Court File No.: 37642

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)

BETWEEN:

KASSEM MAZRAANI

APPELLANT
(respondent in the court below)

- and -

INDUSTRIAL ALLIANCE INSURANCE and FINANCIAL SERVICES INC.

RESPONDENT
(appellant in the court below)

- and -

MINISTER OF NATIONAL REVENUE

RESPONDENT
(respondent in the court below)

- and -

THE BARREAU DU QUÉBEC, THE CANADIAN BAR ASSOCIATION, L'ASSOCIATION DES JURISTES D'EXPRESSION FRANÇAISE DE L'ONTARIO, AND THE COMMISSIONER OF OFFICIAL LANGUAGES FOR CANADA

Interveners

FACTUM OF THE INTERVENER, THE CANADIAN BAR ASSOCIATION
(pursuant to rule 42 of the *Rules of the Supreme Court of Canada*)

NICOLAS M. ROULEAU, PROFESSIONAL CORPORATION
720 Brock Avenue
Toronto ON M6H 3P2

Nicolas M. Rouleau
Tel: 416.885.1361
Fax: 1.888.850.1306
Email: RouleauN@gmail.com

Counsel for the intervener, the Canadian Bar Association

POWER LAW
130 Albert Street, Suite 1103
Ottawa ON K1P 5G4

Maxine Vincelette
Tel: 613.702.5573
Fax: 613.702.5573
Courriel: mvincelette@juristespower.ca

Agent for the intervener, the Canadian Bar Association

ORIGINAL TO: REGISTRAR OF THE SUPREME COURT OF CANADA

COPIES TO:

MILOSEVIC FISKE LLP
116 Simcoe Street, Unit 301
Toronto ON M5H 4E2

Cameron Fiske
David Milosevic
Tel: 416.916.1387
Fax: 866.830.5920
Email: cf@mlflitigation.com

Counsel for the Appellant, Kassem Mazraani

SUPREME ADVOCACY LLP
340 Gilmour Street, Suite 100
Ottawa ON K2P 0R3

Marie-France Major
Tel: 613.695.8855
Fax: 613.695.8580
Email : mfmajor@supremeadvocacy.ca

Agent for the Appellant, Kassem Mazraani

FASKEN MARTINEAU DUMOULIN LLP
Stock Exchange Tower, Ste. 3700,
Victoria Sq. CP 242, Succ. Tour D/L Bourse
Montréal QC H4Z 1E9

Yves Turgeon
Paul Côté-Lépine
Tel: 514.397.7575
Fax: 514.397.7600
E-mail: yturgeon@fasken.com

Counsel for the Respondent Industrial Alliance Insurance and Financial Services Inc.

FASKEN MARTINEAU DUMOULIN LLP
55 Metcalfe St., Suite 1300
Ottawa ON K1P 6L5

Sophie Arseneault
Tel: 613.696.6904
Fax: 613.230.6423
E-mail: sarseneault@fasken.com

Counsel for the Respondent Industrial Alliance Insurance and Financial Services Inc.

ATTORNEY GENERAL OF CANADA
Guy-Favreau Complex, East Tower
5th Floor
200 René-Lévesque Boulevard West
Montréal QC H2Z 1X4

Marc Ribeiro
Tel: 514.283.6272
Fax: 514.283.3856
E-mail: marc.ribeiro@justice.gc.ca

Counsel for the Respondent Minister of National Revenue

ATTORNEY GENERAL OF CANADA
50 O'Connor Street, Suite 500
Room 557
Ottawa ON K1A 0H8

Christopher M. Rupar
Tel: 613.670.6290
Fax: 613.954.1920
E-mail: christopher.rupar@justice.gc.ca

Agent for the Respondent Minister of National Revenue

BARREAU DU QUÉBEC
445 St-Laurent Boulevard
Montreal QC H2Y 3T8

Sylvie Champagne
André-Philippe Mallette
Tel: 514.954.3400 x5100
Fax: 514.954.3463
Email: schampagne@barreau.qc.ca

