

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**JOSEPH MCLEOD (c.o.b. as MASLAK MCLEOD GALLERY), JACKIE
BUGERA, BUGERA HOLDING LTD. (c.o.b. as BEARCLAW ART GALLERY),
JAMES WHITE, WHITE DISTRIBUTION LIMITED, DONNA CHILD,
ARTWORLD INC. (c.o.b. as ARTWORLD OF SHERWAY), SUN NAM KIM
("SUNNY KIM"), and GALLERY SUNAMI INC. (c.o.b as GALLERY SUNAMI)**

Plaintiffs

- and -

**RITCHIE SINCLAIR (also known as "RITCHIE ROSS SINCLAIR", "RICHIE
SINCLAIR", "STARDREAMER", and "BLACKMAGIC")**

Defendant

AFFIDAVIT OF RITCHIE SINCLAIR

**I, RITCHIE SINCLAIR, OF THE CITY OF TORONTO, IN THE PROVINCE OF
ONTARIO, MAKE OATH AND SAY:**

Introduction

1. I am the Defendant to the within action and am the Respondent to the Plaintiffs' motion for an interim injunction, and as such have knowledge of the matters to which I hereinafter depose.
2. I fully intend to vigorously defend against the allegations made against me by the Plaintiffs. I acknowledge that I am the operator of the web site known as

Morrisseau.com and I acknowledge that on Morrisseau.com, I stated that certain paintings that have been attributed to Norval Morrisseau are actually counterfeit. I am justified in making such statements because they are true. In addition, my statements constitute fair comment.

About Norval Morrisseau

3. This matter concerns the artwork of the artist, Norval Morrisseau, who was recognized by the assembly of First Nations as the Grand Shaman of the Anishnaabe people. He is Canada's most popular and famous First Nation's artist. Attached hereto to this my Affidavit and marked as **Exhibit "A"**, is a true copy of *Wikipedia's* entry about Norval Morrisseau, dated, January 3, 2009, which I am advised by and verily believe to be true.

4. Norval Morrisseau, a Member of the Order of Canada, was born in 1932 and raised on the Sand Point Reserve near Lake Nipigon in Northern Ontario. He was acknowledged as Grand Shaman of the Ojibwa in 1986 and, in 1995 the Assembly of First Nations bestowed upon him their highest honour; the presentation of an eagle feather. In 1989, Morrisseau, whom the French press dubbed the "Picasso of the North", was the only Canadian artist invited to exhibit at the Centre Georges Pompidou in Paris as part of the French Revolution Bicentennial celebrations. Morrisseau became one of the first artists inducted into the Royal Society of Canada, which consists of 1,800 distinguished Canadians selected by their peers for their outstanding contributions to the arts, natural and social sciences, and the

humanities. In 2006, the National Gallery of Canada mounted, “*Norval Morrisseau - Shaman Artist*”, a travelling retrospective exhibition of the artist's work. Norval Morrisseau passed away on December 4, 2007, a year previous to the day of the return of the Plaintiffs’ motion for an interim-interim injunction, on December 4, 2008.

5. A Grand Shaman is a unique office. Once every seven generations a Grand Shaman is born to guide his people by continuing the record of sacred scrolls that bridge their collective past with their common future. According to Morrisseau, he was the last in an unbroken line that stretches back to a time before the Great Migration, 11,000 years ago. Attached hereto to this my Affidavit and marked as **Exhibit “B”**, is a true copy of a page from a book entitled, *Notes on Ojibwa Folk-Lore*, published in July 1889 by W.J. Hoffman M.D., where the birchbark sacred scrolls of the last Grand Shaman are passed on in 1825, which I am advised by and verily believe to be true.
6. Attached as **Exhibit “C”**, is a true copy of the front page of the *Globe & Mail* newspaper, dated October 31, 2008, which shows the newly sworn-in Cabinet of the Government of Canada in front of a Morrisseau painting displayed at Rideau Hall.
7. Also attached hereto to this my Affidavit and marked as **Exhibit “D”**, is a true copy of a *Press Release* from the Lieutenant Governor of Ontario, the Honourable David C. Onley, dated December 5, 2007, extolling the great significance of the Thunderbird School and of Norval Morrisseau himself, and mourning his passing.

My Background and Relationship with Norval Morrisseau

8. I am 52 years of age. I live in Toronto. I am a graduate of George Brown College where I obtained my Diploma in Commercial Art in 1979, on the very same day that I met Norval Morrisseau (“Norval” or “Morrisseau” or “Norval Morrisseau”) for the very first time. I am self-employed as an artist and web site designer.

9. In 1979 Norval Morrisseau chose me to be his artistic apprentice. Commencing in 1979, I lived and worked with him at numerous locations over the course of numerous years. As his protégé, I mixed his paints, stretched his canvasses, painted backgrounds for him, observed his work and his methods, and was trained and tutored by him in art.

10. I am recognized by Norval Morrisseau’s principal art dealers as his protégé and as a teacher, leader and proponent of Morrisseau’s ‘Thunderbird School of shamanistic arts’. Attached hereto to this my Affidavit and marked as **Exhibit “E”**, is a true copy of my own “*Artist’s Statement*” which was *signed* by Norval Morrisseau in 1994, wherein he formally “authorized” me to teach and inspire children and people in the shamanistic arts.

11. Attached hereto to this my Affidavit and marked as **Exhibit “F”**, is a true copy of a 1979 acrylic painting created and signed by *both* Norval Morrisseau *and* myself. Painting ‘in tandem’ is a cornerstone of the Thunderbird School of art.

12. The Thunderbird School and its artists, including myself, were important to Morrisseau, coming at the undisputed height of his career. The following excerpt is from the Wikipedia article about Norval Morrisseau, *supra at Tab "A"*:

“In 1979, he created the Thunderbird School of Shamanistic Arts. This "school of artists" was Morrisseau's way of responding to the Woodland School phenomenon, which he claimed was merely a "Media" creation, and not by his design. The Thunderbird school which he envisioned and created consisted of Morrisseau, and his three apprentice Shaman artists: Ritchie "Stardreamer" Sinclair, Carl "Sunshine" Henderson and Brian "Little Hummingbird" Marion.”

13. In 1994, I painted a 22 foot by 16 foot mural, comprising 29 separate canvasses, entitled, “The Meeting Place”, which featured traditional inlay painted by Morrisseau’s other protégé, Brian Marion. This work of art was the centerpiece of the *First International Pow Wow* which was held at Toronto’s Skydome in or around June, 1994. Hundreds of native dancers danced in front of and below my mural. Attached hereto to this my Affidavit and marked as **Exhibit “G”**, is a true copy of an article from Art Focus magazine, dated April, 1997, promoting this mural. Also attached as Exhibit “G”, is a true copy of a photograph of the mural hanging from the roof of Skydome with myself standing in front of it.

14. On Sept 28, 1997, I was publicly initiated by Norval Morrisseau in a sacred *Beardance Ceremony* which took place at the *McMichael Canadian Collection* in Kleinberg, Ontario. Guiding proceedings in his role as the Grand Shaman of the Midewin, or Grand Medicine Society, of the Anishnaabe people, Morrisseau officially passed on responsibility to me to carry on his inspirational artistic

movement. Also in attendance was Signe McMichael, Robert McMichael, Don Robinson, Gabe Vadas and many others.

