

Superior Court of Justice
Cour supérieure de justice

Plaintiff's Claim
Demande du demandeur

Form / Formule 7A Ont. Reg. No. / Règl. de l'Ont. : 258/98

58871/08
Claim No. / N° de la demande



Plaintiff No. 1 / Demandeur n° 1

Small Claims Court / Cour des petites créances de

601 Rossland Rd. EAST

Address / Adresse

WHITBY, ONT L1N 9G7

(905) 430-5800

Phone number / Numéro de téléphone

- ☐ Under 18 years of age.
Moins de 18 ans.
- ☒ Additional plaintiff(s) listed on attached Form 1A.
Le ou les demandeurs additionnels sont mentionnés sur la formule 1A ci-jointe.

Last name of individual or name of company, etc. / Nom de famille du particulier ou nom de la compagnie, etc.

JOSEPH

First given name / Premier prénom

299 DOWIE COURT, OSHAWA, ONTARIO

Second given name / Deuxième prénom

Also known as / Également connu(e) sous le nom de

Address for service (street & number, unit, municipality, province) / Adresse aux fins de signification (numéro et rue, unité, municipalité, province)

L1G 6G7

(905) 728-2133

Postal code / Code postal

Phone no. / N° de téléphone

Fax no. / N° de télécopieur

Representative / Représentant(e)

LSUC # (if applicable) / N° du BHC (le cas échéant)

Address for service (street & number, unit, municipality, province) / Adresse aux fins de signification (numéro et rue, unité, municipalité, province)

Postal code / Code postal

Phone no. / N° de téléphone

Fax no. / N° de télécopieur

Defendant No. 1 / Défendeur n° 1

- ☐ Under 18 years of age.
Moins de 18 ans.
- ☐ Additional defendant(s) listed on attached Form 1A.
Le ou les défendeurs additionnels sont mentionnés sur la formule 1A ci-jointe.

SINCLAIR

Last name of individual or name of company, etc. / Nom de famille du particulier ou nom de la compagnie, etc.

RITCHIE

First given name / Premier prénom

Second given name / Deuxième prénom

Also known as / Également connu(e) sous le nom de

Address for service (street & number, unit, municipality, province) / Adresse aux fins de signification (numéro et rue, unité, municipalité, province)

APT 1604, 30 HILLSBORO AVE
TORONTO, ONTARIO

MSR 137

Postal code / Code postal

Phone no. / N° de téléphone

Fax no. / N° de télécopieur

Representative / Représentant(e)

LSUC # (if applicable) / N° du BHC (le cas échéant)

Address for service (street & number, unit, municipality, province) / Adresse aux fins de signification (numéro et rue, unité, municipalité, province)

161 SCOLLARD STREET, TORONTO, ONTARIO
MSR 1G4

416 924 5084

416 920-6306

Postal code / Code postal

Phone no. / N° de téléphone

Fax no. / N° de télécopieur

Within seven (7) calendar days of changing your address for service, notify the court and all other parties in writing.
Dans les sept (7) jours civils qui suivent tout changement de votre adresse aux fins de signification, veuillez en aviser par écrit le tribunal et les autres parties.

CAUTION TO DEFENDANT(S): If you do not FILE A DEFENCE (FORM 9A) with the court WITHIN TWENTY (20) CALENDAR DAYS after you have been served with this Plaintiff's Claim, JUDGMENT MAY BE OBTAINED WITHOUT NOTICE AND ENFORCED AGAINST YOU.

AVERTISSEMENT AU(X) DÉFENDEUR(S): Si vous ne DÉPOSEZ PAS DE DÉFENSE (FORMULE 9A) auprès du tribunal AU PLUS TARD VINGT (20) JOURS CIVILS après avoir reçu signification de la présente demande du demandeur, UN JUGEMENT PEUT ÊTRE OBTENU SANS PRÉAVIS ET ÊTRE EXÉCUTÉ CONTRE VOUS.