Counsel for the intervener, the Barreau du Québec

NOËL & ASSOCIÉS
111 Champlain Street
Gatineau QC J8X 3R1

Pierre Landry
Tel: 819.771.7393
Fax: 819.771.5397
Courriel: p.landry@noelassocies.com

Agent for the intervener, the Barreau du Québec

POWER LAW
130 Albert Street, Suite 1103
Ottawa ON K1P 5G4

François Larocque
Sara-Marie Scott
Tel: 613.894.4783
Fax: 888.404.2227
Email: flarocque@juristespower.ca

Counsel for the intervener, the Association des juristes d'expression française de l'Ontario

COMMISSIONER OF OFFICIAL LANGUAGES FOR CANADA
445 St-Laurent Boulevard
Montreal QC H2Y 3T8

Christine Ruest Norrena
Élie Ducharme
Tel: 819.420.4867
Fax: 819.420.4837
Email: Christine.ruestnorrena@clo.ocol.gc.ca

Counsel for the intervener, the Commissioner of Official Languages for Canada

TABLE OF CONTENTS

FACTUM OF THE INTERVENER, THE CANADIAN BAR ASSOCIATION

PART I: OVERVIEW AND FACTS

Overview

1. This appeal addresses the constitutional obligation of bilingual courts to provide French and English language services to litigants and witnesses during hearings. Specifically, is it sufficient for bilingual courts merely to have the capacity to offer French and English language services? Or must bilingual courts also offer these services in an active and timely manner? Absent clear direction from this Court, bilingual courts will continue to require delays and adjournments to hear matters bilingually and treat French as a language of accommodation.

2. The Canadian Bar Association (the "CBA") argues that litigants and witnesses are entitled to choose their language based on their ties with the language itself, not based on their awareness of their own rights or the convenience of one language to other parties. This requires federal courts to offer services in both languages actively and without delay, to ensure that the exercise of language rights is not considered "as something in the nature of a request for an accommodation".[1] Courts must inquire as to the needs of litigants and witnesses, advise witnesses and litigants of their language rights, and provide timely access to interpreters. The continued failure of courts to do so will undermine the language rights and access to justice of minority-language communities, particularly Francophones, and self-represented litigants.

3. In this case, the Tax Court of Canada's failure to promptly provide simultaneous translation services and to clearly instruct witnesses and litigants on their language rights (i) pressured witnesses into speaking a language other than their preferred language and (ii) disadvantaged several witnesses and Mr. Mazraani, who fluently spoke one language and not the other. This violated their language rights under s. 15(1) of the *Official Languages Act* (the "*OLA*"), s. 19(1) of the *Charter*, and s. 133 of the *Constitution Act, 1867*.

Statement of facts relevant to the CBA's position

4. Before and throughout the hearing, the Tax Court took a passive approach to language rights. This passive approach persuaded Mr. Mazraani and several Francophone witnesses to

---

[1] *R v Beaulac*, [1999] 1 SCR 768 at para 24.

surrender their language rights.

5. First, the Court neither asked the parties and witnesses about their language intentions, nor noticed obvious signals that Mr. Mazraani required an interpreter. Before the hearing, Mr. Mazraani filed his Notice of Appeal in English and Industrielle Alliance filed its Notice of Intervention in French.[2] On day one of the hearing, Mr. Mazraani indicated he had not reviewed Industrielle Alliance's Notice of Intervention because it was drafted in French and he did not understand it.[3] Had the Court asked whether Mr. Mazraani required an interpreter at that point, it could have resolved the matter. Instead, the Court asked this question only on day two of the hearing. By this point, it was too late for an adjournment since Mr. Michaud, the witness on the stand, was going "out of the country" and would be unable to testify for a month.[4]

6. Second, despite a lengthy break between hearing dates, the Court took no steps to provide simultaneous translation for future Francophone witnesses. Day three of the hearing took place more than two weeks after Mr. Michaud testified. When Industrielle Alliance witness Mr. Charbonneau expressed his intention to speak French, the Court had no interpreter available. The Court also had no interpreter available two weeks after that (day five of the hearing) for Industrielle Alliance witness Mr. Leclerc.[5] Mr. Leclerc was visibly uncomfortable in English and gave portions of his evidence in French.[6] Although Mr. Mazraani had indicated he needed an interpreter if witnesses testified in French,[7] the Court provided no translation for him.[8]

