

QB File No. _____

THE QUEEN'S BENCH
Winnipeg Centre

BETWEEN:

MARTIN GREEN,

plaintiff,

- and -

**HIEP TRAM, ARLENE SKULL, DEB WOLOSHYN, WALLY STEWART, JOHN
ANCHAN, AND THE UNIVERSITY OF WINNIPEG.**

defendants.

STATEMENT OF CLAIM

MARTIN GREEN
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TO THE DEFENDANTS:

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.

SEPTEMBER_____, 2012

Issued by: _____
Registrar

TO: HIEP TRAM
AND TO: ARLENE SKULL
AND TO: DEB WOLOSHYN
AND TO: WALLY STEWART
AND TO: JOHN ANCHAN
AND TO: THE UNIVERSITY OF WINNIPEG

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.

Identification of Parties

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 11th 2012.
3. The Defendant TRAM resides in the Province of Manitoba and was a teacher at Gordon Bell High School (“Gordon Bell”) at all times material to this cause of action.
4. The Defendant SKULL resides in the Province of Manitoba and was the principal at Gordon Bell at all times material to this cause of action.
5. The Defendant WOLOSHYN resides in the Province of Manitoba and was Director of Student Teaching at the University of Winnipeg at all times material to this cause of action.
6. The Defendant STEWART resides in the Province of Manitoba and was a professor at the University of Winnipeg at all times material to this cause of action.
7. The defendant ANCHAN resides in the Province of Manitoba and was Associate Dean of Education at the University of Winnipeg at all times material to this cause of action.

8. The defendant THE UNIVERSITY OF WINNIPEG (“the University”) is a body corporate established in the Province of Manitoba by the University of Winnipeg Act C.C.S.M. c. U70 and authorised *inter alia* to generally promote and carry on the work of a university.

9. At all material times the individual defendants WOLOSHYN, STEWART, and ANCHAN were acting in their official capacities as employees of the University of Winnipeg.

10. At all material times, the defendants WOLOSHYN, STEWART, and ANCHAN were both employees and agents of THE UNIVERSITY OF WINNIPEG who is liable vicariously for any tortious consequences of their actions.

General Background

11. 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.

12. The program consisted of two components: an academic component and a teaching practicum (“the practicum”). Successful completion of both components was necessary in order to graduate from the program.

13. The plaintiff was assigned to student teaching duties at Gordon Bell. As part of his duties, he was assigned a four-week teaching bloc commencing on Nov. 21st 2011 following the end of university classes for the fall term.

14. The defendant STEWART was assigned by the University as Faculty Advisor to the plaintiff. This made him responsible to supervise the plaintiff’s practicum duties.

15. For his teaching bloc, although only one teaching unit was required, Gordon Bell had offered the plaintiff two courses to teach: Grade Nine Physics (Electricity) and Grade Ten Chemistry. The Grade Nine Physics unit was to be taught under the supervision of the defendant TRAM.

16. Although the plaintiff's Grade Nine teaching unit was not scheduled to begin until Nov. 21st 2011, with the approval of the defendant TRAM the plaintiff commenced the unit two weeks early, on November 7th.

17. At the end of the first class, Tram expressed his displeasure with the way Green had taught the class. A meeting was set up at lunch hour to discuss the situation with the head of the Math and Science Department, Mabini Patagkhan.

18. At the meeting, Pagtakhan and Tram agreed that Green would continue to teach the class. He continued to do so for the remainder of that week and the following week.

19. Following the meeting, Tram began keeping a diary purporting to record his perceptions of grave deficiencies in Green's behavior, inside and outside the classroom.

20. On Nov. 21st 2011, when Green reported to the school at 8:30 a.m. for his regular practicum duties, he was met by the Tim Cox, the Vice Principal of Gordon Bell, who directed him to wait in the office before proceeding to class. Cox then left the plaintiff alone in the office.

21. At around 9:15 a.m. Cox returned accompanied by the defendant SKULL. Skull told Green that according to reports she had received, that Green was not preparing lesson plans and did not follow the directions of the supervising teachers.

22. Skull told Green that she had been informed that Green had grabbed a student by the shoulder. Green replied that this was not true.

23. Skull informed Green that she would be meeting with Wally Stewart (the defendant STEWART), Green's faculty advisor, and that in the meantime he was to leave the school and not return until further notice.

24. Following the meeting, Skull wrote to the defendants WOLOSHYN and STEWART, describing the events of the meeting in terms highly prejudicial to Green, and concluding that it had been necessary to escort Green off the property.

25. After receiving Skull's letter, Woloshyn wrote back, with a copy to the defendant

ANCHAN, indicating that she required an explicit statement from the school to the effect that Green was not to continue his practicum at Gordon Bell. She further requested that the main reasons be hi-lighted.

