

CANADA

COURT OF APPEAL OF QUEBEC

PROVINCE OF QUEBEC
DISTRICT OF [MONTRÉAL OU QUÉBEC]

[INDIQUER VOTRE NOM]
[indiquer votre adresse].

No.: [indiquer le numéro de dossier en
première instance]

INCIDENTAL APPELLANT - [indiquer votre
position en première instance]

No.: [indiquer le numéro de dossier en
première instance]

v.

[indiquer CONFIDENTIEL si requis]

[INDIQUER LE NOM DE LA PARTIE
ADVERSE]
[indiquer l'adresse].

INCIDENTAL RESPONDENT [indiquer la
position de la partie adverse en première
instance]

and

[INDIQUER VOTRE NOM]

IMPLEADED PARTY - [indiquer votre
position en première instance]

NOTICE OF INCIDENTAL APPEAL

(Article 359 C.C.P.)

Incidental appellant

Dated [indiquer la date]

FACTS AND GROUNDS OF APPEAL

1. The incidental appellant appeals from a judgment of the [indiquer la Cour] rendered on [indiquer la date du jugement], by the Honourable [indiquer le nom du juge], sitting in the District of [indiquer le district], which [préciser le dispositif du jugement];
2. On [indiquer la date de l'avis de jugement (joindre en annexe l'avis de jugement)], the office of the court of first instance issued a notice of judgment in accordance with art. 335 C.C.P.;

[OU]

The date of the judgment rendered at the hearing is [indiquer la date pour un jugement rendu à l'audience];

3. The trial lasted [indiquer la durée];
4. The value of the subject matter of the dispute is [indiquer la valeur, le cas échéant];
5. The record does not contain any confidential information;

[OU]

The record contains confidential information. [Préciser l'élément ou le document qui est confidentiel ainsi que la disposition législative ou l'ordonnance fondant la confidentialité (joindre en annexe le jugement où se trouve l'ordonnance)];

6. The trial judge erred in [Le ou la] judgment for the following reasons:

[indicate, below, the grounds of appeal you will rely on for your appeal]

I. Errors of law

7. The trial judge erred in law by[il ou elle] deciding that [...];
8. The incidental appellant intends to demonstrate that [...];
9. This error of law is overriding because [...];

II. Palpable and overriding errors of fact

10. The trial judge committed a palpable error by[il ou elle] deciding that [...];
11. The incidental appellant intends to demonstrate that [...];
12. This error of fact is overriding because [...];

CONCLUSIONS

13. The incidental appellant will ask the Court of Appeal to:
 - (a) **ALLOW** the appeal;
 - (b) **REVERSE** the judgment in first instance;
 - (c) [préciser les conclusions recherchées];

- (d) **CONDEMN** the incidental respondent to pay the legal costs both in first instance and on appeal.

This notice of appeal has been notified to [indiquer le nom des parties intimées, intervenantes ou mises en cause], to Mtre [indiquer le nom de l'avocat de la partie intimée en première instance] and to the office of the [indiquer le tribunal de première instance], District of [indiquer le district du tribunal de première instance].

This [indiquer la date où est signé l'acte], in
[nom de la ville]

[Votre signature]

[Votre nom]

Incidental appellant

[Votre adresse]

[Votre numéro de téléphone]

[Votre numéro de télécopieur, le cas
échéant]

[Votre adresse électronique, le cas
échéant]

[Votre adresse électronique, le cas
échéant]

**TABLE OF CONTENTS FOR THE SCHEDULES IN SUPPORT OF THE
NOTICE OF INCIDENTAL APPEAL**

TAB 1: Copy of the order on which the confidentiality is based **[if applicable];**

TAB 2: [décrire l'annexe 2] **[if applicable];**

[include all schedules necessary to support your notice of incidental appeal]

No.: [indiquer le numéro de dossier en première instance]

No.: [indiquer le numéro de dossier en première instance]

Within 10 days after notification, the respondent, the intervenors and the impleaded parties must file a representation statement giving the name and contact information of the lawyer representing them or, if they are not represented, a statement indicating as much. If an application for leave to appeal is attached to the notice of appeal, the intervenors and the impleaded parties are only required to file such a statement within 10 days after the judgment granting leave or after the date the judge takes note of the filing of the notice of appeal.

The lawyer who represented the respondent in first instance, if no longer acting for the respondent, must so inform the respondent, the appellant and the office of the Court of Appeal without delay. (art. 358 paras. 2 and 3 C.C.P.)

COURT OF APPEAL OF QUEBEC
DISTRICT OF [MONTRÉAL OU QUÉBEC]

[INDIQUER VOTRE NOM]

INCIDENTAL APPELLANT - [indiquer votre position en première instance]

v.

[INDIQUER LE NOM DE LA PARTIE ADVERSE]

INCIDENTAL RESPONDENT - [indiquer la position de la partie adverse en première instance]

and

[INDIQUER VOTRE NOM]

IMPLEADED PARTY - [indiquer votre position en première instance]

NOTICE OF INCIDENTAL APPEAL

Incidental appellant
Dated [indiquer la date]

[Votre nom (et code d'avocat, le cas échéant)]

[Votre adresse]

[Votre numéro de téléphone]

[Votre numéro de télécopieur, le cas échéant]

[Votre adresse électronique, le cas échéant]

If a party fails to file a representation statement or a non-representation statement, it shall be precluded from filing any other pleading, brief or memorandum in the record.

The appeal shall proceed in the absence of such a party, without the clerk being required to notify it in any way.

If the representation statement or non-representation statement is filed late, it shall be accepted subject to such conditions as the clerk may determine. (s. 38 Regulation of the Court of Appeal of Quebec in Civil Matters)

REMARKS

Filing, Service and Notification

- The service and filing of the notice of incidental appeal must be done within 10 days of the service of the notice of appeal or within 10 days of the date of the judgment granting leave to appeal (art. 360 of the *Code of Civil Procedure* (hereinafter the “C.C.P.”)).
- The notice of incidental appeal must be notified as follows:
 - two copies to the office of the court of first instance (art. 354 C.C.P. and s. 34 of the *Regulation of the Court of Appeal of Quebec in Civil Matters* (hereinafter the “R.C.A.Q.Civ.M.”));
 - one copy to the lawyer who represented the incidental respondent in first instance (art. 358 C.C.P.); and
 - one copy to persons with an interest in the appeal as intervenors or impleaded parties (art. 358 C.C.P.).
- The notice of incidental appeal must be filed at the counter of the Court office (one copy) 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 notice of incidental appeal 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***).

Drafting and Content

- The notice of incidental appeal cannot exceed 10 pages, excluding the designation of the parties, the conclusions sought and the particulars required by s. 29 R.C.A.Q.Civ.M. (s. 30 R.C.A.Q.Civ.M.).
- Every pleading must be formatted as follows (art. 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 notice of incidental appeal 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 notice of incidental appeal 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

- The parties must use tabs to properly separate each document attached to their notice of incidental appeal.
- A table of contents referring to the numbers of the tabs and pages is required.
- The notice of incidental appeal and its schedules must be stapled or bound with a spiral binding or other type of binding.

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