7. Third, the Court failed to advise Francophone witnesses that they had a right to speak French. When Mr. Michaud indicated he would testify in French, the Court addressed the matter

---

[2] Notice of Appeal to the Tax Court of Canada, dated 3 September 2013 **[Appellant's Record ("AR"), vol II at tab 5]**; Notice of Intervention of Industrial Alliance to the Tax Court of Canada, dated 25 November 2013 **[AR, vol II at tab 6]**.

[3] Transcripts, 11 May 2015 at pp 6, 12, and 51-52 **[AR, vol II at pp 45, 51, and 90-91]**. The Court's solution was to skip over the Notice, noting that "we'll do without it then."

[4] Transcripts, 11 May 2015 at pp 249-257 **[AR, vol II at pp 288-296]**. While the hearing ultimately finished in mid-June, there was no evidence as of 11 and 12 May 2015 that it would last that long.

[5] Transcript, 15 June 2015 at p 1188 **[AR, vol VI at p 78]**.

[6] *E.g.*, transcripts, 15 June 2015 at p 1265 **[AR, vol VI at p 154]**.

[7] Transcripts, 12 May 2015 at p 270 **[AR, vol III at p 8]**.

[8] *E.g.*, transcripts, 15 June 2015 at pp 1206-1207 and 1227-1229 **[AR vol VI at pp 96-97 and pp 116-118]**.

as a request for an accommodation, stating that he was "prepared to let him [Mr. Michaud] speak in French but then I would have to arrange for an interpreter for him [Mr. Mazraani] [emphasis added]".[9] The Court also suggested to Mr. Charbonneau that because it was Mr. Mazraani's appeal, proceedings should be conducted as much as possible in English:

> M. CHARBONNEAU: Est-ce que je peux répondre en français?
>
> LE JUGE ARCHAMBAULT: Mais le contribuable… la personne qui est devant nous aujourd'hui dont c'est… dont c'est l'appel…
>
> M. CHARBONNEAU: Oui.
>
> LE JUGE ARCHAMBAULT: …nous dit qu'il a de la difficulté à comprendre le français. Donc on demande autant que possible aux témoins de s'exprimer en anglais. Est-ce que vous vous sentez relativement à l'aise pour parler en anglais?
>
> M. CHARBONNEAU: Ben je vais essayer…[10]

The Court subordinated the language rights of the witnesses to those of Mr. Mazraani.

PART II: POSITION ON ISSUES RAISED BY THE APPELLANTS

8. **On the Appellant's first issue – whether the language rights of witnesses and counsel were violated:** The CBA argues that, as a bilingual court, the Tax Court has the constitutional obligation to provide French and English language services actively and without delay. Here, the Court violated the rights of the parties and witnesses under s. 15(1) of the *OLA*, s. 133 of the *Constitution Act, 1867*, and s. 19(1) of the *Charter* by failing to instruct them on their language rights and failing to provide simultaneous translation. The violations: (i) pressured witnesses into speaking a language other than their preferred language; and (ii) placed Mr. Mazraani and several witnesses at a disadvantage because they spoke one language better than the other. The CBA takes no position on whether the rights of counsel and Industrielle Alliance were violated.

9. **On the Appellant's second issue – whether the Tax Court was obligated to adjourn the proceedings the moment that any witness or counsel expressed unease with the language:** The CBA does not argue that a bilingual court is obligated to adjourn the proceedings where it violates the language rights of parties or witnesses by failing to promptly offer French and English language services. Rather, the court must: (i) clearly instruct each person on their

---

[9] Transcripts, 12 May 2015 at p 270 **[AR, vol III at p 8]**.