26. Skull wrote back with a list of reasons, and requested Green's immediate removal from the practicum. Minutes later, Woloshyn wrote to Green informing him that his teaching bloc had been terminated and he was not to return to the school.

27. Green immediately wrote back asking for written reasons for his termination. The plaintiff also asked for:

- i) citation of the relevant University policies and procedures under which the termination had been carried out,
- ii) clarification as to his standing within the program, and
- iii) clarification as to what steps, if any, he needed to take in order to have his practicum privileges restored.

28. Woloshyn replied to the plaintiff citing the Certification Practicum Student Handbook which states (on p. 29) that the "school administrators have the authority and right to remove or request that Student Teachers be removed from the school. This may occur on an immediate basis if deemed necessary by the school administration".

29. In response to further inquiries, on Nov. 23rd, 2011, Woloshyn told the plaintiff that his file had been transferred to the Office of the Registrar for further investigation, that he should direct any further inquiries to that office, and that he would be duly informed of the progress of the investigation.

30. Although the plaintiff was subsequently contacted by the Registrar on Dec. 6th, 2011, the Registrar made no response to the plaintiff's repeated requests to be allowed to appeal his removal from the practicum.

31. When the Winter term began in January 2012, the plaintiff again wrote both Woloshyn and the Dean of Education to request the restoration of his practicum privileges. Neither party responded to these requests.

32. The plaintiff's practicum privileges were never restored, and on January 11th he ceased to be a student in the Teacher Certification Program.

33. Over the next several months, the plaintiff appealed variously to the Dean of Education, the Registrar, the President of the University, and the Chairman of the Board of Regents for permission to appeal his removal from the practicum. None of the parties so addressed responded to these requests.

The Plaintiff's Claims With Regard to Conspiracy

34. The plaintiff claims that the Defendants wrongfully and maliciously conspired and combined amongst themselves to injure him by depriving him of his opportunity to become certified as a teacher, by wrongfully removing him from the practicum under a variety of pretexts and false accusations, and by subsequently depriving him of his legitimate rights to contest his removal from the practicum.

35. In pursuance of the said conspiracy, the Defendants did the following acts, inter alia:

- a) The defendant TRAM, in recording his diary (see para. 19), deliberately and maliciously employed a combination of omissions, exaggerations, and inaccuracies to portray the defendant as intellectually and psychologically unfit to be a teacher.
- b) Tram was encouraged by the other Defendants, or some combination of them, to be excessively negative in his evaluation of Green's work.
- c) Tram deliberately frustrated Green's opportunity to learn of and respond to Tram's allegations by failing to disclose his complaints either to Green directly or to any other parties from whom Green might have learned of Tram's allegations;
- d) The Defendant SKULL sought out evaluations of Green's performance from Tram and other teachers who had observed Green's work, in order to report

- to Woloshyn only the most negative aspects of those evaluations.
- e) In her communications with the Defendant WOLOSHYN, Skull deliberately altered and exaggerated specific criticisms reported by Tram, so that situations reported by Tram as relatively innocent were cast in a much more prejudicial light.
 - f) Prior to Skull's meeting with Green on the 21st, Skull and Woloshyn conferred as to the intended outcome of the meeting and agreed that Green was to be removed from the practicum.
 - g) Woloshyn encouraged Skull to use the special authority conferred on the school to have a student removed without notice from the practicum in disregard of the right of due process and hearing to which he was entitled under the rules of the Certification Practicum Student Handbook.
 - h) The defendant STEWART acted to diminish Green's capacity to defend himself by failing, at the instigation of some other Defendants, to report to Green the existence of the complaints against him.
 - i) Woloshyn, upon receiving Skull's complaints, rather than seeking Green's response, forwarded them directly to the Defendant ANCHAN, knowing that Anchan desired the removal of Green from the practicum.
 - j) Upon reviewing Skull's letter of complaint, Anchan and Woloshyn determined that on the basis of those complaints, Green ought to have been entitled to his Due Process rights as guaranteed in the Handbook; but rather than proceed on that basis, they instead advised Skull to revise her complaint so that it met the technical requirements for immediate removal.
 - k) Upon receiving Skull's revised complaint, Anchan and Woloshyn immediately ratified Green's removal from the practicum, even though those revisions were still insufficient to warrant denying Green the due process to which he would otherwise have been entitled;

- l) The defendant ANCHAN subsequently and without any procedural justification proceeded to transfer Green's file to the Registrar's office, and he did so knowing that the Registrar was not the proper authority to deal with Green's removal or possible re-instatement to the practicum.
- m) By so transferring the file, Anchan acted deliberately to frustrate any attempt by Green for a timely resolution of the issue.
- n) Knowing that without successful completion of his practicum, Green would be unable to graduate, Anchan and Woloshyn deliberately and maliciously refused to entertain Green's subsequent requests to be allowed to contest his removal from the practicum and to have his practicum privileges restored.