15. In 1999, I published a well respected E-book about Morrisseau and Woodland School art entitled, "*Woodland Gold. A 21st Century Guide to the Woodland Art Movement*" that is available on the internet at <http://WoodlandGold.com>.

16. On Sept 6, 2008, an exhibition of my recent art entitled, "Spirit" opened at the Scollard Street Gallery at 112 Scollard Street in Yorkville, Toronto, Ontario. The show ran through October 6, 2008. It was dedicated to Morrisseau and featured a 6-panel 17 foot by 6 foot mural entitled, "A Great Spirit; The Sleeping Giant of Thunder Bay Returns", and depicted Morrisseau's passage to the other side. Attached hereto to this my Affidavit and marked as **Exhibit "H"**, is an image of this mural which I painted to honour Morrisseau and to educate Canadians about his significance.

17. When Norval Morrisseau passed away on December 4, 2007, I personally organized and paid for the Norval Morrisseau Memorial, "*Gathering of the People*", which took place at the Native Canadian Centre of Toronto on Saturday, December 8, 2007.

18. The Memorial gathering was well-publicized in the media and brought together many people who admired, knew, and loved Morrisseau. To the best of my knowledge, the Plaintiffs were not among those in attendance. Attached hereto to this my Affidavit and marked as **Exhibit "I"**, is a true copy of a *Toronto Star* article published Dec. 9,

2007, entitled, “*Artist remembered as great Shaman*”, wherein it is reported that Brian Marion and I had vowed to honour the vision quest which we shared with Morrisseau, of externalizing the Copper Thunderbird School of Shamanistic Arts.

19. As a Canadian, as an artist, as a teacher, as Morrisseau's protégé, and as his friend and comrade, I feel that I have a responsibility of conscience to share what I know about counterfeit Morrisseau paintings which Morrisseau himself referred to as “*Abominations*”. I am deeply concerned about the massive number of these inferior counterfeit Morrisseau paintings flooding the Canadian art market.

The Ongoing Controversy and Concern Regarding Counterfeit Morrisseaus

20. Over the years there has been tremendous controversy concerning counterfeit Norval Morrisseau artwork. Attached hereto to this my Affidavit and marked as **Exhibit “J”**, are true copies of articles from the Canadian media that all disclose and discuss the ongoing controversy and concern regarding widespread forgery and counterfeiting of Norval Morrisseau paintings, which I am advised by and verily believe to be true.

21. The article from the Canadian Broadcasting Corporation, entitled, “***Group to Authenticate Morrisseau Artwork***” dated March 24, 2005, *Supra at Tab J*, which I am advised by and verily believe to be true, states that, “*Forgeries are so abundant that Morrisseau recently put an ad in the Globe and Mail newspaper saying: “for the record, I would like to state that Kinsman Robinson Galleries are my sole authorized representatives in Canada”*”. The article also reports that “*Morrisseau hired a private*

investigator to track down the source or sources of the forgeries, which have cropped up across Canada'. The article furthermore quotes Aaron Milrad, a Toronto lawyer representing Norval Morrisseau, saying that a 'committee of five Morrisseau experts is being assembled to help stem the proliferation of fake Norval Morrisseau paintings'.

22. The article from the Globe & Mail, entitled, “**Morrisseau Moves to Authenticate Art**”, dated March 23, 2005, *Supra at Exhibit J*, which I am advised by and verily believe to be true, quotes Aaron Milrad as saying that, “*there are considerable numbers of bogus Morrisseaus out there that people are buying in good faith....But its not his hand, its not his image, its not his colour and one day they're going to find out what they have is not what they thought they were getting*”.

23. The Sun Media article entitled, “**Artist with Parkinson's rails against fakers who'd steal his life's work**”, dated October 24, 2007, *Supra at Exhibit J*, which I am advised by and verily believe to be true, reports that Norval Morrisseau “*wants his reputation back*” and “*wants to send the frauds and the fakers packing*”. He says that “[*they need*] a good swift kick”. The article further quotes Morrisseau lawyer Aaron Milrad as saying that, “[*The fakes*] hurt Norval's market, they hurt his ultimate reputation. That we cannot allow. He's the most original artist Canada has ever produced”. The article furthermore reports that “*letters have gone to dealers and auctioneers urging caution*”.

24. The Globe & Mail article entitled, "***Old Art Scam Surfaces Online***" from February 14, 2007, *Supra at Exhibit J*, which I am advised by and verily believe to be true, reports, in part, as follows:

"They're back. It's another invasion of the fake Norval Morrisseaus. For years, canvases allegedly done by the great Ojibwa artist have been turning up in galleries and at auction -- canvasses which the artist, through his business manager and friend Gabor Vadas, insists are bogus.

Now they're showing up on eBay. "It's a new wrinkle on an old scam," says Toronto lawyer Aaron Milrad, who acts for the artist and the Norval Morrisseau Heritage Society. And so far, eBay's position is that it's up to a vigilant public to inform eBay's 203 million registered members of fakes via an automated program; the company takes no further responsibility.

...

"All artists are entitled to do inferior works," says Milrad. "The problem is the fakes." He's referring to works Morrisseau knows he did not create. Often drably coloured with wonky signatures, they've turned up for more than a decade at auction and in galleries. Vadas has more than 1,000 examples on file.

Two years ago, the Norval Morrisseau Heritage Society formed a six-person committee of museum and government experts to compile a list of all authentic Morrisseaus. To date, the committee has identified about 1,200 pieces -- those with proper provenance thanks to gallery exhibitions or conscientious owners. The only way any vendor of a Morrisseau can claim it is genuine is if this committee authenticates it. Feheley has advised eBay that the real ADAC only stands behind those paintings endorsed by the committee.

In fact, fakes of all kinds are a growing problem for eBay. Last year, Louis Vuitton filed a civil suit against the on-line marketplace in France (it's estimated that 90 per cent of Vuitton bags on sale on eBay last year were phony). But lawsuits take time, and eBay, which sells about \$45-billion (U.S.) worth of goods annually, is well-equipped to defend itself.

...

Late last month, Milrad couriered a letter to eBay's San Jose, Calif., headquarters saying: "Before any purported Morrisseau works are accepted by you for sale, it is imperative that you and the seller have the work reviewed by the committee and the artist himself to avoid lawsuits."

In reply, eBay reiterated that the Morrisseau defenders should join VeRO.

As of Feb. 6, eBay still had two fake Morrisseaus on offer. Such legal wrangling, Vadas says, costs the Morrisseau estate about \$70,000 a year. It could get worse: Tiffany spends more than \$1-million a year (U.S.) tracking down on-line counterfeits.

But Vadas insists the expense is worth it, adding: "The fakes are a cultural catastrophe. We must keep Norval's legacy from becoming tainted."

25. The article from the National Post, entitled "***Morrisseau Fakes Alleged***", dated May 18, 2001, *Supra at Exhibit J*, which I am advised by and verily believe to be true, reports, in part, as follows:

"Celebrated native painter Norval Morrisseau has identified at least 23 paintings sold recently at auction as forgeries, launching off an investigation that could lead to hundreds of phony paintings attributed to him.

Donald Robinson, Mr. Morrisseau's gallery representative in Toronto, was approached last month by a collector who bought several paintings attributed to Mr. Morrisseau at Kahn's Country Auctions in Pickering, Ont. The collector wanted the works appraised, but Mr. Robinson was suspicious of their authenticity.

