a substantial part of the events and omissions giving rise to the claims asserted herein occurred in this district.

**GENERAL ALLEGATIONS**

7. On or about September 18, 2008, Plaintiff and EAR entered into a Lease Agreement (the "September 2008 Lease Agreement"). Pursuant to the September 2008 Lease Agreement, EAR agreed to lease one (1) Laurier Model DS 7000 series Wafer Tester and one (1) Laurier Model DS 3000 Wafer Tester.

8. The term of the September 2008 Lease Agreement was thirty six (36) months with a monthly lease payment of \$25,766.63.

9. On or about September 18, 2008, Defendants executed a guaranty of EAR's obligations under the September 2008 Lease Agreement (the "September 2008 Guaranty").

10. True and accurate copies of the September 2008 Lease Agreement and the September 2008 Guaranty are attached hereto as Exhibit A and Exhibit B respectively.

11. On or about January 22, 2009, LFC Capital, Inc. ("LFC") and EAR entered into a Master Lease Agreement No. 012209 (the "January 2009 Master Lease Agreement" and collectively with the September 2008 Lease Agreement, the "Leases"). Pursuant to the January 2009 Master Lease Agreement, LFC agreed to lease EAR one (1) Supfina MWG Modular Wafer Grinder.

12. The term of the January 2009 Master Lease Agreement was thirty six (36) months with a monthly lease payment of \$68,751.55.

13. On or about January 23, 2009, Defendants executed a guaranty of EAR's obligations under the January 2009 Master Lease Agreement (the "January 2009 Guaranty" and collectively with the February 2008 Guaranty, the "Guaranties").

14. True and accurate copies of the January 2009 Master Lease Agreement and the January 2009 Guaranty are attached hereto as Exhibit C and Exhibit D respectively.

15. On or about February 9, 2009, LFC assigned to Plaintiff the January 2009 Master Lease Agreement and all agreement or documents delivered in connection with the January 2009 Master Lease Agreement, including the January 2009 Guaranty (the "Lease Assignment"). A true and accurate copy of the Lease Assignment is attached hereto as Exhibit E.

16. EAR acknowledged and consented to the Lease Assignment. A true and accurate copy of the Notice and Acknowledgement of Assignment is attached hereto as Exhibit E.

17. EAR defaulted under the Leases by failing to make payments due and owing under the Leases.

18. On or about September 17, 2009, Plaintiff sent EAR a notice of acceleration of amounts owed under the Leases (the "Notice of Acceleration"). A true and accurate copy of the Notice of Acceleration is attached hereto as Exhibit G.

19. On or about September 17, 2009, Plaintiff sent a demand letter (the "Demand Letter") to Defendants demanding immediate payment of all amounts due and owing under the Leases. To date, no payment has been made to the Plaintiff by Defendants pursuant to the Guaranties. A true and accurate copy of the Demand Letter is attached hereto as Exhibit H.

20. On October 23, 2009, EAR filed a bankruptcy petition under chapter 11 of the bankruptcy code in the United States Bankruptcy Court for the Northern District of Illinois (the "Bankruptcy Court"). This bankruptcy filing constitutes a separate event of default under the Leases which triggers the Defendants' liability under the Guaranties.

**COUNT I – BREACH OF SEPTEMBER 2008 GUARANTY**

21. Plaintiff realleges and incorporates the allegations of Paragraphs 1-20 as though fully set forth herein.

22. As of October 23, 2009, EAR was in default of its obligations under the September 2008 Lease Agreement in the aggregate amount of no less than \$703,927.03.

23. Plaintiff has performed all of its obligations under the September 2008 Lease Agreement.

24. In breach of the September 2008 Guaranty, Defendants have failed and refused to pay Plaintiff the amounts due and costs incurred by Plaintiff as a result of EAR's default under the September 2008 Lease Agreement.

25. As a direct and proximate cause of Defendants' breach of the September 2008 Guaranty, Plaintiff has been damaged in an amount exceeding \$703,927.03.

26. Under the September 2008 Guaranty, Plaintiff is entitled to recover its reasonable attorneys' fees and costs in the event of breach.

WHEREFORE, Plaintiff prays for judgment in its favor and against Defendants for damages for breach of the September 2008 Guaranty in an amount to be proven at trial, for its reasonable attorneys' fees and costs, and for any other relief this Court deems just and proper.

**COUNT II – BREACH OF JANUARY 2009 GUARANTY**

27. Plaintiff realleges and incorporates the allegations of Paragraphs 1-26 as though fully set forth herein.

28. As of October 23, 2009, EAR was in default of its obligations under the January 2009 Master Lease Agreement in the aggregate amount of no less than \$ \$2,094,468.96.

29. Plaintiff has performed all of its obligations under the January 2009 Master Lease Agreement.

30. In breach of the January 2009 Guaranty, Defendants have failed and refused to pay Plaintiff the amounts due and costs incurred by Plaintiff as a result of EAR's default under the January 2009 Master Lease Agreement.

31. As a direct and proximate cause of Defendants' breach of the January 2009 Guaranty, Plaintiff has been damaged in an amount exceeding \$2,094,468.96.

32. Under the January 2009 Guaranty, Plaintiff is entitled to recover its reasonable attorneys' fees and costs in the event of breach.

WHEREFORE, Plaintiff prays for judgment in its favor and against Defendants for damages for breach of the January 2009 Guaranty in an amount to be proven at trial, for its reasonable attorneys' fees and costs, and for any other relief this Court deems just and proper.

Dated November 17, 2009

**SG EQUIPMENT FINANCE USA CORP.**

By /s/ Margaret M. Anderson  
One of its Attorneys

Margaret M. Anderson  
Ryan T. Schultz  
**FOX, HEFTER, SWIBEL, LEVIN & CARROLL, LLP**  
Firm No. 39288  
200 West Madison St., Suite 3000  
Chicago, Illinois 60606  
(312) 224-1200

*Attorneys For SG Equipment Finance USA Corp.*