

copy 3 of court
file
V-B-490894

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

JOHN MCDERMOTT

Plaintiff

- and -

JOSEPH BERTRAM MCLEOD and MASLAK-MCLEOD GALLERY INC.

Defendants

INFORMATION FOR COURT USE

1. This proceeding is an: action application
 2. Has it been commenced under the *Class Proceedings Act, 1992*? yes no

3. If the proceeding is an action, does Rule 76 (Simplified Procedure) apply? yes no

Note: *Subject to the exceptions found in subrule 76.01(1), it is MANDATORY to proceed under Rule 76 for all cases in which the money amount claimed or the value of real or personal property claimed is \$100,000 or less.*

The claim in this proceeding (action or application) is in respect of:

(Select the one item that best describes the nature of the main claim in the proceeding.)

Bankruptcy or insolvency law	<input type="checkbox"/>	Motor vehicle accident	<input type="checkbox"/>
Collection of liquidated debt	<input type="checkbox"/>	Municipal law	<input type="checkbox"/>
Constitutional law	<input type="checkbox"/>	Partnership law	<input type="checkbox"/>
Construction law (other than construction lien)	<input type="checkbox"/>	Personal property security	<input type="checkbox"/>
Construction lien	<input type="checkbox"/>	Product liability	<input type="checkbox"/>
Contract law	<input type="checkbox"/>	Professional malpractice (other than medical)	<input type="checkbox"/>
Corporate law	<input type="checkbox"/>	Real property (including leases; excluding mortgage or charge)	<input type="checkbox"/>
Defamation	<input type="checkbox"/>	Tort: economic injury (other than from medical or professional malpractice)	<input checked="" type="checkbox"/>
Employment or labour law	<input type="checkbox"/>	Tort: personal injury (other than from motor vehicle accident)	<input type="checkbox"/>
Intellectual property law	<input type="checkbox"/>	Trusts, fiduciary duty	<input type="checkbox"/>
Judicial review	<input type="checkbox"/>	Wills, estates	<input type="checkbox"/>
Medical malpractice	<input type="checkbox"/>		
Mortgage or charge	<input type="checkbox"/>		

CERTIFICATION

I certify that the above information is correct, to the best of my knowledge.

Date:

October 17, 2013

Signature of lawyer
(if no lawyer, party must sign)

Court file no. CV-13-490894

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

JOHN MCDERMOTT

Plaintiff

and

JOSEPH BERTRAM MCLEOD and MASLAK-MCLEOD GALLERY INC.

Defendants

(Court seal)

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$2500 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

Date October 17 2013

Issued by S. Chandrasekhar
Registrar
Local registrar

Address of court office:

393 University Avenue, 10th Floor
Toronto, ON M5S 1E6

TO

JOSEPH BERTRAM MCLEOD
118 Scollard St. Toronto, Ont.
M5R 1G2 Canada
Tel: 416-944-2577
Fax: 416-922-1636

AND TO:

MASLAK-MCLEOD GALLERY INC.
118 Scollard St. Toronto, Ont.
M5R 1G2 Canada
Tel: 416-944-2577
Fax: 416-922-1636

THIS ACTION IS BROUGHT AGAINST YOU UNDER THE SIMPLIFIED PROCEDURE PROVIDED IN
RULE 76 OF THE RULES OF CIVIL PROCEDURE.

CLAIM

1. The plaintiff claims as against both defendants:
 - (a) The sum of \$15,500.00 representing the purchase price of the Paintings (as described below);
 - (b) The sum of \$29,000.00 representing the loss of investment return on the Paintings (as described below);
 - (c) The sum of \$25,000.00 in punitive damages;
 - (d) pre-judgment and post-judgment interest on the sums claimed in subparagraph (a) pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
 - (e) post-judgment interest on the sums claimed in subparagraphs (b), (c) and (d) pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
 - (f) costs on a substantial indemnity basis; and
 - (g) such further and other relief as to this Honourable Court seems just.

The Parties

2. The plaintiff is an individual who resides in the City of Toronto in the Province of Ontario, and is a professional singer.
3. The defendant Joseph Bertram McLeod ("McLeod") is an individual who resides in the City of Toronto in the Province of Ontario, and who from time to time has carried on business as Maslak-McLeod Gallery and through Maslak-McLeod Gallery Inc., a corporation acting as his personal agent, for which he is the sole officer, director and shareholder.