Mr. Robinson sent colour photocopies of 23 paintings to Mr. Morrisseau in British Columbia for identification. Mr. Morrisseau sent back a signed statement saying he did not paint any of the works in question.

The paintings were purchased from a collection of 850 paintings sold by Kahn's on behalf of a single dealer in Thunder Bay, Ont. Also included in the collection was a painting attributed to West Coast native artist Robert Davidson. The painting, dated 1975, has since been denounced by Mr. Davidson as a fake.

Randy Potter, who owns Kahn's, said he believed all the paintings he has sold are authentic. He has sold more than 500, he said, and the only complaints he has received have come from Mr. Robinson himself. "I've sold a lot of these to a lot of people, big dealers, collectors, and not one guy has ever come back [except Mr. Robinson]," he said.

However, Mr. Robinson said these paintings land suspicion to the entire collection.

“I had long thoughts there was something wrong with these paintings,” said Mr. Robinson, who bought some himself. “With all these numbers coming out, I just thought ‘this is impossible.’”

The alleged fakes first came to Mr. Robinson’s attention through the Thunder Bay RCMP, which had received a tip through Crime-stoppers. An RCMP officer in Thunder Bay declined to comment on the case.

If the lot contains more forgeries, the financial damages could run into the millions of dollars. Mr. Morrisseau, one of the country’s best-known and most marketable living painters, typically sells a medium-sized canvas for \$8,000 to \$9,000. At auction, the paintings sold for an average of \$2,000 to \$3,000, with some going for as much as \$9,000.

...

Mr. Robinson, who is perhaps the most knowledgeable person in the country on the subject of Mr. Morrisseau’s art, said there were several clues as to the paintings’ authenticity that would make Mr. Morrisseau’s final say formality.

Mr. Robinson says small details seem to be slightly off: Mr. Morrisseau’s signature, painted in native characters, is not quite right.

The titles, usually written on the back of the paintings, are too faded they are illegible, a characteristic Mr. Robinson say he has never seen in all his years dealing with Mr. Morrisseau’s paintings.

More than that, though, are the paintings themselves. Mr. Robinson, who describes them as “shoddy”, said they did not appear to exhibit Mr. Morrisseau’s touch.

“There’s a whole pile of clues, but mostly it’s the images,” he said. “Once you’ve seen hundreds of these, your eye gets attuned.

We know how he does faces, what the brush strokes look like, we’re so familiar with his stuff.” Allegations of forgeries of Mr. Morrisseau’s work are nothing new. “He’s been telling us for years about the fakes, and even the people who were painting them,” Mr. Robinson said.”

26. A true copy of a letter from Don Robinson, dated May 19, 2001, who is referred to in the aforementioned National Post article, as *“perhaps the most knowledgeable person in the country on the subject of Mr. Morrisseau’s art”*, to his art gallery clients, also refers to the same circumstances of the fraud reported in the aforementioned National

Post article, and is attached hereto to this my affidavit and marked as **Exhibit “K”**. I am advised by it and verily believe it to be true.

27. The article from the Ottawa Citizen, entitled, “***Morrisseau experts hunt for up to 10,000 pieces***”, dated January 2, 2007, *Supra at Exhibit J*, which I am advised by and verily believe to be true, reports that “fakes are such a problem that [the Norval Morrisseau Heritage Society] issued a warning this holiday season for shoppers to beware of what they are buying:

A work of art makes a very special Christmas gift you’ll treasure for a lifetime, but make sure you know what you are buying. There are many works available for sale to the public that are falsely attributed to Norval Morrisseau...”

28. The aforementioned Ottawa Citizen article also quotes Richard Baker, a Morrisseau lawyer and member of the Norval Morrisseau Heritage Society, as stating that “*the market has especially been flooded with fakes in the past five years...Norval’s work is fairly easy to copy....*”

29. The article from the Victoria Times Colonist, dated December 6, 2007, entitled, “***Morrisseau Paintings Bring Fans to Victoria Music Store***”, which I am advised by and verily believe to be true, quotes Paul Robinson, owner of Kinsman Robinson Galleries (one of Morrisseau’s long-standing principal art dealers), as stating that, “*Forgery has been a very serious problem that has taken in many buyers...its numbering in the thousands of works that are circulating in the market right now that are clearly not by [Morrisseau]. Internet sales are rampant and some of the bigger auction houses have declined to sell the artist’s work until things are more under*

*control.” The article also quotes Mr. Robinson as stating that *at least three or four people are involved in producing paintings signed in Ojibaway syllabic as Norval Morrisseau that clearly were not produced by him.**

My Personal Experience and Knowledge of Counterfeit Morrisseaus

30. I have personal experience and knowledge of the existence of counterfeit Norval Morrisseau artwork. In 2006 I joined Norval Morrisseau for his exhibition at the National Gallery of Canada. When I returned to Toronto I went by Heffel’s auction house, where a number of paintings attributed to Norval Morrisseau were being displayed for auction. On the back of various canvasses were dates such as “’79” and “’80”, together with apparent signatures of Norval Morrisseau, painted in black paint on the back.
31. During these years in particular, I had first-hand personal knowledge of virtually all of Norval Morrisseau’s artistic output because I was consistently working and living along side him on a daily basis, at studios located in Toronto, Vandorf, and Buckhorn, Ontario, yet these paintings were not among those that I assisted him with or observed him work on, nor did Norval paint any paintings during this period that resembled these ones. Furthermore, in painting side-by-side with Norval during the 1970’s, 1980’s and 1990’s, I never once witnessed him sign the back of a painting in paint.
32. Norval Morrisseau, assisted by his adopted son and business manager, Gabe Vadas, in fact wrote to Heffels by email on September 12, 2006, to advise Heffels that six (6)

of the paintings that Heffels had up for auction, were fakes. Attached hereto to this my affidavit and marked as **Exhibit “L”**, is a true copy of the aforementioned letter to Heffels from Norval Morrisseau and Gabe Vadas, which I am advised by and verily believe to be true. The letter states, in part, as follows:

We have reviewed the Morrisseau art you have up for auction, unfortunately some of the Morrisseau's you have are not authentic. We would like to help clarify which we feel are not Morrisseau's and would sincerely encourage you to not auction these pieces off. The Fakes are: #027, #030, #032, #033, #34, #035

...

Notice the style of these paintings. The faces are squashed. The colors are muddy, the birds are blobs with big huge eyes, and the majority of figures have squashed turbans on their heads. If you have a copy of the National Gallery catalogue please review page 136, note the transformation piece “Man Changing into Thunderbird” dated 1977. This is more representative of my style of art in the 70's. Notice the birds, how much more varied and animated they are, notice the color, its brighter and the image has balance”.

33. As a result of Norval Morrisseau's and Gabe's letter, the consignor of the fake paintings to Heffels, Joe Otavnik of Oshawa, Ontario, sued Gabe Vadas, of Nanaimo, British Columbia, in Toronto Small Claims Court. I am advised by Gabe Vadas and verily believe it to be true, that due to the cost considerations of defending this Small Claims Court matter and due to the health of Norval Morrisseau, that Gabe apprehensively settled this lawsuit *without* admitting liability, and still maintains that the impugned paintings are undoubtedly fakes.