36. The Plaintiff states that the combined actions of all the defendants TRAM, SKULL, STEWART, WOLOSHYN and ANCHAN were done by the persons alleged on behalf of themselves and their co-conspirators in furtherance of the said conspiracy.

37. The Plaintiff states that those actions were executed maliciously, without due process, and in full knowledge of the devastating consequences those actions would have to the plaintiff.

38. The plaintiff states that the actions of the defendants have made it virtually impossible for him to pursue a career in teaching, and thereby resulted in grievous damage to his ability to pursue a livelihood.

39. The plaintiff states that the actions of the defendants have caused him grievous emotional distress and severe loss of reputation.

40. The Plaintiff states that the actions of the defendants caused him immediate financial losses including loss of earning opportunity while registered in the program, the cost of tuition fees and other incidental expenses.

41. The plaintiff pleads that the defendants are liable for their actions under the civil tort of conspiracy to injure, insofar as that tort is a recognised cause for action in the

common law.

42. As a result of all the foregoing, the plaintiff claims to be entitled to damages.

The Plaintiff's Claims With Regard to Defamation by Tram

43. On or about the 21st of November 2011 the Defendant Tram made available to Skull the contents of his diary, which contained the following passages concerning the plaintiff:

- a) "Mr. Green spent most of the class talk about concepts that is not part of the curriculum..."
- b) "He talked for the entire 65 minutes without stopping."
- c) "Many kids were frustrated and requested Mr. Green to teach Science instead of mathematics."
- d) "...he did not explain in detail why and how things work....He went on and talk about the lines of forces (electric and magnetic) which are not part of the curriculum."
- e) "Many kids lost interest and started to disrupt his lesson by talking to other kids."
- f) "I and many students have no idea what Mr. Green is talking about."
- g) "He talk about random topics that are no related to the course. "
- h) "I did allow him to teach today's lesson using my lesson plan. He blew it by making a lot of mistakes."

44. The said statements, or any of them, in their material and ordinary meaning meant or were understood to mean that the plaintiff displayed poor or unsatisfactory teaching skills.

45. The said diary further contained the following passages concerning the plaintiff:

- a) "Did not present the plans for the week (as requested before he started the block)"
- b) "Again, there was no lesson plan but a small piece of paper."
- c) "There is no progress in the curriculum, no assignment given (after 5 classes), no lesson plan."

- d) "Again there is no lesson plan presented, no assessment."
- e) "I and Mabini again reminded Mr. Green to unit/lesson plans for the block which starts on Nov 22, 2011. So far he did not provided any lesson plan nor having a clear objective for each day that he taught."

46. The passages from the diary set out in the preceding paragraph, in their material and ordinary meaning, meant or were understood to mean that the plaintiff refused specific instructions to submit lesson plans.

47. The said diary further contained the following passages concerning the plaintiff:

- a) "He got very angry at me and stated that he is not going to take the advices. He also stated that his teaching career would be over if he took any advice from me. I invited Mabini to chair our meeting during lunch. Mr. Green insisted that he continue to teach the way he likes. He is not willing to listen to any advice from me."
- b) "I also asked him to remind the grade 9 students to copy down notes. He said "no one tell me what to do. I will not tell them what to do" I have no more advice to give to Mr. Green."
- c) "...he says "This is how I teach" and refuses to take any advise from me. We will have a meeting soon and his teaching block with me might not be continued to go on if he continues to teach the way he taught."
- d) "I and Mabini again reminded Mr. Green to unit/lesson plans for the block which starts on Nov 22, 2011. So far he did not provided any lesson plan nor having a clear objective for each day that he taught."

48. The passages from the diary set out in the preceding paragraph in their material and ordinary meaning meant or were understood to mean that the plaintiff displayed hostile and uncooperative behaviour.

49. The said diary further contained the following passages concerning the plaintiff:

- a) "He got very angry at me and stated that he is not going to take the advices. He also stated that his teaching career would be over if he took any advice from me."
- b) "Mr. Green insisted that he will not and cannot teach the way we suggested. He also mentioned his diifficult time at the U of W and said "the U of W will kick me out of the

program. However, I will only leave on my own terms” twice. I am not sure how to interpret that except sensing that this might be a threat. Mr. green will not follow any advice.”

- c) “Mr. Green paced by my classroom without saying anything.”
- d) “It took me 20 minutes to calm him down from talking loudly and pacing back and forth...”
- e) “Gary came over and asked Mr Green to trust me, Mabini, Wally and Gary himself. Green said loudly “I trust no one. I trust myself”.”

