

Superior Court of Justice  
Cour supérieure de justice



Plaintiff's Claim  
Demande du demandeur

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

SC07-51428-00

Small Claims Court / Cour des petites créances de

47 Sheppard Ave East, 3rd Floor

TORONTO, ONT, M2N 5X5

(416) 326-3354

Phone number / Numéro de téléphone

Claim No. / N° de la demande

Plaintiff No. 1 / Demandeur n° 1

- 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.

OTAVNIK

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

Second given name / Deuxième prénom

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

299 Dover Cr., OSHAWA, ONTARIO (Durham Region)

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

L1G 6G7

(905) 724-2133

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.

VADAS

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

GABOR

MICHAEL

First given name / Premier prénom

Second given name / Deuxième prénom

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

5735 Alder Way, NANAIMO, British Columbia

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

V9T 5N4

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

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

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](http://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](http://www.ontariocourtforms.on.ca).

## TYPE OF CLAIM / NATURE DE LA DEMANDE

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

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Construction/Renovation<br>Construction/rénovation           | <input type="checkbox"/> Motor Vehicle Accident<br>Accident de véhicule automobile | <input type="checkbox"/> Real Estate<br>Bien immeuble                       |
| <input type="checkbox"/> Contract<br>Contrat  | <input checked="" type="checkbox"/> Negligence<br>Négligence                       | <input checked="" type="checkbox"/> Sale of Goods<br>Vente d'objets         |
| <input checked="" type="checkbox"/> Damage to Property<br>Dommages causés à des biens | <input type="checkbox"/> N.S.F. Cheque<br>Chèque sans provision                    | <input type="checkbox"/> Services Rendered<br>Services rendus               |
| <input type="checkbox"/> Estates/Wills<br>Successions/testaments                      | <input type="checkbox"/> Professional Malpractice<br>Négligence professionnelle    | <input type="checkbox"/> Unpaid Account/Invoice<br>Compte/facture impayé(e) |
| <input type="checkbox"/> Landlord/Tenant<br>Locateur/locataire                        | <input type="checkbox"/> Promissory Note<br>Billet                                 | <input type="checkbox"/> Wrongful Dismissal<br>Congédiement injustifié      |
| <input type="checkbox"/> Other: _____<br>Autre :                                      |  |   |

PLAINTIFF'S CLAIM / DEMANDE DU DEMANDEUR

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: April 16<sup>th</sup>, 20 07  
Fait le :

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

Issued on: APR 16 2007, 20  
Délivré le :

*[Signature]*  
(Signature of clerk / Signaturé du greffier)

### Statement of Claim

I contend that Mr. Vadas interfered in the sales process between myself and a third party (Heffel Auction house) which directly lead to a loss of sale (and revenue) on my part. My damages are estimated at the amount I could have reasonably been expected to receive given past sales results (and current projections) made at Heffel with respect to the same artist-Norval Morrisseau.

On Aug 1<sup>st</sup>, 2006 I entered a consignment agreement with Heffel Auction house in Toronto, Ontario as per Exhibit # 1. The lots are labeled AOL0906-E04085-001 and AOL0906-E04085-002. Heffel took possession of the lots on Aug 1<sup>st</sup>, 2006 and the lots were to be offered in the upcoming September on line auction which was to start on approx. 4.00pm EST Sept 4, 2006 and was to end approx. on September 30<sup>th</sup>, 2006. The items were initially posted on the on line auction for approx. for a week before they were taken down all of a sudden on and about September 12<sup>th</sup>, 2006. My two lots and 4 others were taken off approx. 1 week later right after the email sent by Mr. Vadas to Judy Scolnik at Heffel as per Exhibit # 2 as per lots # 027, 030, 032, 033,034 and 035. (Judy Scolnik was the same person that accepted my consignment.) All of the items from all consignors which Mr Vadas said were fakes were withdrawn and not sold . Enclosed please find Exhibit # 3 which is the auction sale results for the Sept on line auction with corresponding lot numbers. (I submit that it is not a coincidence that Mr. Vadas complained about all the lots and all the lots were removed).

