

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.

NOTICE OF MOTION

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THE PLAINTIFF will make a motion before the presiding judge on Monday, December 17th 2012, at 10:00 am, or as soon after that time as the motion can be heard, at The Queen's Bench, Winnipeg Center.

THE MOTION IS FOR the exclusion of co-defendants from the examination for discovery of the defendant who is giving evidence.

THE GROUNDS FOR THE MOTION ARE:

1. The plaintiff claims that if allowed to attend each other's examinations, there is a reasonable apprehension that they may tailor their testimony in order to harmonize their evidence with that of their co-defendants.
2. Because in this action credibility of the parties is a major issue, the refusal of exclusion would give the co-defendants an unfair advantage by denying the plaintiff the opportunity to explore inconsistencies in the defendants' evidence.

3. Because there is a commonality of interest among co-defendants, and substantially the same territory is to be covered in the separate examinations, there can be no prejudice to a truthful defendant if exclusion were ordered, and significant prejudice to the plaintiff in the alternative.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. Chalmers v. Chalmers Estate (1991) Manitoba Court of Appeal
2. 2909333 Manitoba Ltd. V. 616768 Saskatchewan Ltd. (2006) Manitoba Master
3. Dignazio et al v. Weizman et al (2005) Manitoba Court of Queen's Bench
4. Lambert v. Longmore (1997) Alberta Court of Appeal
5. The plaintiff undertakes to file a brief in support of this application, within ten days of the present filing, citing the above mentioned cases and additional evidence in support of this motion drawn from material listed in the plaintiff's Affidavit of Documents.

Date

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