50. Read in context, the passages from the diary set out in the preceding paragraph in their material and ordinary meaning meant or were understood to mean that the plaintiff showed irrational and possibly psychotic tendencies..

51. The plaintiff states that taken as a whole, the said diary portrays and is intended to portray the plaintiff as incompetent, unco-operative, potentially violent and otherwise temperamentally and psychologically unsuited for employment as a teacher.

52. The plaintiff states that in publishing the said words to Skull, the Defendant TRAM falsely and maliciously wrote of, and concerning the Plaintiff, words that were defamatory and meant to disparage, discredit and prejudice the plaintiff in his pursuit of a teaching career.

53. Further, by reason of said defamation, 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.

54. Further, or in the alternative, the Plaintiff states that the said false and malicious conveyance of said words was done recklessly, carelessly, willfully and with malice with the intention of damaging the Plaintiff and his academic and/or future academic endeavours and/or his future employment opportunities and consequently the Plaintiff should be awarded aggravated, exemplary and punitive damages.

The Plaintiff's Claims With Regard to Defamation by Skull

55. On the 21st of November 2011 the Defendant Skull engaged in correspondence with the defendant Woloshyn. Included in this correspondence were the following passages concerning the Plaintiff:

- a) “-students, in Grade 11 and 12, asking the teacher to please re-teach or teach the lessons due to the lack of clarity and the refusal to answer questions.”
- b) ”I asked him if he was aware of the outline/format for writing lesson plans in the “Success for All Learners”

56. Read in context, the passages from the diary set out in the preceding paragraph in their material and ordinary meaning meant or were understood to mean that the plaintiff displayed a lack of professionalism and poor or unsatisfactory teaching skills:

57. The said correspondence further included the following passages concerning the Plaintiff:

- a) “ I informed him that the teachers had told me that he had not prepared lesson plans as asked and that he did not follow the directions of the teachers.”
- b) “-refusing to submit lesson plans in any recognised standard format
- c) -refusing to state or accept, that a lesson plan involves more than a “topic”
- d) -refusing to follow teacher directions related to planning of lessons, lesson content and disciplinary issues with students”

58. Read in context, the passages from the diary set out in the preceding paragraph in their material and ordinary meaning meant or were understood to mean that the plaintiff refused to obey specific instructions from his supervising teachers.

59. The said correspondence further included the following passages concerning the Plaintiff:

- a) “He informed me that they (the lesson plans)wer in his head, that he had them at home in his basement where he had spent 72 hours preparing them on the weekend, and that I did not understand the depth of the “Lesson Plan” that I showed him.”

- b) “He sat down again and said that I shouldn’t be asking these questions and repeatedly stabbed at the “Lesson Plan” with his finger. His voice was raised.”
- c) “Mr. Green stormed out of the office. The Vice-Principal followed him. Mr. Green tried to go up the stairs and had to be redirected to the exit doors by Mr. Tim Cox.”
- d) “-level of agitation and confrontation with staff: pacing the room while talking very loudly (when asked to plan lessons and stick to the curricular topics), leaving the classroom when he did not get exactly what he wanted, stating that things will only be done “on his terms”, and “I trust no one, I trust myself” “
- e) “-apprehension stated, about his erratic behaviour by both teachers and students”

60 Read in context, the passages from the diary set out in the preceding paragraph in their material and ordinary meaning meant or were understood to mean that the plaintiff displayed irrational and possibly psychotic tendencies and behavior:

61. The said correspondence further included the following passages concerning the Plaintiff:

- a) “I told Mr. Green that we had also been informed that he grabbed a student’s shoulder”
- b) “-aggressively confronting and touching students”

62. Read in context, the passages from the diary set out in the preceding paragraph in their material and ordinary meaning meant or were understood to mean that the plaintiff used physically aggressive behavior against students.

63. The plaintiff claims that taken as a whole, the correspondence portrays and is intended to portray the plaintiff as incompetent, unco-operative, potentially violent and otherwise temperamentally and psychologically unsuitable for employment as a teacher.

64. The plaintiff states that in publishing the said words to Woloshyn, the Defendant

SKULL falsely and maliciously wrote of, and concerning the Plaintiff, words that were defamatory and meant to disparage, discredit and prejudice the plaintiff in his pursuit of a teaching career.

65. Further, by reason of said defamation, 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.

66. Further, or in the alternative, the Plaintiff states that the said false and malicious conveyance of said words was done recklessly, carelessly, willfully and with malice with the intention of damaging the Plaintiff and his academic and/or future academic endeavours and/or his future employment opportunities and consequently the Plaintiff should be awarded aggravated, exemplary and punitive damages.