34. Subsequent to Heffel's withdrawal of the fake paintings from the auction, Joe Otavnik consigned at least one of them to the Plaintiff in the within action, Bearclaw Gallery. Bearclaw Gallery subsequently sold this painting, “Grandfather Speaks of Ancestral Warriors”, to Dr. Jonathan Browne, of Ottawa for \$27,321.50.

35. I am advised by Dr. Browne, and verily believe it to be true, that he is currently Director of a management consulting firm based in Ottawa. Working as a consultant, he manages and participates in government reform and environmental initiatives, nationally with the Canadian federal government, and internationally with public, private, multilateral, bilateral and non-governmental organizations, including the World Bank and United Nations. As a trained biologist, he has managed, authored and contributed to more than 150 commissioned consultancies, technical reports, scientific articles and books. He is a member of a dozen professional societies, and in 1993 was elected by his peers as a Fellow of Royal Entomological Society, London, for his contributions to science. Prior to his work as a consultant he was a lecturer and post-doctoral fellow at Carleton University, the University of Pretoria, University of Cape Town, and with the Queen's University Museum of Nature summer school

36. I am further advised by Dr. Browne and verily believe it to be true, that in addition to the aforementioned fake that Bearclaw sold Dr. Browne, Bearclaw Gallery sold Dr. Browne a second painting. I am advised by Dr. Brown and verily believe it to be true, that Bearclaw did not disclose to him the questioned authenticity and suspect provenance of these paintings. I am advised by Dr. Browne and verily believe it to be true, that both of these paintings turned out to be fakes.

37. I am advised by Dr. Browne and verily believe it to be true, that Bearclaw Gallery then remarkably offered to replace one of the fakes, *with yet another fake*. Attached hereto to this my affidavit and marked as **Exhibit "M"**, is a true copy of Dr. Jonathan Browne's web site, located at www.MorrisseauBuyersBeware.com, dated January 4,

2009, which I am advised by and verily believe to be true. I am advised by Dr. Browne and verily believe it to be true, that as a result of Dr. Jonathan Browne's web site, Bearclaw Gallery has threatened to sue him as well for defamation.

38. Because of the fact that I am one of very few people who have worked alongside Norval Morrisseau and have been trained by him, I am in a unique position to be able to identify methods and aspects of paintings that have been attributed to Norval Morrisseau in order to assess whether they are genuine or not. I know things about his brush strokes, his use and choice of paint, his creation of lines, his selection of subject matter, and his basic methods, which all serve to distinguish genuine Morrisseau paintings from counterfeits.

39. Other factors which must be considered when determining whether a particular painting which has been attributed to Norval Morrisseau is authentic or not, are as follows:

- (a) Whether a photograph was ever taken of Norval painting a painting similar in style and subject matter to the one in question;
- (b) Whether any book, catalogue, or other record of any kind from the period that the painting in question is attributed to, exists;
- (c) Whether any public collection has a painting similar in style and subject matter to painting in question from that time period;
- (d) Whether Norval Morrisseau himself has recognized the particular painting or painting style/subject matter, as genuine;
- (e) Whether one of Norval Morrisseau's principal art dealers or a recognized curator has accepted the particular painting as genuine;

- (f) Whether the particular painting has ever been sold by a dealer directly affiliated with Norval Morriseau;
- (g) Whether any person, such as a Morriseau apprentice, affiliated art dealer, manager, or agent witnessed the painting in question being painted, or alternatively witnessed paintings of a similar style and subject matter being painted during the period when the painting in question was allegedly produced;
- (h) Whether the painting in question has any credible provenance other than some connection to certain persons which are suspected and/or known to have counterfeited Norval Morriseau paintings;
- (i) Whether the painting in question appears to a person trained, knowledgeable, experienced, and disinterested eye, to be so different in style and subject matter from other paintings by Norval Morriseau which are known to be authentic;
- (j) Whether a “Jack Pollack” label from the Jack Pollock Gallery, originally on Scollard Street in Yorkville, Toronto (which was Norval’s original exclusive art dealer during the 1970’s) appears on the painting in question. Out of the hundreds if not thousands of the counterfeit paintings allegedly produced during the 1970’s none bears such a label; and
- (k) Whether the painting in question resembles in style and subject matter, any painting that was included in the National Gallery of Canada’s massive retrospective exhibition in 2006;

40. The above factors were considered by me in identifying each of the counterfeits on Morriseau.com. Many, if not most of the paintings that I have identified as counterfeits, will fail to meet any of the above-mentioned considerations. These factors are also listed on the Morriseau.com web site. The fact is that the artwork that I stated on Morriseau.com is fake and is the subject of the within action, is fake.

41. Attached hereto to this my Affidavit and marked as **Exhibit “N”**, is a true copy of an enlightening article on the fake Morriseau controversy, written by Bryant Ross, of Coghlan Art in British Columbia, together with an article by John Zemanovich, a Morriseau researcher, which appeared on his blog, “Honouring Norval Morriseau”.

Coughlan Art is one of Morrisseau's two principal dealers, the other being Kinsman Robinson Gallery. Mr. Zemanovich's blog was subsequently taken down due to threats of legal action by the aforementioned Joe Otavnik, who is an associate of the Plaintiffs.

42. In Mr. Ross's aforementioned article, he explains how he purchased two fake Morrisseau paintings and why they are fake. In Mr. Zemanovich's article, he elaborates on the information provided by Mr. Ross.
43. The fake Morrisseau paintings on the market are 'a complete style of art' dated, however *not* actually painted, in the 1970's and early 1980's. These 'artworks' purporting to be Morrisseau's, are not 'true forgeries' or 'copies', but are in actual fact a 'complete genre inserted into the artistic body of work of Norval Morrisseau', creating in essence, 'a false history'.
44. This 'genre' of fake Morrisseaus may objectively be detected by considering the following factors:
 - a) They are usually priced at a fraction of the price of authentic Morrisseaus and are available through second tier auction houses, secondary galleries and internet agencies;
 - b) Many have been and continue to be sold on Ebay. I've been advised by Norval Morrisseau researcher John Zemanovich, and I verily believe it to be true, that these forgery rings employ shell bidding to create interest and jack-up prices;
 - c) Underworld and underwater themes featuring horrific creatures and demonic forces constitute a substantial portion of this genre. As a medicine man, Morrisseau created medicine art that many believe inspires and heals. I believe that this genre inverts medicinal energy into depressing energy;

- d) Acrylic paint colours mixed with high volumes of white paint are used which result in muddy colour spectrums. This has the effect of making the pieces appear older;
- e) Signatures, titles and dates are usually painted in black paint, using a dry-brush technique on the back of canvasses. Morriseau himself abhorred a dry brush and seldom signed the back of a canvass and never to the best of my knowledge, in paint;
- f) Painting titles, the name Norval Morriseau in English, the date, a copyright symbol and native syllabics are often painted on the front of canvasses. Morriseau generally signed his artwork just once in subtle syllabics. In my opinion these pieces appear to be crying out, “Please believe I am a Morriseau!”;
- g) Many of these paintings utilize non-carcinogenic paints which weren’t available in the years that these works are dated. As an artist I have worked with most acrylic paints that have been available in Ontario from the 1970s to date. I, and others who work with acrylics, can easily spot with the naked eye, the difference in hue and tone of the yellow-red spectrum paints used in authentic Morriseaus from the 1970s and 1980s that include carcinogenic pigments. Furthermore, other newer paint colours, available only in the last decade, such as magenta and purple hues, have also been employed in pieces I have seen in person that are dated long before these hues were available;
- h) Some of the works I observed in person had muddied backs in order to appear aged however where areas of canvass were not washed the canvasses appeared new instead of yellowed, like forty year old, smoke-laced Morriseaus; and
- i) Unlike Morriseau’s technique, this genre of paintings appear to be sketched and then traced with thick black paint lines. The black lines are then painted in with colour. This means that in many cases one will see the first layer of colour overlapping the black lines. Morriseau only used the “paint the black lines first technique” under very specific and different conditions.

