

**THE QUEEN'S BENCH**  
Winnipeg Centre

BETWEEN:

**MARTIN GREEN,**

applicant,

- and -

**THE UNIVERSITY OF WINNIPEG**

respondents.

**APPLICATION UNDER: Court of Queen's Bench Rule 14**

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**AFFIDAVIT OF MARTIN GREEN**

Sworn on \_\_\_\_\_ 2013

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**AFFIDAVIT OF MARTIN GREEN**

I, MARTIN GREEN of the City of Winnipeg in the Province of Manitoba, being the plaintiff herein, MAKE OATH AND SAY THAT:

1. I am the Applicant in the proceedings herein, and as such have personal knowledge of the facts and matters hereinafter deposed to by me, except where the same are stated, expressly or implicitly, to be based on information received or statements made to me, in which case I do verily believe the statements and the information to be true.
2. In the Fall of 2011 I was a student enrolled in the Faculty of Education at the University of Winnipeg. One of my courses was known as Math CIA (course number 4861.150) and the instructor in that course was Don Metz.
3. Some time in October or November I was assigned a project known as Assignment 5. Under the terms of this assignment, I was required to create a bulletin board for teaching Mathematics, and to post it outside the classroom in the first week of January upon returning to classes after Christmas Break.

4. When I arrived at class on Monday January 9<sup>th</sup>, Professor Metz told me he had taken down my project to make room for the next student, and he handed it to me in rolled up form. When I asked him for my grade, he told me the project was incomplete as I had not submitted the written explanation which was supposed to accompany the display. He told me that I could submit it before the next class on Wednesday.
5. On Wednesday morning I emailed him the written portion of the assignment. Attached as **Exhibit "A"** to my Affidavit is a copy of said email.
6. On Wednesday evening I received an email from the Registrar of the University informing me that I had been barred from campus property; but nevertheless, I was still enrolled in my courses and allowed to do any assignments which did not require my presence on campus. Attached as **Exhibit "B"** to my Affidavit is a copy of said email.
7. On January 23<sup>rd</sup> 2013 I received a letter from the Registrar informing me that I had been suspended from the Education Program.
8. On January 24<sup>th</sup>, I sent a letter to the University requesting that several outstanding assignments be marked and returned to me, including that which is subject of the present Application. Attached as **Exhibit "C"** to my Affidavit is a copy of said email.
9. The Vice President Academic, John Corlett, replied to my email the next day, declining to comment on my requests. Attached as **Exhibit "D"** to my Affidavit is a copy of said email.
10. On the 27<sup>th</sup> of January I again wrote the university, re-iterating my request for consideration of the unmarked assignments among other concerns. Corlett replied to me on the 30<sup>th</sup> of January, undertaking to return certain items of personal property but not commenting on the unmarked assignments. Attached as **Exhibit "E"** to my Affidavit is a copy of said correspondence.
11. On Feb. 8<sup>th</sup> 2013, I submitted via email an official Notice of Appeal with regard to my suspension from the Education Program. Included in this appeal was a request for the return, with marks and comments of three assignments still held by the University,

including that which is subject of the present action. I received no reply to this submission. Attached as **Exhibit “F”** to my Affidavit is a copy of said email.

12. On Feb 13<sup>th</sup> I re-submitted via email my Notice of Appeal. Attached as **Exhibit “G”** to my Affidavit is a copy of said email.
13. The Registrar responded on the same day, acknowledging receipt of my Appeal Notice, but he did not comment on my request for the return of personal items and marked assignments. Accordingly, I wrote again on the 17<sup>th</sup> of February. I received a reply the next day from the Vice President, but he did not address the question of the unmarked assignments and personal property. Attached as **Exhibit “H”** to my Affidavit is a copy of said correspondence.
14. On the 22<sup>nd</sup> of February I wrote the University , noting that I had several outstanding concerns to which they had not yet replied, including the unmarked assignments I had asked for in my letter of the 8<sup>th</sup>. Attached as **Exhibit “I”** to my Affidavit is a copy of said email. The University did not respond to this communication.
15. On March 3<sup>rd</sup> I wrote to Craig Lee, Chairman of the Board of Regents, requesting his intervention in the matter of all unresolved issues with the University including unreturned personal property. On my subsequent request, I received confirmation the the letter had been received, but no substantive reply was forthcoming. Attached as **Exhibit “J”** to my Affidavit is a copy of said correspondence.
16. On March 28<sup>th</sup> I wrote again to Craig Lee and again asked for the return of the marked assignments. Attached as **Exhibit “K”** to my Affidavit is a copy of said correspondence. No response was forthcoming from Mr. Lee.
17. On April 18<sup>th</sup> 2012 I received an email from the Registrar that appears to be a follow-up on my previous letter to the Chairman of the Board of Governors. The Registrar undertook to have the assignments returned to me if I would specify them by course and instructor. I replied on the 20<sup>th</sup> of April by quoting from the email I had already sent to the Registrar in February, where I had already identified the assignments in question.

Attached as **Exhibit “L”** to my Affidavit is a copy of said correspondence. Note that it is primarily dealing with my request to appeal my grades in three courses.