PLAINTIFF'S CLAIM / DEMANDE DU DEMANDEUR

58871108
Claim No. / N° de la demande

☐ Plaintiff No. / Demandeur n° KINSMAN ROBINSON GALLERIES ☒ Defendant No. / Défendeur n° 2
Last name of individual or name of company, etc. / Nom de famille du particulier ou nom de la compagnie, etc.

First given name / Premier prénom 108 Second given name / Deuxième prénom Cumberland Street, TORONTO, ONT Also known as / Également connu(e) sous le nom de
Address for service (street & number, unit, municipality, province) / Adresse aux fins de signification (numéro et rue, unité, municipalité, province)
MSK 1A6 416 964 2374 416 964 9042
Postal code / Code postal Phone no. / N° de téléphone Fax no. / N° de télécopieur

Representative / Représentant(e) LSUC # (if applicable) / N° du BHC (le cas échéant)
Address for service (street & number, unit, municipality, province) / Adresse aux fins de signification (numéro et rue, unité, municipalité, province)
Postal code / Code postal Phone no. / N° de téléphone Fax no. / N° de télécopieur

☐ Plaintiff No. / Demandeur n° ☐ Defendant No. / Défendeur n°
Last name of individual or name of company, etc. / Nom de famille du particulier ou nom de la compagnie, etc.

First given name / Premier prénom Second given name / Deuxième prénom Also known as / Également connu(e) sous le nom de
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Postal code / Code postal Phone no. / N° de téléphone Fax no. / N° de télécopieur

☐ Plaintiff No. / Demandeur n° ☐ Defendant No. / Défendeur n°
Last name of individual or name of company, etc. / Nom de famille du particulier ou nom de la compagnie, etc.

First given name / Premier prénom Second given name / Deuxième prénom Also known as / Également connu(e) sous le nom de
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Representative / Représentant(e) LSUC # (if applicable) / N° du BHC (le cas échéant)
Address for service (street & number, unit, municipality, province) / Adresse aux fins de signification (numéro et rue, unité, municipalité, province)
Postal code / Code postal Phone no. / N° de téléphone Fax no. / N° de télécopieur

The plaintiff(s) claim(s) from you \$ 10,000, court costs, interest in accordance with
 Le ou les demandeurs vous (Principal amount / \$, ainsi que des dépens et des intérêts conformément
 demandent paiement de Montant en principal)

the Courts of Justice Act or payable by agreement at a rate of 5% % per year, being
 à la Loi sur les tribunaux judiciaires ou exigibles par accord au taux de pour cent par an,

pre-judgment interest of \$ _____ to the date this claim was prepared, and post-judgment
 soit des intérêts antérieurs au jugement de \$ jusqu'à la date de préparation de la présente demande

interest.
 et des intérêts postérieurs au jugement.

To obtain forms and self-help materials to assist you in filing a Defence (Form 9A), attend the nearest Small Claims Court or access the following website: www.ontariocourtforms.on.ca.
 Vous pouvez obtenir les formules et la documentation à l'usage du client qui pourront vous aider à déposer une défense (formule 9A) auprès de la Cour des petites créances de votre localité ou en consultant le site Web suivant : www.ontariocourtforms.on.ca.

TYPE OF CLAIM / NATURE DE LA DEMANDE

(Check as many as apply / Cochez la ou les cases qui s'appliquent)

☐ Construction/Renovation
 Construction/rénovation

☐ Motor Vehicle Accident
 Accident de véhicule automobile

☐ Real Estate
 Bien immeuble

☐ Contract
 Contrat

☒ Negligence
 Négligence

☐ Sale of Goods
 Vente d'objets

☒ Damage to Property
 Dommages causés à des biens

☐ N.S.F. Cheque
 Chèque sans provision

☐ Services Rendered
 Services rendus

☐ Estates/Wills
 Successions/testaments

☐ Professional Malpractice
 Négligence professionnelle

☐ Unpaid Account/Invoice
 Compte/facture impayé(e)

☐ Landlord/Tenant
 Locateur/locataire

☐ Promissory Note
 Billet

☐ Wrongful Dismissal
 Congédiement injustifié

☐ Other:
 Autre :

REASONS FOR CLAIM AND DETAILS / MOTIFS DE LA DEMANDE ET PRÉCISIONS

In separately numbered paragraphs, give a full explanation of what happened, including the dates and places involved. Calculate and explain the amount of money which you are claiming.

