

BY COURRIER

Of Counsel
The Right Honourable Pierre Elliott Trudeau, P.C., C.C., C.H., Q.C., FRSC (1984 - 2000)
The Right Honourable Jean Chretien, P.C., C.C., O.M., Q.C.
The Honourable Donald J. Johnston, P.C., O.C., Q.C.
Pierre Marc Johnson, G.O.Q., FRSC
The Honourable Michel Bastarache, C.C.
The Honourable René Dussault, O.C., O.Q., FRSC, Ad E.
The Honourable John W. Morden
Peter M. Blaikie, Q.C.
André Bureau, O.C.
Ivan G. Whitehall, Q.C.

July 26, 2011

Jeffrey Lanctot
Lockington Lawless Fitzpatrick LLP
332 Ayimer Street North
P.O. Box 1146
Peterborough, ON K9J 7H4

Our Reference: 061175
Re: Dr. Agnes Jane Whitfield v. Bryan Whitfield
Court File No. 139/10

Dear Mr. Lanctot:

We have been retained by Dr. Agnes Whitfield as an agent to obtain an Order to have the above-noted matter transferred to the City of Kingston.

As you are aware, Dr. Whitfield requested a bilingual trial at the pre-trial conference before Justice H.K. O'Connell on April 4, 2011. Unfortunately, Justice O'Connell dismissed Dr. Whitfield's request as there are no bilingual judges resident in the Peterborough area.

When this matter was transferred to Peterborough, Dr. Whitfield had no knowledge of the procedure required to obtain a bilingual judge. Dr. Whitfield advised that her legal counsel did not inform her that as a result of transferring the proceedings to Peterborough, she would be losing her presumptive right to a bilingual trial reserved in Sections 125 and 126 of the *Courts of Justice Act*, R.S.O 1990, c. C.43 ("Act").

Dr. Whitfield prefers to express herself in French and, as the basis of the present litigation is a very emotional one, she needs to testify in this language. Many of her experts and witnesses also require to be heard by a bilingual judge as they have studied

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in their fields of expertise in French and are unable to provide an expert opinion in English.

In Peterborough, Dr. Whitfield would be forced to have her experts and witnesses testify through an interpreter, leaving her at a significant disadvantage.

Rule 13.1.02(2)(b)(vii) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 states that “the court may, on any party’s motion, make an order to transfer the proceeding to a county other than the one where it was commenced, if the court is satisfied [...] (b) that a transfer is desirable in the interest of justice, having regard to, [...] (vii) any advantages or disadvantages of a particular place with respect to securing the just, most expeditious and least expensive determination of the proceeding on its merits.” Dr. Whitfield has proposed to transfer this matter to the closest designated bilingual jurisdiction to Peterborough other than Toronto (as it would take much longer to get a trial date in Toronto). The City of Kingston is a designated bilingual jurisdiction set out in Section 126 of the Act and will allow both French and English speaking parties to be heard and understood directly by the Court without the assistance of an interpreter.

English and French are the official languages of the courts in Ontario, and the Court has a responsibility to ensure compliance with all language rights of Ontario’s linguistic minority. Every issue which deals with the use of the language of the minority needs to be interpreted in a generous and purposeful manner. Violation of these rights, which are constitutional in nature, constitutes material prejudice to the linguistic minority.

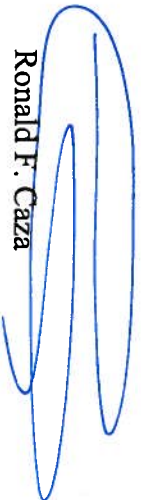
Among other cases, we will be relying on *R. c. Beaulac*, [1999] 1 S.C.R. 768, *Doucet-Boudreau v. Nova Scotia (Minister of Education)*, [2003] 3 S.C.R. 3, *Lalonde v. Ontario (Commission de reconstruction des services de santé)* (2001), 56 O.R. (3d) 577 (Ont. CA) and *Reference re Secession of Quebec*, [1998] 2 S.C.R. 217.

Please find enclosed the Plaintiff’s Notice of Motion, served upon you pursuant to the *Rules of civil procedure*.

I will be out of the office until August 2nd, 2011. Please do not hesitate to call me at that time to further discuss this matter.

Yours truly,

Heenan Blaikie LLP

A blue ink handwritten signature, appearing to read "Ronald F. Caza", is written over a blue ink scribble.

Ronald F. Caza

cc. Dr. Whitfield