

FREQUENTLY ASKED QUESTIONS (civil matters)
(Last updated: January 2016)

1. What is the role of the Court of Appeal of Quebec?

The Court is the general appellate court charged of hearing appeals from judgments of other courts in the province of Québec. The Court's jurisdiction includes appeals from judgments in civil matters, criminal matters and family matters, amongst others.

2. Does the Court rehear the trial?

No. The Court of Appeal analyses the judgment rendered and the file as it is constituted in first instance.

The Court can interfere with findings of fact only if the appellant establishes that the trial judge has committed a palpable and overriding error, and that this error was determinative in the trial judge's conclusions.

As a general rule, the Court will intervene to correct errors of law committed by the trial judge.

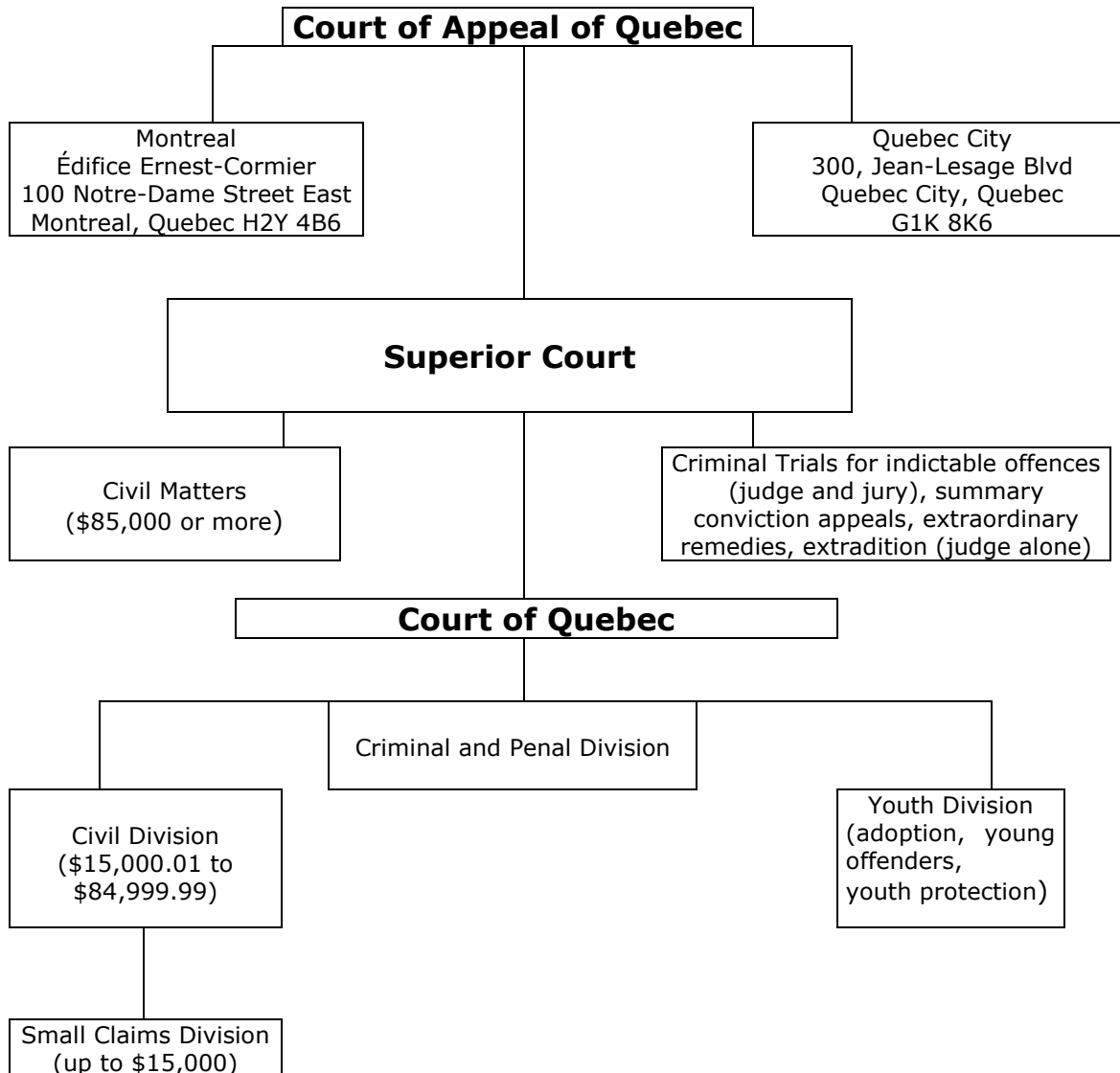
It should be noted that no witnesses are heard in appeal, the purpose of the hearing being to give the parties an opportunity to present oral arguments and to exchange with the judges hearing the case.