Indiquez en détail sous forme de paragraphes numérotés ce qui est arrivé, y compris la ou les dates et le ou les lieux en cause. Calculez et précisez la somme d'argent que vous demandez, en l'expliquant.

If you are relying on any documents or other material, you **MUST** attach copies to the claim. If evidence is lost or unavailable, you **MUST** explain why it is not attached.

Si vous vous appuyez sur des documents ou d'autres pièces, vous **DEVEZ** en annexer des copies à la demande. Si une preuve est perdue ou n'est pas disponible, vous **DEVEZ** expliquer pourquoi elle n'est pas annexée.

see attached documentation
and EXHIBITS

(If more space is required, attach and number separate sheets. / Si vous avez besoin de plus d'espace, annexe et numérotez une ou des feuilles supplémentaires.)

Prepared on:
Fait le :

December 22nd, 20 08

Issued on:
Délivré le :

December 22, 20 08

Joe O'Farrell

(Signature of plaintiff or representative / Signature du demandeur/de la demanderesse ou du/de la représentant(e))

C. McNally
Registrar/Greffier

(Signature of clerk / Signature du greffier)

Statement of Claim

Sinclair and Kinsman Robinson

Mr. Sinclair is the owner /operator of the web site www.morrisseau.com in which he has to date (December 22nd, 2008) identified over 1000+ painting(s) of the late artist Norval Morrisseau as "fakes" on this web site. He has labelled these paintings as "fakes", "Inferior Counterfeits" and listed a whole series of adjectives to describe these paintings as per Exhibit # 1. In this Exhibit Mr. Sinclair clearly defines what he means when he labels a painting as "CounterFeit", "Inferior" and "Authentic". By doing so Mr. Sinclair is and has made clearly defamatory and inflammatory statements on his web site.

He has in effect slandered the title to these paintings including two (2) which are/were owned by me. The Kinsman Robinson Gallery is also a party to these misrepresentations which they know are false by providing Mr. Sinclair with a platform to which he further disseminate these false statements to Kinsman Robinson's clients and to the public at large. Mr. Sinclair is prominently featured on the Kinsman Robinson web site through Kinsman Robinson's blog called www.genuinemorrisseau.blogspot.com. On that blog Mr. Sinclair has been videotaped by along time employee (since 1989) of Kinsman Robinson John Macgregor Newman (Associate Director) labeled "Questionable Works" and "Apprenticeship Vs Fraud Revisited as per Exhibit # 2 and Exhibit # 3. Moreover, the Kinsman Robinson Gallery provided a direct link from their web site to Mr. Sinclair web site www.morrisseau.com where Mr. Sinclair's wild claims of posting over 1,000 fake images of the artist Norval Morrisseau can be seen. It is done In Exhibit # 3 at the end of the article where the link is titled "More". Once the user clicks on the icon the reader is taken directly to www.morrisseau.com. Furthermore, on Mr. Sinclair's web site www.morrisseau.com as per Exhibit # 4 Mr. Sinclair clearly highlights and shows the video's of his conservation's which were done at the Kinsman Robinson gallery.