18. There does not appear to be any further correspondence until June 18<sup>th</sup>, when the Registrar contacted me to arrange for the grade appeal to proceed in the Philosophy of Science Teaching course. The return of marked assignments was not discussed at this time. On the 25<sup>th</sup> of June I was given the opportunity to review the final exam, and the following day I submitted my written arguments for the course appeal, including a copy of the term paper on which I was given a failing grade.
19. Over the course of the next four months, all correspondence with the Registrar dealt exclusively with the matter of the grade appeal in Philosophy of Science Teaching.
20. On the 26<sup>th</sup> of June the Registrar acknowledged my appeal and informed me that there would be a \$40 fee. I wrote back asking him if the fee could be waived in view of the many delays up to this point.
21. The Registrar did not respond to this request, and I did not write back again until August 8<sup>th</sup>, when I repeated the request for the processing fee to be waived. Two weeks later, the Registrar wrote back agreeing to waive the fee and forward my appeal to the Departmental Review Committee.
22. On September 9<sup>th</sup>, I wrote the Registrar to ask if there had been any progress on my grade appeal. The Registrar wrote back on the 21<sup>st</sup> indicating that he had heard nothing from the Departmental Committee.
23. On October 3<sup>rd</sup> I wrote back asking if there was any news about the grade appeal. On the same day the Registrar wrote back, informing me that the appeal had been rejected.
24. On October 10<sup>th</sup>, I wrote back asking to be informed of my rights with respect to appealing the findings of the Departmental Review Committee. The Registrar wrote back the same day informing me that there was a right of appeal to the Senate on procedural grounds only.

25. The next day, having dealt with the immediate question of the grade appeal, I wrote the University protesting their ongoing inaction on my earlier request with regard to return of property and marked assignments. Attached as **Exhibit "M"** to my Affidavit is a copy of said correspondence.
26. On October 19<sup>th</sup>, the Registrar wrote back indicating that he had in his possession and was ready to return to me two of the three marked assignments I had asked for, but indicated that Professor Metz had told him the third assignment had not been marked as it was incomplete. Professor Metz further professed no knowledge of the two projects which I had said were in his classroom. I wrote back immediately attaching proof that the incomplete portion of the assignment had in fact been submitted as requested on January 11<sup>th</sup>, and reminding the Registrar that I had offered without success on several occasions to identify the personal property. Attached as **Exhibit "N"** to my Affidavit is a copy of said correspondence.
27. I sent two more emails that same day documenting various errors made by Professor Metz in his communications with the Registrar. In my first message I characterized his claims as "disingenuous", and in the second message I questioned his reliability. Attached as **Exhibit "O"** to my Affidavit is a copy of said correspondence. No response was forthcoming to these messages.
28. On the 26<sup>th</sup> of October, I wrote back to the University asking why they had not followed up on their undertaking to return my personal property. On the 1<sup>st</sup> of November the Registrar wrote back with an offer to meet me on campus on November 9<sup>th</sup> to receive the two uncontested assignments and to permit me to identify the two items of personal property. I wrote back agreeing to meet on the 9<sup>th</sup>, and asking if there were any reason why Professor Metz had not yet marked the final assignment. Attached as **Exhibit "P"** to my Affidavit is a copy of said correspondence.
29. On the 9<sup>th</sup> of November, the two undisputed assignments were returned to me and I identified the personal property. The University undertook to deliver the property to my home, but a week later it had still not arrived. So I wrote back on the 15<sup>th</sup>, asking again for delivery of the property and the outstanding assignment. Receiving no

response, I wrote similar letters on the 22<sup>nd</sup>, and again on the 30<sup>th</sup>. Attached as **Exhibit “Q”** to my Affidavit is a copy of said correspondence.

30. Finally, on the 30<sup>th</sup> of November, the University acknowledged my request for the property and arranged for delivery, which took place the following week. At the same time, the Registrar indicated for the very first time that the University was now taking the position that it had no obligation to mark the assignment in question. I then wrote back on the 6<sup>th</sup> of December insisting on my rights with regard to the outstanding assignment. I conclude my letter by saying, “If the University does not respond to this request, I will be forced to take further action to enforce my rights.” Attached as **Exhibit “R”** to my Affidavit is a copy of said correspondence.
31. The University did not in fact respond to the aforesaid request; indeed, on Dec. 6<sup>th</sup>, a meeting was held at the University including senior administration with respect to what they characterized as my continued harassment with respect to these email communications. Professor Metz expressed concern for his personal safety, especially with regard to my use of the word “enforce” as noted in the previous paragraph. Attached as **Exhibit “S”** to my Affidavit is a copy Professor Metz’s notes of said meeting.
32. In the meantime the Senate Committee had contacted me with regard to my appeal of the failing grade in Philosophy of Science Teaching; the appeal process had commenced and then become stalled. I wrote the University on January 10<sup>th</sup> to complain that there had been no progress for six weeks on my grade appeal, and also to re-iterate my demands with regard to the outstanding assignment. The University responded the next day stating clearly their position that I was not entitled to a mark on the assignment. Attached as **Exhibit “T”** to my Affidavit is a copy of said correspondence.
33. In response to the aforesaid email, Professor Metz wrote to the Vice President of the University requesting that legal action be taken to prevent me from sending further emails. As detailed in **Exhibit “S”**, several meetings took place at the university over

the next week, as a result of which Professor Metz appeared before a Justice of the Peace on the 18<sup>th</sup> of January to apply for a protective order against me.

34. The application for a protective order was denied.

35. Professor Metz continues to characterize the assignment at issue as “incomplete” even in his recent deposition seeking a restraining order (see **Exhibit S**). It may be noted that while the undisputed portion of the assignment represents approximately ten hours of work, the disputed portion would have taken only ten minutes to write.

SWORN (or Affirmed) before me in the  
City of Winnipeg in the Province of  
Manitoba on

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(signature of deponent)

\_\_\_\_\_  
Commissioner of Oaths