45. The very common underworld theme of this false ‘genre’ is one which Morriseau only touched upon throughout his career, yet represents a substantial majority of the entire collection of the paintings in the false ‘genre’. From the aforementioned press reports, *Supra at Exhibit J*, which I am advised by and verily believe to be true, there are perhaps *thousands in this body of counterfeit work* to date, produced over the period of a decade or more.

46. Once someone understands the tell-tale signs of subject matter and artistic technique of this genre of counterfeit paintings, one may quickly acquire a high degree of accuracy in determining the authenticity of these paintings.
47. When one views an image of a painting that displays the aforementioned tell-tale signs of forgery, one may continue the identification process using other applicable criteria to verify provenance, or lack thereof, along with the other aforementioned objective signs that denote it as belonging to the 'fake genre'.
48. I have personally examined dozens of these pieces over the years and one does not have to be able to examine these paintings in person in order to recognize this genre; one need only know what tell-tale signs to look for when viewing an image of one of these paintings. I am advised by Don Robinson, the aforementioned authority on Norval Morrisseau works, and verily believe it to be true, that he and other Morrisseau fans and experts can spot a painting from this genre 'at a glance from across a room'.
49. Attached hereto to this my affidavit and marked as **Exhibit "O"**, are true copies of 'side-by-side' comparisons of fake versus genuine Morrisseau paintings. I have selected as examples, pairs of paintings that depict generally similar subject matter, yet the qualities are dramatically different when viewed by a trained eye.

50. From my review and research of the fake Morrisseau genre, I believe that there are actually two different distinct styles of counterfeits. The first group concentrates on 'late 1970's and early 1980's' and the second style consists of more recent colourful forgeries purportedly from the 1980's and 1990.

51. Many counterfeit Morrisseau paintings from the former group are easily detected because they exhibit weak and amateurish artistic skill.

52. Many of the counterfeits from the latter group, i.e. the more "recent" colourful forgeries, demonstrate somewhat superior artistic talent, but are nonetheless, also clearly not of Morrisseau's hand. These more recent counterfeits tend to copy well-known Morrisseau elements. Furthermore, this type of Morrisseau forgery is usually dated in years where Morrisseau enjoyed clear provenance with his Principle Art Dealers and caretakers

The Counterfeits that the Plaintiff Galleries and Distributors Are Selling

53. In researching Morrisseau art venues on the Internet I learned there were several galleries and distribution agencies facilitating the sales of counterfeit Morrisseaus, including but not limited to the Plaintiffs.

54. Auction houses have also often been used as distribution agencies for the forgeries, such as Randy Potter Auctions, Empire Auctions, Kahn Auctions, Heffels Auctions, and Ebay auctions.

55. In addition I discovered, and I verily believe it is true, that these paintings also appear in collections at other notable institutions such as the Thunder Bay Museum, where these paintings have been used as tax incentive donations, after authentication and appraisals supplied by the Plaintiff, Joe McLeod. In fact, Norval Morrisseau paintings have been the subject of previous court cases in the Tax Court of Canada and Federal Court of Appeal, involving claims by taxpayers for charitable donation receipts where the Government of Canada rejected the valuations in a ‘buy low donate high scheme’. Attached as **Exhibit “P”** to this my affidavit, are copies of the decisions from these cases.

56. I am advised by Sharon Godwin, Director of the Thunder Bay Museum, and verily believe it to be true, that she and Joe McLeod authenticated and appraised four paintings that associated art dealer, Joe Otavnik donated in or around 2004 in consideration of a charitable tax receipt. I am further advised by Sharon Godwin and verily believe it to be true, that the aforementioned four paintings have since been removed from display at the museum because she has since become greatly concerned about their authenticity.

57. I have been advised by Gabe Vadas, Norval’s adopted son and business manager, and Don Robinson, of Kinsman Robinson Galleries, and I verily believe it to be true, that Maslak McLeod had its Art Dealers Association of Canada or “A.D.A.C.” membership revoked, or otherwise terminated, after Norval Morrisseau filed

complaints with A.D.A.C. with regard to Joe McLeod and his authentication of pieces which Norval had identified as fakes. As a result A.D.A.C. rules *no longer* allow members to authenticate Norval Morrisseau's work. Instead A.D.A.C. now recognizes the Norval Morrisseau Heritage Society (N.M.H.S.) as the only legitimate authenticators of Norval Morrisseau work.

58. In fact, A.D.A.C. published an official Notice as follows:

*Norval Morrisseau: This notice is pursuant to recent media coverage pertaining to a forged Norval Morrisseau painting being sold on Ebay, with a Certificate of Authenticity provided by a member of the Art Dealers Association of Canada (ADAC). As an association that stands as a symbol of ethical business practices within the visual arts community, it is unacceptable that ADAC's name has been associated with misattributed or forged artworks. The Norval Morrisseau Heritage Society, a community of museum and government experts, has been struck at the request of the artist in order to deal with the growing number of paintings attributed to the artist that are in fact misattributions. Accordingly, the Art Dealers Association of Canada is enacting a rule and regulation **that no certificates of authenticity will be issued by any members of ADAC with respect to any works or purported works by Norval Morrisseau and that the Norval Morrisseau Heritage Society is the sole authority for the authentication of works by Norval Morrisseau.***

A true copy of the Notice, dated March 13, 2007, is attached hereto and marked as

Exhibit "Q".

59. According to a Statement of Defense filed by CTV Globemedia in response to a recent lawsuit in Ontario under the Simplified Rules which was commenced by a Mr. Michael Moniz, who is associated with some or all of the Plaintiffs, which I am advised by and verily believe to be true, the N.M.H.S. have a database of at least 1200 purported Morrisseau paintings that have been rejected from their catalogue as "questionable" pieces. Attached hereto to this my Affidavit and marked as **Exhibit**

“R”, is a true copy of the aforementioned Statement of Defence. The Simplified Rules action was commenced ostensibly because the Globe & Mail had reported on fake Morrisseaus that were for sale on eBay.