Mr. Sinclair as per Exhibit # 5 and Exhibit # 6 has identified these paintings as "fakes" etc. The one painting fake number # 256 as per Exhibit # 5 was in fact in my possession but was donated to the Thunder Bay Art Gallery by my family. Enclosed please find a copy of that submission as per Exhibit # 7. This painting was vetted by the Thunder Bay Art Gallery, it's staff and then further vetted and approved by the Government of Canada as per the Cultural Property Review Board. Despite this, this painting has been identified and labeled a "fake" on Mr. Sinclair's web site www.morrisseau.com. This is relevant because the source of that painting is the same as "fake" number # 324 called " Jesuit Priest Bringing Word" as per Exhibit # 6. Mr. Sinclair calls it a fake without even knowing who owned the painting. I gave the image of this painting to Mr. Ugo Matulic who posted this image on his blog called www.norvalmorrisseau.blogspot.com. as per Exhibit # 8. Mr. Sinclair copied that image from that web site and put it on his web site www.morrisseau.com and called it a "fake". Mr. Sinclair even calls it a "fake" from Ugo on his (Mr. Sinclair's web site) and even refers to Mr. Matulic's blog and refers to the paintings as a "fake" not knowing that I own it. As per Exhibit # 9 I enclose a copy of the sales receipt and a picture of the painting (both front and back) at my home.

The importance of that fact that this painting was purchased at Randy Potter Auctions which is the same source that Don Robinson of Kinsman Robinson bought from as per Exhibit # 10 which includes a statement from the auction house owner Mr. Randy Potter.

I personally met with Mr. Sinclair on February 12th, 2004 as per Exhibit # 11. As it turns out Mr. Sinclair didn't pay his storage fees and it's contents were impounded by Centron Self Storage who just happened to consign it to Randy Potter Auctions. I was sitting close to Mr. Sinclair as I bid on several Norval Morrisseau paintings. Mr. Sinclair commented to me on the quality of the Norval Morrisseau paintings' at Potter Auctions and even mentioned to me that he hoped one day he could own one. That night I personally bought (3) three painting by Norval Morrisseau as per Exhibit # 12 which are a true copy of the sales receipts from Potter Auctions. Moreover, included please find a copy of the receipts which Mr. Sinclair's companion Mr. Holder Lynn purchased the same night also as per Exhibit # 13. Nobody wanted to purchase Mr. Sinclair's paintings which were impounded by Centron and Mr. Sinclair's friend bought back Mr. Sinclair's own art on the same night (Feb 12th, 2004).

Kinsman Robinson is and was fully aware that the paintings on www.morrisseau.com were either purchased from Potter Auctions or from the web sites of the galleries on their competitors which are named by Mr. Sinclair on the web site. Please refer now to Exhibit # 14 which is from a now defunct log named www.honouringnorvalmorrisseau.blogspot.com where the same interview from Mr. Sinclair was highlighted on that blog. The owner of that blog which I will not name agreed to voluntarily shut down that blog in mid October 2008. The writer who went by the handle Raven admits such and was posted by Kinsman Robinson on Kinsman Robinson's own blog as per Exhibit # 15.

"Faced with a potential lawsuit, I had a choice to make about continuing the blog. As I have no financial interest in the authentication issue either way, it is wise for me to exit given the new levels of nastiness this matter has reached. It appears that public statements made by Ritchie Sinclair at morrisseau.com and on the KRG blog have caused this matter to boil over. I wish you all well and thank you for your complementary emails. Hopefully this matter will be resolved soon because it is killing the native art movement."

Kinsman Robinson even enters the comments from Mr. Sinclair on their blog as per Exhibit # 16. It is posted by stardreamer who is Mr. Sinclair. Mr. Sinclair starts off by thanking Kinsman Robinson for posting his interview and states

"My eyes are now wide open and I see an over whelming ever-growing body of evidence that tells me that I absolutely must do what I can to stop this. What I see dangerous, dark pieces of art, that I for one would not hang above my bed and expect a good nights sleep.

What Mr. Sinclair is doing is posting images of Norval Morrisseau paintings which he admits he gathered (see below) from the Internet and is now calling them "fakes".

