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Class Action Against Ontario for Breach of Minority Charter Rights

Toronto, April 14, 2008- Girard Law Office and Anthony Moustacalis today announced a class action proceeding has been instituted against the Ministry of the Attorney General of the Province of Ontario in the Ontario Superior Court of Justice. The action arises out of the Province's failure to provide competent interpreters in court proceedings. The class proceeding is on behalf of all individuals who have suffered because of incompetent interpreters.

The right to have an interpreter is guaranteed by Section 14 of the Charter of Rights and Freedoms:

“A party or a witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.”

The Ministry of the Attorney General Court Services Division is responsible for providing competent interpreters in court proceedings. It is alleged that the Province has used unaccredited individuals as interpreters without advising the court, the parties or counsel. The Province does not adequately train, test or monitor interpreters. It is further alleged that the Province continued to use incompetent interpreters even after it became aware that they were not competent to interpret court proceedings. The Province is alleged to have ignored or failed to heed complaints about interpreters, training, monitoring and procedures raised by Inquiries, judges, crowns, counsel and even Ministry staff.

The Ministry of the Attorney General Freelance Court Interpreter's Handbook, February, 1995 states as a Rule of Professional Conduct that "Court interpreters shall faithfully and accurately reproduce in the target language the closest natural equivalent of the source language message, primarily in terms of meaning, and secondly in terms of style, without embellishment, omission or explanation".

The plaintiff in the action is Avtar Sidhu who was involved in a previous action involving interpreter difficulties, *R v. Sidhu*, [2005] O.J. No. 4881. In that case, the Court found that the Court Services Division in Brampton had “ignored or abandoned constitutional and access to justice values unreasonably discounting the seriousness of the concerns involving [the interpreter's] interpretation competency.”

The Court went on to find that the Court Services Division in Brampton had regularly scheduled unaccredited and untested interpreters and routinely failed to notify the presiding justice and the parties of their status. The Court stated:

“The reckless indifference of the Court Services Division to the s. 14 Charter right led to the Sidhu mistrial. It is statistically inevitable that there exist as yet undiscovered miscarriages of justice.”

Anthony Moustacalis, counsel for Mr. Sidhu, commented “I am concerned that so many people who put their trust in the administration of justice in this Province have suffered from incompetent interpretation. If you do not understand the proceedings through competent interpretation, you are denied justice. We are bringing this action to help identify those “... as yet undiscovered miscarriages of justice”. These people deserve to know that their rights under the Canadian Charter of Rights and Freedoms have been breached. These people deserve to know whether their court proceeding was tainted by incompetent translation. The Province has not undertaken an appropriate review of the interpreter program, nor has it taken sufficient steps to identify those who may have been victims of a miscarriage of justice.”

A copy of the statement of claim and the decision in *R. V. Sidhu* are available at www.cacounsel.com. The claim seeks damages in the amount of \$35,000,000.00 on behalf of the class members. For more information contact Anthony Moustacalis, (416)363-2656, anthonyem@msn.com