[10] Transcripts, 1 June 2015 at pp 608-609 **[AR vol IV at pp 109-110]**.

language rights; (ii) clearly note the entitlement of an aggrieved person to request an adjournment without prejudice; (iii) make best efforts to minimize the impact of the violation and to avoid subsequent violations in the case. Furthermore, where circumstances prevent an adjournment, the court must nonetheless grant a substantive remedy, which could include reimbursement of the court filing fees of the aggrieved party.

PART III: STATEMENT OF ARGUMENT

10. For federal courts to treat French and English as substantively equal, they must offer services in these languages actively and without delay. This constitutional obligation requires courts to inquire as to the needs of litigants and witnesses, advise witnesses and parties of their language rights, and provide timely access to interpreters. The failure of courts to do so will undermine the language rights and access to justice of minority-language communities, particularly Francophones, and self-represented litigants.

1. French and English are substantively equal languages before the federal courts. Courts cannot place parties or witnesses at a disadvantage by forcing them to choose one language over the other

(i) Language rights are constitutional rights

11. French and English are substantively equal languages before the federal courts. Section 133 of the *Constitution Act, 1867* and s. 19(1) of the *Charter* provide for institutional bilingualism in the federal courts, enabling litigants, counsel, witnesses, judges, and other judicial officers to use either English or French.[11] This institutional bilingualism guarantees "equal access to services of equal quality for members of both official language communities in Canada."[12]

(ii) Language rights are positive rights

12. Language rights are not negative or passive rights. They are positive rights that can be enjoyed only if the means are provided. This requires "government action for their implementation and therefore creates obligations for the State."[13] The *OLA*, on which this Court

---

[11] *MacDonald v City of Montreal*, [1986] 1 SCR 460 at para 61.

[12] *R v Beaulac*, [1999] 1 SCR 768 at para 22.

[13] *Ibid.* at para 24.

has conferred "quasi-constitutional status",[14] specifically fleshes out the constitutional guarantee to institutional bilingualism by confirming that a person should not be placed at a disadvantage by choosing to speak either French or English in a federal court (in s. 15(1)). The *Act* also provides (in s. 15(2)) that a party who speaks one official language is entitled to a simultaneous translation of the proceeding where it is conducted in the other official language:

> **Official languages of federal courts**
>
> **14** English and French are the official languages of the federal courts, and either of those languages may be used by any person in, or in any pleading in or process issuing from, any federal court.
>
> **Hearing of witnesses in official language of choice**
>
> **15** (1) Every federal court has, in any proceedings before it, the duty to ensure that any person giving evidence before it may be heard in the official language of his choice, and that in being so heard the person will not be placed at a disadvantage by not being heard in the other official language.
>
> **Duty to provide simultaneous interpretation**
>
> (2) Every federal court has, in any proceedings conducted before it, the duty to ensure that, at the request of any party to the proceedings, facilities are made available for the simultaneous interpretation of the proceedings, including the evidence given and taken, from one official language into the other. …[15]

(iii) The equality of French and English must be the norm

13. In *R v Munkonda*, the Court of Appeal for Ontario confirmed that a court's positive duty in the context of a bilingual hearing is to ensure that "the two languages are treated equally: in other words, that there is no "primary language", with the other language merely being "accommodated." Equality must be the norm and not the exception, and must be achieved without creating conflict."[16] This Court confirmed that substantive equality means that "the exercise of language rights must not be considered exceptional, or as something in the nature of a request for an accommodation."[17]

2. The federal courts have an obligation to provide an active and timely offer of French and English language services to avoid pressuring parties or witnesses into choosing

---

[14] *Lavigne v Canada (Office of the Commissioner of Official Languages)*, [2002] 2 SCR 773 at para 23.

[15] *Official Languages Act*, RSC 1985, c 31 (4th Supp), ss 14, 15(1), and 15(2).

[16] *R v Munkonda*, 2015 ONCA 309 at para 61.

