

Court File No. 05-CV-289563 PD1

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

EVELINE BOLDUC

Plaintiff

and

AMEDEO POZZEBON & LILLIAN POZZEBON

Defendants

NOTICE OF CONSTITUTIONAL QUESTION

THE DEFENDANTS INTEND TO QUESTION THE CONSTITUTIONAL VALIDITY of Sections 125 and 126 of the *Courts of Justice Act* and/or the Decision of Madam Justice Wilson dated June 6, 2005 and claim a remedy under subsection 24 (1) of the *Canadian Charter of Rights and Freedoms* in relation to an act or omission of the Court and/or the Government of the Province of Ontario.

The question is to be argued on **Monday June 27, 2005, at 10:00 a.m., at 130 Queen Street West, Toronto, Ontario.**

The following are the material facts giving rise to the constitutional question:

1. The Plaintiff served material in a court proceeding in the Superior Court of Justice in ONLY the French language;
2. On June 6, 2005, counsel for the Appellants appeared before Madam Justice Wilson and requested that the Plaintiff translate the French language documents into the English language in accordance with Section 125 (2) of the *Courts of Justice Act*. Madam Justice Wilson denied the Appellants' request;
3. On June 6, 2005, counsel for the Appellants appeared before Madam Justice Wilson and requested that the Court make an Order requiring the Court and/or the Government of Ontario to translate the Respondent's documents into the English language. Madam Justice Wilson refused to make this Order and by so doing violated the Charter Rights of the Appellant;
4. The Honourable Motions Judge violated the Defendants' fundamental procedural and substantive rights by failing to require the Court and/or the Government of the Province of Ontario to translate documents filed by the Plaintiff in ONLY the French language into the English language;
5. The Honourable Motions Judge erred by proceeding with the hearing of the motion, knowing that the Defendants did not understand the Plaintiff's documents which were written ONLY in the French language;

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6. The Honourable Motions Judge erred in failing to Order that the Plaintiff is required to file and deliver a translation of the Plaintiff's documents into the English language, certified by affidavit of a translator, as required by Section 125 of the *Courts of Justice Act*;
7. Additionally, or in the alternative, the Honourable Motions Judge erred in failing to adjourn the Plaintiff's motion to allow for the translation of the Plaintiff's documents into the English language;
8. Additionally, or in the alternative, the Honourable Motions Judge erred in failing to adjourn the Plaintiff's motion, while instead requiring the Defendants to bring a motion against the government seeking to have the documents filed by the Plaintiff translated into the English language;
9. Additionally, or in the alternative, the Honourable Motions Judge erred in failing to adjourn the Plaintiff's motion to allow the Court to provide a translation of the French language documents into the English language filed by the Plaintiff;
10. Additionally, or in the alternative, the Honourable Motions Judge erred in failing to strike down those portions of Sections 125 and 126 of the *Courts of Justice Act* which are inconsistent with Sections 14, 15, 16 and 32 of the *Charter of Rights and Freedoms*;
11. Such further and other grounds as counsel may advise and this Honourable Court permits;

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12. The Endorsement of Madam Justice Wilson date June 6, 2005; and,
13. The Materials that were before the Motions Court.

The following is the legal basis for the constitutional question:

1. Sections 14, 15, 16, 24 and 32 of the *Charter of Rights and Freedoms*;
2. Sections 19 (1)(b), 125 and 126 of the Courts of Justice Act, R.S.O. 1990, Chap. C. 43, as amended; and,
3. Such further and other grounds as counsel may advise and this Honourable Court permits.

Date: June 21, 2005.

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