



Court of Appeal of Quebec

PRACTICE DIRECTION FACILITATION IN CRIMINAL MATTERS

CONFIDENTIALITY

1. Only persons required to know the status of a file under facilitation will be informed thereof, and only as needed.
2. All communications with the Court or its administration must be addressed to the judge in charge of facilitation or to the judge designated in respect of a file.
3. If communications are submitted to the Office of the Court, they must be marked confidential.
4. Confidentiality continues after the process is complete, subject to a reference in the judgment or an allegation against counsel who has overstepped his mandate or has made false and misleading submissions, or subject to an exception where the protection of the public requires it.

OBJECTIVE

5. The objective is to facilitate discussions in order to assist in defining the matter under appeal or in finding a solution to the dispute that can be submitted to a panel of the Court in accordance with the legal and jurisprudential standards required to protect the public interest.
6. If the process is unsuccessful, the appeal will proceed and the judge who presided over the facilitation will not form part of the panel hearing the appeal.

GROUND FOR REFUSAL

7. The judge in charge of the facilitation or the judge designated in respect of a file may refuse a facilitation application or end the process at any time if, among other things:
 - The public interest or the interests of justice require that the issues raised in the appeal be debated publicly;
 - The facilitation involves a rule of law or case law that is controversial, not fully established or new;
 - The parties are unable to agree.

DOCUMENTS

8. The facilitation file is separate from the Court file. Consequently, the parties must provide the judge in charge of facilitation or the judge designated in respect of a file with a copy of all documents required to accomplish his duties.
9. **Unless otherwise indicated, ALL DOCUMENTS MUST BE SUBMITTED AS A TECHNOLOGICAL VERSION, by e-mail or otherwise.**
10. The following documents are required for a preliminary review of the application:
 - a. The signed facilitation application (on paper / original):
 - i) The original signed form must be provided to the judge [Each party may send an identical version of the original document bearing its signature if it is difficult to sign the document jointly (distance, schedule, etc.)];
 - b. The parties' joint memorandum, signed by their lawyers (on paper / original).
 - Maximum of two pages divided into four parts:
 - An overview of the facts: The parties must set out the important facts required for an understanding of the problem and the solution sought. Where applicable, they may simply declare that they are satisfied with the statement of facts set out in the judgment under appeal.
 - The error(s) committed by the judge or the item(s) to be discussed: The parties must identify the error(s) or concisely state their position on the issue(s) to be discussed. It is desirable to provide a succinct reference to the applicable law.
 - The specific conclusions sought: If possible, they should be formulated jointly by the parties. It is desirable to provide a succinct reference to the applicable law.
 - Status of the file: Provide an indication of the status of the appeal file (upcoming motion, hearing, etc.) and the degree of urgency, where applicable;
 - c. The Notice of Appeal and, where applicable, the Motion for Leave to appeal;
 - d. The judgement under appeal; and
 - e. All other documents the parties deem useful.
11. The parties will be called to a meeting in person or by means of remote communication as soon as possible after all the documents have been received.

OUTCOME OF THE FACILITATION

12. The discussions and documents having led to the agreement will constitute the facilitation file. The parties waive the holding of a hearing and the judgment will, in principle, be rendered on the basis of the record, in the absence of the parties, and will reflect the accepted outcome.
13. The Court's judgment will indicate that a facilitation session in a criminal matter was held (all other elements of the file remain confidential) and specify the outcome accepted by the parties, as well as the reasons why the Court is adopting the outcome.
14. Alternatively, at the end of the process, the judge may suggest that the parties consider that the appeal be decided on the basis of the record, in accordance with section 72 of the *Rules of the Court of Appeal of Quebec in Criminal Matters* (SI/2018-96), or a public hearing.

COURT OF APPEAL OF QUEBEC

**CANADA
PROVINCE OF QUEBEC
REGISTRY OF**

Court of Appeal of Quebec

No.:

In first instance

No.:

APPELLANT

v.

RESPONDENT

JOINT APPLICATION FOR FACILITATION IN A CRIMINAL MATTER

In accordance with section 62 of the *Rules of the Court of Appeal of Quebec in Criminal Matters*, we hereby present a joint application for facilitation in order to find a solution to our dispute in a criminal matter by reaching an agreement that may be submitted to the Court.

We understand that the facilitation is a complement to the appeal, that the process is confidential, that we are hereby waiving the right to a hearing and that the time limits for an appeal will be suspended as of the filing of the application for facilitation.

We agree to comply with the clerk's instructions and to deliver the required summary file directly and jointly to the judge in charge of the facilitation no later than 30 days from the date hereof. The judge in charge of the facilitation (or the judge designated by him) will contact us as soon as possible after receipt of the documents.

We agree to respect the confidentiality of all exchanges that take place during the facilitation process, including telephone conference calls, video conference calls, full meetings and individual meetings, as well as the confidentiality of the documents filed in connection with the facilitation.

We confirm that our e-mail addresses, if provided, comply with the rules of professional conduct, namely, that the lawyer has obtained valid consent

from his client to use this means of communication, it being understood that the use of free email services is not authorized.

Date

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Counsel for the Appellant

.....
Counsel for the Respondent

| | |
|------------|------------|
| Name: | Name: |
| Firm: | Firm: |
| Address: | Address: |
| | |
| Telephone: | Telephone: |
| Fax: | Fax: |
| Email: | Email: |

**PLEASE return the form (duly signed by everyone) to the
Office of the Court of Appeal, indicating on the envelope
"APPLICATION FOR FACILITATION IN A CRIMINAL MATTER"**