3. What is the Court of Appeal's position in the judicial hierarchy?

This diagram shows the position of the various courts in the judicial system:

**Supreme Court of Canada
(Ottawa)**

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4. What is the Court's contact information?

The Courts holds hearings in the cities Montreal and Quebec.

<p>OFFICE OF THE COURT OF APPEAL - MONTREAL</p> <p>Édifice Ernest-Cormier 100, Notre-Dame st East Montreal (Quebec) H2Y 4B6</p> <p>Tel: 514-393-2022 ext. 0 courdappel@justice.gouv.qc.ca</p>	<p>OFFICE OF THE COURT OF APPEAL - QUEBEC</p> <p>Québec Courthouse 300, Jean-Lesage Blvd, Office 4.27 Quebec (Quebec) G1K 8K6</p> <p>Tel: 418-649-3401 courdappelqc@justice.gouv.qc.ca</p>
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Fax: 514-864-7270	Fax: 418-646-6961
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5. When is the Court open?

The Court is open from Monday to Friday between 8:30 a.m. and 4:30 p.m., except during public holidays.

6. Are the Court's hearings open to the public?

Yes. However, all attendees must be appropriately dressed. Lawyers and articling students must respect the *Regulation of Civil Procedure* concerning their attire: <http://courdappelduquebec.ca/en/procedure-and-notice/rules-in-civil-and-administrative-matters/>.

7. Is the use of technological devices permitted in the Courtrooms?

Barring special circumstances, the use of mobile phones, cameras, videos and other technological devices is prohibited in the Courtrooms. For more information, please see:

http://courdappelduquebec.ca/fileadmin/Fichiers_client/Procedures_et_avis/en_Liste_des_avis/dir_utilisation_techno_salle_audio-a.pdf .

8. Do I need a lawyer or can I represent myself?

You can represent yourself, without a lawyer. A company (legal person) must be represented by a lawyer. In all cases, it is strongly recommended that you speak to a lawyer before instituting legal proceedings.

Only lawyers are authorized to represent another person before the courts.

9. Can the Court staff answer all types of question?

The staff at the Office of the Court can explain and answer questions regarding how the Court works and its rules, but they cannot give you legal advice or draft pleadings for you.

10. What do these words and phrases mean?

Please consult this page for a glossary of words commonly used in the appeal process: <http://courdappelduquebec.ca/en/general-information/glossary/>

11. What is the time limit for filing an appeal?

Generally speaking, the deadline for filing an appeal is 30 days after the date of the notice of judgment or 30 days after the date of a judgment rendered at a hearing. In other words, a person intending to appeal a judgment is required to file a notice of appeal within 30 days of the trial judgment.

Specific statutes may, however, prescribe a shorter time limit.

In all cases, speaking to a lawyer as soon as possible is strongly recommended.

12. Is it possible to file an appeal after the time limit has expired?

In civil matters, if the judgment appealed from has been rendered within the preceding six months, the Court may, grant special leave to appeal after the expiry of the time limit. The application must specify the reasons why the appeal has not been filed within the required time limit as well as the proposed grounds of appeal. For more information, please refer to the act sheets and sample of pleadings on the Court's website.

13. Where do I file an appeal?

The Court of Appeal has offices in Montreal and Quebec.

Judgments rendered in the judicial districts of Beauharnois, Bedford, Drummond, Gatineau, Iberville, Joliette, Labelle, Laval, Longueuil, Mégantic, Montreal, Pontiac, Richelieu, Saint-François, Saint-Hyacinthe and Terrebonne may be appealed at the Court of Appeal in Montreal.