[17] *R v Beaulac*, [1999] 1 SCR 768 at para 24.

one language over the other and placing them at a disadvantage

14. For French and English to be treated equally, it is not sufficient for the government merely to make services in both languages available. The Federal Court of Appeal observed in *Ewonde v Canada* that "[t]he OLA requires more of the Courts than mere permission to appear in either official language. The OLA imposes positive duties on Courts to encourage and facilitate access to its services in either official language."[18] The Court's positive duty to actively offer services in both languages and to make them available in a timely manner to parties and witnesses is what makes these languages substantively equal, and ensures that a person will not be placed at a disadvantage by choosing one of the other.

15. To provide an active and timely offer of French and English services, a court must:

i. Inquire as to the language needs of litigants and witnesses and clearly advise them of their rights. Currently, rule 31 of the *Federal Court Rules* places the onus on litigants – some of whom are self-represented – to request at their own initiative simultaneous translation in writing before a hearing.[19] To paraphrase this Court's conclusion in *Beaulac*, the assumption that individuals will be aware of their rights "in all circumstances" is "unrealistic". It is for this reason that s. 530(3) of the *Criminal Code* was amended to require the justice or judge before whom an accused first appears to advise the accused in all cases of his or her language rights and the timing of an application to be tried either in French or English.[20] A court's obligation to advise parties and witnesses of their language rights ought to continue throughout the hearing: witnesses and parties should not be required to guess what their language rights are or to constantly remind the Court of these rights. This type of adversarial approach risks not only undermining those rights but also creating fear in witnesses and parties that they will antagonize the court if they insist on the respect of their rights.[21]

ii. Provide timely access to interpreters. A court must make services available at all times,

---

[18] *Ewonde v Canada*, 2017 FCA 112 at para 27.

[19] *Federal Courts Rules*, SOR/98-106, rule 31.

[20] *Criminal Code*, RSC 1985, c C-46, s. 530(3); also see *R v Bujold*, 2011 NBCA 24 at para 5.

[21] See *R v Munkonda*, 2015 ONCA 309 at para 62.

so that parties and witnesses do not require adjournments to exercise their rights. As the court confirmed in *R v Munkonda*, "[t]he state has a duty to put in place the necessary structures and deploy the necessary resources" to ensure that language rights are respected.[22] This Court added in *Beaulac* that "mere administrative inconvenience is not a relevant factor. The availability of court stenographers and court reporters, the workload of bilingual prosecutors or judges, the additional financial costs of rescheduling are not to be considered because the existence of language rights requires that the government comply with the provisions of the Act by maintaining a proper institutional infrastructure and providing services in both official languages on an equal basis."[23] It should also be up to the Court to justify a denial of timely service.[24]

3. Language rights aim to promote the access to justice of Francophone communities and self-represented litigants

16. The purpose of language rights is to give equal access to the courts to persons speaking an official language, including minority-language communities and self-represented litigants.[25] Language rights are "a fundamental tool for the preservation and protection of official language communities" and, for this reason "must in all cases be interpreted purposively, in a manner consistent with the preservation and development of official language communities in Canada".[26]

17. Where courts fail to offer French-language services actively and without delay, language rights will fail to enhance the access to justice of Francophone communities. With many more Anglophones than Francophones, and more bilingual Francophones than bilingual Anglophones, French is often perceived as a language to be "accommodated rather than offered as of right".[27] Francophone witnesses and parties may be more routinely pressured to compromise on the exercise of their language rights before the courts, as they were in this case (which occurred in Quebec). The *Munkonda* case, for example, involved a Francophone Montreal police officer who

---

[22] *R v Munkonda*, 2015 ONCA 309 at para 48.

[23] *R v Beaulac*, [1999] 1 SCR 768 at para 39.

[24] See, *e.g.*, *R v Beaulac*, [1999] 1 SCR 768 at para 42.

[25] *R v Beaulac*, [1999] 1 SCR 768 at para 34.

[26] *Ibid.* at para 25.

