

QB File No. \_\_\_\_\_

**THE QUEEN'S BENCH**  
Winnipeg Centre

BETWEEN:

**MARTIN GREEN,**

plaintiff,

- and -

**GEORGE BUSH**

defendants.

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**STATEMENT OF CLAIM**

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TO THE DEFENDANT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a Manitoba Lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Queen's Bench Rules*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it in this court office, **WITHIN 20 DAYS** after this statement of claim is served on you, if you are served in Manitoba.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is 40 days. If you are served outside Canada and the United States of America, the period is 60 days.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

January\_\_\_\_\_, 2013

Issued by: \_\_\_\_\_  
Registrar

TO:           GEORGE BUSH

## **CLAIM**

1. The Plaintiff claims:

- a. General Damages
- b. Special damages
- c. Aggravated, exemplary and punitive damages;
- d. Pre and post judgement interest
- e. Costs
- f. Such further and other relief as this Honourable Court may deem just.

2. The Plaintiff, Martin Green (“Green”), resides in the City of Winnipeg. He was a student in the Faculty of Education at the University of Winnipeg from September 12 2011 until January 11<sup>th</sup> 2012.

3. The Defendant BUSH resides in the Province of Manitoba and was a professor at the University of Winnipeg at all times material to this cause of action.

4. The plaintiff was a student in the Faculty of Education at the University of Winnipeg. He was in the first year of a two-year Teacher Certification Program which would under normal circumstances have allowed him to be certified as a teacher in the Province of Manitoba upon graduation in the spring of 2013.

5. As part of the requirements for completion of the program, the plaintiff was enrolled in a class in Philosophy of Science instructed by the Defendant BUSH.

### **The First Incident**

6. On Tuesday the 27<sup>th</sup> of September 2011 the plaintiff approached the Defendant BUSH near the beginning of their afternoon class to sign up for a certain project. Bush asked the plaintiff if he had submitted his project proposal by email. The plaintiff replied

by asking “Is that how it’s done?”

7. The Defendant BUSH expressed visible displeasure with the Plaintiff, announcing in words directed to both the Plaintiff and the class as a whole, various statements concerning the Plaintiff including phrases very nearly similar to the following:

a) “I notice you’re missing a lot of stuff...”

b) “....you’re not taking notes...”

c) “....if you don’t change you’re attitude you and I are going to have a falling out.”

8. The Plaintiff replied to these remarks by saying that he would take his (the Defendant’s) words under advisement, to which the Defendant replied: “That is, *you’re* going to have a falling out.”

9. Heard in context, the statements set out in in paragraphs 7 and 8, in their material and ordinary meaning meant or were understood to mean that the plaintiff had displayed, on this and on other occasions, disrespectful and insubordinate behavior; and the said statements were so understood by the other students present in the classroom.

### **The Second Incident**

10. The next class, on Thursday the 29th of September, the Defendant Bush arrived approximately ten minutes late and immediately began to berate the students for not having started to work prior to his arrival. The Plaintiff interrupted the Defendant and asked “What’s you’re point?”. The Defendant responded with outward displeasure, saying words to the effect that as adults, the students should be sufficiently responsible to know what they ought to do once the scheduled class time began, whether or not there was an instructor present in the room.

11. After the Defendant Bush had continued in this vein for a short period of time, the

Plaintiff again interrupted him, saying “Can we just get on with the class then?” At this the Defendant became visibly outraged, and strode forcefully towards the Plaintiff, announcing in words directed to both the Plaintiff and the class as a whole, various statements concerning the Plaintiff including phrases very nearly similar to the following:

a) “You don’t speak to me like that...”

b) “You better start showing me some respect or we’re going to take this outside...”

12. Heard in context, the statements set out in paragraphs 10 and 11, in their material and ordinary meaning meant or were understood to mean that the plaintiff had displayed disrespectful and insubordinate behavior; and the said statements were so understood by the other students present in the classroom.

13. As seen and experienced in context, the tone of voice, facial expressions and physical posturing of the Defendant BUSH meant and were understood to mean that the plaintiff had displayed outrageous and disrespectful behavior; and the said gestures and actions were so understood by the other students present in the classroom.

14. In the midst of the aforesaid angry outburst the Defendant stopped abruptly, turned to face the class, and asked, in a normal tone of voice: “What just happened?” The Defendant then proceeded to explain that his behavior upon entering the classroom had been a dramatization, intended to illustrate a point about how teachers can sometimes behave inappropriately. The Defendant spent several minutes explaining the purpose of the dramatization. No mention was made about the confrontation between the Plaintiff and the Defendant.

15. On Sunday the 2<sup>nd</sup> of October, the Plaintiff sent the following email to the Defendant BUSH:

George, I didn't mind being a part of your little demonstration the other day in class. However, I am not totally sure that everyone else realized that the part where you freaked out at me was also just part of the act. I wonder if you think it would be a good idea to clarify this next time we meet?

Marty

16. The following day the Defendant BUSH replied to the plaintiff with the following email message:

Yes,  
Tomorrow.  
GDB

17. On Tuesday, October 3<sup>rd</sup>, when the Plaintiff entered the Defendant BUSH's classroom, he noted that most of the students were already there. Upon seeing the Plaintiff enter, the Defendant told him that the matter had already been taken care of and that he had already spoken to the class.