Judgments rendered in the judicial districts of Abitibi, Alma, Arthabaska, Baie-Comeau, Beauce, Bonaventure, Charlevoix, Chicoutimi, Frontenac, Gaspé, Kamouraska, Mingan, Montmagny, Québec, Rimouski, Roberval, Rouyn-Noranda, Saint-Maurice, Témiscamingue and Trois-Rivières may be appealed at the Court of Appeal sitting in Quebec.

14. Are there fees associated with filing an appeal?

Yes. In civil matters, the filing fees for an appeal are:

<i>Pleadings</i>	<i>Natural Person</i>	<i>Legal Person</i>
Notice of Appeal from a Final Judgment	\$340	\$400
Notice of Appeal from a Judgment Rendered in the Course of a Proceeding	\$255	\$300

Representation Statement or Non-Representation Statement	\$85	\$100
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For example, a natural person appealing a final judgment of the Superior Court will have to pay the filing fees for a *Notice of Appeal from a Final Judgment* (\$340). These fees must be paid when the pleadings are filed with the Office of the Court of Appeal.

Please note that these filing fees are in addition to costs which may be incurred in hiring a bailiff for service of documents and in preparing briefs or other documents.

15. How do I appeal from a judgment?

An appeal is initiated by filing a *Notice of Appeal* with the Office of the Court of Appeal.

In some cases, an *Application for Leave to Appeal* is required and must be filed together with the *Notice of Appeal*.

For more information on how to file an appeal in civil matters, please refer to the fact sheets: <http://courdappelduquebec.ca/en/general-information/aide-memoire/how-to-file-an-appeal-in-civil-matters/> .

16. It is necessary to obtain leave to appeal?

In civil matters, some judgments require that leave to appeal be obtained from a judge of the Court of Appeal. This is generally the case with a judgment rendered in the course of a proceeding. This is also the case when the value of the object of the dispute is less than \$60,000, or where the *Code of Civil Procedure* specifies that leave is required, such as a judgment regarding execution.

In all cases, speaking to a lawyer is recommended.

17. Is leave to appeal always granted?

No. An application for leave to appeal will be granted by a judge of the Court of Appeal if, in his or her opinion, the application meets the criteria set by law (See articles 30 and 31 of the *Code of Civil Procedure*, amongst others).

18. What documents should I file with my application for leave to appeal?

The Court of Appeal does not have a copy of the first instance file. As such, you must attach a copy of the judgment appealed from as well as all other documents necessary to evaluate the application including pleadings, exhibits, depositions, minutes of the court and judgments. You may also provide excerpts of these documents. For more information, see the fact sheets at: <http://courdappelduquebec.ca/en/general-information/aide-memoire/>.

Consulting a lawyer is strongly recommended when preparing a file for appeal.

19. Can I appeal from a decision denying leave to appeal?

Although the Court of Appeal cannot reconsider its decision denying leave to appeal, the decision may be appealed, with leave, at the Supreme Court of Canada.

20. What is the effect of appealing a trial judgment?

Generally, an appeal suspends the application of the first instance judgment, however, here are exceptions. Speaking to a lawyer is recommended.

21. Is an appeal brief always required?

Yes. As a general rule, an appeal brief is required.

A memorandum replaces the brief when an appeal is sought against a judgment in matters regarding physical integrity, civil status or legal capacity, habeas corpus, family, international child abduction or seizure, and also where the judgment appealed from is rendered in the course of a proceeding or in a non-contentious proceeding.

In all cases, it is essential to consult the relevant provisions of the *Code of Civil Procedure* and the *Civil Practice Regulation* of the Court of Appeal. Consulting a lawyer is recommended.

22. What is the purpose of an appeal brief or memorandum?

An appeal brief or a memorandum presents the facts of the case, the issues in dispute, and the arguments of the parties. Relevant extracts from the evidence and a list of authorities are attached to these documents. Each party must file its brief or memorandum and must notify these documents to the other parties. The judges will review each brief or memorandum before the hearing.

The content and form of the appeal brief and memorandum are determined by the *Civil Practice Regulation* of the Court of Appeal and by the *Code of Civil Procedure*.