[27] *R v Munkonda*, 2015 ONCA 309 at paras 69-70.

testified in English in a case with a Francophone accused. To paraphrase the Court of Appeal for Ontario in that case, Anglophones are not typically required to make these choices.[28]

18. The failure to offer French and English language services actively and without delay will further undermine the access to justice of self-represented litigants, who are less familiar with their language rights. This lack of knowledge may discourage them from objecting to use of an unfamiliar language, which could provide sufficient grounds for a new trial.[29]

19. After winning on the merits in the Tax Court, Mr. Mazraani is understandably unwilling to assert that the Court violated his language rights by allowing witnesses to testify partly in French. The reality is, however, that the Court violated the language rights of both sides in this case, to different degrees. Mr. Mazraani was able to understand most of the proceedings only because much of the testimony given by Francophone witnesses was reluctantly given in English. Had the Francophone witnesses not been so accommodating, Mr. Mazraani's position may well have been different and he may have raised the violations as a ground of appeal.

20. Litigants and witnesses must be afforded the right to choose between the two official languages based on their subjective ties with the language itself, not based on the convenience of other parties or their awareness of their own rights.[30] Realistically, this will only occur if bilingual courts offer French and English language services actively and without delay. Conversely, the failure of bilingual courts to do so will undermine the substantive equality of languages, erode the rights and access to justice of French-language communities and self-represented litigants, and diminish public confidence in the Canadian legal system.

4. In the present case, the Tax Court's failure to provide an interpreter for Mr. Mazraani violated the language rights of parties and witnesses under s. 15(1) of the *OLA*, s. 19(1) of the *Charter*, and s. 133 of the *Constitution Act, 1867*

21. If French and English are substantively equal languages before the federal courts, choosing to use one language should not prejudice a witness or party. The CBA argues that the Tax Court violated the language rights of Mr. Mazraani and several witnesses by failing to fulfil

---

[28] *Ibid*.

[29] See, *e.g.*, *Beaudoin v Canada (Minister of National Health and Welfare)*, [1993] 3 FCR 518.

[30] See *R v Beaulac*, [1999] 1 SCR 768 at para 34.

its positive constitutional duty under s. 19(1) of the *Charter*, s. 133 of the *Constitution Act, 1867*, and s. 15(1) of the *OLA* to provide active and timely services in French and English. Specifically:

i. The Court violated the language rights of witnesses Mr. Michaud, Mr. Leclerc, and Mr. Charbonneau through its failure to provide an interpreter for Mr. Mazraani and its failure to advise the witnesses of their language rights, which pressured them into testifying in English to avoid an adjournment, to avoid antagonizing the judge or because they were unclear on the scope of their rights (this violation was particularly acute in the case of Mr. Charbonneau);[31]

ii. The Court violated the language rights of Mr. Mazraani and several witnesses through its failure to provide an interpreter, by placing them at a disadvantage throughout the hearing because they spoke one language less well than the other. For Mr. Michaud, Mr. Leclerc, and Mr. Charbonneau, the switch to a less familiar language likely impacted their credibility. Reviewing their evidence, the Court accused them of "a lot of play on words" and using "many circumlocutions and periphrases to avoid words like supervision, control and instructions".[32] Whether the Court would have made these findings had the three witnesses testified in French is left unsaid but, in the face of the witnesses' reluctance to testify in English, it is clear that they would have testified more comfortably in French. In any event, as noted by the Court of Appeal for Ontario, violations of language rights must be remedied even where the decision on the merits is correct:

> Violation of these rights, which are quasi-constitutional in nature, constitutes material prejudice to the linguistic minority. A court would be undermining the importance of these rights if, in circumstances where the decision rendered on the merits was correct, the breach of the right to a bilingual proceeding was tolerated and the breach was not remedied.[33]

22. This Court must clearly recognize the constitutional obligation of bilingual courts to provide an active and timely offer of French and English language services. This obligation

---

[31] As an independent sales agent, Mr. Charbonneau did not have counsel to instruct him on his rights: Transcripts, 1 June 2015 at pp 612-613 **[AR vol IV at pp 113-114]**.

[32] *Mazraani v M.N.R.*, 2016 TCC 65 at para 265.

