CANADA

PROVINCE OF QUEBEC

DISTRICT OF [MONTREAL or QUEBEC]

No.: [insert the file number in appeal]

No.: [insert the file number in first instance]

[write CONFIDENTIAL if required]

COURT OF APPEAL OF QUEBEC

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[INSERT THE APPELLANT’S NAME]

APPELLANT *-* [insert the status in first instance]

v.

[INSERT THE RESPONDENT’S NAME]

RESPONDENT - [insert the status in first instance]

and

[INSERT THE IMPLEADED PARTY’S NAME]

IMPLEADED PARTY - [insert the status in first instance]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**APPLICATION TO STAY THE PROVISIONAL EXECUTION**

**(Article 660 *C.C.P.*)**

Appellant

Dated [insert the date]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**TO ONE OF THE HONOURABLE JUDGES OF THE COURT OF APPEAL, THE APPELLANT SUBMITS:**

1. On [insert the date of the judgment], the Honourable [insert the name of the judge], of the [Court of Québec OR Superior Court], District of [insert the district], [state the conclusions of the judgment rendered];
2. This judgment is provisionally enforceable as of right because: [specify the case provided for in article 660 para.1 *C.C.P.*];

[OR]

The trial judge ordered the provisional execution of the judgment;

1. On [insert the date of the notice of appeal], the appellant appealed from that judgment;

[OR]

On [insert the date of the judgment granting leave to appeal], the appellant was granted leave to appeal from that judgment;

[OR]

This application is annexed to the notice of appeal dated [insert the date of the notice of appeal];

1. As it appears from the notice of appeal (Schedule 2), the appellant argues that the trial judge erred in [briefly reiterate the grounds set out in the notice of appeal];
2. The provisional execution of the judgment should be stayed for the following reasons: [state the facts and grounds demonstrating the apparent weakness of the judgment in first instance, the risk of serious prejudice if the execution is not stayed and the balance of convenience in favour of the appellant];

**FOR THESE REASONS, MAY IT PLEASE THE COURT TO:**

**GRANT** this application;

**ORDER** a stay ofthe provisional execution of the judgment rendered on [insert the date], by the Honourable [insert the name of the judge], of the [Court of Québec or Superior Court], District of insert the district], in file number [insert the file number in first instance];

**THE WHOLE**, with costs.

This [indicate the date on which the pleading is signed], in [name of city]

[Signature]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Name]

Appellant

[Address]

[Telephone number]

[Fax number, if any]

[Email address, if any]

[Permanent code, where applicable]

[*If applicable, include an affidavit*]

|  |  |
| --- | --- |
| CANADA  PROVINCE OF QUEBEC  DISTRICT OF [MONTREAL or QUEBEC]  No.: [insert the file number in appeal]  No.: [insert the file number in first instance]  [write CONFIDENTIAL if required] | COURT OF APPEAL OF QUEBEC  [INSERT THE RESPONDENT’S NAME]  APPELLANT - [insert the status in first instance]  v.  [INSERT THE RESPONDENT’S NAME]  RESPONDENT - [insert the status in first instance]  and  [INSERT THE IMPLEADED PARTY’S NAME]  IMPLEADED PARTY - [insert the status in first instance] |

**AFFIDAVIT**

Appellant

Dated [insert the date]

I, the undersigned, [insert your name], domiciled and residing at [insert your address], solemnly affirm as follows:

1. I am the appellant;
2. All the facts alleged in the *Application to stay the provisional execution* are true.

|  |  |
| --- | --- |
|  | This [insert the date when the pleading is signed], in [name of city]  [Your signature]  [Your name]  Appellant |
| Solemnly affirmed before me this [insert the date of the signature]  [Signature of the person receiving the oath]  [Name and status of the person receiving the oath] |  |

**NOTICE OF PRESENTATION**

|  |  |
| --- | --- |
| **TO:** | [Indicate the name of the party to whom the application will be notified], [indicate the party’s status in appeal], [indicate the party’s address] |

**[If the application will be presented in Montreal, state:]**

**NOTICE IS HEREBY GIVEN** that the *Application to stay the provisional execution* will be presented before a judge of the Court of Appeal sitting at the Ernest-Cormier Building, located at 100 Notre-Dame Street East, in Montreal, on [insert the scheduled date], at 9:30 a.m., in Courtroom RC-18.