60. The fact is that the Plaintiffs’ affidavit material reveals that they do not have authentications from any independent and qualified appraiser, and merely authenticate for themselves, for each other, and for their associates.
61. Furthermore, the Plaintiffs’ affidavit material fails to disclose where they got their enormous number of purported genuine Morrisseau paintings from, and how much they paid for them.
62. According to the affidavits filed by these five Plaintiffs, they have collectively owned or sold at least 499 pieces, which represents a substantial portion of Morrisseau’s artistic output over the course of his life. Furthermore, many of the Plaintiff’s figures do not even take into account the total number of paintings that they have owned or sold over the years. In particular;

Gallery Sunami: “Sold Hundreds” Since 1997 (at Paragraph 4 of Affidavit of Sunny Kim) and “Identified images of 70 that Sunami owned or sold on Morrisseau.com” (at Paragraph 9 of Affidavit of Sunny Kim)

Bearclaw: “45 Morrisseau’s for sale” (Paragraph 3 of Affidavit of Jackie Bugera) and “30 Paintings already sold” (at Paragraph 24)

Artworld of Sherway: “36 paintings on Morrisseau alleged to be forged” (Affidavit of Donna Child, Paragraph 9)

James White/White Distributing: “has bought 250 paintings” and “currently owns 160” (Affidavit of James White, Paragraph 4)

Maslak Mcleod/Joe Mcleod: “38 images” (Paragraph 17 of Joe Mcleod’s Affidavit) plus another “18” (Paragraph 21) plus another “12” (Paragraph 27), for a total of 68.

63. Jim White currently owns 160 purported Morrisseau paintings, with a purported “appraised value” of “approximately \$2.5 million”. None of these paintings however, came from Morrisseau, his estate, or his principal art dealers, yet they are alleged to be authentic by Jim White and the so-called “authenticators” he retains.

64. Sunny Kim of Gallery Sunami who in his affidavit claims to have sold hundreds of purported Morrisseau paintings, *personally* “authenticates” each one, according to his affidavit.

65. Not one of the aforementioned self-appointed Morrisseau “experts” however has been considered by Morrisseau, his principle art dealers, or the N.M.H.S., to be credible authenticators of Norval Morrisseau’s artwork.

66. When I refer to “principal art dealers”, above, Norval Morrisseau has been affiliated with certain art dealers that displayed and sold his paintings that they obtained directly from Norval Morrisseau himself. In this manner, Norval Morrisseau’s principal art dealers are assured of the paintings’ authenticity.

67. Other persons however, including the Plaintiffs, have had no direct relationship with Norval Morrisseau or his principal dealers, and have obtained paintings that are

attributed to Norval Morrisseau solely from prior owners of such works and from other parties. Many of the works that are attributed to Norval Morrisseau however, are in fact counterfeit, and have been produced solely for the purposes of capitalizing off of Norval Morrisseau's fame and market value. Furthermore, the Plaintiffs themselves are purporting to "authenticate" Morrisseau paintings for themselves and for each other, together with associates, and then, sell these paintings as genuine Morrisseau paintings, however in many cases these paintings turn out to actually be counterfeits.

68. Accordingly, I verily believe it to be true, that the Plaintiffs are unable to demonstrate that any of the impugned paintings have any credible provenance that can be traced back to Norval Morrisseau himself, or his principal dealers. As such, the Plaintiffs are on the fringes of the Norval Morrisseau art world. They have no genuine connection with Norval Morrisseau whatsoever, apart from trying to sell his works which they obtained from sources far removed from Norval Morrisseau. The existence of a vast number of counterfeit Norval Morrisseau works threatens to dwarf the number of genuine Norval Morrisseau works for sale on the open market, particularly on the Internet.

69. Accordingly, I verily believe that given that the Plaintiffs have admitted that they do not generally acquire paintings directly from Norval Morrisseau, there is a huge question as to where they got so many paintings from.

70. One possible answer that I verily believe could explain in part where some of the Plaintiffs are obtaining their paintings from, either directly or indirectly, is Randy Potter of Randy Potter Auctions. Randy Potter, a small time auctioneer in Port Hope Ontario, has claimed that he has sold approximately 1200 Morrisseau paintings that he obtained “all from the same [secondary] source”, which implicitly is not Norval Morrisseau or Morrisseau’s principal art dealers. Attached hereto to this my affidavit and marked as **Exhibit “S”** is a true copy of a signed letter from Randy Potter wherein he states the foregoing, which I verily believe to be true. Also attached as Exhibit “S”, is the signed email from Norval Morrisseau and Gabe Vadas advising Mr. Potter that he is selling fakes, which I am advised by and verily believe to be true.

Norval Morrisseau Himself Has Sworn That The Plaintiffs Are Selling Counterfeits

71. Attached hereto to this my affidavit and marked as Exhibit “T”, is a true copy of the sworn and commissioned Statutory Declarations of Norval Morrisseau, with exhibits, declaring that **Maslak Mcleod was offering numerous counterfeit Morrisseaus for sale.**

72. Pursuant to the Statutory Declaration of Morrisseau, sworn March 14, 2003, and the Statutory Declaration of Norval Morrisseau, sworn April 24, 2003, both of which were Notarized in Nanaimo, British Columbia, Norval Morrisseau Declares that Maslak Macleod was displaying for sale a total of forty-one (41) fake Morrisseau paintings.

73. I am advised by all of the aforementioned Declarations of Norval Morrisseau and believe all of them to be true. I am further advised by Gabe Vadas and verily believe it to be true, that all of the aforementioned Declarations are genuine.

74. I am advised by Gabe Vadas and verily believe it to be true, that Clark R. Purves, Barrister & Solicitor, of Purves, Hickford, Curry, in Victoria, British Columbia, wrote to Maslak McLeod Gallery confirming that Mr. McLeod was provided the sworn declarations of Norval Morrisseau, and that Mr. McLeod ought to ***“immediately stop the sale of fakes”***. In addition, Mr. Purves also demanded that Mr. McLeod **cease and desist “violating the artist’s copyright”** by reproducing his images in advertisements and catalogues. Attached hereto to this my affidavit and marked as **Exhibit “U”**, is a true copy of Mr. Purves’ letter dated December 4, 2003.

75. The catalogue that Mr. Purves is referring to above, is the same catalogue that Mr. McLeod, in his materials, remarkably accused me of infringing his copyright to. Mr. McLeod actually proceeded to purport to employ a United States law to forcibly remove images from my web site. Joe McLeod’s counsel, who filed a *Digital Millennium Copyright Act* Complaint on behalf of Joseph McLeod, Maslak McLeod Gallery and Maslak McLeod Gallery Inc., was required to provide a sworn statement which read as follows:

“I declare that the information in the notification is accurate, and under penalty of perjury, that the Complaining Party is the owner, or is authorized to act on behalf of the owner, of an exclusive right that is allegedly infringed.”

Given the long-time effort of Norval Morrisseau to constrain Mr. McLeod from unlawfully publishing images of his paintings, or those purported to be his paintings,

I would expect Mr. McLeod to be the last person asserting copyright exclusivity over Morrisseau's artwork, or even artwork he purports to be by Morrisseau.

76. As it turns out, in fact, I have been given permission by Gabe Vadas on behalf of Norval Morrisseau's estate, to use and reproduce images of Norval's paintings. Furthermore, none of the other Plaintiffs who filed "DMCA Notices" in connection with images of paintings that they recognized, once owned, or perhaps displayed on their websites at one time, chose to seek licensing from the true copyright holders, i.e. Norval Morrisseau and/or his estate.

77. Also attached as Exhibit "T", are additional letters from Mr. Purves on behalf of Norval Morrisseau, dated March 14, 2003, June 4, 2003, and December 3, 2003, respectively, to Maslak McLeod Gallery, **also demanding that Mr. McLeod cease and desist from selling fakes and violating Mr. Morrisseau's copyright**, which I am advised by and verily believe to be true. I am advised by Gabe Vadas and verily believe it to be true that these letters are genuine and were in fact sent.

