

Divisional Court File No.:

Court File No.: 05-CV-289563 PDI

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**EVELINE BOLDUC**

Plaintiff

- and -

**AMEDEO POZZEBON & LILLIAN POZZEBON**

Defendants

**NOTICE OF MOTION**

**THE DEFENDANTS / APPELLANTS** will make a motion to a Judge of the Divisional Court seeking leave to appeal the June 6, 2005 decision of the Honourable Madam Justice Wilson on **Monday, June 27th, 2005 at 10:00 a.m.** or as soon after that time as the motion can be heard, at **130 Queen Street West, Toronto, Ontario.**

**THE DEFENDANTS** will make a motion to a Judge of the Divisional Court, sitting as a Superior Court of Justice Judge as against the Court, Her Majesty the Queen in Right of Ontario and/or the Office of the Attorney General on **Monday, June 27th, 2005 at 10:00 a.m.** or as soon after that time as the motion can be heard, at **130 Queen Street West, Toronto, Ontario.**

- Page 2 -

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR:**

1. An Order granting leave for the Defendants/Appellants to Appeal the decision of Madam Justice Wilson dated June 6, 2005, in its entirety;
2. An Order requiring the Plaintiff to translate into the English language any and all documents filed by the Plaintiff in these proceedings;
3. In the alternative an Order requiring the Court, Her Majesty the Queen in Right of Ontario and/or the Office of the Attorney General, to translate into the English language any and all documents filed by the Plaintiff in these proceedings;
4. An Order dispensing, abridging or extending the time for service of this Notice of Motion and supporting material, if necessary;
5. Costs of the within Motion, and the Motion heard on June 6, 2005, on a substantial indemnity basis; and,
6. Such further and other relief as this Honourable Court may deem just.

**THE GROUNDS FOR THE MOTION ARE:**

1. The Honourable Motions Judge violated the Defendants fundamental and substantive right to properly be heard in the English language by failing to provide the assistance to the Court to provide translation of the written material into the English language;
2. The Honourable Motions Judge erred in hearing the Motion at all, knowing that the Defendants did not understating the Plaintiff's documents which were written ONLY in the French language;
3. 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 off the translator, as required by Section 125 of the *Courts of Justice Act*;
4. The Honourable Motions Judge erred in ordering costs against the Defendants in relation to the Plaintiff's *ex parte* motion to obtain a Certificate of Pending Litigation, contrary to Rule 57.03 (3);
5. 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;



6. Additionally, or in the alternative, the Honourable Motions Judge erred in failing to adjourn the Plaintiff's motion and requiring the Defendants to bring a motion against the government seeking to have the documents filed by the Plaintiff translated into the English language by the Court;
7. 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;
8. 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*;
9. There is a conflicting decision by another Judge;
10. There appears to be good reason to doubt the correctness of the Order in question and the proposed Appeal involves matters of such importance that leave to Appeal should be granted;
11. Rule 62.02 (1) of the *Rules of Civil Procedure* R.R.O. 1990, Reg. 195, as amended;
12. Sections 19 (1)(b), 125 and 126 of the *Courts of Justice Act*, R.S.O. 1990, Chap. C. 43, as amended; and,

- Page 5 -

13. Sections 16 and 32 of the *Charter of Rights and Freedoms*; and
14. Such further and other grounds as counsel may advise and this Honourable Court permits.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

1. The Endorsement of Madam Justice Wilson date June 6, 2005;
2. The Materials that were before the Motions Court, written **ONLY** in the French language;
3. The Affidavit of Amedeo Pozzebon; and,
4. Such further and other materials as counsel may advise and this Honourable Court permits.

**Date: June 10, 2005.**

**JOHN LO FASO**  
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- Page 6 -

**TO:**           **Mr. Gerard Levesque**  
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**AND TO:**   **Her Majesty the Queen in Right of the Province of Ontario**  
In Care of the Ministry of Attorney General  
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