[33] *Belende v Patel*, 2008 ONCA 148 at para 24.

includes the requirements discussed above: (i) inquire as to the language needs of litigants and witnesses; (ii) advise witnesses and parties of their language rights; (iii) provide timely access to interpreters. Absent clear direction from this Court, courts will continue to require delays and adjournments to hear matters bilingually and treat French as a language of accommodation.

5. The Court's obligation to minimize and repair an ongoing violation

23. Where a language rights violation occurs in a hearing, a court must immediately take steps to recognize, rectify and minimize it. Specifically, a court must: (i) clearly instruct each person on their language rights; (ii) clearly note the entitlement of an aggrieved person to request an adjournment without prejudice; and (iii) make best efforts to minimize the impact of the violation and to avoid subsequent violations in the case, for example, by undertaking to obtain simultaneous interpretation for subsequent dates of the hearing. If a party or witness wishes to waive his or her language rights, the Court must require the waiver to be "clear and informed".[34] In the present case, a proactive approach by the Court would have resolved much of the issue without subsequent violations, since the hearing was stretched out over several weeks. Instead, the Court persuaded witnesses to endorse the *status quo*.

24. In some instances, an adjournment becomes quite onerous or fails to remedy a violation. Here, because Mr. Michaud could not testify for the next month, he and Industrielle Alliance refused to adjourn. Where this occurs, a court must nonetheless provide a substantive remedy for the violation of a party or witness' language rights, which could include reimbursement of the court filing fees of the aggrieved party. This type of remedy recognizes the "substantive" rather than "procedural" nature of constitutional language rights, whose violations cannot be tolerated.[35] Should this Court find that the Tax Court violated the language rights of the parties in this case, it should similarly order a substantive remedy.

PARTS IV AND V: COSTS AND ORDERS SOUGHT

25. The CBA takes no position on the disposition of the appeal.

---

[34] *Wittenberg v Fred Geisweiller/Locomotive Investments Inc*, 1999 CanLII 14805 (ON SC).

[35] *R v Beaulac*, [1999] 1 SCR 768 at paras 28 and 54; also see *Belende v Patel*, 2008 ONCA 148 at para 24.

26. The CBA seeks no order as to costs, and asks that no award of costs be made against it.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

DATED April 26, 2018.

pour.

Nicolas M. Rouleau
Counsel for the intervener, the Canadian Bar Association

PART VI: TABLE OF AUTHORITIES

	Jurisprudence	**Paras**
a.	*Beaudoin v Canada (Minister of National Health and Welfare)*, [1993] 3 FCR 518	18
b.	*Belende v Patel*, 2008 ONCA 148	21, 24
c.	*R v Bujold*, 2011 NBCA 24	15
d.	*Ewonde v Canada*, 2017 FCA 112	14
e.	*Lavigne v Canada (Office of the Commissioner of Official Languages)*, [2002] 2 SCR 773	12
f.	*MacDonald v City of Montreal*, [1986] 1 SCR 460	11
g.	*Mazraani v M.N.R.*, 2016 TCC 65	21
h.	*R v Beaulac*, [1999] 1 SCR 768	2, 11, 12, 13, 15, 16, 20, 24
i.	*R v Munkonda*, 2015 ONCA 309	13, 15, 17
j.	*Wittenberg v Fred Geisweiller/Locomotive Investments Inc*, 1999 CanLII 14805 (ON SC)	23
	Legislation	
k.	*The Constitution Act, 1867*, 30 & 31 Vict, c 3 (English) s. 133 (Français) art. 133	3, 8, 11, 21
l.	*Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c. 11 (the *Charter*) (English) s. 19(1) (Français) art. 19(1)	3, 8, 11, 21
m.	*Criminal Code*, RSC 1985, c C-46 (English) s. 530(3) (Français) art. 530(3)	15
n.	*Federal Courts Rules*, SOR/98-106 (English) rule 31 (Français) règle 31	15
o.	*Official Languages Act*, RSC 1985, c 31 (4th Supp) (English) ss. 14, 15(1), 15(2) (Français) arts. 14, 15(1), 15(2)	3, 8, 12, 21