78. I've been advised by Gabe Vadas and I verily believe it to be true, that Joe McLeod chose to ignore or chose to fail to comply with the demands in these letters and has continued to unlawfully publish catalogues of artwork that he authenticates, appraises and attributes to Morrisseau; artwork that Morrisseau himself claimed were not paintings created by his hand.

79. Attached hereto to this my affidavit and marked as **Exhibit "V"**, is a true copy of a Statutory Declaration of Norval Morrisseau, dated September 22, 2004,

Commissioned by Samuel R. Stevens, Barrister & Solicitor, in British Columbia, wherein **Mr. Morrisseau declares that thirty-nine (39) paintings for sale by Artworld of Sherway, are fake.** Also attached as Exhibit “U”, is a true copy of a letter from Aaron Milrad of Fraser Milner Casgrain, dated February 25, 2005, who is the lawyer for Norval Morrisseau, to Donna Kay of Artworld of Sherway, **advising that Artworld of Sherway are selling fake Norval Morrisseau paintings and demanding that they immediately cease and desist or face court proceedings.** I am advised by the aforementioned Declaration and letter and verily believe them to be true. I am advised by Gabe Vadas and verily believe it to be true that the aforementioned Declaration and letter are genuine.

80. Attached hereto to this my affidavit and marked as **Exhibit “W”**, are true copies of the Statutory Declarations of Norval Morrisseau, dated respectively, November 30, 2004 and April 8, 2005, Commissioned by Samuel R. Stevens, Barrister & Solicitor, in British Columbia, wherein Mr. Morrisseau declares that **Bearclaw Gallery is selling twenty-two (22) fake Morrisseau paintings.** I am advised by the aforementioned Declaration and verily believe it to be true. I am advised by Gabe Vadas and verily believe it to be true that the aforementioned Declarations are genuine.

81. Attached hereto to this my affidavit and marked as **Exhibit “X”**, is a true copy of the Declaration of Norval Morrisseau, dated November 30, 2004, Commissioned by Samuel R. Stevens, Barrister & Solicitor, in British Columbia, wherein **Mr. Morrisseau declares that Gallery Sunami is selling five (5) fake Morrisseau**

paintings. I am advised by Gabe Vadas and verily believe it to be true that the aforementioned Declaration is genuine.

82. Attached hereto to this my affidavit and marked as Exhibit “Y”, are the Statutory Declarations of Norval Morrisseau dated respectively, November 30, 2004 and April 8, 2005, wherein he declares that **Randy Potter Estate Auctions was selling fourteen (14) counterfeit Norval Morrisseau paintings**. The Plaintiff, Jim White, has purchased many of his counterfeits from Randy Potter Estate Auctions, as he admits in his Affidavit at Paragraph 23. I am advised by Gabe Vadas and verily believe it to be true that the aforementioned Declarations are genuine.

83. I am advised by Gabe Vadas and verily believe it to be true, that all of the aforementioned Declarations of Norval Morrisseau were prepared to be used in contemplated legal proceedings.

My Responses to the Plaintiffs’ Specific Attempts to Discredit Me in their Materials

Mr. White’s

84. At Paragraphs 7 and 8 of the Affidavit of Jim White, filed in this proceeding, Mr. White attempts to discredit me by relating how on one occasion I stated a particular piece that he had for sale was a “great” painting, and then called it a fake on Morrisseau.com.

85. On or about March of 2008, I was asked to examine a lot of 8 large purported Morrisseau paintings for a local collector. When I arrived at the Liss Gallery in

Toronto there were a number of people already present to view the artwork. It turned out that the seller of the artwork was Jim White who used the gallery floor to showcase his un-stretched purported Morrisseaus for the buyer. The paintings were all dated from the early 1970's, before I had met Morrisseau.

86. When I looked at the craftsmanship of the paintings only one piece of the eight appeared to have artistic quality. At one point, when viewing the lot of paintings, Mr. White asked me what I thought of one of the purported Morrisseau painting with bubbles painted in it. I replied, "Morrisseau doesn't paint bubbles". Everyone except Jim White laughed because we all understood that I was saying that I believed that these were inferior counterfeit Morrisseau paintings.

87. The eighth painting exhibited superior artistic skill so I recommended it to the art collector. At that time, the tell-tale signs in subject matter were not as evident to me as they became by the autumn of 2008 when I came to understand and believe that there were multiple artists of varied skill levels all creating this fake genre. I then began to focus more intently on subject matter which later led to the inclusion of this particular painting in the Morrisseau.com gallery of inferior counterfeit Morrisseaus.

88. This was not my only encounter with Jim White however. Over the years, I have made efforts to monitor the Internet for paintings that are attributed to Norval Morrisseau which are in fact counterfeit. On or about December 12, 2007, I emailed the Plaintiff, Jim White, with regard to inferior counterfeit Morrisseaus that he was

selling through his EBay profiles, 'Prancing Elk' and 'Twelve Art'. Attached hereto to this my Affidavit and marked as **Exhibit "Z"**, is a true copy of an email sent to Jim White's Ebay business on December 12, 2007.

89. Mr. White makes a reference at Paragraph 16 of his affidavit, that out of the hundreds of postings that I made about fake Morrisseaus related to Jim White, a single reference to a particular painting in fact had nothing to do with him. That may be inadvertent on my part, but I am unable to confirm this as he has not provided any details in his affidavit or exhibits thereto.

90. Lastly, Mr. White claims at Paragraph 32 and 33 of his affidavit, that Marlowe Goring, the Director of "one of his biggest customers", Qualicum Beach Frameworks Gallery, had decided to stop selling purported Morrisseau paintings which Mr. White had provided to her on consignment, as a result of the statements which I made on Morrisseau.com. Remarkably, Mr. White also disclosed in his affidavit at Paragraph 15, that the aforementioned Marlowe Goring, provides him with purported "Certificates of Authenticity" for his purported Morrisseau paintings. In fact, at Exhibit "E" of Mr. White's affidavit, he attaches a total of seventeen (17) such "Certificates of Authenticity" signed by "Marlowe J. Goring Owner/Appraiser".

91. Accordingly, the person whom "authenticates" Mr. White's paintings, is the same person that is attempting to sell them for Mr. White, and even more remarkably, is the same person who apparently decided to stop selling paintings which she herself had "authenticated". No explanation for why someone who purports to "authenticate" Morrisseau paintings and provides numerous "Certificates of Authenticity", decided

to not stand behind her purported authentications. Furthermore, no explanation is given as to why Ms. Goring has any credibility as an authenticator.

Mr. McLeod's

92. I have known Mr. McLeod for many years, since at least the mid 1990's when he was re-selling Native and Inuit art on Prince Arthur Avenue. We have enjoyed an amiable relationship over the years and from time to time would discuss Morrisseau and Native art in his gallery. Mr. McLeod admits that he has never displayed or sold a Morrisseau painting, for Norval Morrisseau. Mr. McLeod has always been merely a reseller of Morrisseau art, allegedly procured exclusively from purported Morrisseau collectors. Mr. McLeod claims to currently have '100 Morrisseau paintings worth approximately \$2 million up for sale' that he 'personally has authenticated and appraised'. None of these paintings came from Morrisseau or Morrisseau's principal art dealers.