Mr Vadas claimed that my two lots were not authentic. I am suing with respect to lot AOL0906-E04085-002. Enclosed please find a forensic document as per Exhibit # 4 which confirms that Norval did sign the lot in question. Given that the lot in question was painted in 1969 it is only common sense that the signature and painting have shown wear and tear through the years. This report is from an independent forensic expert and I have enclosed his extensive CV. The signatures are not something Mr. Vadas would have seen because it was not shown on the on line auction and he never personally viewed the item because he complained via email from his home province of British Columbia. Moreover, at best Heffel could have only provided Mr. Vadas with a photograph of the signature.

I have enclosed a statement of opinion form a very experience retailer who has sold Norval's work for over forty years and is the recognized expert on Norval Morrisseau-Joe McLeod. I have enclosed his extensive CV as per Exhibit # 5. I have several other art dealers who are willing to give my more opinions if required. I can <sup>also</sup> ~~only~~ if required provide statements from several art framers who are a very experienced and knowledgeable with respect to Norval's work and the authenticity of this painting. I have also enclosed a statement from one of Norval Morrisseau's son's- David with respect to the authenticity of this painting as per Exhibit # 6.

Also, enclosed please find a copy of a picture of Norval with his son Christian which was taken on Dec 9, 2006 in British Columbia at Norval's nursing home as per Exhibit #7. Christian Morrisseau is willing to testify to the fact that his father is in no condition to give any opinion on anything yet alone anything he painted over 35 years ago. It is also public knowledge that Norval is in the advanced stages of Parkinson's and may suffer from Korsakoff syndrome due to Norval's widely publicized alcohol and drug use of which he has freely admitted to publicly. Thus, I have statements from independent experts, art dealers, ~~framers~~ and members of Norval's family.

Mr Vadas has a pattern of threatening legal harm on anybody who is trying to sell any of Norval's work that was done prior to him meeting Norval on the streets of Vancouver in the late 1980's when they were both homeless. Enclosed please find Exhibit # 8 where Mr. Vadas threatened this auctioneer if he didn't stop selling works of art from Norval Morrisseau. This auctioneer (Randy Potter) ignored Mr. Vadas and Mr. Vadas has done nothing because he knows where the painting came from and he knows they are authentic.

Moreover, it is clear the Mr. Morrisseau has not rendered any opinion on anything nor does he care about his past work. He has made this abundantly clear in many interviews and newspaper articles. I can find articles and can have people attest to the fact that Norval doesn't even care if people are copying his style of painting or even if they are selling fakes. Norval Morrisseau is a true artist in the sense that he painted for himself and does not care about anything other than receiving satisfaction from his painting. It is Mr. Vadas who on his own claims to be speaking on Mr. Morrisseau's behalf but is actually speaking for himself and his own economic interests. The fact is that Norval Morrisseau was an established internationally known and respected artist for 30 years before he met Mr. Vadas on the streets of Vancouver. Indeed, Mr. Vadas has publicly admitted that he didn't even know who Norval was when he met him when they were both homeless.

Thus, I have statements from independent experts, art dealers, an auctioneer and members of Norval's family to verify the authenticity of the lot in question.

To conclude, I believe I have established the authenticity of the lot and question and was denied the opportunity to sell this lot due to the actions of Mr. Vadas. I now turn to my calculation of damages.

Calculation of Damages. (As per Exhibit #9)

Lot # AOL0906-E04085-001 was listed in September on line auction at a low bid of \$5000 to a high bid of \$7000 with a mid point of \$6000.

In the same auction

Lot	Low	High	Mid	Actual sales Price	Sales price/Mid
26	3000	4000	3500	\$11000	3.14
28	2000	3000	2500	2750	1.1
031	1200	1500	1350	4250	3.14
029	3500	4500	4000	5000	1.25
?	4000	5000	4500	19000	4.22 *
Average					2.57

\* I have not been able to ascertain the exact figure as Heffel has not allowed me to purchase their on line auction results so I am going on what I remember.

Since the lot in question had a mid point of \$6000 and since actual sales have averaged at least 2 times the mid point of the low-high auction estimate I estimate the potential sale at approx. \$12,000 so I am claiming \$10,000 plus my expenses.