18. The plaintiff looked at his watch and noted that the scheduled class time had not yet begun. He then asked the Defendant what he was referring to, and the Defendant clarified that the matter in question was the subject about which they had most recently corresponded, as noted in paras. 15 and 16.

19. The Plaintiff expressed the opinion that the Defendant ought not to have disposed of the matter without the plaintiff being present, and that it ought to have been dealt with in class time and not before. The Defendant asked the plaintiff whether he thought that he ought to repeat everything he had just said "just for your benefit?", to which the Plaintiff replied that he ought to indeed.

20. The Defendant BUSH, showing visible annoyance, announced that he would attempt to repeat, for the Plaintiff's benefit, what he had already said in the Plaintiff's absence. In his subsequent remarks he did not mention the Plaintiff by name, and did not state that his angry outburst had merely been a part of the dramatization. He stated that the dramatization had been done for a legitimate educational purpose, and regretted that some students had not understood that purpose.

### **The Third Incident**

21. On Thursday, November 3<sup>rd</sup>, the Defendant BUSH was telling the class about very bad High School Chemistry teacher. The Defendant cited as evidence of poor

teaching the fact that this individual had chosen to introduce the topic of “moles” in the very first class of the semester.

22. The Plaintiff raised his hand to ask a question and was recognized by the Defendant. The plaintiff asked what was wrong with teaching “moles” in the first class?

23. The defendant BUSH proceeded to speak for one or two minutes about the central importance of the “mole” concept to all of chemistry. The Plaintiff then asked again why it ought not to be taught in the first class, to which the defendant BUSH replied that it was much too difficult a topic.

24. The plaintiff said that he could see no reason why it was more difficult than any other topic in the course, to which the defendant BUSH answered using words very nearly similar or identical to: “Then obviously you don’t know very much about chemistry.”

25. The Plaintiff challenged the Defendant to repeat what he had just said, and the Defendant did so. The plaintiff objected to the Defendant’s characterization of his lack of knowledge and asked the Defendant if he wished to withdraw that characterization. The Defendant declined to do so.

26. Several students then expressed their anger towards the Plaintiff, saying that they found his behavior disrespectful. The Plaintiff in turn objected to being characterised as a troublemaker. The Defendant BUSH told the Plaintiff he was free to leave if he didn’t like it, and the Plaintiff replied that he chose to remain in the class. The Defendant then resumed his lecture.

37. Heard in context, the statements by the Defendant BUSH set out in in paragraphs 24, 25 and 26, in their material and ordinary meaning meant or were understood to mean that the plaintiff had displayed disrespectful and insubordinate behavior in addition to ignorance of the subject matter under discussion; and the said statements were so understood by the other students present in the classroom.

28. Shortly thereafter there was a break period. The Plaintiff approached the



Defendant and proposed what he characterised as a “deal”, saying: “You give me five minutes to show the class how I would teach moles, and then we’ll all be friends again.”.The Defendant refused the Plaintiff’s proposal, characterising it as a “waste of time”.

### **The Plaintiff’s Claim of Damages**

29. The plaintiff claims that taken as a whole, the words, actions and gestures of the Defendant BUSH as described in the aforementioned incidents were intended to portray the plaintiff as a troublemaker and someone to be shunned by other students.

30. The plaintiff states that in the aforementioned incidents, the Defendant BUSH falsely and maliciously or in the alternative carelessly and recklessly conveyed, by means of words and gestures, characterizations of and concerning the Plaintiff that were defamatory and having the effect of disparaging, discrediting and prejudicing the plaintiff in the eyes of his fellow students.

31. The plaintiff claims that following the second and third incidents described above, the Defendant on each occasion failed to take action as suggested by the Plaintiff which would have mitigated or negated the damages caused by the Defendant’s actions in those incidents.

32. The plaintiff claims that as a result of aforesaid, he became despised and loathed by several students who had witnessed or heard about the incidents described above.

33. Subsequent to the commencement of the aforesaid series of events, several students in the Education Faculty made verbal and written complaints concerning the Plaintiff which were conveyed directly or indirectly to the Dean of Education. The plaintiff claims that one or more of those students who so complained were influenced in their negative opinions of the Plaintiff by having witnessed or heard about those incidents described herein.

34. The Plaintiff was ultimately forced to leave the Faculty of Education and abandon his dream of becoming a teacher, in part as a result of the said complaints..

35. To the extent that the said verbal and written complaints to the Dean were influenced and encouraged by said defamation on the part of the Defendant, the Plaintiff has suffered loss and damage for which he claims herein, including, but not limited to the following:

- a) Injury to the Plaintiff's character and reputation
- b) Severe emotional distress, anxiety, embarrassment and humiliation
- c) He has been brought into public scandal and contempt
- d) His hopes and dreams of a career in teaching have been destroyed.

36. To the extent that his damages have been compounded by the failure of the defendant BUSH to retract or mitigate his defamatory characterisations, the plaintiff claims aggravated damages.

37. Further, or in the alternative, the Plaintiff states that in all the circumstances aforesaid the actions of the part of the defendant BUSH constitute a wanton and outrageous disregard of the plaintiff's rights and consequently the Plaintiff should be awarded exemplary and punitive damages.