93. Maslak McLeod has no direct contact with Norval Morrisseau or his estate, with the exception of the aforementioned several letters of legal correspondence that they have received over the years from Norval Morrisseau insisting that Maslak McLeod cease and desist authenticating and publishing pictures of Morrisseau artwork, or artwork which Mr. McLeod attributes to Norval Morrisseau that are in fact, not Morrisseaus.

94. In any event, Mr. McLeod, at Paragraph 12 of his affidavit, relates that he saw "at least two" images which I posted on Morrisseau.com of fake Morrisseaus, which he

says were at the National Gallery of Canada. Mr. McLeod however does not provide any exhibits or further details of this allegations.

95. I do however acknowledge that on a single occasion, I misplaced a minor, early-era birchbark painting from the National Gallery collection on my web site, and removed it within 24 hours, before anyone but a handful of observers and apparently, Joe McLeod viewed it. This is likely why he did not have an image of this piece to include as an exhibit to his affidavit.

96. In addition, at Paragraphs 17 and 25 of his affidavit, Mr. McLeod makes reference to the fact that on *Morrisseau.com*, I asked the question, *“Stolen art for sale? These murals were unseen since 1985...Why? Joe McLeod’s campaign to sell them at 100k plus began days after Morrisseau’s death...Why?”*. Below the aforementioned posting, I included a Toronto Star article, dated December 11, 2007. Attached hereto to this my affidavit and marked as **Exhibit “AA”**, is a true copy of the Toronto Star article, entitled, *“Art Meant for Subway Stop”*.

97. At nowhere in Mr. McLeod’s affidavit does he directly and unequivocally deny that these paintings were in fact stolen.

98. I was with Norval Morrisseau in 1985 when he was promised a total of \$300,000.00 for the mural, but he only received \$10,000.00 as a deposit from Steven Harvey, who was acting as an agent in this transaction. Norval gave Steve Harvey the mural to bring to the TTC, but Norval never got the rest of the money (\$290,000.000) that he

was owed, and never got the paintings back, never to be seen again until they showed up at Mr. McLeod's gallery.

99. On or about December 12, 2007, I noticed media articles and advertisements promoting the sale of the seven "TTC" murals, with each painting up for sale at \$100,000.00 or more. I went to the Maslak McLeod gallery to tell Joe McLeod that I knew the murals were stolen as I was there when Norval realized he had been swindled out of \$290,000.00. Joe responded by informing me that the murals were 'turned over' to Norval's landlord "*in lieu of rent*" and that a note to that effect had been written by Norval. The Toronto Star newspaper article dated Dec 11, 2008, quotes Joe McLeod as saying there 'were problems about Morrisseau getting the proper amount of money for these pieces in 1985 and they were turned over to a single buyer'.
100. I am advised by Ugo Matulic, a web site developer associated with the Plaintiffs, and I verily believe it to be true, that Mr. McLeod is the selling seven large authentic Norval Morrisseau murals which were originally commissioned for the Toronto Transit Commission, on behalf of a Mr. Gary Lamont who appears to have acquired these paintings in or about 1985. At that time I shared a studio with Norval and protégé Brian Marion on Richmond Street in Toronto. These seven magnificent murals disappeared in 1985, as aforesaid, only to reappear 22 years later, just days after Norval Morrisseau's death. Accordingly, I verily believe that a genuine question exists as to the circumstances of the disappearance of the mural, who the owner is, and why they were only put on the market only days *after* Morrisseau died.

101. Lastly, Mr. McLeod at Paragraph 13 of his affidavit, alleges that I stated to him, ‘I am going to get the Morrisseau establishment’. This is totally false.
102. First of all, Mr. McLeod is perhaps the farthest removed person in the world from the Morrisseau establishment, considering the position that Mr. Morrisseau took with Mr. McLeod as is evidenced by the aforementioned legal correspondence to him from Norval Morrisseau.
103. Secondly, when I held an exhibition of my recent work at the Scollard Street Gallery from September 6, through Oct 6, 2008, just a few doors away from Mr. McLeod’s, Maslak McLeod Gallery, I was inundated with people asking me questions about questionable Morrisseau artwork.
104. Toward the end of my show the owner of the art gallery, Serge Chriqui, advised me, and I verily believe it to be true, that he had an encounter with Mr. McLeod. Mr. McLeod was apparently angry after viewing Morrisseau.com. Accordingly, I went to the Maslak McLeod gallery to discuss the matter with Mr. McLeod. When I entered Mr. McLeod stood up and said, “Get out, I don’t want to talk with you. You’ll get a letter from my lawyer”. Joe walked toward me in an aggressive manner and I left. At no time did I raise my voice or say the words, “I’ll get that Morrisseau Establishment” or anything similar.
105. Furthermore, it is absolutely not true that I have ever asked Mr. McLeod to show my artwork and was refused by him, as alleged at Paragraph 8 of his affidavit. Mr.

McLeod doesn't to my knowledge, generally even show artist's work at exhibition, but rather sells paintings on consignment for owners.

106. Accordingly, I verily believe that Mr. McLeod concocted these fake statements and incidents in order to support his claim that I am acting maliciously, an allegation which is totally false.

CONCLUSION

107. The scope of this art fraud is so extensive that genuine Norval Morrisseau paintings were struggling to compete with an abundance of relatively low-priced fakes.

108. It wasn't until the advent of the internet when it became apparent that there weren't a few dozen forgeries painted by 'poor artists'. It was an organized operation or operations worth millions of dollars producing thousands of abominations that he believed must all be destroyed. I am advised by Gabe Vadas and verily believe it to be true, that Norval compiled a book of images of purported Morrisseau paintings collected from the internet and other sources. Norval went through thousands of images marking each as genuine or fake.

109. This case of widespread art forgery is not without precedent. An international art forgery ring that used Ebay and the internet to sell thousands of print forgeries of Picasso, Dali, Miro and other famous artists have been charged by the F.B.I. and the Spanish police. Attached hereto as **Exhibit "BB"**, is a true copy of an article entitled,

“Fine Art Forgeries; Global Counterfeiting Scams Busted”, published in the New York Jewish Times, dated, March 24, 2008. Also attached hereto as Exhibit “BB”, is a true copy of an article, entitled, “Art Forger Operation Broken Up by FBI and Spanish Police”, published in The Guardian, dated, March 20, 2008.

110. As we proceed to trial I will be assisted in producing further and better evidence by established and credible experts from within the art world who have a genuine connection with Norval and who are able to assist in proving that the impugned paintings are forgeries, once and for all.

111. I have no financial or other interest in identifying counterfeit Morrisseau paintings, other than to perform a public service and to assist in protecting the legacy of one of Canada’s foremost artists. As a matter of conscience, I feel that I must stand up for my friend, mentor, and colleague, now that he is no longer able to do so for himself.

112. Unlike the Plaintiffs, I have no financial stake in enabling counterfeits to continue to be incorrectly identified as genuine. Damages payable to me as a result of an unjust injunction and mandatory order will not suffice as I make no money whatsoever from the Morrisseau.com web site.

113. I make this Affidavit in response to the Plaintiff's motion for an interim injunction, and for no other or improper purpose.

SWORN BEFORE ME at the City of)
Toronto, in the Province of Ontario)
this 5th day of January, 2009)

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)
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Ritchie Sinclair

A Commissioner, etc.
Zak A. Muscovitch