

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
MASTER'S UNCONTESTED LIST
HEARING DATE: Wednesday, January 9, 2013 at 9:30 a.m.**

FILED 35.00
JAN 07 2013
FEES PAID

D'ARCY & DEACON LLP
Barristers and Solicitors
2200 – One Lombard Place
WINNIPEG MB R3B 0X7

BRIAN J. MERONEK, Q.C. / CHRIS BOWLER
Solicitors for the Defendants

File No. 117709-0003

THE QUEEN'S BENCH
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Plaintiff,

- and -

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

Defendants.

NOTICE OF MOTION

The Defendants University of Winnipeg, Deb Woloshyn, Wally Stewart and John Anchan will make a Motion for summary judgment before the presiding Master on Wednesday, January 9, 2013 at 9:30 a.m., or as soon after that time as the Motion can be heard, at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba.

THE MOTION IS FOR:

1. An Order granting summary judgment dismissing the Plaintiff's claims in the Statement of Claim relating to the Defendants the University of Winnipeg, Deb Woloshyn, Wally Stewart and John Anchan;
2. An Order for short leave;
3. Costs on a solicitor-client basis; and
4. Such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. Queen's Bench Rule 20;
2. Sections 12(2) & 34(2) of the *University of Winnipeg Act*, C.C.S.M., c. U70 ("Act");
3. Pursuant to Section 34(2) of the Act, an action or other proceeding for damages cannot be instituted against the University of Winnipeg ("University") or its officers or employees. Consequently the Plaintiff is foreclosed from bringing his claim.
4. Section 12(2)(d) of the Act provides for its Board of Regents ("Board") to exercise internal disciplinary jurisdiction over the non-academic conduct of students, including the power to expel or to suspend for cause.
5. Section 12(2)(e) of the Act provides for the Board to establish rules and procedures for the conduct of its own proceedings, including establishing standing and other committees.
6. The University, through the Board, passed a Policy for Student Non-Academic Conduct and Discipline, which was in effect at the time that the Plaintiff was a registered student at the University; and which Policy and procedures were implemented and followed to deal with the Plaintiff's conduct, the result of which the Plaintiff was suspended from the University.
7. The University has the authority to deal with matters of academic and non-academic matters relating to student participation. Therefore, the Courts do not have jurisdiction to entertain the action commenced by the Plaintiff.
8. In the alternative, the tort of conspiracy to injure does not apply to the Defendants in these circumstances.
9. There is no genuine issue for trial as the Plaintiff's claim is bound to fail.
10. Where the Court is satisfied that there is no genuine issue for trial with respect to a claim, the Court shall grant summary judgment accordingly; and;

11. Such further and other grounds as counsel may advise and this Honourable Court permit.

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

1. the pleadings herein;
2. the Affidavit of Colin Russell, to be filed;
3. such further and other material as counsel may advise and this Honourable Court permit.

January 7, 2013

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