

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

Malcolm Roberts and Wanda Roberts

Plaintiffs

- and -

THE ESTATE OF STEVEN BRADLEY
represented by the PUBLIC GUARDIAN AND TRUSTEE

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 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

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.

Date: _____

Issued by: _____

Registrar
Superior Court of Justice
5 Court Street
Kingston, Ontario

TO:

Ministry of the Attorney General
Office of the Public Guardian and Trustee
Toronto Regional Office
595 Bay Street, Suite 800
Toronto, ON M5G 2M6

CLAIM

1. The Plaintiffs claim:
 - b. special damages in the amount of \$250,000.00;
 - c. pre-judgment interest and post-judgment interest pursuant to the *Courts of Justice Act*, RSO 1990, c C.43;
 - d. the costs of this action; and
 - e. such further and other relief as counsel may advise and this Honourable Court consider.
2. The Plaintiffs, Malcolm Roberts (“Malcolm”) and Wanda Roberts (“Wanda”), are married and reside on a farm in Kingston, Ontario.
3. Stephen Bradley (“Stephen”), was next-door neighbour to the Plaintiffs in Kingston for more than 30 years until he died on April 30, 2012.
4. The Defendant, the Public Guardian and Trustee, is the estate trustee or estate administrator or is otherwise responsible for the Estate of Stephen Bradley through The Office of the Public Guardian and Trustee pursuant to the *Crown Administration of Estates Act*, RSO 1990, c C.47.

Background

5. Stephen was born in 1940 in Glasgow, Scotland. While Stephen was still a young child, his mother and siblings moved away leaving Stephen in the care of his impoverished grandmother. Stephen had no or virtually no contact with his immediate family thereafter.

6. When Stephen was a young man he moved to Northern Ontario with a work visa and remained in Canada for the rest of his life.
7. In or about 1981 Stephen moved to Kingston, next-door to the Plaintiffs, and quickly befriended the Plaintiffs.
8. Stephen had no family and few contacts in Canada and Stephen became increasingly dependent on the Plaintiffs for care and support. The Plaintiffs made regular and substantial contributions maintaining his property and well-being, including the following:
 - b. regular outdoor property maintenance;
 - c. firewood for home heating;
 - d. providing structural repairs to the home;
 - e. providing food and personal property; and,
 - f. providing care and companionship.
9. Stephen and Malcolm became very close friends and Malcolm was Stephen's closest confidant.
10. In the early 1990's Stephen stopped driving and began depending on the Plaintiffs for rides into town for groceries or other errands.
11. Stephen would attend at the Plaintiffs' home regularly for meals and special occasions including the holidays.
12. In or around November 2006 Stephen had a health scare which focused Stephen's attention to his mortality. Stephen told Malcolm that he wished to bequeath his entire Estate to Malcolm and Wanda after he died.

Events Proceeding Stephen's Death

13. In early 2012 Stephen's health started to deteriorate and Stephen was admitted to hospital in late February, 2012.
14. Stephen and Malcolm took immediate steps to arrange for the preparation of a will and contacted Kelly Young, a lawyer with an office in Belleville, Ontario. Stephen advised Kelly Young that he wanted a Will to bequeath his entire estate to the Plaintiffs.
15. Kelly Young did not attend at Stephen's bedside to take instructions to prepare a formal will before Stephen died on March 16, 2012.

Liability of the Estate of Stephen Bradley

16. The Plaintiffs provided substantial, tangible and intangible benefits, contributions and support to Stephen with the reasonable expectation that the Plaintiffs would inherit Stephen's estate.
17. The Plaintiffs state that the Estate of Stephen Bradley is liable to the Plaintiffs under the equitable doctrine of *quantum meruit*.
18. In the further alternative, the Plaintiffs state that Stephen's Estate has been unjustly enriched and is liable for same.
19. In the further alternative, the Plaintiffs state that Stephen contracted with the Plaintiffs to bequeath the contents of the Estate to the Plaintiffs upon Stephen's death and the Estate is in breach of same.

in breach of same.

20. The Plaintiffs propose that this action be tried at the City of Kingston.

DATE: January 20, 2013