

File No. CI 08-01-

**THE QUEEN'S BENCH
Winnipeg Centre**

BETWEEN:

LIONEL ANDRÉ BOUCHARD,

plaintiff,

- and -

ANDRÉ LIONEL BOUCHARD,

defendant.

STATEMENT OF CLAIM

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File No. **11275 W**

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BETWEEN:

LIONEL ANDRÉ BOUCHARD,

plaintiff,

- and -

ANDRÉ LIONEL BOUCHARD,

defendant.

STATEMENT OF CLAIM

TO THE DEFENDANT

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 a Manitoba lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Queen's Bench Rules*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it in this court office, WITHIN TWENTY (20) DAYS after this statement of claim is served on you, if you are served in Manitoba.

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 (40) days. If you are served outside Canada and the United States of America, the period is sixty (60) days.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date:

Issued by: _____
Deputy Registrar

TO: **ANDRÉ LIONEL BOUCHARD**
64047 Road 36 West
P/O Box 746
Portage La Prairie, MB R1N 3C2

CLAIM

1. The plaintiff claims:
 - a) An Order that the plaintiff is entitled to an interest in land as an unpaid vendor;
 - b) A Pending Litigation Order for registration in the Portage La Prairie Land Titles Office and entry on Title no. 1901750 and Title no 1901751;
 - c) An accounting of all revenue received by the defendant for rental of the plaintiff's property;
 - d) Judgment in the total amount of \$30,241.49 or such other amount as is proven at the trial of this action;
 - e) Pre and post judgment interest;
 - f) Costs on a lawyer and own client basis or costs; and
 - g) Such further and other relief as this Honourable Court may deem meet.

2. The plaintiff is retired and lives at or near the Town of Elie, in the Province of Manitoba.

3. The defendant is the son of the plaintiff, is a salesman, and resides at or near the City of Portage La Prairie in the Province of Manitoba.

4. In or about January 1990 the plaintiff entered into a written agreement with the defendant to sell to him an undivided one-half interest in all of his farm property,

consisting of approximately 89 acres of land at or near the Town of Elie, in the Province of Manitoba, which property also included, *inter alia*, two residential homes and premises all of which real property is legally described as follows:

Parcel 1: LOT 4 PLAN 2215 PLTO IN SE ¼ 14-11-3 WPM
EXC PLAN 28648 PLTO

Parcel 2: SE ¼ 14-11-3 WPM, EXC
FIRSTLY: THE WLY 990 FEET PERP
SECONDLY: PLANS 2215 PLTO AND 28648 PLTO
THIRDLY: ROAD PLAN 1205 PLTO

5. The sale price for the one-half interest sold to the defendant in 1990 was \$40,000.00 and that amount was paid in full.

6. In or about September 2002 the plaintiff agreed to sell to the defendant his remaining undivided one-half interest in the property described in paragraph 4 herein at and for the price of \$60,000.00 on the understanding that the plaintiff would continue to live in one of the homes on the property for the rest of his life.

7. The defendant promised to pay the purchase price without interest over a space of years from June 2002 to and including December 2006, but as of the date of this claim, the defendant has failed to pay to the plaintiff an outstanding balance of \$7,000.00.

8. In view of the defendant's default in payment of the balance of the purchase price owed under the agreement of September 2002, the plaintiff caused to be registered in the Portage La Prairie Land Titles Office on February 29, 2008,

the Caveat registered as no. 1112241 claiming an interest in the land described in paragraph 4 herein as an unpaid vendor.

9. In addition, on or about January 30, 2006, the defendant agreed to pay the plaintiff's rent when the plaintiff moved away from his farm residence and on or about February 11, 2006, further confirmed in writing that he would pay the rental expenses for the plaintiff for the months of February, March and April 2006 with the expectation that the plaintiff would, on June 1, 2006, return to his home and premises in which he had a life estate.

10. Since February 2006 the defendant has denied the plaintiff access to the plaintiff's home, described in paragraph 4 herein forcing the plaintiff to incur expenses for rental accommodation in the St. Eustache Manor and subsequently in Elie, Manitoba, for the period from February 2006 to and including May 31, 2008, and accommodation with a friend for June and July 2008, in the total sum of \$12,175.49 of which the defendant has paid \$2,800.00, leaving a balance due to the plaintiff in the amount of \$9,375.49.

11. In addition, as a result of being forced out of his home on or about February 15, 2006, the defendant, without the consent of the plaintiff:

- a) destroyed the plaintiff's personal possessions and furnishings, having an estimated replacement value of \$5,000.00 plus the cost of \$500.00 to rent a storage facility for property recovered by the plaintiff;

- b) received rent revenue from rental of the plaintiff's home, described in paragraph 4 herein, for which the plaintiff demands an accounting and payment;
- c) deprived the plaintiff of an opportunity to rent a room of his home described in paragraph 4 herein as a means of receiving some revenue for himself, which between February 2006 and the date of this claim, amounts to \$7,750.00 based upon rent revenue the plaintiff had received prior to his being taken from his home; and
- d) loss of opportunity to earn \$616.00 for landscaping duties under contract with MTS Allstream.

12. The plaintiff seeks an award on account of loss of opportunity to invest all sums awarded to him as damages pursuant to part XIV of *The Queen's Bench Act, C.C.S.M. c. C280*, and the amendments, rules, and regulations thereto, upon which said statute the plaintiff pleads and relies.

13. The plaintiff seeks an award of interest on all sums awarded to him as damages pursuant to part XIV of *The Queen's Bench Act*, aforesaid, upon which said statute the plaintiff pleads and relies.

Date: July , 2008

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