23. Are transcripts of the witness testimony required?

It is up to the appellant to include in her brief all the depositions or extracts of depositions taken in first instance. This decision is crucial for the success of the appeal, and consulting a lawyer is strongly recommended.

Parties wishing to avoid the high costs of producing transcripts may agree on a joint statement of the facts which will be inserted in the appellant's appeal brief or memorandum.

24. Can the Court refuse an appeal brief?

Yes. If a brief does not comply with the *Civil Practice Regulation* of the Court of Appeal, the Clerk will advise the author of the elements requiring correction and establish a time limit for filing a corrected brief. If the required corrections are not made, the brief will be refused.

The Clerk will refuse an appeal brief that is not filed within the time limit.

25. In civil matters, what is the time limit for filing an appeal brief?

Usually, the appellant must file an appeal brief within three months of filing of the Notice of Appeal or of the judgment authorizing the appeal or a judgment rendered on an application to dismiss the appeal.

After the appellant's brief is filed, the respondent has two months to file a reply.

The other parties (intervenor and impleaded parties) have four months to file a reply following the notification of the appellant's brief.

For files opened before the coming into force of the new *Code of Civil Procedure* (January first, 2016), the time limits for filing an appeal brief are those governed by the *Code of Civil Procedure*, c. C-25.

26. Can these time limits be extended?

Yes. A judge of the Court of Appeal or the clerk may extend the time limit if an application for an extension is made before the time limit expires.

27. What will happen if the appeal briefs are not filed within the time limit?

If the appellant does not file an appeal brief or a memorandum within the time limit, the appeal lapses.

If the respondent or other parties (intervenors or impleaded parties) does not file an appeal brief or a memorandum within the time limit, that party is precluded from filing and, barring special circumstances, will not be heard at the hearing.

28. Is it possible to resolve the case without a hearing?

Yes. The parties may settle their case independently at any stage of the appeal.

Also, the parties may participate in a judicial mediation session. This session is a settlement conference presided by a judge. Participation in a settlement conference is free and voluntary, and may be held only upon the written joint request of the parties. For more information, please refer to: <http://courdappelduquebec.ca/en/judicial-mediation-and-facilitation-conferences/>

29. When is the file ready to be heard?

The case is ready to be heard by the Court as soon as the file is complete. A file is complete when all the appeal briefs or memorandums are filed.

The Clerk will notify the parties when a hearing has been set for the appeal.

If the respondent does not file an appeal brief or memorandum, the Clerk will nevertheless set down a hearing for the appeal.

30. When can I expect to be heard?

Once the file is complete and the appeal is ready to be heard, it takes about 11 months to be heard in a civil matter.

The Court will notify the parties of the hearing date at least 30 days in advance. The weekly hearing rolls of hearing are provided on the Court's website: <http://courdappelduquebec.ca/en/rolls/> .

31. When will the judgment be rendered?

The judgment of the Court of Appeal may be rendered at the hearing or taken under advisement. In the latter case, the average wait time before a judgment is rendered is three months.

32. Is the Court of Appeal judgment final?

Yes, unless an application for leave to appeal to the Supreme Court of Canada is filed and granted. Please refer to the Supreme Court web site: www.scc-csc.gc.ca.

33. Is the Court of Appeal judgment executory?

The judgment is executory as soon as it is rendered. This means that the Court's judgment applies immediately. A party may however apply for a stay on the judgment, if the party intends to apply for leave to appeal to the Supreme Court of Canada.

34. How much will I receive for my bill of costs?

For more information see: www.tribunaux.qc.ca/c-appel/English/Billofcosts/bill/BILL_OF_COSTS.pdf.

35. Can I access Court of Appeal decisions online?

Yes. Decisions of the Court issued with reasons after January 1, 1986 are available for free at: <http://soquij.qc.ca/fr/english>

The Court's decisions from 1963 to the present day are also available by paid subscription at: <http://soquij.qc.ca/fr/services-aux-professionnels>

36. Are the Court of Appeal's decisions available in both French and English?

No. Decisions are not generally released in both languages. However, a party to an appeal is entitled to obtain a French or English translation free of charge.

Selected decisions written in French are translated into English and are available online here: <http://soquij.qc.ca/fr/english>.