Thus, Kinsman Robinson knew of the problems in the marketplace created by Mr. Sinclair and still encouraged and facilitated Mr. Sinclair's wild claims of "fake" Norval Morrisseau's in the marketplace. Moreover, Kinsman Robinson proactively redirected people to Mr. Sinclair's web site. The link is from the Kinsman Robinson site to Mr. Sinclair's web site. This was and is an action which could only have been initiated and implemented by Kinsman Robinson – it is their web site. Moreover, the link has to be established on Kinsman Robinson's network and through the various software programs on their computer systems. Moreover, the title, labeling, content and innuendo contained in these articles invite the reader to migrate to Mr. Sinclair's site. What else could reasonably be expected when a reader reads the banner "Questionable Works" and "Fraud Vs Apprenticeship". It is clear that they are designed and intended to redirect the reader to Mr. Sinclair's web site and its obvious misrepresentations. Mr. Sinclair claims over 1,000 paintings as "fakes" and what does he offer as evidence. Nothing. Kinsman Robinson are aware of the obvious market implications of Mr. Sinclair's misrepresentations and have given him a platform to spread these falsehoods.

Mr. Sinclair is also the owner/operator of another web site called www.stardreamers.com where he has over the years posted paintings from Norval Morrisseau on this site. At that point in time he was merely posting images with the following disclaimer as per Exhibit # 17.

"The images posted in this archive are not for sale. They are simply pictures that I collected from various internet art sources years ago and posted here for inspiration and enjoyment. With the exception of paintings that I witnessed painted or Exhibited by Morrisseau I have no way of discerning whether the images shown here are all authentic Morrisseau originals. Nevertheless, Enjoy!"

At the time of this filing the web site www.stardreamers.com is no longer in operation. Since Mr. Sinclair admits that he has no way of discerning what is and what is not a original work by Mr. Morrisseau how can he claim that the painting which is the subject of this lawsuit is a "fake"? Moreover, Kinsman Robinson would have been aware of this and yet still redirect their clients' and the public to Mr. Sinclair's web site.

Mr. Sinclair and Kinsman Robinson are also the only two (2) parties who to this day suggest that Norval rarely if titled his paintings and if he ever signed the back of his paintings, it was never in black acrylic as per Exhibit's 18, 19 and 20. They have done this to try and reinforce this false perception. Please refer to Exhibit # 18 from the Kinsman Robinson blog of August 28th, 2008 called Fighting Smears: Auction canvases "After investigation, we found out that none of these paintings had heavy black, faded writing on the back. In twenty-years of dealing in Morrisseau's art, I observed that Norval had rarely written anything on the back of any canvas, but when he did, it was always in pencil or ballpoint pen-never in black paint."

And from the Kinsman Robinson blog as per Exhibit # 19 called Authenticity Guaranteed
"And generally speaking , he didn't title his paintings on the front-Rarely on the back side either"

As per Exhibit # 20 which is per Mr. Sinclair's blog where he makes the same claim, where he claims that

"I never once him sign the back of canvasses in black paint".

Mr. Sinclair further states in his blog

"Further more, I find it absurd that Norval would paint on the back of these paintings."

As per Exhibit # 21 I enclose a statement from a gallery owner who has pictures of Mr. Morrisseau with Mr. Gade Vadas along with pictures of painting which are dated, some are titled and all are signed on the back in acrylic. I have even included local newspaper clipping which confirm the above with show Mr. Debassiage , Mr. Morrisseau and Mr. Vadas would claimed to be Norval's adopted son called Weekan all in the same picture.

In conclusion, I seek damages of \$10,000 which is the approx. fair market value of the painting as determined in part per Exhibit # 7. The (FMV) of four similar Morrisseau's from the same source, time period and style, format, content etc were appraised at approx. \$33,500/4 or \$8375.00 in 2004. Given that this valuation was done before the artist's death a current valuation of \$10,000 per price today was not unreasonable. Moreover, given the condition and the subject matter (i.e. religious motif) a valuation of \$10,000 is quite reasonable. By slandering the title of the painting by publicly calling it a "fake" it has no value. Mr. Sinclair and the Kinsman Robinson gallery have slandered it's title and must either prove it a "fake" or admit it's an authentic.