**[If the application will be presented in Quebec City, state:]**

**NOTICE IS HEREBY GIVEN** that the *Application to stay the provisional execution* will be presented before a judge of the Court of Appeal sitting at the Quebec City Courthouse, located at 300 Jean-Lesage Boulevard, in Quebec City, on [insert the scheduled date], at 9:30 a.m., in Courtroom 4.30.

**DO GOVERN YOURSELF ACCORDINGLY.**

**TABLE OF CONTENTS FOR THE SCHEDULES IN SUPPORT OF THE   
APPLICATION TO STAY THE PROVISIONAL EXECUTION**

**TAB 1:** [describe schedule 1] **[if applicable]**

**[Include all schedules necessary to support your application]**

|  |  |  |
| --- | --- | --- |
|  | No.: [insert the file number in appeal]  No.: [insert the file number in first instance]  COURT OF APPEAL OF QUEBEC  DISTRICT OF [MONTREAL or QUEBEC]  [INSERT THE APPELLANT’S NAME]  APPELLANT - [insert the status in first instance]  v.  [INSERT THE RESPONDENT’S NAME]  RESPONDENT - [insert the status in first instance]  and  [INSERT THE IMPLEADED PARTY’S NAME]  IMPLEADED PARTY - [insert the status in first instance]  **APPLICATION TO STAY THE PROVISIONAL EXECUTION**  **(Article 660 *C.C.P.*)**  Appellant  Dated [insert the date]  [Name]  [Address]  [Telephone number]  [Fax number, if any]  [Email address]  [Your permanent code, where applicable] |  |

**REMARKS**

**Filing, Service and Notification**

* The application must be notified to the other parties before it is filed with the Court office (art. 377 of the *Code of Civil Procedure* (hereinafter the “*C.C.P.*”)).
* The application must be filed at the counter of the Court office in duplicate on paper or using the Digital Office of the Court of Appeal (DOCA). If the filing is made at the counter of the Office of the Court, the PDF file of the application must be transmitted to the Office of the Court via DOCA on the day the paper version is filed (see ***Clerk’s Practice Direction No.7***).
* The two copies of the application must be filed with the Court office at least five working days prior to the date of presentation (art. 377 *C.C.P.* and s. 66 of the *Regulation of the Court of Appeal of Quebec in Civil Matters* (hereinafter the “*R.C.A.Q.Civ.M.*”)). To find out the upcoming available presentation dates, please refer to the “[Calendar - Available hearing dates - Motions”](https://courdappelduquebec.ca/en/rolls/calendar-available-hearing-dates-motions/) section on the website of the Court of Appeal.

DO NOT INCLUDE

**Format, Drafting and Content**

* The application must not exceed **10 pages**, excluding the designation of the parties and the conclusions sought (s. 65 *R.C.A.Q.Civ.M.*).
* Every pleading must be formatted as follows (s. 24 *R.C.A.Q.Civ.M*.):
* Every pleading must be drafted on good quality “letter-sized 8 ½ x 11” white paper (21.5 cm x 28 cm);
* Handwritten pleadings will not be accepted;
* The text must appear on the front of each sheet, with a minimum of one and one-half spaces between lines, except for quotations, which must be single-spaced and indented. Margins must be no less than 2.5 cm;
* The font must be 12-point Arial for the entire text, except for quotations, which may be in 11-point Arial, and footnotes, which may be in 10-point Arial;
* Every pleading must be signed by the party or the party’s counsel;
* The technological version of the application must be prepared in accordance with the ***Chief Justice’s Directive on the Rules respecting the preparation of the PDF Files***.
* If any part of the record is confidential, the application must include an express reference to this effect and set out the legal provision or order on which the confidentiality is based (art. 108 *C.C.P.* and s. 9 *R.C.A.Q.Civ.M.*). The word “CONFIDENTIAL” must appear beneath the Court record number.

**Schedules**

* Pursuant to s. 67 *R.C.A.Q.Civ.M.,* an application must be accompanied by all the documents necessary for its adjudication in order to be presented on the date indicated in the notice of presentation.
* The parties must use tabs to properly separate each document attached to their application.
* A table of contents referring to the numbers of the tabs and pages is required.
* The application and its schedules must be stapled or bound with a spiral binding or other type of binding.

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| --- |
| **Warning**: This template does not exempt those who use it from reading the applicable legislation. It is available to facilitate the preparation of pleadings. Every pleading must be submitted to the clerk, who may refuse it or require modifications if the pleading does not comply with the applicable legislation.  DO NOT INCLUDE |