Important Minority Language Rights Victory at the SCC

In the recent case of *DesRochers v. Canada (Industry)*,[1] the Supreme Court of Canada ruled unanimously against a Franco-Ontarian who requested a declaration that "the federal government failed the French-speaking minority in the North Simcoe area by offering an economic development program that did not have equal results for francophones."[2] Raymond DesRochers, Executive Director of the Corporation de development économique communautaire (CALDECH), put forth the argument that French services offered by an Industry Canada-sponsored community future development corporation (CFDC) were not of the same level as those being offered in English. As a result, DesRochers argued, the ministry was violating language rights protected by the *Charter of Rights and Freedoms* and the quasi-constitutional*Official Languages Act*.[3] At issue along with section 20(1) of the *Charter*[4] was section 22 of the *Official Languages Act*,[5] which states that:

22. Every federal institution has the duty to ensure that any member of the public can communicate with and obtain available services from its head or central office in either official language, and has the same duty with respect to any of its other offices or facilities
a) within the National Capital Region; or
b) in Canada or elsewhere, where there is significant demand for communications with and services from that office or facility in that language.
Supreme Court Justice Louise Charron agreed with the Federal Court of Appeal that Industry Canada was constitutionally obliged to provide services in French in the relevant region of Ontario, thus taking into account the needs of the minority Francophone community. However, because Industry Canada had already redressed the inadequate provision of French-language services by the CFDC, no remedy was required of Industry Canada other than costs.

Justice Charron did not approve of the lower court's "narrow view of linguistic equality" in assessing whether the CFDC had meet its constitutional duty to provide minority language services, stating instead that "depending on the nature of the service in question, it is possible that substantive equality will not result from the development and implementation of identical services for each language community."[6] Heenan Blaikie lawyer Ronald Caza believes this ruling will have an impact on all departments and agencies of the federal government, and will allow minority communities to better function in their own language and slow down the assimilation process.[7]

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[1] 2009 SCC 8

[2] Janice Tibbetts, Supreme Court Rejects Program Inequality Claim, *The Vancouver Sun* (5 February 2009).
[3] Radio-Canada, "Importante Victoire en Cour Suprême" (5 February 2009).
[4] *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11.
[5] RSC 1985, c. 31 (4th Supp.)
[6] *Supra* note 1 at 51.
[7] *Supra* note 3.